Testimony of

Dorothy A. Savarese

On behalf of the

American Bankers Association

before the

Committee on Banking, Housing, and Urban Affairs
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Chairman Crapo, Ranking Member Brown, and members of the committee, my name is Dorothy Savarese. I am chairman, president and chief executive officer of the Cape Cod Five Cents Savings Bank which is an independent Massachusetts state-chartered savings bank founded in 1855. My bank has $3.1 billion in assets and 24 locations throughout Cape Cod, the islands and Southeastern Massachusetts.

I am also the chairman of the American Bankers Association and I appreciate the opportunity to be here to present ABA's views regarding regulatory relief for small financial institutions. The ABA is the voice of the nation's $14 trillion banking industry, which is composed of small, mid-size, regional and large banks that together employ more than 2 million people, safeguard $13 trillion in deposits and extend more than $9 trillion in loans.

Regulatory relief is not a new subject, yet the imperative to do something grows every day. The growing volume of bank regulation—particularly for community banks—is negatively impacting the ability of banks throughout the nation to meet our customers' and communities' needs. We believe that targeted, sensible changes to financial regulations will help us accelerate growth in the American economy, without compromising safety and soundness. Our request is simple: remove regulatory impediments and let us accelerate growth in the American economy.

Let me begin by stressing that we agree on the need for strong regulation. Indeed, lawmakers, regulators and bankers themselves took important steps after the crisis to improve safety and soundness. But included in the 25,000 pages of new and proposed rules since Dodd-Frank became law, are requirements that are harming our ability to serve creditworthy customers and our communities.

In addition, the cost of compliance is driving some banks to close their doors. Every business day a bank in this country is either acquired or merged. That's not good for competition, consumers, or the U.S. economy.

Some in Congress have attempted to use community banks' continued resilience in the face of this onslaught as an excuse to leave the regulatory environment untouched. Indeed, as the wave of consolidation continues, banks are profitable and loans are growing. But that is what we should expect in a growing economy. Banks are lending because that is what banks do. We have found ways to meet our customers' needs in spite of the ups and downs of the economy and the regulatory challenges we face.[1]

The "everything's just fine" point of view also loses perspective on potential. Banks could be lending more, and the economy could be growing faster, if regulations were rationalized. Consider loan growth. Loans are growing, but at half the pace they did years before the financial crisis.[2] Community banks power the economy in part by providing nearly half of loans less than $1 million that go to small businesses, which in turn account for more than half of net new job creation. Is it any accident that both GDP growth and the business startup rate are running well below historical levels, especially at this point in an economic recovery?

Mortgages in particular remain tightly bound by a web of Dodd-Frank rules. According to a recent ABA survey, just 9 percent of single-family mortgage loans made in 2016 were made outside of the "qualified mortgage" box, which means a one-size-fits-all arbitrary regulatory standard is keeping too many creditworthy families out of homes they can readily afford.

[1] While nominal net income has grown, key measures of profitability still lag historic norms. For example, Return on Assets has averaged 1.0% over the last five years compared to 1.3% the five years before the Great Recession. More troubling is the Return on Equity has averaged just 9.0% over the last five years compared with 13.3% prior to the recession. Without sufficient returns to investors, capital flows elsewhere and less lending flows into communities.

[2] For example, from 2000-2005 (before the run up to the financial crisis) average quarterly loan growth was 1.9%. From 2011-2016 (after Dodd-Frank and again excluding the impact of the financial crisis where many banks were shrinking) average quarterly loan growth was only 1%.

Perhaps the most striking and obvious impact of excessive regulation has been on the rapid consolidation of the industry. Today, there are fewer than 6,000 banks—the first time since the 1890s. Since Dodd-Frank was enacted ***1,976 banks—or 25% of the industry—have disappeared***. Certainly, consolidation would have occurred without Dodd-Frank, but the ***increased pace*** of that consolidation since it was enacted has been extraordinary. More than 43% of banks under $100 million in assets have disappeared, as has 17% of banks between $100 million and $1 billion (see Table). This is a trend that will continue until some rational changes are made that will provide some relief to America's banks.

