

Ranking Member Pat Toomey (R-Pa.)
Opening Statement
Full Committee Hearing: Oversight of Regulators: Does our Financial
System Work for Everyone?
August 3, 2021 at 10:00 AM

Thank you, Mr. Chairman.

Today we will hear from the OCC, FDIC, and NCUA about their recent regulatory actions. Throughout the pandemic, I have been encouraged by certain targeted regulatory changes to support the financial system. However, as the pandemic recedes, I am now concerned the Biden administration is seeking to use financial regulation to advance social goals unrelated to banking, and its agency heads are contributing to the politicization of banking regulation without providing independent analysis. Such a shift would erode the longstanding nonpartisan objective of having independent regulatory agencies.

As one example, the administration's executive order—or EO—on climate risks seeks to use financial regulation to further environmental policy objectives. Under the guise of “assessing risk,” the EO directs the regulatory agencies to undertake a range of actions, including the consideration of new or revised regulatory standards.

But if the actual purpose was to assess risk, wouldn't it logically follow that actual analysis occur before jumping ahead to policy responses? This is the crucial point: the EO doesn't seek a neutral inquiry. Instead, it presupposes the conclusion that there is, in fact, climate-related financial stability risk that's not being properly accounted for by either institutions or regulators, and it pressures supposedly independent agencies to enact backdoor environmental policy without appropriate accountability and while these agencies lack any expertise in environmental matters.

I'm concerned some agency heads are willingly participating in this politicized effort. For example, last week, Acting Comptroller Hsu announced the OCC would join the Network for Greening the Financial System—or NGFS—an international organization whose stated aim is to “mobilize mainstream finance to support the transition toward a sustainable

economy”—in other words, government-allocated credit, which is antithetical to a free enterprise system.

At a recent FSOC meeting NCUA Chairman Harper helpfully ceded the point by asserting that credit unions “will need to consider adjusting their fields of membership or altering lending portfolios” as a result of climate risk. Most credit unions are small institutions that serve their local communities. The suggestion that their fields of membership need to change because of climate change does not result from any actual risk assessment; it’s simply based on politics.

I’m also deeply troubled by the administration’s apparent unwillingness to nominate an individual—perhaps at any point—to serve as Comptroller on a full-time basis. By installing Mr. Hsu as Acting Comptroller with no nominee in sight, the administration appears to have every intention of indefinitely bypassing constitutionally required Senate confirmation.

Four years ago, some Democrats expressed outrage that an Acting Comptroller was appointed. They wrote that “the Comptroller must be nominated by the President and confirmed by the Senate.” In that instance, the Acting Comptroller had only served for a grand total of one month before a permanent nominee was sent to the Senate. In contrast, Mr. Hsu has served as Acting Comptroller for nearly three months and we have not heard anything about a permanent nominee. Yet, I’ve heard no complaints from Democrats about this fact.

Rather than pursue social goals unrelated to banking, regulators should be looking for ways to increase competition and improve regulatory efficiency. Last month, the administration issued an EO that’s purportedly intended to increase competition. Upon closer look, however, the EO would only make it more difficult for small and medium-size banks to merge when doing so actually presents opportunities to compete more effectively against very large banks. The EO would actually decrease competition within the banking system.

If the administration were serious about promoting competition, it would seek to reduce the regulatory burdens imposed by Dodd-Frank, which have contributed to a dramatic decline in de novo banking activity over the past decade.

According to the FDIC, between 1985 and 2011—the year after Dodd-Frank was enacted—183 new institutions were chartered per year on average, compared with 4 per year between 2012 and 2019.

I'm encouraged by the FDIC's work in this space under Chairman McWilliams, including revisions to the agency's process for reviewing deposit insurance proposals. These changes contributed to an uptick in de novo banks before the onset of the pandemic. However, I believe more can be done.

And I'm concerned that rather than facilitating de novo activity and encouraging innovation, Acting Comptroller Hsu has suggested that he will reconsider the OCC's recent approvals for national trust banks that provide digital asset custody services. These approvals were granted after extensive engagement and analysis, and bring digital asset into the regulated financial system.

The reality is banking is changing, and new products and services offered by innovative companies offer tremendous potential benefits for consumers. Regulators should want these innovative financial institutions to enter the regulated financial system and should make it easier for them to become banks, which adds consumer protections, increases safety and soundness, and reduces risk.

I hope to hear from today's witnesses about how they will maintain independence in the face of pressure to politicize banking regulation. And I look forward to discussing steps their agencies are taking to increase competition, promote innovation, and improve regulatory efficiency—which will ultimately result in a stronger banking and financial system that better serves all Americans.