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TESTIMONY OF  
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before the

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

UNITED STATES SENATE

May 15, 2019

Statement Required by 12 U.S.C. § 250:

The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Chairman Crapo, Ranking Member Brown, and members of the Committee, thank you for the opportunity to testify on the Office of the Comptroller of the Currency's (OCC) supervision and regulation of financial institutions. My testimony today primarily focuses on the condition of the federal banking system, and the OCC's priorities and objectives.

### **Condition of the Federal Banking System and Assessment of Risks**

As of the end of 2018, the federal banking system comprised more than 1,200 national banks, federal savings associations, and federal branches of foreign banks (banks) operating in the United States. These banks range in size from small community banks to the largest most globally active U.S. banks. The vast majority of national banks and federal savings associations, approximately 968, have less than \$1 billion in assets, while more than 60 have greater than \$10 billion in assets. Combined, these banks hold \$12.7 trillion or almost 70 percent of all assets of U.S. commercial banks. These banks also manage more than \$50 trillion in assets held in custody or under fiduciary control, which amounts to 43 percent of all fiduciary and custodial assets in insured U.S. banks, savings associations, and national trust banks. The federal banking system holds nearly three-quarters of credit card balances in the country, while servicing almost a third of all residential mortgages. Through their products and services, a majority of American families have one or more relationships with an OCC-regulated bank.

The condition of the federal banking system is strong. The financial performance of banks making up the federal banking system strengthened in 2018 and early 2019, driven primarily by strong operating performance. Capital and liquidity remain at or near historic highs. Return on equity is near pre-crisis levels, and OCC-supervised banks reported healthy revenue growth in 2018 compared with 2017. Net income increased 25 percent for banks with total assets of less than \$1 billion and increased nearly 50 percent for the federal banking system as a whole,

with tax cuts resulting from the Tax Cuts and Jobs Act accounting for approximately half of the increase. Asset quality has historically been impacted by cyclicity; however, as measured by traditional metrics such as delinquencies, nonperforming assets, and losses, asset quality is currently strong and stable. Loan performance is the best it has been in the past decade.<sup>1</sup>

The health of the federal banking system is reflected also in the declining number of outstanding Matters Requiring Attention (MRA) concerns. One way the OCC communicates supervisory concerns about a bank's deficient practices to a bank's board and management is in the form of MRAs. In 2018, the number of outstanding MRA concerns declined for the sixth consecutive year and to the lowest level since 2006. Banks have invested significant time and resources addressing our supervisory concerns, and the declines in outstanding MRAs represent sustained improvements in bank governance, oversight, and risk management systems and controls.

While the condition of the federal banking system is strong, the OCC monitors risks to the system on a continuous basis and publishes a summary of risks facing banks twice a year in our *Semiannual Risk Perspective*. Key risks highlighted in the most recent issue of the report, published in December 2018, include credit, operational, compliance, and interest rate, as discussed below. These areas continue to evolve in the context of changing economic, technological, and bank operating developments.

Credit quality remains strong when measured by traditional performance metrics. Nonetheless, credit risk is increasing because of accumulated risk in loan portfolios from successive years of incremental easing in underwriting, risk layering, concentrations, and rising

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<sup>1</sup> See *Semiannual Risk Perspective*, Fall 2018 (<https://occ.gov/publications/publications-by-type/semiannual-risk-perspective/pub-semiannual-risk-perspective-fall-2018.pdf>).

potential impact from external factors. The OCC continues to monitor the effects of strong competition, within and outside the federal banking system, particularly on the origination quality of new loans. In addition, the OCC is monitoring for any increased levels of lender complacency within credit risk identification and management.

Operational risk is elevated as banks respond to an evolving and increasingly complex operating environment. Cybersecurity continues to be a key operational risk, especially in light of the continually evolving threat landscape. Innovation in the banking industry emphasizes the need for banks to effectively manage operational changes as technology advances. Banks increasingly rely on third-party service providers to deliver key services, which presents distinct risks. Further, there are examples of core activities for the industry that are concentrated in a handful of third-party service providers. Additional factors contributing to elevated operational risk are the expected increase in mergers and acquisitions activity as well as rising trends in fraud and attempted fraud. Operational disruptions underscore the need for effective change management when implementing new products, services, and emerging technologies.

