TESTIMONY OF

JOSEPH A. SMITH, JR.

NORTH CAROLINA COMMISSIONER OF BANKS

On behalf of the

CONFERENCE OF STATE BANK SUPERVISORS

On

"FINANCIAL REGULATION AND RESTRUCTURING"

Before the

FINANCIAL SERVICES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

July 24, 2009

Room 2128 Rayburn House Office Building

INTRODUCTION

Good morning, Chairman Frank, Ranking Member Bachus, and distinguished members of the Committee. My name is Joseph A. Smith, Jr. I am North Carolina Commissioner of Banks and Chairman of the Conference of State Bank Supervisors (CSBS), the professional association of state officials responsible for chartering, regulating and supervising the nation's approximately 6,000 state-chartered banks. In addition to regulating banks, most state banking departments also supervise the residential mortgage industry as well as many other areas of consumer finance and lending. As the mortgage industry has evolved over the past two decades, CSBS has expanded its mission beyond traditional commercial bank supervision and has been working closely with the American Association of Residential Mortgage Regulators (AARMR) to enhance supervision of the mortgage industry.

Thank you for inviting CSBS to testify today on the Administration's plan for financial regulatory reform. CSBS applauds this Committee and the Administration for the time and energy put into this challenging undertaking. CSBS looks forward to working with Congress and the Administration toward a reform plan that makes meaningful and sustainable improvements in the way our financial system serves the public and strengthens local communities and our nation's economy.

Upon the release of the Administration's regulatory restructuring proposal and Chairman Frank's introduction of H.R. 3126, CSBS and its members began a process of evaluating the various proposals and developing policy positions and recommendations. I would like to thank my colleagues in states across the nation for their thoughtful efforts. My statement today reflects the positions and recommendations that emerged from this process.

The financial crisis and the recent economic downturn have exposed weaknesses in financial oversight, identified gaps in statutes and regulations, uncovered harmful industry practices and products, highlighted imprudent consumer habits, and sparked an important debate among regulators, the industry, consumer groups, the Administration and Congress. From where the members of CSBS sit, with years of financial services supervisory and regulatory experience and with a real-time appreciation for the impact of the current crisis on consumers and communities, it is clear that some form of financial regulatory reform is necessary. The legacy of this crisis could be a highly concentrated and consolidated industry that is too close to the government and too distant from the consumer and the needs of our communities. That need not be the result -- but it is the course we are on. To avoid that outcome, Congress needs to realign the regulatory incentives around consumer protection and directly address and end “too-big-to-fail.” To prevail through the next crisis, we need a diverse industry, not a handful of mega-banks.

We believe that effective regulatory restructuring should promote and maintain a financial services industry that is safe, sound, diverse, and competitive and that provides a broad range of borrowers with access to sustainable credit. This industry must serve consumers with a diverse universe of understandable financial services and products that meet a wide range of financial and borrowing needs, and these consumers need to have confidence in a legal and regulatory structure that protects them from abusive products and providers. The regulatory structure must create incentives for innovation and prudent growth, but it also must have robust safeguards to prevent growth driven by excessive risk taking and leverage and to protect taxpayers from potentially unlimited liability.

CSBS believes that many provisions of the Administration's plan would significantly advance these goals. These include the continuation of the current supervisory structure for state-chartered banks, a comprehensive approach to consumer protection in the financial services arena, and the recognition of the importance of state law and state law enforcement in accomplishing consumer protection.

CSBS also believes, however, that some provisions of the Administration's plan would be inconsistent with the objective of a strong, diverse, and competitive financial services industry that provides broad access to affordable credit and more effectively protects consumers and taxpayers. In particular, we are concerned that the Administration's plan inadequately addresses the systemic risks posed by large complex financial institutions. The Administration's plan leaves open the real prospect of creating a bifurcated industry, with one class of systemically significant large institutions that enjoy real and perceived federal preferences and "the rest," those who lack the scale to merit an implicit link to the government and the market advantages such a link confers. This disparate treatment is unsustainable and likely would drive non-systemic institutions out of business or to the margins. Finally, we believe that still other aspects of the Administration's proposal warrant further discussion and detail in order to determine whether and how they will serve our broader goals.

My testimony today will present our perspective on these issues, discussing four main elements: the proposal to create a new Consumer Financial Protection Agency; the proposal to create a new Financial Services Oversight Council; the proposal for a new resolution regime for failing bank holding companies, including Tier 1 financial holding companies; and the structure for consolidated supervision of large, interconnected financial firms. Additionally, my testimony touches briefly on a few other aspects of the Administration's regulatory restructuring proposal.

