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TESTIMONY OF EUGENE A. LUDWIG COMPTROLLER OF THE CURRENCY
Before the
COMMITTEE ON BANKING AND FINANCIAL SERVICES
of the
U. S. HOUSE OF REPRESENTATIVES
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The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Mr. Chairman and members of the Committee, I appreciate this opportunity to testify on the issue of modernizing the bank regulatory structure. In my testimony today I will outline principles that I believe should guide future reform efforts. I will also discuss what the regulatory agencies have done to streamline supervision and lower its cost within the context of the existing structure. Finally, I will address the other important issues in your letter of invitation: consolidating the bank and thrift supervisory agencies, preserving the dual banking system, and maintaining the independence of federal regulators.

As you know, Mr. Chairman, this country is unique in the complexity of its bank supervisory system, with four separate agencies overseeing banks and thrifts. This creates some inefficiencies that are costly to banks and the economy. These inefficiencies include delays in the implementation of regulations, redundancy and lack of consistency in supervision, and excess burden on the institutions we supervise. As I have said many times in the past, I am committed to reducing regulatory burden. As Comptroller, I have worked hard to reduce duplication and increase coordination, to reduce the unnecessary burdens banks face. The Office of the Comptroller of the Currency (OCC) and the other federal supervisory agencies have dedicated time and resources to address these issues.
As my testimony will describe, we have made progress.

Although I do not believe our efforts can ever achieve the same efficiencies as a fully consolidated supervisory mechanism, in light of the difficulties in achieving agreement on such consolidation, I have come to believe that our efforts might be more fruitfully directed towards other areas of more pressing concern to the industry and the public.

Early in my term, the OCC and the Treasury Department carefully considered ways to modernize our regulatory system. We identified goals that address the

fundamental problems in the current supervisory structure. I believe these goals are still appropriate, and therefore should guide any reform effort.

Principles for Regulatory Restructuring

In March of 1994, then Secretary of the Treasury Lloyd Bentsen presented to the Congress a proposal for restructuring the federal banking agencies. The framework for that proposal was based on several goals, which we have since worked to incorporate into our supervisory practices:

First, the supervision of comparable activities should be consistent. There is no reason why the regulatory response to a common problem should vary according to an institution's charter. To promote uniform supervision, the Federal Financial Institutions Examination Council (FFIEC) sponsors common training on a wide range of topics for examiners from all the regulatory agencies.

Second, a successful restructuring should improve the overall efficiency and quality of supervision by regulating banking organizations as a unit and eliminating time consuming interagency rulemakings. Agencies should be accountable to banks and the public for costly delays.

Third, a new system should define clear roles and functions for the remaining agencies to eliminate redundancies and assure that the agencies work cooperatively. My testimony will describe efforts the agencies have made to eliminate redundant examinations.

And finally, as I will describe later, if we create a new, consolidated regulator, it must have appropriate independence, balanced with the responsibility to the electorate through a continuing Executive Branch role.

Ultimately, we were not able to achieve consensus around the principles the Administration espoused and the notion of having a single regulator. Some in the banking industry and the Congress expressed a preference for a system with multiple federal regulators, partly because they believed that the benefits of having a choice of federal regulator outweighed the costs.

Regulatory Changes

Given the fact that in the past 50 years none of the legislative proposals to restructure the regulators and make supervision more efficient has passed, I believe supervisors must do what they can to eliminate duplication and other unnecessary burdens on banks.

In my more than three years as Comptroller of the Currency, I have directed a concerted effort to streamline our supervision and lower its cost. The OCC has

devoted significant resources and made important changes to address some of the problems you identify in your letter of invitation.

Uniform Regulations and Policies.

In response to the requirements of Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), the OCC is working with the other bank regulators to establish uniform regulations and guidelines implementing common policies. The agencies are going beyond the statute, and we now have over sixty interagency working groups analyzing rules and regulations to determine whether we can achieve or improve uniformity across the various agencies. The groups are reviewing a wide variety of regulations, including those pertaining to capital adequacy and record-keeping and confirmation of securities transactions.

