



NEWS RELEASE

Comptroller of the Currency
Administrator of National Banks

NR 2004-13

FOR IMMEDIATE RELEASE
February 12, 2004

Contact: Robert M. Garsson
(202) 874-5770

OCC Chief Counsel Julie L. Williams Explains New Preemption Rules, Urges Cooperation Between States and OCC

SAN ANTONIO – Julie L. Williams, Chief Counsel and First Senior Deputy Comptroller for the Office of the Comptroller of the Currency, described the OCC's recently issued preemption regulations in a speech today, and emphasized the importance of continuing cooperation between the states and the OCC in furthering consumer protection with respect to the institutions they regulate.

“Our jurisdiction over national banks and their subsidiaries should not and does not deprive State regulators of a role in protecting consumers in their States, and we would like to work cooperatively with them to further that goal,” Ms. Williams said in a [speech](#) before a conference of bank lawyers sponsored by the Independent Bankers Association of Texas and the Texas Savings and Community Bankers Association.

Already, she said, the OCC and the states are cooperating in a number of ways, such as sharing information about consumer complaints and referring them to the appropriate regulator.

“Personally, I continue to hope that we can move beyond the rhetoric of the current controversy and leverage off these existing cooperative processes to put our collective resources to work to maximize their coverage,” she said, alluding to recently issued rules pertaining to preemption and the OCC's exclusive authority to supervise national banks.

Those rules have been misunderstood in some quarters, Ms. Williams said. For example, the preemption regulation applies to lending, deposit-taking and other national bank activities, but it does not grant national banks new powers, such as real estate brokerage, nor does it insulate banks from complying with anti-discrimination laws or state laws in such areas as contracts, torts, taxes or generally applicable criminal statutes.

While the regulation also puts in place tough standards to combat predatory lending and other abusive practices, Ms. Williams noted that some have asked if it would not be better to also apply state and local laws to national banks on the grounds that more regulation and more regulators will produce a better result.

That approach would only be justified, she said, if there has been a failure of the current regulatory regime, but that is not the case with national banks.

“Clearly predatory lending is a problem in this country, but national banks and their subsidiaries are not where those practices are festering,” she said, noting that national banks and their subsidiaries are highly regulated and closely supervised. Additional layers of regulation would bring added costs, which could lead to higher prices for consumers and diminished credit availability.

Adding additional regulators also has serious implications for consumer protection, Ms. Williams said. State Attorneys General have responsibilities for prosecuting Medicaid fraud, organized crime, environmental law violations and a whole range of criminal activity and abuses that have nothing to do with banking. State bank departments supervise not just banks, but finance companies, credit unions, industrial loan companies, mortgage brokers, pawnshops and a host of other types of financial institutions.

“Setting aside for the moment the issue of whether State officials have the *legal authority* to take actions against national banks and their subsidiaries, when State authorities insist on trying to put a State cop on the national bank beat, especially in today’s financially challenged environment, that’s probably one less State cop available to protect the State’s consumers in connection with all the other potential sources of problems those consumers face,” she said.

“This is one reason why I regret that the most conspicuous response to our new regulations by State officials has been to assert that they will still try to employ their resources to take actions directly against national banks and their subsidiaries, even with respect to core banking activities, such as lending,” Ms. Williams added. “The net result, I think, is unfortunate because it diminishes the availability of precious resources to protect consumers in *other* areas – other areas where there is evidence of predatory lending – other areas that are not as highly regulated as the banking business.”

Ms. Williams said national banks must also recognize that the benefits of being able to operate under uniform, consistent and predictable standards creates obligations on their part.

“With preemption also comes responsibility, and this is a timely opportunity for national banks as well as State banks to recommit to the highest standards of customer service, integrity, and fair play in their business,” she said.

“The *very best* way to counter the controversies that I have just discussed and preserve the benefits of preemption for the banking business as a whole is for bankers to be leaders in responsible corporate behavior and exemplary customer treatment,” she added.

###

The OCC charters, regulates and examines approximately 2,100 national banks and 52 federal branches of foreign banks in the U.S., accounting for more than 55 percent of the nation’s banking assets. Its mission is to ensure a safe and sound and competitive national banking system that supports the citizens, communities and economy of the United States.