Consolidation Accelerates After Dodd-Frank Act

Asset	2004-2010	2010-2016
< $100m	-36.1%	-43.9%
$100m – 1b	4.4%	-17.8%
$1b - 10b	19.4%	11.9%
>$10b	-7.1%	8.6%
All Banks	-14.1%	-24.5%

Source: FDIC
Time periods defined as 1Q04-2Q10 and 3Q10-4Q16

American Bankers Association

Each and every bank in this country helps fuel our economy. Each has a direct impact on job creation, economic growth and prosperity. Community bankers are community leaders. They are involved in many local organizations, serve on school and hospital boards, donate thousands of volunteer hours to charities—all in addition to the advice they provide to small businesses, families and individuals, young and old, about their daily financial and banking needs. If this trend continues unabated, there will be fewer financial services in communities and less economic growth. Whether intended or not, the Dodd-Frank Act has added fuel to industry consolidation, reduced flexibility for product offerings, and increased the cost of providing financial services—a cost that is ultimately borne by customers.

This is why it is imperative that Congress take steps to ensure and enhance the banking industry's ability to facilitate job creation and economic growth through the credit cycle. The time to address these issues is now before it becomes impossible to reverse their negative impacts. When a bank disappears everyone is affected.

In the remainder of my testimony I would like to: (1) provide examples of how the regulatory burden has had an impact, and (2) provide details on a few of the many legislative actions that could provide relief to community banks.

I. Excessive Regulation Has Consequences for Banks and Their Communities

Regulation shapes the way banks do business and can help or hinder the smooth functioning of the credit cycle and economic expansion. Bank regulatory changes—through each and every law and regulation, court case and legal settlement—directly affect the cost of providing banking products and services to customers. Even small changes can have a big impact on bank customers by reducing credit availability, raising costs and driving consolidation in the industry. Everyone who uses banking products or services is touched by changes in bank regulation. Congress can help by eliminating unnecessary impediments which negatively impact every community across the United States.

The rules in Dodd-Frank have caused some banks to stop offering certain products altogether, such as mortgage and other consumer loans. For example, I recently heard from a bank in Southern California that, to its great regret, had to end its mortgage loan program. Dodd-Frank's mortgage regulations and disclosures meant the bank would have to purchase expensive software to manage the new layers of red tape—so expensive, in fact, that the bank was going to lose money on every single loan.

The fact is that most community banks are small businesses by any definition. ***The median sized bank in this country has only 44 employees***. There is simply not enough capacity to read and understand what rules apply (especially as rules are modified); implement, train, and test for compliance with those that do; and still have the time and resources to meet with individuals and businesses about their financial needs. Faced with the thousands of new regulations, the economics have forced many strong, well-run community banks to sell or merge with another bank.

Just last year, a banker in the Northeast wrote:

> "Unfortunately we became a victim of Dodd-Frank. The effects of Dodd-Frank, including the TILA-RESPA integration, the pending expansion of HMDA, ability to repay, forced-placed hazard insurance requirements, plus other regulatory issues such as the pending overdrafts rules, restrictions on small dollar lending, the military lending rule, the Durbin Amendment, etc… resulted in financial projections showing substantial declines in revenues and increases in compliance costs, reaching the point that in a few short years an otherwise healthy community bank with strong capital and satisfactory earnings could no longer meet a number of financial bench-marks set by the regulators. These conclusions forced the bank to

sell now when our shareholders and some of our employees would be less adversely affected."

In May of 2016 this bank merged with a much larger bank, resulting in approximately ***50% of the employees losing their jobs, all because of the cumulative impact of regulation***. Sadly, this is not an isolated case. This cannot be what Congress intended when it enacted Dodd-Frank.

