FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

May 31, 2007

Honorable Carolyn B. Maloney
Chairman
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Madam Chairman:

Thank you for your letter regarding the Proposed Statement on Subprime Mortgage Lending.

The Federal Deposit Insurance Corporation has been working diligently with the other federal regulators to review the responses we received on the Proposed Statement since the comment period closed on May 7, 2007. The agencies also will carefully consider the issues you raised in your correspondence. I anticipate that the agencies will finalize the Proposed Statement in the near future.

As stated in my March 27th testimony, the FDIC would strongly support the Federal Reserve Board should it decide to exercise its rulemaking authority under the Home Ownership and Equity Protection Act (HOEPA) to address abusive lending practices by all mortgage lenders. The FDIC also is considering whether to request the Financial Accounting Standards Board (FASB) to clarify FAS 140 to provide the ability of services to restructure securitized loans to existing subprime borrowers.

Thank you again for your letter.

Sincerely,

Sheila

Sheila C. Bair

LA07-148

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May 16, 2007

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Chairman
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Neil Milner
President and CEO
Conference of State Bank Supervisors
1155 Connecticut Ave., 5th Floor
Washington, DC 20036-4306

Dear Director Reich, Chairwoman Bair, Chairman Bernanke, Comptroller Dugan, Chairwoman Johnson, and Mr. Milner:

I commend you for issuing the Proposed Statement on Subprime Lending as a companion piece to the Nontraditional Mortgage Guidance you issued last fall. I am hopeful that the Statement will curb more of the abuses associated with high risk loan products and practices, particularly those surrounding the disturbingly prevalent subprime hybrid 2-28 and 3-27 adjustable rate mortgages (ARMs) that pose risks of very severe payment shock and higher risks of foreclosure.

The severity of the current problem demonstrates that it is imperative that you finalize your Proposed Statement on Subprime Lending without any weakening of the critical underwriting components. In particular, it is critical for subprime borrowers that an institution's analysis of a borrower's repayment capacity must include an evaluation of their ability to repay the debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. In my view, this rule is required to ensure that originators return to more responsible underwriting practices and that borrowers receive loans that provide sustainable homeownership.

I would also hope that the Conference of State Bank Supervisors would take similar action for state-regulated entities.

In addition, as has been mentioned during recent Committee hearings, I strongly urge the Federal Reserve to move promptly to issue rules under its HOEPA authority over all home loans that will require, for subprime loans, (1) consideration of a borrower's ability to repay at the fully indexed rate, (2) the escrow of taxes and insurance, (3) the establishment of lender liability for broker actions, (4) the ban of prepayment penalties in the subprime market and (5) the elimination of the misuse of no-doc and stated income products. I urge the other federal regulators to support and call for such action by the Federal Reserve. In the absence of such action, the subprime market will remain largely unregulated and the very incentives to lax underwriting that caused the instant problem will persist.

Finally, although I applaud the future promise of your guidelines, I remain concerned that these guidelines will not undo the damage wrought by past shortcomings in the subprime market. Over six million borrowers are trapped in subprime loans on which the interest rate will increase substantially two years after origination. For many, the payment shock of the rate adjustment will make the loan unsustainable. Unless something is done, it is anticipated that more than 2.2 million families will lose their homes to foreclosure.

Thus, I was pleased to see your statement of April 18 where you "encourage financial institutions to work constructively with residential borrowers who are financially unable to make their contractual payment obligations on their home loans." I hope you will take an active role in ensuring that lenders and servicers will help these millions of at-risk borrowers and make their loans sustainable by, as you helpfully stated, "modifying loan terms, including converting loans with variable rates into fixed-rate products to provide financially stressed borrowers with predictable payment requirements." Specifically, I would urge the federal regulators to ask the FASB and the SEC to clarify FAS 140 so that servicers have greater flexibility to restructure loans that have been securitized when they are facing imminent default. This will allow substantially more borrowers to stay in their homes.

These three steps: issuing the Proposed Statement as originally promulgated for federally regulated institutions; extending that guidance to all lenders as a rule under the HOEPA authority of the Federal Reserve; and clarifying the accounting rules to allow servicers to restructure loans that are facing default, are essential first steps in relieving the subprime crisis.

As regulators, you have a window of opportunity to act now, before the anticipated increase in defaults and foreclosures in the third and fourth quarters of this year. I urge you not to let this opportunity go to waste.

Sincerely,

Carolyn B. Maloney

Carolyn B. Maloney
Chair
Subcommittee on Financial Institutions
and Consumer Credit
Financial Services Committee

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

July 20, 2007

Honorable Maxine Waters
House of Representatives
Washington, D.C. 20515

Dear Congresswoman Waters:

Thank you for the opportunity to respond to questions you submitted subsequent to my testimony on "Improving Federal Consumer Protection in Financial Services" before the Committee on June 13, 2007.

Enclosed is my response to those questions. If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

Sheila C. Bair

Sheila C. Bair

Enclosure

Response to Questions from
The Honorable Maxine Waters

Q1. In your testimony, you suggest that a number of consumers are in "financial distress" because of the changes and choices in the financial services marketplace. Please explain to what extent is this financial distress a result of the complexity and ambiguity in the law, or is it a result of the differences between federal and state regulations?

A1. I believe that the distress affecting a number of consumers can be linked to several different, but related, factors. As I discuss more fully in my written testimony, advances in technology and changes in lending organization structure have resulted in financial products that are increasingly complex and marketed through increasingly sophisticated methods. The pace and complexity of these advances heighten the potential risk for consumer harm. Consumers today often face a bewildering array of choices, especially in the credit options available to them. For example, there are seemingly unlimited types of credit cards, each with its own particular terms and conditions. With regard to mortgages, consumers now have choices beyond the traditional fixed-rate mortgage, such as adjustable rate or nontraditional products that are tied to a variety of amortization schedules and arcane index rates. In many cases, it is difficult even for sophisticated consumers to fully understand the costs associated with particular credit options or to compare products effectively.

As consumers may not fully comprehend the terms of credit that has been offered to them, it is sobering to confront the fact that debt loads are increasing. Over the last 20 years, the ratio of total household debt to disposable personal income has more than doubled, climbing to more than 125 percent. Much of the rise in household debt is due to mortgage obligations.

The significant growth in debt loads for lower income consumers and for young people has been especially troubling. Many of these borrowers have accumulated debt obligations, often as a result of student loans or credit cards that put their financial health at risk even though the economy as a whole has experienced years of positive economic growth. In fact, data show that young adults today are more indebted than previous generations were at the same ages and appear less likely to make timely debt payments than other age groups. The average credit card debt held by young adults ages 18 to 24 and 25 to 34 grew by 22 percent and 47 percent, respectively, between 1989 and 2004.

To some extent, this increase in debt load is attributable to the extension of credit to borrowers who have not previously had access to it. Although the increased availability of credit is in many respects a positive development, the extension of credit to unsophisticated borrowers has created greater opportunities for abuse. These vulnerable consumers are more susceptible to sophisticated marketing that directs them to products that may not be the best for their needs -- or affordable in the long run.

lending, it may be necessary for Congress to provide rulemaking authority to a larger group of agencies.

Permit state Attorneys General and supervisory authorities to enforce the Truth in Lending Act (TILA) and the FTC Act against non-bank financial providers. To enhance enforcement of consumer protection laws, Congress could consider expanding TILA and the FTC Act to allow state Attorneys General, state banking regulators, and other appropriate state authorities to bring actions against non-bank financial service providers under these laws. State authorities now operate under their own anti-predatory statutes, but may not have the full ability to enforce federal standards. Expanding TILA and the FTC Act to incorporate non-bank financial service providers would give additional tools to state authorities, assist in maintaining minimum standards that apply to all financial service providers, and help provide a more level playing field for consumers and all lenders.

Provide funding for "Teach the Teacher" programs to provide better financial education. Integrating financial education into core public school requirements assures that students of all income levels are exposed to basic financial principles year after year. Some universities offer Teach the Teacher programs, which could benefit greatly from federal financial support.

Q3. What steps, if any, will the FDIC undertake to examine this issue? If none, when might FDIC begin the process of addressing this issue?

A3. The FDIC has taken a number of steps in these areas. In October 2006, the FDIC and other federal banking agencies issued *Guidance on Nontraditional Mortgage Product Risks*. Concerned that some borrowers may not fully understand the risks of nontraditional mortgage products, such as interest-only and payment option adjustable-rate mortgages, the agencies issued this guidance advising bank management of the potential for heightened risk levels entailed with offering these products. Institutions were strongly encouraged to ensure that consumers have sufficient information to clearly understand loan terms and associated risks prior to making a product or payment choice.

In June 2007, the FDIC and other federal banking agencies issued a *Statement on Subprime Mortgage Lending* that established consumer protection standards that should be followed to ensure that consumers, especially subprime borrowers, obtain loans they can afford to repay and receive information that adequately describes product features. The statement also encourages institutions to work constructively with residential borrowers who are in default or whose default is reasonably foreseeable.

In June 2007, the FDIC published final *Guidelines on Affordable Small-Dollar Loans*, which encourage FDIC supervised institutions to offer and promote these products to their customers. The goal is to enable banks to better serve an underserved and potentially profitable market while helping consumers avoid, or transition away from, reliance on high-cost debt.

FDIC
Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990
Office of Legislative Affairs

November 8, 2007

Honorable Michael D. Crapo
United States Senate
Washington, D.C. 20510

Dear Senator Crapo:

Thank you for your recent letter requesting recommendations to improve regulatory efficiency.

I am enclosing the Federal Deposit Insurance Corporation's recommendations for legislative changes that we believe would increase regulatory efficiency without compromising safety and soundness or important consumer protections.

Your interest in this matter is appreciated. If you have any questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

Eric J. Spitler

Eric J. Spitler
Director
Office of Legislative Affairs

Enclosure

FDIC INITIATIVES for the 110TH CONGRESS

The FDIC suggests the following legislative amendments to address a number of supervisory, administrative, and receivership issues that have arisen.

With each proposal is
- o a brief explanation about the problem the proposal addresses, and
- o a suggested amendment.

List of Amendments

1. *Clarification of Section 8(e)(2) authority*
2. *Civil money penalty mitigating factors*
3. *Repeal CRA Sunshine Act*
4. *Enhancing enforcement authority for misrepresentations regarding deposit insurance*
5. *Bridge bank authority for thrifts*
6. *Deposit Insurance Savings Associations*
7. *Exclusion of advisory committees to the Federal banking agencies from the Federal Advisory Committee Act*
8. *Technical and conforming amendments relating to bridge banks*
9. *Technical and conforming amendments to the FDI Act arising from Deposit Insurance Reform*
10. *Technical amendments arising from the Financial Services Regulatory Relief Act*

1. CLARIFICATION OF SECTION 8(e)(2) AUTHORITY

Explanation

Section 8(e)(1) of the Federal Deposit Insurance Act allows for the issuance of a notice of intent to "remove [an institution-affiliated party] from office or to prohibit any further participation by such party" where specific findings of misconduct, effect, and culpability can be supported. Because of the severity of the consequences of an 8(e)(1) order, Congress required a high level of proof to support such an order. Section 8(e)(2) of the FDI Act allows for "removal" of institution-affiliated parties ("IAPs") based solely upon a determination that they have violated certain listed statutes, including violations of the Bank Secrecy Act. While section 8(e)(2) appears to be particularly useful for individuals who have committed money laundering and structuring violations where there may be no bank loss and no personal financial gain, it has been argued that the absence of "prohibition" language in section 8(e)(2) precludes its use where the IAP is no longer employed by the bank and, thus, cannot be "removed." While section 8(i)(3) permits the issuance of a notice or order under section 8 within six years after an IAP leaves a bank, the addition of "prohibition" language to section 8(e)(2) to clarify authority under that particular provision would eliminate any question in this regard.

Suggested Amendment

Section 8(e)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended by inserting at the end before the period "or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured depository institution".