Compliance risk remains elevated as banks seek to manage money-laundering risks in a complex, dynamic operating and regulatory environment. In addition, the adoption of new technologies and other innovations and implementing changes to policies and procedures to comply with amended consumer protection requirements are challenging banks' compliance risk management processes.

Interest rate risk poses potential challenges given the current rising rate environment, competitive pressures, changes in technology, and untested depositor behavior. All these factors make it difficult to forecast liability costs. The advances in technology, such as online banking, mobile banking, and the acceleration of fintech, have made it easier to move money, potentially

causing depositors to switch financial institutions or switch to nonbank competitors. Banks may experience unexpected shifts in liability mix or increasing costs that could reduce earnings or increase liquidity risk.

A specific credit risk that warrants attention involves the leveraged loan market. The federal banking agencies have increasingly observed transactions that include elevated leverage, including fewer and less stringent protective covenants, more liberal repayment terms, and incremental debt provisions that allow for increased debt that may inhibit deleveraging capacity and dilute repayment to senior secured creditors. We continue to monitor how this combination of risks is evolving and to assess the adequacy of bank risk management and controls. Through our supervisory activities, we have seen that the leveraged lending guidance issued by the federal banking agencies has contributed to banks having a more balanced risk management approach in this area. We will also continue to monitor the potential impact of these risks in the aggregate on the broader leveraged lending market and banking system.

Bank holdings of leveraged loans are not our only significant concern. Although supervised banks originate a significant portion of leveraged loans, nonbank entities have substantially increased their purchases of leveraged loans. Most of the problem loan leveraged loan exposure is held outside of the regulated banking system where there is much less transparency. While purchases of leveraged loan participations by nonbank entities allows the risks to be shared more broadly, the nonbank entities may not be required to hold the levels of capital and liquidity that supervised financial institutions must hold to protect them in an economic downturn or during a period of market disruption.

As is our practice, the OCC will continue to assess leveraged lending risk regularly through the supervisory process. Recent supervisory assessments show that OCC regulated banks

have satisfactory risk management around leveraged lending. Leveraged loans can also present indirect risk and we will continue to assess OCC regulated banks' management of risks from lending to leveraged loan investors, lending to and investing in collateralized loan obligations, and from other borrowers that may have critical suppliers or vendors that are highly leveraged. In addition, although less transparent to the federal banking agencies, we will continue to monitor nonbank leveraged lending activity and its potential impacts to the extent possible.

The federal banking agencies will continue to perform semi-annual interagency shared national credit (SNC) reviews. These reviews are risk-based and focus on loans shared by at least three regulated entities with a committed value of \$100 million or greater. For some time, SNC reviews have been heavily weighted towards leveraged loans, and results are used by examiners when assessing credit quality and risk management practices at individual banks that originate or purchase portions of those loans. The federal banking agencies issue a joint, annual public statement to summarize SNC findings.

### **OCC Priorities and Objectives**

The federal banking system should be an engine to promote economic growth and prosperity for consumers, businesses, and communities across the country. My priorities address tailoring regulatory requirements to remove unnecessary burden, and increasing bank lending and investment in the businesses and communities the banks serve. They include modernizing the Community Reinvestment Act (CRA) to increase lending, investment, and financial education to where it is needed most; encouraging banks to meet short-term small-dollar credit needs to provide consumers with additional safe, affordable credit choices; completing the implementation of the Economic Growth, Regulatory Relief, and Consumer Protection Act (Economic Growth Act) to reduce regulatory burden for small and mid-size institutions while

safeguarding the financial system and protecting consumers; and supporting responsible innovation to provide more choices to consumers and businesses. My priorities also include improving the efficiency and effectiveness of Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) regulations, supervision, and examination, while continuing to support law enforcement, protect the financial system from those who seek to exploit it for illicit and illegal purposes, and reduce the burden of BSA/AML compliance; and working with the other federal agencies to implement the incentive compensation provisions of section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

### ***Modernization of the Community Reinvestment Act***

During the four decades since it became law, the CRA has proven to be a powerful tool for community revitalization and has encouraged trillions of dollars in lending, investment and other banking activities in low- and moderate-income communities across our nation. However, the regulatory approach to implementing CRA has become too complex, outdated, cumbersome, and subjective. Stakeholders from all perspectives have called for modernizing the current regulatory framework. Complaints with the current framework include significant administrative burden, lack of consideration for investments in areas with needs beyond a bank's assessment area, and failure to adapt the framework to advances in banking such as interstate branching and digitization of services. Others have complained about the limited opportunity for bank activities to qualify for CRA consideration. Bankers and community groups alike criticize the length of time between the issuance of CRA performance evaluations, the unwieldy length of performance evaluation reports, and the lack of transparency and clarity.

