STATEMENT

OF

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BEFORE THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

OF THE

UNITED STATES SENATE

ON

AFFILIATE INFORMATION SHARING PRACTICES AND THE FAIR CREDIT REPORTING ACT

JUNE 26, 2003

Mr. Chairman and members of the Committee, my name is Angela Maynard, and I am the chief privacy executive and counsel for KeyCorp ("Key"), an \$86 billion financial holding company headquartered in Cleveland, Ohio. As the nation's 11th largest banking company, Key conducts business throughout the United States in states spanning from Maine to Alaska.

Key is a member of the Financial Services Roundtable ("Roundtable"), and I am appearing today on behalf of the Roundtable as well as the customers, employees and shareholders of Key. The Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to consumers. Member companies participate through their Chief Executive Officer and other senior executives nominated by the CEO.

I appreciate the opportunity to testify before the Committee on the role of affiliate information sharing under the Fair Credit Reporting Act ("FCRA"). FCRA has become central to our nation's credit system, and the Committee is to be commended for undertaking a thorough review of the Act and its impact on consumers, businesses and the economy.

The Roundtable and Key support the affiliate information sharing provisions of FCRA, and urge the Committee to renew those and the other provisions of the Act that are scheduled to expire at the end of the year.

The Importance of FCRA and the Consumer Benefits of Information Sharing

Before I explain how Key uses the affiliate information sharing provisions of FCRA, I thought it might be useful to provide the Committee with some insight into the importance of FCRA to the economy and the consumer benefits associated with affiliate information sharing.

Economic Consequences of Failing to Renew FCRA

The Roundtable has found that the failure to renew key provisions of FCRA will impose substantial costs on consumers and the economy, and will raise barriers to the least advantaged segments of our population.[1] More specifically, the Roundtable has found that the failure to renew key provisions of FCRA will result in higher costs for interest on mortgages, credit cards and other debt; reduced credit access; and higher costs for insurance, electric power (in competitive markets), mail-order and e-commerce purchases, and third-party offerings by financial services companies.

The additional costs consumers would pay on mortgages and other forms of credit are estimated to total over $20 billion each year. This amount includes $1.7 billion in new mortgage expenses, $1.7 billion in additional home equity and refinancing costs, and over $11 billion in increased credit card charges. The increased annual costs for insurance, electric power, e-commerce sales, and third party services are estimated to total another $20 billion.

[1] "The Economic Consequences of Failing to Renew Current Provisions of the Fair Credit Reporting Act (FCRA) Which Promote Uniform National Standards," a study prepared for the Financial Services Roundtable by the Perryman Group, 2003.

Additionally, approximately $170 billion in total funds from home equity loans and refinancings would no longer be available to households. Of this amount, approximately $100 billion would otherwise have been spent and circulated through the economy.

When these and other cost factors are combined, the net direct loss in annual aggregate spending from the failure to renew FCRA is estimated to be over $180 billion.

Consumer Benefits of Information Sharing

The Roundtable also has found that the customers of its member companies obtain significant benefits from information sharing.[2] These benefits include increased convenience, personalized service, and real savings of time and money.

Information sharing saves the customers of Roundtable companies, on average, $195 per household per year. For all customers of Roundtable companies, the total dollar savings due to information sharing is estimated to be $17 billion. About $9 billion of this total comes from sharing information with third parties, and the remaining $8 billion is due to information sharing with affiliates. The dollar savings for customers result from the outsourcing of services to third parties, relationship pricing, and proactive offers. Obviously, these savings would be greater for the entire financial services industry.

Information sharing also saves time for the customers of Roundtable companies. The average household saves close to 4 hours per year because of the convenience provided by information sharing. This amounts to a savings of about 320 million hours per year for all customers of Roundtable companies. About 115 million hours are saved

[2] "Customer Benefits from Current Information Sharing by Financial Services Companies," a study prepared for the Financial Services Roundtable by Ernst & Young, December 2000.

because of information sharing with affiliates and 205 million hours are saved because of information sharing with third parties. The timesavings for customers are a result of centralized call centers, Internet-based services, third party services, proactive offers and pre-filled applications.