2. CIVIL MONEY PENALTY MITIGATING FACTORS

Explanation

Section 8(i)(2)(G) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i)(2)(G), added by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, requires that the appropriate Federal banking agency, in determining the amount of any civil money penalty to be imposed, take into account the appropriateness of the penalty with respect to four specified mitigating factors, including " the size of the financial resources and good faith" of the respondent. Courts have held that the FDIC must consider ability to pay before imposing any penalty, even by default, and that the FDIC has the burden of going forward with the evidence on all the mitigating factors. See Dazzio v. FDIC, 970 F.2d 71 (5th Cir, 1992), and Paul E. Oberstar v. FDIC, 987 F.2d 494 (8th Cir. 1993).

Unless current financial information can be found in bank records, financial information concerning a CMP respondent is something that is difficult for the FDIC to obtain. The FDIC routinely requests current financial information from respondents in CMP proceedings so that the size of the financial resources of respondents can be considered in any final decision. While some respondents submit requested information, frequently respondents either attempt to minimize current financial ability through selective reporting or simply refuse to provide financial information at all. Under such circumstances, the FDIC's consideration of required mitigating factors can be severely hampered. As the necessary financial information is within the control of the respondent, and as a matter of fairness to those respondents who provide requested financial data, the Federal banking agencies should be able to require the CMP respondent to provide financial information showing a limited ability to pay. If documentation is withheld or materially misstated by the respondent, the Federal banking agencies should be able to move forward without further consideration of his or her financial resources. The proposed amendment would effectively shift the burden of proof to the respondent, who has the ability to provide the relevant evidence.

Suggested Amendment

Section 8(i)(2)(G)(i) of the Federal Deposit Insurance Act (12 U.S.C. § 1818(i)(2)(G)) is amended by inserting the following before the semicolon:

> ", provided, however, that if documentation of the size of financial resources is withheld or materially misstated by the insured depository institution or other person charged, the agency shall not consider size of financial resources as a mitigating factor".

3. REPEAL CRA SUNSHINE LAW

Explanation

The FDIC proposes to repeal Section 48 of the Federal Deposit Insurance Act, known as the Community Reinvestment Act (CRA), entitled "CRA Sunshine Requirements". Section 711 of the Gramm-Leach-Bliley Act (GLBA) added section 48 to the Federal Deposit Insurance Act (12 U.S.C. § 1831y). This section requires nongovernmental entities or persons, depository institutions, and affiliates of depository institutions that are parties to certain agreements that are in fulfillment of the CRA to make the agreements available to the public and the appropriate agency and to file annual reports concerning the agreements with the appropriate agency. The agreements to be disclosed are:

- Written agreements providing for cash payments, grants, or other consideration (except loans) with an aggregate value in excess of $10,000 in a calendar year; or
- loans to one or more individuals or entities (whether or not parties to the agreement) that have an aggregate principal amount of more than $50,000 in any calendar year

The repeal of this annual reporting requirement would reduce regulatory burden on depository institutions, nongovernmental entities (consumer groups), and other parties to covered agreements as well as the Federal banking agencies.

Suggested Amendment

Section 48 of the Federal Deposit Insurance Act is repealed.

4. ENHANCING ENFORCEMENT AUTHORITY FOR MISREPRESENTATIONS REGARDING DEPOSIT INSURANCE

Explanation:

The FDIC has identified multiple schemes to defraud depositors that are effected through the misuse of the FDIC's name, logo, abbreviation, or other indicators suggesting the products are fully insured deposits. Such misrepresentations induce the targets of these schemes to invest on the strength of FDIC insurance while misleading them as to the true nature of the investment products being offered. These individuals, who are often elderly and dependent on insured savings, have lost millions of dollars in the schemes. Further, abuses of this nature may erode public confidence in Federal deposit insurance.

The FDIC may address directly any misconduct occurring in state-chartered insured depository institutions where FDIC is the primary Federal regulator, but the abuses described are generally perpetrated by persons or entities outside of the deposit insurance system. The proposed legislation would strengthen the FDIC's enforcement authority to curtail these abuses by granting the FDIC the authority to enter cease and desist orders against such conduct and impose civil monetary penalties of up to $1 million per day on any person who falsely represents the nature of the product offered or the FDIC insurance coverage available. In addition, the proposed legislation would clarify the FDIC's authority to seek injunctive relief against such person under the rules of any Federal, State, or foreign court of competent jurisdiction.

Amendment:

a) Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

"(4) FALSE ADVERTISING, MISUSE OF FDIC TERMS, AND MISREPRESENTATION TO INDICATE INSURED STATUS. --

(A) PROHIBITION ON FALSE ADVERTISING AND MISUSE OF FDIC TERMS.-- No person may--

(i) use the terms "Federal Deposit," "Federal Deposit Insurance," "Federal Deposit Insurance Corporation," any combination of such terms, or the abbreviation "FDIC" as part of the business name or firm name of any person, including any corporation, partnership, business trust, association, or other business entity; or

(ii) use such terms or any other sign or symbol as part of an advertisement, solicitation, or other document, to represent, suggest or imply that any deposit liability, obligation, certificate or share is insured or guaranteed by the Federal Deposit Insurance Corporation, if such deposit liability, obligation, certificate, or share is not insured or guaranteed by the Corporation.

(B) PROHIBITION ON MISREPRESENTATIONS OF INSURED STATUS.-- No person may misrepresent--

(i) that any deposit liability, obligation, certificate, or share is federally insured, if such deposit liability, obligation, certificate, or share is not insured by the Corporation; or

(ii) the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured by the Federal Deposit Insurance Corporation, if such deposit liability, obligation, certificate, or share is not insured by the Corporation to the extent or in the manner represented.

(C) ENFORCEMENT AUTHORITY.-- The Corporation shall have--

(i) jurisdiction over any person that violates this paragraph, or aids or abets the violation of this paragraph; and

(ii) for purposes of enforcing the requirements of this paragraph with regard to any person--

(I) authority under section 10(c) to conduct investigations; and

(II) enforcement authority under subsections (b), (c), (d) and (i) of section 8,

as if such person were a state nonmember insured bank; and,

(iii) authority to seek injunctive relief against such person in any Federal, State, or foreign court of competent jurisdiction.

(D) OTHER ACTIONS PRESERVED.-- No provision of this paragraph shall be construed as barring any action otherwise available, under the laws of the United States or any State, to any Federal or State law enforcement agency or individual.".

b) Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

"(4) FALSE ADVERTISING OR MISUSE OF NAMES TO INDICATE INSURED STATUS.--

(A) TEMPORARY ORDER.--

(i) IN GENERAL.-- If a notice of charges served under subsection (b)(1) of this section specifies on the basis of particular facts that any person is engaged in conduct described in section 18(a)(4), the Corporation may issue a temporary order requiring--

(I) the immediate cessation of any activity or practice described, which gave rise to the notice of charges; and

(II) affirmative action to prevent any further, or to remedy any existing, violation.

(ii) EFFECT OF ORDER.-- Any temporary order issued under this subparagraph shall take effect upon service.

(B) EFFECTIVE PERIOD OF TEMPORARY ORDER.-- A temporary order issued under subparagraph (A) shall remain effective and enforceable, pending the completion of an administrative proceeding pursuant to subsection (b)(1) in connection with the notice of charges--

(i) until such time as the Corporation shall dismiss the charges specified in such notice; or

(ii) if a cease-and-desist order is issued against such person, until the effective date of such order.

(C) CIVIL MONEY PENALTIES.-- Violations of section 18(a)(4) shall be subject to civil money penalties as set forth in subsection (i) in an amount not to exceed $1,000,000 for each day during which the violation continues.".

c) Section 18(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)(3)) is amended by striking "this subsection or any regulation issued under this subsection" and inserting "paragraph (1) of this subsection or any regulation issued under paragraph (2) of this subsection".

d) The heading for subsection (a) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by striking "INSURANCE LOGO.--" and inserting "REPRESENTATIONS OF DEPOSIT INSURANCE.--".

5. BRIDGE BANK AUTHORITY FOR THRIFTS

Explanation

To assist in the resolution of a savings association failure, this proposal would authorize the establishment of bridge savings associations and would parallel the bridge bank authority under section 11(n) of the Federal Deposit Insurance Act (12 U.S.C. § 1821(n). Bridge authority for savings associations would give the FDIC more discretion than it has in a conservatorship in connection with resolving troubled thrifts. Additional conforming amendments also would be required to include "bridge savings association" where the term "bridge bank" is used in other provisions.

Suggested Amendments

(1) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding a new subsection (x) at the end as follows –

"(x) BRIDGE SAVINGS ASSOCIATIONS. – Subsection (n) shall apply to the organization of one or more Federal savings associations when 1 or more insured savings associations are in default or when the Corporation anticipates that 1 or more insured savings associations may become in default, except that for purposes of applying this subsection –

(1) Any reference to a 'bank' or 'banks', except when used in connection with national bank, shall be deemed to be a reference to 'savings association' or 'savings associations';
(2) any reference to 'national bank', 'national banking association', 'national banks', or 'national banking associations' shall be deemed to be a reference to a 'Federal savings association' or 'Federal savings associations'; and
(3) any reference to the 'Office of the Comptroller of the Currency' or the 'Comptroller of the Currency' shall be deemed to be a reference to the 'Office of Thrift Supervision'.".

(2) Additional Technical and Conforming Amendments. –

(a) Section 3(i) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)) is amended by changing the title to read "NEW BANK, BRIDGE BANK, AND BRIDGE SAVINGS ASSOCIATION", and by inserting new paragraph (3) at the end as follows –

"(3) BRIDGE SAVINGS ASSOCIATION. – The term 'bridge savings association' means a new Federal savings association organized by the Corporation in accordance with section 11(x).".

(b) Section 10(d)(5)((B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(5)(B)) is amended by inserting "or bridge savings association" after "bridge bank" and by striking "or the Resolution Trust Corporation".

(c) Section 11(d)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)(F)) is amended by striking "and" at the end of clause (i), redesignating clause (ii) as clause (iii), and inserting new clause (ii) as follows --

"(ii) with respect to savings associations, organize a new Federal savings association under subsection (x); and".

(d) Section 11(d)(2)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)(G)) is amended by inserting "or a bridge savings association established pursuant to subsection (x)" before the second closing parenthesis.

(e) Section 11(e)(10)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(C)) is amended by changing the title to read "TREATMENT OF BRIDGE BANKS OR BRIDGE SAVINGS ASSOCIATIONS" and by inserting a new clause (iii) at the end as follows. --

"(iii) A bridge savings association.".

(f) Section 38(j) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(j)) is amended by striking "or the Resolution Trust Corporation" each place it appears and, in paragraph (2) by inserting "or bridge savings association" after "bridge bank".

(g) Section 207(c)(10)(C) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(C)) is amended by changing the title to read "TREATMENT OF BRIDGE BANKS AND BRIDGE SAVINGS ASSOCIATION" and adding new clause (iii) as follows --

"(iii) A bridge savings association.".

6. DEPOSIT INSURANCE SAVINGS ASSOCIATIONS

Explanation

This proposal would authorize the FDIC to establish deposit insurance savings associations ("DISA") parallel to the "new bank" authority under section 11(m) of the Federal Deposit Insurance Act (12 U.S.C. § 1821(m). Like the FDIC's new bank authority, the proposed DISA authority for savings associations would provide the FDIC the authority to organize a new federal savings association solely for the purpose of assuming the insured deposits of a failed savings association, upon a finding that it is in the interest of the depositors of the failed savings association or the public. Additional conforming amendments also would be required to include "deposit insurance savings association" where the term "new bank" is used in other provisions of the Federal Deposit Insurance Act.