THE DUAL BANKING SYSTEM CONTINUES TO PROMOTE INDUSTRY DIVERSITY AND BROAD ACCESS TO AFFORDABLE CREDIT

The United States' dual banking system is unique, allowing for the creation of a diverse, dynamic, and durable banking industry that has, in turn, fueled the world's most influential economy for 150 years. Despite industry consolidation, which has increased as federal law has offered more and broader preemptions of state authority, the United States still boasts over 8,000 insured banks and thrifts that vary in size, complexity, the markets they serve, and the products they offer.

If we have learned nothing else from the recent upheaval in our financial sector, we must remember that excessive concentration of financial power and the lack of transparency in the provision of financial services are harmful to the long-term interests of our financial system and its customers. However, it is also important to preserve and strengthen those aspects of our financial system that have kept it relatively resilient and have help keep credit flowing to consumers and businesses across our diverse economy. The dual banking system continues to ensure that citizens across the nation have access to credit, and CSBS is pleased that the Administration's regulatory restructuring proposal preserves the dual banking system. If the financial system were composed of a handful of behemoth, systemic institutions, it is likely that citizens in rural areas and smaller communities would not have sufficient access to credit. As the map attached as

Exhibit A demonstrates, the seven largest institutions tend to concentrate their presence in major urban metropolitan areas, while smaller communities and cities are served by other banks.

A FEDERAL CONSUMER FINANCIAL PROTECTION AGENCY SHOULD BE FOCUSED ON RULEMAKING AND MUST REFLECT THE IMPORTANT ROLE OF THE STATES IN CONSUMER PROTECTION

The Administration's proposed Consumer Financial Protection Agency (CFPA) would be a single primary federal supervisor charged with protecting consumers of credit, savings, payment, and other consumer financial products and services, and with regulating providers of these products and services.

CSBS supports the creation of the CFPA, in concept, and its goals. Public confidence is an essential element of our financial system, and restoring this confidence must be a central goal of this reform effort. Consumer protection standards for all financial service or product providers, such as those to be promulgated by the CFPA, are an important step in restoring and maintaining this public confidence.

Effective consumer protection requires preserving and enhancing the role of the states in setting and enforcing consumer protection standards. Any proposal to create a federal consumer financial protection agency must preserve for states the ability to set higher, stronger consumer protection standards. The Administration's proposal, as well as H.R. 3126, does just that -- explicitly providing that federal consumer protection standards constitute a "floor" for state action.

This creates a system of regulatory checks and balances that will lead to more effective consumer protection and that need not result in the so-called “patchwork quilt.” Our experience has been that thoughtful and deliberate federal standards will obviate the need for the states to act and, instead, will enable the states to respond to local development and emerging risks and practices, many of which are occurring outside the depository world. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) is one very recent example of a how this “floor not ceiling” approach has led to strong and uniform standards. The S.A.F.E. Act, passed on July 31, 2008, gave the states one year – until July 31, 2009 -- to pass legislation to meet minimum licensing and registration requirements for loan originators. The states have risen to the challenge and have unified under a Model State Law. I am pleased to inform the Committee that, as of today, 49 states and the District of Columbia have enacted or introduced legislation implementing the S.A.F.E. Act.[1] Special recognition must go to Ranking Member Bachus, who first developed the SAFE Act and its state-federal model for regulation and supervision.

Additionally, any federal consumer protection legislation must ensure that state authorities continue to have the power to enforce applicable state and federal laws for all financial entities operating within their borders, regardless of charter type. The Supreme Court recently affirmed this authority with its decision in *Cuomo v. Clearing House Association*, and CSBS supports the provisions of the Administration’s proposal and of H.R. 3126 codifying this decision into federal law.

The strong affirmation in the Administration’s proposal and H.R. 3126 of the states’ role in consumer protection must be reinforced with a significant emphasis on

[1] A detailed update on state implementation of the S.A.F.E. Act is attached as Exhibit B.

effective and timely coordination and information sharing between federal and state regulators. Any legislation must include explicit mandates and mechanisms for this coordination and information sharing.

CSBS shares the concerns of others about separating consumer compliance regulation from prudential supervision. We see the two as not necessarily in conflict, but rather -- with appropriate checks and balances in place -- mutually supporting and reinforcing. Consumer complaints not only identify trends, practices, or products that harm consumers, but also indicate that an institution may be operating in an unsafe or unsound manner. Similarly, an institution that is well capitalized, well managed, and safe and sound effectively provides consumer protection by ensuring that consumer accounts are secure. Separating the two types of exams could eliminate this benefit.

Establishing another primary federal examining authority also risks creating additional unnecessary regulatory burdens, especially for state-chartered depository institutions that are already subject to both federal and state regulatory oversight. While we agree that more comprehensive and consistent consumer protection oversight across all providers of financial services will benefit the financial system and consumers, we also believe that regulatory reform should not create regulatory burdens that distort the playing field.

