

*Remarks of John M. Reich, Director
Office of Thrift Supervision
To the National Bankers Association, Durham, N.C.
October 11, 2007*

Good Morning. It is a pleasure to be with you again today. Thank you for inviting me and congratulations to all of you on the NBA's 80 years of playing an essential role in supporting the work of minority- and women-owned depository institutions across the nation. Each day, in many tangible and intangible ways, the NBA strives to forge alliances among its members and to advance their strategic business goals and objectives.

As many of you know, Major R.R. Wright—head of Citizens and Southern Bank and Trust Company in Philadelphia—convened a meeting of African-American bankers in September 1926 that led to the establishment of this great organization. The following year—1927—Wright and C.C. Spaulding, president of the North Carolina Mutual Insurance Company, led the formation of what was then known as the Negro Bankers Association. Initial membership totaled 14 African-American banks.

Today, this organization—which was renamed the National Bankers Association in 1948—is the premier trade association for the nation's 103 minority- and women-owned banks in 29 states and two U.S. territories. Member institutions have more than three million depositors, employ more than 15,000 people and hold aggregate assets of more than \$31 billion. If Major Wright were alive today, he would be beaming with pride at the results of his efforts 80 years ago.

OTS Highlights

I take a similar kind of pride as I look back at my first two years at OTS and reflect on what we have been able to accomplish so far. Like you, I feel our future is bright and full of promise. Since my August 2005 swearing in, I have set about to revitalize our agency. We have expanded the agency's workforce, which now stands at nearly 1,100, and—as I mentioned in my remarks to you last year in Las Vegas—bolstered our supervisory expertise in compliance and consumer protection. Some of you already know we have reestablished our Central Region office in Chicago to better serve the needs of the five states in that region – Indiana, Illinois, Michigan, Ohio and Wisconsin. And we have continued to solidify our financial position. Assets under OTS supervision total \$1.5 trillion and continue to grow. In fact, industry assets have grown more than 55 percent in the last five years, an indication of the vibrancy of the thrift industry and the value of the thrift charter for operating in today's increasingly complicated and competitive financial services environment.

The Future of Community Banking

The competitive environment among financial services businesses today brings me to a topic I often emphasize during public appearances—the future of community banking in America. I feel a particular affinity with minority bankers like you because I am a former community banker. Our shared experience makes us keenly aware of the important role community banking plays in strengthening neighborhoods by providing critical financial services and promoting economic development. Community banking is about service, belonging, and doing something to make a difference in people’s lives. It is one of the forces that tie a community together and because of that role, it is important—as I am sure you realize.

I am concerned today that mergers and acquisitions involving community banks have placed community banking at a crossroads and its future is by no means certain. Some of you have probably already experienced this, and it may have even brought you to your current position. What concerns me most is that this M&A activity is often motivated by government created market pressures that increase regulatory burden and unfair competition that is squeezing our community banks. We need to remain sensitive to these pressures and to continue our work to reduce regulatory burdens, particularly on small community banks.

OTS Support for Minority Institutions

When I visited with you last year, I mentioned the efforts that we are making to support community banks, and minority-owned institutions in particular. This morning, I will update you on these efforts.

We have continued to expand our outreach initiatives by taking the OTS booth to minority-focused conventions, conferences and trade shows, including the interagency Conference for Minority Depository Institutions in 2006 and 2007 and, just last month, the annual legislative conference of the Congressional Black Caucus. These kinds of conferences give us a forum for explaining our program for minority-owned institutions and for discussing the OTS charter with minority entrepreneurs. We also displayed the OTS booth at the Multicultural Business Symposium in early August sponsored by the Black Business Professionals & Entrepreneurs. There, I hosted a private meeting with executives of minority-owned institutions we supervise to determine how to expand support through education, training, technical assistance and other avenues.

We have also enhanced our tools for gathering feedback from our minority institutions by designing a survey specifically for minority savings associations. We expect to roll this out in the coming weeks.

Last year, I announced here that we would be realigning our Community Reinvestment Act regulations and policy guidance to provide uniformity with the other federal banking agencies. In March, we published a final rule revising four areas of our CRA regulations to reestablish this uniformity and we are currently reviewing comments on proposed guidance on CRA-related Q&As to bring uniformity among the regulators on CRA policy.

