Testimony of

James Hamby

before the

Committee on Oversight and Government Reform

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Chairman Issa, Ranking Member Cummings, and members of the Committee, my name is Jim Hamby. I am President and Chief Executive Officer of Vision Bank in Ada, Oklahoma. Vision Bank is a locally-owned bank that was chartered in Indian Territory in 1901. We are now a $550 million bank with six bank branches in five communities and we employ 200 people. I am thankful for the opportunity to present my views on how regulatory impediments are making it difficult for banks like mine to help the job creators in our local communities get our economy back on track.

I appreciate the Committee taking the time to look at the important topic of how job creators like banks are buried by red tape. In our case, the cumulative impact of the last few years of new regulations threatens to undermine the community bank model. Banks certainly appreciate the importance of regulations that are designed to protect the safety and soundness of our institutions and the interests of our customers. And we recognize that there will always be regulations that control our business. But the reaction to the financial crisis has layered regulation upon regulation, doing little to improve safety and soundness and, instead, handicapping our ability to serve our communities.

Like many banks around the country, my bank is intensely focused on building and maintaining long-term relationships with our customers. We have to have this long-term view because we plan to be here for a very long time, and that requires us to provide the financial services that will keep our communities strong and growing. We cannot be successful without such a long-term philosophy and without treating our customers fairly.

I am proud to say that Vision Bank is approaching 112 years of service in Oklahoma. Our success has always been closely linked to the success of the communities we serve, and we are very proud of our relationships with them. They are, after all, our friends and neighbors.

Vision Bank, like most community banks, is deeply involved in every aspect of its community. In each community we serve we have a student board of directors that gets detailed training on bank management and products. We sponsor the local university's "Presidential Leadership Class" and teach a personal finance course in thirteen schools within our area. In addition, we spent and donated over $420,000 (8% of earnings) last year to assist local groups. This is what a community bank does.

A bank's presence is a symbol of hope, a vote of confidence in a town's future. When a bank sets down roots, communities thrive. We strongly believe that our communities cannot reach their full potential without the local presence of a bank – a bank that understands the financial and credit needs of its citizens, businesses, and government.

That is why it is particularly frustrating to me, and I'm sure to most other community bankers, that we end up being punished for the actions taken by others. We never made an exotic mortgage loan, changed our underwriting standards, or took excessive risks. We had nothing to do with the events that led to the financial crisis and are as much victims of the devastation as the rest of the economy. We are the survivors of the problems, yet we are the ones that pay the price for the mess that others created.

During the last decade, the regulatory burden for community banks has multiplied tenfold, with more than 50 new rules in the two years before Dodd-Frank. And with Dodd-Frank alone, there are roughly 3,900 pages of proposed regulations and more than 3,600 pages of final regulations (as of April 13). It is frightening to consider that we are only a quarter of the way through the more than 400 rules that must be promulgated under this new law.

Community banks like mine pride themselves on being agile and quick to adapt to changing environments. Yet there is a tipping point beyond which even the most nimble community banks will find it impossible to compete. New laws or regulations might be manageable in isolation, but wave after wave, one on top of another, will undoubtedly overrun many community banks.

The calculus is fairly simple; more regulation means more resources devoted to regulatory compliance, and the more resources we devote to regulatory compliance, the fewer resources we can dedicate to doing what banks do best – meeting the credit needs of our local communities. Every dollar spent on regulatory compliance means as many as ten fewer dollars available for creditworthy borrowers. Less credit in turn means businesses can't grow and create new jobs. As a result, local economies suffer and the national economy suffers along with them.

Congress must be vigilant in overseeing regulatory actions that unnecessarily restrict loans to creditworthy borrowers. Holding oversight hearings like this one is critical to addressing the negative implications that flow from excessive regulatory red tape.

In my testimony today, I'd like to make three key points:

- ***Small Businesses Are Critical to Job Creation And Banks Are Essential Partners.***

  Banks are the primary lender to small businesses. As such, the presence of banks in local communities throughout our nation is critical to meeting the unique needs of new and developing companies. We also are small businesses in our own right and we are major employers in our community.

