

Opening Statement
Rep Jim Matheson
Financial Institutions Subcommittee Hearing
“ILCs—A Review of Charter, Ownership, and Supervision Issues”
July 12, 2006

I would like to thank Chairman Bachus and Ranking Member Sanders for holding this hearing today regarding the industrial loan company or industrial bank (ILC) charter and the framework in which industrial banks are regulated at the state and federal level. It is my hope that this hearing will be a constructive opportunity for the Subcommittee to focus on factual information and legitimate policy issues regarding the regulation of ILCs. I hope that Members will set aside pre-conceived notions and take the time to listen and learn about the supervision of ILCs rather than discussing issues outside the direct scope of this hearing such as bills introduced by ILC opponents or applications for ILC charters not approved or even accepted by the state banking regulator. I hope that Members will come to value the competition and benefits these institutions provide for millions of consumers and businesses around the country every day.

I hope that Members will learn in this hearing what ILCs are and what they are not. Industrial banks are FDIC-insured depository institutions chartered under the laws of Utah, California, Colorado, Nevada, Hawaii, Indiana, and Minnesota. While many critics and competitors of ILCs argue that these institutions are not subject to comprehensive regulation, they are in fact subject to not only regulations and supervision by their respective state banking regulators, but also by the Federal Deposit Insurance Corporation (FDIC), and in many cases, subject to consolidated holding company regulation by the Office of Thrift Supervision (OTS) and the Securities and Exchange Commission (SEC). Industrial banks are subject to all of the federal banking laws that apply to other FDIC-insured state-chartered banks including consumer protection requirements, restrictions on transactions with affiliates, depository reserve requirements, safety and soundness requirements, and Community Reinvestment Act requirements.

Some ILC competitors have argued that these banks pose a threat to the safety and soundness of the national banking system. As a group, industrial banks are better capitalized and better rated than other banks. Former FDIC Chairman Powell asserted that ILC charters “pose no greater safety and soundness risk than other charter types.” And in fact, the much mentioned report issued by the Government Accountability Office (GAO) last year said that “from an operations standpoint, ILCs do not appear to have a greater risk of failure than other types of depository institutions.”

Those who criticize ILCs also argue that these banks allow for the inappropriate mixing of banking and commerce. ILCs cannot engage in any activity not approved by their regulator nor can they engage in any activity not permitted for other insured depository institutions. They are subject to Section 23A and 23B of the Federal Reserve Act which severely restricts transactions between the bank and its parent company. The fact is there no longer is a “bright line” between banking and commerce. The Gramm-Leach-Bliley

Act actually liberalized the ILC charter and authorized commercial banks to engage in a number of formerly prohibited nonbanking/commercial activities including investment banking, merchant banking, insurance underwriting/portfolio investing, and “complementary” activities such as the trading of physical commodities. Many of our nation’s largest commercial banks derive substantial revenues from these once-prohibited activities, and some of these banks have received regulatory approval for real estate development, hotel management, and energy production. The notion that there is a wall separating banking and commerce in our modern and evolving economy is simply not accurate.

Finally, there are those who claim ILCs exist only by virtue of a “loophole.” It is, in fact, the law that allowed the formation of ILCs almost one hundred years ago and it is the law that has allowed the 33 active industrial banks operating in Utah and holding over \$120 billion in assets to do well in a competitive market today. ILC opponents claim that a “loophole” exempts these banks from bank holding company regulation by the Federal Reserve. In fact, Congress expressly exempted the parent companies of industrial banks from the Bank Holding Company Act with the enactment of the Competitive Equality Banking Act in 1987. The exemption was debated before it was enacted and Congress hasn’t modified the exemption since it became law almost twenty years ago.

So, in closing, Mr. Chairman, I would like to thank you again for holding this hearing today. I hope that when the hearing is over, Members will have a better appreciation for the facts surrounding industrial banks including their strong record of effective regulation by the state and federal governments, their history of industry success, and their role in providing greater competition and efficiency to our economy.