Suggested Amendment

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. § 1821) is amended by adding the following new subsection after proposed new subsection (x) (See prior suggested amendment):

"(y) DEPOSIT INSURANCE SAVINGS ASSOCIATIONS. –
(1) APPLICABILITY OF SUBSECTION (m).– Subsection (m) shall apply to the organization of a new Federal savings association when an insured savings association is in default or when the Corporation anticipates that an insured savings association may become in default, except that for purposes of applying this subsection –

(A) Any reference to a 'bank' or 'banks' shall be deemed to be a reference to a 'savings association' or 'savings associations';
(B) any reference to 'national bank', 'national banking association', 'national banks', or 'national banking associations' shall be deemed to be a reference to a 'Federal savings association' or 'Federal savings associations', except that the reference to section 5138 of the Revised Statutes for the organization of a national bank in subsection (m)(15) shall have no effect;
(C) any reference to the Office of the Comptroller of the Currency or the Comptroller of the Currency shall be deemed to be a reference to the Office of Thrift Supervision; and
(D) any reference to 'Federal Reserve bank' in subsection (m)(8) shall be deemed to be a reference to 'Federal Home Loan Bank'.

(2) INSURED STATUS.—For purposes of this subsection, subsection (m)(7) has no effect. The new Federal savings association, without application to or approval by the Corporation, shall be an insured depository institution and shall

be eligible for membership in a Federal Home Loan Bank consistent with section 4 of the Federal Home Loan Bank Act.".

(2) Additional Technical and Conforming Amendments. --

(a) Section 3(i) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)) is amended by changing the title to read "NEW BANK, BRIDGE BANK, and DEPOSIT INSURANCE SAVINGS ASSOCIATION", and by inserting new paragraph (4) at the end as follows --

"(4) DEPOSIT INSURANCE SAVINGS ASSOCIATION. -- The term 'deposit insurance savings association' means a new Federal savings association organized by the Corporation in accordance with section 11(y).".

(b) Section 10(d)(5)((B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(5)(B)) is amended by inserting "or deposit insurance savings association" after "bridge bank" and by striking "or the Resolution Trust Corporation".

(c) Section 11(d)(2)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)(G)) is amended by inserting "or a deposit insurance savings association established pursuant to subsection (y)" before the second closing parenthesis.

7. EXCLUSION OF ADVISORY COMMITTEES TO THE FEDERAL BANKING AGENCIES FROM THE FEDERAL ADVISORY COMMITTEE ACT

Explanation

The Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Board of Governors of the Federal Reserve System (Federal Reserve), and Office of Thrift Supervision (OTS) each supervise insured depository institutions. All of these agencies have the same need to be able to conduct open and frank discussions with the banking industry and other members of the public about a variety of supervisory, policy, and consumer issues, as well as, from the FDIC's perspective, issues related to the deposit insurance funds; including the resolution and liquidation of failed or failing insured institutions. Moreover, frequently, the banking agencies are discussing the same issues with industry and public officials.
In particular, given the significant changes occurring in the structure of the banking system and the way banks deliver products and services, the agencies need the ability to efficiently — and quickly — keep abreast of these changes and how they will impact the continuing ability of banks to be responsive to customer and community needs. Because of the potentially sensitive nature of information about these issues, any public meeting requirements could inhibit the banking agencies from obtaining frank, open, and candid advice from industry and community representatives and the customers the banks serve.

The Federal Advisory Committee Act (5 U.S.C. App. 2) (FACA) generally requires that the meetings of advisory committees must be open to the public, and that advance notice of a committee meeting must be published in the Federal Register. The minutes of the meeting and all working papers and other documents prepared for or by the advisory committee also must be publicly available. Under current law, the Federal Reserve System is exempt from FACA under 5 U.S.C. App. 2 § 4(b). However, all of the other Federal banking agencies must follow FACA's procedures and requirements when establishing or using advisory committees to provide advice or recommendations to the agency relating to their supervisory responsibilities.

This amendment would ensure that all of the other Federal banking agencies can benefit from the same free exchange of information with the banks and others that currently is only available to the Federal Reserve System. The amendment would permit the OCC, FDIC, and OTS also to establish and use advisory committees to provide advice and recommendations with respect to safety and soundness, product and service developments and delivery, consumer issues affecting supervised institutions, and deposit insurance issues without concerns that confidential information will be publicly disclosed. Moreover, by enhancing the free exchange of information between banks and all Federal bank regulators, the amendment further strengthens the safety and soundness of insured depository institutions.

Suggested Amendment

Sec. ____. EXCLUSION OF ADVISORY COMMITTEES TO THE BANKING AGENCIES FROM THE FEDERAL ADVISORY COMMITTEE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

> "Sec. _____. ADVISORY COMMITTEES ESTABLISHED BY THE FEDERAL BANKING AGENCIES.—
>
> (a) IN GENERAL.— The Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision may each establish and use a committee composed of persons selected by the agency to provide advice and recommendations to the agency relating to safety and soundness, product and service developments and delivery, or consumer issues affecting the institutions supervised by such agencies, and, with respect to committees formed by the Federal Deposit Insurance Corporation, the protection, operation, and administration of the deposit insurance funds, including the resolution and liquidation of failed or failing insured depository institutions.
>
> (b) EQUAL TREATMENT.—Notwithstanding any other law, a Federal banking agency that establishes and uses an advisory committee under subsection (a) shall be treated in the same manner as if it were the Federal Reserve System establishing and using the advisory committee.".

8. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO BRIDGE BANKS

Explanation

This proposed technical amendment would amend FDI Act Section 11(n)(7) in two ways: 1) to correct a drafting error which incorrectly references non-existent provisions in paragraph (10); and 2) to incorporate four of the transactions listed in paragraph (10), instead of three.

Subsection (n) of FDI Act Section 11 was added to the FDI Act by section 214 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. No. 101-73. FIRREA Section 214 substantially expanded the FDIC's authority to organize bridge banks as a means of preserving the going concern value of an institution pending a solicitation of offers for the institution or other disposition of the institution.

This technical amendment corrects the reference in Section 11(n)(7) to the transactions listed in paragraph (10)(A), clauses (i), (ii), and (iii) where the Corporation is authorized to provide assistance. These transactions are enumerated in paragraph (10) of the public law as (A), (B), and (D). In the House bill, they were numbered as (i), (ii), and (iii). See H.R. 1278, and H. Rep. No. 101-54, Part I (May 16, 1989). Clauses (i), (ii), and (iii), which existed in paragraph (10)(A) in H.R. 1278 as enacted by the House, do not appear in paragraph (10)(A) as enacted into law. Upon enactment, however, Section 11(n)(7) retained the House bill's reference to paragraph (10)(A) clauses (i) through (iii).

Further, this technical amendment includes a reference to the transaction enumerated in paragraph (10)(C) of the pubic law, which was added during the conference but did not expressly appear in either the House bill (H.R. 1278) or the Senate bill (S. 774). Paragraph (7) authorizes the FDIC to provide assistance to facilitate certain transactions listed in paragraph (10) with respect to bridge banks: (A) merger or consolidation with a depository institution; (B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge bank to another entity; (C) the sale of 80 percent or more of the capital stock of the bridge bank; and (D) the assumption of all or substantially all of the deposits and liabilities of the bridge bank. In short, the FIRREA bridge bank amendments to the FDI Act gave the FDIC greater flexibility and discretion than it had under prior law in transferring assets and liabilities to a bridge bank.

The bridge bank assistance provision in paragraph (7) originated in the House—the Senate bill had no comparable provision. The House bill's assistance provision referenced three of the four bridge bank assistance transactions in paragraph (10) of the public law. The fourth assistance transaction, added during the conference upon the recommendation of the FDIC (now designated as paragraph (10)(C)), was the FDIC's explanation in support of this amendment was to provide a "bright-line" standard to determine when the sale of the stock of a bridge bank reaches the point where the bank should cease to enjoy the status of a bridge bank. The FDIC suggested that a bank should automatically cease to have bridge bank status when the FDIC sells 80 percent or more of its stock. The FDIC also proposed that it have discretion to terminate bridge bank status at any time after the FDIC divested itself of a majority of the bank's stock. This proposal was submitted in order to allow the FDIC to transfer the stock of a bridge bank to a buyer over time. It seems apparent, therefore, that Congress did not intend to exclude (C) from the assistance authority contained in paragraph (7), particularly in light of the greatly expanded bridge bank assistance authority given to the FDIC.

In summary, this technical amendment corrects FDI Act Section 11(n)(7) to correctly reference the appropriate transactions in paragraph (10).

<u>Suggested Amendment</u>

Section 11(n)(7) of the Federal Deposit Insurance Act is amended by striking "clause (i), (ii), or (iii)" and substituting "subparagraph (A), (B), (C), or (D)".

9. TECHNICAL AND CONFORMING AMENDMENTS TO THE FDI ACT ARISING FROM DEPOSIT INSURANCE REFORM

Explanation

Technical and conforming amendments to the Federal Deposit Insurance Act (FDI Act) are proposed. This proposal would amend section 7 of the FDI Act (12 U.S.C. 1817) by striking subsections (l) and (m), because they are obsolete, and re-designating subsection (n) as subsection (l). Subsections (l) and (m) were added by section 208 of the Financial Institutions Reform Recovery and Enforcement Act of 1989, P.L. 101-73, § 208 ("FIRREA"). Section 208 required the FDIC to maintain and operate separate insurance entities, the Bank Insurance Fund ("BIF") and the Savings Association Insurance Fund ("SAIF"). Subsection (l) designates newly insured depository institutions as members of either the BIF or SAIF. Section 2102 of the Federal Deposit Insurance Reform Act of 2005 ("Reform Act") merged the BIF and SAIF making subsection (l) of the FDI Act obsolete. Subsection (m) concerns the secondary reserve transferred to the FDIC from the Federal Savings and Loan Insurance Corporation ("FSLIC") when FIRREA dissolved FSLIC. The secondary reserve transferred from FSLIC was depleted in January of 1993, and therefore subsection (m) is also obsolete.

Additionally, the heading for section 14(d)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1824(d)(2)(D), currently reads "BIF MEMBERS". It should be amended to read "INSURED DEPOSITORY INSTITUTIONS" to conform the heading to changes made to section 14 by the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 in connection with the merger of the deposit insurance funds.

Suggested Amendment

1. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by striking subsections (l) and (m), and re-designating subsection (n) as subsection (l).

2. The heading for section 14(d)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1824(d)(2)(D), is amended by striking "BIF MEMBERS" and inserting "INSURED DEPOSITORY INSTITUTIONS".

10. TECHNICAL AMENDMENTS ARISING FROM THE FINANCIAL SERVICES REGULATORY RELIEF ACT

Explanation

Technical amendments are needed to redesignate two paragraphs in the FDI Act. Section 703 of the Financial Services Regulatory Relief Act amended section 5(e)(9)(A) of the Federal Deposit Insurance Act to amend the definition of "Commonly controlled;" however, the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 amended section 5(e) to eliminate paragraph (6) and renumber the succeeding paragraphs (7) and (8) resulting in former paragraph (9) becoming paragraph (8) – thus, the FSRRA amendment should be amended to refer to paragraph (8).

Section 710 of the FSRRA added a new subsection (d) to section 19 of the FDI Act. The amendment, however, was originally drafted in tandem with another proposed amendment that would have added a new subsection (c). The latter proposal was not enacted, and the FSRRA amendment should be amended to identify the new subsection as (c), not (d).

Suggested Amendment

Section 703 of the Financial Services Regulatory Relief Act is amended by striking "(9)" and inserting "(8)".

Section 710 of the Financial Services Regulatory Relief Act is amended by striking "(d)" and inserting "(c)".

LA07-391

United States Senate

WASHINGTON, DC 20510

October 24, 2007

FDIC
OCT 2 5 2007
OFFICE OF LEGISLATIVE AFFAIRS

Dear Members of the Federal Financial Institutions Examination Council:

An effective regulatory system appropriately balances the costs and benefits of public laws and regulations. All of us want to protect consumers and ensure the system's safety and soundness; however, excessive regulation can increase the costs of producing financial products, stifle productivity and innovation, and misallocate resources. Responding to the steady stream of new regulations while complying with existing ones has become a challenge for many financial institutions. Rule changes, particularly for smaller institutions with limited staff, can be costly, and these costs are often passed on to consumers. It is also important for us to understand that the resources that are expended working to meet government compliance and paperwork requirements are time and effort unavailable to serve customers and communities.

