PoliticalTranscr: S BANK HEARING ON FOSTERING ECONOMIC GROWTH

Published: Jun 22 2017 21:36:18

Political Transcript Wire Jun 22, 2017 pp. n/a

S BANK HEARING ON FOSTERING ECONOMIC GROWTH

S Bank Hearing on Fostering Economic Growth
JUNE 22, 2017
SPEAKERS: SEN. MICHAEL D. CRAPO, R-IDAHO
CHAIRMAN SEN. RICHARD C.
SHELBY, R-ALA. SEN. BOB CORKER, R-TENN.
SEN. PATRICK J. TOOMEY, R-PA. SEN. DEAN
HELLER, R-NEV. SEN. BEN SASSE, R-NEB.
SEN. TIM SCOTT, R-S.C. SEN. TOM COTTON,
R-ARK. SEN. MIKE ROUNDS, R-S.D.
SEN. DAVID PERDUE, R-GA. SEN. THOM TILLIS,
R-N.C. SEN. JOHN KENNEDY, R-LA.
SEN. SHERROD BROWN, D-OHIO RANKING
MEMBER SEN. JACK REED, D-R.I.
SEN. ROBERT MENENDEZ, D-N.J. SEN. JON TESTER,
D-MONT. SEN. MARK WARNER, D-VA.
SEN. ELIZABETH WARREN, D-MASS. SEN. HEIDI
HEITKAMP, D-N.D. SEN. JOE DONNELLY, D-IND.

SEN. CATHERINE CORTEZ MASTO, D-NEV.
SEN. BRIAN SCHATZ, D-HAWAII SEN. CHRIS VAN

HOLLEN, D-MD.
WITNESSES: JEROME H. POWELL,
MEMBER, FEDERAL RESERVE BOARD OF GOVERNORS
MARTIN J. GRUENBERG, CHAIRMAN,
BOARD OF DIRECTORS, FEDERAL DEPOSIT

INSURANCE CORPORATION
J. MARK MCWATTERS, ACTING CHAIRMAN,

NATIONAL CREDIT UNION ADMINISTRATION
KEITH NOREIKA, ACTING COMPTROLLER,

OFFICE OF THE COMPTROLLER OF THE CURRENCY
CHARLES COOPER, COMMISSIONER,
TEXAS DEPARTMENT OF BANKING, CONFERENCE OF

STATE BANK SUPERVISORS
[*] CRAPO: This hearing will come to order.

Welcome, everyone. I apologize that we had to set the hearing back a few minutes, and you'll see there are no Republicans in the room right now. They're having a conference right now on health care.
(UNKNOWN): Can we have a few committee votes here (inaudible)?
(LAUGHTER)
(UNKNOWN): Where's the room?

Bloomberg Law®
© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

(LAUGHTER)
(CROSSTALK)
CRAPO: I'll tell you where -- if you look at where almost every reporter in the complex is, it's right in the middle of that circle.
(UNKNOWN): "Conference" would suggest "confer."
(LAUGHTER)
CRAPO: That's right. I figured we might get into that.
(LAUGHTER)
(CROSSTALK)
CRAPO: But anyway -- thank you.
They should be coming. I don't -- I had to leave that conference earlier -- early, and I expect that we'll see more Republicans coming.
(CROSSTALK)
CRAPO: You're going to the conference now?
(UNKNOWN): I am. Yes.
(LAUGHTER)
(UNKNOWN): And I'm as well informed as the rest of them.
(CROSSTALK)
(LAUGHTER)
CRAPO: All right. We do get along on this committee.
(CROSSTALK)
CRAPO: Thank you, Heidi. You did well after Sherrod.
And so now I'm going to recollect my thoughts.
The hearing is already in order. We will hear from our financial regulators today to receive legislative and regulatory recommendations that would foster economic growth.
Based on conversations I've had with current and former regulators, recommendations, and Treasury's recent report, testimony at hearings before this committee, and the recent AGRPA (ph) report, I'm convinced that there is growing support for legislation that promotes economic growth.
I've had conversations with members on both sides of the aisle who've told me that they are committed to pursuing bipartisan improvements. One of my key priorities in this Congress is passing bipartisan legislation to improve the bank regulatory framework and promote economic growth.
In March, Senator Brown and I began our process to receive and consider proposals to help foster economic growth, and I appreciate the valuable insights and recommendations we've received. Most recently, we heard from small financial institutions and from mid-size and regional banks about the need to tailor existing regulations and laws to ensure that they are proportional and appropriate. For example, something that witnesses highlighted is that bipartisan agreement -- in this bipartisan agreement is that the regulatory regime for small lenders is unnecessarily burdensome.
There also seems to be genuine interest by members in assessing whether certain rules applied based on asset thresholds alone reflect the underlying systemic risk of financial institutions. Specifically, there is interest in finding bipartisan solutions aimed at tailoring regulation based on complexity of banking organizations, changing the $50 billion threshold for SIFIs, exempting more banks from stress testing, simplifying the Volcker rule, and simplifying small bank capital rules.
These are just a few of the many issues that the committee is reviewing. Today, I look forward to hearing the recommendations from our financial regulators on these issues. And as this process continues, I'll be working with all members of the committee from both sides of the aisle to bring strong, robust, bipartisan legislation forward.
Senator Brown?
BROWN: Thank you, Mr. Chairman, for holding today's hearing.
I'd like to welcome our five witnesses. Thank you for joining us, those have been here a while and done this, and those who are new to this committee and to

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

this process.

I'm guessing that none of our witnesses today had their homes foreclosed on in the last decade. I would make the assumption that none of you lost your jobs because of what happened -- because your company went out of business. I would bet that none of you saw almost your entire savings -- retirement savings disappear.

But perhaps you know someone that did. Perhaps, as Lincoln said, we all need to get out and get our public opinion baths (ph) more than we do as elected officials and as regulators, or as Pope Francis said, admonished his parish priests, go out and smell like the flock. Perhaps we all need to do that better than we do.

Wall Street greed, the resulting financial crisis -- what it did to millions of Ohioans and so many of our constituents, is a lesson -- collective amnesia in this body notwithstanding -- is a lesson we need to learn, to remember, and to act on. We must never forget those stories.

Many of you have heard, my colleagues have, my wife and I live in Cleveland, Ohio, ZIP Code 44105. Ten years ago right now, they had more foreclosures in my ZIP Code 44105 Cleveland than any ZIP Code in the United States of America.

BROWN: Wall Street reform created a more stable financial sector by strengthening the capital positions of -- position of the nation's largest banks. American consumers have recovered $12 billion of their hard-earned money because we now have an independent agency, the CFPB, protecting them from scams and abuse.

Senator Reed, the most senior democrat on this committee, is working on legislation particularly aimed -- that the work -- and to expand the work Holly Petraeus did at CFPB on behalf of service members.

And we all know, if we have military bases in our states -- we all know what kind of characters hang right outside these military bases: payday lenders, other predators scamming these servicemen and women, who are often vulnerable in their economic situation.

It's a question, as Mrs. Petraeus and Senator Reed said yesterday -- it's a question of national security when they have their financial security so challenged by scam artists.

That's why the report that the Treasury Department released last week is just misguided. The report's a Wall Street wish list specifically targeting the capital and liquidity rules for the largest banks and seeking to undermine the CFPB. The report takes as gospel that more lending and leverage is the best way to create economic growth.

Data shows that lending has in fact been healthy and at sustainable levels since the crisis. The last thing we should advocate for is going back to the levels of 2001 and 2002 and 2003, which led to the subprime crisis, a time period which the treasury report holds up as an example.

There's no evidence that relaxing rules will lead banks to lend more. It's just as likely that bank executives will pass any savings -- if history is an indication, it's just as likely they will pass any savings along to themselves, shockingly, and their shareholders.

I'm concerned that many of Treasury's recommendations will undermine or delay the effectiveness of bank supervision, something -- was severely lacking, leading up to the crisis. These misguided ideas include additional layers of cost-benefit analysis, more obstacles to supervisory actions, weakened leverage rules, changes to stress tests that will allow banks to game the stress test and changes to living wills. These recommendations would make the watchdogs' jobs harder and prevent them from spotting risks before they again balloon out of control. They would make our system less stable. They would leave consumers more vulnerable. Treasury report missed an opportunity put -- to put forth an agenda that actually does create real economic growth.

At every turn, the administration has advocated for an agenda that hurts average

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

Americans: more handouts for Wall Street, more tax cuts for millionaires and billionaires, less health care for working people, cuts to programs that help those who need it the most.

There are ideas worth considering in the Treasury report, as evidenced by the overlap with some the recommendations in the agency's EGRPRA review for small institutions. But many of Treasury's recommendations seem like a steep price to pay for our country after the 2008 financial crisis.

We've seen the damage that happens when an administration pushes financial watchdogs to prioritize special interests over working people. It's pretty telling that Treasury met with 17 representatives for every one advocate for ordinary Americans. Seventeen representatives for every one ordinary American -- only one advocate for ordinary Americans -- and that 31 out of 40 requests made by those representing the biggest banks were included in the reports.

The five of you have a very, very important job. I hope that you don't have that same bias that this Treasury Department do (ph). Again, 31 out of the 40 requests put forward by the largest banks were included in this report.

I hope this committee can focus on the issues that will reduce burdens for small institutions and struggling communities, will help consumers and, in the end, will create long, sustainable economic growth.

BROWN: Mr. Chairman, I look forward to working with you

and our colleagues, but it'd be a shame if we got -- forgot so soon in less than a decade -- or in about a decade, the lessons of the Great Recession.

CRAPO: Thank you, Senator Brown.

Now we will turn to oral testimony, and first we will receive testimony from Governor J. Powell, a member of the board of governors of the Federal Reserve System. Next, we will hear from Chairman Martin Gruenberg, chairman of the Federal Deposit Insurance Corporation. Then we will hear from Acting Chairman Mark McWatters, acting chairman of the National Credit Union Administration.

Next, we will hear from Acting Comptroller Keith Noreika. Did I get that right?

NOREIKA: (OFF-MIKE)

CRAPO: Thank you, and who's acting comptroller of the

Office of the Comptroller of the Currency. And finally, we will hear from Commissioner Charles Cooper, commissioner of the Texas Department of Banking, on behalf of the Conference of State Bank Supervisors. Each witness is recognized for five minutes.

Mr. Powell, you may proceed.

