Remarks by OTS Director John M. Reich
National Community Reinvestment Coalition Annual Conference
Hyatt Regency, Capital Hill - March 16, 2007

Good afternoon everyone. It is a pleasure to be with you today at NCRC's annual conference. Your agenda features important and timely topics and a number of policy makers and public officials who play a significant role in banking, bank supervision, public policy, and advocacy. Congratulations on another successful conference. John Taylor and Irv Henderson – thank you very much for the invitation to join you today.

It appears to me the last year has been a good one for NCRC. In preparing my remarks I noted several milestones you have achieved together:

- First, you have had ongoing success and provided support to borrowers facing mortgage foreclosure through the Consumer Rescue Fund. In fact, I understand that to date, over a thousand consumers have been helped through the Consumer Rescue Fund's alternative dispute resolution, mediation, consumer counseling and financial education.

- Second, you have promoted Fair Housing Practices through new mortgage industry partnerships.

- And third, NCRC continues to be recognized as - and sought out by - the Hill, the media, and the bank regulatory agencies, as a national leader in the area of advocacy on behalf of consumers on a broad range of financial services issues.

I thought I would share with you today some of the milestones OTS achieved the past 12 months, some of the issues we have pursued, and a sense of some of our priorities going forward. I will start by describing our efforts to strengthen our resources in our Compliance and Consumer Protection division.

During the past nine months, OTS re-established a centralized direction for the Compliance function at our Washington headquarters. As you may know, compliance had been delegated to the regions in recent years.[1] We also filled key vacancies within our Compliance and Consumer Protection Division. This included recruiting new leadership - an Assistant Managing Director of Supervision for Compliance and Consumer Protection. We were fortunate to persuade Montrice Yakimov, formerly of the Federal Reserve Board, the Conference of State Bank Supervisors, and the State Banking

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1. See Director Reich's speech to the Independent Community Bankers of America, March 8, 2006.

Commissioner's Office for the State of Delaware, to join the OTS in this capacity. Montrice is responsible for advising me, my Deputy Director Scott Polakoff , and others regarding Compliance Policy issues - directing the consumer complaint function, the community affairs function, providing critical support and direction to the compliance examination function – including BSA and Fair Lending, and for the overall performance of our Compliance responsibilities.

We also recruited a Director of Consumer Regulations who is primarily responsible for the development of guidance to examiners – and the industry – regarding consumer compliance regulations; a Fair Lending Specialist who is primarily responsible for coordinating our national Fair Lending examination program, along with several other analysts and specialists. We will also soon have a new Director of Consumer and Community Affairs and a new Director for BSA and OFAC Compliance.

In 2006 we hired 80 new examiners and we have plans to hire approximately 40 more this year. We have enhanced our training and professional development programs and we recently created five new positions for experienced Compliance Examination Specialists – one for each of our regional offices.

The bottom line is – you may be aware of my commitment and passion regarding regulatory burden, especially for community banks – but I want you to know that I am also committed to ensuring that we at OTS have an exceptional Compliance Supervisory program and a skilled, robust Compliance team at OTS that works with our institutions to ensure adherence to federal compliance statutes, regulations and OTS guidance. And we are continuing to strengthen our resources in this area.

Another area we have been working on at OTS is our interaction with consumer advocacy organizations like NCRC. In fact we have begun meeting with the leadership of NCRC on a regular basis and we find those dialogues extremely helpful. We are also meeting with organizations that you partner with, including the National Consumer Law Center, the Consumer Federation of America, the Center for Responsible Lending, the Greenlining Institute, and other leading consumer advocacy organizations. These discussions have provided insight on a variety of compliance policy issues and we plan to continue having an open dialogue.

We are also talking with organizations committed to supporting minority owned institutions, like the National Bankers Association. These meetings are very helpful as OTS strengthens another important part of the Compliance function, our minority owned institutions program. Under the auspices of FIRREA, OTS provides technical assistance and other resources to the 22 minority owned institutions we regulate. As part of this program, last year we launched a new section of our website that provides information on resources, training opportunities, partnership opportunities, a mechanism to provide input and suggestions to OTS regarding the effectiveness of our program, and other information. We also increased our outreach to organizations dedicated to supporting minority owned institutions and we plan to continue to strengthen this important function.

