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Summary of Statement of
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I thank you for the opportunity to share my thoughts on proposals to modernize the nation's banking laws, particularly those governing permissible bank activities and the corporate structure they may use in conducting them. Technological and financial innovation, together with market pressures to offer consumers a wider array of services, have eroded the traditional segmentation of the financial marketplace. As a result, Congress should reconsider the legal framework that governs the financial services industry and adopt a modernization plan that promotes a robust marketplace while maintaining safety and soundness, fair access to financial services, and vital consumer protections.

I commend the sponsors of H.R. 10, H.R. 268, and H.R. 669 for advancing the debate on financial services modernization. All of these bills recognize the need for banks to offer their customers a broader array of financial services in order to remain competitive. My principal concern with the bills is that, to varying degrees, all of them would unnecessarily limit bank organizational choice and unnecessarily restrict the ability of banks to engage in activities they now conduct safely. There is no safety and soundness reason to limit banks' ability to use the operating subsidiary structure to house new activities or to force banks to move activities that they are now engaging in safely outside the bank.

The subsidiary structure allows banking organizations to focus their capital and earnings strength on their banks, or a lead bank, rather than removing capital and channeling earnings to non-bank affiliates. Use of operating subsidiaries also allows the benefits of activities diversification to flow to the bank and strengthen it. For community banks, use of operating subsidiaries can be simpler and less costly than relying on the holding company structure to provide new products and services. In light of the operational and public policy benefits that can ensue when banks are given the ability to choose the organizational form that best suits their needs, I have concerns about provisions in the bills that would restrict organizational flexibility.

Those restrictions can lead to a less safe, less sound banking system. Forcing activities into a holding company affiliate will lead banks either to shrink or to take on greater risks to maintain earnings, and the result will be destabilized hollow banks. Markets for banking services will be less competitive, and fewer resources will be available to banks to meet community needs. Bank customers will face higher fees, reduced services, and fewer choices. The many sectors of the economy that depend on community banks will be denied the benefits of modernization.

Prudent expansion of banks' permissible activities can be beneficial to both the public--through improved service, lower prices, and greater convenience--and the banking industry--through diversification of banks' sources of earnings. It is distressing, therefore, that the bills contain activities restrictions that would prohibit banks from directly engaging in certain activities that they now conduct and have conducted safely.

Regarding the need to impose safeguards so as to ensure a bank's financial soundness is protected and that special operating subsidiaries operate as independent legal and corporate entities, I believe that it is the responsibility of the OCC, as the bank's primary supervisor, to establish the appropriate safeguards that apply to transactions between the bank and its subsidiary. The OCC has the regulatory authority to approve the establishment of the special operating subsidiary, the responsibility to examine the bank and the subsidiary, and enforcement authority.

In summary, although all three bills advance the debate on financial services modernization, I have concerns about particular provisions that would unnecessarily restrict banks' ability to choose the corporate structure that best suits their individual needs and force them to move outside the bank activities that they already conduct safely within the bank. There is no safety and soundness reason for such provisions, and, if enacted, they would lead to a banking system that is made up of destabilized hollow banks that are less safe and sound and less able to meet the credit and other financial services needs of their communities.

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