

Statement of
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Comptroller of the Currency
Before the
Committee On Financial Services
of the
U.S. House of Representatives
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Chairman Oxley, Ranking Member Frank, and members of the Committee, I appreciate the opportunity to review the condition both of the national banking system and the Office of the Comptroller of the Currency and to discuss several other issues of particular significance. My written statement covers these topics in greater detail.

The national banking system – approximately 2100 financial institutions, holding 56 percent of all commercial banking assets -- is in excellent health. By historical standards, the system is exceedingly well capitalized: today all national banks, with minor exceptions, have risk-based capital above 8 percent, and less than one percent of national banks have risk-based capital below ten percent. In 2003, the national banking system set new earnings records, as measured by return-on-equity and return-on-assets.

National banks continue to play their traditional role as a key source of investment capital to America's businesses and communities. In 2002 and 2003, total bank loans grew by 7.8 percent and 7.6 percent, respectively. Consumer loans and loans backed by commercial and residential real estate have seen particularly buoyant growth. Consumers have tended to use funds from mortgage refinancing and home equity loans to pay off higher interest credit card and installment debt – a trend that has helped sustain overall consumer spending and that has been widely credited with having eased the duration and severity of the 2001 recession.

Credit quality today is also strong, particularly for this stage of the economic cycle. The OCC continues to monitor developments in areas that present vulnerabilities, such as small business lending and certain real estate markets and property types.

Let me now turn briefly to the condition of the OCC – an organization of some 2800 people, 1700 of them bank examiners in the field. Their skill and professionalism are recognized and respected – and, in my opinion, unmatched -- around the world. Our people work out of the OCC's Washington headquarters, the Ombudsman's office in Houston, and our four district offices, 49 field offices, or our 23 satellite locations in cities throughout the United States, and our examining office in London. In our large-bank program we have teams of full-time examiners on-site – as many as 35 or 40 in our very largest – who constantly monitor the condition of our 24 largest and most complex institutions.

The OCC receives no appropriated funds. Our funding is derived from assessments and fees received from national banks. We have focused on modernizing our financial operating systems and ensuring that we manage our financial resources wisely. The agency's budget has been balanced every year during my tenure as Comptroller, and we have been building our strategic contingency reserve to ease the impact of unforeseen disruptions to our operations or unexpected demands on our resources. Our present goal is to build the reserve to equal six months operating expenses, a goal we expect to achieve around the middle of 2005.

The OCC's financial condition and the strength of its resources have taken on wider significance in light of some questions that have been raised about whether the OCC has sufficient resources to assure adequate protection for customers of national

banks and their subsidiaries. These questions have been raised in the context of our recent regulations relating to the applicability of state laws to national banks and the role of state officials in enforcing consumer protection laws against national banks and their subsidiaries.

I would be pleased to discuss these regulations in further detail, but let me state emphatically that neither regulation involves any fundamental shift in regulatory roles or responsibilities; neither alters the OCC's continuing commitment to consumer protection; and neither should impose new or unmanageable burdens on our enforcement and compliance resources.

We are proud of our long record of protecting consumers against abusive and unfair banking practices, and developing supervisory innovations that have advanced that goal – innovations that have been emulated by other financial regulatory agencies. We have pioneered use of section 5 of the Federal Trade Commission Act as a basis to take administrative enforcement actions against unfair and deceptive practices; thwarted payday lenders in their strategy to evade state laws through alliances with national banks; secured millions of dollars in direct restitution for consumers; developed comprehensive supervisory guidance to warn banks of the consequences of engaging in predatory lending; adopted special procedures to assure full and prompt consideration of customer complaints referred to us by state officials; and much more.

Indeed, our new preemption rule materially strengthens our ability to fight predatory lending by prohibiting national banks from making any consumer loan based predominantly on the foreclosure or liquidation value of a borrower's collateral, and disregarding the crucial question whether the borrower can afford the loan. And our

advisories on predatory lending caution banks that if we find evidence of abusive practices, it will be taken into account in evaluating the institution's CRA performance.

At the OCC, consumer protection is a longstanding, integral part of our mission. Over 100 OCC examiners throughout the country are compliance specialists; they not only perform detailed compliance examinations, but also serve as expert advisors on consumer protection issues to other examiners. And our 1700 person-strong field examination staff is backed by dozens of attorneys.

