



## OKLAHOMA BANKERS ASSOCIATION

*We make bankers better!*

ROGER M. BEVERAGE  
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February 6, 2014

### **Via Email**

Robert E. Feldman, Executive Secretary  
ATTN: Comments  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW  
Washington, DC 20429

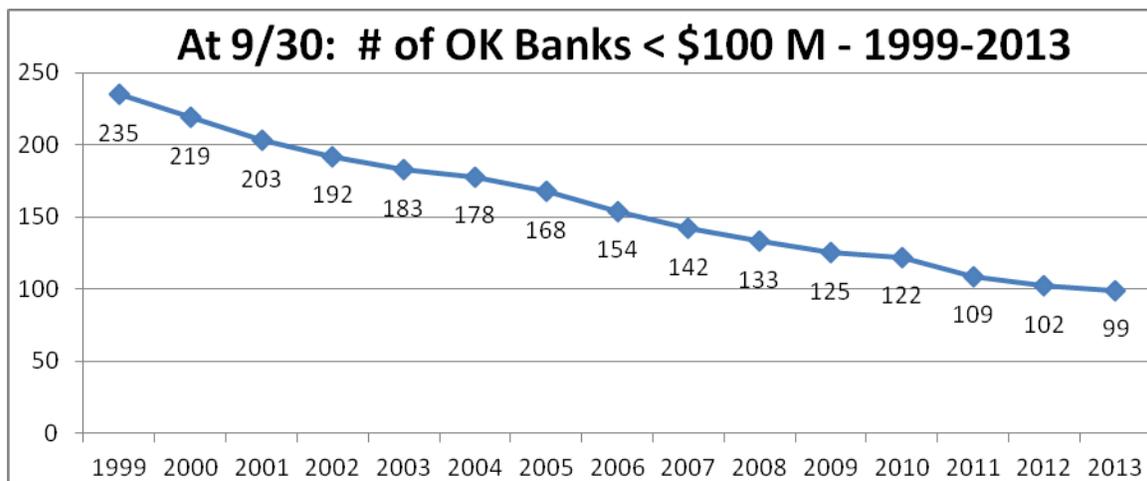
RE: **Docket No. OP-1465** – Proposed Interagency Policy Statement Established Joint Standards for Assessing the Diversity Policies and Practices of Banks Regulated by the Agencies

Good Morning:

On behalf of the Oklahoma Bankers Association, thanks for the opportunity to submit this comment letter on behalf of our member banks about the Interagency Policy proposal noted above. I offer the following general observations:

**The Oklahoma Landscape.** Through the end of the third quarter of 2013, there were 226 separate bank charters, 3 thrifts and 1,392 branch locations in Oklahoma. In addition, 17 banks headquartered in other states are also located in our state. Our Association represents 98 percent of the FDIC-insured entities doing business here which is a \$91.6 billion industry.

Our state is regionally diverse with many small rural community banks. 99 of the 226 charters (44 percent) in Oklahoma have assets of \$100 million or less. They serve mostly smaller, rural communities and have steadily watched their numbers decrease over the last few years:



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Projections are this number will decrease to 60 charters in 5 years and perhaps as few as 40 charters in 10 years.

Our banks employ 22,000 Oklahomans of diverse backgrounds. In turn these bank professionals serve a similarly diverse customer base made up of Native Americans, Hispanics, African-Americans and other minorities. Oklahoma is a relatively small state with approximately 3.6 million citizens.

Oklahoma banks believe the proposed policy statement goes well beyond the original purpose of Section 342 of Dodd-Frank. During the debate on the bill the authority to force diversity and inclusion standards through the regulatory agency and upon the entities they regulate **as part of the examination process** was specifically rejected by Congress.

Under current law every bank with at least 50 employees is required to have an affirmative action plan that must be updated annually. As such, it would seem this fact would eliminate the need for any other standards or guidelines, at least for such entities.

In addition, all of our member banks are subject to audit by the Department of Labor, without regard to size or location. Simply stated, these banks – particularly the smaller ones with a single location in a single community – are already subjected to “diversity” requirements.

Compliance with these proposed standards and guidelines, however they may be applied, simply increases the cost of doing business for the bank and its customers without any meaningful result being identified, let alone accomplished. It’s just one more reason why the current regulatory system of one-size-fits-all makes absolutely no sense in today’s banking and regulatory environment, especially when it comes to smaller community banks.

**Consolidation: What it Means to Oklahoma.** Why is this rapid consolidation shown in the chart above taking place? Primarily it’s being driven by regulatory overload and cost efficiencies related to the implementation of Dodd-Frank. But it’s also being driven by exposure to increased litigation and regulatory risk that didn’t exist before Dodd-Frank was signed into law. As the number of banks continues to drop it means that Oklahomans have fewer choices and opportunities to access capital, especially if they choose to live and do business in Greater Oklahoma.