To enhance consumer protection while minimizing regulatory and supervisory inefficiencies, CSBS believes that the CFPA should focus first and foremost on rulemaking and data and information gathering and analysis. Additionally, we believe that the CFPA should be vested with sufficient examination and enforcement authority to fill regulatory gaps or shortcomings.[2] Prudential regulators should continue to examine for safety and soundness and consumer protection compliance, with the CFPA retaining back-up examination powers to strengthen the checks and balances in the system and better align regulatory incentives with consumer protection goals. Additionally, we believe that states could apply to the CFPA to exempt state-chartered depository institutions (or classes thereof) from federal consumer protection examinations. Such exemptions would be based on the CFPA's determination of factors such as the state's ongoing regulatory oversight.

Similarly, CSBS believes the CFPA should have back-up enforcement powers; with the prudential federal and state regulatory authorities and state attorneys general sharing primary enforcement authority. This back-up enforcement authority will enable the CFPA to take action when prudential or law enforcement authorities have failed to act, without displacing or duplicating existing cooperative enforcement efforts. For example, state prudential regulators and law enforcement have collaborated to conduct major consumer protection actions, such as the landmark $484 million settlement in 2002 between the states and Household Finance for unfair and deceptive lending practices. The CFPA needs sufficient enforcement resources to prevent regulatory arbitrage or under-enforcement, but it would be unnecessary, and possibly counterproductive, for it to attempt to lead enforcement efforts on a routine basis.

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2 In the event that a federal consumer protection agency is vested with primary consumer protection examination authority – as contemplated by H.R. 3126 and the Administration's proposal -- coordination with state authorities will be an even greater imperative, and the legislation must create a structure for this coordination. Therefore, Congress should direct the CPFA to coordinate its examination activities with the consumer protection work of state regulators, and Congress should also build upon H.R. 3126's information sharing provisions by directing the CFPA to create mechanisms for effective, coordinated information sharing with state regulators.

This suggested structure will allow the CFPA to accomplish its essential consumer protection mission and objectives, but with a smaller, more efficient agency that leverages the existing resources, relationships, and capabilities of prudential and law enforcement authorities at both the state and federal level. The CFPA, as we envision it, would be armed with the necessary data and information to set effective federal minimum consumer protection standards and to collaborate with state and other federal agencies to ensure these standards are being met by all financial market participants. (Attached as Exhibit C is a chart summarizing CSBS's proposal for state and federal consumer protection authorities.)

CSBS believes it crucial that any federal consumer protection proposal include a mechanism for the federal agency to consult with state authorities in developing and implementing these new standards and regulations. While the Administration's proposal and H.R. 3126 clearly recognize the important role of the states in consumer protection, neither makes provision for state input into the CFPA's rulemaking process. Recent history shows that state officials often bring important prudential and compliance perspectives to consumer protection issues that federal agencies may lack; therefore, it is essential that reform legislation include a provision for mandated consultation between the CFPA and state banking regulators. This would also help ensure a balanced regulatory approach across state and federally chartered and licensed institutions.

In addition to a mandated consultative role for state banking regulators in the CFPA's rulemaking, we believe that the CFPA Board should include one member with state bank supervisory experience. This mirrors the structure of the current FDIC Board and would help ensure a diversity of regulatory perspectives and equitable treatment across different business models and classes of institutions.

Finally, we have significant concerns about the funding burdens of creating a new federal agency. Both the Administration's proposal and H.R. 3126 authorize the CFPA to collect fees and assessments. CSBS is concerned that the institutions that we oversee will bear a disproportionate financial burden. To avoid this, any legislation must require the CFPA to develop a means for equitably spreading the financial burden across the industry without depleting already limited state regulatory resources. Our proposal for a CFPA focused primarily on rulemaking, with existing prudential regulators maintaining their examination responsibilities and authorities, alleviates this concern somewhat as it envisions a smaller agency.

THE FINANCIAL SERVICES OVERSIGHT COUNCIL SHOULD INCLUDE REPRESENTATIVES OF STATE FINANCIAL REGULATORS

The Administration's plan proposes the creation of a Financial Services Oversight Council to facilitate information sharing and coordination, identify emerging risks, advise the Federal Reserve Board on the identification of Tier 1 financial holding companies (FHCs), and provide a forum for resolving jurisdictional disputes between regulators. The states agree on a need for a council of multiple regulators charged specifically with the coordination of supervisory efforts to limit the systemic risk posed by certain financial firms. (Please refer to Exhibit D, a May 2009 letter to House and Senate committee leaders from state authorities on this issue.)

We are concerned that the current proposal does not include a provision for state involvement in the Financial Services Oversight Council. The proposed Council would include the Treasury Department, the Federal Reserve Board, the proposed National Bank Supervisor (NBS), the proposed CFPA, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Federal Deposit Insurance Corporation (FDIC), and the Federal Housing Finance Agency (FHFA), but no state financial regulator. Given the Council's broad mission, the exclusion of state financial regulators will seriously curtail the Council's view of the financial system and emerging risks. A lack of state participation will impede the Council's stated goals and is simply unacceptable.