The Roundtable also has found that, contrary to common perception, the ability to share information reduces identity theft and fraud, and that it reduces the number of solicitations consumers actually receive. Identity theft and fraud are reduced because information sharing allows organizations to better identify and respond to fraud and identity theft. Solicitations are reduced as a result of targeted marketing. Roundtable members save about $1 billion per year through the use of targeted marketing, as opposed to mass marketing, and those costs savings can be passed forward to customers. Failure to renew FCRA could result in a shift back to mass marketing and cause Roundtable members to send out over three times as many solicitations to achieve the same level of sales.

How Key Uses Information Sharing to Benefit its Customers

Like many other financial services companies, Key is a holding company that owns a number of subsidiary companies, all of which would qualify as affiliates for purposes of FCRA. At present, KeyCorp owns approximately 20 companies that provide products and services directly to individuals, including: KeyBank, N.A.; Key Bank USA, N.A.; McDonald Investments, Inc.; Victory Capital Management, Inc.; Key Bank Life Insurance, Ltd.; KeyTrust Company, N.A.; and SecoLink Settlement Services, LLC.

Key has worked diligently to consolidate the legal affiliates under which we conduct business. Key was the first large multi-bank holding company to consolidate bank charters under the authority provided by the Riegle-Neal Act. Despite our efforts, we still must operate under multiple legal affiliates due to state and federal legal requirements, tax and accounting considerations, and operational considerations. For example, the Gramm-Leach-Bliley Act ("GLBA") requires that many of Key's financial activities be conducted separate and apart from our banking subsidiaries.

However, to our customers, Key is not a collection of separate companies; it is a single entity that offers a variety of financial products and services. These include retail and commercial banking; investment banking and management; residential mortgages; home equity and installment loans; financial, estate and retirement planning; asset management; and, for our business customers, real estate finance and equipment leasing.

Despite this structure, Key has a single privacy policy that covers all of our businesses. This policy discloses our practices regarding the collection and sharing of information with both affiliated and nonaffiliated companies. Key has had a privacy policy in existence for six years, which predates GLBA's privacy policy requirements.

Through our privacy policy, any consumer who provides information to Key can learn the types of information we may collect, from whom, how that information may be used, and how he or she can restrict the use of this information across our company and with third parties. We provide a copy of our privacy policy at the time a consumer first provides information to Key, whether or not an account is opened, and annually, so long as a relationship exists with Key. Disclosed in the privacy policy is a toll-free number that is dedicated solely to recording privacy elections and answering privacy related questions. Once recorded, a privacy election is applied corporate-wide, covering all Key affiliates, and stays in effect until changed by the individual.

FCRA has two provisions related to the sharing of information among affiliated companies. One provision relates to information about a customer that is based on a company's own transactions with the customer (so-called "transaction and experience" information). The other provision relates to any other information about a consumer, including information based on the consumer's transactions with other institutions (so-called "other information").

Transaction and experience information is information that relates to a company's own experiences and transactions with a consumer. It would include, for example, the length of time a customer has held a credit card, the number of times the customer has been late in making a payment on the credit card, or the average monthly balance in the customer's savings account. Under FCRA, transaction and experience information that is shared with an affiliate is not treated as a credit report. Also, a customer does not have the ability to elect not to allow Key to share such information within the Key family of companies. Key's affiliates share this type of information for many purposes, including customer risk assessments, the servicing of accounts, fraud control, and targeted marketing.

Examples of other information, that is non-transaction and non-experience information, include information on an application, lists of a consumer's assets and liabilities with other companies, and lists of the names of companies from whom the customer has purchased other financial products and services. Under FCRA, such other information that is shared with an affiliate is not treated as a credit report as long as a consumer is notified that such information may be shared and is given the opportunity to opt-out of having this information shared. This provision permits Key's affiliated companies to share all types of information maintained on customers, not just information on our own transactions or experiences with the customer, provided the customer does not "opt-out" of the sharing.