**Regulatory Reality.** We have serious concerns about the overreaction to the near-meltdown of the global financial system in 2008 in the form of Dodd-Frank. Our biggest concern is what it’s doing to smaller banks serving non-metropolitan areas.

Every new rule and regulation, as well as these proposed “standards” and “guidelines,” carries with it an element of cost and complexity that disproportionately hampers the business model of community banks. These increased costs are ultimately borne by consumers and the communities served by smaller community banks.

**Additional Litigation and Regulatory Risk.** This proposal unnecessarily adds to a bank’s litigation and regulatory risk exposure, even though its language says these new standards will not be enforced by prudential regulators through their respective examination and supervision activities. We appreciate that clarification, but it’s not the end of the matter.

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Federal prudential regulators say it is not their intent to use the examination and supervision process to “enforce” these standards right now. Great. But will they also agree that these “standards” and “guidelines” will not ultimately be imposed on smaller banks as a matter of “best practices?” And what about other federal agencies like the Department of Justice? Will they view these “standards” and “guidelines” in the same light?

It doesn't take much imagination to envision the development of a new cottage industry of lawyers who will see these new standards and guidelines as a revenue-enhancing opportunity. It follows then that this new group of lawyers will likely use these guidelines to extort settlements from small banks (and ultimately increase costs for the bank's customers and communities) because these banks do not have the resources to contest such claims in court.

The bottom line for Oklahoma bankers is the failure of Washington to recognize the differences between smaller, rural community banks and Wall Street firms. The continued embrace of the “one-size-fits-all” regulatory approach is once again at the heart of this proposal.

Moreover, Congressional and regulatory efforts to “do something” about the near-collapse of the financial system in 2008, border on being ridiculous when most of these new rules are applied to community banks. ***Small rural community banks are not the problem*** that caused the Great Recession. Yet their customers and their communities are paying a very high price for the sins of others because Washington treats all banks as if they're alike. They are not and it's absurd to think otherwise.

If the proposal is ultimately adopted as it is now and requires some form of public disclosure as part of an effort to implement some nebulous “transparency” requirement then it will directly add to the list of allegations that will be made when lawsuits are threatened against a small rural community bank. It will be one more “tool” the trial bar can use to browbeat smaller banks into settlements that are ultimately agreed to simply to avoid the cost of litigation and the resulting bad publicity.

**The Importance of Individual Bank Review.** Our banks are now and always have been deeply involved in and rooted to our diverse communities. They serve an individual community and its citizens as it exists. These banks are much different than Wall Street firms and multi-trillion dollar financial institutions and should be treated accordingly.

Smaller rural communities are made up of different populations than are our state's larger metropolitan areas of Oklahoma City, Tulsa and Lawton. Some are culturally diverse. Some are not. But each of our state's banks are committed to serving their respective customer bases where they are located, without regard to anyone's race, gender, age, or any other protected class status. ***They don't have a choice if they plan to stay in business.***

Community banks are not in the business of refusing to serve their customers and their communities. They can't be and remain viable. Importantly, these Oklahoma communities are what they are in terms of cultural diversity. No law, no rule and no regulation or set of “standards” and “guidelines” is going to change that fact.

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Stated another way, OBA-member banks serve communities with populations ranging from 204 in Nash to more than 1.2 million in the Oklahoma City MSA. Our communities are unique to themselves and there is no one measure that can apply equally to the banks that serve them, let alone the business lines offered by larger multinational companies.

Small banks are the economic engines of their communities. They provide the necessary capital that enables our citizens and small businesses to prosper. Taking care of their customers – all of them – is second-nature to these smaller institutions. It's not magic; it's just common sense. If a small bank does not take care of its customers and its community, that bank cannot and will not survive. Any discrimination against residents of the community in any fashion is counter-intuitive to the bank's (and the community's) ultimate success.

This is the basic nature of community banks in Oklahoma and elsewhere. It tends to get lost in the detail of well-intended rules and regulations handed down from Washington but it's an essential element of strong community banking practices.

Thank you for the opportunity to submit this comment letter. Oklahoma banks are committed to serve our state's diverse population and the communities in which they choose to live and do business. To do otherwise would mean these banks would cease to exist.

Respectfully,

A handwritten signature in blue ink, appearing to read "Roger M. Beverage". The signature is fluid and cursive, with a prominent initial "R" and "B".

Roger M. Beverage  
President & CEO  
Oklahoma Bankers Association

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