POWELL: Thank you, Chairman Crapo, Ranking Member Brown,

and members of the committee. I appreciate the opportunity to testify here today on the relationship between regulation and economic growth. We need a resilient, well-capitalized, well-regulated financial system that is strong enough to withstand even severe shock, and support economic growth by lending through the economic cycle. And the Federal Reserve has approached the post -- post-crisis regulatory and supervisory reforms with that outcome in mind.

There's little doubt that the U.S. financial system is stronger today than it was a decade ago. As I discuss in significantly more detail in my written testimony, loss-absorbing capacity among banks is substantially higher as a result of both regulatory requirements and stress-testing exercises. The banking industry and the largest banks, in particular, face far less liquidity risk than before the crisis.

And progress in resolution planning by the largest firms has reduced the threat that their failure would pose. These efforts have made U.S. banking firms both more robust and more resolvable. Turning to the subject of today's hearing, evidence overwhelmingly shows that financial crises can cause severe and lasting damage to the economy's productive capacity and growth potential.

Post-crisis reforms to financial sector regulation and supervision have been designed to significantly reduce the likelihood and severity of future financial crises. And we've sought to accomplish this goal, in significant part, by reducing both the probability of the failure of a large banking firm and the consequences of such a failure were it to occur. As I mentioned, we

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

substantially increased the capital, liquidity and other prudential requirements for large banking firms. These measures are not free.

Higher capital requirements increase bank costs, and at least some of those costs will be passed along to bank customers and shareholders. But in the longer term, stronger prudential requirements for large banking firms will produce more sustainable credit availability and economic growth through the cycle. Our objective should be to set capital and other prudential requirements for large banking firms at a level that protects financial stability and maximizes long-term, through the cycle credit availability and economic growth.

And to accomplish that goal, it's essential that we protect the core elements of these reforms for our most systemic firms in capital, liquidity, stress testing and resolution. With that in mind, I will highlight, briefly, five key areas of focus for regulatory reform.

The first is simplification and recalibration of regulation of small and medium-sized banks. We're working to build on the relief that we have provided in the areas of call reports and exam cycles by developing a proposal to simplify the generally applicable capital framework that applies to community banking organizations.

The second area is resolution plans. The Fed and the FDIC believe that it's worthwhile to consider extending the cycle for living will submissions from annual to once every two years -- every other of these filings on topics of interest and material changes from the prior submission.

POWELL: We're also considering other changes, as detailed
on my written testimony.

Third, the Fed and others are looking at the Volcker Rule implementing regulation and asking whether it most efficiently achieves its policy objectives. And we look forward to working with all four other Volcker agencies to find ways to improve that regulation.

In our view, there is room for eliminating or relaxing aspects of the implementing regulation in ways that do not undermine the Volcker Rule's main policy goals.

Fourth, we will continue to enhance the transparency of stress testing and CCAR. We will soon seek public feedback concerning possible forms of enhanced disclosure, including a range of indicative loss rates predicted by our models for various loan and securities portfolios and information about risk characteristics that contribute to loss estimate ranges. We'll also provide more detail on the qualitative aspects of stress testing in next week's CCAR announcement.

Finally, Federal Reserve is taking a fresh look at the enhanced supplementary leverage ratio. We believe that the ratio is an important backstop to the risk-based capital framework, but that it is important to get the relative calibrations of the leverage ratio and the risk-based capital requirements right.

In conclusion, U.S. banks today are as strong as any in the world. As we consider the progress that has been achieved in improving the resiliency and resolvability of our banking industry, it's important for us to look for ways to reduce unnecessary burden. We also have to be vigilant against new risks that develop.

In all of our efforts, our goal is to establish a regulatory framework that helps ensure the resiliency of our system, the availability of credit, economic growth and financial market efficiency, and we look forward to working with our fellow agencies and with Congress to achieve these goals.

Thank you.

CRAPO: Thank you, Mr. Powell. Mr. Gruenberg?

GRUENBERG: Thank you, Mr. Chairman. Chairman

Crapo, Ranking Member Brown and members of the committee, I appreciate the opportunity to testify today on legislative and regulatory relief

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

recommendations.

It has been nearly a decade since the onset of the worst financial crisis since the 1930s. In that time, the U.S. banking industry has experienced a gradual but steady recovery that has put it in a strong position to support the credit needs of the economy.

The economic expansion that began in 2009 is now approaching its ninth year, making it the third longest expansion on record. While this expansion has been marked by the slowest pace of economic growth and the lowest short-term interest rates of any expansion of the past 70 years, the sustained period over which it has occurred, combined with the regulatory changes implemented in the post-crisis period, have enabled FDIC-insured institutions to make substantial progress in strengthening their capital and liquidity, improving their asset quality and in raising their net income to record highs.

These improvements have occurred across the industry, including at community banks, which have outpaced non-community banks by a number of measures during this post-crisis period. The experience of the crisis and its aftermath suggests that a strong and well- capitalized banking system is a source of strength and support to our national economy.

The reforms implemented in the post-crisis period, particularly in regard to large institutions, have been aimed at making the system more resilient to the effects of future crises or recessions and better able to sustain credit availability through the business cycle.

GRUENBERG: Nonetheless, the FDIC remains cognizant of the
costs imposed by regulatory requirements, particularly for smaller institutions which operate with fewer staff and other resources than their larger counterparts.

In March, the FDIC, along with the OCC and the Federal Reserve, submitted a report to Congress pursuant to the Economic Growth and Regulatory Paperwork Reduction Act, or EGRPRA. The agencies jointly have taken or are in the process of taking a number of actions to address comments received during the EGRPRA process.

In addition to actions already taken to reduce examination frequency, reduce reporting requirements, and ease appraisal requirements, the agencies are developing a proposal to simplify the generally applicable capital framework for small banks.

Additionally, the FDIC would support three legislative reforms raised by EGRPRA commenters. First, the FDIC would support raising the $10 billion in total assets threshold to $50 billion for conducting annual stress tests required by statute, while remaining supervisory authority to require stress testing if warranted by a banking organization's risk profile or condition.

Second, the FDIC would be receptive to legislation further increasing the asset threshold for banks eligible for an 18-month exam cycle, from $1 billion in total assets to $2 billion.

Finally, the FDIC supports legislative changes that would create a new appraisal residential real estate threshold exemption that would minimize burden for many community banks.

In addition to these EGRPRA reforms, the FDIC and the Federal Reserve are exploring ways to improve the living will resolution planning process. We believe it is worthwhile to consider extending the cycle for living will submissions from annual to once every two years, and focusing every other filing on key topics of interest and the material changes from the prior full plan submission.

In addition, there may be opportunities to reduce the submission requirements for a large number of firms due to their relatively small, simple and domestically focused banking activity. Such an approach could limit full plan filing requirements to firms that are large, complex or have a systemically critical operation.

Mr. Chairman, it is desirable that financial regulations be simple and straightforward and that regulatory burdens and costs be minimized,

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

particularly for smaller institutions. In considering ways to simplify or streamline regulations, however, it is important to preserve the gains that have been achieved in restoring financial stability and the safety and soundness of the U.S. banking system in the post-crisis period.

Mr. Chairman, that concludes my statement and I'll be glad to respond to questions.

CRAPO: Thank you, Mr. Gruenberg.

Mr. McWatters?

MCWATTERS: Good morning, Chairman Crapo, Ranking Member Brown and members of the committee. Thank you for the opportunity to participate in this important hearing on regulatory relief for financial institutions.

Since the 1987, the NCUA has undertaken a rolling three-year review of all of our rules, and although not required by law, the NCUA is an active participants in the EGRPRA process. After independent analysis, the agency has agreed to comply with the spirit of the recently issued executive orders addressing the regulation of the financial services section -- sector and the overall structure of the federal financial regulators.

MCWATTERS: The NCUA is unique among federal financial regulators because of its structure as a one-stop shop. The NCUA insures, regulates, examines, supervises, charters and provides liquidity to credit unions. My mandate to staff is to make the NCUA even more efficient, effective, transparent and fully accountable, while protecting America's $1.3 trillion credit union community, its 108 million -- largely middle-class account holders, and the safety and soundness of the National Credit Union Share Insurance Fund.

The NCUA is committed to promulgating targeted regulation, accompanied by a thoughtfully tailored supervisory and examination program, as ill-considered, scattershot rules and compliance protocols, stifle innovation and the ability of credit unions to offer appropriately priced services to their members. The agency endeavors to identify emerging adverse trends in a timely manner and remains mindful that regulators should learn from the past, yet focus on the future.

Fighting the last battle gave us the S&L, leveraged buyout and dot-com crises, and laid the foundation for the near-collapse of our economy in September 2008. A prudently regulated credit union community grows, thrives, and prospers; and, as such, protects the taxpayers from bail-out risk. This approach is consistent with the theme of the report recently issued by the U.S. Treasury Department, in the view that well-capitalized and appropriately managed financial institutions warrant a reduced regulatory burden.

Along these lines, within the past 18 months, the NCUA has, one, implemented a broad-based change to our member business lending rule. Two, modernized our Field-of-Membership Rule. Three, revised our entire examination approach. Four, worked to enhance the due process rights of credit unions and their members.

Five, issued a proposed regulation requiring the disclosure of compensation payments related to a voluntary merger. Six, developed an approach to streamline and modernize the rules for corporate credit unions and the stress-testing of the largest credit unions. Seven, issued an ANPR requesting comments on the issuance of supplemental capital for risk-based net worth purposes.

Eight, invited comments and revisions on our call report. Nine, implemented our Enterprise Solutions Modernization Program. Ten, undertaking the development of a credit union advisory council. And 11, initiated a full review of the NCUA's operation and management. In addition to these actions, I intend to consider revisions to the Agency's risk-based net worth rule, before its effective date in 2019. The recent

EGRPRA report also highlights three beneficial legislative measures that would,

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

one, provide the NCUA with greater flexibility in designing capital standards for credit unions. Two, permit all credit unions to add underserved areas to expand access to financial services for the unbanked and the underbanked. Three, provide credit unions with more flexibility to extend credit to small business to fuel economic growth.

In closing, the NCUA remains committed to proving regulatory relief for the credit union community, in compliance with the Federal Credit Union Act, and streamlining and modernizing the operations of the agency, while focusing on our prime role as a prudential regulator. We also stand ready to work with you and your colleagues on your legislative priorities. I look forward to your questions, thank you.

CRAPO: Thank you, Mr. McWatters.

Mr. Noreika?

NOREIKA: Thank you, Mr. Chairman.

NOREIKA: Chairman Crapo, Ranking Member Brown and members of the committee, thank you for the opportunity to testify. We all share the goal of a strong national economy.

