<u>WRITTEN STATEMENT OF</u>
<u>MICHAEL F. McENENEY</u>
<u>ON BEHALF OF</u>
<u>THE CONSUMER BANKERS ASSOCIATION</u>

Before the Subcommittee on Financial Institutions and Consumer Credit
September 15, 2004

Good morning Chairman Bachus, Ranking Member Sanders, and Members of the Subcommittee. My name is Michael F. McEneney. I am a partner in the law firm of Sidley Austin Brown & Wood LLP. It is my pleasure to appear before you this morning on behalf of the Consumer Bankers Association ("CBA"). The CBA is the recognized voice on retail banking issues in the nation's capital. Member institutions are the leaders in consumer financial services, including auto finance, home equity lending, card products, education loans, small business services, community development, investments, deposits, and delivery. CBA was founded in 1919 and provides leadership, education, research, and federal representation on retail banking issues such as privacy, fair lending, consumer protection legislation, and regulation. CBA members include most of the nation's largest bank holding companies, as well as regional and super community banks that collectively hold two-thirds of the industry's total assets.

Today's hearing is focused on financial products and services from the consumer's perspective. There is no doubt that today's financial marketplace looks quite good from the consumer's perspective. The financial services marketplace offers consumers a wider variety of financial products and services than ever before. This includes loans, deposit products, checking accounts, investment options and a growing variety of payment and remittance services. Not only can consumers choose from a wide range of products, but they can obtain them over the phone, using the Internet, or through personal interaction at the financial institutions' offices.

Our financial marketplace is truly a success story. However, the success did not develop overnight, or by accident. There was a time when consumers did not enjoy all of the conveniences they are offered today. In fact, it was not too long ago when retail banking services looked much different than they do today. Back then many people had to carry cash or checks at all times because credit cards as we know them did not exist. And to get that cash people had to spend time going to the bank branch and standing in line for a teller. Why? There was no such thing as an ATM. Visiting the bank branch in person was also necessary to get a loan, and, in many instances, you had to have an account with the bank. The opportunities to shop around for a loan that are available today really did not exist. Most people were just happy if their bank approved them and accepted the rate the bank was offering at the time. The approval process could last weeks, and fewer people qualified for loans than would qualify today.

There are obviously a number of reasons for the spectacular evolution of the financial services industry and the ever-expanding choices available to consumers. However, I believe that most of these reasons relate to providing financial institutions with the flexibility to compete fiercely with one another to provide a better product to consumers at lower costs. I would like to use a few examples to illustrate my point.

First, the process by which consumers obtain home mortgages has been simplified and made more efficient through increased competition in the marketplace. Hopeful homebuyers at one time submitted their mortgage application to their bank and waited on pins and needles for several days, or even a few weeks, while their application was considered. Those who did not have a relationship with a bank, or those who did not have many local banks from which to choose, obviously had a more challenging time obtaining a mortgage. However, today, consumers benefit from lenders across the country competing with one another to provide consumers with home loan opportunities wherever they may reside. Decisions are oftentimes made almost instantaneously, and lenders are able to offer loans that meet a variety of consumer needs. Given the number of lenders and types of mortgages available, creditworthy borrowers are likely to have several choices when choosing how to finance their homeownership.

Second, we take for granted that a consumer today can obtain a credit card that suits his or her individual needs. The credit card may offer frequent flyer miles, or the logo of the consumer's charity. It may offer the consumer a rebate on some or all purchases the consumer makes with the credit card. The consumer can also shop for low interest rates, and credit cards that do not have any annual fees. I believe that all of these benefits can be traced in great part to the ease with which credit card issuers can compete with one another through a variety of mechanisms, including a process known as "prescreening."

It is hard to imagine, but there once was a time when annual fees were common and consumers obtained few "fringe" benefits for using their credit cards. Today, most people can find an offer for a card without an annual fee or that offers other benefits simply by reading their mail. Before large numbers of card issuers engaged in prescreening, a consumer obtained a credit card from his or her local bank. Although local banks competed with one another to provide retail banking services to consumers, including credit card products, the competition was nothing like we see today. Some time ago, credit card issuers began to prescreen consumers in order to offer them credit cards. This process, combined with uniform rules for interest rates and fees, allowed banks in any location to offer credit cards to consumers *nationwide* through the mail. Basically, prescreening allows a creditor to obtain a limited amount of credit information in order to offer consumers a "firm offer of credit." With the advent of prescreening, suddenly the consumer did not need to be satisfied with the credit card from his or her local bank—a card that likely had an annual fee and comparatively higher interest rates. In fact, as more card issuers made more credit card offers to consumers, consumers could pick from a variety of credit cards. Naturally, this competition fostered lower prices and improved features on credit cards. Perhaps these developments help explain why the staff of the Federal Reserve Board recently found that 91% of cardholders are satisfied with their credit card issuers.