We have an opportunity to modernize the regulatory framework around CRA to better serve its original purpose and encourage more investment and banking activity supporting the

people and communities needing it most. The OCC took the first step by issuing an advance notice of proposed rulemaking (ANPR) in August 2018. The ANPR did not make any regulatory proposals. Instead, it presented 31 questions on a variety of issues and options that could reform the CRA framework, including one that asked stakeholders to tell us what issues we may have missed. The OCC solicited input from all stakeholders regarding any and all ideas and opinions about how regulators may strengthen and enhance the CRA framework.

Certain stakeholders, however, have made inaccurate claims about the purpose of the ANPR, mischaracterizing it as an effort to limit public input. To the contrary, the OCC met with over 1,000 people during outreach to discuss CRA modernization. In addition, we received approximately 1,500 letters with varied opinions and insights that, absent the ANPR, would not have been available to regulators. The OCC has shared all these comments with the other federal banking regulators, and we are working with them to jointly develop and issue a proposed rule later this year.

Our goals for strengthening CRA regulations include: 1) clarifying what counts for CRA consideration; 2) updating where CRA activity counts; 3) creating an objective means to count it; and 4) making reporting timelier and more transparent. The agencies are actively engaged in working together toward these broad goals, which will make CRA regulations work more effectively and efficiently for everyone. The proposal will be published for notice and comment, allowing the public another opportunity to provide input on the modernization of CRA regulations.

### *Small-dollar lending*

Millions of Americans rely upon short-term small-dollar credit to make ends meet. Consumers need safe, affordable choices, and banks should be part of that solution. Banks are well-suited to offer affordable short-term small-dollar installment lending options that can help consumers find a path to more mainstream financial services without trapping them in cycles of debt.

To facilitate banks offering responsible short-term small-dollar installment loans to help meet the credit needs of their customers, the OCC published a bulletin in May 2018 setting out three core principles for these products:

- All bank products should be consistent with safe and sound banking, treat customers fairly, and comply with applicable laws and regulations.
- Banks should effectively manage the risks associated with the products they offer, including credit, operational, compliance, and reputation risks.
- All credit products should be underwritten based on reasonable policies and practices, including guidelines governing the amounts borrowed, frequency of borrowing, and repayment requirements.

The agency's bulletin also highlighted reasonable policies and practices specific to short-term small-dollar installment lending. While banks initially may not have had the infrastructure to engage in such lending, banks are purchasing loans and loan pools from online lenders, creating more liquidity for these lenders, and exploring relationships with lenders offering small dollar loans that align with the sound lending principles discussed in the bulletin.

In addition, over the course of the past year, the OCC has had discussions with several banks that are considering new small-dollar products. The CFPB's proposal to amend its Payday

Lending Rule, issued in January 2019, could accelerate interest in small-dollar products. However, as commenters noted in response to the Federal Deposit Insurance Corporation's (FDIC) November 2018 request for information, regulatory uncertainty remains. The federal banking agencies are exploring principles-based options to address this uncertainty and to encourage banks to deliver safe, fair, and less expensive short-term credit products that support the long-term financial health of their customers.

### ***Implementation of the Economic Growth Act***

The strength and vitality of the nation's financial system depend, in large part, on the ability of financial institutions, particularly community and mid-size banks, to operate efficiently, effectively, and without unnecessary regulatory burden. The Economic Growth Act provided a bipartisan framework to significantly reduce regulatory burden for small and mid-size institutions while safeguarding the financial system and protecting consumers. I am happy to report that we have made significant progress implementing the Act.

