Opening Statement of Ranking Member Carolyn Maloney
Financial Institutions Subcommittee Hearing Entitled, "The Impact of the Dodd-Frank Act: Understanding Heightened Regulatory Capital Requirements"
May 18, 2012

Thank you and welcome to the panel. I want to particularly welcome Mr. Wald who is here on behalf of Emigrant Bank, an institution that is headquartered in New York and which serves so many of my constituents.

There are a number of provisions in the Dodd-Frank Act which were designed to enhance bank capital and ensure that banks have adequate capital cushions including Sections 165 and 171.

At its core Section 171 of the Dodd-Frank Act--which is commonly known as the Collins Amendment after Senator Collins who authored it--recognizes that not all capital should be treated equally.

It has been acknowledged that common equity is the best shock absorber, and that hybrid securities like trust preferred stock do not provide the same type of capital

cushion that other forms of capital, like common stock, can provide.

Trust-preferred stock are instruments that are part equity part debt and usually issued by the bank holding company through a special purpose entity.

Dividends on trust-preferred securities are treated as tax deductible because the holding company makes interest payments on the debt held by the special purpose entity. Deducting these interest payments can lower the institution's overall capital cost and increase after tax earnings.

According to the Federal Reserve, these instruments are used by more than 85% of bank holding companies with more than $10 billion in total assets and 100% of bank holding companies with over $100 billion in total assets. Collectively, these instruments represent 13% of all bank holding company Tier 1 capital.

The Collins amendment is reflective of a lesson we learned from the financial crisis which is that capital matters.

Institutions that are well-capitalized less leveraged, and that have sufficient capital buffers are more likely to survive financial shock.

The Collins Amendment goes a step further to say that it's not just capital that matters, it's what kind of capital the institution is relying on that matters.

But it was recognized that smaller institutions which are more dependent on trust preferred stock may have difficulty replacing TRUPPS with other forms of Tier 1 capital. So the Collins Amendment contains a grandfather clause for institutions under $15 billion.

And it is only because Emigrant Bank was trying to do the right thing, by raising additional capital that it now

finds itself being treated as a much larger institution than it actually is for purposes of Section 171.

Emigrant, which I understand normally operates at around $12-13 billion, raised additional capital in order to ensure that it would weather the financial crisis and come out the other side.

And it was over the $15 billion threshold on December 31, 2009 until it repaid the loan on March 31, 2010.

Several of my colleagues from New York and I have sponsored legislation that would allow the review date for grandfathering TRUPS securities to be either December 31, 2009 ***or*** March 31, 2010 because we think it is unfair that Emigrant which was only temporarily over the threshold, would have to replace its trust-preferred securities when no other institution of the same size does.

The bill does not change the threshold, and it does not change any of the substance of the Collins Amendment.

I supported the Collins Amendment during the Dodd-Frank conference, but I do not believe it was intended to capture an institution of Emigrant Bank's normal operating size.

So I look forward to exploring these important issues with the witnesses here today. I yield back