Last Congress we enacted into law a regulatory relief bill that made some important reforms. Although we got a lot done in that bill, we also identified a lot more that needs to be done, and we intend to continue work on improving regulatory efficiency in order to provide relief and consumer protection. We are very appreciative of all the hard work and cooperation of your agencies in reviewing and preparing a matrix of 187 regulatory relief recommendations and positions for the Banking Committee. In order to get this legislation signed into law, all sides compromised and didn't let the perfect stand in the way of what was possible. We would appreciate if each agency would get back to us with a list of its top two or three priorities. We want to identify enough proposals that would increase regulatory efficiency without compromising safety and soundness and important consumer protections.

We are requesting that each agency responds back to us by November 2nd.

Sincerely,

Mike Crapo — Jon Tester

Tim Johnson — Chuck Hagel

LA08-001

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

December 10, 2007

FDIC
JAN - 2 2008
OFFICE OF LEGISLATIVE AFFAIRS

Mr. John Bovenzi
Deputy to the Chairman and Chief Operating Officer
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Dear Mr. Bovenzi:

Thank you for testifying October 4th at the Committee on Banking, Housing, and Urban Affairs. In order to complete the hearing record, we would appreciate your answers to the enclosed questions as soon as possible.

Please set forth the question, then your answer to it, and single-space both question and answer. Please do not use all capitals.

Send your reply to Ms. Elizabeth Hackett, the Committee's Deputy Chief Clerk. She will transmit copies to the appropriate offices, including the Committee's publications office. Due to current procedures regarding Senate mail, it is recommended that you send replies **via e-mailed Word or WordPerfect attachment** to Liz_Hackett@banking.senate.gov.

If you have any questions about this letter, please contact Ms. Hackett at (202) 224-7391.

Sincerely,

Chris Dodd

Christopher J. Dodd
Chairman

EAH/sm

Questions for the Hearing on "Examining the Regulation and Supervision of Industrial Loan Companies"
October 4, 2007

Questions for Mr. John Bovenzi, Chief Operating Officer, Federal Deposit Insurance Corporation

from Senator Shelby:

1. A 2006 report from the FDIC's Office of Inspector General detailed the widespread use of non-standard conditions in granting deposit insurance. The State of Utah also includes certain conditions in its orders approving new ILC charters.
   - Is there any question regarding the enforceability of these conditions in a legal context?
   - Could the FDIC simply withdraw its deposit insurance if the ILC does not honor the conditions?

2. In a 2006 hearing before the House Financial Services Committee, the FDIC appeared to qualify its previous position on the adequacy of the bank-centric regulatory approach from a safety and soundness perspective.
   - Please explain the rationale for this apparent reversal?

Since 2006 when the FDIC imposed its moratorium, applications for deposit insurance and change in control have been on hold.
- What is the legal basis for the FDIC's moratorium?
- On what grounds was the change-in-control application for GMAC Automotive Bank exempted from the general moratorium?

Following its initial moratorium, the FDIC sought comment on a number of issues related to ILCs. Did these comments or the FDIC's own internal review suggest any inadequacies with the FDIC's existing regulatory powers over ILCs?

What percentage of the total insured deposits in the U.S. are held by ILCs? What percentage of the total insured deposits are held by ILCs not already subject to the consolidated supervision of either the Fed or the OTS? What percentage of the total insured deposits are held by ILCs owned by commercial firms?

3. Is the key issue in the ILC debate the commercial ownership of a banking charter or the commercial ownership of a Federally-insured entity?

from Senator Crapo:

1. As I said in the opening statement, I am hearing a lot of praise about Britain's approach to regulation as a model for an effective but not onerous system to oversee banks, brokers and investment funds, and one that could improve the competitive position of U.S. financial markets globally. When was the last time Congress did a thorough evaluation of our financial services regulatory structure answering these types of questions?

Questions for the Hearing on "Examining the Regulation and Supervision of Industrial Loan Companies"
October 4, 2007

- Does our financial services regulatory structure correspond to the needs and problems? *(Relevance)*
- Does our financial services regulatory structure achieve its objectives? *(Effectiveness)*
- Does our financial services regulatory structure achieve its objectives at reasonable costs? *(Efficiency / cost-effectiveness)*

2. It is my understanding that the Financial Services Authority in the United Kingdom not only requires cost-benefit analysis for proposals before going forward, but it is required to report annually on its costs relative to the costs of regulations in other countries. How does this contrast with our system?

3. I am very appreciative of all the hard work and cooperation of your agencies in reviewing and preparing a matrix of all the regulatory relief recommendations and positions for this committee. In order to get this legislation signed into law, all sides compromised and didn't let the perfect stand in the way of what was possible. I would appreciate if each agency would get back to me and the Banking Committee with a list of their top two or three priorities from this list that would meaningfully reduce regulatory burden for institutions they regulate.

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

May 31, 2007

Honorable Carolyn B. Maloney
Chairman
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Madam Chairman:

Thank you for your letter regarding the Proposed Statement on Subprime Mortgage Lending.

The Federal Deposit Insurance Corporation has been working diligently with the other federal regulators to review the responses we received on the Proposed Statement since the comment period closed on May 7, 2007. The agencies also will carefully consider the issues you raised in your correspondence. I anticipate that the agencies will finalize the Proposed Statement in the near future.

As stated in my March 27th testimony, the FDIC would strongly support the Federal Reserve Board should it decide to exercise its rulemaking authority under the Home Ownership and Equity Protection Act (HOEPA) to address abusive lending practices by all mortgage lenders. The FDIC also is considering whether to request the Financial Accounting Standards Board (FASB) to clarify FAS 140 to provide the ability of services to restructure securitized loans to existing subprime borrowers.

Thank you again for your letter.

Sincerely,

Sheila

Sheila C. Bair

Attachment B

FDIC Comment Letters on Proposed Regulations

The FDIC regularly comments on proposed rules, regulations and legislation. Highlighted below are key changes we proposed in recent comment letters to the agencies issuing regulations. The complete comment letters also are attached.

FDIC Comments to the Department of Housing and Urban Development
Re: Real Estate Settlement Procedures Act (RESPA)

- Ban yield spread premiums and allow brokers to be fairly compensated by alternative means.
- Include a mechanism to provide a monetary remedy to consumers for excess charges on final settlement costs.
- Suggested instead of allowing a loan originator to refund an overcharge within a specified time period, the settlement agent subtracts any overcharge from the lender's service charge at the closing.
- Noted concerns on the length of the proposed GFE (four pages) and the lack of important information about payment shock from certain loan products, as well as a lack of information about additional costs associated with "low-doc" or "no doc" loans.

FDIC Comments to the Board of Governors of the Federal Reserve System
Re: Credit Card and Overdraft rules – Regulation Z, Regulation DD, and Unfair or Deceptive Acts or Practices (UDAP)

- Require issuers of high fee credit cards to disclose all fees up front as a total amount in all solicitations and subsequent disclosures.
- Require advertised and offered credit limits to reflect the actual "useable" amounts of credit available for use by consumers.
- Restrict marketing of high fee credit cards to consumers as credit repair products.
- Limit the amount of fees that can be financed in the first year to 25 percent of the initial credit limit (instead of a majority, as proposed).
- Prohibit issuers from assessing multiple fees based on a single event (such as a late payment where the late payment fee that results in an overlimit charge).
- Extend the limitations on APR increases to cover future card balances that are incurred through the expiration date of the current credit card for cardholders who are meeting their payment obligations.
- Require that overdraft protection services be covered under Truth in Lending Act disclosures.
- Require banks to only pay overdrafts if consumers have affirmatively selected to participate in overdraft coverage, after a limited volume (e.g., 5) of overdrafts in a given time period.

- Prohibit stated income underwriting outright for higher priced as well as for nontraditional mortgage loans that do not qualify as higher-priced mortgage loans.
- Prohibit underwriting based solely on initial teaser rates for all nontraditional mortgages and ban prepayment penalties outright for higher cost loans.
- Prohibit the use of yield spread premiums to compensate mortgage brokers instead of merely providing that additional disclosures be made.
- Do not make prohibition contingent on establishing a "pattern or practice" of unaffordable lending standards.
- Affirmatively require lenders to consider a borrower's debt-to-income ratio in determining repayment ability.
- Require disclosure to borrowers (and potential investors) of debt to income ratios that exceed 50% of a borrower's income.
- Apply the prohibitions against extending credit without considering a borrower's ability to repay, stated income underwriting, and teaser rate underwriting to exotic products such as interest-only and payment-option adjustable rate mortgages, regardless of whether they meet an interest rate or fee trigger.
- Cover reverse mortgages under the proposal.

Attachment C
Enforcement Actions

The FDIC uses a variety of methods to ensure financial institutions follow both the technical requirements and the spirit of all rules, regulations and laws. Information is provided for some of the more significant, and precedent setting, enforcement actions over the last several years followed by a table of all enforcement actions taken since 1999. Additional information is then shown that provides the volume of referrals to the Department of Justice and the volume of truth-in-lending restitution sought based on examination findings.

CompuCredit (2008)

- Three FDIC-supervised institutions, First Bank of Delaware, Columbus Bank & Trust, and First Bank and Trust (Brookings, South Dakota), offered high fee subprime credit cards through third-party vendor CompuCredit Corporation. CompuCredit and the banks were cited for unfair and deceptive practices (UDAP) in violation of Section 5 of the FTC Act for inadequately disclosed fees and restrictions. Restitution of approximately $114 million was ordered in cash and credits to customer accounts.
- The banks and CompuCredit were assessed Civil Money Penalties totaling in excess of $5 million.

American Express Centurion Bank (2009)

- Two complaints were filed with the FDIC's Consumer Response Center regarding dishonored credit card convenience checks. The Bank declined to pay some convenience checks sent to card members despite available credit on the card members' credit lines, causing the consumers monetary losses from the returned check fees. The Bank was cited for unfair practices under Section 5 of the FTC Act. The Bank paid restitution to 10,000 affected customers of $160 per dishonored check.
- The Bank was assessed a Civil Money Penalty of $250,000.

Advanta Bank Corporation (2009)

- The bank's "Cash Back reward" program advertised a percentage of cash back on certain purchases by business credit card accountholders; however, due to the tiered structure of that program the advertised percentage was not available for all purchases. The Bank was cited for deceptive practices under Section 5 of the FTC Act and the bank was ordered to make restitution of $14 million to affected accountholders.
- Advanta's substantial annual percentage rate (APR) increases on the accounts of small business owners and professionals, who had not exceeded their credit limits nor were delinquent in their payments, generated hundreds of complaints to the Consumer Response Center. The FDIC determined that the rate increases were implemented in an unfair manner in violation of Section 5 of the FTC Act and the bank was ordered to make restitution of $21 million to affected accountholders.
- The Bank was assessed a Civil Money Penalty of $150,000.

First Mariner Bank (2009)

- As the result of the FDIC's HMDA Outlier Review, it was alleged that First Mariner had engaged in a pattern or practice of discrimination in charging higher discretionary interest rate and point "overages" to certain Hispanic, Black and female borrowers.
- Also, as a result of complaints concerning the payment-option adjustable-rate mortgage program, the FDIC determined that the disclosures for these loans contained misleading information regarding the costs of the loans. The bank was cited for deceptive practices under Section 5 of the FTC Act.
- The Bank will provide restitution of approximately $720,000 to those impacted by the fair lending violation and approximately $230,000 to those impacted by the Section 5 violation.
- The Bank was assessed a Civil Money Penalty of $50,000.

Bank of Agriculture and Commerce (2009)

- The Bank entered into a third-party arrangement to receive Social Security Administration payments and then have the payments distributed by a third party to payday lenders who sometimes require repayment of payday loans prior to releasing funds. The Bank was required to terminate this practice and ensure that no harm was caused to consumers.
- A Cease and Desist Order was issued by the FDIC to unwind the arrangement and have better oversight.
- The Bank was assessed a Civil Money Penalty of $100,000.