The vast majority of insured financial institutions operating within the United States are currently chartered and regulated by the states. States also have oversight of those financial service providers that are not affiliated with a depository institution, such as mortgage brokers, money services businesses, check cashers, and consumer finance companies. States have primary regulatory and supervisory authority over insurance companies, some of which have proven to pose systemic challenges to other financial institutions. Because of our proximity to and knowledge of the entities we regulate, the local economic conditions, and consumers, states are often the first to identify emerging trends, practices, products, or threats that impact the financial system. An Oversight Council that does not include some mechanism for state involvement will not be informed by this knowledge and proximity and, accordingly will be less likely to fulfill its statutory mission.

The existing Federal Financial Institutions Examination Council coordinates examination policies and procedures among the federal banking agencies, with input from a State Liaison Committee. CSBS recommends that the Financial Services Oversight Council incorporate a similar State Liaison Committee, comprising state regulators of banks, insurance companies, securities firms, and mortgage companies. This State Liaison Committee could include other state regulators as needed, to address the regulatory requirements of related industries, such as payday lenders, prepaid funeral contracts, check cashing, money transmitters, real estate appraisers, or any other state-regulated financial service.

The State Liaison Committee would work with the Financial Services Oversight Council through designated staff, but should also provide voting members to the Council. These members would communicate the State Liaison Committee's deliberations on emerging risks and practices. The state members would also serve as a conduit of information from the Council to the state regulatory agencies. This approach would not only encourage a consistent approach to regulation among all state and federal agencies, but also help to identify gaps in regulation or supervision.

AN EFFECTIVE RESOLUTION REGIME FOR SYSTEMICALLY SIGNIFICANT INSTITUTIONS SHOULD BE FOCUSED ON MANAGING FAILURES IN AN ORDERLY FASHION AND MUST ALLOW FIRMS TO FAIL

The President's plan recommends the creation of a resolution regime based on the FDIC's systemic risk exception; that is, a system that would prevent the disorderly closure of a failing bank holding company, including Tier 1 FHCs, if that closure would have serious adverse effects on the financial system or the economy. CSBS supports this recommendation, but has concerns with the procedure outlined by the Administration's proposal.

Under the current proposal, the resolution regime could be initiated by the Treasury, the Federal Reserve, the FDIC or the SEC. Resolution authority would be invoked after consultation with the President and a 2/3 majority of the Federal Reserve Board and the FDIC Board of Directors, but the Treasury would hold the ultimate authority over whether and how to resolve a failing firm, with broad authority to take any necessary action.

Diversity requires fair competition among institutions. The system cannot reward firms that operate in an unsafe and unsound manner and become insolvent. These institutions *must* be allowed to fail, regardless of their size or complexity. The Administration's proposal leaves open the possibility that an institution might be propped up indefinitely for "systemic" reasons, continuing business as usual and continuing to present a risk to our entire economy.

Under the proposal, the resolution regime would have the ability to establish conservatorship or receivership for a failing firm. In addition, however, the regime could stabilize a failing institution by providing loans to the firm, purchasing assets from the firm, guaranteeing the liabilities of the firm, or making equity investments in the firm. In short, the resolution regime would be allowed to use current subsidization techniques to prop up failing institutions. If this provision is written into law, it will effectively allow all systemic institutions to evade the consequences of their risky business practices or unsafe decisions.

If we hope to avoid future calamities that leave taxpayers on the hook for billions of dollars, Congress must not allow the resolving regime to have the power to bail out failing institutions. Firms that are not able to remain in business on their own accord must fail. The resolution regime's priority should be to manage these failures in an orderly fashion.

Therefore, we recommend that the FDIC be designated conservator or receiver of any institution that comes under this resolution regime. Additionally, an institution receiving either a systemic exemption to prompt corrective action or funding from the Federal Reserve's emergency lending facility should automatically be transferred to FDIC conservatorship. The FDIC is an independent agency that has the expertise and experience with managing and/or resolving troubled and failing institutions.

REGULATORY STRUCTURES AND INCENTIVES MUST NOT ENCOURAGE THE EMERGENCE OF "TOO BIG TO FAIL" INSTITUTIONS

The Administration's plan would grant the Federal Reserve Board authority and accountability for consolidated supervision and regulation of Tier 1 FHCs. The prudential standards for Tier 1 FHCs would be stricter and more conservative than those applicable to other financial firms, in order to account for the greater risks that their potential failure would impose on the financial system.

CSBS agrees in principle that the regulatory system would benefit from a single agency tasked with supervising systemically significant financial institutions. While the Federal Reserve Board's current authority as "umbrella supervisor" under Gramm-Leach-Bliley would make the Federal Reserve Board a logical candidate for the systemic risk regulator, CSBS does have some concerns regarding the Federal Reserve Board's ability to serve in this capacity.

