

Remarks by
John Walsh
Acting Comptroller of the Currency
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Good morning. It's a pleasure to be here with you today and have this opportunity to talk about the major regulatory issues that are now before us. A year ago at this time, we were in the midst of the legislative process, awaiting Senate action on the Dodd-Frank Act. Rather than the Senate serving as George Washington's famous saucer to cool the hot tea of the legislative process, it proved to be a boiling pot of amendments and new approaches to financial industry reform. But as profound as last year's legislative outcomes were for the industry, the way in which we implement the law will be equally important, not just for banks and thrifts, but for your customers, the housing market, and our nation's economy overall.

I know that Dodd-Frank doesn't have a lot of fans in banking circles today, but let me start off by pointing out the new tools it provides that should help us avoid problems in the future. For example, the Financial Stability Oversight Council, better known as FSOC, offers a real opportunity to identify key risks across the entire financial system. I know that many have questioned whether another interagency council can really be the answer to tackling critical risk issues, but much of the criticism has focused on what has occurred in the Council's first few open meetings. As you can imagine, discussion of the most sensitive issues occurs in the closed discussions, where the participants can speak

candidly without worrying that their comments might be misinterpreted. The National Security Council never meets in public session, yet no one questions this because there is no expectation that sensitive national security information would be discussed publicly. While the Council is still in its infancy, I believe it is off to a good start and that it will prove to be an important mechanism for identifying and managing systemic risk.

Another key improvement is enhanced resolution authority to address large, systemic institutions. Many doubt whether the too-big-to-fail doctrine has really ended, as there are certain to be future situations when the government is called upon to support the financial system during a crisis. That may prove to be true, but it is nonetheless critical to the safety and efficiency of the financial system that the management and stakeholders of every financial institution, no matter how large and complex, know that it can fail. Enhanced resolution authority provides the government a critical new capability in this area.

The law addresses many other issues implicated in the financial crisis – lack of skin in the game in securitizations and flawed credit ratings – and makes a number of major institutional changes – integrating the OTS into the OCC and creating a new consumer bureau. In such a large piece of legislation, developed as it was by different committees of jurisdiction and task teams, there are bound to be conflicting mandates and unintended consequences, and there are parts of Dodd-Frank that will be a challenge to implement sensibly. In some cases, we have asked Congress to take a second look at some of Dodd-Frank's requirements with an eye toward technical fixes or very narrow, substantive changes. I suspect many of you would suggest that Congress take a second look that goes a whole lot farther than that, but there is no evidence of any sort of

consensus on Capitol Hill for making significant changes. To be honest, I doubt there is much prospect for even a technical corrections bill this year.

So, I think it's important for all of us to approach Dodd-Frank implementation as the art of the possible – what can we do through the rulemaking process to make sure the law works as efficiently and effectively as possible? And, in a very selective way, what provisions should we ask Congress to take another look at?

At the OCC, we are taking a balanced approach that is sensitive to Congressional intent, mindful of safety and soundness, but conscious of the fundamental role that banks play as engines for a healthy economy by taking on and managing risk. Excessive regulation can create unnecessary costs that will ultimately be borne by bank customers, either directly or through reduced lending.

So what can we do as regulators to maximize the benefits and minimize unintended costs of the Dodd-Frank Act? One way is to minimize the disruption of the institutional changes brought about by the Act. The biggest operational challenge facing the OCC is to integrate most of the staff and supervisory functions of the Office of Thrift Supervision into our agency. We're proud to have this new responsibility for an industry that has helped so many Americans realize the dream of home ownership over the years, and are well on our way to completing the process by the statutory transfer date of July 21. I feel comfortable in saying that, for the federal thrifts that will be supervised by the OCC, the process will be almost entirely seamless.

We are also at work on the transfer of supervisory and rulemaking authority from the banking agencies to the new consumer bureau. The consumer bureau will have supervisory responsibility for banks with over \$10 billion in assets, and regulatory

authority for the industry as a whole on a wide range of consumer financial issues. As the bureau moves toward its start up, we are committed to a smooth transition of supervisory responsibilities for the larger banks and hopeful that the bureau will bring bank-like consumer supervision to the non-bank financial providers that have up until now escaped serious oversight.

One of the challenges we are working on with the Bureau is to establish a constructive working relationship that emphasizes consultation and cooperation. This will be necessary to ensure seamless consumer protection without undue regulatory burden on financial providers, but also to give voice to safety and soundness concerns when consumer protection intersects with the prudential matters under our authority. I've met several times with Professor Warren, who is overseeing the launch of the CFPB, and we are working through these issues.

The same requirement for cooperation applies to other agencies that received new responsibilities under the Dodd-Frank Act, including the CFTC and SEC. It is clear from some of the rulemakings that we will have overlapping areas of responsibilities. If we don't coordinate our efforts, we'll be enforcing competing rules and bumping into each other during examinations. That's not good for the financial institutions we supervise, and it's not good for the public that we serve. So, we'll have to develop protocols and procedures to minimize the burdens that come from dealing with multiple regulators.