I would like to tell you about another important area of our focus during the past year and on an ongoing basis – and that is the development of guidance to the banking industry. Increasingly, guidance contains both a safety and soundness element and a consumer protection component. For example, last October the Federal banking agencies issued guidance to the industry on non-traditional, amortizing mortgage products such as interest only loans and payment option ARMs. The guidance set forth supervisory expectations for institutions that underwrite or service alternative mortgages including:

- First, the importance of prudent lending policies and underwriting standards for alternative mortgage products that include the consideration of a borrower's capacity to repay the loan

- Second, establishing and implementing strong risk management practices, with capital levels commensurate with risk, and

- Third, ensuring strong systems and controls for establishing and maintaining relationships with third parties, including mortgage brokers.

The guidance also stressed the importance of providing clear, timely and balanced information to consumers regarding the relative benefits (such as payment flexibility) and risks (such as the likelihood of potentially significant payment increases) associated with nontraditional mortgages. Our goal was to emphasize to lenders that providing information on both the benefits and potential risks was important in order to help consumers make informed choices.

And just recently on March 8th, the banking agencies issued for public comment a proposed statement on subprime mortgage lending focused on mortgages that have: (1) the potential for significant payment increases, (2) product features likely to result in frequent refinancing to maintain an affordable monthly payment, and (3) substantial prepayment penalties, or prepayment penalties that extend beyond the initial interest rate adjustment.

The agencies reminded depository institutions about existing guidance, regulations and statutes that apply to such products – such as Interagency guidance issued in 1999 and 2001 on Subprime Lending Programs. The proposed statement also cautioned institutions concerning practices associated with predatory lending, advised institutions to implement prudent underwriting that considers a borrower's repayment capacity at the fully indexed rate assuming a fully amortizing repayment schedule - and the borrower's ability to pay taxes and insurance in addition to principal and interest on the loan.

The proposal included many provisions designed to help consumers make informed mortgage choices along with important consumer protections. For example, the Agencies advised institutions not to steer consumers to certain products with features I previously mentioned (such as 2/28s or 3/37 mortgages) to the exclusion of other products for which the consumer may qualify. The proposal also indicates that institutions should provide consumers with information concerning the risk of payment shock, the amount and duration of any prepayment penalties, and any balloon payments.

The agencies certainly desire homeownership to remain broadly within reach of American families. However, we believe the proposed statement will support prudent underwriting that will support sustainable homeownership. We are also deliberately seeking public comment as a tool to hear from advocacy organizations like NCRC, bankers, policy makers and other parties regarding whether we got it right. I strongly encourage you to comment on the proposed statement.

I supported the nontraditional mortgage guidance and the proposed Statement on Subprime Mortgage Lending for similar reasons. I believed the guidance provided needed direction to lenders, particularly new entrants to nontraditional mortgage originations. It reminded such lenders of the importance of sound underwriting which not only supports safety and soundness of the nation's lenders, but also provides important consumer protections. The guidance also benefited consumers by reminding lenders of inappropriate practices such as product steering and presenting one-sided product descriptions that presented benefits without also describing product risks.

I also supported the guidance for another important reason. The housing market plays a critical role and has a major impact on the health and vitality of our economy. But beyond the macroeconomics of the housing market, housing has an enormous impact on individuals and on families. It is the largest asset most Americans will ever have and there is growing evidence that homeownership stabilizes communities, contributes to lower crime rates, contributes to better school scores for children and has other important benefits.[2] The nation's savings associations and banks play a critical role in originating and servicing mortgages so it is important that we have effective and balanced industry guidance.

Now, I would like to tell you about other guidance OTS recently issued. Last month we advised our institutions that offer gift cards about the importance of providing information on any fees, restrictions and expiration dates. We also encouraged institutions to provide consumers at least twelve months before their gift cards expire and set forth supervisory expectations regarding managing various risks associated with gift card programs. We issued this guidance because we recognized that millions of gift cards are issued each year and the number of gift cards has grown substantially.

Additionally, in a brochure that we prepared and issued for consumers last month - we provided background information on gift cards and encouraged people who are considering purchasing or using a gift card to check on important features such as fees and expiration dates.

We issued the gift card brochures to consumers during National Consumer Protection Week as part of a week-long series of resources and information to consumers in support of financial education and the power of information in making informed

2. See 2006 Study Issued by the National Association of Realtors "The Case for Homeownership" and 2004 Federal Reserve Bank of Boston study "Quantifying the Benefits of Homeownership."

choices relating to financial services products. During National Consumer Protection Week we also issued a press release reminding consumers about the risks presented by identity theft and steps they could take to protect themselves – including taking advantage of a free credit report from the major credit reporting agencies which is their right under the Fair Credit Reporting Act.