Cornerstone Community Bank (2009)

- The Bank entered into a third-party arrangement to receive Social Security Administration payments and then have the payments distributed by a third party to payday lenders who sometimes require repayment of payday loans prior to releasing funds. The Bank began terminating this program prior to the FDIC investigation.
- The Bank was assessed a Civil Money Penalty of $25,000.

Enforcement Actions by the FDIC January 1999 to August 31, 2009							
	Enforcement Actions						
Year	**BBR**	**MOU**	**Orders**	**CMP**	**Total**	**Informal**	**Formal**
2009	28	23	12	87	150	51	99
2008	39	43	11	89	182	82	100
2007	54	30	2	85	171	84	87
2006	53	25	2	56	136	78	58
2005	48	28	2	34	112	76	36
2004	49	28	3	33	113	77	36
2003	41	25	1	24	91	66	25
2002	51	29	0	40	120	80	40
2001	78	27	2	53	160	105	55
2000	80	34	3	5	122	114	8
1999	63	30	2	15	110	93	17
Total	**584**	**322**	**40**	**521**	**1,467**	**906**	**561**

Informal written agreements include Bank Board Resolutions (BBR) and Memoranda of Understanding (MOU). Formal actions take the form of Orders to Cease and Desist (Orders) and Civil Money Penalties (CMP).

Year	**Fair Lending Referrals to DOJ**	**Truth in Lending Reimbursement Actions**
2009	12	70
2008	12	94
2007	15	91
2006	29	110
2005	35	78
2004	42	73
2003	29	96
2002	33	106
2001	5	89
2000	0	127
1999	1	Unavailable

Attachment D
FDIC Final Rules, 1999-2009

2009 Final

FR Date	Citation	Effective Date	Description
07/01/09	Procedures To Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under §312 of the Fair and Accurate Credit Transactions Act; Guidelines for Furnishers of Information to Consumer Reporting Agencies; 12 CFR Part 334	07/01/10	In an interagency rulemaking, the FDIC amended its regulations identifying the circumstances under which furnishers of information to Consumer Reporting Agencies (CRAs) must reinvestigate disputes about the accuracy of information in a consumer report based on a consumer's direct request. The FDIC and agencies also established guidelines for use by furnishers of information to CRAs regarding the accuracy and integrity of information reported to CRAs about consumers.

2008 Final

FR Date	Citation	Effective Date	Description
09/25/08	Financial Education Programs that Include the Provision of Bank Products and Services. 12 CFR Part 303	09/25/08	The FDIC amended its regulations to permit state nonmember banks to participate or assist in certain financial education programs conducted on school premises where, in connection with the program, deposits are received, checks are paid, or money is lent, without the need to submit a branch application to, and receive prior approval from, the FDIC subject to certain conditions.
12/22/08	Community Reinvestment Act Regulations. 12 CFR Part 345	01/01/09	The FDIC and other agencies amended Community Reinvestment Act (CRA) regulations to implement the annual adjustment to the asset-size threshold used to define the following categories: "small bank" or "small savings association" and "intermediate small bank" or "intermediate small savings association." The adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index.

2007 Final

FR Date	Citation	Effective Date	Description
11/07/07	Fair Credit Reporting Affiliate Marketing Regulations; §214 of the Fair and Accurate Credit Transactions Act of 2003, which amends the Fair Credit Reporting Act; 12 CFR Part 334.	01/01/08; mandatory compliance 10/01/08	In an interagency rulemaking, the FDIC amended its regulations to implement affiliate marketing provisions. The final rules generally prohibit a person from using information received from an affiliate to make a solicitation for marketing purposes to a consumer, unless the consumer is given notice and a reasonable opportunity and a reasonable and simple method to opt out of the making of such solicitations.
11/09/07	Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003 (§114 and §315 of the FACT Act); 12 CFR Parts 334 and 364	01/01/08	In an interagency rulemaking, the FDIC amende its regulations to require each financial institutio creditor to develop and implement a written Ide Theft Prevention Program to detect, prevent, ai mitigate identity theft in connection with new or existing accounts. Guidelines were issued to a financial institutions and creditors in the formul and maintenance of a Program. The final rules

			provide requirements and guidance implementing practices for users of consumer report information in determining consumer address changes and address discrepancies.

2005 Final

FR Date	Citation	Effective Date	Description
03/28/05	Community Reinvestment Act Regulations. 12 CFR Part 345	3/28/05	The FDIC and other agencies adopted a joint final rule conforming Community Reinvestment Act (CRA) regulations to standards for Metropolitan Statistical Areas published by the U.S. Office of Management and Budget; census tracts designated by the U.S. Census Bureau; and the Board's Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). This joint final rule does not make substantive changes to the requirements of the CRA regulations. This final rule is identical to the interim final rule published in the Federal Register on July 8, 2004.
03/29/05	Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice. 12 CFR Part 364, app. B	N/A	The FDIC and other agencies issued jointly an interpretation of the Gramm-Leach-Bliley Act and Interagency Guidelines Establishing Information Security Standards (Security Guidelines). The final Guidance describes the appropriate elements of a financial institution's response program to address unauthorized access to or use of customer information that could result in substantial harm or inconvenience to a customer.
06/10/05	Fair Credit Reporting Medical Information Regulations implementing §411 of the FACT Act (interim final rules and request for comment). 12 CFR Part 334.	3/7/06	The FDIC and other agencies issued jointly interim rules regarding the general prohibition on creditors obtaining or using medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit. The rules create exceptions consistent with the Congressional intent to restrict the use of medical information for inappropriate purposes. The interim final rules also create limited exceptions to permit affiliates to share medical information with each other without becoming consumer reporting agencies.
10/14/05	Real Estate Appraisal Exceptions in Major Disaster Areas. 12 CFR Part 323.	10/14/05	The FDIC and other agencies jointly issued orders granting 3-year exceptions from agency appraisal requirements for certain real estate transactions, including making loans, to aid in reconstruction an rehabilitation areas affected by Hurricanes Katrina and Rita. The exceptions are authorized under th Depository Institutions Disaster Relief Act of 1992

2004 Final

FR Date	Citation	Effective Date	Description
12/28/04	Proper Disposal of Consumer Information Under the Fair and Accurate Credit Transactions Act of 2003 (§216). 12 CFR Parts 334 & 364.	07/01/05	The FDIC and other agencies amended jointly th "Interagency Guidelines Establishing Standards Safeguarding Customer Information" to require

			financial institutions to have practices for disposal of consumer information derived from consumer reports to address the risks associated with identity theft.

2001 Final

FR Date	Citation	Effective Date	Description
02/01/01	Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness. 12 CFR Parts 308 and 364	07/01/01 Applicability date	The FDIC and other agencies issued jointly final rules establishing standards for safeguarding customer information implementing provisions of the Gramm-Leach-Bliley Act. The standards require financial institutions to insure the security and confidentiality of customer records and information and to protect against anticipated threats and unauthorized access to such information that could result in substantial harm or inconvenience to a customer. The rulemaking also rescinded, effective March 5, 2001, Year 2000 standards for safety and soundness that were no longer necessary.

2000 Final

FR Date	Citation	Effective Date	Description
06/01/00	Privacy of Consumer Financial Information. 12 CFR Part 332	11/13/00 Compliance optional until 7/1/01.	The FDIC and other agencies issued jointly final rules implementing provisions of the Gramm-Leach-Bliley Act requiring notifications and establishing restrictions regarding disclosure of nonpublic personal information of a consumer by a depository institution.
12/04/00	Consumer Protections for Depository Institution Sales of Insurance. 12 CFR Part 343	04/01/01 (changed to 10/01/01 in March 2001)	The FDIC and other agencies issued jointly final rules implementing provisions of the Federal Deposit Insurance Act (added by the Gramm-Leach-Bliley Act) to regulate retail sales practices, solicitations, advertising, and offers of insurance products by depository institutions or by persons a their offices or on their behalf.

Attachment E
New/Revised Examination Procedures
Memoranda to Regional Directors (RD Memos)

FDIC consumer compliance examiners review financial institution adherence to a wide range of laws and regulations designed to protect consumers from financial harm. Examiners use a flexible process that is designed to focus their review on the areas of bank operations that are at greatest risk of harming consumers or violating the law. That process is described in the FDIC Compliance Examination Manual. New and revised examination procedures are typically distributed to FDIC examiners through Memoranda to Regional Directors (RD Memos).

The procedures and policies that examiners follow to ensure institution compliance change periodically in response to emerging issues. Notable activities by the FDIC during the past ten years include:

UDAP Examinations: The FDIC assesses substantial penalties and requires consumer reimbursement where unfair or deceptive acts or practices (UDAP) are identified that relate to credit cards, overdraft protection programs, ATM usage of debit cards, rewards accounts, and other lending practices. For example, in late December 2008, the FDIC and the Federal Trade Commission won a major settlement against CompuCredit for misleading subprime credit card users. As a result, the company will correct its practices and provide $114 million in cash and credits to consumers who were improperly assessed fees as a result of inadequate and misleading disclosures. The FDIC also pursued enforcement actions against three banks that used this same firm's services. The banks have settled with the FDIC, are correcting their practices and substantially improving their compliance management systems and their oversight of third-party affiliates. In addition, the FDIC assessed civil money penalties of totaling in excess of $5 million..

UDAP training: In 2001 the FDIC gave presentations about predatory lending and how the FDIC was addressing it to examiners in the Advanced Compliance Examination School (ACES). Beginning in February 2003 the FDIC began providing training to compliance examiners through a module in the Commissioned Compliance Examiner Workshop, which all compliance examiners attended. The FDIC also made presentations at regional training conferences, many in conjunction with risk management discussions of subprime lending. The FDIC now has a module in ACES on UDAP, incorporating lessons learned from examination findings and corrective actions.

Mortgages: Risk Analysis Center Mortgage Credit Trends Project - Residential Mortgage Review Program. This FDIC review project provided the basis for our position in the interagency discussion resulting first in the non-traditional mortgage guidance and then the subprime guidance. (See RD Memo 05-041, 10/14/05.)

Once the interagency guidance was issued, the FDIC provided supplemental guidance to our examiners in: RD Memo 06-031, 6314 Interagency Guidance on Nontraditional

Mortgage Product Risks (10/04/06). The interagency guidance referenced earlier guidance on subprime lending that includes a statement about predatory lending:

In January 2007, the FDIC issued the Supervisory Policy on Predatory Lending (RD Memo 07-001, 01/23/07) as both a financial institution letter (FIL) and an RD Memo. The RD Memo includes a list of resources that were provided separately on the FDIC's public website. The resources provide insight on the history of how the FDIC has addressed these issues.

Other: There are numerous other examination procedures that have been added or revised over the last ten years. A list of these follows and the complete procedures and information can be found on the enclosed disk.