Let me share a few more of the many examples I've heard as I travel the country for ABA of how bank regulation has impacted consumers across the country:

- One of my colleagues relayed the story of how, in the pre-Dodd-Frank world, a customer of hers whoneeded a new backhoe for his contracting business could call her up on a Friday night and get a verbal "okay" from the bank to make the purchase at a Saturday morning auction, knowing that he could come in first thing on Monday, fill out the paperwork, and be approved for the loan. She explained how, due to the inflexibility of regulations today, this kind of true relationship-based lending is no longer possible.

- Another $500 million bank in Texas has had to take all lending discretion away from loan officers and rely exclusively on a numbers-driven computerized underwriting model for fear of inadvertently violating fair lending regulations. As a result, they were forced to turn down a 30-year customer who has never been late on a payment and who wanted to guarantee a loan to fund a new HVAC system to restore heat to his daughter's home. Another customer was denied a loan despite having fully paid 20 loans to the bank.

- In another case, the customer of an Oklahoma bank passed away. The customer's daughter had been living with the mother and supplementing her mortgage payments while she was alive. Upon the mother's death the daughter wanted to remain in the house and continue paying the mortgage. The daughter did not qualify to purchase the home under ability to repay standards. This left the bank with the choice of foreclosing on the home and evicting the daughter or ignoring its policy and making a non-QM loan. **Instead this bank decided to charge off the loan – taking an immediate loss – and allow the daughter to continue making payments on her deceased mother's loan,** recapturing portions of the loss as the daughter makes monthly payments.

These stories are common at banks across the country. Together, they tell a story where regulation has meant product offerings are reduced, resources are reallocated to compliance rather than services, and good banks are forced to exit the market. It's the banks' customers who end up being hurt by all of these rules.

II. Legislative Proposals to Improve the Regulatory Environment and Our Economy

It is encouraging to hear lawmakers of both parties acknowledge the need for common-sense changes—regulatory calibrations that can kick-start our economy while maintaining a financial system that is safe, sound and resilient. ABA members have long advocated regulatory relief and other proposals that would help us better serve consumers and our local communities. When the full potential of America's banks to drive economic growth is realized, our customers, communities and country thrive.

ABA has, and continues to support, several legislative proposals as part of our *Blueprint for Growth* plan that would improve the regulatory environment and our overall economy. For example, we strongly support:

- The TAILOR Act (S.366), introduced by Senator Mike Rounds (R-SD), that would empower the regulators to "tailor" regulatory actions so that they apply only when required by the bank's business model and risk profile. Time and again, I hear from bankers wondering why the complex set of rules, reporting requirements, and testing that are imposed upon the largest, most diverse and global institutions become the standard applied to the smaller community banks in the country. The key to changing the consolidation trend is to stop treating all banks as if they were the largest and most complex institutions. Financial regulation and examination should not be one-size-fits-all.

- The Federal Savings Association Charter Flexibility Act (S. 567), bipartisan legislation sponsored by Senators Jerry Moran (R-KS) and Heidi Heitkamp (D-ND), that would provide thrifts with additional flexibility to adapt to and better meet the needs of changing economic conditions and business environments of their communities.

- Bipartisan legislation (S. 828) introduced by Senators Mike Rounds (R-SD) and Mark Warner (D-VA) that would expand banks' abilities to count municipal securities as high-quality liquid assets under the Liquidity Coverage Ratio. This legislation could be improved by removing similar impediments that discourage banks from taking municipal deposits.

- S. 1139, introduced by Sens. Jon Tester, Jerry Moran, and Heidi Heitkamp would provide relief from the Dodd-Frank Act stress tests, reducing the mandated frequency of testing for all institutions and removing many from the stress test process altogether. The Dodd-Frank Act, without real analysis, inserted artificial asset thresholds within the regulatory system. ABA has long sought reform of the stress test process as this imposes excessively heavy burdens on institutions for which stress tests are superfluous or not well suited. The legislation takes a critical first step to reform this process and we urge the Committee do more to broaden this relief even further.

- Legislation that streamlines the rules for Currency Transaction Reporting (CTR) by establishing an exception for very well-known customers and raising the current threshold for filings from $10,000 to $20,000.