Under current statutes, the Federal Reserve has extensive authority to serve as the umbrella supervisor for the financial services industry. Further, we do not believe that any other single agency is a better candidate for this role. That said, we think that consolidated supervision in a single agency eliminates valuable checks and balances to the system and effectively minimizes resources and expertise that should be applied to this crucial activity. We suggest, therefore, that any agency charged with supervising and regulating these large, interconnected institutions must report, in turn, to the Financial Services Oversight Council. Requiring the systemic risk regulator to consult with and perhaps even seek approval from the Council will maintain the system of checks and balances and will provide the responsible agency with an array of external opinions and experience.

More broadly, however, the Administration's plan appears to concede that some Tier 1 FHCs will always be "too big to fail." We do not agree with this assumption. The current crisis has proven that our regulatory structure was simply not capable of properly supervising the nation's largest firms. When it became evident these firms were insolvent, the federal government felt obligated to prop them up, as their failure would have far-reaching, systemic consequences. This decision was difficult, but necessary.

The government's subsidization of these institutions has cost American taxpayers billions of dollars and left our government and nation facing tremendous residual liabilities.

As long as some financial institutions are considered too big or too important to fail, no regulatory regime will be able to regulate or supervise them effectively. Instead of repeating these actions in the future, CSBS urges Congress to prevent these firms from becoming too big to fail in the first place. While we believe the Administration's proposal to impose more stringent prudential standards upon Tier 1 FHCs will provide some disincentive from becoming "too big to fail," eventually firms will evade these standards, just as they maneuvered around deposit caps.

We believe it is necessary for Congress to outline these higher prudential standards clearly to ensure that they discourage an institution from becoming "too big to fail" and to demonstrate the real market cost of being a systemically significant institution. We recommend that Congress consider the following requirements for all Tier 1 FHCs:

1. Minimum consolidated capital requirements, including a minimum leverage capital ratio, above the minimums required for other bank holding companies. Regular issuance of non-government guaranteed subordinated debt should, in general, be a component of these requirements with exceptions subject to the approval of the consolidated supervisor.
2. Maintenance of a liquidity risk management plan that is approved at least annually by the consolidated supervisor.
3. Higher PCA standards than are required for non-systemic firms.

4. Maintenance of a liquidation plan that is approved at least annually by the consolidated supervisor.
5. Payment of regular assessments into a fund established for the purpose of resolving Tier 1 holding companies. The assessment will be set annually, or more frequently as events warrant, by the Financial Services Oversight Council. The fund will be managed by the FDIC separately from the DIF. The fund can be used to facilitate the resolution of Tier 1 FHCs or supplement the deposit insurance fund in times of broad economic stress.

DE NOVO **INTERSTATE BRANCHING**

CSBS supports the Administration's proposal to eliminate the remaining restrictions on interstate banking. While Riegle-Neal intended to leave this decision in the hands of the states, inconsistencies in federal law have created contradictory rules about how financial institutions can branch across state lines. The contradictions affect state-chartered banks disproportionately. Federally-chartered savings institutions are not subject to de novo interstate branching restrictions, and creative interpretations from the Comptroller of the Currency have exempted most national banks as well. The Administration's proposal would restore competitive equity by allowing *de novo* interstate branching for all federally-insured deposit institutions.

RETAINED ECONOMIC INTEREST ("SKIN IN THE GAME")

The Administration's proposal includes a requirement that loan originators or sponsors retain an economic interest in a material portion of the credit risk for any such loan that the creditor transfers, sells or conveys to a third party. As we have no experience with such a requirement, we do not know what the impact will be, but it is not unreasonable to imagine such a requirement could reshape the mortgage industry and have a significant impact upon credit availability.

In our experience, corporate risk alone may not alter our outcomes. Both bank and nonbank lenders that seemingly had "skin in the game" made risk decisions that resulted in their failure. And more would have failed if not for government intervention. It is possible that risk retention could have the opposite of the desired effect. It could result in an industry consolidation that creates more banks that are considered too big to fail that pose even greater and seemingly intractable risks to our financial system and economy. Additionally, from our state perspective it is not difficult to imagine an industry so consolidated and systemic that it is seemingly unaccountable to consumers.

If the goal is to encourage sound underwriting and good origination practices there may be better and more holistic ways to revision the current system of originations. One possible idea would be to limit an originator's upfront earnings potential by spreading a future income stream out over the life of the loan. Our belief is that the transparency provided by unique identifiers applicable to the entire industry of originators also provides important incentives and checks on poor lending standards and abusive practices.

CONCLUSION

CSBS applauds this Committee and the Administration for seeking a prompt and comprehensive response to the obvious need for improvement in our system of financial regulation. We now look to the members of this Committee to bring your specialized knowledge and legislative experience to this proposal in order to ensure that it accomplishes its stated objective: a system to ensure a safer, sounder financial system that provides fair, stable access to credit and investment to all sectors of our economy.