- **99-007 6436 Guidance for Assessing Compliance with Disclosure of Hazard Insurance Premiums Under the Real Estate Settlement Procedures Act (RESPA) (07/20/1999)**
- **99-010 6430.12 Joint Statement of Policy on the Administrative Enforcement of the Truth in Lending (TIL) Act (09/02/1999)**
- **99-011 6487 Questions and Answers Regarding the Homeowners Protection Act of 1998 (10/08/1999)**
- **00-001 6610.3 Revisions to the Compliance and CRA Examination Frequency Schedule (9/19/2000)**
- **00-002 6436.2 Real Estate Settlement Procedures Act (RESPA): HUD Clarification (03/21/2000)**
- **00-004 6420.1 Procedures for Sharing Consumer Complaint Information Involving Safety and Soundness Issues (03/24/2000)**
- **00-008 6487.1 Interagency Examination Procedures for the Homeowners Protection Act of 1998 (05/12/2000)**
- **01-005 Insurance and Nondeposit Investment Products: Transfer of Supervisory Responsibilities from DOS to DCA (9/6/2001)**
- **01-012 6422 Distribution of DCA's Complaint and Inquiry Manual (02/01/2001)**
- **02-001 6530.1 Repeal of TISA Civil Liability and Impact on General Enforcement Authority (02/22/02)**
- **03-005 6300 Subprime Lending Update on CD-ROM (2/25/03)**
- **03-008 6400 Revised Discrimination Complaint Investigation Procedures (2/25/03)**
- **03-024 6300 Guidelines for Payday Lending (7/2/03)**
- **03-047 6400 Interagency Examination Procedures for Homeownership Counseling Notification (10/16/03)**
- **04-016 6400 Revised FFIEC Examination Procedures for RESPA Servicing Rights Notice (5/3/04)**
- **04-031 6400 Compliance Examination Procedures in Multi-Bank Holding Company Environments (6/30/04)**
- **05-006 6400 Considering the New Home Mortgage Disclosure Act (HMDA) Pricing Information when Conducting Fair Lending Examinations of Institutions Subject to HMDA (03/02/05)**

- 05-013 6400 Examiner Guidance Joint Guidance for Overdraft Protection Programs (04/18/05)
- 05-015 6100 FDIC's New Deposit Insurance Coverage Products (04/18/05)
- 05-029 6486 Revised Guidance About Civil Money Penalties for Flood Insurance Violations (07/29/05)
- 05-035 6400 Revised Compliance Examination Procedures (08/18/05)
- 05-041 6300 Risk Analysis Center Mortgage Credit Trends Project - Residential Mortgage Review Program (10/14/05)
- 06-007 6400 Revised Compliance Examination Documents (03/20/06)
- 06-029 6400 Procedures for Handling Consumer Compliance-Related Investigations of FDIC-Supervised Banks by Local, State, or Federal Authorities (09/20/06)
- 06-030 6314 Addendum to Credit Risk Management Guidance for Home Equity Lending (10/04/06)
- 06-031 6314 Interagency Guidance on Nontraditional Mortgage Product Risks (10/04/06)
- 06-033 6400 Response to Requests from Federal Home Loan Banks for FDIC Examination Information About Predatory Lending (10/04/06)
- 06-034 6400 Compliance Examination Handbook (11/15/06)
- 07-001 6400 Supervisory Policy on Predatory Lending (01/23/07)
- 07-002 6400 Advertisement of Membership – Final Rule Amending FDIC Part 328 (02/02/07)
- 07-008 6314 Supervisory Guidance for Nontraditional Mortgage Products (03/14/07)
- 07-010 6400 Deceptive Practices: Customer Access to Overdraft Protection (03/27/07)
- 07-011 2600 Updated Examiner Continuing Education Program (ECEP) (04/20/07)
- 07-019 6314 Statement on Subprime Mortgage Lending (06/28/07)

11/21/07	6400	Regulation DD - Truth in Savings Interagency Examination Procedures	11/20/07	07-031
12/27/07	6410	Joint Examination Procedures for the Telephone Consumer Protection Act of 1991 (TCPA) and Junk Fax Prevention Act	12/27/07	07-034
03/18/08	6310	Applicability of Guidance to Modified or Refinanced Loans	03/17/08	08-003
06/06/08	6300	Guidance for Managing Third-Party Risk	06/06/08	08-020
09/12/08	6600	Identity Theft Red Flags, Address Discrepancies, and Change of Address Examination Procedures	09/12/08	08-029
09/17/08	6400	Regulations M and Z – Amended Interagency Examination Procedures	09/16/08	08-030
09/17/08	6400	Regulation DD – Truth in Savings Interagency Examination Procedures	09/16/08	08-031
09/17/08	6400	Fair Credit Reporting Act – Affiliate Marketing Opt Out Examination Procedures	09/17/08	08-032
09/19/08	6400	Fair Lending Reviews of Institutions Designated as "Outliers" Through the HMDA Data Screening Process	09/19/08	08-033
10/08/08	6400	Regulation E - Amended Interagency Examination Procedures	10/06/08	08-035
10/31/08	6400	Consumer Deposit Account Disclosures	10/31/08	08-038

12/05/08	6400	Regulation B - Amended Technical Compliance Examination Procedures	12/05/08	08-040
01/13/09	6400	Talent Amendment Examination Procedures: Limitations on Terms of Consumer Credit Extended to Service Members and Dependents	01/09/09	09-002
04/17/09	6400	Servicemembers Civil Relief Act of 2003 (SCRA) Interagency Examination Procedures	04/16/09	09-015
07/07/09	6400	Interest on Deposits (Part 329) – Examination Procedures	07/07/09	09-025
07/24/09	6410	Implementation of the Gramm-Leach-Bliley Act of 1999 (GLBA) "Broker" Exceptions and Regulation R	07/23/09	09-030
07/31/09	6400	Rules and Guidelines to Promote the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies – Interim Guidance	07/31/09	09-033
08/27/09	6200	Deposit Insurance Application Processing and De Novo Institution Supervision and Examination Guidance	08/26/09	09-035
09/18/09	6430	Revised FFIEC Interagency Fair Lending Examination Procedures	09/18/09	09-039
09/14/09	6400	Compliance Examination Manual Update	09/11/09	09-038

Attachment F
Formal Guidance and Policies
(Financial Institution Letters)

This list provides the formal guidance related to consumer protection issues that the FDIC has provided to FDIC-supervised institutions. These Financial Institution Letters (FILs) are available on our public website.

2009

- FIL-54-2009 FDIC Launches Foreclosure Prevention Initiative on Foreclosure Rescue Scams
- (Revised) FIL-44-2009 Regulation Z - Open-End Consumer Credit Changes: Notice of Immediate and 90-Day Changes
- FIL-32-2009 Third-Party Referrals Promising Above-Market Rates on Certificates of Deposit
- FIL-30-2009 Identity Theft Red Flags, Address Discrepancies, And Change of Address Regulations: Frequently Asked Questions
- FIL-26-2009 Regulation Z (Truth in Lending): Early Disclosure Requirements
- FIL-6-2009 Community Reinvestment Act: Issuance of Final Interagency Questions and Answers on CRA; Request for Comment on Two Proposed Revised and One New Question and Answer

2008

- FIL-134-2008 Regulation Z (Truth in Lending) and Regulation C (Home Mortgage Disclosure) Amendments to the Regulations: Amendments to the Regulations
- FIL-128-2008 Interagency Statement on Meeting the Needs of Creditworthy Borrowers
- FIL-105-2008 Identity Theft Red Flags, Address Discrepancies, and Change of Address Regulations: Examination Procedures
- FIL-88-2008 Best Practices from the FDIC'S Forum on Mortgage Lending for Low- and Moderate-Income Households
- FIL-58-2008 Home Equity Lines of Credit: Consumer Protection and Risk Management Considerations When Changing Credit Limits and Suggested Best Practices
- FIL-40-2008 Subprime Mortgage Products: Interagency Illustrations of Consumer Information for Hybrid Adjustable Rate Mortgage Products
- FIL-17-2008 FDIC Statement on Reporting of Securitized Subprime Adjustable Rate Residential Mortgages

2007

- FIL-115-2007 Fair And Accurate Credit Transactions Act: Proposed Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies
- FIL-100-2007 Identity Theft Red Flags: Interagency Final Regulation and Guidelines
- FIL-98-2007 Fair and Accurate Credit Transactions Act: Final Interagency Regulations on Affiliate Marketing
- FIL-83-2007 Consumer Protection: Service Members

- FIL-77-2007 Servicing for Mortgage Loans: Supplemental Information for Loss Mitigation Strategies
- FIL-76-2007 Servicing for Mortgage Loans: Loss Mitigation Strategies
- FIL-63-2007 Community Reinvestment Act: Proposed Interagency Questions and Answers
- FIL-62-2007 Subprime Mortgage Lending: Interagency Statement Addresses Safety and Soundness and Consumer Protection Standards
- FIL-51-2007 Nontraditional Mortgage Products: Interagency Final Illustrations of Consumer Information for Nontraditional Mortgage Products
- FIL-50-2007 Affordable Small-Dollar Loan Products: Final Guidelines
- FIL-46-2007 Financial Education: Survey Shows FDIC's *Money Smart* Program Improves Consumers' Money-Management Practices and Financial Confidence
- FIL-35-2007 Working With Residential Borrowers: FDIC Encourages Institutions to Consider Workout Arrangements for Borrowers Unable to Make Mortgage Payments
- FIL-34-2007 Privacy of Consumer Financial Information: Proposed Model Privacy Form
- FIL-32-2007 Identity Theft: FDIC's Supervisory Policy on Identity Theft
- FIL-15-2007 Financial Education: New FDIC Guide Features Simple Strategies for Managing Money
- FIL-6-2007 Predatory Lending: FDIC's Supervisory Policy on Predatory Lending
- FIL-5-2007 Volunteer Income Tax Assistance (VITA): A Reminder and Update About Potential CRA and Business Opportunities
- FIL-4-2007 Mortgage Loan Fraud: Industry Assessment Based on Suspicious Activity Report Analysis
- FIL-3-2007 Complex Structured Finance Activities: Interagency Statement on Sound Practices for Activities With Elevated Risk

2006

- FIL-90-2006 Nontraditional Mortgage Products: Interagency Proposed Illustrations of Consumer Information for Nontraditional Mortgage Products
- FIL-89-2006 Interagency Guidance: Guidance on Nontraditional Mortgage Product Risks, and Addendum to Credit Risk Management Guidance for Home Equity Lending
- FIL-77-2006 Authentication in an Internet Banking Environment: Frequently Asked Questions
- FIL-52-2006 Foreign-Based Third-Party Service Providers: Guidance on Managing Risks in These Outsourcing Relationships
- FIL-33-2006 Community Reinvestment Act: Interagency Examination Procedures
- FIL-31-2006 Fair and Accurate Credit Transactions Act: Procedures for Enhancing the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies
- FIL-23-2006 Community Reinvestment Act: New Interagency Questions and Answers
- FIL-22-2006 Consumer Credit Protection Act and Fair Lending: Prohibition Against Discrimination in Credit Transactions
- FIL-1-2006 Financial Education: FDIC Guides for Senior Citizens and Young Adults

2005

- FIL-79-2005 Community Reinvestment Act: Joint Final Rules
- FIL-66-2005 Spyware: Guidance on Mitigating Risks From Spyware
- FIL-64-2005 "Pharming": Guidance on How Financial Institutions Can Protect Against Pharming Attacks

- FIL-59-2005 Identity Theft: Study Supplement on "Account-Hijacking" Identity Theft
- FIL-27-2005 Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice
- FIL-14-2005 Payday Lending Programs Revised Examination Guidance
- FIL-11-2005 Overdraft Protection Programs Joint Agency Guidance
- FIL-7-2005 Guidelines Requiring the Proper Disposal of Consumer Information

2004

- FIL-132-2004 Study on "Account-Hijacking" Identity Theft and Suggestions for Reducing Online Fraud
- FIL-130-2004 Fair and Accurate Credit Transactions Act Effective Dates
- FIL-116-2004 Final Amendments to the Federal Reserve Board's Regulation CC
- FIL-27-2004 Guidance on Safeguarding Customers Against E-Mail and Internet-Related Fraudulent Schemes
- FIL-26-2004 Unfair or Deceptive Acts or Practices Under Section 5 of the Federal Trade Commission Act
- FIL-6-2004 Spousal Signature Provisions of Regulation B

2003

- FIL-100-2003: Steps to Help Rebuild Areas in California Affected by Major Earthquakes
- FIL-98-2003: Bank Enterprise Awards Application Period for 2003 Qualified Activities Closes February 25, 2004
- FIL-33-2003: Bank Enterprise Awards Are Being Offered to Eligible FDIC-Insured Institutions Making Grants, Investments and Deposits in and Loans to Community Development Financial Institutions

2002

- FIL-73-2002: Centralizing the Consumer Affairs Function
- FIL-57-2002: Unfair or Deceptive Acts or Practices: Applicability of the Federal Trade Commission Act
- FIL-43-2002: Homeownership Counseling
- FIL-9-2002: Spousal Signature Provisions of Regulation B

2001

- FIL-106-2001: Privacy of Consumer Financial Information
- FIL-84-2001: Consumer Protections for Bank Sales of Insurance
- FIL-68-2001: 501(b) Examination Guidance
- FIL-39-2001: Identity Theft And Pretext Calling
- FIL-26-2001: Fair Credit Reporting Act
- FIL-22-2001: Security Standards For Customer Information
- FIL-17-2001: Community Reinvestment Act
- FIL-9-2001: Subprime Lending
- FIL-3-2001: Privacy of Consumer Financial Information

2000

- FIL-84-2000: Consumer Protections for Bank Sales of Insurance
- FIL-45-2000: Real Estate Settlement Procedures Act
- FIL-34-2000: Privacy of Consumer Financial Information
- FIL-5-2000: Consumer Credit Reporting Practices

1999

- FIL-103-99: Real Estate Settlement Procedures Act
- FIL-100-99: Identity Theft
- FIL-94-99: High Loan-to-Value Residential Real Estate Lending
- FIL-21-99: Real Estate Settlement Procedures Act
- FIL-20-99: Guidance on Subprime Lending

Attachment G
Consumer Complaint Program

Mission and Mandate

Through responses to consumer complaints and inquiries, the FDIC's Consumer Affairs Program promotes and ensures compliance with numerous consumer protection laws and regulations including complaints alleging illegal discrimination and those involving unfair and deceptive practices.

