

**Oral Statement on Regulatory Burden Relief by  
John M. Reich, Director  
Office of Thrift Supervision  
before the  
Senate Committee on Banking, Housing and Urban Affairs  
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Good morning, Mr. Chairman, Ranking Member Sarbanes, and members of the Committee. Thank you for the opportunity to address the issue of regulatory burden relief.

As the leader of the inter-agency EGRPRA (the Economic Growth and Regulatory Paperwork Reduction Act) project, I am gratified that all of the agencies represented at this table are supporting numerous regulatory relief provisions for the institutions they supervise, as well as for the industry as a whole. My written statement highlights several provisions that are important for savings associations. I ask that you consider these. In my remarks today, however, I will address the big picture: how to move forward on regulatory relief legislation.

I think we all recognize the substantial additional burdens that have been placed on the banking industry in recent years: increased responsibilities under the Bank Secrecy Act and USA Patriot Act, as well as new accounting requirements and changes to the Privacy Act, to name just a few.

As I have said in my previous testimony before this Committee, the Federal bank and thrift regulatory agencies have promulgated more than 850 regulations or amendments to regulations since FIRREA (the Financial Institutions Reform Recovery and Enforcement Act) was enacted in 1989. In light of this formidable number, I strongly believe it is incumbent on us to carry out the purpose of the EGRPRA legislation to eliminate any existing regulatory requirements that are outdated, unnecessary or unduly burdensome.

Accumulated regulatory burden is suffocating the industry, despite the fact that the industry is doing — and has done — so well in recent years, with successively increasing record profits. However, to characterize the entire banking industry as enjoying record profits is misleading, in that not readily known is the fact that only 7% of the industry (630 banks with assets of \$1 billion or more) accounts for 87.6% of industry earnings.

The remaining 8,200 plus institutions, representing 93% of the total number of institutions, share the remaining 12.4% of industry profits. Furthermore, the 3,863 community banks with under \$100 million in assets, representing 43.7 % of the industry, account for less than 1.5% of industry earnings.

‘Record profits in the industry’ is a label not shared by smaller institutions. Community bank ROAs have generally declined over the past 10 years, and their Efficiency Ratios have remained relatively flat, while over the same period of time, large bank ROAs have generally increased, with their Efficiency Ratios declining.

Make no mistake: regulatory burden impacts all institutions, large and small. I believe it has a potentially greater competitive impact on smaller institutions. There is considerable anecdotal evidence around the country that regulatory burden has risen to the top of the list of reasons why community banks sell out. Investment bankers at recent M&A conferences confirm this fact.

To those who say let market forces determine the future of community banking, my response is that our industry is not a free market. It is a highly regulated market. This fact greatly influences the market behavior of bank managements and shareholders of smaller independent community institutions. Regulatory forces that unduly impact industry competitiveness are not good for institutions of any size when they skew market forces. That is what we are faced with today.

It is my fear that smaller institutions will continue to disappear from our landscape. If that happens, local communities and consumers across the country will be the losers, for they will continue to lose their local independent banks with their local directors who are business owners with vested interests in their banks and their communities.

The loss of these human resources not only impacts local banking relationships with small businesses and individuals, it reduces human resources available for leadership of community service organizations on which senior bank officers and their directors serve. There is an unquantified social cost to industry consolidation that is attributable to the

weight of accumulated regulatory burden. This is a growing problem in communities across the country, with implications that are largely ignored by policymakers.

Ten years ago, Congress passed the EGRPRA statute, which required the Federal regulators to review all of their regulations in an effort to reduce regulatory burden on the industry. We have taken this mandate seriously and are approaching the conclusion of our effort in the next few months.

Over the past three years, the regulatory agencies have published more than 125 regulations for comment, received more than 1,000 comment letters with suggestions for change, and held 16 banker and consumer group outreach meetings around the country. Pursuant to Senator Sarbanes' suggestion, we made a concerted effort to engage community and consumer groups in this process. Based on the suggestions received, we made the changes that we could to our own regulations, policies and procedures to reduce regulatory burden. We have also testified on a number of occasions on things that can only be changed by legislation.

I believe we have a limited window of opportunity this year to make the most significant progress ever with regulatory relief legislation. There is much greater visibility and recognition of the problem now than in the past. It is my hope Congress will respond positively with a solution to this significant problem before too many more of our community banks disappear from the landscape.

I am committed, as is OTS, to reducing regulatory burden wherever we have the ability to do so, consistent with safety and soundness and compliance with law, and without undue impact on existing consumer protections. We strongly support proposed legislation that advances this objective. I want to thank you, Mr. Chairman, Senator Sarbanes, Senator Crapo, and the other Members of the Committee who have shown leadership on this issue. We look forward to working with the Committee to shape the best possible regulatory burden relief legislation.

Thank you.