Since becoming the Acting Comptroller, I have worked with staff and colleagues to promote economic growth and opportunity. I am honored to serve in this role until the Senate confirms the 31st controller.

During my service, the OCC will carry out its mission to maintain the safety and soundness of our federal banking system, and will do so consistently with the president's executive order on core financial principles and the recent Treasury report.

Our country has the world's most respected banking system. When running well, it powers economic growth and prosperity. To run well, we must balance prudent regulations with sound opportunities for expansion. It has been 10 years since the Great Recession began.

It is time again for a constructive bipartisan conversation, about how to recalibrate our regulatory framework. In doing so we must carefully consider the cumulative effects of our actions, especially on community and mid-size banks.

When I arrived at the OCC, six weeks ago, I sought the views of all effective parties on the issues facing the agency and the industry. I sought ideas from our boots on the ground to reduce unnecessary regulatory requirements and encourage economic growth.

Our staff has submitted more than 400 suggestions and are excited to use our collective expertise to contribute to more efficient and effective regulation. I also sought the views of colleagues at the federal and state levels, bankers, trades, scholars, community groups and others on what we can do to make our regulatory framework better for everyone.

The response has been overwhelming. People from all sectors have accumulated 10 years of experience and want to share it so that we can continue to have the strongest banking system in the world. My testimony offers legislative options for your consideration that address two general issues that have become apparent in my canvassing of effected parties.

First, I repeatedly hear about regulatory redundancy. My support of legislative action to rationalize our regulatory framework relies on our organically developed decentralization of authority and responsibility. Independent regulators, for different and unique financial sectors, ensure multiple points of view and important checks and balances, but we must be mindful that as our system has evolved it has created unnecessary regulatory burden and overlap. The need now is to recalibrate roles and responsibilities to maximize efficiency and eliminate growth inhibiting redundancy.

Second, it has become apparent that we need a right sizing of regulation to eliminate inflexible one size fits all requirements that result in banking regulation that simultaneously under and over regulates bank activities. I want to highlight four ideas from my written testimony that respond to these issues.

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

First, Congress could streamline the regulation of smaller, less complex, bank holding companies by amending the law so that when a small depository institution constitutes the majority of its holding company's assets, the federal regulator of the depository institution would have sole examination and enforcement authority for the holding company, as well.

Second, Congress could eliminate 19th century impediments for smaller, less complex, national banks to operate without a holding company by allowing these banks to have the same access as state banks to the publicly traded markets.

Third, Congress could eliminate a statutory barrier to entry for new community banks by allowing de novo banks to obtain deposit insurance automatically when chartered by the OCC. Finally, a bipartisan consensus is emerging that the Volcker Rule needs clarification and recalibration to eliminate burden on banks that do not engage in covered activities and do not present systemic risk.

Various options exist that can be pursued at both the congressional and agency levels. I hope that we, the agencies, can move forward on seeking public comment on this topic soon. My testimony provides a summary of the EGRPRA report, as well as other ideas to consider.

Today's conversation is a healthy one and I look forward to working with the committee as we move ahead. Thank you and I look forward to answering your questions.

CRAPO: Thank you, Mr. Noreika.

Mr. Cooper?

COOPER: Good morning, Chairman Crapo, Ranking Member

Brown, and members of the committee. My name is Charles Cooper. I am the commissioner of the Texas Department of Banking. And, I serve as the immediate past chair of the Conference of State Bank Supervisors.

It's my pleasure today to testify on behalf of CSBS. We applaud the committees focus on economic growth and banking. I have more than 47 years in the financial service industry, both as a banker and as a state and federal regulator. Over these years, few things have become more evident than the value of community banks. They are vital to our economy and our financial stability. Also, over these years I have seen many swings in the regulatory pendulum. Swings -- extreme swings, to either side are wrong. We must all seek ways to ensure a balanced approach.

State banking regulators charter and supervise over 78 percent of our nations banks. We continue to see, first hand, that community banks are disproportionally burdened by oversight that is not tailored to their business model or activities. Looking beyond the industry's aggregate performance data, we have lost 2,156 banks over the last eight years. That's 300 banks a year, nearly a community bank every day. And we have had only five new banks coming in.

This consolidation can not continue if we are to have a robust banking sector. There are many factors to blame for this consolidation but regulatory burden is certainly one of them. We may have the best opportunity in years to appropriately calibrate our regulatory approach, especially for community based institutions. I believe that this can be done while maintaining strong and effective regulation that ensure safety and soundness, protects our consumers and meets the economic needs of our communities.

State regulators were part of the EGRPRA process and we engaged with the Treasury Department in their recent work. With nearly 100 recommendations in the Treasury report, and 440 pages of comments and recommendations in the EGRPRA report, there's no denying that we have a problem with the volume, complexity and overall approach of the regulatory framework.

COOPER: I would like to point out that the sheer volume of

regulations confounds the best of our bankers, but the issue of regulatory burden goes well beyond the laws and regulations. It includes the interpretations and supervisory techniques that are utilized. How we operate our agencies can contribute to regulatory burden. How or why we got to this point is not as important as the opportunity we have to come together to

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

address it.

There are tangible recommendations in these reports that present opportunities for both Congress and regulators to have a positive impact on the banking industry and our citizens.

Our written testimony makes several recommendations for right sizing bank regulation. Number one, reducing the complexity of the capital rules for smaller banks. Two, mortgage rule relief for community banks holding loans in portfolio. Three, greater transparency and timeliness in fair lending supervision for community banks. And number four, an activities based approach to defining community banks for regulatory relief.

Our community banks need the relief to do what they do best. And that is to service their communities and their customers, regardless of the chartered or agency, we are all in this together. We must ensure that sound judgment and appropriate flexibility are central to our supervisory approach. Thank you for the opportunity to testify today, and I look forward to your questions.

CRAPO: Thank you, Mr. Cooper, and I want to also thank all of you for the work that you do and for the excellent testimony you just provided. You each provided some significant insights and some significant suggestions for how we can improve, and I appreciate that. My first question is, and I'd like to have each one you answer, and when we do this it sometimes takes up our whole time if we get long answers. So, if you could, I would appreciate the panel being as concise as you can be so that I can get through a few questions.

The first question is, over the past few years, congress has been working with the regulations to change the $50 billion SIFI threshold. I appreciate your willingness to work with me on this issue. Do you agree that changing the $50 billion SIFI threshold would be appropriate?

And I'll start with you, Governor Powell.

POWELL: Yes.

CRAPO: That's a good short answer.

Mr. Gruenberg?

GRUENBERG: Aaron, I would have some caution in regard to that. I wouldn't argue that a $50 billion institution is necessarily systemic. On the other hand, from the perspective of the deposit insurer, I would note that the most expensive bank failure in this crisis in the history of the FDIC, was a failure of a $30 billion thrift institution, IndyMac, which ultimately cost the deposit insurance fund over $12 billion. I would just note that, even though, an institution of that size might not raise systemic implications, it could have -- still have significant consequences certainly for the deposit insurance fund.

CRAPO: So are you saying, you do not believe that we should address the $50 billion threshold or that we should have some tailoring and adequate ability to analyze the risk?

GRUENBERG: I would be more inclined toward tailoring, Senator.

CRAPO: Alright, thank you.

Mr. McWatters?

MCWATTERS: Yes, but when it comes to the credit union community itself, in concepts of an increasing that number to $50 billion for stress testing, I think we need to be thoughtful on the range between $10 and $50 billion, and what a $30 billion credit union loss would mean to the share insurance fund. It would be quite a bit more dramatic than the $30 billion of the FDIC fund. Thank you.

CRAPO: Thank you.

Mr. Noreika?

NOREIKA: Thank you, Chairman Crapo.

Yes, we believe that the $50 billion threshold needs to be changed or re-evaluated. And primarily, what concerns us is that it is being used as a competitive barrier to entry. So you have large banks, the costs of regulation

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

increase dramatically as you cross that $50 billion threshold. And the largest banks, the largest gap, is about 33 times in assets. The largest banks get a competitive advantage off that. And we've only ever seen, I think, one or two banks cross that threshold. That's not good for the competitive environment or consumers to risk profiling.

CRAPO: All right, thank you. And my next question is also one that I'm going to ask each of you to address. It's a more general question, but again, if you can be very concise, I would appreciate it.

I'd just like to ask each of you to identify one area that we would should examine, and you may have already done so in your testimony if that's what you want to pick, of where tailoring of our regulation is needed. Governor Powell?

POWELL: I'll start with Volcker. Volcker was design to address propietary trading and the insight that that shouldn't happen at a depository institution, probably could have been limited to a hand full of firms, but the law applies to all banks.

So, we probably have some authority under the statute to do this, but it really -- I think we would support, significant tailoring of the application in Volcker so that really it falls on the banks that have big trading books. And it falls much more lightly as you go down. It's very important that the intensity of regulation be tailored appropriately for the risk of the institution present.

CRAPO: All right, thank you.

Mr. Gruenberg?

GRUENBERG: Well, Mr. Chairman, I think I would focus on the issues related to small bank capital compliance, particularly risk based capital. I do think there's an opportunity for smaller institutions, say, under $10 billion. They're strongly capitalized on the leverage ratio to provide some relief in regard to risk based capital, particularly, if they're not engaged in a limited set of specified activities.

CRAPO: Thank you.

Mr. McWatters?

MCWATTERS: I would like to see, added to the Federal Credit Union Act, the ability of all credit unions to add underserved areas to fulfill the membership. Currently, that's limited, believe it or not. So people are unbanked and underbanked, where there may be a credit union with a specific build a membership, simply cannot join that credit union.

CRAPO: Thank you.

Mr. Noreika, and Mr. Cooper, I have 22 seconds.

NOREIKA: All right, thank you. I would just prefer you to our testimony where we talked regulatory traffic light system, where there are overlapping jurisdictions between the regulators, to have system where one regulator can have the lead, and then the others then can join or be foreclosed.

CRAPO: Thank you.

Mr. Cooper?

COOPER: Reduce the complexity of capital rule for smaller banks.

CRAPO: Thank you, and I appreciate you working with me on the time frame.

Senator Brown?

BROWN: Last week treasury, as I mentioned in my opening statement, put out a report suggesting changes to the regulatory structure. We know the impact of deregulatory policies advocated by Departments of Treasury and past administrations. In following the Chairman's construct, I'd like to ask a series of questions, and I think these can -- I think you can do these with yes or no, I'd ask you if you would.

You all -- you all represent -- the five of you represent independent agencies.

