STATEMENT

OF

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ON BEHALF OF

THE FINANCIAL SERVICES ROUNDTABLE

TO THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

OF

THE U.S. SENATE

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Chairman Shelby, Ranking Member Sarbanes, and members of the Committee, my name is Bill Longbrake, and I am Vice Chair of Washington Mutual, Inc. With a history dating back to 1889, Washington Mutual is a retailer of financial services that provides a diversified line of products and services to consumers and commercial clients. Washington Mutual and its subsidiaries have assets of $280.7 billion and operate more than 2,400 retail banking, mortgage lending, commercial banking, and financial services offices throughout the nation. Washington Mutual and its state and federally-chartered depository institutions have three primary banking regulators, the Office of Thrift Supervision ("OTS"), Federal Deposit Insurance Corporation ("FDIC"), and Washington State Department of Financial Institutions.

I am appearing today on behalf of The Financial Services Roundtable.[1] The Roundtable appreciates the opportunity to testify on the topic of regulatory burden relief. The Roundtable strongly supports efforts to reduce the regulatory burden on financial services firms. Outdated laws and regulations impose significant, and unnecessary, burdens on financial services firms. This regulatory burden makes financial services firms less efficient, and increases the cost of financial products and services to consumers. Thus, it is important for Congress to periodically review the laws applicable to the financial services industry, and we applaud your efforts in doing so.

As a starting point, we urge the Committee to review H.R. 1375, the Financial Services Regulatory Relief Act, which passed the House of Representatives in March of this year. There are a number of provisions in that bill that we support. Those provisions are summarized in an attachment to this statement. We also urge the Committee to include in its bill several other provisions, which do not appear in the House-passed bill. Those provisions also are summarized in the attachment to this statement.

In the remainder of this statement, I will highlight six provisions from the House-passed regulatory relief bill that are of special significance to The Roundtable. Two of the provisions relate to interstate banking; the others would ease regulatory burden on savings associations. I also will comment on a proposed simplified privacy notice, which would benefit both consumers and financial services firms.

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[1] The Roundtable represents 100 of the nation's largest integrated financial services companies, providing banking, insurance and investment products and services to millions of American consumers.

Interstate Banking

It was exactly ten years ago that Congress enacted the landmark Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. Since then, the public benefits anticipated by that Act have been realized. The creation of new bank branches has helped to maintain the competitiveness of our financial services industry, and has improved access to financial products in otherwise underserved markets. Branch entry into new markets has enhanced competition in many markets, and this, in turn, has resulted not only in a better array of financial products and services for households and small businesses, but also in competitive prices for such products and services. There is, however, one remaining legal barrier to interstate branching, which should be eliminated.

De Novo Branching

Under the Riegle-Neal Act, a bank cannot establish a new or so-called "de novo" interstate branch without the affirmative approval of a host state. Since 1994, only 17 states have given that approval; 33 states have not. The time has come to remove this barrier to interstate branching. The Roundtable urges the Committee to do so by incorporating section 401 of H.R. 1375 in its version of the regulatory relief bill.

Section 401 of H.R. 1375 eliminates the provision in the Riegle-Neal Act that requires state approval for de novo branching. In other words, the enactment of section 401 would allow a bank to establish new branches in any state, without limitations.

Section 401 of H.R. 1375 is supported by the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Conference of State Bank Supervisors. These federal and state regulators recognize the public benefits associated with expanding access to banking offices. They also realize that current law has created some competitive disparities between different types of institutions.

Section 401 of H.R. 1375 also makes other useful modifications to interstate operations. It removes a minimum requirement on the age of a bank that is acquired by an out-of-state bank. It allows state bank supervisors to permit state banks to engage in interstate trust activities similar to the trust activities permissible for national banks. It facilitates mergers and consolidations between insured banks and uninsured banks with different home states. All of these changes facilitate the provision of banking products and services to consumers.

Coordination of State Examinations

A second provision related to interstate banking that we would urge the Committee to incorporate in its version of a regulatory relief bill is Section 616 of H.R. 1375. Section 616 of H.R. 1375 clarifies the authority of state banking supervisors over interstate branches of state chartered banks. It provides that the bank supervisor of the state in which a bank is chartered (a "home" state supervisor) is responsible for the examination and supervision of branches located in other states, and that only a home state supervisor may impose supervisory fees on interstate branches. Section 616 also encourages state banking supervisors to enter into cooperative supervisory agreements related to the examination and supervision of state banks with interstate operations. Such an agreement could provide for joint examinations, and even the assessment of joint supervisory fees. **Furthermore**, Section 616 acknowledges the authority of a "host" state banking supervisor to examine the interstate branches of state banks for compliance with applicable host state law. The addition of this provision will help to avoid needless confusion, and potential conflict, over the examination and supervision of the interstate branches of state banks.

Regulation of Thrift Institutions

While The Roundtable supports all of the thrift provisions in H.R. 1375, I would highlight four of those provisions, which are particularly important to our members.