We look forward to working with you toward legislation that reduces systemic risk, assures fairness for consumers, preserves the unique diversity of our financial system, and enhances state-federal coordination to create a seamless network of supervision for all industry participants.

Thank you again for the opportunity to share our views this morning. I look forward to any questions you may have.

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Appendix

Exhibit A: Branch Location Map

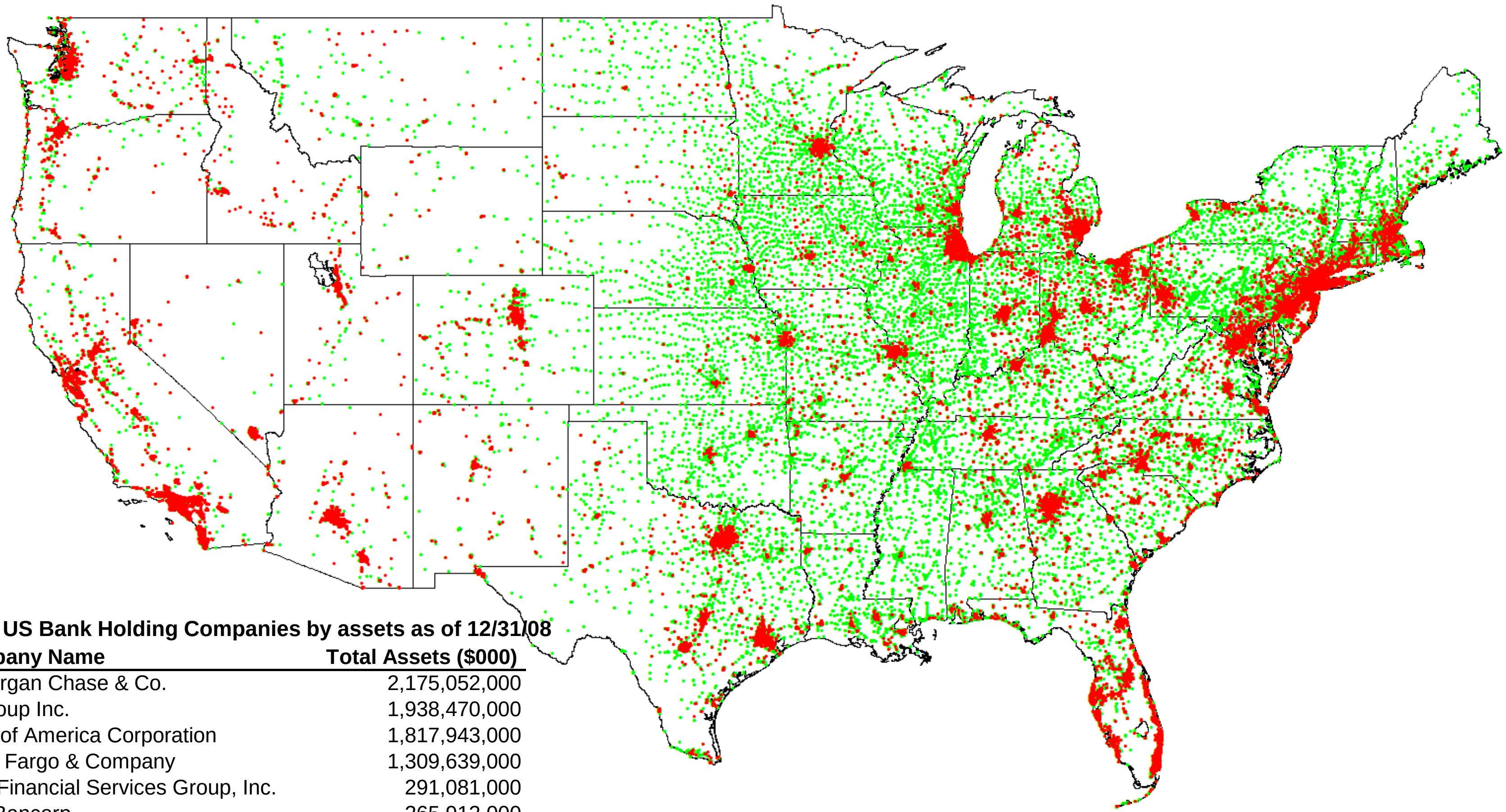
Exhibit B: S.A.F.E. Act Overview and Update

Exhibit C: Proposed State and Federal Consumer Protection Authorities

Exhibit D: May 2009 Letter to Congressional Committee Leaders on Systemic Risk Council

Exhibit A

Branch Locations Of Top 7 (Red) Overlaid On All Others (Green) As Of March 16, 2009



Top 7 US Bank Holding Companies by assets as of 12/31/08

Company Name	Total Assets ($000)
JPMorgan Chase & Co.	2,175,052,000
Citigroup Inc.	1,938,470,000
Bank of America Corporation	1,817,943,000
Wells Fargo & Company	1,309,639,000
PNC Financial Services Group, Inc.	291,081,000
U.S. Bancorp	265,912,000
Bank of New York Mellon Corporation	237,512,000

Exhibit B

STATES MOVE AGGRESSIVELY TO IMPLEMENT SAFE ACT AND IMPROVE MORTGAGE SUPERVISION

Title V of P.L. 110-289, the *Secure and Fair Enforcement for Mortgage Licensing Act of 2008* ("SAFE Act"), was passed on July 30, 2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS).

