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Before the

**FINANCIAL INSTITUTIONS AND CONSUMER CREDIT SUBCOMMITTEE OF THE
HOUSE FINANCIAL SERVICES COMMITTEE**

ILCS—A REVIEW OF CHARTER, OWNERSHIP, AND SUPERVISION ISSUES

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Thank you Chairman Bachus, Ranking Member Sanders, and Members of the Subcommittee for holding this hearing and for the opportunity to testify. I am here today representing the United Food and Commercial Workers International Union. With 1.4 million members in the United States and Canada, the UFCW represents workers in every state in the United States. UFCW members work in grocery stores and in the meatpacking and food processing sectors where they work to put dinner on the table for America's families. Thousands of other UFCW members also work in the health care industry, in the chemical industry, in department stores, in garment manufacturing, in the production of distillery products as well as textile trades.

The topic of ILCs and their regulation has been of great concern to our membership for several years. If ILCs are not properly regulated – and we believe that today they are not – our members may be at risk. The list of risks is long, including everything from reduced consumer protections to insolvency, which can directly impact our members.

When commercial companies look to establish banks there are specific problems that are potentially troubling. The trend we are seeing today is somewhat reminiscent of an earlier era in American history – an era in which the company town was prevalent. These company towns were places where workers were dependent on a single company not just for their job, but for their housing, for their health care, and for most of their retail needs. Many of the companies that ran these towns developed a track record of unsafe working conditions and abusive dealings with employees on everything from the wages they paid to the amounts they charged for basic staples to usurious interest rates. These abuses included practices such as underpaying workers by falsely reporting the amount those workers produced. What our country learned was that if a company is too powerful and people have to rely on it for too many things – the imbalance of power almost inevitably leads to abuses.

The record push of commercial companies looking to get into the banking industry through this obscure ILC loophole should remind us all of this lesson. The policy in the United States has long been to explicitly keep banking and commerce separate. That has proven to be sound economic policy and it has benefited consumers and workers who might otherwise find themselves at the mercy of a single large firm for too many of the goods and services they need. It has also provided for a vibrant and competitive financial services industry that offers many products and services to consumers. The fact that so many commercial firms are now trying to circumvent this basic policy through a loophole in the law is troubling. We should not allow decades of good policy to be undone through an inadvertent backdoor mechanism.

We recognized the potential problem with the ILC loophole years ago and were one of the founding members of a diverse group of organizations known as the Sound Banking Coalition. I would note that the Sound Banking Coalition was created early in 2003 when there were few commercial applicants for ILC charters. In fact, even Wal-Mart did not have an application for an ILC outstanding at that time.

Wal-Mart, of course, looms large over the present ILC debate. Given their size – and the fact that they are the largest corporation in the country – that may be quite appropriate. It is absolutely certain that if Wal-Mart gets a bank through a loophole in the law, the loophole will be larger than the rule. And we are seeing that Wal-Mart is forging a path that many other commercial firms are intending to follow. There are now a record number of commercial companies applying to get ILCs. Blue Cross/Blue Shield, Home Depot, Berkshire Hathway – these and more are following Wal-Mart's lead. Congress should deal with the policy questions here before corporations looking to add financial services as another business line – along with home repair or health care – making Congressional policymaking an afterthought. Wal-Mart has a contradictory impact on the debate about ILCs. Its size and reputation helps to illuminate the arcane world of regulating financial institutions and brings many non-financial interests to the discussion. Simply witness the nearly fifty local, state and national institutions, individuals and organizations who testified at the FDIC's recent (and unprecedented) public hearings on this very application. However, at its heart, this is not a debate about a single company, but about federal policy regarding ILCs, and how regulators and Members of Congress can provide security and sound policymaking to our nation. That is the matter before us today, and to which I will address my testimony.

