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U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

July 21, 2004

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Honorable Michael Oxley
Chairman
Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Honorable Spencer Bachus
Chairman
Subcommittee on Financial Institutions
and Consumer Credit
Washington, DC 20515

Dear Chairmen Oxley and Bachus:

We respectfully request that the Financial Services Committee mark up and report to the floor Congressman Gutierrez's HR 4236 and HR 4237, which use the Congressional Review Act to overturn the Office of the Comptroller of the Currency (OCC)'s preemption and visitorial regulations.

As you no doubt recall, Mr. Sherman offered an amendment to the Commerce, Justice, and State Appropriations bill to deny funds to the Justice Department to defend the OCC's preemption and visitorial regulations in federal court. During the debate on Mr. Sherman's amendment, Chairman Bachus stated that this is an important issue which should be addressed by the Financial Services Committee. He further stated that there is a process for addressing members' concerns with the OCC's regulations, and that members should allow that process to work, instead of dealing with this issue by offering "prohibition of funds" amendments to appropriations bills. Mr. Bachus specifically referenced the fact that legislation has been introduced to address this issue by Mr. Gutierrez under the Congressional Review Act, and that the Financial Services Committee was the proper arena to address this issue. Mr. Bachus further noted that the Committee has had several hearings on the issue of OCC preemption.

We wholeheartedly agree with all of Mr. Bachus' statements cited above. Regular process should be used to address issues such as the OCC's preemption and visitorial regulations. However, while numerous hearings have been held on the OCC's regulations, there has been no action by the Committee to ensure all members of Congress the opportunity to fully debate and vote on these regulations. Only a commitment by the Committee to act on Mr. Gutierrez's bills this year will ensure all members can debate this issue through the regular legislative process instead of having to resort to amendments to appropriations bills to bring this issue to the floor.

As you know, many members are concerned that these regulations not only represent a drastic expansion of the OCC's power, they exceed the OCC's congressionally granted preemption authority. Opponents of the regulations believe that the OCC's rules effectively deny citizens the protections of their states' predatory lending and other consumer protection laws. While the OCC claims that it can provide consumer protection equal to that currently provided by state consumer protection agencies and Attorneys General, we are concerned that replicating the functions of 50 state consumer protection agencies would require an enormous increase in the budget and power of the OCC, yet will still deny millions of consumers the same level of protection they currently enjoy from their state regulatory agencies.

Perhaps the most important question regarding the preemption amendments is whether Congress intended to allow the OCC to preempt all state consumer preemption laws applicable to national banks, and thus become a national consumer protection agency, when it granted the OCC limited preemption authority.

There is still time to act on this legislation before the end of this session. After all, we are only asking for at most three legislative days, one for a subcommittee mark up, one for a full committee mark up and a few hours to debate and vote on the bill on the floor under regular order.

Even if you disagree with Mr. Gutierrez's legislation, we hope you agree that the full House deserves an opportunity to debate and vote on this important issue. We therefore respectfully request that you bring HR 4236 and HR 4237 to full committee mark up and the floor before the end of the first session of the 108th Congress. We stand ready to help you in any way we can.


Sincerely,


Luis V. Gutierrez


Ron Paul


Barney Frank


Brad Sherman


Carolyn B. Maloney


Barbara Lee


Julia Carson


Maxine Waters


Bernard Sanders


Joe Baca

cc: Speaker J. Dennis Hastert
Majority Leader Tom Delay
Minority Leader Nancy Pelosi
Majority Whip Roy Blunt
Minority Whip Steny Hoyer