



Overview of the Banking Environment

SCHOOL OF GOVERNMENT
CHAPEL HILL, NC
October 27, 2016

Philip S. Maness
Financial Examiner
919-733-3016 (Office)
pmaness@nccob.gov



Bank Examiner

Definition, noun: Dour individual; devoid of humor; suspicious of all, friend of none; more comfortable with numbers than people; preys upon the misery of others; notoriously cheap.

Mission of the N. C. Office of the Commissioner of Banks

"It is the mission of the Office of the North Carolina Commissioner of Banks (NCCOB) to promote and maintain the strength and fairness of the North Carolina financial services marketplace through the supervision and regulation of financial services providers in that marketplace."

Promoting Strength

- Requiring capital levels sufficient to ensure they are able to keep promises they make to those with whom they do business.
- Encouraging continual improvement in their management of the financial, operational, regulatory, legal, and reputation risks of their businesses.
- Fostering sustainable competitive advantage in regulated firms.

Promoting Fairness

- Enforcing laws to protect citizens from abusive and predatory lending practices.
- Regulating financial services firms to promote the fair treatment of consumers and small businesses.
- Encouraging competition in the marketplace.
- Fostering innovation to increase participation in the mainstream financial services marketplace by low and moderate income North Carolinians.

Promoting Efficiency

- Rigorous attention to the costs of regulation to avoid unnecessary or burdensome regulation.
- Continuous process improvement internally to provide more effective regulation with lower burdens.

ACTIVITIES REGULATED BY COMMISSIONER OF BANKS FACT SHEET

Banks and Bank Holding Companies

The North Carolina Commissioner of Banks regulates banking under N.C.G.S. 53 *et seq.* Primarily this office ensures the safe conduct of banking business, maintains public confidence in state-chartered banks, and protects the banks' depositors, debtors, creditors, and shareholders.

**ACTIVITIES REGULATED BY COMMISSIONER OF
BANKS
FACT SHEET**

As of 9/30/2016 we had:

48 Bank Holding Companies registered:
 18 Bank Holding Companies registered only
 28 Bank Holding Companies registered and
 regulated
 2 Savings Bank Holding Cos registered and
 regulated

**ACTIVITIES REGULATED BY COMMISSIONER OF
BANKS
FACT SHEET**

As of 9/30/2016 we regulated:

40 banks 3,597 branches
13 Savings Banks, 44 branches
 0 Savings and Loan Association
 9 State Trust Companies

53 State-chartered financial institutions:

Total Assets	\$302,181,000,000
Total Deposits	\$236,667,000,000

TEN LARGEST BANKS

NC Commercial, Savings Banks & Thrifts Ranked by Assets as of June 30, 2016

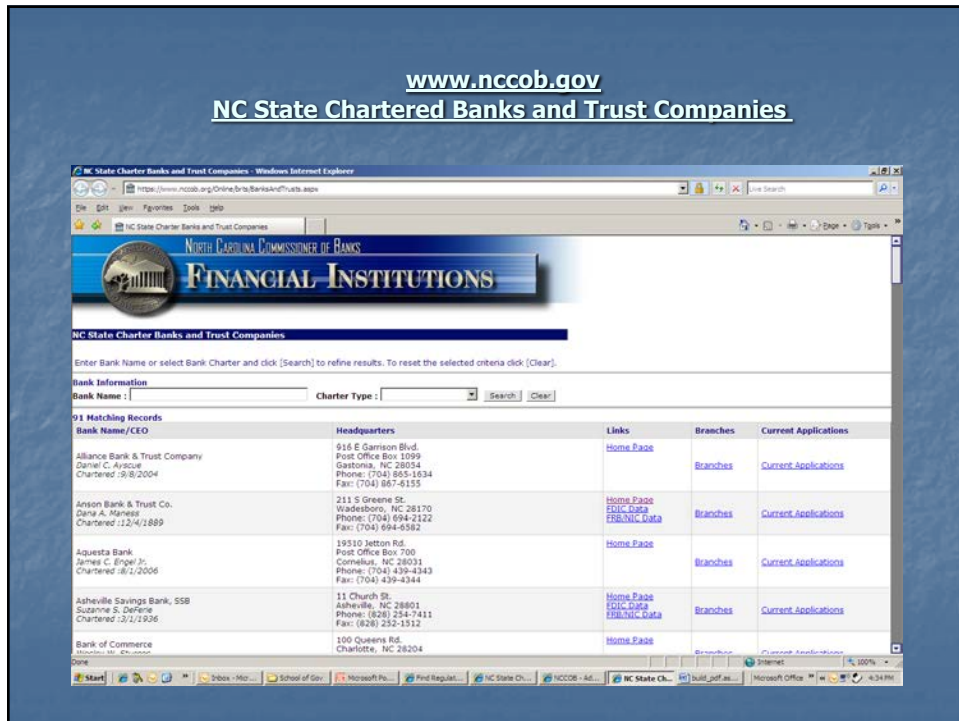
Rank	Name	City	Assets (\$000)	Deposits (\$000)
1	Bank of America, National Association	Charlotte	1,657,878,000	1,296,831,000
2	Branch Banking and Trust Company	Winston-Salem	217,159,204	166,995,354
3	First Citizens Bank & Trust Company	Raleigh	32,054,284	27,283,694
4	Capital Bank	Raleigh	7,631,460	5,956,503
5	Yadkin Bank	Statesville	7,452,883	5,342,398
6	Bank of North Carolina	Thomasville	6,476,625	5,378,609
7	RBC Bank (Georgia), N.A.	Raleigh	3,622,231	3,322,528
8	First Bank	Southern Pines	3,464,906	2,877,184
9	Park Sterling Bank	Charlotte	3,166,050	2,480,495
10	Home Trust Bank	Asheville	2,700,127	1,821,137