Elimination of Duplicative Filings.

Section 304 of the CDRIA requires that the regulatory agencies work together to eliminate duplicative requests for information across different types of forms. To that end, an interagency working group has been developing common interagency forms. These include the Interagency Notice of Change in Control, the Interagency Notice of Change in Director or Senior Executive Officer, and the Interagency Biographical and Financial Report. When the approval process is complete, bankers will be able to obtain one of these forms from any of the regulatory agencies and file it with the appropriate supervisor.

Coordinated and Unified Examinations.

Section 305 of the CDRIA requires the federal banking agencies to develop a system whereby one agency will take a lead role in managing a unified exam. The agencies' efforts in this area started even before enactment of the CDRIA, however. In 1993, the federal banking agencies adopted a formal statement on exam coordination. Since then, district level managers at the different agencies have increased their previous efforts to coordinate examination schedules.

In addition, members of senior management at the agencies have met and discussed how to implement the unified examination process. While details are still being worked out, the agencies have come to a tentative agreement on how the unified examination process will work. I expect to discuss the proposal with my counterparts at the other agencies once we receive senior management's recommendations. We will submit our report to the Congress, as required, by September 23, 1996.

In other efforts to promote uniformity, the agencies represented on the FFIEC have conducted examiner seminars and conferences across a spectrum of issues including capital markets, emerging issues, international banking, and

payment systems risk. The FFIEC also sponsors seminars for financial institutions, to encourage them to improve their risk management systems.

Call Report Changes.

In October, 1995, the FFIEC approved the adoption of generally accepted accounting principles (GAAP) as the reporting basis in the bank Call Report, beginning in March, 1997. Since then, the Interagency Supervision Task Force has met several times to resolve particular areas of concern arising from conflicting guidance for current bank regulatory reporting standards and GAAP. These differences include the extent to which assets and liabilities may be netted on the balance sheet; the accounting treatment of assets sold with recourse; excess servicing fees; and futures, forward, and option contracts. In addition, as required by Section 307 of the CDRIA, the regulatory agencies are working to develop a common form for filing core information by banks, thrifts, and holding companies. In these efforts, the agencies are attempting to reduce the special reporting required for supervisory purposes.

Regulation Review Program.

Starting in 1993, the OCC--for the first time in its 130 year history--began a review of its entire set of rules with the goal of relieving unnecessary burden and streamlining regulatory requirements. As of January, 1996, all OCC rules reviewed under the program had either been proposed and published for public comment, or revised and published in final form. The process cut the reporting burden for banks and clarified our rules. For example, we revised the lending limit calculation. By basing calculations on quarterly call report data, we reduced substantially the number of times a bank has to calculate its lending limit to only four.

The OCC also led the two-year inter-agency effort to revise the Community Reinvestment Act (CRA) rule and shift the emphasis from process and paperwork to bank performance. This effort illustrated how regulators can work together to improve our supervisory system.

Through an open administrative process--six public hearings across the country, 300 witnesses and over 7,000 comment letters—the agencies achieved a new CRA regulation that is more effective in meeting community credit needs and less burdensome on financial institutions. The final CRA regulation, adopted in April 1995, went into effect for small banks in January of this year, and has been received positively.

In an effort to promote uniform enforcement of consumer laws, the FFIEC's Interagency Task Force on Consumer Compliance sponsored common training on the CRA regulation and the development of new examination procedures for

bank and thrift examiners. In 1995, over 1,133 examiners attended CRA training sessions held in Dallas, San Francisco, Atlanta, Chicago, and Boston.

Other Issues Raised by Invitation Letter

Mr. Chairman, in your letter of invitation you ask that I comment on other issues that would arise if the federal bank regulatory agencies were consolidated.

Merging Bank Regulatory Agencies.

