

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

May 11, 2007

The Honorable Ben S. Bernanke  
Chairman  
Federal Reserve Board  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

The Honorable John C. Dugan  
Comptroller  
Office of the Comptroller of the Currency  
250 E Street, SW  
Washington, DC 20219

The Honorable John M. Reich  
Director  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552

The Honorable Sheila Bair  
Chairman  
The Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429-9990

The Honorable Deborah Platt Majoras  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairman Bernanke, Comptroller Dugan, Director Reich, Chairman Bair, and Chairman Majoras:

We are concerned that recent developments are leaving American consumers vulnerable in the financial services marketplace, and seek your cooperation in strengthening federal-level consumer protections and enforcement.

Over the last several years the states, in the absence of strong federal action to enhance consumers' rights, have implemented a host of important specific protections for consumers. Among these are laws on transaction fees and surcharges, protections for gift cards, check cashing fees, certain credit card disclosures, payday lending, and high-cost mortgage lending. In addition, state regulatory and enforcement agencies have had the authority to address a wide array of abusive practices under state unfair and deceptive practices laws.

A series of regulatory actions, ratified by the recent Supreme Court decision in *Watters v. Wachovia*, has significantly reduced the application of state laws and enforcement over a large part of the financial sector. These developments bring into sharp relief an urgent need to rethink the way in which our financial regulators approach consumer protection going forward.

As Chairmen of the Financial Services and Energy and Commerce Committees, we hear frequently about deficiencies in the current regulatory regime. Among these are:

- A disjointed system that leaves many consumers with no idea where to turn when they have problems with a financial services provider. The process for contacting and dealing with federal regulators is cumbersome – average consumers don't know or care about the difference between a federal thrift and a national bank operating subsidiary, nor should they have to in order to get prompt resolution to their complaints.

- Consumers, and sometimes state regulators themselves, are frequently unable to determine what state consumer protection laws continue to apply when they have trouble with a financial institution's actions.
- Serious problems in the subprime mortgage market have produced a significant spike in foreclosures. A number of mortgage lenders have closed their doors or face serious financial difficulty due to dubious lending practices, and an unprecedented number of subprime borrowers facing the loss of their homes.
- Seemingly endless "innovations" in credit card marketing, billing, and other practices that at best confuse, and at worst abuse, consumers who usually seek nothing more than rates they can afford and terms they can understand.

These problems highlight the lack of clear federal policies and regulations to protect financial services consumers. Clear authority exists under the Federal Trade Commission Act and the Home Ownership and Equity Protection Act with regard to unfair and deceptive trade practices on the part of financial institutions. The FTC Act exempts banks, thrifts, and credit unions and the business of insurance from FTC regulation of unfair or deceptive acts and practices in or affecting commerce, meaning that the FTC cannot adopt interpretive rules or take enforcement actions against these institutions. However, the FTC Act states that the Federal Reserve, the Federal Home Loan Bank Board, and the NCUA shall prescribe regulations specifically defining unfair or deceptive acts and practices and mandating requirements to prevent them. The Act also states that the financial regulators shall establish consumer affairs divisions to receive and take appropriate action upon complaints with respect to unfair and deceptive practices by banks and savings and loan institutions. Despite this clear authority, formal rule writing by the agencies against abusive financial practices has been nearly non-existent, and consumers continue to suffer as a result.


It is imperative that the agencies to work together to develop a meaningful strategy for improving federal consumer protection for all financial consumers. We support FDIC Chairman Bair's suggestion before the Financial Institutions Subcommittee March 27 that the Fed "exercise rulemaking authorities it has under (HOEPA) to address abusive practices by all mortgage lenders, not just practices that relate to high cost loans." We would extend that suggestion much more broadly to include aggressive use of the regulators' authority under the FTC Act against unfair and deceptive practices, authority under various other statutes, and development of a streamlined system for handling individual consumer complaints in concert with state enforcement agencies. If such action is not forthcoming from the financial regulators, we will be forced to consider steps such as the removal of the exemption for financial institutions and regulators under the FTC Act.

We ask that you keep the Committees informed of the agencies' progress on this important effort.

Sincerely,



BARNEY FRANK  
Chairman  
Committee on Financial Services



JOHN DINGELL  
Chairman  
Committee on Energy and Commerce