

Statement of
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Comptroller of the Currency
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Committee on Financial Services
of the
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Chairman Frank, Ranking Member Bachus, and members of the Committee, I welcome this opportunity to discuss consumer protection. The OCC takes this responsibility very seriously, especially since retail banking has become a much larger part of the activities of national banks.

Frankly, our comprehensive approach to consumer protection – integrating guidance, supervision, enforcement, and complaint resolution – is not well understood. The fact is, consumer protection is a fundamental part of the OCC's mission, and we are not simply a safety and soundness regulator, as some have suggested. OCC supervision plays a unique and critical role in ensuring compliance with federal consumer protection standards. Our extensive and continual presence in national banks – from large teams of resident examiners at our largest banks to our frequent on-site examinations of our community banks – allows us to identify and fix consumer compliance issues early, before they become major problems.

As a result, our compliance regime is not “enforcement-only.” Instead, it’s better described as “supervision first, enforcement if necessary” – with supervision addressing so many problems early that enforcement often is not necessary. For this reason, the number of formal enforcement actions taken by any bank supervisory agency is a misleading measure of the effectiveness of its consumer compliance regulation. Yet when we have needed to take strong enforcement action, the OCC has not hesitated to do so – often providing new standards to protect bank customers.

The OCC also has developed a robust process for addressing consumer complaints. Our Customer Assistance Group integrates skilled professionals and up-to-date technology to redress individual problems, answer questions, educate consumers, and support our consumer compliance supervision.

While we believe this comprehensive approach is effective, it also has three significant limits: statutory limits, set by Congress; rule-writing limits, in that the OCC has no authority to write most consumer protection regulations; and jurisdictional limits, in that our authority extends only to national banks.

Let me also briefly share our view of the Supreme Court’s recent preemption decision. The *Watters* case does not mark a shift in prevailing law, but it does clarify responsibility and accountability. In particular, it makes clear that federal and state regulators both have important jobs to do, but they are different. Ours is to regulate and supervise national banks, for which we should be held accountable. Theirs is to regulate state-chartered entities, for which they should be held accountable. To those who argue that there should be both federal and state supervision of national banks, that there can

never be “too many cops on the beat,” I must respectfully disagree. We believe it’s counterproductive for states to focus their finite enforcement resources on national banks that are already heavily regulated – especially when there are lightly regulated state entities, like many subprime lenders and mortgage brokers, that clearly have been the source of real problems. You can indeed have too many cops on the same beat if it means leaving other, more dangerous parts of the neighborhood unprotected.

We believe consumers benefit most when the OCC and the states focus on our respective areas of responsibility and find productive ways to cooperate. The OCC is doing just that. For example, since last November we have reached agreements with 18 states to refer and share complaint information. Similarly, the OCC and the other federal banking agencies have cooperated with the states to extend the coverage of the nontraditional mortgage guidance and the proposed subprime lending guidance.

I’m also very pleased to announce another cooperative initiative today on mortgage brokers: parallel examinations of national banks, regulated by the OCC, and the mortgage brokers they use, regulated by the states. This intersection of our regulatory jurisdictions provides a real and useful opportunity to coordinate our efforts – especially given the recent criticism of mortgage broker practices. Though still in the early stages and limited in scope, both we and CSBS believe this new initiative shows real promise.

Finally, my testimony provides the following suggested improvements to federal consumer protection regulation: first, joint agency authority, including for the OCC, to write regulations defining “unfair and deceptive practices” applicable to banking organizations; second, a requirement that an agency charged with writing consumer protection regulations consult, before issuing such regulations, with the regulators

charged with implementing them; third, a requirement that consumer protection regulations be revised and updated more regularly than they are now, in order for the regulations to keep pace with change; and fourth, the development of a centralized website for complaints by consumers of any banking institution, regardless of charter, to help eliminate much of today's confusion.

Thank you very much; I look forward to your questions.