Disappearing from the 2015 Top 10 list were
Square 1 Bank, NewBridge Bank, and Southern
Bank

www.nccob.gov

The screenshot shows the NCCOB website interface. At the top, there's a navigation bar with tabs: "About Us", "Consumer Information", "Financial Institutions", and "News & Research". Below this, a "What's New" section lists several regulatory updates, including changes to mortgage licenses and technical amendments to banking laws. A "Welcome Message" from the Commissioner of Banks is featured, along with a photo of the Commissioner. On the right side, there are several green buttons for user services: "Need Foreclosure Help?", "Is my money safe?", "File a Complaint", "Look up a North Carolina state-chartered bank", "Look up a mortgage lender or loan originator", and "Public Notices".

www.nccob.gov
NC State Chartered Banks and Trust Companies



ACTIVITIES REGULATED BY COMMISSIONER OF BANKS

Consumer Finance

The North Carolina Consumer Finance Act (N.C.G.S. 53-164 *et seq.*) authorizes the Commissioner of Banks to license and supervise small loan companies that make direct consumer loans of \$15,000 or less and charge rates in excess of those permitted by Chapter 24. These lenders may choose to make loans as a General Lender (N.C.G.S. 53-173) or as an Optional Rate Lender (N.C.G.S. 53-176).

As of 9/30/2016 we had licensed:

- 0 General Lenders (lend \$3,000 or less)
- 80 Optional Rate Lenders (lend \$15,000 or less)
- 80 Total of 494 Active Offices including 432 branches**

ACTIVITIES REGULATED BY COMMISSIONER OF BANKS

Refund Anticipation Loans

The Refund Anticipation Loan Act requires facilitators who make tax refund loans to register with the Commissioner of Banks.

As of 9/30/2016 we had registered:

187 Refund Anticipation Lenders

587 Offices

ACTIVITIES REGULATED BY COMMISSIONER OF BANKS

Registration of Mortgage Bankers and Brokers

Under the provisions of N.C.G.S. 53-243.01 *et seq.* mortgage lenders, brokers and loan officers must register with the Commissioner of Banks unless they are exempt. These exemptions include financial institutions presently regulated by the state or federal government and supervised and non-supervised lenders with the Department of Housing and Urban Development. Effective 7/01/2002.

As of 9/30/2016 we had:

378 Mortgage Lenders with 1,114 branches (773/1,002 in 2007)

128 Mortgage Brokers with 31 branches (897/318 in 2007)

45 Mortgage Servicers

5 Mortgage Exempt Licensees

879 Mortgage Lenders w/Exempt Status

12,849 Loan Originators (includes 93 EMBs) (18,158 in 2007)

18 Mortgage Origination Support Registrants

ACTIVITIES REGULATED BY COMMISSIONER OF BANKS

Reverse Mortgages

The Reverse Mortgage Act (N.C.G.S. 53-255 *et seq.*) authorizes the Commissioner of Banks to approve reverse mortgage lenders. Even though banks, savings institutions, and credit unions are exempt and do not have to obtain the Commissioner's approval, nevertheless they must notify him of their intent to offer reverse mortgages. Reverse mortgages are available to homeowners over 62. They provide monthly loan advances which are repaid upon death or the sale of the house.

As of 9/30/2016 we had approved:

49 Reverse Mortgage Lenders

45 Exempt Lenders

ACTIVITIES REGULATED BY COMMISSIONER OF BANKS

Money Transmitters

The Money Transmitters Act (N.C.G.S. 53-208.1, *et seq.*) provides that no one sell or issue checks, drafts, money orders, or other instruments for the payment or transmission of money unless licensed by the Commissioner of Banks.