*Examination cycle.* In December 2018, the agencies jointly issued rules finalizing the August 2018 interim final rule changes to the agencies' examination cycles. Section 210 of the Act expanded eligibility for an 18-month examination cycle, making the extended examination cycle available to a larger number of qualifying 1- and 2-rated institutions. This change, together with parallel changes to the on-site examination cycle for U.S. branches and agencies of foreign banks, allows the agencies to better focus their supervisory resources on financial institutions that are more likely to present capital, managerial, or other supervisory issues and thus enhance safety and soundness collectively for all financial institutions.

*Thrift charter flexibility.* In September 2018, the OCC issued a notice of proposed rulemaking to provide greater flexibility to federal savings associations by implementing a new section of the Home Owners' Loan Act added by section 206 of the Act. This proposal would establish streamlined standards and procedures under which a federal savings association with total consolidated assets of \$20 billion or less, as reported to the Comptroller as of December 31, 2017, may elect to operate with the same rights and privileges and be subject to the same duties and restrictions as a similarly located national bank but would retain its charter and existing governance framework. The comment period closed in late 2018, and the OCC hopes to issue a final rule in the near term.

*Short form Call Report.* Section 205 of the Act provides for reduced reporting requirements on Call Reports for the first and third quarters for institutions with less than \$5 billion in total consolidated assets. This change expands the number of community institutions that can benefit from the reduced burden associated with the short form Call Report, freeing up employees and other resources to serve customers and the operational needs of the institutions. The agencies published a notice of proposed rulemaking in November 2018, and the comment period closed earlier this year. The agencies are working toward issuing a final rule shortly.

*Appraisals of Residential Real Property.* Section 103 of the Act provides a tailored exemption from the appraisal requirements for certain residential mortgage loans with a transaction value of less than \$400,000 that are located in rural areas. The agencies received comments on the threshold for appraisals for residential real estate transactions during both the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) regulatory review process and the rulemaking process to raise the threshold for commercial real estate transactions.

After considering all of the comments and further analysis by the agencies, the agencies issued a notice of proposed rulemaking in December 2018 to increase the appraisal threshold for residential real estate transactions in order to reduce regulatory burden, particularly in rural areas, in a manner that is safe and sound and consistent with consumer protection. The comment period closed in February. The agencies are reviewing the more than 500 comments received, with the goal of issuing a final rule later this year.

*Volcker Rule:* Sections 203 and 204 of the Act make changes to the statutory provisions underlying the Volcker Rule, including reducing the number of institutions subject to its requirements. These changes provide regulatory relief to institutions that do not pose the types of risks the Volcker Rule was intended to limit.<sup>2</sup> The agencies published a notice of proposed rulemaking in February 2019 to exclude community banks with \$10 billion or less in total consolidated assets and total trading assets and liabilities of 5 percent or less of total consolidated assets from the restrictions of the Volcker Rule and to ease Volcker Rule restrictions on common names between banks and sponsored funds, consistent with the Act. The comment period closed in March 2019, and the agencies are working toward a final rule later this year.

*Community Bank Leverage Ratio.* The agencies issued a notice of proposed rulemaking in late 2018 to implement section 201 of the Act, which addresses the complex and burdensome process—particularly for highly capitalized community banks—of calculating and reporting regulatory capital. The proposal provides a simplified measure of capital adequacy for qualifying community banking organizations. Those qualifying community banking organizations that elect to use and comply with the community bank leverage ratio (CBLR) framework and that maintain

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<sup>2</sup> The agencies explained in a July 2018 interagency statement that they will not enforce the Volcker Rule in a manner inconsistent with the Act.

a CBLR greater than 9 percent would be considered to have met the capital requirements for the “well-capitalized” capital category under the agencies’ prompt corrective action (PCA) frameworks and would no longer be subject to the generally applicable capital rule.

Based on our analysis, setting the threshold at 9 percent in combination with the other qualifying criteria would allow most community banks to qualify for the CBLR framework, generally maintain the same amount of capital in the banking system, and exclude banks with higher risk profiles unsuitable for a non-complex reporting regime. With the 9 percent threshold and other qualifying criteria, approximately 84 percent of insured banks with total consolidated assets under \$10 billion could take advantage of the CBLR framework.

