TESTIMONY OF

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NORTH CAROLINA COMMISSIONER OF BANKS

On behalf of the

CONFERENCE OF STATE BANK SUPERVISORS

before the

FINANCIAL SERVICES SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

UNITED STATES HOUSE OF REPRESENTATIVES

May 12, 2004

Good morning, Chairman Bachus, Representative Sanders and members of the Subcommittee. I am Joseph A. Smith, Jr., North Carolina Commissioner of Banks and Legislative Committee Chairman for the Conference of State Bank Supervisors (CSBS). Thank you for inviting CSBS to be here today to discuss strategies for reducing unnecessary regulatory burden on our nation's community banks and your interest in preserving a system that supports our country's unique system of community banking.

CSBS is the professional association of state officials who charter, regulate and supervise the nation's approximately 6,400 state-chartered commercial and savings banks, and nearly 400 state-licensed foreign banking offices nationwide.

CSBS gives state bank supervisors a national forum to coordinate, communicate, advocate and educate on behalf of the state banking system. We especially appreciate this opportunity to discuss our views in our capacity as the chartering authority and primary regulator of the vast majority of our nation's community banks.

Chairman Bachus, we applaud your longstanding commitment to ensuring that regulation serves the public interest without imposing unnecessary or duplicative compliance burdens on financial institutions. To support our diversified system of community banking, CSBS and the state bank commissioners are now working in full partnership with the Federal Financial Institutions Examination Council to implement the Economic Growth and Regulatory Paperwork Reduction Act of 1996. This process has highlighted several insights that we believe should inform this committee's work. This testimony will present these insights and offer specific examples and recommendations for Congressional action.

1. A bank's most important tool against regulatory burden is its ability to make meaningful choices about its regulatory structure.

In recent testimony before the Senate Banking Committee, Federal Reserve Chairman Greenspan referred to the American dual banking system and its support of community banks as a "jewel" of our economy. State bank supervisors see the value of this jewel every day. The preservation of a state bank chartering and regulatory system sets the United States' financial system apart from every other developed nation, and is a primary contributor to our nation's diverse, vibrant, resilient and responsive economy.

Community banking is the cornerstone of this system. Let me be clear. Diversity in our financial system is not inevitable. Community banking is not inevitable. They are the product of a consciously developed state-federal system. At the state level, we know that a responsive and innovative state banking system that encourages community banking is essential to creating diverse local economic opportunities. This is why we are so passionate in our defense of a federal structure that allows for state chartering and supports community banking. American banks have traditionally been able to choose a bank charter that best suits their business plans. The state charter has been and continues to be the charter of choice for community-based institutions, because the supervisory environment – locally-oriented, hands-on, and flexible – matches the way these banks do business. Our goal is a safe and sound financial system that meets the needs of all our communities. This goal requires that we find a balance between encouraging economic opportunity and protecting our citizens.

A bank's ability to choose its charter encourages regulators to operate more efficiently, more effectively, and in a more measured fashion. A monolithic regulatory regime would have no incentive to efficiency. It is easy to imagine how fast its authority and its costs might grow if left unchecked. Our founding fathers knew that federalism was the best check on this government overgrowth, and therefore left control of financial regulation in the hands of the states. The emergence of a nationwide financial market made it necessary to create a federal regulatory structure, but the state system remains as a structural curb on excessive federal regulatory burden and a means of promoting a wide diversity of financial institutions.

2. Our current regulatory structure does recognize differences between financial institutions, but too often imposes "one size fits all" requirements that are unduly burdensome on smaller or community-based institutions.

Regulatory burden always falls hardest on smaller institutions. Some of this may be unavoidable. As Vice Chairman Reich has reported in his testimony, the FDIC's most recent figures show a growing earnings gap between the nation's largest and smallest banks. To the extent that economies of scale exist in the banking industry, they exist because any bank has a set of fixed costs it cannot evade. Compliance forms a large percentage of these fixed costs.