- Bills and legislative proposals that would improve the regulatory environment and enable banks to better serve their communities by: raising the threshold for small bank holding company relief from $1 billion to at least $5 billion (S.1284); providing relief for mortgage servicing rights and trust preferred securities from Basel III capital requirements; creating a mutual bank certificate to help mutual institutions raise capital; and providing relief from regulatory requirements penalizing custody banks for taking deposits.

We hope that these bills can receive consideration by your Committee, either as part of this process or separately. As ABA noted in our April 12, 2017, letter to you Mr. Chairman and Ranking Member Brown, there are several additional proposals that we believe could both receive bipartisan support and achieve your goals of economic growth and community development. Specifically:

Increase Mortgage Lending

Existing mortgage rules are too restrictive and have made it difficult, and in some cases impossible, for creditworthy borrowers—especially low-income families—to obtain safe and sound loans from portfolio lenders. The complex and liability-laden maze of compliance has made home loan origination more difficult, especially for borrowers with little or weak credit history. Over-regulation of the mortgage market has reduced credit available to bank customers, raised the cost of services, and limited bank products. It is no wonder that the housing market—which drives much of our economy—has as taken so long to regain any momentum.

This concept has been supported by members on both sides of this committee and members of the House. ABA has long advocated for legislation that would treat any loan made by an insured depository and held in that lender's portfolio as compliant with the Ability to Repay and Qualified Mortgage (QM) requirements. Loans held in portfolio are, by their very nature, loans which can be repaid because the bank takes **all** the risk that the loan might default. These loans must be conservatively underwritten to protect the safety and soundness of the bank. Simply put: a bank would not stay in business very long if it made and held loans on their books that cannot be repaid.

Effective Bank Supervision and Regulation

There is a growing recognition of a bad fit in applying some regulations across the whole range of the very diverse American banking industry. Our industry is composed of small , midsize, regional and large banks; some with state charters, some with national charters, some that are commercial banks, others savings associations, some that are publicly owned, others family owned, and still others that are mutually owned by their customers. Others are diverse by their specialization, from agriculture banks, to trust companies, to wealth management, to banks that emphasize business lending, among others. The one-size-fits-all regulatory approach is the most notorious problem, but there can be an equally bad fit with regulations that are applied based upon size thresholds, such as labeling all banks with $50 billion in assets as "Systemically Important Financial Institutions" or SIFIs, or the host of new regulatory requirements that hit a bank when it crosses the $10 billion asset threshold.

What is needed is an overall principle for how we apply bank regulation. If we do not get it right, then we end up misapplying the regulations, which harms banks' ability to serve their customers, while providing suboptimal regulatory results. The overall trend of bank regulation in the last several years has been to standardize or homogenize the industry, making banks look more and more alike, when in fact we have a highly diversified industry necessary for a highly diversified $19 trillion economy.

ABA believes that the best solution is to tailor regulations according to the risks and business model of the bank. This will be the most comprehensive road to successful bank regulation. It encourages diversity of business models while providing a regulatory program most adapted to the risks of each bank.

Modernize Regulations that Prevent Acceptance of Stable Deposits

The FDIC has determined that certain traditional deposit accounts are considered to be "brokered deposits" and subjects them to supervisory limits and additional deposit insurance assessments. These restrictions and additional costs have limited the access of banks, including community banks, to a stable source of deposits that would increase liquidity. This unnecessarily limits the funding banks can make available for lending to small businesses and consumers. Legislation is needed to direct the FDIC to clarify that traditional deposit account products involving a direct, continuing relationship between a customer and an insured depository institution are not brokered deposits.

Create CFPB Advisory Opinion Process

Innovation and consumer protection in financial products and services is currently hampered because there is no effective way to obtain an advanced ruling from the Consumer Financial Protection Bureau ("Bureau") regarding whether or not a proposed product or service would conform or would potentially violate the federal consumer laws. This lack of legal and regulatory certainty chills innovation and prevents consumers from benefitting from such products and services and harms economic growth.