Parity for Thrifts Under the Federal Securities Laws

Section 201 of H.R. 1375 would establish regulatory parity between the securities activities of banks and thrifts. For years, the brokerage and investment activities of commercial banks have enjoyed exemptions under federal securities laws.[2] As a result, the securities activities of banks have been subject to regulation by banking regulators, not the Securities and Exchange Commission ("SEC"). Thrift institutions, on the other hand, have not enjoyed similar exemptions under the Exchange Act or the Investment Advisors Act, even though Congress has, over time, permitted thrifts to engage in the same brokerage and investment activities as

[2] The scope of this exemption was narrowed in the Gramm-Leach-Bliley Act.

commercial banks.[3] As a result, the securities activities of thrifts have been subject to regulation by both the SEC and the OTS.

Using its rulemaking powers, the SEC has attempted to address this regulatory disparity, first by granting thrifts a regulatory exemption under the Exchange Act, and most recently, by proposing a limited exemption for thrifts under the Investment Advisors Act. Unfortunately, those actions by the SEC do not fully resolve the disparity between the regulation of banks and thrifts. Therefore, we urge the Committee to include Section 201 in its version of the regulatory relief bill.

Section 201 would establish an explicit exemption for thrifts in the Exchange Act that is comparable to the exemption for commercial banks. This statutory change would remove any doubt about the permanence of the existing regulatory exemption adopted by the SEC.

Section 201 also would make the exemption for thrifts under the Investment Advisors Act parallel to the existing exemption for banks. The regulation recently proposed by the SEC grants thrifts an exemption from SEC regulation only when they are engaged in investment advisory activities in connection with trust activities. It would not apply to other investment advisory services, such as retail planning services. Section 201 draws no such distinction. It would give thrifts the same exemption as commercial banks.

The OTS examines the securities-related activities of thrifts, just as the OCC and other banking agencies examine the securities-related activities of commercial banks. Thus, the exemptions proposed in Section 201 do not leave a regulatory void. They simply place thrifts on a regulatory par with commercial banks, by eliminating the costs associated with registration with the SEC.

Citizenship of Federal Savings Associations for Federal Court Jurisdiction

The Roundtable supports Section 213 of H.R. 1375, which would clarify that for federal diversity purposes, a federal savings association is a citizen of the state in which it has its home office. There is uncertainty among the courts whether a federally chartered institution, such as a federal thrift, is a citizen of any state. Clarification in the law is needed to govern when an interstate savings association can remove a case to federal court based on diversity jurisdiction. This clarification in section 213 is similar to the treatment currently provided national banks.

[3] In 1999, Congress did amend the Investment Company Act to treat thrifts the same as banks.

However, further clarification also may be needed to update the existing provision that specifies which state a national bank is located for purposes of federal court jurisdiction. The OTS supports section 213.

Auto Loans

The Roundtable urges the Committee to incorporate Section 208 of H.R.1375 in its version of the regulatory relief bill. Current law limits the amount of automobile loans by a thrift to no more than 35% of the institution's assets. Section 208 would remove this ceiling. Congress has previously determined that credit card loans and education loans by thrifts should not be subject to any asset limitation. Automobile loans should be placed in this same category. Doing so will allow thrifts to further diversify their portfolios and enhance their balance sheets. Also, this provision would increase competition in the auto loan business, to the benefit of consumers.

Dividends

The Roundtable supports the insertion of Section 204 of H.R. 1375 in the Senate version of the regulatory relief bill. Section 204 would replace a mandatory dividend notice requirement for thrifts owned by savings and loan holding companies with an optional requirement under the control of the Director of OTS. The existing mandatory requirement is no longer necessary. Other existing federal statutes and regulations give the OTS the authority to ensure that thrifts held by holding companies pay dividends only in appropriate circumstances. Moreover, the current mandatory requirement applies only to thrifts owned by savings and loan holding companies, not to those owned by other companies or banks. Thus, Section 204 removes a disparity in regulation that need not exist.

Simplified Privacy Notice

Like many consumers, The Roundtable member companies have found that the privacy notice required by the Gramm-Leach-Bliley Act (GLBA) is overly confusing, and largely ignored by many consumers. Accordingly, we recommend that the Committee use this opportunity to simplify the form of the notice required by GLBA.

There is extensive research in support of simple notices. That research indicates that consumers have difficulty processing notices that contain more than seven elements, and require the reader to translate vocabulary used in the notice into concepts they understand. Consumer surveys also indicate that over 60 percent of consumers would prefer a shorter notice than the lengthy privacy policy mandated by GLBA.

Recognizing the problem created by the existing GLBA privacy notice, the federal banking agencies, the FTC, NCUA, CFTC and SEC recently requested comment on alternative notices that would be more readable and useful to consumers. These federal agencies, however, lack the authority to make a simplified notice truly consumer-friendly because they cannot address conflicting and overlapping state privacy laws. Section 507 of GLBA permits individual states to adopt privacy protections that are "greater" than those established by GLBA. This provision allows states to adopt their own privacy notices, and this simply adds to consumer confusion and frustration.

We strongly recommend that the Committee include a provision in its regulatory relief bill that directs the relevant federal agencies to finalize a simplified privacy notice for purposes of GLBA, and provides that such a notice supercede state privacy notices. As the research has indicated, consumers will be better served if they are given a simple, uniform explanation of an institution's privacy policy and their privacy rights.

Conclusion

In conclusion, The Roundtable appreciates the efforts of this Committee to eliminate laws and regulations that impose significant and unnecessary burdens on financial services firms or impose unnecessary barriers in serving the marketplace. The costs savings that will result from this legislation will benefit the consumers of financial products and services. We look forward to working with the Committee on this important legislation.