Third, the ability of financial institutions to price their products in a more precise manner has resulted in enormous benefits to all consumers—most notably the extraordinary homeownership rate. This Subcommittee has gathered large amounts of information pertaining to our national credit system as part of its deliberations on the FACT Act just last year. However, a few of the key points are worth repeating today. The consumer reporting process has developed into a very sophisticated information delivery mechanism that allows lenders to evaluate large amounts of objective and accurate information about consumers. Successful lenders have used this information to evaluate and manage risk in a way that allows them to lower the costs of credit to those consumers who have good credit histories. Yet, consumers with good credit histories are not the only primary beneficiaries of the benefits resulting from the developments fostered by our national credit system. In fact, as lenders obtain more information about potential borrowers through applications and credit reports, for example, they can offer credit to consumers who at one time could not qualify for credit. Now, instead of a bank offering a "one size fits all" loan product to only those consumers with above average credit histories, the bank can use risk-based pricing to offer more consumers access to credit at a variety of risk-based prices. Indeed, many reputable lenders have developed successful lines of business making prudent loans to lower- and moderate-income families that have been traditionally underserved. The more competition there is from reputable lenders making responsible lending decisions to consumers, the less opportunity there will be for bad actors to prey on the vulnerable. That means more home mortgages, more college education loans, and more auto loans for safe transportation for consumers of all walks of life—not just the wealthy or those with perfect credit histories.

Competition in the market place also means an expanding pie where those who have been traditionally underserved can enter the mainstream of our economy. For example, CBA's members continue to develop and expand product offerings to satisfy the demands of an increasingly diverse market. This includes efforts to bank the so-called "unbanked" through use of payroll cards, stored value products, and remittance services in addition to offering low-cost traditional banking products, such as checking accounts. For example, CBA is hosting a Hispanic Banking Forum later this month to highlight bank activities in this area and provide an opportunity for banks to share their knowledge and experience.

Mr. Chairman, current law ensures that consumers receive valuable information with respect to financial products. Laws such as the Truth in Lending Act, the Truth in Savings Act, the Electronic Fund Transfer Act, and the Real Estate Settlement Procedures Act establish frameworks under which consumers are provided important disclosures with respect to the price of financial services, and the terms on which they are offered. Consumers receive a variety of disclosures in other contexts, such as under the Equal Credit Opportunity Act and the Fair Credit Reporting Act. In short, it is clear that consumers do not lack for disclosures of information in connection with financial transactions.

It is also important to note that our financial marketplace is a complex system that relies on providing consumers with choice. Any system that offers choices requires consumers to understand the relative benefits and costs of those choices. Disclosure laws like Truth in Lending are important, but they can only do so much in the absence of fundamental financial literacy on the part of consumers. Banks have long understood that the most innovative and beneficial financial products in the world are likely of no use to the consumer who lacks basic knowledge of how to participate in our financial system, and unsophisticated consumers are more easily targeted by the unscrupulous. That is why banks have been in the forefront of efforts to expand financial education.

In April 2004, CBA published a survey regarding the progress made in the financial literacy of consumers as a result of banks' educational efforts. The report focuses on eight areas including credit counseling, mortgage and homeownership, predatory lending, public school programs, college programs and small business training. The results of the survey evidence an increase in banks that participate in consumer financial literacy education. Of those that responded, 100% of the institutions participate in at least one of the eight areas of concentration. Most notably, approximately 89% of the 54 responding institutions offer public school financial literacy programs (this is a 16% increase from the survey conducted one year ago), and financial literacy efforts of banks in colleges almost doubled. A portion of CBA's 2004 Survey of Bank Sponsored Financial Literacy Programs has been submitted with this testimony. The entire survey may be found at www.cbanet.org.

In conclusion Mr. Chairman, I would like to highlight that consumers of all income levels in the United States have financial opportunities that are the envy of the world. Virtually any creditworthy consumer can obtain credit when they need it. Retail banking and other financial services are widely available and can be obtained by walking down the street to the local financial institution, or by using phone, mail or the Internet. Continued improvements in technology and risk control allow more financial institutions to improve their financial products, to offer them to broader groups of consumers, and to develop new financial products altogether. Naturally, we face the challenge of ensuring that consumers understand the opportunities they have available to them. But I can assure you that CBA's members are committed to ensuring that consumers receive the information they need, including through information disclosures and financial education materials and opportunities.

Thank you again for inviting me to appear before you today. I would be pleased to answer any questions.