As I mentioned earlier, state-chartered banks tend to be community-based institutions, and therefore tend to be smaller than their federally-chartered counterparts. State-chartered banks make up slightly more than 74% of all commercial banks nationwide, but hold less than 44% of U.S. banking assets. If you subtract the assets of the largest state banks (as of year-end 2003, 47 of the nation’s largest 100 commercial banks hold state charters) we see that community banks represent a shrinking percentage of the assets of our nation’s banking system.

The Conference of State Bank Supervisors asked its Bankers Advisory Board, as part of our EGRPRA comment process, about the impact of regulatory burden on their institutions. Their responses illustrated how disproportionately heavily the regulatory burden falls on smaller institutions. We request that our comment letter dated September 15, 2003, on regulatory burden relief, with very specific suggestions on alleviating regulatory burden, be submitted for the record.

One member of our Bankers Advisory Board, the CEO of a $150 million bank, reported that his bank employs the equivalent of four or five full-time employees who focus exclusively on compliance. The bank thus dedicates an excessively high percentage of its employees to compliance instead of to customer service or lending. This commitment places the bank at a competitive disadvantage not only to larger banks but also to non-bank financial services providers that are not subject to many bank regulations.

Chairman Bachus, the Congress and the federal regulatory agencies have already made many adjustments to regulatory requirements that exempt or reduce burden on institutions that are smaller or well-managed. The FDIC's MERIT examination program, for example, reduces onsite examination requirements for well-managed institutions below a certain size. Raising the asset size of institutions that qualify for the MERIT program has significantly reduced the supervisory burden for thousands of banks.

We suggest, however, that Congress and the regulatory agencies seek creative ways to tailor regulatory requirements for institutions that focus not only on size, but on a wider range of factors that might include geographic location, structure, management performance and lines of business. As the largest banks are pushing for a purely national set of rules for their evolving multistate and increasingly retail operations, keep in mind that this regulatory scheme will also impose new requirements on state-chartered banks operating in the majority of states that do not already have similar rules in place. If we are to preserve a system of community banking, Congress and bank regulators should rethink how these highly complex laws and reams of compliance regulations will apply, or even if they should apply, to smaller community banks.

It is difficult, for instance, for many community banks to meet the investment test under the Community Reinvestment Act. Restrictions on insider dealings make it difficult, in some cases impossible, for banks in rural areas to recruit qualified directors. Home Mortgage Disclosure Act (HMDA) reporting requirements are exceptionally burdensome on community-based institutions, and have the unintended consequence of encouraging bank holding companies to maintain multiple bank charters to avoid some of the asset threshold requirements.

Every new national standard is generally a new regulatory burden for the majority of banks. Regulatory relief for the handful of market-dominating banks that operate in multiple states generally means new and unanticipated regulatory burdens for the thousands of community banks that operate in a single state or a single community.

A new approach to lawmaking and regulation is imperative if we are to accommodate the larger institutions' understandable and growing demand for a more uniform national market while preserving the community bank system that is largely responsible for our uniquely American business culture of entrepreneurship and broad access to credit.

Congress has established different and more minimal standards for credit unions than commercial banks. Congress might consider a similar perspective for community banks.

It is fairly universally accepted that the state banking system is a foundation of our community banking system. Equally important, the state system has provided meaningful choice for institutions of all sizes, which has injected major innovations into the banking system. Congress, recognizing this dynamic, has consistently tried to ensure that federal law and policy preserve the state charter as an option for all banks. The Riegle-Neal interstate banking and branching act of 1994, free standing legislation to amend Riegle-Neal in 1997 and the Gramm-Leach-Bliley financial modernization act of 1999 were all conscious efforts to preserve the state charter and provide it as an option for multistate and complex financial institutions.