As the agencies made clear in the proposal, electing to use the CBLR framework would be optional. Under the proposal, banks have the option to move in and out of the CBLR framework at any time without restrictions. However, to opt back into the CBLR framework, a bank must meet all the qualifying criteria and have a CBLR greater than 9 percent.

The proposal also includes an additional PCA framework. The agencies proposed the additional framework to allow banks the option to remain in the CBLR framework even if they no longer met the required 9 percent threshold. Doing so would give banks an additional option; they could continue to calculate a single leverage ratio, rather than being required to use the generally applicable framework, including all risk-based capital calculations, which potentially could be costly for banks to re-implement.

The comment period for the proposal closed in April. The agencies are reviewing the comments received on the proposal, with the goal of issuing a final rule by the end of this year.

*Supplementary Leverage Ratio for Custody Banks.* In April, the agencies issued a proposal to implement section 402 of the Act. Section 402 directs the agencies to amend the supplementary leverage ratio (SLR) to exclude qualifying deposits at a central bank for banking organizations that are predominantly engaged in custody, safekeeping, and asset servicing activities.

*High-Quality Liquid Assets.* Section 403 of the Act requires the federal banking agencies to amend their Liquidity Coverage Ratio (LCR) rules to treat qualifying liquid and readily-marketable, investment grade municipal securities as level 2B liquid assets. The agencies issued an interim final rule to implement section 403 in August 2018 and expect to finalize the rule this summer.

*High Volatility Commercial Real Estate.* In September 2018, the agencies published a notice of proposed rulemaking to implement section 214 of the Act, which limits the types of acquisition, development, and construction loans that may be considered high volatility commercial real estate exposures and subject to heightened capital requirements. The comment period closed in late 2018. The agencies are working toward a final rule early this summer.

*Stress Testing.* In February, the agencies published a notice of proposed rulemaking to implement changes to certain aspects of “company-run” stress testing requirements, as required by section 401 of the Act. The Act raises the minimum asset threshold for banks covered by the company-run stress testing requirement from \$10 billion to \$250 billion in total consolidated assets; revises the requirement for banks to conduct stress tests periodically instead of annually ; and reduces the number of required stress test scenarios from three to two. The agencies are working toward issuing a final rule this summer.

*Tailoring Capital and Liquidity Requirements:* The agencies recently issued proposed rules to establish risk-based categories for determining applicability of requirements under the regulatory capital rules, the LCR rules, and the proposed net stable funding ratio rules for large domestic U.S. and foreign banking organizations. These proposals build upon the agencies' existing practices of tailoring capital and liquidity requirements based on the size, complexity, and overall risk profile of banking organizations. The proposals are consistent with section 401 of the Economic Growth Act that raises the minimum asset threshold for application of enhanced prudential standards from \$50 billion to \$250 billion in total consolidated assets. Importantly, regulatory capital and liquidity requirements for U.S. global systemically important banks would not change under the tailoring proposal.

### ***Supporting Responsible Innovation***

In July 2018, the OCC announced its decision to consider applications for special purpose national bank charters from qualifying fintech companies engaged in the business of banking. This decision is consistent with bipartisan government efforts at federal and state levels to promote economic opportunity and support innovation and will help to provide more choices to consumers and businesses. Companies that provide banking services in innovative ways deserve the opportunity to pursue that business on a national scale as a federally chartered, regulated bank. We continue to have conversations with several such companies about the special purpose national bank charter.

A fintech company that receives a national bank charter will be subject to the same high standards of safety and soundness and fairness that all federally chartered banks must meet. As it does for all banks under its supervision, the OCC would tailor these standards based on the bank's size, complexity, and risk profile, consistent with applicable law. In addition, a fintech

company with a national bank charter will be supervised like similarly situated national banks, including with respect to capital, liquidity, and risk management requirements.

The OCC also expects a fintech company that receives a national bank charter to demonstrate a commitment to financial inclusion. The nature of that commitment will depend on the company's business model and the types of products, services, and activities it plans to provide. By applying a standard similar to that of the CRA for depository institutions, the financial inclusion commitment will help ensure that special purpose national bank charters are held to the same agency expectations of fair access to financial services and fair treatment of customers.

A special purpose national bank charter is only one option for innovative companies engaged in the business of banking. Companies may also pursue a full-service national bank charter, state charter or license where available, or partner with banks and other financial service companies. The OCC Office of Innovation is a resource available to fintechs to help them understand the opportunities available to them.

