

Amendment offered by Mr. Gutierrez and Mr. Paul to the Views and Estimates of the Committee on Financial Services on Matters to be Set Forth in the Concurrent Resolution on the Budget for Fiscal Year 2005:

On page 15, after the second paragraph, insert the following:

OFFICE OF THE COMPTROLLER OF THE CURRENCY PREEMPTION  
REGULATION AND CONSUMER LAW ENFORCEMENT

On January 13, 2004, the Office of the Comptroller of the Currency (OCC) published final rules relating to the application of state laws and state agency visitorial powers to the operations of national banks and national bank operating subsidiaries. The Committee notes that these rules represent an unprecedented expansion of federal preemption authority and a significant expansion of OCC's regulatory responsibilities to monitor and enforce consumer law compliance. The Committee notes further that this expansion of authority comes without congressional authorization, and without a corresponding increase in budget resources for the agency.

The Administration's budget projects OCC spending as increasing only 2 percent from FY 2004 to FY 2005, which seems to foreclose the possibility of additional staff being dedicated to these expanded responsibilities. In fact, the OCC expects no staffing increases in FY 2005.

The new rules necessitate that the OCC investigate all consumer complaints for 2150 national banks in the 50 states from a single customer assistance center which only takes calls from 9:00 am to 4:00 pm, on four days each week, excluding federal holidays. There are currently only 40 full time staff members allocated for these tasks at the OCC. In contrast, according to the Conference of State Bank Supervisors, state banking agencies and state attorney generals' offices employ nearly 700 full time examiners and attorneys to monitor and enforce consumer law compliance. In the area of abusive mortgage lending practices alone, state bank supervisory agencies initiated 20,332 investigations in 2003 in response to consumer complaints, which resulted in 4,035 enforcement actions.

In order to fulfill this vastly increased portfolio of regulatory responsibilities, the Committee is concerned that the OCC will be forced to utilize funds designated for other purposes to engage in consumer law enforcement activities that typically have been undertaken by the states. The Treasury Department's FY2005 budget justification suggests that additional program responsibilities, including more expansive consumer enforcement, can be accomplished by the "redirection" of current full time staff. This approach appears impractical given the magnitude of the enforcement efforts now conducted by state agencies of all U.S. states. The Committee is concerned that such action could weaken the OCC's ability to carry out its primary mission of ensuring the safety and soundness of the national bank system and implementing other critical Congressional mandates in federal law.