We are now hearing from some of the largest state-chartered banks that the OCC's unilateral action to preempt state laws and authority is putting them at a significant competitive disadvantage relative to national banks. They are telling us that if Congress does not address this imbalance in the system – which was contradictory to congressional intent -- the state charter may no longer be an option. I remind you, 47 of the 100 largest commercial banks are state-chartered. If this imbalance caused all 100 of the largest banks to become nationally chartered, the state system would supervise only 17% of U.S. commercial banking assets, and the damage to the dual banking system would be immeasurable. It is not clear that such a system would even be sustainable. Mr. Chairman, failing to act on this issue is its own decision, and would be a major policy shift away from the Congress's historic support of the dual banking system.

We look forward to working with the members of this committee and with our federal counterparts to find ways of targeting new policies and requirements to maximize their effectiveness and minimize their burden. State regulators, with their tradition of tailoring supervision to a specific institution's need, can share their experiences and offer valuable insight.

3. Technology continues to be an invaluable tool of regulatory burden relief, but it is not a panacea.

Technology has helped reduce regulatory burden in countless ways. State banking departments, like their federal counterparts, now collect information from their financial institutions electronically as well as through onsite examinations. Most state banking departments now accept a wide range of forms online, and allow institutions to pay their supervisory fees online as well. Many state banking departments allow institutions online access to maintain their own structural information, such as addresses, branch locations, and key officer changes.

At least 25 state banking agencies allow banks to file data and/or applications electronically, through secure areas of the agencies' websites. Forty-seven states have adopted or are in the process of accepting an interagency federal application that allows would-be bankers to apply simultaneously for a state or national bank or thrift charter and for federal deposit insurance.

Shared technology allows the state and federal banking agencies to work together constantly to improve the examination process, while making the process less intrusive for financial institutions. Technology helps examiners target their examinations through better analysis, makes their time in financial institutions more effective, and expedites the creation of examination reports.

The fact that technology makes it so much easier to gather information, however, should not keep us from asking whether it is necessary to gather all of this information, or what we intend to do with this information once we have it. Information-gathering is not cost-free.

Our Bankers Advisory Board members have expressed particular concern about Bank Secrecy Act requirements, Currency Transaction Reports and Suspicious Activity Reports. These collection requirements have become far more extensive in the past three years, representing the new importance of financial information to our national security. Industry representatives, however, estimate that CTRs cost banks at least $25 per filing. Although they understood the importance of gathering this data, our Bankers Advisory Board members reported widespread frustration at the perception that law enforcement agencies do little, if anything, with this costly information. FinCEN's new Director, William Fox, has indicated that his agency plans to provide more information to bankers about how these reports are used to thwart crimes. We would still urge Congress, FinCEN and the federal banking regulators to simplify the reporting forms and look carefully at potential changes to threshold levels.

4. No amount of legislative reform can be effective unless regulators coordinate to reduce unnecessary duplication.

The regulatory structure that makes choice possible in our banking system also creates a complex network of overlapping, occasionally contradictory regulations and policies. Coordination among regulatory agencies is the only way to eliminate unnecessary duplication while preserving diversity in our system.

The Conference of State Bank Supervisors brings state regulators together in a variety of forums to improve communication and coordination among states and with federal agencies. The enactment of interstate branching laws in the early 1990s, first at the state or regional level and then at the federal level, demanded that we develop a system for supervising state banks across state lines that minimized duplication but ensured that all a bank's customers received equal protection under the law.

CSBS, with the FDIC and the Federal Reserve System, formed the State-Federal Working Group to develop a seamless, coordinated supervisory system for state-chartered banks that operate across state lines. The Nationwide Cooperative Agreement, signed by all 54 state banking departments, and the Nationwide State/Federal Supervisory Agreement, signed by the states, the FDIC, and the Federal Reserve, create a structure for sharing information and authority, and designating single state and federal supervisory points of contact for state-chartered banks that operate across state lines.

These agreements have served as a model for cooperation and coordination among the states and the federal regulators, and led to a similar set of agreements for the supervision of state-regulated offices of foreign banking organizations. CSBS has also worked closely with the FDIC and Federal Reserve Board in updating interagency coordination protocols and ensuring that all field examiners learn recommended practices. We will work constantly in these areas as banks continue to grow across state lines and conduct increasingly complex activities.