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

And starting with you, Governor Powell. Do you commit to being independent from the administration?
POWELL: Yes.
GRUENBERG: Yes.
MCWATTERS: Yes.
NOREIKA: Yes.
COOPER: Yes.
BROWN: Thank you. Do you, again, do you commit to speaking out if you think a legislative or regulatory recommendation threatens the financial stability of our economy, or the safety and soundness of our banking system? Governor?
POWELL: Yes, sure.
GRUENBERG: Yes.
MCWATTERS: Yes.
NOREIKA: Yes.
COOPER: Of course.
BROWN: And last, do you commit to make consumer protection a priority?
POWELL: Absolutely.
GRUENBERG: Yes.
MCWATTERS: Absolutely.
NOREIKA: Yes.
COOPER: Yes.
BROWN: OK, thank you.
Last year, the Fed -- this is for Governor Powell, thank you. Thanks for your years of service and your work with this committee over the years. And Mr. Gruenberg, you too.
BROWN: Governor Powell, last year the Fed proposed adding

capital surcharges under the biggest banks, stress test. Governor Tarullo, last week, said the biggest banks capital requirements quote "are still somewhat below where they should be" unquote. And that is incorporating the surcharges into CCAR will protect against contagion from one of these banks, infecting -- spreading to the rest of the financial system.
By your testimony, you suggested the Fed will integrate the stress test into the bank's regulatory requirements. I assume that means the Fed is moving forward with adding the capital surcharge into the stress test?
POWELL: That is the plan, yes. We've asked staff to work up some options on that. We're working on it. There's no specific date upon which we bring that forward, but we'd -- we'd like to have it in place.
BROWN: I'd like to encourage you to do that as quickly as possible. Is there a reason you can't move quickly?
POWELL: No, just, we want to get it right.
BROWN: And you -- you don't -- you don't plan to wait until new board members on the Fed are nominated and confirmed -- that's not part of the delay?
POWELL: No, you know, we have -- I mean, we're -- we have an ongoing thing, we're doing stuff all the time, we're announcing CCAR results this afternoon. So, this is another thing that's in the pipeline and we'll -- we'll get to it when we need to get to it.
BROWN: OK. Thank you, Governor.
Mr. Gruenberg, there have been recent press reports that any additional profits that the make from deregulation will go to stock buybacks and dividends, up to $30 billion in one estimate. Is that what banks will do with their profits if we relax the stress test?
GRUENBERG: I don't know that we have evidence to the contrary in regard to that, Senator.
BROWN: Governor Powell, your comments on that?
POWELL: With what -- what banks would do with the profits?

Bloomberg Law®
© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

BROWN: Yeah.
POWELL: I think it's hard to know. Some of it would go to shareholders. Some of it would go to management. Some of it would go to -- in pricing, and customers, I suppose.
BROWN: Shouldn't we want to know whether a decreased regulatory burden on banks will lend to more lending and economic growth if the money goes to stock buy -- certainly an imperfect analogy, but what happened with the bank holiday of -- or the holiday -- the tax holiday on overseas -- money kept overseas from corporations brought back.
It didn't exactly work, because there were no strings attached, the way a lot of the policyholders thought. So shouldn't we know if -- if banks are going to save money because of a decreased regulatory burden that it will, in fact, lend to more lending and economic growth or just increase dividends?
POWELL: I -- I -- I guess I look at from the other end, which is, we should make sure that we don't impose unnecessary costs -- unnecessary costs due to regulation. Regulation shouldn't cost any more than it needs to, it doesn't make the economy any better to raise banks costs. If we can cut those costs without effecting safety and soundness, we cut them. And I think - I think, that -- you know, that funding will help the economy. And it should help the economy in a very general way, but -- and a broad way, I would think.
BROWN: So one of the two of you -- the two, Mr. Gruenberg, and Mr. Powell, what -- what -- what do you think of the idea that if money, if banks, do better, more profit -- more profitable because of -- because of deregulation, that maybe the best way to increase economic growth would be to ban buybacks and limit dividends, in order to ensure the banks increase lending and contribute to economic growth?
Mr. Gruenberg first.
GRUENBERG: Senator, let me say, I think in terms of reducing regulatory burden, the biggest bang for the buck is to reduce burden on smaller institutions that serve their community and will either strengthen those institutions or strengthen their ability to serve their communities. I would be cautious in terms of making changes, particularly for the large systemic institutions. I think there we really need to preserve the prudential standards that we've established.
BROWN: Thank you, Chairman Gruenberg.
Mr. -- Governor Powell, if you would just answer that, I'm done.
POWELL: Sure. Yes, I would be wary of prescriptive things like limiting dividends and that sorts of thing. And again, I would just go back to -- this isn't a -- I don't think what we're talking about here amounts to deregulation or broad deregulation. I think it amounts to making regulation more efficient, protecting the important gains that we've made. We're not really talking about, you know, some massive program here. CRAPO: Senator Shelby?

SHELBY: Right. Thank you, Mr. Chairman.
One of the main tenants, that all of you know, of the recently released Treasury Department report, regarding core principles for financial regulation, is calling for federal financial regulators to conduct cost-benefit analysis for all economically significant regulations. That's something I've long advocated for, right here in this Committee.
I'll start with you, Governor Powell. Do you believe that conducting cost-benefit analysis, when you're determining or considering financial regulations, is very important, not only to the regulatory body itself, but to the consumer, to the bank system, all of it?
POWELL: Yes, I do. And I -- I also think that we -- we do try to -- we've always tried to, implement regulations in -- in the way that is faithful to what Congress has asked us to do, in the least costly and burdensome -- least burdensome way. More recently, we -- we've actually tried

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

to up our game more and take a more analytical approach to that. We're doing more on that front. We actually -- we're actually planning on hiring a few people but we're waiting until the -- until the hiring freeze rolls off, to do that.

SHELBY: But that could be very important to the whole banking system and to the American system and to the American people, could it not?

POWELL: I think it's our -- it's our obligation and -- and it is an important obligation.

SHELBY: Marty?

GRUENBERG: I -- I agree with that, Senator. I think doing cost- benefit analysis has value, and particularly including -- including it in proposed rulemakings, to give the industry to comment and get their feedback in evaluating both the impact of the proposed rule, as well as alternatives to the rule. Does have value and that's something we're doing in the preamble of every -- every rulemaking that we -- that we do.

SHELBY: Mr. McWatters?

MCWATTERS: Yes. Yes, Senator, I do. But we have to be thoughtful about this. It's an art more than a science. And it would be helpful if all of us had a consistent methodology, as to how to compute and conduct the cost-benefit analysis across the board.

So the NCUA is not doing one on an ad hoc basis, or the FDIC, the Fed, the OCC. But we had some consistency in well thought out, bring some economists in, work through this, come up with a protocol that can be implemented in a transparent way that people will take a step back and say, yes, that's fair.

SHELBY: Yes, sir.

Mr. Noreika?

NOREIKA: Thank you, Senator. My own view is in regulating a dynamic industry. We must always look at the cost and benefits, not only of the new regulations, but of the existing ones as well. And importantly, what we're doing here, looking at the -- the statutory basis as well.

SHELBY: Mr. Cooper?

COOPER: Senator Shelby, I -- I certainly agree with -- with cost-benefit analysis on the regulations. I did feel very strongly that it has to go beyond just regulations. It has to include the way we operate our agencies. We have to be efficient, and not only efficient in the use of our time, but efficient in the use of our bank's time.

SHELBY: I'll direct this to the Comptroller. So, in your testimony, Mr. Noreika, you stated that financial institutions risk should not be determined strictly matter of size, I agree with that. In your view, what should be considered when tailoring regulations for small and mid-sized banks? And, could you elaborate on what specific regulations should be further tailored through administrative or congressional action?

NOREIKA: Sure. I think...

(CROSSTALK)

SHELBY: That's a lot of work.

NOREIKA: That's a lot of -- lot of question and a lot of work to be done. Look, I think we -- we have many options about how to gauge the risk, and institution size is one of them, but it's not the only one of them, there are risk profiles as well.

Just because you're bigger, doesn't mean you're riskier. Just because you're smaller, doesn't mean you're less risky all the time, so I think we have to make both a quantitative and a qualitative judgment for people or what we impose.

And then those regulations that can follow, based on the riskiness, would include, capital requirements, liquidity requirements, perhaps activity restrictions, as well. So I think all of those would go into that calculus, Senator.

SHELBY: Mr. Powell, I think the word redundancy was

Bloomberg Law® © 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

brought up earlier and that's important. There are a lot of overlapping regulations in the banking field. What could be done to do away with some of the redundancies, which costs money to banks to comply with.

POWELL: I think that's -- I think that's part of the exercise now we're -- what we're undergoing, is to try to identify those, and limit them or eliminate them, if possible. I would say, if you think about Volcker, to come back to that. You know, the insight of -- of not wanting proprietary trading in these big firms probably makes sense, but before the crisis we didn't have strong capital requirements under the trading book, we didn't have liquidity requirements, we didn't have the stress tests, which are very tough on those things.

So -- you know, trading, by the big banks, is -- is supported by several other policy initiatives, so I think we can -- it gives us a little more freedom to think about how we can -- how we can draw back the scope of Volcker, and make it less burdensome.

SHELBY: Thank you.

Thank you, Mr. Senator.

CRAPO: Thank you.

Senator Menendez?

MENENDEZ: Thank you, Mr. Chairman.

Thank you all for your testimony. Chairman McWatters, let me ask you, there are more than 300 credit unions that have been certified as CDFIs, Community Development Credit Union's, like the North Jersey Federal Credit Union and Total One New Jersey have stepped up to supply banking services in underserved neighborhoods and communities across the country.

The very communities that President Trump said he wanted to help, and in terms of doing that, the CDFI fund is critical to those credit unions that work in low income communities. So do you believe that Congress should eliminate the CDFI fund as proposed in the president's budget?

MCWATTERS: No, I do not. No I do not. I appreciate that, because the Treasury Departments released a report just a few weeks ago that said quote, "CDFIs are often the only source of credit in a financial services in impoverished urban and rural, low and moderate income areas with limited access to the banking system."

So it defies their own logic and -- I'm glad to see that you share a -- the view that it's critical to maintain the fund. Chairman Gruenberg, the treasury report includes recommendations to reform the community reinvestment act, examination process and rating system. The report argues that the CRA examinations plan a role in preventing certain banks merging and opening new branches. What's you view of this argument?

GRUENBERG: First of all, Senator, CRA's an important statute that encourages banks to meet the credit and basic banking services needs of all of their communities, so that function it performs is a very important one.