- ***The Cost Of Implementing New Regulations Weighs Most Heavily On Community Banks.***

  Community banks generally have more limited resources compared to their larger competitors. As the volume and magnitude of regulations increase, more of these resources are dedicated to compliance rather than making loans to consumers and small businesses. Even a small reduction in compliance costs could free up billions of dollars needed to help the economy grow.

- ***Dodd-Frank Has Significantly Compounded the Problem of Regulatory Burden and May Drive Community Banks out of Lines of Business Altogether***.

  The cumulative impact of rules emanating from Dodd-Frank may be too much for some banks to bear. New rules on mortgage lending and municipal advisors are particularly problematic and must be addressed.

I will discuss each of these in detail in the remainder of my testimony.

I. Small Businesses are Critical to Job Creation and Banks are Essential Partners

It is well-documented how crucial small businesses are to the national economy. Studies produced by the Small Business Administration demonstrate that small businesses account for over half of all jobs in the U.S. and this share of total employment has been fairly stable over the past few decades. More importantly, small businesses account for as much as 65 percent of net new jobs created over the past 15 years and most new job growth during economic recoveries occurs at new and small firms. Small firms and start-ups promote innovation because they are more flexible and often more daring than larger businesses.

Banks are the primary lender to small businesses and their presence in local communities throughout our nation is critical to meeting the unique needs of new and developing companies. It is why banks have financed more than 20 million small business loans.

At my bank, we have been helping our small business partners (businesses, farmers, ranchers, oil and gas companies, Indian tribes, doctors and hospitals) grow for over 100 years. We have had a great deal of success and have helped create thousands of jobs and have improved the lives of everyone in our markets. I take great personal pride in this and I like being a community banker.

The pace of business lending is affected by many things, the most important being the demand from borrowers. The state of the local economy – including business confidence, business failures, and unemployment – and pressure by regulators to conserve capital play important roles too. Bankers are asking more questions of their borrowers, and regulators are asking more questions of the banks they examine. This means that some projects may not qualify for funding. Banks do not turn down loan applications because they do not want to lend – lending is what banks do. In some cases, however, it doesn’t make sense for the borrower to take on more debt.

Our still fragile economy and uncertain economic future makes borrowers less interested in adding new debt. Studies indicate that lack of sales remains the top concern for businesses. Without strong sales prospects, businesses won’t hire more workers, grow production, and invest in new products.

At Vision Bank we’ve experienced a significant downturn in the demand for loans over the past couple of years. And while demand has increased somewhat recently, we are still at a much slower pace than what we would consider healthy.

II. The Cost of Implementing New Regulations Weighs Most Heavily on Community Banks

The burden of regulatory compliance is keenly felt by all banks. But smaller banks generally do not have as many resources as their larger brethren and endure greater difficulty in adapting to new regulations or to changes in existing regulations. Historically, the cost of regulatory compliance as a share of operating expenses is two-and-a-half times greater for small banks than for large banks.

We are a $550 million bank and our compliance costs have increased by $1.4 million in the last three years, which has resulted in a 29% decrease in earnings. This includes salaries, compliance training, legal and consulting services, compliance software and IT expenses, printing expenses and privacy mailing expenses, and various record-keeping requirements. And there are other costs that we simply cannot capture. We have several dedicated compliance officers just to handle all the legal and paperwork requirements.

Considering that the median sized bank in this country has $166 million in assets and 38 employees, it is not difficult to see how the burden of absorbing increasing compliance costs is magnified for smaller institutions. And it is not just in-house staffing requirements that must be considered. Banks must also factor in the high cost of attending conferences and seminars, the many subscriptions to legal and accounting services that are necessary to ensure nothing is missed, upgrades to IT software to monitor our activities, and the additional burden of proving that we have in fact complied with the new law. And unlike many of our larger competitors who have the means and resources to hire additional in-house lawyers, community banks like mine generally resort to paying outside counsel, which is often more expensive. On top of all this, the regulatory agencies want to see independent third-party confirmation, so besides internal audits, banks now have to have outside audits for compliance – a significant expense for smaller banks.