Program Organization

- Until 1999, all consumer complaints about FDIC supervised institutions were investigated through FDIC Regional Offices, with oversight by FDIC Headquarters.
- To address the growing volume and complexity of complaints involving credit cards, in 1999 the FDIC established the Kansas City Credit Card Center (CCC) to centralize the analysis and investigation of complaints involving credit card specialty banks. The CCC worked closely with the appropriate regions on supervisory issues raised in complaints.
- In July 2002, the FDIC further centralized the consumer affairs function by expanding the mandate of the CCC and renaming it the Consumer Response Center (CRC). The CRC has responsibility for investigating all complaints involving institutions supervised by the FDIC. The CRC reports to the Associate Director for Consumer Protection in the Washington Office.

- Primary responsibilities of the Washington Office include:
  - Monitoring the operations of the CRC, including: ensuring achievement of established performance measures; reviewing and analyzing consumer complaint investigations; analyzing and evaluating complaint and inquiry performance data in the complaint and inquiry database; and conducting on-site advisory visits of the CRC and regional work sites;
  - Developing Consumer Affairs program policies and procedures;
  - Providing guidance and direction to the CRC and regional staff on discrimination complaint investigations;
  - Conducting data and trends analysis for use in monitoring banking practices;
  - Managing the complaint and inquiry database, including analyzing data integrity;
  - Planning and providing training conferences for Consumer Affairs staff;
  - Conducting outreach events for consumers and bankers, including the preparation of educational materials such as the FDIC Consumer News;
  - Participating in interagency initiatives related to emerging consumer protection issues.

CONSUMER RESPONSE CENTER

- Primary responsibilities of the CRC include:
  - Investigating all consumer complaints involving FDIC supervised banks (compliance examiners are responsible for conducting the on-site investigations

of fair lending complaints, in consultation with the CRC and under the guidance and direction of the WO Consumer Affairs staff);

- Coordinating with Washington Office and examination staff in the Regional Offices, including the Regional Directors, Deputy Directors (Compliance), and Field Supervisors, as appropriate, on fair lending complaint investigation matters and on supervisory issues raised in complaints;
- Answering written consumer and banker inquiries on consumer protection matters, and referring correspondence to other agencies and divisions as appropriate;
- Responding to telephone calls from consumers and bankers on consumer protection matters;
- Meeting regularly with financial institutions regarding their volume of complaints or significant issues that are raised during the investigation process;
- Analyzing trends in the complaint and inquiry data;
- Planning and conducting outreach activities.

Coordination with the Examination Function

- Each year the CRC receives thousands of written consumer complaints and inquiries. The Pre-Exam Planning Report is provided to examiners prior to the start of a bank examination. This report outlines all complaints that were received against the bank that is being examined, and helps facilitate the integration of consumer complaints and inquiries into the examination process.

Attachment H
Consumer Outreach and Financial Education

The FDIC's Community Affairs Program, created in 1991, actively supports the FDIC's consumer protection mission. The FDIC works closely with financial industry representatives and community-based stakeholders on a broad range of community development initiatives, including initiatives that meet local needs for mainstream financial products and services, support affordable housing, and facilitate financial education. For example, Community Affairs staff assist financial institutions in developing strategies that are responsive to the credit, service and investment needs of their communities by:

- Promoting community development partnerships and access to capital in historically underserved markets;
- Working with financial institutions, national, regional, and local non-profit/community-based organizations, and state and local governments by collaborating on community development and asset-building projects;
- Developing products and presenting training programs on financial education;
- Serving as subject matter experts at industry and community conference and meetings; and
- Providing technical assistance, as necessary, to financial institutions and compliance staff.

The FDIC's community development work is extensive. Two key areas, financial education and economic inclusion, are highlighted below.

<u>Financial Education</u>

One of the best ways to prevent consumers from becoming victims of predatory or deceptive practices is by helping them to become informed and able to understand financial services. Education enables the consumer to carefully evaluate the full spectrum of advertisements and products – including those in the unregulated underground – to avoid making decisions that do not make financial sense.

Financial education is a critical component of consumer protection efforts. Consumers who master financial basics can better make prudent financial decisions and are aware of how to report to law enforcement or regulators potential scams or troublesome practices in the marketplace.

The FDIC's Money Smart program is a comprehensive financial education curriculum designed to help students enhance their money management and wealth building skills by learning the benefits of saving money, effectively managing credit, and securing home ownership. The FDIC's award-winning Money Smart financial education curriculum, launched in 2001, has now reached more than 2.4 million individuals. The curriculum provides information on critical consumer protection-related topics such as predatory lending, elder financial abuse, and identity theft prevention. Money Smart also helps consumers learn the true costs of using alternative financial services.

To help better reach underserved audiences, the curriculum has been translated into seven languages. Also:

- An mp3 (audio) version of Money Smart was released on May 27, 2009. It is compatible for use with virtually all mp3 players so that consumers of all ages can learn to make informed and prudent financial decisions while "on the go." In addition to being a resource that consumers can access independently, educators can use the mp3 version of Money Smart as an innovative way to supplement traditional classroom instruction. The site has had over 172,000 hits and approximately 4,900 sessions (individual visitors).

- The Money Smart for Young Adults curriculum was released in April of 2008 for students in grades 7-12. Showing the demand for youth financial education, more than 45,000 copies for instructors have been ordered and distributed since its launch, and two national and several dozen regional partnerships have been signed specifically to facilitate the use of Money Smart for Young Adults.

The FDIC's Money Smart curriculum is effective. Findings from a longitudinal survey of consumers who have taken the FDIC's Money Smart financial education program show that Money Smart can positively influence how people manage their finances: those who took the Money Smart course were more likely to open deposit accounts, save money, use and adhere to a budget, and have increased confidence in their financial abilities when contacted 6 to 12 months after completing the course.

FDIC's other consumer education initiatives include the FDIC Consumer News (35,000 mail and electronic subscribers and an average of about 28,000 Internet visits monthly), a free quarterly publication that provides a variety of financial tips for consumers of any age. Every edition provides practical guidance on how to become a smarter, safer user of financial services. FDIC Consumer News offers helpful hints, quick tips, and common-sense strategies to protect and stretch hard-earned dollars.

Additionally, FDIC's other consumer resources help consumers avoid foreclosure rescue scams, avoid identity theft, etc. For example, the FDIC's foreclosure prevention initiative includes outreach, a referral service for consumers to find legitimate foreclosure prevention counselors or contact law enforcement to report scams, and an information tool kit of resources for consumers and community stakeholders. FDIC's activities are designed to help consumers avoid foreclosure "rescue" scams and ultimately help prevent avoidable foreclosures.

Underserved

One of the most effective ways to protect consumers is to integrate unbanked and underbanked consumers into the financial mainstream. Consumers who routinely turn to check-cashing services for transactional banking needs and payday lenders or pawn shops for lending needs pay substantially more for basic financial needs than those who use mainstream financial services effectively.

The Alliance for Economic Inclusion (AEI) is the FDIC's national initiative to establish broad-based coalitions of financial institutions, community-based organizations and other partners in several markets across the country to bring unbanked and underserved populations into the financial mainstream. The focus is on expanding basic retail financial services for underserved populations, including savings accounts, affordable remittance products, small-dollar loan programs, targeted financial education programs, alternative delivery channels and other asset-building programs. Nearly 1,000 banks and organizations have joined AEI nationwide, more than 116,895 new bank accounts have been opened for the underserved, and more than 107,000 consumers have been provided financial education.

The FDIC has also provided key support to "Bank On" initiatives to help the underserved find affordable mainstream deposit products in communities across the country. For example, because of FDIC's success in banking the unbanked, FDIC was asked for assistance in helping the State of California develop a statewide "Bank on California" initiative. The initiative has successfully launched programs in five California cities: Fresno, Los Angeles, Sacramento, Oakland, and San Jose.

Attachment I
Reviews, Audits & Assessments

A. FDIC Office of Inspector General

The FDIC's Office of Inspector General (OIG) regularly conducts audits of FDIC programs and operations in an effort to promote economy, efficiency, and effectiveness. FDIC compliance management and staff regularly participate in and provide information in connection with those audits, and respond appropriately if recommendations stem from an OIG inquiry. Some inquiries involve both risk management and consumer protection issues. Compliance inquiries generally fall into two categories: 1) compliance examination and enforcement programs and processes more generally, and 2) subject-specific inquiries, such as fair lending, Community Reinvestment Act, mortgage or consumer privacy regulation.

In some cases, the OIG finds that Compliance programs and operations are adequate, and has no recommendations. In other cases, where recommendations are made, offices that handle consumer protection issues consider or work to implement those recommendations. For example, since the beginning of 2007, we found three OIG audits conducted and reports issued that materially involved consumer protection regulation. In the case of an audit involving Implementation of the FDIC's Supervisory Guidance for Nontraditional Mortgage Products, and an audit regarding the Division of Supervision and Consumer Protection's (DSC) Examination Assessment of Financial Institutions' Compliance Management Systems, the OIG found satisfactory implementation and examination assessment and had no recommendations.

With regard to the third consumer protection audit topic in the last few years, FDIC's Implementation of the 2005 Amendments to the Community Reinvestment Act Regulations, the resulting OIG report recommended that the DSC Director work to enhance and develop examiner guidance and guidelines in certain areas, and develop a strategy to better measure CRA activities to assist in determining whether regulatory amendments achieved desired goals. In response to the recommendations, DSC management agreed to implement a recommendation to enhance internal examiner guidance, and to raise other recommendations with the other federal banking agencies with whom we regularly coordinate on such issues, for interagency discussion and consideration. The OIG then found management's planned actions responsive to their recommendations.

A complete list of and links to FDIC and OIG audit reports can be found at: http://www.fdicoig.gov/reports.shtml.

B. U.S. Government Accountability Office

The General Accounting Office (GAO) is the investigative arm of Congress, and its purpose to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people. It further supports congressional oversight by performing policy analyses and outlining options for congressional consideration; as well as issuing legal decisions and opinions, such as reports on agency rules.

The GAO has issued a number of reports involving consumer protection matters, many that focus on existing rules, such as regulations issued by the Federal Reserve Board, as well as the effectiveness of agency action in responding to concerns such as predatory lending, adequacy of disclosures for loan and deposit products, fees for various bank products and services, and products that could have a detrimental effect on financially unsophisticated or vulnerable segments of the population, like credit cards marketed to college students and reversed mortgages targeted to the elderly.