These two provisions were added to FCRA in 1996 to accommodate the flow of information within organizations, such as Key, which provide products and services to consumers through multiple legal entities. Absent these exceptions to the definition of what constitutes a consumer report, Key's affiliates would be treated as consumer reporting agencies under FCRA and would be able to share consumer information only in limited circumstances, such as a credit transaction, the underwriting of insurance or for employment purposes. Key uses the affiliate information sharing provisions of FCRA in many other ways to help consumers. It relies upon affiliate information sharing to help consumers obtain needed products and services and service customer accounts. It also uses affiliate sharing to fight fraud and identity theft, and to comply with anti-money laundering and anti-terrorist financing laws. The following is a summary of the many ways in which Key uses affiliate information sharing to benefit consumers.

<u>Appropriate Product and Services</u>

Our customers expect us to help them identify appropriate financial products and services. Affiliate information sharing permits us to efficiently and effectively provide products and services that meet the specific needs of our customers. To do so, we first must understand a customer's financial needs and risk profile. Affiliate information sharing allows us to gather this data. Once we have an understanding of a customer's financial needs and risk profile, including an understanding of the existing product and service relationships the customer maintains across Key, we can determine what products and services are best for the customer, from both a product function and cost perspective. Without affiliate information sharing, our customers would be at a disadvantage in terms of product selection and cost.

One-Stop Shopping

Our customers want to minimize the time it takes to conduct business. Affiliate information sharing allows us to deliver financial products and services efficiently. It eliminates the need for our customers to deal separately with different Key employees at multiple locations in order to obtain products and services that are offered by Key through separate legal affiliates. For instance, if a customer goes to a Key branch to open a deposit account, the same employee can assist that individual with other products, such as a home equity line that is offered by a separate Key affiliate. Affiliate information sharing also accelerates account approval and opening processes by leveraging information Key already maintains on the customer to process the customer's request. This eliminates the need for a customer to spend time gathering papers and finding information necessary to proceed with a product request.

Integrated Products and Services

Key offers several products that straddle affiliates. For example, Key's Total Access Account connects a brokerage account to a bank deposit account. This enables us to sweep funds back and forth to maximize the return on a customer's funds. Customer information must be shared between our brokerage and bank to allow these products to co-exist. Combined statements and online account aggregation services are other examples of services that benefit our customers, and that are a direct result of affiliate information sharing.

Relationship-Based Discounts

Key strives to maintain and grow customer relationships. One way we achieve this goal is through relationship-based pricing and discounts for customers who maintain multiple accounts across Key. The number and mix of products and services a customer maintains across Key impacts the profitability of a customer, which allows Key to provide certain customers with discounts and preferential pricing. Affiliate information sharing allows Key to perform the analysis necessary to determine which customers qualify for discounts or other pricing breaks. The benefit to the customer in this case is clear: advantageous pricing. This benefit is a direct result of affiliate information sharing.

Ease for Clients

Affiliate information sharing supports our ability to effectively service customers. It allows us to respond to customer inquires. With access to shared information, a bank branch representative can assist a customer who may have questions concerning the customer's brokerage and deposit accounts. Information sharing also enables a centralized department to update customer information for accounts held at any Key affiliate. This saves the customer the time and nuisance of separate visits and multiple telephone calls. Furthermore, information sharing helps Key manage data quality. When personal information related to a customer is changed at one affiliate, information sharing enables us to reflect that change in other accounts held throughout the organization. Maintaining the accuracy of customer information is critical in the fight against identify theft.

Effective Solutions

Information sharing helps Key provide the best possible financial solutions to its customers. For example, when determining the best source for funds needed by a customer, a Key representative can identify more opportunities with a full understanding of the client's relationship across Key. Utilizing information sharing, the Key representative may discover that the customer has a home equity line with a Key company and may conclude that the home equity line is a less expensive source of funds than the credit card limit extension the customer may have requested.

Increased Efficiencies/Decreased Costs

Centralizing functions — such as call centers, operations centers, analytics, and product development — all require information sharing across affiliates. Centralized functions enable the same Key employees to effectively and efficiently perform nearly identical functions for different affiliates within our organization. Consolidating functions across affiliates improves expertise, allows us to better manage risks, and significantly reduce operating expenses. These benefits are passed on to the customer in the form of better service and lower costs. If affiliate information sharing is restricted, it would force Key to decentralize and duplicate functions within the organization, with no benefit to customers.