States have moved in an unprecedented manner in just **ONE YEAR** to accomplish the following:

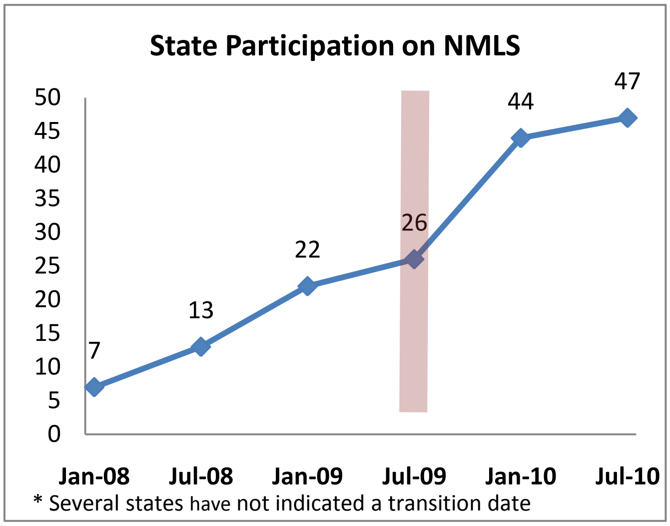
Legislation

- **49 states** and the District of Columbia have enacted or introduced legislation implementing the SAFE Act.
  - 46 states and the District of Columbia have already *passed* legislation, and
  - 3 states and Puerto Rico and the Virgin Islands have *legislation pending* in legislatures that are still in session.
- **All** legislation enacted to date includes standardized definitions, national pre-licensure and continuing education and testing requirements, and criminal background standards for mortgage loan originators as contained in the SAFE Act.
- **Virtually all of the** legislation enacted to date includes a robust set of prohibited acts and practices to protect consumers as promoted in the CSBS/AARMR Model State Law.
- **Uniformity in mortgage regulation** has been fostered and driven by enactment of the SAFE Act as the 50 existing state licensing laws are revised in a nationally consistent manner to establish standardized licensing applications, processes and practices.

State SAFE Legislative Activity

Participation in NMLS

- **26 states** and territories are already participating on the Nationwide Mortgage Licensing System.
    - 7 more states and territories (for a total of 33) are scheduled to participate in 2009.
    - 13 more states and territories (for a total of 46) are scheduled to participate in January 2010.
- **90% of states** are scheduled to be participating in NMLS by January 2010, just two years after launch of the system.

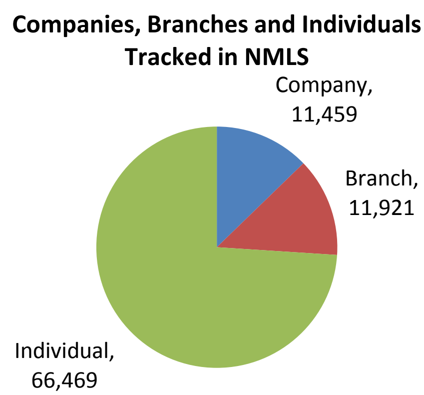


Testing and Education Standards

- NMLS developed the psychometrically valid SAFE Mortgage Loan Originator Test, with the national component of the test available for all state licensed mortgage loan originators on July 30, 2009.
- NMLS developed eleven SAFE state component tests that will be available on July 30, 2009. Remaining state tests will be rolled out on a quarterly basis over the next year.
- NMLS developed policy and procedures for approving course providers to offer pre-licensure and continuing education according to national standards.
- Since accepting applications from providers starting June 22, 2009, NMLS has approved 20 course providers and is processing applications from 30 more.
- By September 1st, NMLS approved courses will be available for MLOs across the country.

Coordinated Licensing of Companies and Mortgage Loan Originators

- **66,469 mortgage loan originators** in 26 states and territories have been issued a NMLS unique identifier and are being tracked in the system.
- **11,459 mortgage broker and lender companies** in 26 states and territories have also received an NMLS unique identifier and are being tracked in the system.



More information about state efforts to implement the SAFE Act and improve supervision can be found on the CSBS website at www.csbs.org.

More information about the Nationwide Mortgage Licensing System and Registry (NMLS) can be found at http://www.stateregulatoryregistry.org/NMLS.