We noted that careful credit report monitoring not only helps consumers obtain credit at rates commensurate with their credit history, it also helps to guard against identity theft. We reminded consumers that credit scores largely determine the cost they pay to receive loans - and that over time, a consumer's ability to pay lower interest rates to a lender because of a positive credit score can save them lots of money.

During National Consumer Protection Week we noted another tool that is available to consumers to help them navigate and understand the many options they have in various adjustable rate mortgage products. In December, the OTS, in conjunction with the Federal Reserve Board, released the Consumer Handbook on Adjustable Rate Mortgages, also known as the CHARM brochure. The brochure (which is a mandatory disclosure under Regulation Z - which implements the Truth in Lending Act) provides information to consumers about the features and risks of adjustable rate mortgage (ARM) loans such as the potential for payment shock and negative amortization.

In recognition of the growing use of nontraditional - or alternate mortgage products - that allow borrowers to defer payment of principal and sometimes interest, the CHARM booklet was revised to include discussions about "interest-only" and "payment option" mortgages.

Community Reinvestment Act

I would like to turn now to a subject that I know is critically important to all of you and to us at OTS - and that is the Community Reinvestment Act. The Community Reinvestment Act requires the federal banking agencies to assess the record of each insured depository institution of meeting the credit needs of its entire community, including low-and-moderate income neighborhoods, consistent with safe and sound operation of the institution, and to take that record into account when evaluating an application by the institution for a deposit facility.

As you know, in August of 2004 the OTS published a final rule that raised the asset threshold for small savings associations to $1 billion regardless of holding company affiliation. And in March of 2005 OTS adopted a final rule that provided additional flexibility under the large retail savings association test allowing savings associations to choose to be evaluated under weights that differed from the standard previously adopted by the Agencies – whereby approximately 50% weight was placed on Lending, 25% on Investments and 25% on Services.

In August of 2005 the other banking agencies issued a joint final rule that differed from the OTS rule in several significant areas including: (1) the creation of a new community development test for intermediate small banks – defined as banks between

$250 million and $1 billion; (2) language that clarified how evidence of discrimination or practices that violate an applicable law, rule or regulation could adversely affect an institution's CRA rating; and (3) a provision to adjust asset thresholds for institutions annually for inflation according to the Consumer Price Index. (4) Additionally, the joint final rule did not provide large banks with flexibility regarding how they could choose to be evaluated with respect to lending, investments and services – and maintained weight allocations of 50% on Lending, 25% on Investments and 25% on Services.

I would like to announce today that the OTS has sent to the Federal Register a final rule to re-align our CRA regulation with those of the other federal banking agencies in these four primary areas.

We are making these revisions to our CRA rule to promote consistency and help facilitate objective evaluations of CRA performance across the banking and thrift industries. I believe that consistent standards will allow the public to make more effective comparisons of bank and thrift CRA performance. Additionally and significantly, in realigning our rule to that of the other banking agencies, OTS is incorporating changes that reinforce objectives of the Community Reinvestment Act - consistent with the ongoing performance of savings associations in meeting the financial services needs of the communities they serve.

We are taking this action after careful consideration of public comments. We received approximately 70 public comments - and the vast majority supported the proposed changes. Many of your organizations commented and we thank you for providing your perspectives. To address some of the concerns raised by some of the commenters we are taking several steps to facilitate the transition to the new rule. For example, the new rule will be effective July 1, 2007 and the rule changes will apply to examinations that begin in the third quarter of 2007.

However, for institutions that have adjusted their CRA programs in reliance on the availability of the alternative weight option under the large retail savings association test – or on the availability of the streamlined small institution test for institutions with up to $1billion in assets, OTS examiners will take into consideration -- as part of the performance context -- that the rules have not been consistent during the evaluation period. And we will evaluate institutions' performance accordingly. The preamble provides specific discussion of how we will use performance context for institutions that adjusted their CRA program in recognition of the previous rule adopted by OTS.

We are committed to having an orderly and fair transition to the new final rule - and the final rule that will be published in the Federal Register will provide that. I would like to close by thanking John Taylor again for the invitation to speak to you today. I am very pleased to address NCRC and this impressive network of consumer advocacy organizations. I hope you will free to call on me and members of my staff if you have questions or want to discuss issues that are important to you. As I said earlier, we have found these discussions to be very helpful at OTS and we look forward to an ongoing dialogue. Thank you.