Along with the real, hard-dollar costs are lost opportunity costs. Instead of being trained on how to expand markets or bring in new customers, employees are trained on how to comply with regulations. Money that would normally be diverted to making loans to consumers and small businesses is instead used to pay consultants, lawyers and auditors. And instead of investing capital in new products and services, banks are paying for changes to software to ensure compliance with new regulations.

Excessive regulation saps staff and resources that should go instead to meeting the needs of our customers. Even a small reduction in the cost of compliance would free up billions of dollars that could facilitate loans and other banking services, helping create jobs and grow the economy.

One example relates to the outdated requirement that a physical placard be affixed to ATMs notifying customers of the possibility that they may be charged a fee for using the machine, even though any actual fees are fully disclosed on the screen before any transaction is completed. Requiring disclosure of fees, and giving consumers the ability to opt-out, is sound policy. But requiring both a physical placard and on-screen notice is a vestige from the days when such information was harder to present on the computer screen. Its main contribution today is to encourage frivolous lawsuits and force banks to spend valuable time and resources scurrying around to all their ATMs to make sure that fee notification stickers – which have no real value to today's customers – haven't been peeled off or removed by vandals.

I am certain I speak for all of my colleagues when I say that I am grateful to the House of Representatives for passing legislation last week, H.R. 4367, that removes this unnecessary and duplicative requirement. Measures such as this can do much to help ease regulatory burdens.

Another example relates to the requirement that a bank send annual privacy notices to customers even if the bank does not share nonpublic, personal information (beyond what is permitted by regulatory exception) and the bank has not changed this practice. The continued requirement that banks send such a notice to their customers every year is costly both in terms of money and man hours. Moreover, receipt of the annual notice irritates consumers and risks desensitizing them to other important communications from their bank. Eliminating the annual re-notification requirement when no changes to the notice have been made would provide real and immediate regulatory relief without impacting a customer's rights or existing privacy protections. That is why I support H.R. 5817 and I urge this body to quickly move to pass this important legislation.

III. Dodd-Frank has Significantly Compounded the Problem of Regulatory Burden and May Drive Banks out of Lines of Business Altogether

As I noted earlier in my testimony, we are only a quarter of the way through the more than 400 rules that must be promulgated under Dodd-Frank. The flood of regulations emanating from Dodd-

Frank is so large that bank regulators have been urging banks to add compliance officers to handle it. And despite claims that community banks like mine would be exempt from the new Consumer Financial Protection Bureau, we are not exempt. ***All banks – large and small – will be required to comply with the rules and regulations set by the CFPB.***

The CFPB, at its sole discretion, can join the prudential regulator during compliance exams. In addition, regulators will examine banks for compliance with the CFPB's rules at least as aggressively as the CFPB would do independently. In fact, the FDIC has created a whole new division to implement the rules promulgated by the new CFPB, as well as its own prescriptive supervisory expectations for laws beyond FDIC's rule-making powers. Thus, the new legislation will result in new compliance burdens for community banks and a new regulator looking over their shoulders.

Given that the cost of compliance has a disproportionate impact on small banks as opposed to large banks, it is reasonable to expect this gap to widen even more as Dodd-Frank is fully implemented.

The cumulative impact of hundreds of new or revised regulations may be a weight too great for many small banks to bear. Congress must be vigilant in its oversight of the efforts to implement the Dodd-Frank Act to ensure that rules are adopted only if they result in a benefit that clearly outweighs the burden. Some rules under Dodd-Frank, if done improperly, ***will literally drive banks out of lines of business.*** New rules on mortgage lending and on registration as municipal advisors are two particularly problematic provisions.

One of the changes required in Dodd-Frank is that lenders must show that borrowers meet an "ability to repay" test—***which can be challenged in court for the entire life of the loan***, raising the risk of litigation tremendously. Few would argue against the idea that borrowers should be able to demonstrate some ability to repay their loans. But the new law makes this matter much more complicated than it needs to be. Dodd-Frank also imposes broad risk retention requirements on most loans sold into the secondary market. These requirements have the potential to make it much more costly for banks to make loans and could have the unintended consequence of denying quality loans to creditworthy borrowers.

