

Statement of  
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Before the  
Committee on Banking, Housing, and Urban Affairs  
of the  
U.S. Senate  
June 22, 2004

Chairman Shelby, Ranking Member Sarbanes, and members of the Committee, the Office of the Comptroller of the Currency welcomes the opportunity to contribute to this discussion of the problem of regulatory burden on banks. I also want to take this opportunity to express appreciation to Senator Crapo for his commitment and dedication to this issue. By working together to identify and eliminate costly and unnecessary rules and regulations, Congress and the regulatory agencies help to ensure that that the banking public is served efficiently and effectively.

Unnecessary regulation imposes both direct and indirect costs. When unnecessary regulatory burdens drive up the cost of doing business for banks, bank customers feel the impact in the form of higher prices and, in some cases, diminished product choice. Unnecessary regulatory burden also can become an issue of competitive viability, particularly for our nation's community banks, where bankers face competitors that offer comparable products and services but are not subject to comparable regulatory requirements.

This is a challenge that we must confront on several levels. First, when regulators adopt regulations, and as we review the regulations we already have on the books, we have a responsibility to ensure that regulations are effective to protect safety and

soundness, foster the integrity of bank operations, and safeguard the interests of consumers. We also have a responsibility to regulate efficiently, so that we do not impose regulatory burdens that are unnecessary to achieve those goals, and which then act as a drag on banks' efficiency and competitiveness. In the first portion of my written testimony, I summarize initiatives the OCC has undertaken in the past decade, and the efforts in which we are currently involved on an interagency basis, to review and revise regulations to reduce unnecessary regulatory burdens stemming from our rules.

Second, there are regulatory burden reduction initiatives that must come from Congress in the form of federal legislation – adding provisions to law to provide new flexibilities, modifying requirements to be less burdensome, and in some cases, eliminating certain requirements currently in the law altogether. This hearing today is a crucial stage in that process, and we and the other witnesses you will hear from have a number of suggestions to offer. My written testimony highlights several of the OCC's priority recommendations for legislative changes, and an Appendix to my testimony contains a more extensive set of suggestions.

Finally, it is important to recognize that many of the areas that are often identified as prospects for regulatory burden reduction involve requirements put in place by Congress for the protection of consumers. Over the years, those requirements have accreted, and in the disclosure area, in particular, consumers receive disclosures so voluminous and so technical that many simply don't read them – or when they do, don't understand them.

At some point as we continue our efforts to address regulatory burdens, we are going to run out of discrete fixes to make, and face more fundamental questions about

basic approaches. If we were to undertake that task, and do it responsibly, we need much better data on the costs resulting from particular regulatory requirements, and the benefits of those requirements – particularly relative to other approaches that might be used to achieve Congress’ goals – than we have now. I would urge the Committee to consider what sort of information and analysis would be needed as a foundation for such an undertaking.

Congress took an important step to address the challenge of unnecessary regulatory burden in 1996, when it passed the Economic Growth and Regulatory Paperwork Reduction Act, or EGRPRA. As you know, section 2222 of that Act requires the regulatory agencies to conduct a review of all pertinent regulations every 10 years, in order to identify outdated and superfluous regulatory requirements. That review is now underway, under the very capable and dedicated leadership of Vice Chairman Reich of the Federal Deposit Insurance Corporation.

In addition, the OCC constantly reviews its regulations to identify less burdensome ways for national banks to comply with applicable national banking laws in a manner that is both safe and sound and consistent with the interests of bank customers. In addition to comprehensively reviewing our entire rulebook and making numerous changes to our regulations in recent years, earlier this year, the OCC finalized a rule that allows national banks to file licensing applications electronically, utilizing the agency’s new electronic filing system, called e-Corp. This ruling materially reduces the paperwork burden on national banks and promotes efficiency in the OCC’s regulatory processes.

Ultimately, however, some important forms of regulatory relief require changes in Federal law. My written testimony describes a number of areas that we urge the Committee to consider at this time. To highlight just a few:

As both national and state banks seek to establish branch facilities to enhance service to customers, a change that would reduce burden would be to repeal the state opt-in requirement that blocks banks from expanding interstate by establishing branches *de novo*. In many cases in order to serve customers in multi-state metropolitan areas or regional markets, banks must, under current law, structure artificial and unnecessarily expensive transactions in order to establish a new branch across a state border.

We also urge that directors of national banks that are organized as Subchapter S corporations be allowed to satisfy their directors' qualifying share requirements in the law by purchasing subordinated debt instead of capital stock. Such an amendment would enable directors to continue holding a personal stake in the financial soundness of the bank without jeopardizing the 75-shareholder limit that applies to Subchapter S corporations.

Another change that would provide valuable simplification for national banks and federal thrifts would be clarification that, for purposes of determining Federal court diversity jurisdiction, national banks and federal thrifts are citizens only of the state in which these institutions have their main office. This would eliminate the confusion that currently exists on this issue – confusion that imposes unnecessary burdens and costs on these institutions when they are involved in litigation.

One last change I would mention here is an amendment to the International Banking Act of 1978 to allow the OCC to set the capital equivalency deposit (CED) for

Federal branches and agencies to reflect the risk profile of the branch or agency. This would clearly be preferable to the one-size fits all approach currently in place and would create a framework for capital adequacy standards for Federal branches and agencies that closely resembles the risk-based capital framework now applicable to domestic banks.

Mr. Chairman, on behalf of the OCC, we very much appreciate your efforts today – and in prior years – to identify ways to reduce unnecessary burden on the banking industry while preserving safety and soundness and looking out for the interests of bank customers. The changes I have touched on today, and more that are detailed in my written testimony, we believe, will advance those goals. We look forward to working with you and your staff on these issues.

I would be happy to answer your questions.