One of the issues that must be addressed is consolidated supervision of banks at the holding company level. That esoteric but important concept is tremendously important. Holding companies that own banks in this country are subject to regulation by the Federal Reserve Board. The Fed reviews these companies and all of their subsidiaries to ensure that the holding company and the subs do not create solvency risks for the bank. In fact, the holding company is supposed to be a source of financial strength for the bank – that can be helpful if things do not go well. The Fed regulates these holding companies whether the bank itself is a state-chartered bank or a national bank. Foreign bank owners can be an exception to this rule, but only if those foreign firms are subject to similar, consolidated supervision in their home countries. Why

should we be such sticklers about this type of regulation in the banking world? The reason is that we have seen bank failures in the past. The savings and loan scandal is one example, but there are many others. When banks fail we all get hurt – and we can all end up paying for it. We are far better off when there is a regulatory agency which is able to look at the entire holding company and address any problems before they become too big to solve. The savings of real people and real businesses are in these institutions and it is appropriate that we take seriously our obligation to protect people's money.

That should not be any less true when the type of bank we are talking about is an ILC. Our obligation to protect people's funds should be the same – the accounts are, after all, protected by the same FDIC insurance. And the problems with a failure can be just as devastating. During the savings and loan crisis, no one who lost money was comforted by the fact that the institution that failed was called an S&L rather than a bank. Calling something an ILC should not change the policy. If consolidated supervision is needed for other banks – and we believe that it is – then it is needed for ILCs.

The other key concept that is tremendously important here – even if it may seem just as boring as consolidated supervision – is the mixing of banking and commerce. Banks are supposed to be neutral arbiters of financing and, if those banks are owned by commercial companies, the conflicts of interest can skew loan decisions and lead to systemic problems. Banks are also an important source of economic opportunity. For individuals who need a loan – including starting and expanding a business – a bank is typically the first place to start. If local banks disappear the way we have seen local commercial businesses disappear in recent years, we are all in for a rude awakening.

This is a large reason of why Wal-Mart's application in particular is such a threat, and why it appears to be a harbinger of more. We have watched Wal-Mart come into town after town and impact Main Street, business by business. Studies have documented the impact on employment, wages, benefits, and tax revenue. One of the areas least affected directly – thus far – are financial services, where access to capital

and credit offer lifelines in many communities. Local community banks and other financial institutions are critical to economic vitality and diversity. If the capital is there, then new businesses can spring up, and the ones that may still be hanging on can reinvent themselves and find ways to compete. If there is no local source of capital, however, that community is on life support until a large multinational retail chain headquartered in Arkansas makes a decision about that local community. And they know just how to do it by closing locations and opening regional “superstores.”

Of course, if Wal-Mart can get a bank and push local banks out of more of these communities, its economic control in these local communities will be almost complete. Just like with the company towns of the past, there will be few options for people to stand up to the sole source of economic power in the community. A regulator in Utah cannot protect against this danger and weighing the impact on local communities in distant states should not be its job.

So, what should be done? The first thing is that Congress must act. Fundamental policy decisions should not be set aside simply because it is difficult to fix this loophole. And we should not let the economic interests of one state dictate structural problems in our nationwide system of banking regulation. With the increasing use of Internet banking, ATMs, and banking by phone, this would mean that more and more one state would be setting the banking rules for all the rest of us. Governors and state legislatures have recognized this and at least five of them – Iowa, Maryland, Vermont, Virginia, and Wisconsin – have already enacted new laws to keep ILCs from branching into their states. More states are poised to act, and we are engaged in active discussions encouraging states, in the absence of federal legislative activity, to take appropriate steps. But states should not be forced to create a piece-meal approach to deal with an issue that can be – and should be – addressed by the Congress. In fact, Representatives Paul Gillmor of Ohio and Barney Frank of Massachusetts have just introduced the Industrial Bank Holding Company Act of 2006 to address this problem. We believe that this is a good step in the right direction and that legislation would help address the problems I have described for commercial ILCs.

I urge you to consider the Gillmor-Frank legislation and to enact it to address the problems and challenges outlined in my testimony. The members of the UFCW do not want to reside in a “company town.” We seek to live in a nation of laws and of opportunity. Again, I thank you for your time and would be pleased to attempt to answer any questions that you may have.