Most institutions, as you know, get satisfactory or better ratings under CRA. There are authorities for local organizations to raise issues when an institution seeks an application for a merger, or other activity, as part of the statue that happens in relatively few cases. So as a general propositions I don't think it's a significant impediment.

MCWATTERS: So most of them receive satisfactory ratings, therefore that shouldn't impede mergers of those who design a merger.

GRUENBERG: Local organizations still have an opportunity to raise the issue, but in terms of actually impacting significant activity, I don't think it does.

MENENDEZ: I appreciate that response, because it seems to me that the administration should be focused on ensuring that the evaluation and rating system is holding institutions accountable and providing equitable access to credit, rather than focusing its efforts on weakening the Community Investment Act (ph).

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

And frankly, it's a little difficult to take seriously the recommendation of the Treasury secretary when his only experience on the matter is running a bank that so struggled to meet its obligation to provide equitable access to credit in and of itself.

Governor Powell, let me ask you -- just shy of nine years ago, Lehman Brothers filed for a bankruptcy, the largest bankruptcy in history, one that sent shockwaves throughout the entire financial system.

In short order, numerous other entities failed, leading to unprecedented support from the U.S. government and taxpayers to bail out the institutions that had been playing fast and loose without guard rails, and subjecting Americans' hard-earned savings to unjustifiable risk.

It became abundantly clear, in that moment, that we needed a process to deal with the adverse market effects of the failure of a large, complex and interconnected financial firm. In response, we created the Orderly Liquidation Authority, or Title II of Dodd-Frank.

This process, thankfully, hasn't been needed. But if it were to be utilized, it is designed to protect taxpayers and the market at large by ensuring that the burden of the failure falls on the owners and managers of the firm, that you don't privatize profit and collectivize risk.

Do you agree, Governor, that this authority to resolve firms whose failure would present a threat to U.S. financial stability is critically important?

POWELL: I do, Senator. Working with the FDIC, we've made a lot of progress under Title I, but I think it's absolutely essential that we keep Title II as a backup.

MENENDEZ: And, Chair Gruenberg, you have anything to add to that?

GRUENBERG: I strongly agree with that. The Orderly Liquidation Authority really is the last recourse, but a critically important backstop to assure an orderly failure, even of a systemic firm, and, as you point out, Senator, to assure that the stakeholders in the firm, the shareholders, the creditors, the management of the firm are held accountable.

MENENDEZ: Finally, the Federal Reserve Bank of New York highlighted in November that there's been an uptick in delinquency rates on auto loans made to borrowers with subprime credit scores. I'd like to hear from each of you your thoughts regarding this trend. Is this something that you're concerned about?

I see it going since 2013, 90-day delinquency rates made to (ph) borrowers with subprime credit scores has risen by more than 40 percent. Is that an early bird warning here?

NOREIKA: Well, Senator, our agency has been tracking this since about 2014, and we do notice an uptick and it's something that we're certainly making our regulated entities aware of, to keep track of.

MENENDEZ: Is there something we should be doing?

NOREIKA: Well I think -- look, our job as regulators is to watch and manage credit risk, and we have to flag where we're seeing increased risks, and this is one of those areas.

MENENDEZ: Thank you, Mr. Chairman.

CRAPO: Thank you.

Senator Heitkamp.

HEITKAMP: Thank you, Mr. Chairman.

Couple quick questions, because I know that Chairman wants everyone to keep this brief. I just want to associate myself with the comments on the Volcker Rule. When you look, many current and former regulators also publicly state that the Volcker Rule is way too complicated. It's my experience, when a rule is too complicated, there isn't much compliance, so it doesn't really get you what you need.

I think that what I'm hearing today is no one wants to go back, but everybody wants to tailor a rule or find a rule that can in fact accomplish the purpose without overly burdening, you know, all manners of banks, and certainly

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

something that makes common sense. And so -- want to just kind of put that on the record and thank you all for your comments.

My questions are to Governor Powell. Are you aware of the bills that have been introduced by -- bipartisan bills that have been introduced at this committee regarding relieving mid-sized banks from Dodd-Frank stress tests and exempting community banks from the requirements of the Volcker Rule and the qualified mortgage rule?

POWELL: Generally, yes.

(CROSSTALK)

HEITKAMP: Have you had a chance to review those tests -- or those proposals?

POWELL: Our staff has. I have not had a chance to review them carefully, but I'm generally aware that they're there.

HEITKAMP: OK. I think it's critically important that we get your input, moving forward. We obviously think there's broad bipartisan support for these kind of changes, and would love to see the banking committee produce some bills that would fulfill the commitment that we all privately have made to not only our small community banks, but also our mid-size banks.

I think the time for talking is over and the time for doing is now. Marty, I'm really concerned about what's happening right now with ag lending in my state. And I think you guys frequently can be on the tip of the spear, the leading indicator of challenges that we're going to have.

I obviously have argued before for flexibility in these kinds of cyclical environments, especially in agriculture. And so just a couple questions: Have you experienced or observed meaningful changes in terms of the risk in the ag economy? And how is the FDIC approaching ag lenders who continue to provide credit -- absolute essential credit to our producers, who now are being squeezed by low commodity prices?

GRUENBERG: So, Senator, we do have a changing environment, as you know well, in the ag sector. We've seen -- seen low commodity prices and some decline in land values in the agricultural areas. And we are starting to see some pressure in regard to the banks that are focused on agricultural lending.

So, from a supervisory standpoint, the institutions are still, as a general matter, in pretty good shape. But they're under some pressures, and the trend seems to be toward increasing pressure. So from a supervisory standpoint, this is something we're paying close attention to.

HEITKAMP: I think it's critical that we be aware of what those indicators are, and that we work together with the private lending industry to make sure that we do not let cyclical changes in agriculture shut down especially our small family farmers, who struggle the most in this kind of environment.

And so I think, before we see widespread pressure from the examiners to do things in that -- in that space that would, in fact, cut off liquidity for farmers, we need to have a conversation here, because what you do will have ripple effects in the ag economy. Can I have your commitment that you'll stay on top of this and let us know?

GRUENBERG: You do, Senator.

HEITKAMP: OK. Want to just close out with a question on appraisals. As part of the EGRPRA process, regulators identified access to timely appraisals, especially in rural America, as a major challenge for small lenders. Yet the report itself did little to address residential appraisal requirements.

Governor Powell, do you share my concerns that the appraisal system in rural America really doesn't work and that we need to have special attention paid to how we can make those changes?

POWELL: Yes, Senator. I think we're sensitive to the problem and would like to do more.

HEITKAMP: Right. And have you had any discussions about

Bloomberg Law®
© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

what that "do more" would look like?
POWELL: Not recently, but this is something we're going to come back to.
HEITKAMP: Well, we'll follow up, because...
XXX would look like?
POWELL: Not recently, but this is something we're going to come back to.
HEITKAMP: Well, we'll follow up because, most of you know, I come from a small town of 90 people. People say you want to see, kind of, the average sale, good luck getting that.
It's not going to happen, and it's a huge challenge in terms of mortgage lending for us small community banks. And so, this appraisal issue is not going to go away. We want to come up with solutions to this and cut our small community banks some slack. OK?
CRAPO: Thank you.
Senator Kennedy?
KENNEDY: Thank you, Mr. Chairman.
And I will thank all of the members of our panel today for your service and for being here. I want to talk about flood insurance which, of course, is extraordinarily important to my state, Louisiana, but frankly most states. The current national flood insurance program expires September 30th. We have to renew it. This committee will be working hard to do so under the leadership of our Chairman and our ranking member.
But, here's a question that I think goes to what undermines the entire program. About 53 percent of the people that should carry -- excuse me -- or are required to carry flood insurance, carry it. What do we do about that? I'm sorry, excuse me. What do you think we should do about that?
Well I'm going to put it another way. Let me ask our FDIC Chairman, before I choke to death.
(LAUGHTER)
I'm just so overwhelmed with emotion at that health insurance bill, that I'm almost speechless. Mr. Chairman, do you think it would be a good idea to ask FEMA to compile a list of mortgages in high risk flood areas, so we'll know who's supposed to carry insurance and who doesn't?
GRUENBERG: Actually, I think that is a good idea. One of the challenges in this area is a lack of reliable data.
KENNEDY: Yes, sir.
GRUENBERG: Really to access the extent of compliance with the flood insurance requirement. And so, getting better data would have real value here, and I think FEMA is the agency responsible for the national flood insurance program, would probably be the appropriate agency to do that.
KENNEDY: How do we get FEMA to do that, other than just asking pretty please?
GRUENBERG: Well sir, our next questioner would probably would have a better feel for that than we would.
KENNEDY: OK.
Governor Powell, I saw where we recently had a bank -- a SunTrust Bank was fined $1.5 million for violations regarding a mandatory compliance with the National Flood Insurance Act. How did the Fed determine that they had a pattern and practice of noncompliance? What's their pattern in practice?
POWELL: Senator, I remember that particular thing -- I don't remember the specifics of that case, though, to be honest. The pattern of practice would be -- I think what it sounds like which is something that happens repeatedly.
KENNEDY: Well, what triggered the review?
POWELL: I shouldn't be -- I shouldn't talk about a particular enforcement action, and I'm actually not deeply familiar with the individual facts of that case. I could get back to you on that.
KENNEDY: Would you? That would be very helpful. Let me

Bloomberg Law®
© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

open this up to anyone. I don't want to add to the regulatory burden on our community banks, I don't. But at the same time, when somebody doesn't carry flood insurance, who is required to carry flood insurance, and they flood, somebody else has to help them recover.

And that's not fair to the American tax payer, and it's not really fair to the people who do the right thing and carry flood insurance. I'm going to go to each of you, I only have a minute, but give me your thoughts about what we can do to increase participation from 53 percent. That's not -- that's embarrassing.

POWELL: This is for flood insurance?

KENNEDY: Yes, sir.

POWELL: Well, I can't improve on your idea of FEMA.

KENNEDY: How about, Mr. Cooper?

COOPER: Senator, obviously knowing a little bit about what happened in your state, I would agree with the director -- your recommendation. One of the concerns that I have is that, I believe in several places in your state -- several of the cities that have never flooded before have been flood this time. And so...

(CROSSTALK)

KENNEDY: That's true.

COOPER: It is hard with these lines of who floods and who doesn't flood, they blur, and quite frankly, we have to deal with that and I'm not sure how to do that, quite frankly.

KENNEDY: OK.