Innovators and CFPB staff do not have a means to formally review a product before it reaches consumers, which unnecessarily delays important consumer protection conversations until a costly enforcement action is potentially undertaken. This reactionary posture creates an information vacuum, depriving innovators of vital compliance information and preventing CFPB staff from staying abreast of emerging consumer product trends – knowledge which is important to their effectiveness as a regulator.

Legislation is needed that directs the Bureau to establish a formal process for innovators to voluntarily ask for an opinion on whether a proposed product or service would conform or violate federal consumer law. The Bureau's opinion should be one that can be relied upon by the innovator making the inquiry as an official interpretation of the applicable underlying federal consumer law.

Joint CFPB Small Business Administration Study and Recommendations on Collection of Minority and Women-owned Business Loan Data

Section 1071 of the Dodd-Frank Act requires the Bureau to prescribe rules for collecting and reporting data on lending to minority-owned and women-owned small businesses. Unfortunately, this HMDA-like data collection over-simplifies the nature of the small business lending environment, and will mislead community leaders, government entities and creditors from identifying the business and community development needs and opportunities for local small businesses. Moreover, there has been no analysis of whether this new data collection duplicates existing data on small business lending collected by the Small Business Administration (SBA) and the banking agencies pursuant to the Community Reinvestment Act.

Perhaps most troubling is there has been no analysis of its impact on economic growth given the potential negative effects this may have on what loans are made or not made in a local community. The considerable burdens associated with this data collection and reporting regime would add significant costs and red tape to small business lending, discouraging a primary engine for economic growth. Moreover, the majority of small business lending is originated by community and mid-size banks, which try to adapt to the needs and circumstances of individual borrowers. Compliance with this rule, however, will impede this individualized approach due to potential fair lending liability concerns. This will inevitably lead to the homogenization of small business loans, which will hurt small businesses and the banks that want to serve them. This would be counterproductive to the provision's underlying goal of facilitating increased credit access and economic growth.

To correct this, the Bureau and the Small Business Administration (SBA) should be required—before the Bureau is authorized to prescribe any rule for collecting and reporting loan data—to conduct a joint-study to determine whether the proposed collection would be duplicative of existing data collections and to determine whether the costs for such data collection exceed the potential benefits. The agencies should also be required to submit a report to Congress on their findings along with their recommendations, if any, for prescribing rules for the collection and reporting of minority-owned and women-owned small business loan data.

Ensure proper oversight of the CFPB

As mentioned earlier, ABA members support strong consumer protection. Consumers are our customers, and we need to earn their trust every day to stay in business. We believe the CFPB is making important contributions to consumer protection, but we also believe the bureau needs more accountability. ABA has long supported the commission concept and believes that a commission structure is appropriate to address the extremely broad authority of the Bureau's Director. We believe that the commission approach would broaden the perspective on any rulemaking and enforcement activity of the Bureau, and it would provide needed balance and appropriate checks in the exercise of the Bureau's authority. We urge Congress to require the commission to include members with consumer finance business experience and direct safety and soundness regulatory expertise. We believe this expertise provides an important and necessary perspective as standards are set and enforcement activities are undertaken.

Conclusion

Rules and requirements surround every bank activity. When it works well, bank regulation helps ensure the safety and soundness of the overall banking system. When it does not, it constricts the natural cycle of facilitating credit, job growth and economic expansion. Finding the right balance is key to encouraging growth and prosperity as unnecessary regulatory requirements lead to inefficiencies and higher expenses which reduce resources devoted to lending and investment.

Without reasonable and rational reform, we will never realize the thousands of businesses that could be started or scaled, the hundreds of thousands of homes that could be built and purchased and the millions of financial dreams that could come true but won't because they don't fit into the unnecessarily restrictive boxes our policymakers have contrived.

Community banks have been the backbone of hometowns across America. Our presence in small towns and large cities everywhere means we have a personal stake in the economic growth, health, and vitality of nearly every community. 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.

By eliminating unnecessary impediments to the natural credit cycle, Congress can help stem the tide of community bank consolidation driven by these unnecessary impediments which negatively impact every community across the United States.