As of 9/30/2016 we had:

117 Money Transmitter Licensees

ACTIVITIES REGULATED BY COMMISSIONER OF BANKS

Trust Licenses

Pursuant to N.C.G.S. 53-159.1, *et seq.*, banks wishing to act in a fiduciary capacity must make application to the Commissioner of Banks for a license, and renew the license annually thereafter. Licenses are granted or renewed upon a determination of applicant's solvency and receipt of a fee.

As of 9/30/2016 we had:

55 Trust Licensees

ACTIVITIES REGULATED BY COMMISSIONER OF BANKS

Check-Cashing Businesses

Under N.C.G.S. 53-275 *et seq.*, persons or other entities providing check-cashing services for a fee, service charge, or other consideration must be licensed by the Commissioner of Banks. The law sets maximum fees for the check-cashing service.

As of 9/30/2016 we had:

222 Licensees 1,308 Locations

Enforcement Actions, Civil Money Penalties, and Fines

- The Commissioner of Banks will pursue Enforcement Actions against entities and/or individuals deemed to be in violation of applicable state regulations. Such actions may be adjudicated through administrative hearings before the Commissioner or as the result of voluntary consent decrees.
- The Commissioner of Banks, at his discretion, has the authority to impose Civil Money Penalties as punishment for violation of applicable state regulations.
- In Fiscal Year 2015-2016, the Commissioner entered 20 Enforcement Actions; imposed and collected CMPs of \$238,333 and had \$3,535 refunded to borrowers.
- The Commissioner has the authority to levy fines against guilty parties to recover reasonable costs of investigations.

BANKING ENVIRONMENT

TYPES OF CHARTERS:

NATIONAL
STATE MEMBER (FEDERAL RESERVE)
STATE NON-MEMBER

BRANCHING

LIMITED
STATEWIDE

UNIT BANKING

NO BRANCHING ALLOWED

Depository Institution Regulator

Type of Institution	Primary Regulator	Federal Regulator
Banks		
National	OCC	OCC
State		
Member	NCCOB	FRB
Nonmember	NCCOB	FDIC
Savings Associations		
Federal	OCC	FDIC
State	NCCOB	FDIC
Savings Banks		
Federal	OCC	FDIC
State	NCCOB	FDIC
Credit Unions		
Federal	NCUA	NCUA
State	Credit Union Div.	NCUA

SAFETY

•MANAGEMENT

•GOOD LAWS

•OFF-SITE MONITORING

•EXAMINATION

•ENFORCEMENT

EXAMINATION RATINGS

- C – Capital
- A – Assets
- M – Management
- E – Earnings
- L – Liquidity
- S – Sensitivity (Market/Interest Rates)
- Rated from 1 to 5 (1 is the highest)
- Composite rating from 1 to 5 (not an average)

CAMELS Rating Scale 1 to 5

- "1" – Strongest performance and risk management practices
- "2" – Satisfactory performance and risk management practices
- "3" – Less than satisfactory performance and risk management practices
- "4" – Unsatisfactory performance and risk management practices
- "5" – Critically deficient performance and greatest supervisory concern

Purpose of Bank Examinations

- Maintain public confidence
- Determine compliance with laws and regulations
- Prevent problem situations from deteriorating to the point where costly regulatory intervention is unavoidable
- Provide supervisory regulators with an objective foundation on which to base corrective measures, recommendations, and instructions

Types of Regulatory Exams

- Safety and Soundness (Commercial)
- Information Technology
- Trust
- Compliance/CRA

Frequency of Examinations

- Once every 12 months or
- May be extended to 18 months if:
 - Total assets are less than \$250 Million
 - The institution is well-capitalized
 - Composite rating of "1" or "2" on most recent examination
- Smaller banks examined alternately by the FDIC/FRB or State

Basic Areas of Examination Review

- Credit Review
- Operations Review
- Bank Secrecy Act (BSA)/Anti-Money Laundering (AML) Compliance Review

ENFORCEMENT ACTIONS

- BOARD RESOLUTION
- MEMORANDUM OF UNDERSTANDING
- CONSENT ORDER (formerly Cease and Desist Order)
- REMOVAL OF DIRECTORS AND OFFICERS
- ORDER TO CLOSE

TRENDS

Branching Across State Lines

Consolidation:

Failures and Assisted Acquisitions

Mergers and Acquisitions

New Banks (de Novo)

Internet and Mobile Banking

Branch Closings

Issues

- **Subprime Mortgages**
- **Housing Meltdown**
- **Commercial Real Estate Collapse**
- **Interest Rate Risk**
- **Operational Risk**
- **Cybersecurity**
- **Revenue pressures**
- **Regulatory Costs**

Subprime Mortgages

Liquidity in the global capital markets with an appetite for mortgage securities coupled with excess capacity in the commission-driven origination sector led to a deterioration of underwriting quality and to mortgage fraud. Our observations have noted:

Sales and marketing practices that focus on initial monthly payment of the loan, often at the exclusion of meaningful information about future payment shock;

Loan products with payment shock built in, leading the homebuyer to face a big jump in monthly payments regardless of changes in interest rates;

Subprime loans originated with stated income instead of documented; and

Loans with indications of some level of material misstatement in the loan process.

