Testimony of

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Financial Institutions and Consumer Credit Subcommittee

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Thank you Representative Capito and Representative Maloney for the opportunity to speak with you on the impact of the Dodd Frank Act on small financial institutions and small businesses. I am Peter Skillern, Executive Director of the Community Reinvestment Association of North Carolina, a nonprofit community advocacy and development agency.

Small financial institutions are facing long-term trends of consolidation and competition from mega banks and unregulated financial lenders. The Dodd Frank Act will help small financial institutions by providing a more level playing field with mega institutions and non-regulated financial service providers. Small businesses are facing a tougher credit market and slower recovery. The Act makes an extraordinary effort to do no harm to small businesses and to help them through increased transparency in credit and protections. Most importantly, Dodd Frank provides a more stable financial system for small banks and small businesses by mitigating the systemic risks and lending abuses by megabanks and unregulated financial institutions that catalyzed the financial crisis. This legislation stands up for the little guys in the financial market - small banks, small businesses and families.

Small versus Big Banks

Small financial institutions are facing significant challenges in the restructuring of the financial system as their numbers decline while mega institutions grow.
As measured by the number of banks under $100 million, the deposit base and mortgage lending, this sector of the financial system is shrinking dramatically. Nationally, the number of banks with under $100 million in assets dropped by 5,410 from 1992 to 2008.[1] In North Carolina, of 146 financial institutions, the bottom 100 hold 10% of deposits, while the top six hold 76%. Nationally, approximately 4,000 small banks made 100 or fewer mortgages in 2007.[2] Yet small banks remain essential components of local financial services, lending and civic engagement. Many areas of the country would not have banking services without small lenders.

By contrast, the consolidation of assets and market share of mega-banks has increased. In 1995, the top 5 banks had 11% deposits share; in 2009 they had nearly 40%.[3] In the last half of 2010, three lenders conducted 50% of mortgage activity.[4] The consolidation of Country Wide and Merrill Lynch into Bank of America, Washington Mutual into JP Morgan Chase, and Wachovia Bank into WellsFargo has further consolidated the financial services sector making institutions that are "too

[1] It Takes More Than a Village: The Decline of the Community Bank, Celent, http://reports.celent.com/PressReleases/200901293/VillageBank.asp

[2] FFIEC, HMDA Analysis by CRA-NC

[3] It Takes More Than a Village: The Decline of the Community Bank, Celent, http://reports.celent.com/PressReleases/200901293/VillageBank.asp

[4] Mortgage Daily, http://www.mortgagedaily.com/PressRelease021511.asp

big to fail", even bigger. Megabanks' multiple business lines and capital market activities create competitive advantages of scale, efficiencies and leveraged capital, which have contributed to the decline of small banks.

All of these challenges arise prior to the implementation of the Dodd Frank Act. The challenges that small institutions face are not from the Dodd Frank Act, but from long term trends of capital concentrations and consolidation which is furthered by the financial crisis and recession.

The Dodd Frank Act primarily focuses on large financial institutions that operate in the capital markets. Its focus is on reducing systemic risk, creating a means for the resolution of financial giants, prohibiting proprietary trading, regulating derivatives, and reforming the regulatory system itself. These are not primarily the concerns of small institutions other than whether the system is stronger and more stable in which they operate.

Consumer Financial Protection Bureau

The creation of the Consumer Financial Protection Bureau (CFPB) will consolidate and simplify rule writing for all financial institutions for consumer protection laws. The CFPB does not have supervision of banks below $10 billion in assets or 98% of all banks. These banks will continue to be supervised by their prudential regulator. The CFPB will have supervisory oversight for consumer compliance for only 2% or about 114 banks.

Efforts to reduce the CFPB ability to provide oversight of megabanks and non-financial institutions will mean that small banks will again be regulated when others are not, allowing bad practices to drive out good ones. The CFPB creates a more level playing field for regulated small lenders, by ensuring mega-lenders and nonbank lenders are playing by the same rules.

There will be costs related to regulatory reform and there is uncertainty in changes. We agree that the unique needs of small institutions need to be considered as rules are written and implemented. But that is not an argument that rules and reforms are not merited. The CFPB benefits the financial system and small banks.

Risk Retention

The Dodd-Frank Act mandates higher standards for safety and soundness in lending. Given the record number of small bank failures, foreclosures and megabank collapses, we support the emphasis on responsible lending. Risk retention is a reasonable governor on risk, which could expose taxpayers to losses. Yet we urge that the rulemaking does not overly restrict credit or disadvantage small institutions in lending. As an example, rule making to define the Qualified Residential Mortgage (QRM) exemption from the risk retention should be developed so that sound underwriting of low risk, high performing traditional loans should define the QRM. A proposal by WellsFargo to define QRM as loans having 70% loan to value will exempt only 15% of mortgages. The effect will unnecessarily raise credit costs on 85% of loans. It will limit mortgage lending primarily to large institutions that can afford the 5% risk retention and further disadvantage small banks. The QRM should be concerned with safety and soundness, affordability and inclusion in the lending field. Risk retention should be targeted towards nonconventional risky loans.

Interchange Fees

We are supportive of prepaid cards that provide financial services to the under-banked when the product has low consumer fees, mandated consumer protections and no overdraft or consumer loans attached. The Durbin Amendment provides incentives for these features of the card. We also hope that both small and large institutions can profitably provide the card in serving consumers.

Small Business Impact

Small businesses are faced with a constriction of credit availability. Loans to small businesses in 2009 (volume) were only 44.4 percent of those in 2008. [5] The decline in outstanding balances to small businesses continued in 2010. [6]

The Dodd Frank makes explicit protections to protect small businesses from unintended consequences of regulation. Section 619 prohibitions on proprietary trading do not apply to Small Business Investment Corporations allowing for banks

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[5] Community Reinvestment Association of North Carolina, FFIEC CRA Small Business Data.
[6] Small Business Lending in the United States, 2009-2010 Office of Advocacy U.S. Small Business Administration February 2011, pg. 3. http://www.sba.gov/sites/default/files/files/sbl_10study.pdf

to invest in SBICs. Section 1027 excludes merchants, retailers and other sellers of non-financial goods and services. Subtitle C, Section 1031 specifically allows for small business income to be considered in loan underwriting. Subtitle G, Regulatory Improvements Section 1071 data collection is meant to better monitor lending to small business with transparency and without bias. Three different sections 1099, 1424 and 1474 all require studies to ensure that credit costs are not increased for small businesses. The Dodd Frank Act is small business friendly.

Small banks, small businesses and American families will be well served by the Dodd Frank Act and the Consumer Financial Protection Bureau.

United States House of Representatives
Committee on Financial Services

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Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

1. Name:	2. Organization or organizations you are representing:
Peter Joel R. Skillern Jr	Community Reinvestment Association NC
3. Business Address and telephone number:	
[redacted]	
4. Have **you** received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?	5. Have any of the **organizations you are representing** received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?
☐ Yes ☑ No	☐ Yes ☑ No
6. If you answered .yes. to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.	
7. Signature: Peter J Skillern	

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