The GAO usually looks at consumer protection enforcement issues across the banking agencies. The FDIC routinely provides significant amounts of information and assistance to the GAO as part of its investigation of various topics, and takes appropriate action in response to GAO's recommendations. For example, the agency increased the scrutiny of prime credit card issuers following the GAO's report on credit cards in 2006, consistent with the agencies efforts to address unfair or deceptive acts and practices among certain subprime credit card issuers.

The GAO makes its reports available at: www.gao.gov. GAO reports related to consumer protection activities at the FDIC are listed below.

Bank Fees/Truth in Savings

Bank Fees: Federal Banking Regulators Could Better Ensure That Consumers Have Required Disclosure Documents Prior to Opening Checking or *Savings* Accounts
GAO-08-281, January 31, 2008

Truth in Lending

Federal Reserve System: *Truth* in *Lending*
GAO-09-544R, April 2, 2009

Board of Governors of the Federal Reserve System: *Truth* in *Lending*
GAO-09-945R, August 11, 2009

Mortgages

Department of Housing and Urban Development: Real Estate Settlement Procedures Act (RESPA): Rule To Simplify and Improve the Process of Obtaining *Mortgages* and Reduce Consumer Settlement Costs
GAO-09-209R, December 1, 2008

Reverse *Mortgages*: Product Complexity and Consumer Protection Issues Underscore Need for Improved Controls over Counseling for Borrowers
GAO-09-606, June 29, 2009

Reverse *Mortgages*: Product Complexity and Consumer Protection Issues Underscore Need for Improved Controls over Counseling for Borrowers
GAO-09-812T, June 29, 2009

Characteristics and Performance of Nonprime *Mortgages*
GAO-09-848R, July 28, 2009

Home *Mortgages*: Recent Performance of Nonprime Loans Highlights the Potential for Additional Foreclosures
GAO-09-922T, July 28, 2009

Home Mortgages: Provisions in a 2007 Mortgage Reform Bill (H.R. 3915) Would Strengthen Borrower Protections, but Views on Their Long-term Impact Differ
GAO-09-741, July 31, 2009

Credit and Debit Cards

Credit Cards: Increased Complexity in Rates and Fees Heightens Need for More Effective Disclosures to Consumers
GAO-06-929, September 12, 2006

Consumer Finance: College Students and *Credit Cards*
GAO-01-773, June 20, 2001

Credit Card Minimum Payment Disclosures Cardholder Interview Results
GAO-06-611SP, April 21, 2006

Credit and Debit Cards: *Federal* Entities Are Taking Actions to Limit Their Interchange Fees, but Additional Revenue Collection Cost Savings May Exist
GAO-08-558, May 15, 2008

Predatory Lending

Consumer Protection: *Federal* and State *Agencies* Face Challenges in Combating Predatory Lending
GAO-04-280, January 30, 2004

Payday and Refund Anticipation Loans

Military Personnel: DOD's Tools for Curbing the Use and Effects of Predatory *Lending* Not Fully Utilized
GAO-05-349, April 26, 2005

Refund Anticipation Loans
GAO-08-800R, June 5, 2008

Fair Lending

Fair Lending: Federal Oversight and Enforcement Improved but Some Challenges Remain
GGD-96-145, August 13, 1996

Large Bank Mergers: *Fair Lending* Review Could be Enhanced With Better Coordination
GGD-00-16, November 3, 1999

Fair Lending: Race and Gender Data Are Limited for Nonmortgage *Lending*
GAO-08-1023T, July 17, 2008

Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts
GAO-09-704, July 15, 2009

Electronic Banking

Electronic Banking: Enhancing Federal Oversight of Internet Banking Activities
T-GGD-99-152, August 3, 1999

Automated Teller Machines: Issues Related to Real-time Fee Disclosure
GGD/AIMD-00-224, July 11, 2000

Miscellaneous

Federal Deposit Insurance Act: FTC Best Among Candidates to Enforce Consumer Protection Provisions
GAO-03-971, August 20, 2003

International Remittances: Information on Products, Costs, and Consumer Disclosures
GAO-06-204, November 17, 2005

Personal Information: Data Breaches Are Frequent, but Evidence of Resulting Identity Theft Is Limited; However, the Full Extent Is Unknown
GAO-07-737, June 4, 2007

Consumer Credit: Limited Information Exists on Extent of Credit Report Errors and Their Implications for Consumers
GAO-03-1036T, July 31, 2003

Internet Gambling: An Overview of the Issues
GAO-03-89, December 2, 2002

Risk-Focused Bank Examinations: Regulators of Large *Banking* Organizations Face Challenges
GGD-00-48, January 24, 2000

OCC Consumer Assistance: Process Is Similar to That of Other Regulators but Could Be Improved by Enhanced Outreach
GAO-06-293, February 23, 2006

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

July 20, 2007

Honorable Maxine Waters
House of Representatives
Washington, D.C. 20515

Dear Congresswoman Waters:

Thank you for the opportunity to respond to questions you submitted subsequent to my testimony on "Improving Federal Consumer Protection in Financial Services" before the Committee on June 13, 2007.

Enclosed is my response to those questions. If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

Sheila C Bair

Sheila C. Bair

Enclosure

Q2. Do consumers have adequate protections against predatory lending practices, e.g., subprime credit cards?

A2. While I support the operation of market forces, regulators need to set rules for market participation. Moreover, price competition does not work if consumers do not understand the true cost of financial products. Through appropriate rulemaking, regulators can establish strong protections for consumers that consistently guard against abuse across industry and supervisory lines. Meaningful enforcement authority and sufficient resources should be devoted to that authority.

With regard to credit cards, the Federal Reserve Board recently proposed amendments to Regulation Z, which implements the Truth in Lending Act. The notice of proposed rulemaking on Regulation Z contains significant advances in credit card disclosures. The proposed amendments would require important changes to the format, timing, and content requirements in documents provided to consumers throughout the life of a credit card account, including changes in solicitations, applications, account opening documents, change-in-term notices, and periodic billing statements. These proposed amendments will assist consumers in better understanding key terms of their credit card agreements such as fees, effective interest rates, and the reasons penalty rates might be applied, such as for paying late.

My written testimony describes additional proposals for improving consumer protections regarding credit cards and mortgage lending. I suggest that Congress consider the following reforms:

Create national standards for subprime mortgage lending by all lenders through either legislation or rulemaking under the Home Ownership and Equity Protection Act of 1994 (HOEPA). A statutory approach could draw from the 36 state anti-predatory mortgage laws currently in effect. At its core, however, a statutory framework should address two important areas: (1) the ability of the borrower to repay the loan; and (2) misleading marketing and disclosures that make it unnecessarily difficult for borrowers to fully understand the terms of loan products.

Expand rulemaking authority under Section 5 of the Federal Trade Commission (FTC) Act to all federal banking regulators to address unfair and deceptive practices. Under the FTC Act, the Federal Reserve Board, Office of Thrift Supervision, and the National Credit Union Administration have authority to issue rules regarding unfair or deceptive acts or practices for the institutions under their supervision. But the FTC Act does not give the FDIC authority to write rules that apply to the 5200 state non member banks that it supervises -- nor does it grant that authority to the OCC for its 1700 national banks. Although our examinations indicate that most FDIC-supervised banks are not engaging in predatory practices, the FDIC could more effectively address unfair and deceptive practices if we had rulemaking authority in this area. To effectively address predatory

Response to Questions from
The Honorable Maxine Waters

Q1. In your testimony, you suggest that a number of consumers are in "financial distress" because of the changes and choices in the financial services marketplace. Please explain to what extent is this financial distress a result of the complexity and ambiguity in the law, or is it a result of the differences between federal and state regulations?

A1. I believe that the distress affecting a number of consumers can be linked to several different, but related, factors. As I discuss more fully in my written testimony, advances in technology and changes in lending organization structure have resulted in financial products that are increasingly complex and marketed through increasingly sophisticated methods. The pace and complexity of these advances heighten the potential risk for consumer harm. Consumers today often face a bewildering array of choices, especially in the credit options available to them. For example, there are seemingly unlimited types of credit cards, each with its own particular terms and conditions. With regard to mortgages, consumers now have choices beyond the traditional fixed-rate mortgage, such as adjustable rate or nontraditional products that are tied to a variety of amortization schedules and arcane index rates. In many cases, it is difficult even for sophisticated consumers to fully understand the costs associated with particular credit options or to compare products effectively.

As consumers may not fully comprehend the terms of credit that has been offered to them, it is sobering to confront the fact that debt loads are increasing. Over the last 20 years, the ratio of total household debt to disposable personal income has more than doubled, climbing to more than 125 percent. Much of the rise in household debt is due to mortgage obligations.

The significant growth in debt loads for lower income consumers and for young people has been especially troubling. Many of these borrowers have accumulated debt obligations, often as a result of student loans or credit cards that put their financial health at risk even though the economy as a whole has experienced years of positive economic growth. In fact, data show that young adults today are more indebted than previous generations were at the same ages and appear less likely to make timely debt payments than other age groups. The average credit card debt held by young adults ages 18 to 24 and 25 to 34 grew by 22 percent and 47 percent, respectively, between 1989 and 2004.

To some extent, this increase in debt load is attributable to the extension of credit to borrowers who have not previously had access to it. Although the increased availability of credit is in many respects a positive development, the extension of credit to unsophisticated borrowers has created greater opportunities for abuse. These vulnerable consumers are more susceptible to sophisticated marketing that directs them to products that may not be the best for their needs – or affordable in the long run.

lending, it may be necessary for Congress to provide rulemaking authority to a larger group of agencies.

Permit state Attorneys General and supervisory authorities to enforce the Truth in Lending Act (TILA) and the FTC Act against non-bank financial providers. To enhance enforcement of consumer protection laws, Congress could consider expanding TILA and the FTC Act to allow state Attorneys General, state banking regulators, and other appropriate state authorities to bring actions against non-bank financial service providers under these laws. State authorities now operate under their own anti-predatory statutes, but may not have the full ability to enforce federal standards. Expanding TILA and the FTC Act to incorporate non-bank financial service providers would give additional tools to state authorities, assist in maintaining minimum standards that apply to all financial service providers, and help provide a more level playing field for consumers and all lenders.

Provide funding for "Teach the Teacher" programs to provide better financial education. Integrating financial education into core public school requirements assures that students of all income levels are exposed to basic financial principles year after year. Some universities offer Teach the Teacher programs, which could benefit greatly from federal financial support.

Q3. What steps, if any, will the FDIC undertake to examine this issue? If none, when might FDIC begin the process of addressing this issue?

A3. The FDIC has taken a number of steps in these areas. In October 2006, the FDIC and other federal banking agencies issued *Guidance on Nontraditional Mortgage Product Risks*. Concerned that some borrowers may not fully understand the risks of nontraditional mortgage products, such as interest-only and payment option adjustable-rate mortgages, the agencies issued this guidance advising bank management of the potential for heightened risk levels entailed with offering these products. Institutions were strongly encouraged to ensure that consumers have sufficient information to clearly understand loan terms and associated risks prior to making a product or payment choice.

In June 2007, the FDIC and other federal banking agencies issued a *Statement on Subprime Mortgage Lending* that established consumer protection standards that should be followed to ensure that consumers, especially subprime borrowers, obtain loans they can afford to repay and receive information that adequately describes product features. The statement also encourages institutions to work constructively with residential borrowers who are in default or whose default is reasonably foreseeable.

In June 2007, the FDIC published final *Guidelines on Affordable Small-Dollar Loans*, which encourage FDIC supervised institutions to offer and promote these products to their customers. The goal is to enable banks to better serve an underserved and potentially profitable market while helping consumers avoid, or transition away from, reliance on high-cost debt.

As discussed in my answer to Question #2, I have suggested a number of other steps for Congress to consider that would provide additional protections to consumers. Opportunities exist to improve and expand the ability of the federal banking agencies to protect consumers. The FDIC stands willing to assist Congress and to join with our fellow regulators to explore ways to ensure a financial industry that is profitable for the institutions and fair to its customers.