

**STATEMENT OF CHAIRMAN SPENCER BACHUS
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND
CONSUMER CREDIT
“ILCS – A REVIEW OF CHARTER, OWNERSHIP AND
SUPERVISION ISSUES”
JULY 12, 2006**

Good morning. The subcommittee will come to order. At today’s hearing, which was requested by Mr. Leach, we will examine the charter, ownership, and supervision aspects of Industrial loan corporations, more commonly known as ILCs.

Today, there are 61 ILCs in seven states, with \$155 billion in assets and \$110 billion in deposits. Although the insured deposits of ILCs have grown by over 500 percent since 1999, those deposits represent less than three percent of the FDIC’s total insured deposits. Utah is home to 33 ILCs with approximately \$120 billion in assets; Merrill Lynch Bank is the largest with \$66 billion. California is next, with 15 ILCs and \$17 billion in assets. Most ILCs are owned by financial services firms, such as Citigroup, Morgan Stanley, and American Express. Others, like GE Capital and GMAC Commercial, are within the financial arm of a larger corporate organization. ILCs owned by BMW and Volkswagen support the holding company’s commercial business. Target Corporation, the retailer, has Target National Bank in Utah.

ILCs originated in the early 1900s as small, state-chartered loan companies serving industrial workers, who were unable to borrow from commercial banks. Since then, the ILC industry has experienced significant asset growth and has evolved from small, limited purpose institutions to a diverse industry that includes some of the nation’s largest and more complex

financial institutions. In 1982, Congress made ILCs eligible for Federal Deposit Insurance Corporation (FDIC) insurance, becoming subject to FDIC supervision as well as state regulation. In general, ILCs may engage in the same activities as FDIC-insured depository institutions. ILCs offer a full range of loans, such as consumer, commercial and residential real estate, and small business loans. However, because of restrictions in federal and state laws, ILCs do not accept demand deposits (checking accounts), but do offer NOW (Negotiable Order of Withdrawal) accounts, which give the depository institution the right to require at least seven days notice prior to a withdrawal. Like other depository institutions, ILCs may “export” their home-state’s interest rates to customers living elsewhere and must comply with the Bank Secrecy Act, Community Reinvestment and various consumer protection laws.

Insured ILCs are subject to state banking supervision and FDIC oversight as state banks. Nonetheless, owners of ILCs do not have to be bank holding companies subject to the Federal Reserve’s consolidated supervisory authority. Instead, the FDIC has employed what some call a “bank-centric” supervisory approach that primarily focuses on isolating the insured institution from potential risks posed by holding companies and affiliates, rather than assessing these potential risks systematically across the consolidated holding company structure. In addition, the Securities and Exchange Commission (SEC) oversees financial conglomerates, known as consolidated supervised entities – several of which own one or more large ILCs -- although their main business is in the global securities market. Moreover, in any instance where an ILC and a savings association are affiliated in a corporate structure, the holding company is a savings and loan

holding company subject to regulation by the OTS. Some argue that this regulatory structure for overseeing ILCs may not provide adequate protection against the potential risks that holding companies and non-bank affiliates may pose to an ILC.

Another area of concern about ILCs is the extent to which they can mix banking and commerce through the holding company structure. A special exemption in current banking law permits any type of company, including a commercial firm, to acquire an ILC in a handful of states. For some, this is the crux of the issue. I am sure the separation of banking and commerce will be discussed at length in today's hearing. There is also likely to be a debate over the fairness of excluding some commercial firms from owning or controlling ILCs after other very similar firms are already engaged in the ILC.

Today's hearing will consist on two panels. First we will hear from a distinguished panel of government witnesses including Mr. Scott G. Alvarez, General Counsel, Board of Governors of the Federal Reserve System; Mr. Doug Jones, Acting General Counsel, Federal Deposit Insurance Corporation; Mr. G. Edward Leary, Commissioner for the Utah Department of Financial Institutions; and Mr. Rick Hillman, United States Government Accountability Office.

During the second panel we will hear from witnesses representing the private sector including Mr. George Sutton, former Commissioner for the Utah Department of Financial Institutions, on behalf of Securities Industry Association (SIA); Ms. Terry Jorde, Chairman, Independent Community

Bankers of America (ICBA); Mr. Michael J. Wilson, Director, Legislative and Political Action Department, United Food and Commercial Workers International Union; Mr. Arthur C. Johnson, Chairman and CEO, United Bank of Michigan, on behalf of American Bankers Association (ABA); Mr. John L. Douglas, Partner, Alston Bird, on behalf of American Financial Services Association (AFSA); Mr. Larry White, Professor, NYU School of Business. I look forward to hearing from the witnesses and thank them for taking time from their busy schedules to join us.

In closing, I would like to again thank Mr. Leach. I also want to recognize Ranking Member Frank, Congressman Gillmor and Congressman Royce for all of their efforts and for helping us with today's hearing. They are strongly committed to these issues, and I look forward to working with them and Members of this subcommittee as we examine the ILC charter.

The chair now recognizes the Ranking Member of the Subcommittee, Mr. Sanders, for any opening statement that he would like to make.