We can achieve effective coordination with other agencies through planning and communication. However, other provisions in Dodd-Frank pose greater substantive challenges.

One example is the limits that the bill set on interchange fees. Congress intended for this provision to apply only to large banks, and included specific language exempting smaller institutions. However, smaller banks are concluding that they will effectively be bound by the limits. The Federal Reserve has proposed a rule that would allow interchange fees that range from 7 to 12 cents per transaction. We have filed a comment letter that takes the position that the Fed took an unnecessarily narrow view of the costs that can be counted under the law and urging the board to take advantage of the greater flexibility the law allows.

Another very difficult challenge is posed by a Dodd-Frank provision on credit ratings that instructs the banking agencies to strike all references to the use of credit ratings from their regulations. We are engaged in a rulemaking process to implement this provision, but quite frankly, many of our capital regulations and standards for permissible investments for national banks will be rendered unworkable if all references to credit ratings are removed and I don't see any solution without a fix by Congress.

This is not an argument that the credit rating agencies should be protected from past failures. Clearly their valuation of structured financial products was seriously flawed, and there were serious problems of overreliance on ratings by financial institutions and regulators. But traditional credit ratings have a solid track record and play a very constructive role in our regulations. Indeed, the Basel capital framework, which we are just now in the process of implementing, relies extensively on credit ratings. And more important for this audience, the OCC uses ratings to help determine what types of investments are permissible for national banks.

Making investment and capital decisions without reference to ratings would involve due diligence that would be extremely burdensome. While eliminating ratings is not sensible for banks of any size, it is a burden that will fall disproportionately on smaller banks.

I have raised this issue several times in testimony, and many more times in meetings with members of Congress and staff. There has been sympathy for our argument and we intend to continue to pursue it in hopes that Congress will make a narrow fix so we can proceed with implementing the Dodd-Frank and Basel III capital rules.

Despite these problems areas, other rule writing required under Dodd-Frank is moving forward. For example, we are very close to putting out for comment a proposed rule implementing the risk retention requirements of Dodd-Frank – as you no doubt have read in the newspapers. Dodd-Frank requires securitizers to retain a share of the credit risk in the loans they securitize. That interest can be no less than 5 percent, although there are exemptions for loans that meet high underwriting standards. In the case of mortgages, there is an exemption for “Qualified Residential Mortgages” that will be subject to rigorous requirements for down payments, debt-to-equity ratios, and other traditional underwriting benchmarks.

Since we are not yet ready to publish this proposal, I’ll be limited in what I say this morning. However, I think it’s vital that we craft a final rule that does not impede the revival of the securitization markets. We will be hard pressed to fund the needs of American consumers, particularly in the area of housing, without securitization, and right now it’s hard to find a sign of life in that industry.

While the point of the risk retention provision was to improve underwriting, the proposal will also address certain aspects of how mortgage loans are serviced that are connected to the risk of default on the mortgage loan. As you'll see – no doubt you've already read – we agreed to include this type of focused servicing standard as part of the QRM criteria. Issues involving mortgage servicing are very much in the news these days, but you should keep in mind that the QRM exemption only addresses a small part of the market – very high-quality mortgages that are pooled and securitized by bank servicers.

Addressing the range of problems that have emerged in the mortgage servicing industry is going to require a more comprehensive effort. Given the abuses we've seen, I believe that comprehensive, nationwide servicing standards are essential. Both the OCC and the Federal Reserve have developed draft servicing standards that we are now using as the basis for interagency discussions. Our goal is that they will apply to all mortgages, regardless of who services them, and they will be enforceable by the regulatory agencies. A solution that ensures that nonbank servicers are subject to the same requirements as banks will be an important step forward.

Let me end with a comment on our efforts to deal with the foreclosure processing mess that has been so much in the news. This is a complex endeavor, complete resolution of which involves twelve federal agencies and potentially 50 state Attorneys General. The goal is for all parties to conclude their work and announce resolution of their respective actions at the same time. We each have our own separate responsibilities and areas of jurisdiction, but to the extent possible, we are trying to coordinate our actions. Whether this is possible, remains to be seen.

Because this is a matter still under review – despite the fairly extensive press coverage – I’m going to limit my comments. But I can say that the actions we take – both remedial actions and penalties – will be based on the findings of examinations we conducted at the eight large national bank servicers.

Clearly, we face many challenges in the months ahead. The Dodd-Frank Act, in particular, requires the drafting of a huge number of rules and reports, and sets extremely aggressive deadlines. But we are continuing to work toward the goal I stated at the outset: a balanced result that works for banks, their customers, and our national economy.

Thank you. I am happy to answer your questions.