NOREIKA: Senator, certainly this is something very high priority for our agency and we take very seriously our supervisory obligations to examine our banks to make sure that loans have the proper flood insurance for those areas.

So while I'm -- I don't know the percentages off the top of my head, this is something that I know our supervisors and our examiners in our institutions take very seriously and there are mandatory penalties that come if they don't.

KENNEDY: Well, I'm out of time, but I will be contacting you individually to talk about what we can do to help get this -- the compliance right. We need to do a better job.

NOREIKA: Thank you.

KENNEDY: And we need to start with our friends at FEMA.

NOREIKA: Yes.

KENNEDY: Thank you Mr. Chairman.

CRAPO: Thank you.

Senator Warren?

WARREN: Thank you Mr. Chairman, thank you all for being here today. So last week, the treasury secretary issued a report that included about 100 recommendations for changing our financial rules. And these recommendations were basically cut and paste from the banking industry's lobbying priorities. In fact, one bank lobbyist was brutally honest saying, "The report is basically our entire wish list."

Now, most of these changes don't require any congressional action. Federal agencies can make the changes all by themselves, and that means all of you at the banking regulatory agencies have a lot of power to decide whether to hold the line on financial rules or to make every wish come true for giant banks.

So, Governor Powell, the Federal Reserve is responsible for many of the rules governing the country's biggest banks, and you are now the point person at the fed for regulatory issues. You're also on record as being a fan of cost-benefit analysis. So let's do that here, the potential cost of implementing recommendations, from the report, seems pretty clear to me. It could increase the risk of another financial crisis and another bail out.

So, I want to ask about what the potential benefit is? Letting banks add to the already record profits they've generated in the past several quarters? Where's the benefit side?

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

POWELL: Well, Senator, I guess I see it as a mixed bag.
There's some ideas in the report that makes sense, maybe not exactly as expressed there, but it would enable us to reduce the cost of regulation without affecting safety and soundness. There's some ideas, of course, that I would not support -- that we would not support, as well. But, I guess I see it as mixed.
WARREN: So, well I get your point about mix, the only benefit you see then is just cost reduction?
POWELL: I think we have an obligation to make our regulation no more costly than it need be.
WARREN: Fair enough. Fair enough. But I'm -- I'm just asking about any other benefits, because I was -- the Treasury report actually -- I -- I want to read a direct quote from it about our financial rules on capital and liquidity, and explain the rules on capital and liquidity, saying that these can decrease the resources -- the current rules -- can decrease the resources a bank has available for customer loans.
So let me ask it that way, since that's what the Treasury Department claims is the reason for reducing capital. Do you agree with that, Mr. Powell?
POWELL: Let me just (ph) say this. I -- I do not support and we do not support reducing risk-based capital requirements. So that is not -- that's not the idea. But I -- I think of it a little bit differently.
Higher capital is more -- capital is more expensive than debt, so when you raise capital standards, you're raising costs. Some of those costs will be passed through to customers. The question is, where is the cost-benefit analysis? And I happen to think we've got it about right today.
WARREN: Yeah, you know, because I'm really worried about this, because the big banks obviously would like to see capital requirements reduced. And I started looking at what happened recently with JPMorgan Chase. You know, biggest bank in the country, spent $26 billion in the last five years on stock buybacks.
They had $26 billion they could have spent on anything they wanted to spend it on. And they could have spent it on lending to customers, but, no. What they decided to do with the money is to spend $26 billion to pump up their share price.
And in fact, every one of the big banks in the country has spent billions and billions of dollars in the past five years on stock buybacks. So it sounds like, to me -- that these banks have plenty of capital available to them. Governor Powell?
POWELL: Well, I think their obligation is to meet their minimum capital standards, and, even more relevant for the biggest banks, to meet their CCAR requirements. And once they do that, you know, they're entitled to pay dividends or buy back stock, as long as post- stress and post-minimums -- you know, they meet -- as long as they meet those capital requirements.
WARREN: But what I'm hearing you say...
POWELL: They do have plenty of capital, though. You're right.
WARREN: ... that's right -- that they have plenty of capital and there's no reason to reduce their -- their capital standards here.
POWELL: We're not -- not in favor of that.
WARREN: All right. I -- I think that's very helpful, because, you know, the team at Goldman Sachs that's running financial policy for this administration really wants to boost profits for the Wall Street banks. And I think that's what the Treasury report is all about.
And here's what's going to happen if regulators make the big -- the changes for the big banks that they want: and that is that bank stock prices will go up. Bonuses for bankers will go up. Bank stock buybacks will go up. And the risk of another financial crisis and bailout will go up.
You know, I -- I recognize that the bank lobbyists will be thrilled by this

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

report, and be thrilled if that happens. CEOs will be thrilled. But we won't see any increase in lending, and I don't think we're going to see a boost to our economy from it.

Thank you, Mr. Chairman.

CRAPO: Thank you.

Senator Cotton.

COTTON: Thank you. And thank you, gentlemen.

You know, since that Treasury Report came out, I've heard a lot of complaints like Senator Warren's complaint today, but many others -- not just from Senators and Congressmen outside -- or in the Congress, but outside observers as well -- about how many of those changes could be made without Congressional action.

I think I've heard something like two-thirds of the proposed changes could be made without Congressional action. That may be the case. It may not. I don't know. But I would suggest that that would counsel us to stop giving so much power to unelected regulators in Washington D.C., not just in the financial services arena, but in every single area.

All you gentlemen are extremely capable professionals. We may have our disagreements here or there, but none of you are in Washington because you won an election and are therefore accountable to the American people. We are on this dais. There's 537 people who are. They should be making the rules that govern the conduct of the American people, so they can be held accountable at the next election.

I've got to break the news to everyone watching at home. I'm sorry that I have to bring the scales down from your eyes. Many Congressmen and Senators like to punt the ball to regulators like these gentlemen. They like to pass laws like Dodd-Frank or Obamacare or anything else that doesn't require them to make a hard choice and be held accountable.

Because what do they do? They declare victory when the law passes. And then, two or three years later, when the CFPB, or the SEC (ph), or the Department of Labor, or the EPA makes the regulation, they declare victory a second time by denouncing the unelected bureaucrats who make the rules, that don't implement their guidance. That's not the way we should govern ourselves in this country.

A second point: we're having a hearing today about financial regulators. And we have five gentlemen here at the table, four from the federal government, one representing a consortium of state regulators. That's a lot of people to look to.

You know, on the Armed Services Committee, when we had a hearing about strategy in Afghanistan or the Islamic State, there's one person sitting at a table: the Secretary of Defense. Why is that? Because the military believes in the unity of chain of command, and if you're a private in Nangarhar province today, or outside Mosul, you know exactly who is in your chain of command, from your squad leader all the way up to the president of the United States.

And one of the most common complaints I hear from our bankers in Arkansas is that they have to answer to multiple masters, who, if they don't issue conflicting rules, they at least give conflicting interpretations, guidance or even attitudes. And I think that's something that we need to address.

So, Mr. Noreika, of all the banking agencies, you were the only one that provided what Bloomberg News called a sweeping list of recommendations to streamline oversight.

My question about this multiplicity of regulators is this: In the context of today's meeting, how do you think we ought to approach your recommendations, and how should we prioritize them, given how difficult it's been to get anything done in Washington D.C. lately?

NOREIKA: Thank you, Senator, and thank you for the question. Look, I think, as you point out, there's a real risk and -- and actually, in practice, regulatory redundancy happening here in Washington, with respect to the financial services industry.

And one of the things that we propose in -- in our proposals is -- is having a

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

statutory traffic light system among the federal regulators so that, when one regulator acts to effectuate regulation, others will be foreclosed.

And what we're seeing in practice is both under and overregulation at the same time. And the CFPB is -- is a great example. When we go over $10 billion, where the CFPB so-called (ph) has exclusive jurisdiction up to $50 billion, we -- we don't see much activity of the CFPB regulating those institutions at all. So they've actually, in many ways, gotten less regulation since Dodd-Frank has passed.

And yet, if we go in and we examine them with our backup authority, as we do if there's an issue, you may see the CFPB come. And so there's -- while they're underregulated until we regulate them, then they become overregulated.

So I think what we're trying to do in our testimony, with the long list of -- long list of regulatory suggestions for consideration, is to start a dialogue and identify what the problems are -- and you've put your finger on one of the -- the biggest problems -- and to start a bipartisan, constructive conversation about how we recalibrate our regulation of this dynamic industry.

COTTON: Thank you. My time is -- is almost expired.

I just want to suggest to the members of this committee, the chairman and the ranking member, who I know have been working together very carefully to try to craft some bipartisan compromises, that this is something we should look at.

I don't see any reason why we couldn't have bipartisan agreement on an effort to put more accountability in our own hands, since we're the ones elected to make these decisions, and the only ones accountable to the American people.

And second, to streamline somewhat the multiplicity of regulators that our bankers, especially our small bankers who don't have the capital base to respond to multiple requests from multiple regulators, to give them a little bit of an eased burden.

Thank you.

CRAPO: Senator Cortez Masto.

CORTEZ MASTO: Thank you, Mr. Chair.

Thank you gentlemen for -- for your testimony today. It has been very helpful, enlightening and I really appreciate it. I, however, would like to start with Mr. Noreika.

Your testimony, including your written testimony, includes a lot of ideas about how to restructure our financial regulatory system. I want to focus on your recommendations related to the Consumer Financial Protection Bureau. And let me put this in perspective. I'm a new senator. I wasn't here...

(CROSSTALK)

NOREIKA: I'm new too, Senator.

CORTEZ MASTO: Well, and I recognize that. But where I was previously was the attorney general of the state of Nevada, during the worst crisis we've ever seen. And I will tell you this, I support the CFPB after what I had seen.

And I know the CFPB was created because, before the crisis, we in our states trusted the safety and soundness regulators, like the OCC, to oversee consumer protection, and they failed to do so. Threatening both the homeowners in my state and across this country. In fact, one former state prosecutor who tried to stop the banks predatory lending said about the OCC, and I quote, "Not only were they negligent, they were aggressive players attempting to stop any enforcement action. Those guys should have been on our side."

In that particular case, you were actually representing the bank that was being sued. Yet, in your testimony, you suggest that we return examination and supervision authority for all depository institutions back to their primary banking or credit union regulator. In other words, this would strip the CFPB of its ability to go in and routinely supervise big banks for noncompliance with the laws that protects consumers, seniors, students and service members. This represents a return to the bad old days, and would undermine an essential pillar of the Wall Street Reform.

