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Opening Statement

Chairman Michael G. Oxley
Committee on Financial Services

**Subcommittee on Financial Institutions and Consumer Credit
Implementation of the Check Clearing for the 21st Century Act**

April 20, 2005

Good afternoon. I want to welcome today's witnesses and thank Subcommittee Chairman Bachus for calling this hearing today to discuss the implementation of Check 21. It is my hope that this hearing will clear up some misconceptions about the law and provide Members some insight into what is going on in the world of check processing. I am pleased to learn that banks are taking a measured approach to implementing Check 21 and that the Federal Reserve is closely monitoring the time it takes to process a check, as we directed them to do in the law.

Before Check 21, our nation's check transportation system was stuck in the age of the pony express. Billions of original checks were bundled and flown or driven around the country every year. The problems with this inefficient process came to light following the September 11, 2001 terrorist attacks when our air traffic system was grounded. This interruption in air transportation resulted in the payments system virtually grinding to a halt. If it had not been for quick action by the Federal Reserve, there could have been serious consequences. Check 21 grew out of the desire to improve the security and efficiency of check transportation.

Check 21 became effective less than six months ago. In the weeks and months leading up to the effective date we heard from some interest groups that there would be a radical change in the way consumer's checking accounts operated. This "sky is falling" scare campaign resulted in consumer confusion that reached all the way into the customer service departments of some financial institutions. The result was misinformed and anxious banking customers. What we have learned is that there is no radical change and that financial institutions are taking a prudent approach to Check 21 implementation. We have learned that many institutions actually offer shorter check-hold times than are required by law. This fosters confidence and promotes a stronger understanding of how the system works.

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At its essence, Check 21 does only two things. First, it permits the creation of a substitute check which will allow financial institutions that do not have the resources to accept check images to continue to operate in the paper world as they do today. Second, the law grants consumers expanded protections beyond what exists in current check law. Check 21 does not change the way that checks are processed or presented for payment. Because Check 21 merely improves the movement of checks, all of the check law protections that have existed for over 100 years will still apply.

It is my understanding that a lot of the confusion of late has resulted from the explosion in the use of accounts receivable checks, or ARCs. There has been very little consumer education as to what ARCs are and how they work. These electronic transfers permit a biller to directly access a consumer's checking account and do not require the return of a check image to the consumer. Many consumers have received ARC entries in their bank statements and, due in large measure to the Check 21 misinformation campaign, have been led believe that it is a Check 21-related debit. Consumers have not been well informed of what ARCs are and what protections they have under this system. I would urge both the enterprises that undertake ARC transactions and organizations that set their standards to work to fully inform their customers and ensure that there is no additional confusion.

Thank you and I look forward to the testimony of our witnesses.

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