Commercial RE Bubble

- CRE includes, but is not limited to, loans to finance: shopping centers; office buildings, hotels, restaurants, and casinos; car dealerships; manufacturing facilities; warehouses; and, land acquisition and development.
- Contributing factors (in no particular order):
 - Exaggerated demand
 - Rapid growth
 - Inflated property appraisals
 - Excess (overstated) liquidity in the market
 - Lower consumer product demand
 - Job flight
 - Weak underwriting

North Carolina Bank Failures since 2009

Pisgah Community Bank	Asheville	NC	58701	Capital Bank, N.A.	May 10, 2013
Parkway Bank	Lenoir	NC	57158	CertusBank, National Association	April 26, 2013
Waccamaw Bank	Whiteville	NC	34515	First Community Bank	June 8, 2012
Blue Ridge Savings Bank, Inc.	Asheville	NC	32347	Bank of North Carolina	October 14, 2011
The Bank of Asheville	Asheville	NC	34516	First Bank	January 21, 2011
Cooperative Bank	Wilmington	NC	27837	First Bank	June 19, 2009
Cape Fear Bank	Wilmington	NC	34639	First Federal Savings and Loan Association	April 10, 2009

Costs of Regulatory Compliance

22% of Community Banks' Net Income

- 11% of personnel expenses
- 16% of data processing expenses
- 20% of legal expenses
- 38% of audit/accounting expenses
- 48% of consulting expenses

Estimated at \$4.5 billion for all community banks

Qualified Mortgage

- A mortgage in which the lender has analyzed the borrower's ability to repay based on income, assets and debts; has not allowed the borrower to take on monthly debt payments in excess of 43% of pre-tax income; has not charged more than 3% in points and origination fees; and has not issued a risky or overpriced loan like negative-amortization, balloon, 40-year or interest-only mortgage. Qualified mortgages began in January 2014, and provide legal protections for lenders who follow certain regulations in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Dodd–Frank Wall Street Reform and Consumer Protection Act

- To promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Dodd-Frank Wall Street Reform and Consumer Protection Act

(a/k/a 800 lb. gorilla)



Dodd-Frank Act

- 850 pages as passed
- Divided into 16 titled sections
- Signed into federal law by President Obama on July 21, 2010
- Promulgates 398 (or 390) rulemaking requirements
- Conservatively requires at least 67 studies
- Necessitates the creation of at least 22 new periodic report publications
- Deadlines for 271 of the 390 have passed
- 210/271 (77.5%) have been met with final rules; 29/271 (10.7%) have rules proposed; 32/271 (11.8%) have no rules proposed

Dodd-Frank Act

- Regulators have not yet released proposals for 32 of the 271 missed rule dates
- Of the 390 total: 274 (70.3%) have final rules; 36 (9.2%) have proposed rules out for comment; and 80 (20.5%) do not yet have proposed rules
- 135 of the 398 (or 132/390) are the responsibility of Bank Regulators

Financial Criminals



Cybersecurity

CYBERSECURITY:

The ability to **protect or defend** the use of cyberspace **from cyber-attacks**.

(National Institute of Standards and Technology, NIST)



Symantec's 2015 Internet Security Threat Report revealed that a total of 318 data breaches took place in 2015. This is an increase of 2% from 2014, but up 26% from 2013.

Cybersecurity (cont.)

■ Common Cyber-threats:

- Distributed Denial of Service (DDoS) attacks;
- Corporate Account Take Over (CATO) attacks;
- Automated Teller Machine (ATM Cash Out) attacks; and
- CryptoLocker attacks.

■ Cyber-threat Mitigates:

- ❖ Intrusion Detection Systems;
- ❖ Network Behavior Anomaly Detection Tools;
- ❖ Security Information and Event Management /Log Analyzer;
- ❖ Configuration Management Tools; and
- ❖ Integrity Monitoring Tools.

Cybersecurity (cont.)



FinTech Companies



Deceptive Sales/Marketing Practices





Bank examiners rejoice over documents prior to the division of duties.

Examiners are paperivores and hunt in packs known as Exam Teams. An exam team typically changes its hunting ground every 3 to 4 weeks. Hunting grounds normally take the form of banks, but may also include data centers, trust companies, corporate offices, and [hyperspace](#).