The OTS has also joined the other banking regulators in proposing guidance to permit non-minority-owned financial institutions to receive favorable CRA consideration for investing in minority-owned institutions to help meet the credit needs of the communities they serve. Most significantly, the minority-owned institution need not be located in, and the activities need not benefit, the assessment area of the non-minority-owned institution, or even be in the same state or region as that assessment area. This is an important addition to the CRA regulations and gives full effect to the statutory intent of CRA. By talking with many of you, I have become keenly aware of the assistance you provide to low- and moderate-income people, so I thought you would be interested to hear that the proposed guidance would also give CRA consideration to institutions for providing counseling services to help borrowers avoid foreclosure.

Institutions may also receive favorable CRA consideration for programs that move low- and moderate-income borrowers from higher cost loans to lower cost loans, consistent with safe and sound practices. By talking with you, I know this is something you do every day.

Conditions in the Capital Markets

Now, I would like to turn to events that have dominated business news in recent months—the significant challenges the financial services industry, the markets, and the entire global economy have been facing. Although federal savings banks are feeling some effects from the current market liquidity squeeze, housing slowdown, and increase in home mortgage delinquencies, the industry as a whole remains sound with strong capital, solid earnings and profitability, and adequate provisions for loan losses. These three pillars provide a firm foundation for withstanding current adverse conditions. Two themes I want to stress as I talk about these conditions are the need for greater *transparency* and the need for a *level playing field* for all entities in the mortgage sector.

Current conditions include disruptions in the capital markets, which pose serious challenges to the institutions we regulate. Some institutions are being stressed due to the struggling performance of certain mortgage product lines, particularly adjustable-rate mortgages for subprime borrowers. Recent problems have also affected Alt-A loans and some prime loans, particularly jumbo loans not eligible to be purchased by Fannie Mae and Freddie Mac.

In the capital markets, volatility in August reached levels not experienced since the terrorist attacks on 9/11. Credit problems in the subprime markets quickly led to a liquidity crisis that hit all facets of the markets, including those considered among the most liquid. The speed at which liquidity deteriorated was unprecedented. Problems in the subprime market led to downgrades by rating agencies; and news of mortgage lenders shutting their doors caused demand for asset-backed commercial paper to disappear virtually overnight. And many lenders experienced funding difficulties due to their inability to roll over maturing commercial paper.

Investors' difficulty in getting reliable information to evaluate mortgage-backed securities also caused problems. Investor confidence in credit ratings deteriorated, making credit analysis difficult and time consuming. So there was a lack of *transparency*: Investors did not have a firm enough grasp on what they were buying—and of the accompanying risks.

As a result, the number of mortgage loan originations has dropped considerably. However, the capital markets are adjusting and, although liquidity has not returned to normal, the situation has calmed. But the credit markets remain a concern for large financial institutions facing an environment of volatile interest rates and risk aversion by investors.

While we fully expect thrifts to withstand this period of stress, we cannot be certain precisely what events will transpire. Volatility in the capital markets can have far-reaching effects, and its impact and duration are always difficult to gauge.

Conditions for Consumers

Current conditions have also caused difficulties for consumers—not only for many subprime borrowers but also for anyone else trying to sell or buy a home. Again, a lack of *transparency* has been a significant issue—transparency for mortgage lenders about the true creditworthiness of many subprime borrowers and transparency for consumers about the true terms of their mortgages. This lack of transparency has helped to feed the problems in the capital markets, fueling investors' fears about investments related to real estate.

As a financial regulator, the OTS is charged with ensuring the safety and soundness of OTS-regulated thrift institutions, and also with ensuring consumers are treated fairly. We work to protect consumers from being short-changed as they seek to achieve the American dream of homeownership and as they engage in other transactions with the institutions we regulate. Currently, a number of borrowers are struggling to meet their mortgage payments—some facing the imminent threat of losing their homes.

Some borrowers share blame for their current troubles because they bought homes they knew they could not afford or attested to inflated personal income amounts. There were also speculators who tried to “flip” properties they never intended to occupy. At the same time, there are borrowers who—through no fault of their own—are facing delinquencies and potential foreclosures. Some have experienced personal setbacks that are traditionally among the root causes of foreclosure, and others were put into loan products that were inappropriate for their financial circumstances. We must ensure that, in trying to prevent foreclosures, we do not reward the wrong types of behavior and provide the wrong incentives.

As we focus on preventing foreclosures on creditworthy borrowers, we need to maintain an important perspective and avoid blurring the line between subprime lending and predatory lending. While we want to prevent predatory lending, we do not want to restrict legitimate subprime lending. Problems with subprime lending arise when mortgage loans are granted to borrowers who cannot afford them, either because they lack financial resources to own a home or because loan terms make a particular loan unaffordable. Poor loan underwriting is a problem, as is predatory lending. But subprime lending, by itself, is not the problem.

