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FEDERAL DEPOSIT INSURANCE
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Statement on

H. R. 2, Sunset Act of 1979

H. R. 65, Legislative Oversight Act of 1979

H. R. 2364, Regulatory Reform Act of 1979

Presented to

Subcommittee on the Legislative Process, and

Subcommittee on Rules of the House

Committee on Rules

House of Representatives

by

Irvine H. Sprague, Chairman

Federal Deposit Insurance Corporation

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Mr. Chairman, I appreciate this opportunity to present the FDIC's views on H. R. 2, the Sunset Act of 1979, H. R. 65, the Legislative Oversight Act of 1979, and H. R. 2364, the Regulatory Reform Act of 1979.

H. R. 2

The Sunset bill's first three titles are closely related. Title I sets out a precise schedule for the review and reauthorization by Congress of most Federal programs. Title II requires the General Accounting Office and the Congressional Budget Office to prepare an "inventory" of Federal programs for use by the Congress "in carrying out the requirements of Titles I and III." The inventory would include various specifics relating to each program, such as enabling provisions of law, congressional committees having jurisdiction, and dates of relevant authorization and reauthorization legislation. Title III requires each congressional committee periodically to conduct comprehensive reexaminations of selected programs subject to its jurisdiction.

Title IV would create a new Citizens' Commission on the Organization and Operation of Government to conduct a nonpartisan study of the organization and operation of "all departments, agencies, independent instrumentalities, and authorities of the executive branch of the Government." And Title V specifically requires the President, by April 1, 1981, to submit to the Congress an analysis of the overall effectiveness and efficiency of the FDIC, OCC, FTC, SEC and FCC (but not the Federal Reserve) and to propose any reorganization of these agencies' functions which the President considers appropriate.

H. R. 65

The Legislative Oversight bill is much shorter and is referred to as a "sunrise" bill because it would affect only new programs. Congress would employ its oversight function by requiring future authorization bills to contain statements of objectives of new programs authorized therein, in addition to requiring that the agency administering such programs submit to Congress annual reports stating whether the objectives of such programs are being achieved. Furthermore, congressional committee reports would be required to analyze the social and economic impact of proposed legislation. This bill would further require the GAO to evaluate most Federal programs and would limit new budget authority to a 5-year period.

H. R. 2364

The Regulatory Reform bill would require that, by April 30, 1985, the President must submit to Congress a recommended plan for reorganizing the FDIC, Federal Reserve, OCC, FHLBB, and NCUA. (The bill also covers 27 other specified agencies, with differing deadlines.) If such plan is not submitted when due, the bill requires the Congressional Banking and Government Operations Committees to prepare such a plan, which would become the pending business in each House not later than April 1, 1986. The GAO would be required to submit its own agency analyses and reorganization proposals to the Congress under the same time schedule. The bill also contains procedural provisions designed to ensure prompt congressional consideration and disposition of the proposed reorganizations. If no regulatory reform legislation is enacted within 20 months of the time the President's plan is due (i.e., December 31, 1986, for

the financial regulatory agencies), affected agencies would terminate, except that their rules and regulations which are essential for preserving public health and safety would remain intact and would be transferred to the Justice Department for enforcement -- unless and until "other appropriate provision is enacted by the Congress."

OUR GENERAL COMMENTS

The primary thrust of these various legislative proposals appears to go toward the many programs created by the Congress and carried out by the Cabinet departments and other executive agencies. It does not appear that the sunset provisions of this proposed legislation are intended to be directed toward FDIC bank insurance and supervisory functions -- nor should they be. We believe any legislation enacted should clearly make this point.

The reorganization provisions of the legislation which would affect the FDIC appear to be related to various proposals for consolidation of the banking agencies. These proposals have been the subject of congressional hearings, and we have testified in the past that the new Federal Financial Institutions Examination Council which is just now getting under way should be given a fair chance to perform in the areas of coordination and cooperation before any consolidation legislation is seriously considered.

The Federal Financial Institutions Examination Council, created by Title X of FIRIRCA (the Financial Institutions Regulatory and Interest Rate Control Act of 1978) is made up of the five financial institutions regulatory bodies -- the FDIC, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration.

The Council's purpose is to explore areas of cooperation and consolidation by the agencies. In developing our procedures and establishing our priorities, we created five interagency staff task forces: A Task Force on Supervision, a Task Force on Consumer Compliance, a Task Force on Reports, a Task Force on Examiner Education, and a Task Force on Surveillance Systems.

The law also encourages closer cooperation in Federal-State supervision of financial institutions by creating a State Liaison Committee to meet with the Council to encourage the application of uniform principles and standards.

I sense a genuine commitment on the part of all members, including myself, to make the Examination Council work. I know that our performance is going to be closely monitored by Congress and others. If the Council is perceived as ineffectual or as a dodge for genuine progress in supervisory cooperation, there would be a legitimate reason for a real push for legislation to accomplish some type of statutory reorganization or consolidation of financial institution supervision.

LEGISLATIVE VETO

Finally, I know that you are giving special attention to the matter of the legislative veto.

As to that question, Congress always retains the power to enact legislation overriding or modifying any regulation promulgated by an agency. However, given the vast volume of such regulations published annually, it is difficult to see how Congress could give appropriate attention to each of them under a legislative veto procedure that would subject virtually every regulation to review by Congress.

Moreover, we think such a procedure would breach the traditional insulation from the political process which is essential to the effective functioning of the bank insurance and regulatory functions. Further, we believe a legislative veto procedure would be inappropriate once Congress has delegated the authority to act to an administrative agency. Additionally, the legislative veto process could also result in inordinate delay in implementing necessary regulations.

We are not aware, from our experience, that there is any need for such a complex procedure. It would seem that the same results can be accomplished in other ways under existing law. Congress is free to act after the imposition of a regulation, or even during its publication period if the need should arise, and Congress has acted swiftly in other cases; e.g., the prompt passage in October, 1973, of Public Law 93-123 which prohibited the financial regulatory agencies from permitting regulated institutions to offer, free of deposit interest rate ceilings, so-called "wild card" savings certificates of deposit in amounts under \$100,000.

In sum, we believe the legislative veto would be a rather extreme reaction, contrary to the general format of the administrative system for regulating various industries. We perceive the administrative system as designed to allow Congress to outline the general parameters of an area it wished to regulate and to place the responsibility for specific regulations on the appropriate administrative agency. The legislative veto would seem to go against the grain of established practice and put Congress into the day-to-day business of regulating specific problems in specific industries. It would not seem likely that Congress, as a whole or in its

various committees, would want to equip itself to assume the burden of such detailed rulemaking.

I will be pleased to provide any further information your Subcommittees desire on these subjects.