### ***Bank Secrecy Act and Anti-Money Laundering***

The BSA and AML laws and regulations exist to protect our financial system from criminals who would exploit that system for their own illegal purposes or use that system to finance terrorism. While regulators and the industry share a commitment to fighting money laundering and other illegal activities, the process for complying with current BSA/AML laws and regulations has become inefficient and costly. It is critical that the BSA/AML regime be updated and enhanced to address today's threats and better use the capabilities of modern technology to protect the financial system from illicit activity.

The OCC has taken a leadership role in coordinating discussions with the FDIC, Board of Governors of the Federal Reserve System, National Credit Union Administration, Treasury's Office of Financial Intelligence, and FinCEN to identify and implement ways to improve the efficiency and effectiveness of BSA/AML regulations, supervision, and examinations, while continuing to meet the requirements of the statute and regulations, support law enforcement, and reduce BSA/AML compliance burden. In October 2018, these agencies released a joint statement clarifying ways in which community banks with a lower BSA risk profile may be able to increase efficiency and reduce burden in their BSA/AML compliance programs by sharing BSA resources. The statement describes how these banks can effectively use collaborative arrangements to share human, technology, or other resources related to BSA compliance to reduce costs, increase operational efficiency, and leverage specialized expertise.

More recently, in December 2018, these agencies issued a joint statement encouraging banks to take innovative approaches to meet their BSA/AML compliance obligations. The statement recognizes significant potential for technological innovation to transform BSA/AML compliance. In addition to assisting banks' efforts to control their costs, innovation is increasingly necessary to counter constantly changing threats, as illicit financing methods evolve to exploit vulnerabilities in existing systems. The statement makes clear the agencies are committed to continued engagement with the private sector to modernize and innovate in their BSA/AML compliance programs. The OCC is actively engaged in discussions with banks and other stakeholders regarding ways to explore enhanced technology usage while maintaining the current strong protections for the financial system.

The OCC also has identified areas in which legislative changes could increase the impact and efficiency of BSA/AML regulation and compliance programs. The OCC generally supports

legislative changes that would reduce unnecessary industry burden and compliance costs and allow for more effective information sharing related to illicit finance. These include requiring a regular review of BSA/AML regulations to identify those that could be strengthened, refined or to reduce unnecessary burden, and providing safe harbors to promote sharing of information.<sup>3</sup>

### ***Section 956 of the Dodd-Frank Act***

Section 956 of the Dodd-Frank Act generally requires that the OCC, Federal Reserve, and FDIC, along with the National Credit Union Administration, the Federal Housing Finance Agency, the Securities and Exchange Commission, jointly issue regulations or guidelines that prohibit incentive-based payment arrangements that encourage inappropriate risks by certain financial institutions by providing excessive compensation or that could lead to material financial loss, and require those financial institutions to disclose information concerning incentive-based compensation arrangements to the appropriate Federal regulator.

Incentive compensation arrangements can be useful tools in the successful management of financial institutions. However, compensation arrangements can provide executives and employees with incentives to take imprudent risks that are not consistent with the long-term health of the institution. We have initiated discussions with the other agencies to explore principles-based options to implement section 956.

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<sup>3</sup> For more detail, see Testimony of Grovetta N. Gardineer. U.S. Senate Committee on Banking, Housing, and Urban Affairs. November 29, 2018. <https://occ.gov/news-issuances/congressional-testimony/2018/ct-2018-127-written.pdf>

## **Additional Information**

### ***OCC's Diversity Efforts***

The fulfillment of the agency's core mission of bank supervision depends on its employment of talented staff with high levels of expertise and experience. The OCC is fully committed to maintaining a competent, highly qualified workforce and recruiting the best, diverse talent available from a variety of sources. The agency is committed to maintaining an inclusive culture and workplace environment with a diversity strategy that focuses on leadership commitment, recruitment, development, retention, work-life balance, and an engaging culture. The OCC has had an agency-wide diversity strategy in place for over 10 years and regularly aligns those diversity strategic goals with the agency's strategic plan.