Banks are not the only financial institutions that stand to benefit from this increased cooperation and coordination. CSBS created a task force to improve coordination of multistate trust companies, and created a model form that states can use to process state-licensed trust companies' requests to operate across state lines. In the wake of financial modernization, CSBS also formed joint task forces with the North American Securities Administrators Association (NASAA) and the National Association of Insurance Commissioners (NAIC) to share information and coordinate supervision of banks' nonbanking activities.

Most recently, state bank supervisors have concerned themselves with the operation of mortgage lending businesses across state lines. CSBS has created task forces on predatory lending and, more broadly, on mortgage lending that are taking a comprehensive look at how our members supervise and regulate these businesses across state lines. Understanding that a single set of rules and remedies is not always appropriate for every lender or for every group of borrowers, we intend to review best practices and develop recommendations for ways to protect consumers while ensuring a wide range of credit choices for homebuyers and supporting the evolving nationwide markets for mortgage lending.

We are working with the American Association of Residential Mortgage Regulators (AARMR) to promote a uniform mortgage lending activity application for these entities that lend across state lines. CSBS is also exploring the possibility of creating a national database to simplify the application and state approval process for mortgage lenders and brokers. This database could allow multistate institutions to submit a single application, while giving states better historical data about employment, compliance practices, and criminal activity of these licensees.

5. Although regulators constantly review regulations for their continued relevance and usefulness, many regulations and supervisory procedures still endure past the time that anyone remembers their original purpose.

Many regulations implement laws that were passed to address a specific issue; these regulations often stay on the books after the crisis that required new legislation has passed. Recognizing this, many state banking statutes include automatic sunset provisions. These sunset provisions require legislators and regulators to review their laws at regular intervals to determine whether they are still necessary or meaningful.

We could hardly do that with the entire federal banking code, but last year's experience in passing the new Fair Credit Reporting Act legislation showed how valuable this review process can be. We urge Congress to apply this approach to as wide a range of banking statutes as possible.

Challenges to Regulatory Burden Relief

The current trend toward greater, more sweeping federal preemption of state banking laws threatens all of the regulatory burden relief issues described above.

Federal preemption can be appropriate, even necessary, when genuinely required for consumer protection and competitive opportunity. The extension of the Fair Credit Reporting Act amendments, which Congress approved last year, met this high standard, and we congratulate Congress for passing this important legislation.

The Comptroller of the Currency's recent actions, however, do not meet these standards, and in fact contravene a large body of legislative and judicial precedents. The Comptroller has made forceful arguments to the effect that these regulations reduce regulatory burden, but we must ask: for whom, and at what cost?

We appreciate that the largest financial services providers want more coordinated regulation that helps them create a nationwide financial marketplace. We share these goals, but not at the expense of distorting our marketplace, denying our citizens the protection of state law, or eliminating the diversity that makes our financial system great. The Comptroller's regulations may reduce burden for our largest, federally-chartered institutions, but they do so at the cost of laying a disproportionate burden on state-chartered institutions and even on smaller national banks.

The OCC's new regulations usurp the powers of the Congress, stifle states' efforts to protect their citizens, and threaten not only the dual banking system but also public confidence in our financial services industry. They challenge the functional regulatory structure created by Gramm-Leach-Bliley and set the Office of the Comptroller of the Currency as the nation's dominant regulator of financial institutions. They also seem to encourage consolidation among our largest institutions, concentrating financial risk in a handful of gigantic institutions that may become – if they are not already – not only too big to fail, but also too big to supervise effectively.

As these institutions grow and become more unwieldy, it is easy to imagine their financial ups and downs driving federal financial services policy even more strongly than they already do. Members of this committee may remember, as I do, the reform legislation of the early 1990s, which corrected the system's worst abuses at the cost of creating unprecedented new levels of regulatory burden and the worst credit crunch in recent memory. Chairman Bachus, the first regulatory relief initiatives date back to this time, when you saw how disproportionately these measures affected our healthy community banks.