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

You come to the OCC, as you said, on an interim basis from a prominent law firm where you represented big banks. Under special hiring authority, you can serve for only 130 days, but in exchange, you get to avoid Senate confirmation, and you don't have to sign the typical ethics pledge. And here, we get a recommendation from you to roll back the regulations for CFPB. That concerns me. And how is the CFPB supposed to catch wrongdoing and enforce the law, if they aren't able examine and supervise the largest banks?

As a former law enforcement official, I know how difficult it is to identify fraud as it is happening. It seems like it would be more difficult for the bureau to quickly stop the mortgage servicing, debt collection and credit card abuses, if it's not inside the big banks monitoring them. How do we address that?

NOREIKA: All right. Well thank you, Senator. And thank you for the opportunity to respond to your question. As I responded to Senator Cotton earlier, this is a -- a -- a big concern of ours, to actually increase the -- the compliance -- the consumer compliance. And -- and monitor the smaller banks. And yet, within the CFPB's exclusive jurisdiction compliance with the relevant consumer protections laws.

Since Dodd-Frank, we do now have a CFPB that writes rules. And as you'll see from my written testimony, that's something we support them doing. The real question, now, is the correct allocation of scarce regulatory resources to enforce those rules.

And what we're seeing in practice is that the CFPB is not enforcing those rules against the mid-size banks -- the large-small banks to the small-big banks. And so we do have a problem of both over- and under-inclusion.

And so when we get up to the bigger banks, we have a little bit of overlap and overkill there. So we need some better system of coordination.

Now, whether that involves taking that responsibility and putting it back with the prudential bank regulators who can balance, as they traditionally have, those supervisory priorities of the bank, or adopting, as I have said twice before, a statutory traffic-light system. I think both of those are options, and yet we have to talk about what the problems are first.

CORTEZ MASTO: I appreciate the comments. I don't understand them, quite frankly. In one breath, you're saying that there are scare regulatory resources with the CFPB, so that means that we should give them the resources they need to supervise. And then in the other breath, giving it back to the same regulators who weren't there when I was in my state trying to help homeowners who were not enforcing the laws. And it doesn't make sense to me.

NOREIKA: I'm happy to meet with you to discuss it more.

CORTEZ MASTO: Chairman Gruenberg, as a banking regulator, would you say that having the independent consumer bureau has been successful? And do you think that the CFPB's existence is a threat to the FDIC?

GRUENBERG: Yes to the first; and no to the second, Senator.

CORTEZ MASTO: Thank you.

CRAPO: Thank you.

CORTEZ MASTO: Let me just say this finally, Mr. Chair. Thank you.

The CFPB has returned $12 billion to 29 million consumers. I really don't understand the motivation behind stripping the bureau of its powers. And I will tell you this, as somebody who has focused for eight years on consumer protection, there is a need for the CFPB.

And to roll back any regulations and say that we can't find a balance somehow and still look at how we address the regulatory burdens that are happening right now with our banks, and particularly with our community banks and our credit unions, I think we need to calibrate there. There's no doubt about it.

I think we need to work in that space. But we need to find this balance. And balance isn't doing away with consumer protection completely, because it is working. And that's all I'm looking for in this day and age is somebody reasonable to come up and figure out how we find that balance.

Bloomberg Law® © 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

I am not for rolling back any of those regulations because that's going to continue to harm the homeowners that I fought for for eight years in my state. And I'm concerned about the future.

CRAPO: Thank you.

Senator Rounds?

ROUNDS: Thank you, Mr. Chairman.

It's one of the nice things on the Banking Committee, you get to hear some diverse points of view. Rest assured, when it comes to the CFPB, I think there's a group of us out here that feel that they are flat-out out of control; that there are no controls on them that Congress can come in -- bring them in and ask questions. Their budget is not part of the budget that we authorize.

And we think that there most certainly is room to be able to allow for consumer protection based upon the original agencies who had the responsibility. And if you weren't living up to those responsibilities, I think it would have been more appropriate for Congress to come back and demand that, or to provide you with the tools in order to do that, as opposed to creating a new behemoth-type of an agency there that is just flat-out in my opinion out of control.

And if I could repeal it, I would. And if I can't do that, the least we ought to do is put it under the control of the appropriations process up here. So it's always interesting to hear the different points of view when it comes to something as controversial as the CFPB.

I did want to spent just a few minutes and talk about the TAILOR Act. We're reintroduced it again this year. The idea behind it is to allow for the regulatory entities within the banking system to be able to look at the individual types of business models that individual banks have. Community banks have a different business model than some of those that do international banking and so forth.

I -- it looks to me like if you had the appropriate direction from Congress, that you most certainly -- and in almost every phase of the regulatory process -- you could really do a better job of tailoring the regulatory approach based upon the size and business model, specifically the business model of the individual banks themselves.

I would just like, if you could, can you just very, very briefly suggest whether or not the introduction of the TAILOR Act or the adoption of the TAILOR Act would be of benefit in giving direction to you as agencies that oversee these financial institutions.

POWELL: Senator, I haven't looked at the TAILOR Act in a few months, but just in general, I would say I agree with what you're suggesting. You know, what Dodd-Frank did was it put these numerical cliffs in. And those are, you know, they're nondiscretionary. They're sort of arbitrary, in a way. And that was a choice that Congress made for that.

A different choice would have been to let us think about the size and business model. And I think we -- we can work with either. In fact, for the largest institutions, there is more discretion in who got designated. So Congress really did both. I think if you wanted to change the way the thresholds work and put us in a situation of being more discretionary in looking at size and business model, we could -- we could certainly work with that. And it would -- it would help us.

ROUNDS: Mr. Gruenberg?

GRUENBERG: Senator, I'd want to look more closely at the statutory language. The issue you raise is a critical one. Appropriately tailoring regulation to the size and complexity and business model of the particular institution in some way is the core challenge for us as bank regulators.

So I think you're certainly focusing our attention on the right issue. Glad to engage with you on it, but I want to look at the specific statutory language.

ROUNDS: Fair enough.

Mr. McWatters?

MCWATTERS: Regulations should be targeted with a laser.

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

Shotguns don't work. Shotgun regulation creates collateral damage, unintended consequences. But in order to target a regulation to the real problem that's out there, the future problem that's out there, you have to understand the business that you're regulating. You have to understand the business model. You have to understand how they make money. You have to understand their ambitions. So focusing in on that

will allow me to target regulations and stay away from the scatter-shot approach with unintended consequences and collateral damage.

ROUNDS: Thank you.

Mr. Noreika?

NOREIKA: Thank you, Senator.

Certainly, as I mentioned earlier in my testimony, we're concerned about under- and over-inclusiveness of regulation to make sure it's most efficient and effective. And certainly, the idea of tailoring regulation is very important.

With respect to your bill, we're happy to work with you to make it -- make it work.

ROUNDS: Thank you.

Mr. Cooper?

COOPER: Senator, I cannot remember all the provisions of your bill, but obviously the thought process behind it we would support. The one thing I would like to say is, again, I've been around this for a long time. We've been talking about this for a long time, and we need to start working toward making some solutions.

ROUNDS: Thank you.

I have one real quick one, and I'm just going to ask this of Governor Powell and Mr. Gruenberg. The SLR and the ESLR -- you have diverging points of view regarding that. I'm concerned about mutual funds and where they place their accounts.

Right now, it looks to me like we've got a real problem between European banks, which have one capital requirement, versus the American banks with the ESLR makes them less competitive when it comes to the cost of providing those custodial services.

ROUNDS: Shouldn't we be trying to address the costs for mutual funds when it comes to these custodial banks? There's not a lot of them. Shouldn't we be able to make our American banks as competitive as those in other parts of the country regarding custodial accounts?

Can you explain to me the reason why you have divergent points of view as to why we haven't done something about the -- at least allowing for the -- for the accounts that are being held where we -- we're placing deposits with the -- the -- the central bank. It looks to me like we ought to be able to help these folks out a little bit and bring down the cost of what it is for a custodial bank bring in and maintain mutual fund relationships.

POWELL: Senator, briefly, we look at the leverage ratio as a backup to binding risk -- risk-based capital and the leverage ratio sees a junk bond the same as a -- as a bank deposit, the same as a treasury and makes it uneconomic for banks that have model -- a business model that involves having a lot of deposits and cash and it puts that money, for example, at a reserve bank. So we want it to be a binding backstop so that banks can't gain the risk-based capital, but we -- we feel it's time to rethink the calibration.

ROUNDS: Mr. Gruenberg, you had, kind of, a different point of view.

GRUENBERG: Yes, Senator. We do see the strengthening of the leverage ratio as -- as one of the core reforms that have been put in place for the large systemic institutions to deal with one of the important lessons of the crisis, and that lesson was, that in the stressed environment, it was leverage capital that had credibility with the financial markets, as supposed to risk-based capital.

So we think it's really quite important from a safety and soundness and systemic

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

risk standpoint to have rough comparability between risk-based capital and leverage capital. And the fact was that prior to the crisis leverage capital requirements were lower. The changes we made are really designed to produce that comparability because both measures of capital -- and I won't go -- I'll keep this brief, both measures of capital have strengthened and -- and -- and issues.

Risk-based capital has the strength of -- of being linked to the risk of the activities taken by the institution. It has the downside of being subject to manipulation, and frankly, we saw some of that during the crisis. Leverage capital has the strength of being a simple -- a loss absorbing measure of capital. It's not manipulatable, it has the downside of not being risk-sensitive. The two together, roughly comparable, we think, make the strongest basis for a capital system.

ROUNDS: Mr. Chairman, thank you for your patience. It just seems as though we've really got an issue with regard to deposits, that are central bank deposits, and whether or not we should be not giving some leniency for folks that are depositing with the central bank and -- and making them very uncompetitive with other banks around the -- around the world. Thank you, Mr. Chairman.

CRAPO: Senator Van Hollen?

VAN HOLLEN: Thank you, Mr. Chairman.

I thank all of you for your testimony today. Mr. Noreika, as you know, many of us were troubled by the mechanism procedure that was used to put you in your current position because it kind short- circuited the advice and consent process. I know it's not a permanent position, but it is a position of incredible public trust. I think you would agree with that, would you not?

NOREIKA: Yes, senator.

VAN HOLLEN: And barring that process, one of the things that the Trump administration has touted as a mechanism for upholding the public trust has been their ethics pledge. So my question to you today is will you uphold or sign that Trump administration ethics pledge?

NOREIKA: Well senator, I don't have a position that's subject to the ethics pledge.