As of September 30, 2018, the participation rate of females in the OCC's permanent workforce was 45.1 percent, and the participation rate of minorities in the OCC's workforce was 35.1 percent. The participation rates for African Americans and Asian Americans were 17.6 percent and 9.0 percent, respectively, both above the National Civilian Labor Force (NCLF) rate. The participation rate for Hispanic Americans, at 7.3 percent, fell slightly below the NCLF rate; however, fiscal year 2018 hiring rates for Hispanic Americans exceeded the NCLF rate.

The OCC benefits greatly from the input of its seven Employee Network Groups (ENG) that advance special emphasis programs: the Network of Asian Pacific Americans; the Coalition of African American Regulatory Employees; PRIDE (the Gay, Lesbian, Transgender, and Bisexual Employees network group); the Hispanic Organization for Leadership and Advancement; The Women's Network; Generational Crossroads; and the Veterans Employee Network. These ENG's serve as a resource for mentoring and engagement, and as a collective

voice in communicating workplace concerns and providing input to management around diversity and inclusion programs and activities within the OCC. The groups hold an annual leadership forum with the Comptroller and other key agency stakeholders to align individual group objectives with agency strategic priorities pertaining to recruitment, career development, and retention.

The OCC has a robust recruitment program to attract highly qualified candidates who reflect a cross-section of the national population, particularly for its entry-level assistant national bank examiner positions. The recruitment program features ongoing partnerships with colleges, universities, banking associations, and professional affiliations. These efforts include participating in recruitment activities at Hispanic Serving Institutions, Historically Black Colleges and Universities, as well as outreach to student organizations. The OCC has also recruited on campus at minority-serving institutions and sponsored similar activities at colleges and universities with large female student bodies (60.0 percent or greater). The OCC also participates annually in a wide range of meetings, conferences, and career fairs to develop relationships and gain access to a diverse student applicant pool.

We are particularly pleased that, over the last three fiscal years (2016-2018), the OCC through the federal Pathways Internship Program has hired 36 students, of whom 41.7 percent were females and 47.2 percent were minorities. We also have hired 35 financial interns, of whom 54.3 percent were females and 31.4 percent were minorities. Over the same time frame, the agency sponsored 73 interns through its National Diversity Internship Program.<sup>4</sup>

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<sup>4</sup> The OCC's National Diversity Internship Program partners with the following organizations that focus on developing opportunities for minorities and women in the industry: the Hispanic Association of Colleges and Universities; INROADS; Proxtronic Dosimetry; Wire2Net; Minority Access; and The Washington Center.

This year we also are partnering with the District of Columbia's Department of Employment Services to provide paid summer internships to more than 80 rising seniors from D.C. high schools. The internships will provide these minority students exposure to a professional workplace, career-readiness training, and greater awareness of potential career opportunities in the financial service industry and regulation.

We continue to work toward enhancing the diversity of applicant pools for manager and senior-level manager opportunities by ensuring that diversity and inclusion are foundational components in developing the pipeline for OCC leadership roles. In support of this work, executive management reviews staffing selections for pipeline positions on a weekly basis; monitors the diversity of participants in career development programs, activities and opportunities; and supports unconscious bias training for all employees.

The OCC is equally committed to the inclusion of minorities, women, and minority- and women-owned businesses at all levels of the agency's business activities. Payments to minority- or women-owned businesses represented 43.2 percent of the OCC's total contractor payments in fiscal year 2018, an 11 percent increase since 2014.

Section 308 of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) describes goals for preserving and promoting minority depository institutions. The OCC takes numerous actions to achieve these goals. For example, OCC subject matter experts provided technical assistance to minority depository institutions (MDI) on various topics, including cybersecurity, legal, accounting, compliance, and safety and soundness issues. The OCC annually hosts meetings of its Minority Depository Institutions Advisory Committee to assess the current condition of minority depository institutions, what regulatory changes or other steps the OCC may be able to take to fulfill the mandate of section 308, and other issues of

concern to OCC-supervised minority depository institutions. The OCC holds bank director workshops throughout the United States that address risk governance, credit risk, compliance risk, and other important banking issues; it encourages MDI directors to attend these workshops, waiving participation fees as an incentive. The OCC's District Community Affairs Officers consult with MDIs on community development, the CRA, and related topics, and the OCC's External Outreach and Minority Affairs staff consult with MDIs on community development financial institution certification and advise them about other federal resources that support their missions.