Although we can all agree that not everyone should own their own homes, the increase in homeownership in this country has generally been viewed very favorably. Homeownership is the bedrock of strong communities. I have seen statistics showing that homeownership increased by more than half from the end of World War II to the height of the recent housing boom in 2005, when it peaked at nearly 70 percent of families. As we have seen, that peak is not sustainable. Having said that, it is also important to note that the overwhelming majority—84 percent—of subprime mortgages in this country are being repaid on schedule. As a regulator, I want to be sure that in attempting to avoid foreclosures, stop mortgage lending abuses and reassure the capital markets, we do not cut off credit to worthy borrowers.

We should also remember a fact of particular interest to this organization—that credit has been increasingly available to minorities in the last 15 years. This availability of credit, coupled with sound underwriting for mortgage loans and fair lending practices, firmly supports the NBA’s goal of building strong minority communities.

What the OTS is Doing

Now that I have discussed market problems, financial institution challenges and consumer issues, I would like to turn to solutions—not only solutions currently under way but also possible solutions for the future.

We have already issued important interagency guidance to our regulated institutions and for our examiners on adjustable-rate mortgages and subprime lending. We have also provided educational materials for consumers on these subjects. We issued interagency statements urging institutions to work with troubled borrowers to avoid foreclosure. And just last month, the federal banking agencies, along with the Conference of State Bank Supervisors, issued guidance urging regulated institutions that service securitized residential mortgages to determine the full extent of their authority under pooling and servicing agreements to identify borrowers at risk of default and to pursue appropriate loss mitigation strategies to preserve homeownership.

I also want to ensure that regulated financial institutions that abide by the rules of home mortgage lending are not put at a competitive disadvantage by largely unregulated mortgage brokers and mortgage lenders. We have suggested to Capitol Hill that the time has come for a more structured regulatory regime to apply to these segments of the home mortgage market. The Conference of State Bank Supervisors is a strong advocate of

uniform licensing standards and national registration of mortgage brokers and loan originators. We support CSBS's efforts in conjunction with the American Association of Residential Mortgage Regulators to establish a national licensing system for mortgage brokers and originators.

Another factor to consider is that the OTS has extensive expertise in the oversight and supervision of mortgage banking operations. I believe this expertise could benefit the currently unregulated mortgage banking market.

American consumers deserve basic protections when they make the largest investment of their lives and we, as public servants, have a responsibility to do our best to provide those protections. *Transparency* and accountability in the mortgage origination and funding processes—as well as a *level playing field* for all entities in the home mortgage sector—will provide these much needed protections.

Unfair or Deceptive Acts or Practices

The last item I will address with you today involves an important OTS initiative to explore greater consumer protections and greater *transparency* and clarity to our regulated institutions. In August, the OTS released an Advance Notice of Proposed Rulemaking, or ANPR, seeking public comment on approaches we might consider in expanding our regulatory authority to address unfair or deceptive acts or practices in the thrift industry. The comment period ends November 5 and I invite each of you to use the opportunity presented by this comment period to let us hear your views.

The ANPR solicits comments on a wide variety of acts or practices that the OTS could prohibit as unfair or deceptive under the Federal Trade Commission Act and the Home Owners' Loan Act. These prohibitions could be applied not only to regulated thrifts, but also to their subsidiaries, affiliates and holding companies.

The ANPR reviews approaches taken by some states through anti-predatory lending laws and approaches by other federal agencies to define and prohibit unfair or abusive lending practices. We are also seeking comment on principles we should consider in determining whether a product or practice is unfair or deceptive, and whether we should consider specific practices unfair or deceptive.

We know the ANPR does not contain an exhaustive list of the issues the OTS might consider, so we are inviting comment on any other issues related to unfair or deceptive acts or practices, including what steps OTS might take instead of further rulemaking in this area—or in addition to it.

We fully recognize that consumers and the financial services industry benefit when federal banking regulators work together to issue consistent rules and guidance, so we plan to share comments we receive on the ANPR with the other federal banking agencies to move toward a goal of interagency consistency in this area. Again, I encourage you to participate in this process.

National Housing Forum and Closing

Before concluding, I want to invite you to join us on December 3 for the second annual National Housing Forum in Washington at the National Press Club. Once again, we will convene some of the nation's leading experts to discuss and debate many of today's most critical housing finance issues. You can find details about this event on the OTS home page.

Thank you again for the opportunity to speak to you today. I am happy to answer your questions as time permits.