Exhibit C

Consumer Protection – Proposed State-Federal Authorities

	CFPA	Federal Banking Supervisor(s)	Federal Reserve/FDIC	State Regulators	State Attorneys General
Rulemaking Authority	Exclusive federal rulemaking – with required consultation with state regulators -- over: NCD SCD SLND			More protective rules for: NCD SCD SLND	
Examination Authority – Primary	No primary exam authority, but broad information and data gathering[1]	NCD‡	SCD[2]‡	SCD‡ SLND‡	
Enforcement Authority – Primary/ Concurrent		NCD‡	SCD‡	SCD‡ SLND‡	NCD‡ (per Cuomo) SCD‡ SLND‡
Back-up[1] Enforcement and Examination	NCD SCD SLND				

Legend:
‡ -- Denotes existing authority
NCD – Nationally-Chartered Depository Institution
SCD – State-Chartered Depository Institution
SLND – State-Licensed Non-Depository Institution

Notes:
1. Back-up enforcement driven by data and consumer complaints.
2. States can apply for exemption based on state supervision and examinations.

July 24, 2009

Exhibit D

May 18, 2009

The Honorable Christopher J. Dodd
Chairman
Senate Committee on Banking,
Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby
Ranking Member
Senate Committee on Banking,
Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Barney Frank
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Dodd and Frank, and Ranking Members Shelby and Bachus:

The Conference of State Bank Supervisors (CSBS), the National Association of Insurance Commissioners (NAIC) and the North American Securities Administrators Association (NASAA) have each proposed principles for financial services regulatory reform that we believe will help guide the ongoing policy debate over the changes necessary to strengthen the nation's financial services regulatory structure. The unique experiences of state regulators on the front lines of consumer and investor protection provide the basis for our suggestions. Any regulatory reform measure must recognize the importance of ground level detection and policy sensitivity. These are critical characteristics of state regulation and necessary components of an effective financial regulatory structure.

At this time, we want to address one particular issue that has received considerable attention from your Committees in recent months – identifying and managing systemic risk in our financial markets. We encourage you to consider several basic recommendations from state banking, insurance and securities regulators as you reflect upon structural methodologies to address this challenge. After analyzing a number of strategies, we have concluded that the responsibility of identifying and managing systemic risk should not be assigned to a single agency but should be carried out by a council made up of state and federal regulators. We believe this approach holds the greatest promise of success in evaluating and controlling systemic risk in the marketplace because it will formalize regulatory cooperation and communication among state and federal regulators that oversee our financially intertwined markets.

Membership. The systemic risk council should include representatives from all federal and state banking, insurance and securities regulators. This holistic approach is effective and efficient. It creates a body with access to all relevant information regarding the accumulation of risk in our financial system, and it draws upon the existing expertise and proficiency of each functional regulator. It also minimizes the possibility of regulatory capture or philosophical bias that might arise if an existing federal agency were tasked with overseeing systemic risk. As a further measure against undue influence or capture, we believe the council should be headed by an independent chair. This would maintain balance and reduce the likelihood that any one member of the council or any one regulatory perspective exerts undue influence over the council's policies and operations.

Including state regulators on the council is necessary and appropriate. In all financial sectors, state regulators gather and act upon large amounts of information from industry participants and from investors. Consequently, they serve as an early warning system. As a general proposition, state regulators are usually the first to identify risks and related trends that are substantial contributing factors to systemic risk.

Function. The council should be tasked with collecting and evaluating data from all financial sectors to assess existing levels of systemic risk as well as the identification and analysis of new financial products or business practices that may be expected to increase levels of risk. In addition, when the council perceives the need for corrective measures, it should issue recommendations to the regulators with primary authority over the market sector in question. Those recommendations may range from the suggestion that various actions be taken, including emergency market intervention, the promulgation of new regulations, or even enforcement actions. In addition, the council would, where appropriate, recommend the passage of new legislation at the federal or state level.

Authority. The council should have the authority to require industry participants and other agencies to share information relevant to the mission of risk assessment. In other respects, however, its powers should be carefully circumscribed and its primary focus should remain the collection and analysis of data and issuing appropriate recommendations, leaving the authority of existing functional regulators intact.

In conclusion, as the state organizations representing the three major sectors of financial services regulation, we are committed to working with Congress to address the problem of systemic risk in our financial markets. We believe that the systemic risk council model described above is the optimal approach, as it recognizes and incorporates the states' vital role in financial services regulation and consumer protection.

Sincerely,

Timothy J. Karsky	Roger Sevigny	Fred J. Joseph
CSBS Chairman	NAIC President	NASAA President
North Dakota Banking Commissioner	New Hampshire Insurance Commissioner	Colorado Securities Commissioner

cc: Senate Banking, Housing, and Urban Affairs Committee members
House Financial Services Committee members