### ***Review of Proposed Mergers***

The OCC charters, regulates, and supervises national banks and federal savings associations (FSA). As such, we do not have a role in evaluating the proposed merger of BB&T and SunTrust, neither of which are a national bank or federal savings association.

When evaluating a proposed business combination transaction involving a national bank or federal savings association—mergers, consolidations, and certain purchase and assumption transactions—the OCC evaluates the capital level of the resulting national bank or FSA; conformity of the transaction to applicable law and regulation; the transaction's purpose and impact on the safety and soundness of the national bank or FSA; and the effect of the transaction on the national bank's or FSA's shareholders (or members, for a mutual savings association), depositors, other creditors, and customers.

In addition, when evaluating a proposed business combination under the Bank Merger Act, the OCC also considers the effect of a proposed business combination on competition; the financial and managerial resources and future prospects of the existing or proposed institutions; the probable effects of the business combination on the convenience and needs of the community

served; the effectiveness of any insured depository institution involved in the transaction in combating money laundering activities; the risk to the stability of the U.S. banking and financial system; the statutory deposit concentration limit<sup>5</sup> for certain interstate transactions; the statutory total liabilities concentration limit<sup>6</sup> for certain combinations involving large financial firms; and the performance of the applicant and the other depository institutions involved in the business combination in helping to meet the credit needs of the relevant communities, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices, in accordance with 12 USC 2903(a)(2).

### ***Enforcement Actions***

The OCC uses enforcement actions against banks as an extension of our supervisory resources to require a bank's board of directors and management to take timely actions to correct a bank's deficient practices or violations (collectively, deficiencies). Enforcement actions against banks can be either formal or informal. Informal bank enforcement actions include commitment letters, memorandums of understanding, and notices of deficiency issued under 12 CFR 30. When a bank's deficiencies are severe, uncorrected, repeat, unsafe or unsound, or negatively affect the bank's condition, the OCC may use formal bank enforcement actions. Formal bank enforcement actions typically are published or made available to the public and include consent orders, formal agreements, Gramm–Leach–Bliley Act (GLBA) agreements pursuant to 12 CFR 5.39, and civil money penalties. Except for GLBA agreements and formal agreements, formal bank enforcement actions are enforceable through the federal court system.

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<sup>5</sup> See: 12 USC 1828(c)(13)

<sup>6</sup> See: 12 USC 1852

When determining the appropriate response to a bank's deficiencies, OCC exercises judgment based on the totality of the conduct and a range of circumstances. Examiners consider numerous factors including the bank's condition as reflected in its composite and component ratings; the bank's risk profile; the nature, extent, and severity of the bank's deficiencies; the extent of any unsafe or unsound practices; the board and management's ability and willingness to correct deficiencies within an appropriate time frame; and potential adverse impact to bank customers, the Deposit Insurance Fund, or the public.

Notwithstanding a bank's composite rating, the bank's financial condition, or the board and management's ability or willingness, the OCC has a presumption in favor of a formal bank enforcement action when the bank exhibits significant deficiencies in its risk management systems, including policies, processes, and control systems; there are systemic or significant violations of laws or regulations; or the board and management have disregarded, refused, or otherwise failed to correct previously identified deficiencies.

While the OCC uses our enforcement authority when warranted to ensure that a bank is accountable to remedying identified problems, bank executives and board members are ultimately accountable for the safe, sound, and compliant operation of their banks, as well as ensuring corrective actions when necessary. When assessing a bank's progress toward meeting our regulatory expectations set forth in an enforcement action, the OCC may assess civil money penalties or take other additional supervisory or enforcement action if the bank is not making sufficient and sustainable progress to remediate deficiencies. Such actions could include issuing an order that imposes business restrictions or requires the bank to make changes to its senior executive officers or members of the board of directors.

## **Conclusion**

Thank you for the opportunity to testify before the Committee today. While the condition of the federal banking system is strong, we continue to be vigilant in monitoring economic conditions, bank activities and emerging risks. We also are advancing several priorities to ensure that banks appropriately invest to the communities that they serve and that our regulatory requirements are properly calibrated. We welcome Congress' support and interest in these activities.