Conclusion

Mr. Chairman, members of the subcommittee, the regulatory environment for our nation's banks has improved significantly over the past ten years, in large part because of your vigilance.

As you consider additional ways to reduce burden on our financial institutions, we urge you to remember that the strength of our banking system is its diversity – the fact that we have enough financial institutions, of enough different sizes and specialties, to meet the needs of the world's most diverse economy and society. While some federal intervention may be necessary to reduce burden, relief measures should allow for further innovation and coordination at both the state and federal levels. Centralizing authority or financial power in one agency, or in a small group of narrowly-regulated institutions, would threaten the dynamic nature of our financial system.

State supervision and regulation are essential to our decentralized system of banking. State bank examiners are often the first to identify and address economic problems, including cases of consumer abuse. We are the first responders to almost any problem in the financial system, from downturns in local industry or real estate markets to the emergence of scams that prey on senior citizens and other consumers. We can and do respond to these problems much more quickly than the federal government, often bringing these issues to the attention of our federal counterparts and acting in concert with them.

The Comptroller has argued that the laws and rules states have enacted to protect their citizens are burdensome to national banks. In my home state of North Carolina, where we enforce an anti-predatory lending statute, my office has never received a consumer complaint about not receiving credit due to the regulatory burden on a lender. State supervisors are sensitive to regulatory burden, and constantly look for ways to simplify and streamline compliance. Your own efforts in this area, Chairman Bachus, have greatly reduced unnecessary regulatory burden on financial institutions regardless of their charter. The industry's record earnings levels suggest that whatever regulatory burdens remain, they are not interfering with many banks' – particularly the very largest institutions' -- ability to do business profitably.

The continuing effort to streamline our regulatory process while preserving the safety and soundness of our nation's financial system is critical to our economic well-being, as well as to the health of our financial institutions. State bank supervisors continue to work with each other, with our legislators and with our federal counterparts to balance the public benefits of regulatory actions against their direct and indirect costs.

We commend you, Mr. Chairman, and the members of this subcommittee for your efforts in this area. We thank you for this opportunity to testify, and look forward to any questions that you and the members of the subcommittee might have.

September 15, 2003

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn: Comments/OES

Re: Economic Growth and Regulatory Paperwork Reduction Act of 1996
Request for Comment (Docket No. 2003-20)

Dear Mr. Feldman:

The Conference of State Bank Supervisors ("CSBS") [1] welcomes the opportunity to respond to the Federal Financial Institution Examination Council's ("FFIEC's") request for comment [2] ("request") on its review of the financial institution regulations to reduce burden imposed on insured depository institutions, as required by section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). We believe it is important to support the goals of materially reducing regulatory burden currently imposed on the financial institution industry. In this regard, we applaud the FFIEC's efforts to reduce and simplify regulations that industry comments indicate are outdated, ineffective, or simply no longer meet the requirements initially enacted by Congress.

The FDIC's Vice Chairman John Reich and his Office have taken the leadership role in this regulatory endeavor. In this role, the Project Manager for the Vice Chairman and the EGRPRA comment and review process, Claude Rollin, has coordinated with CSBS to provide a personal request for comment to several state bank commissioners as well as our Bankers Advisory Board (BAB)[3]. In that request, Mr. Rollin made it clear that the Vice Chairman's Office is very interested in the industry's comments on reducing regulatory burden. Accordingly, CSBS held a conference call with its BAB to obtain the bulk of the comments contained in this letter. In the future, CSBS may share additional comments with the FFIEC from state bank commissioners, including those who serve

[1] CSBS is the professional organization of state officials responsible for chartering, regulating and supervising
the nation's 6,395 state-chartered commercial and savings banks and 419 state-licensed branches and agencies
of foreign banks.
[2] 68 Fed. Reg. 35589, (June 16, 2003).
[3] The CSBS Bankers Advisory Board is the organization's bank membership leadership group, which provides advice and support to the Board of Directors, and serves as a resource to CSBS members and staff throughout the year.

on the FFIEC "State Liaison Committee." We ask that the FFIEC consider all comments to reflect CSBS' view on this extremely important issue.