VAN HOLLEN: So, even though you've got the top position in the department in OCC, you're saying that the Trump administration did not write its ethics protections in a way that would encover (ph) that position?

NOREIKA: Well, I guess its President Obama who wrote that policy and the Trump administration...

(CROSSTALK)

VAN HOLLEN: No, I'm talking...

(CROSSTALK)

NOREIKA: Well, no. Senator, it's President Obama's policy that the Trump administration is -- is following with respect to special government employees. So, I think when you make the characterization of President Trump writing the policy, I think that's the wrong...

(CROSSTALK)

VAN HOLLEN: Well, OK. But I think you know that -- that President Trump tried to sell his ethics pledge as much more robust than that of the Obama administration, I'm going to go on. And I'd like to ask you, Governor Powell, about the issue of federal -- of the foreign banking organizations, and specifically Deutsche Bank, but the others as well.

As you know, during the financial crisis the fed provided about $538 billion in emergency loans to European banks. And as part of that, we also provided some oversight. Recently, the Department of Treasury has suggested rolling back some of those provisions. I think all of us on this committee want to look for ways to provide relief for community banks and want to make sure that all our regulations are -- are tailored to accomplish their purpose.

We're talking here about major foreign banks. I want to ask you if you support their proposal that would loosen or weaken the requirements for loss absorbing

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

long-term debt. If you -- are you familiar with that particular recommendation?

POWELL: For foreign banks?

VAN HOLLEN: Yes, they want to scale back.

POWELL: Is this from the treasury report?

VAN HOLLEN: This is the Treasury report.

POWELL: I'd have to look at it, senator. I mean, it's a -- it's -- it's a lot of recommendations.

VAN HOLLEN: OK. I appreciate -- I would appreciate if you could get back to us on that. How about their other recommendations regarding the foreign banking organizations? Have you had a chance to look at the other ones?

POWELL: There -- there is one. You know, we -- we actually -- our view at the beginning was that we should look to the U.S. assets, rather than the global assets in -- in designating these companies for -- for purposes of section 165. And it went the other way, so we would actually be comfortable with -- with that change. But I would come back to you on the -- on the other one.

VAN HOLLEN: Appreciate that. And I want thank you and Mr. Gruenberg for your service. And Mr. -- Mr. Chairman Gruenberg, if you could please comment both on that proposal that was made by the Treasury Department regarding the long-term debt, the loss absorbing long-term debt, but also this issue of just look at U.S. based assets. On the one hand, I understand that. On the other hand, these are major multinational banking organizations, and my sense is, if they meltdown in their operations outside the United States, it's going to have a dramatic impact here in the United States. If you could comment on those?

GRUENBERG: So, I want to look at these specifics in regard to loss absorbing debt for -- in regard to foreign institutions. It's a general proposition, one of the important rules that the Federal Reserve has adopted. It's to require a minimum level of loss absorbing debt for large institutions, which include some of the foreign banking organizations.

It's an important resource to have, so that if one of these institutions gets into difficulty and goes to failure, that debt can be utilized in resolution to recapitalize the bank, imposing the cost of the recapitalization on the creditors of the institution and protecting the taxpayer.

We -- we view it as one of the key changes that have been made and we're highly supportive of the -- of the fed rule that's been adopted, and we think it's been properly calibrated to allow appropriate level of debt to ensure that these institutions, in resolution, could be recapitalized in a way that would be credible with the markets and allow for orderly failure (ph) of the institutions, so it's -- it's quite important.

VAN HOLLEN: And the other...

GRUENBERG: And to the other -- the -- the thing we do think is -- is -- is important is in evaluating the U.S. operations of these institutions. Certainly the foreign operations can impact them, but in looking at the U.S. operations, we should not -- and have not allowed them to rely on an expectation of support from the foreign parent.

Because of the lessons we learned during the crisis is that support may not be forthcoming, and so that they need to have the appropriate standards here to protect the U.S. operations based on the U.S. requirement...

VAN HOLLEN: On a standalone basis.

GRUENBERG: ... yes.

VAN HOLLEN: OK. Thank you.

CRAPO: Thank you.

Senator Tillis?

TILLIS: Thank you, Mr. Chair.

Gentleman, thank you all for being here. Governor Powell, I know that a couple of the -- former regulators appointed by the Obama Administration have either called for -- a reduction in the complexity of Volcker, I think at least one of them has called for its outright repeal. Can you give me an idea of where you

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

think we need to be on that spectrum of just changes? Can you talk a little bit about specific things that we should be looking at or expecting in terms of regulatory relief as it relates to Volcker?

POWELL: Yes, Senator. So what we've been focusing on is laying the statute side by side with the rule, and looking at the degrees of freedom we have to make the rule less burdensome, consistent with the -- with the letter in the spirit of the law, and I'd say our -- and i's complicated down in the weeds stuff. But I think we have a significant amount of freedom, we do, to tailor for -- large institutions versus small institutions -- those with big trading books in particular.

TILLIS: Can you give me an idea of some of those weeds that would get whacked? POWELL: I would. I'd be

delighted to. So, I think in general, we believe we have the authority to draw a line below the -- those are the big trading books, you know maybe $10 billion and up and have, sort of, that group regulated in one way and then everybody else regulated a lot less -- a lot less.

I think we also can -- we can -- we believe we can change the definition of the trading account which -- and I think that some of the choices that were made in the regulation go well beyond what's in the statute. For example, the rebuttable presumption, the definition of a covered fund, when you get to the fund side. Quite a lot of those things. Not all of them, but quite a lot of those, were -- were drafting choices made in the regulation.

And so we believe, really based on two and a half years of experience and five years of discussions, that we can go back and revisit those and do a lot. I would say Congress could play a role here. It would -- in fact could -- could exempt banks, you know, below a certain level, just completely exempt them from this. And it would be no loss to safety and soundness. And, you know, a -- an appreciable gain to cost effectiveness.

TILLIS: And that's -- that's a point that I want to make.

I think it was Senator Warren that brought it up. I don't see how those sorts of changes create any significant risk. I see how it makes the regulations leaner, but I don't really understand -- what would be the argument for saying that considering those signs and changes are going to create a greater risk?

POWELL: Well, you know, we're committed to -- to not doing things that would create...

(CROSSTALK)

TILLIS: That's a bad thing.

(CROSSTALK)

POWELL: ...a significantly greater risk. You know, the while idea is to -- is to preserve, in my view, and I think our view, that the whole idea is to preserve the important core reforms that we've made. But to go back and clean up our work, I mean, I think our obligation is to do that.

I think Volcker is a very, very difficult statute to implement, and I think if you look at it, it's implemented in a way that's too costly. I think it's on us to address that, as supervisors and regulators. So, that's how I see it.

TILLIS: Anybody else have a comment of (ph) that?

GRUENBERG: I'd just add, Senator, I think the basic premise of the Volcker rule, which is that risky proprietary trading shouldn't be supported by insured deposits by the -- the public safety net, is a premise that is generally accepted. I think the issue is the implementation of the Volcker rule.

I think there's a general view -- view that are opportunities to simplify compliance while achieving the purposes of the rule and I think there will be an effort among the regulators to do that. I think, obviously, here, the key is to strike a balance between trying to simplify compliance while being sure that we're achieving the purpose of the rule making.

I would say for -- on the exemption side, I'd be more inclined toward a regulatory safe harbor for institutions -- smaller institutions that engage in

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

traditional banking activities, rather than trying to have a flat exemption, because they're -- then that would capture the vast number of institutions, say below $10 billion, but you don't want to create a vehicle for a small number of those institutions to be used for the proprietary trading activity. So, striking your balance there seems to be what makes some sense.

NOREIKA: And as the third Volcker agency at this table, we support very strongly a full review of the Volcker rule putting out for comment to get the views of the affected parties. What we should be doing, as far as what we can do, what works, what doesn't work, where the costs vastly exceed the benefits. We need to revise it and streamline it.

TILLIS: I -- Mr. Chair, I'm not going to go too far over, even though I am the last person here, because I have a another commitment. But I really believe that we have to go through the process of regulatory reform. And I think it was Mr. McWatters that said something about we shouldn't be using a shotgun as a method for rightfully going in and making sure the financial institutions are complying with regulations that expose our economy to risk, or our financial sector to a risk.

But I think we've got some pretty dumb ways for doing that today. I think that we have to take a look at the ROTE risk profiles of banking institutions, get away from arbitrary thresholds, so that we're actually making sure that the green light and the red light is being driven by common sense assessments of the risk that a given institution represents, and it goes far beyond many of the regulations that I think that are driving our agencies today.

And I look forward to a lot of recommendations that we can fast track to get to that point, to get to the minimum amount of regulation to cover the risk, and to free up financial services institutions, free up market makers, do the kind of the things that we know we need to do if we're going to be serious about getting to the kind of economic growth we need to get to in this country. Thank you all for being here. I will have several questions for the record.

Thank you, Mr. Chair.

CRAPO: Thank you very much. And that does conclude the questioning. I again want to thank our witnesses for, not only, your time and effort to appear here today, but the work that you do in helping us to administer the financial governance of our system in the United States. I also appreciate the fact that each of you provided very helpful suggestions to the process that we're going through. Just -- I'll be quick too in wrapping up, in line with what Senator Tillis was just talking about.

We are, as you know, engaged in an effort to identify where statutorily we can make things better. I don't think that it necessarily does, in fact, it often does not come down to trying to figure out how to analyze the costing benefit of allowing risk to go up, in return for some kind of efficiency in the system. There are many efficiencies in the system that we can achieve, that will not cause increase in risk, and in fact, might even reduce risk. And it's those kind of efforts that I think we were primarily focused on today.

We need to get the right balance in our system, so that we can have the strongest economic engine that we possibly can in our country. That's what will provide the kind of strength and reduce risk, in maybe the biggest way possible, in my opinion. But you are literally on the front lines, and the advice that you provide is tremendously helpful for this committee, and I appreciate it. You will receive some additional questions from Senators, as Senator Tillis just indicated.

(OFF-MIKE)

CRAPO: For the senators, their questions will be due within seven days, which will be next Thursday. I ask you to be very prompt in your responses, because we are, literally, actively engaged right now in moving forward with developing this legislation. With that, thank you again for coming today and this hearing is adjourned.

END

Bloomberg Law®

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service

2017 Bloomberg Government Provided by ProQuest LLC. All Rights Reserved.

-0- Jun/23/2017 01:36 GMT

© 2017 The Bureau of National Affairs, Inc. All Rights Reserved. Terms of Service