Any merger of regulatory agencies will raise a number of difficult questions. For example, we must be certain the regulators that remain will be financially viable. I am concerned that this may well not be the case if, for example, one agency only had oversight over smaller federally-chartered institutions. Assessment costs are an important factor in the choice of charter for smaller institutions, and one wonders why institutions would elect a federal charter when state-chartered institutions receive federal examinations for free. We must be careful not to create an agency that is likely to face a declining assessment base and that could eventually face some of the problems the Office of Thrift Supervision (OTS) faced as the number of thrift institutions declined.

Further, any reorganization will undoubtedly affect hundreds of employees, and we must treat them fairly. It is also critical, however, that the surviving agencies have sufficient flexibility to organize and staff themselves in a way that allows them to keep their costs under control and down-size in a way that does not produce insecurity among all employees. Thus, any proposal to combine the agencies must include a well-thought-out transition process that ensures core activities can continue to be conducted effectively.

Dual Banking System.

In your letter of invitation, Mr. Chairman, you ask that I comment on the impact of the current regulatory structure on the dual banking system. I believe that the dual banking system, and the economic competition that it fosters, have conveyed a number of benefits to financial services consumers. It assures that bank organizers in each state have two entry options instead of one. It provides over 50 laboratories within which agencies may responsibly experiment with a variety of regulatory and supervisory guidelines and restraints and with expanding the service offerings of banks.

When the Administration presented its proposal, many were concerned that a single federal supervisor might be tempted to issue regulations or adopt supervisory procedures that put state-chartered institutions at a disadvantage. I understand these concerns, but I do not believe that such a bias would emerge, or if it did, could be sustained. If, however, we believe that the proper way to address these conflicts of interest is to separate the agency that oversees federal

institutions from that which oversees state-chartered institutions, then any plan to reorganize the regulatory agencies should split supervisory responsibilities for multibank companies based on the charter of the lead institution, and not its size.

Importance of an Independent Regulator.

Finally, Mr. Chairman, your letter asks about the importance of an independent regulator. I think we all agree that it is essential to limit political influence over important bank regulatory functions. The U.S. has had a long tradition of separating political considerations from chartering, enforcement, and adjudication decisions, and other supervisory actions we take; no one would want to change that tradition.

Over the past few years, the Congress has taken steps to give the OCC as much independence in these critical areas as the other federal regulatory agencies have. The Congress codified the long-standing practice precluding members of the Treasury Department from intervening in any case-specific matter, such as an enforcement action. We now also have the right to testify before the Congress without review; we have independent litigating authority; and we have the right to pursue regulations on our own.

Furthermore, we are independently funded and in that regard are not subject to Office of Management and Budget or Treasury Department budgetary controls, and we have the authority to hire and compensate OCC employees. Therefore, in all the areas where one would argue that independence is necessary to ensure the integrity of the regulator, we are independent.

The question of independence in the context of agency restructuring, however, is a complex matter. It goes well beyond concerns about objectivity in supervisory activities. The proper formulation of government requires that we balance a number of considerations, including defining the role of a given agency and determining how can it be made accountable to the President, the Congress, and the American people. Given the importance of the financial services industry to the performance of the macro-economy, it is critical that the President have some ability to set the general policy direction for bank supervision.

The notion that somehow independence of judgment is inconsistent with being part of the Executive Branch is not correct. We can see many examples within the federal government, such as the Food and Drug Administration, where the agency is able to carry out critical decisions objectively but where Presidential and Congressional oversight are useful mechanisms to ensure the agency continues to be responsive to public concerns. Clearly, any proposal to consolidate regulatory agencies must strike a balance between the need for involvement in the Executive Branch with the need for independent bank supervisors.

Conclusions

As Comptroller, I have worked hard--both independently and with my counterparts at the other regulatory agencies--to streamline our supervision and reduce costs. As I described in my testimony, we have made some progress. I will continue to support efforts to reduce regulatory burdens on our nation's financial institutions. But, given the changes that are currently re-shaping the banking industry, I do not think this is the appropriate time to alter our regulatory structure.