Dodd-Frank does provide that banks can show they have met the ability to repay test by making loans that fall into a category known as a Qualified Mortgage or QM. The QM is intended to be a category of loans with certain low risk features made to borrowers shown to be creditworthy and able to meet the payment terms. The CFPB is tasked with finalizing a rule setting forth exactly what will qualify as a QM, but a number of concerns have arisen with regard to the approach which the CFPB may take. If the QM category is made too narrow by excluding too many loan types or by requiring borrowers to meet too high a standard of creditworthiness, then credit will contract and potential borrowers will be denied credit for which they would otherwise qualify.

How these exceptions are defined will dramatically impact the willingness and ability of banks to make mortgage loans, and of consumers' ability to qualify for credit. The thought of quality institutions being forced from the mortgage market and of otherwise creditworthy borrowers being denied credit because of overly broad regulations is chilling – especially at a time when our housing economy has been severely battered and is just beginning to show signs of recovery.

The provision on municipal advisors is also problematic and would limit services to municipalities by community banks. Banks offer public sector customers banking services and are regulated closely by several government agencies. It is generally believed that Dodd-Frank intended to establish a regulatory scheme for unregulated persons providing advice to municipalities with respect to municipal derivatives, guaranteed investment contracts, investment strategies or the issuance of municipal securities. The Securities and Exchange Commission has proposed a very broad definition of "investment strategies" that would cover traditional bank products and services such as deposit accounts, cash management products and loans to municipalities. This means that community banks would have to register as municipal advisors and be subject to a whole new layer of regulation on bank products for no meaningful public purpose.

Such regulation would be duplicative and costly. Consequently, community banks would not be able to offer banking services to municipalities at a price that would be competitive and many may decide not to provide them at all. The likely result will be less innovation and diminished job creation and economic expansion.

I urge Congress to oversee this implementation and ensure that the rule addresses unregulated parties and that neither Section 975 of Dodd-Frank nor its implementing regulation reaches through to traditional bank products and services.

Conclusion

An individual regulation may not seem oppressive, but the cumulative impact of all the new rules plus the revisions of existing regulations is oppressive. This is particularly true for community banks that lack the resources necessary to address an ever-growing panoply of government red tape. What's more, as regulatory burden increases, the ability of banks to meet the credit needs of their local communities diminishes. This leaves businesses – particularly small businesses – without the funding they need to create jobs and grow the economy.

The regulatory burden from Dodd-Frank compounds the problem and must be addressed in order to give all banks a fighting chance to maintain long-term viability and meet the needs of local communities everywhere. Ultimately, it is the customers and community that suffer along with the fabric of our free market system.

JIM HAMBY
BIOGRAPHICAL INFORMATION

Jim Hamby is the President and C.E.O. of Vision Bank in Ada, OK. Vision Bank is a $550,000 community bank with six banks in five Oklahoma communities.

A native of Weleetka, Oklahoma, Jim has been with Vision Bank since 1983 and became the bank's President and C.E.O. in 1990. Prior to moving to Ada, Jim worked at banks in Temple, and Dallas, Texas. He served in the Army as a Cavalry Officer from 1973 to 1977 and has a B.S. from East Central University in Ada, and an M.B.A. from Baylor University. He also is a graduate of the Southwestern Graduate School of Banking at S.M.U.

Jim has served several terms on the Board of Directors of the Oklahoma Bankers Association and has also served on numerous OBA committees. He is presently on the Administrative Committee of the American Bankers Association's Government Relations Committee and has served on its Community Bankers Council, and Federal Home Loan Bank Committee. In addition, he has been a member of The National Homebuilders Association's Mortgage Round Table, and is presently on the Board of Directors of the Federal Home Loan Bank of Topeka.

Jim has also served on and chaired numerous community boards and organizations and is presently a Commissioner on the Oklahoma Judicial Nominating Commission.