Background

EGRPRA, passed by Congress in 1996, requires the FFIEC and each appropriate Federal banking agency represented on the FFIEC to conduct a review of all regulations prescribed by the FFIEC or by any such appropriate Federal banking agency to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions. This review must take place at least once every ten years. In conducting the review the FFIEC is required to categorize the regulations and at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome. The FFIEC will publish the categories for which they are seeking comments twice a year. For this first publication, comments are requested for the following three categories of regulations: Applications and Reporting, Powers and Activities, and International Operations. Accordingly, the FFIEC must complete this review, eliminate unnecessary regulations to the extent that such action is appropriate, and provide an update to Congress no later than 2006.

To encourage full participation in the EGRPRA review, the Vice Chairman's Office has conducted several banker outreach sessions in Orlando, Florida, St. Louis, Missouri, and Denver, Colorado. A state bank commissioner, a CSBS representative, and representatives from all of the other Federal regulatory agencies have participated in all of the outreach sessions.

Industry comments from these outreach sessions have continued to develop a consistent list of regulations that should be reviewed and altered to reduce regulatory burden. The issues most frequently identified by financial institutions as burdensome or outdated include the USA PATRIOT Act, Bank Secrecy Act, Regulation D and the limitations on withdrawals from money market deposit accounts, Home Mortgage Disclosure Act, Expedited Funds Availability Act, Community Reinvestment Act, Truth in Lending Act (with special emphasis on the right of rescission), Privacy notices, and limitations on extending credit to insiders.

CSBS' Bankers Advisory Board Comments

During our conference call with the CSBS Bankers Advisory Board, a member highlighted the importance of the EGRPRA regulatory burden reduction process. This BAB member is the president of a $150-million community bank that employs four to five full time equivalent employees that focus exclusively on compliance. He also noted that non-banking entities do not have such compliance requirements and remarked that this places his small bank at a competitive disadvantage. CSBS looks forward to working with the Federal banking agencies to reduce regulatory burden where possible.

The BAB conference call coordinated through CSBS uncovered items similar to those identified by industry representatives at the EGRPRA outreach meetings. BAB members provided details that might be of assistance when the FFIEC reviews the amount of burden imposed by these regulations. A summary of their comments and suggestions follows:

Currency Transaction Reports (CTR) and Suspicious Activity Reports (SAR)

- Although it was noted that industry representatives have estimated the cost of each CTR to be $25, that price is likely higher for smaller banks.
- One member of the BAB computed the cost of filing CTRs for his bank, assuming the average $25 per CTR is accurate. His bank generates 240 CTRs a day (approximately 65,000 a year). An average cost of $25 per CTR equates to an annual cost of $1.6 million. Separately, the same bank files about 50 SARs per year.
- The members of the BAB expressed widespread frustration because it appears that law-enforcement authorities do nothing with CTRs and SARs. One member reported that the FBI has failed to follow up on a SAR submitted two years ago involving a $2.4-million check kiting scheme. Another member of the BAB stated that the FBI has yet to act on a $140,000 note forgery. Law enforcement officials have indicated to both bankers that homeland security matters hinder and prevent investigatio ns such as these. Our members question, if the CTRs are not going to be investigated, why the banks should shoulder such high costs to file them.
- CSBS noted to the BAB members that FinCEN is investigating electronic submissions of CTRs. The bankers, however, noted that their biggest cost involves the research and file-checking that are required to generate CTRs and SARs.
- Furthermore, one of the BAB members noted that banks are required to report on CTRs and SARs, at least in summary form, to their Boards of Directors -- another cost item.