Well-Suited Offers

Key uses information sharing to determine which products or services to market to our customers. We strive not to annoy our customers with offers for products or services that do not fit their needs. We know that customers only will choose new products or services if those products or services fill a specific need. Efforts to market the wrong products and services to our customers benefit no one. In order to ensure that our marketing efforts benefit our customers, we conduct the necessary analysis of the information we have available to us to understand our customers' needs. This does not mean that we will market products to those who have requested us not to solicit them. For many years, Key has provided its retail and business customers the option to not receive marketing from Key if they chose.

Uncovering Fraud

Information sharing among affiliates is critical in our efforts to fight fraud. Organized crime groups conduct the majority of fraud committed against financial institutions. These groups know the requirements under which we operate and "game" the system. They know where and how we can share information, and play that against us. They know the legal restrictions we operate under and the technology we utilize. When a financial institution is the target of fraud, it generally is not an isolated incident;

criminals strike at multiple points across the organization. Gathering and sharing information on the impacted accounts across the organization is the only means to effectively address this problem. In these situations, information must be retrieved from the employees in closest contact with the accounts, as well as the individuals who established the accounts. The information must be shared with those involved throughout the organization involved to help uncover the totality of the fraud.

Preventing Fraud

Key uses information sharing to help prevent fraud before it occurs. Some of our processes check existing information we have on a customer against information we receive when an account is established. If the information appears suspicious upon comparison, our employees take a closer look to uncover attempted fraud. By sharing information across the entire organization, not just within an affiliate, we have a much greater opportunity to stop fraud before it happens.

Affiliate information sharing is also a critical component of Key's compliance efforts with OFAC requirements, suspicious activity reporting requirements, and anti-money laundering and terrorist financing requirements.

Easing the Impact on Victims

Having access to information across affiliates increases the speed with which Key can react when assisting a victim of fraud or identity theft. Systems that house information across the company are a tremendous tool in aiding an identity theft victim. By placing one call to our fraud unit, a customer can, within a few minutes, have confirmation that a check was fraudulently passed, and can obtain credit to his or her account. This is possible through access to an imaging system that contains copies of checks that can be searched and viewed within seconds to compare signatures on checks and an accounting system that permits accounts to be adjusted. Our fraud unit is centralized to support this function corporate-wide. In order for the unit to work properly, it is necessary for all affiliates to share information with the unit.

Our centralized fraud unit also allows a customer one point of contact within our organization. This avoids the need for the customer to make separate calls to the different affiliates that may be involved. Additionally, our centralized fraud unit benefits the company by making us more effective in successfully investigating the crimes and quickly getting information to law enforcement to aid in potential recoveries.

When identity theft does occur, affiliate information sharing enables us to ease the victim's burden of clearing the many difficult issues that are often encountered. For instance, in the process of re-establishing a customer's accounts after an identity theft has occurred, it is essential to quickly access information across affiliates on the affected accounts. This is critical in lessening the hardship that would otherwise linger for the victim.

Consumer Protections

I have described how Key shares information among affiliates for the benefit of its customers. Key is equally concerned about protecting customers from unwanted distribution of information:

- Key has stringent information access restrictions across the company.

- We train our employees (23,000+) annually on the importance of privacy and its requirements.
- Key does not share medical information among affiliates for any reason not related to the servicing of the account or product.
- Any consumer who provides personal information to Key is informed of our information sharing practices.
- Consumers can opt-out of the sharing of non-transaction and experience information among affiliates. We inform consumers of this right, and provide them with our toll-free Privacy Line number to exercise the right.
- Consumers are notified of any adverse credit decisions based upon information contained in a credit report, and are given the opportunity to dispute that information.

Conclusion

In conclusion, the Roundtable and Key support the affiliate sharing provisions of FCRA. We firmly believe that the statute strikes an appropriate balance between consumer protection and corporate structure. It permits financial services companies, like Key, to offer a full range of products and services to consumers in a convenient and efficient manner resulting in real benefits and savings for our customers. At the same time, it permits consumers to block unwanted information sharing and helps protect against identity theft. We urge the Committee to make the existing provisions of FCRA permanent and thereby reaffirm our national credit system.