I might point out, by way of comparison, that state banking departments collectively supervise approximately 113,000 entities, of which approximately 6,000 are commercial banks. For all these entities, the Conference of State Bank Supervisors reports that the states have a total of 2,308 examiners at their command. In other words, if each and every state examiner spent 100 percent of their official time examining commercial banks – leaving all 107,000 savings banks, thrifts, credit unions, mortgage bankers, payday lenders, check cashers, pawnshops, and sundry other financial providers that variously fall under state authority entirely unsupervised -- the OCC's supervisory resources would still outstrip those of the states. The chart attached at the end of my written statement illustrates the comparison.

Supplementing the work of our examining corps is our Customer Assistance Group, or CAG, which is co-located with the OCC's Ombudsman's Office in Houston. In 2003 this world-class operation processed more than 70,000 complaints from bank customers in a prompt and sympathetic manner.

While some have mistakenly concluded that CAG is the means by which we carry out our enforcement and compliance responsibilities, that is not at all the case.

Enforcement and compliance remains – first and foremost -- the responsibility of our large battery of examiners and attorneys. But CAG is a very important adjunct to that resource.

The OCC also cooperates with state authorities to accept referrals when the states receive a complaint regarding a national bank, and we make referrals to state authorities when we get a customer complaint regarding a state-supervised institution. In 2003, state agencies made some 6500 referrals to us, while the OCC made close to 14,000 referrals to state and other federal agencies. Obviously, the OCC and the states are already working together on a routine basis to help bank customers resolve their issues, and we would like to build on this foundation.

To that end, we have invited state bank supervisors and state Attorneys General to visit our Houston office to learn more about how the OCC handles consumer complaints. We have established special procedures to handle and track referrals from state authorities concerning national banks alleged to have engaged in abusive or predatory practices. We issued a new advisory letter to national banks clarifying our expectations about how they should handle consumer complaints forwarded to them by state agencies, and have made it clear that we will not look kindly upon a bank that cites the OCC's exclusive visitorial power as a justification for not addressing the complaint. And we have proposed a model memorandum of understanding to facilitate the sharing of information about consumer complaints, with the intent of providing effective coordination of enforcement activities with state agencies.

By coordinating resources and working cooperatively with the states, we are convinced that we can maximize benefits to consumers, close gaps between existing

consumer protection laws, and most effectively target financial predators. We welcome further dialogue with the states to explore these goals.

Finally, let me say a few words about the Basel II process. This is an enormously complex and important project, and the OCC has been deeply involved in it for more than five years. There are still some important issues to be resolved as we approach the Basel Committee's target date of mid-year 2004 for the release of a "final" paper, and we will continue to work hard on those issues.

The important thing to understand about this process is that it is far from over. Before we adopt final implementing regulations for national banks there are a number of important domestic processes that need to be completed. First, we must complete a new Quantitative Impact Study, as we promised this Committee, so that we will have a much sounder basis for estimating the actual impact of Basel II on the capital of our banks. Second, we must complete the economic impact analysis required by Executive Order 12866, so that there will be a much clearer understanding of the implications of Basel II for our economy. Third, we need to continue the dialogue with this Committee and its counterpart in the Senate on the progress of this process and the issues that have been raised. Finally, we must draft and then put out for comment our final implementing regulations.

I am confident that as this process moves ahead we will uncover a great many more issues that will require us to go back to the Basel Committee for appropriate responses, and I also feel confident that the current implementation date of year-end 2006 will be difficult, if not impossible, to realize.

Let me say, Mr. Chairman, that the interest and involvement of this Committee in this very difficult process has been of enormous value to us. Other members of the Basel Committee have followed very closely the proceedings of this Committee and the public statements of its members on Basel II. This has not only strengthened our hand in the negotiation process, but has sent the message that our legislators intend to have an important role in the oversight of the process. For this, we are very grateful.

In conclusion, Mr. Chairman, the national banking system is sound and its recent performance has been strong. It has successfully weathered the recent recession, and it is responding in dynamic fashion to changes in the financial services marketplace. The OCC, too, is keenly focused on keeping pace with change. We look forward to working productively with you, with members of this Committee, and with state officials as we pursue our efforts to achieve that goal.

Mr. Chairman, I wonder if I might take one additional moment to pay tribute to those employees of OCC who have been called to active duty in Iraq, and particularly to four members of our staff who volunteered to go to Iraq as part of the U.S. team that is helping to rebuild that country. These courageous OCC staffers are working on the rehabilitation of the Iraqi banking system and are doing a fantastic job. They are in harm's way every day, but they are demonstrating real dedication. We are enormously proud of all of our OCC colleagues serving in Iraq.