USA PATRIOT Act and "Know Your Customer"

- Members of the BAB, especially those in smaller communities, felt the "Know Your Customer" requirements add little value in investigating terrorism.
- When asked about documenting (possibly photocopying) customer identification information to be kept with signature cards, the members felt it would merely be "just another gotcha item" on examiners' checklists. BAB members also expressed concern that maintaining pictures of custome rs could result in claims of racial bias or profiling.

Limitation of Withdrawals from Money Manager Deposit Accounts

• The members of the BAB felt this limitation is completely outdated. It is anticompetitive to smaller banks that do not have sweep accounts or have to compete with non-bank entities that do not have similar restrictions.

Home Mortgage Disclosure Act (HMDA)

• BAB members believe the small bank threshold for reporting under the Home Mortgage Disclosure Act is no longer realistic. The members suggested increasing the asset threshold to at least $500,000, but $1 or $2 million is more realistic.

• Bankers noted that some holding companies keep a number of charters to stay under the HMDA and CRA asset size.

Community Reinvestment Act (CRA)

• BAB members noted that smaller banks are hardest hit by CRA requirements. It's difficult, if not impossible, for many of the smaller banks to meet the investment criteria.

• One member credited the FDIC as setting a precedent by allowing CRA credit for participation in the Money Smart financial education program. The precedent should be extended to give CRA credit for other good works, such as sponsoring Little League teams and the like.

Expedited Funds Availability

• BAB members agreed that this regulations needs to reviewed. The requirement that funds from cashiers' checks be granted on a next-day basis is generating significant fraud losses due to new technologies that allow scanning and/or color-copies.

Real Estate Settlement Regulations

• BAB members suggest that huge improvements could be made to lessen the regulatory burden in documents required for real estate loan settlement. It was suggested that lessening the amount of disclosure required may assist consumers by allowing them to focus on fewer papers. We have enclosed examples of the settlement documents that one of the BAB members suggested could be eliminated.

• BAB members also suggested that the Truth in Lending Act's right of rescission should be eliminated. Bank customers have complained when they do not receive refinance monies immediately upon loan closing. No bank on the BAB has ever had a right of rescission excersized.

Limitations on Insider Dealings

• For smaller banks, these regulations have the effect of driving their potentially best customers to other institutions. Banks can give preferred loan rates to employees, but not to officers and directors.

• BAB members expressed an interest in having regulators separate insider abuses from justified preferential treatment for insiders who merit it, as banks can do for employees.

Flood insurance

- FEMA flood maps are often years out of date.
- Generally, flood maps are not changed for 10-12 years, even though action has been taken to change the flood plane. Research, however, to change the 100 year flood plane is costly for banks to consider.
- In those cases where banks attempt to update the flood maps, there are paperwork delays. Examiners criticize banks for making a determination on the flood insurance question until some kind of official paperwork is in the loan file, even though "you know the house is on top of a hill and not going to be flooded," said one BAB member.

Conclusion

CSBS commends the FFIEC's and the FDIC's efforts to review all banking regulations in order to reduce regulatory burden. In conclusion, we would like to highlight that new proposed regulations on identity theft were released following the conference call with our BAB. Such regulations certainly may be necessary to protect consumers against malfeasants taking advantage of changing and updated technologies to commit fraud. As regulations continue to proliferate, however, it is critically important that regulators continually evaluate which regulations may no longer be necessary.

We also note that as the difference between banks, savings associations, credit unions, and investment/ brokerage firms continues to blur, it is important to ensure that financial institutions are not placed at a competitive disadvantage. CSBS further recommends regulators use sunset provisions in regulations. Such provisions would require regulations to be reviewed on a regular basis to ensure the need for the regulation still exists.

CSBS welcomes the opportunity to work with the FFIEC to assist in alleviating outdated an unduly burdensome regulations. Thank you for your consideration and we invite you to contact CSBS for any additional information or assistance.

Best personal regards,

Neil Milner

Neil Milner
President and CEO