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Statement by

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Member, Board of Governors of the Federal Reserve System

before the

Subcommittee on Consumer Credit

of the

Committee on Banking, Housing and Urban Affairs

United States Senate

June 6, 1973

The Board of Governors welcomes the opportunity afforded by the Subcommittee on Consumer Credit to comment on S. 356 and S. 1052. Both bills reflect a continuing public demand for fair treatment in consumer transactions, and in that respect are the latest in a line of consumer-protection legislation which includes Truth in Lending and the Fair Credit Reporting Act. In my testimony today, I shall first discuss the bill recently reported by the Senate Commerce Committee and referred to your committee, S. 356. I shall then comment on S. 1052, the "Truth in Savings Act."

S. 356: Magnuson-Moss Consumer Protection Warranties and Federal Trade Commission Improvements

The purpose of S. 356, as stated in the report of the Committee on Commerce, is "to improve the position of the consumer in the marketplace by making the Federal agency responsible for his economic well being (the F.T.C.) more effective . . ." In large part, the bill covers areas outside the Board's range of responsibilities: consumer product warranties and Federal Trade Commission powers.

The Board has no suggestions to make on Title I, which provides disclosure standards for written consumer product warranties and for enforcement of these standards. Similarly, we have no problems with section 201, which expands the jurisdiction of the Commission from acts and practices "in" interstate commerce to those "affecting" such commerce. Other sections of Title II would, as the Federal Trade Commission has noted, give the FTC important new powers to use on behalf of consumers, including preliminary injunction authority and autonomy in litigation.

Moving to section 212, however, the Board encounters problems both substantive and technical. In an effort to make the regulation of the consumer credit field uniform with regard to unfair or deceptive acts or practices, section 212 removes the present exemption for banks from regulation by the Federal Trade Commission. Thus, banks would become subject to the regulatory authority of the FTC in the area of consumer credit. Enforcement of the rules would be delegated to the Federal banking agencies, but FTC would have the right to call back such delegation at any time, and thus take over the enforcement duties as well, if it finds that such action is required to prevent a bank from using unfair or deceptive acts or practices--or, as the Commerce Committee's report puts it, "If it is shown that (the enforcement powers) are not being effectively carried out" by the relevant Federal agency.

The Board has commented in detail on section 212 in a letter dated May 14, 1973, to Senator Sparkman. In addition, the Board submitted its views on related legislation to the Chairman of the House Committee on Interstate and Foreign Commerce in a letter dated April 3, 1973. Both of these letters are attached, and I should like to request that they be made a part of the record of this hearing.

The Board concurs in the arrangement set forth in section 212, dividing enforcement authority among the three Federal bank supervisory agencies. This is, after all, nothing more than the enforcement pattern established by the Truth in Lending Act. Given the successful history of this enforcement arrangement, however, the Board objects to the additional provision in section 212 requiring redelegation to FTC of the enforcement powers whenever FTC determines such action is necessary to protect consumers. This unusual concept reflects a degree of uncertainty about the wisdom of the enforcement arrangement. We believe it would be far preferable for Congress to make a straight-forward assignment of the enforcement powers in section 212 as it has done for Truth in Lending. If the Truth-in-Lending-type enforcement approach should later appear to be ineffective--an outcome we believe is remote--then Congress could readily amend the Act to provide a new arrangement.

With regard to rule-writing authority, the Board is deeply concerned with the need consumers have for effective protection against unfair acts or practices in the consumer credit field; the Board has been vigorously implementing the Truth in Lending Act--occasionally in the face of considerable opposition from various quarters. For example, the Supreme Court, in a case involving sale of magazine subscriptions, recently sustained the Board's action in applying the Act to consumer credit that involves more than four instalments--even though the Act does not explicitly refer to such credits unless they include a specific finance charge. Therefore, we know some of the problems, and some of the solutions, in the area of consumer credit. Out of this experience--and the Board's experience as a whole--has grown the conviction that an optimal approach to the problem of protecting the customers of financial institutions requires special knowledge of the ways in which such institutions operate.

We believe that the task of dealing with this problem should be given to one of the Federal bank supervisory agencies. The reason for the Board's preference for this approach lies in the unique character of financial institutions. Banks particularly, but also mutual savings banks, savings and loan associations, and credit unions, play a complex role in the national economy. Banks, of course, are a principal fulcrum of monetary policy, and they are at the center of the payments mechanism. Judging by the trend in the evolution of the payments system, non-bank financial institutions may also have an increasingly important role to play in the system. There is ample reason for adequate rules to protect customers of these institutions, to be sure, but the rules must be carefully drawn to assure that the legitimate interests of consumers are balanced against the need for a smoothly functioning monetary and payments system. Should there be disagreement with the desirability of placing the rule-writing authority with a single banking agency, the Board has indicated that a second-best approach would be for Congress to designate an agency responsible for consumer credit exclusively. This could be the Bureau of Consumer Credit proposed by the National Commission on Consumer Finance.

The report of the Senate Commerce Committee argues that it is necessary to give the FTC consumer-protection rule-writing authority over banks for three reasons. First, to remove an "anticompetitive situation" which exists because not all lenders are now supervised by FTC; second, because "presently existing Federal financial regulatory agencies either do not have the power or the desire to promulgate and enforce strong and uniform rules and regulations prohibiting unfair or deceptive acts or practices;" and third, because "it makes sense that the Commission should be empowered to issue rules and regulations to prevent unfair or deceptive acts or practices on the part of all business enterprises."

The possibility that an anticompetitive situation might grow out of the regulatory arrangement the Board recommends is remote--certainly less than the Committee's report would lead us to believe. It is true that two agencies--a bank supervisor and the FTC--would be writing the rules, but there is no reason to believe that the two agencies would not consult closely with one another in the formulation of their respective rules. In fact, the ultimate rules which emerged from this cooperative effort might well prove superior to an individual agency's efforts simply because two independent viewpoints will be brought to bear on a particular problem or set of problems. If Congress is concerned about a possible lack of uniformity, in any case, it could provide for a formal consultation process--as, in fact, does section 212.

The Commerce Committee questions, as did the National Commission on Consumer Finance, whether an agency that supervises banks, and thus tends to focus on issues of maintaining soundness and solvency, is capable of broadening its outlook sufficiently to give proper consideration to consumers. The Board believes that the need to maintain sound, strong banks is fully compatible with ensuring that banks are treating their customers fairly. Our viewpoint, of necessity, is largely determined by our own experience. At the Board, we know that consumer concerns rank equal to our other concerns, and that the interests of consumers are taken into account in those actions of the Board affecting their welfare. We <u>do</u> want safe and sound banks, and we <u>also</u> want to make sure that bank officials understand that operating a safe and sound institution is in no way inconsistent with fair treatment of their banks' customers.

Finally, if simple uniformity were the only criterion, we would agree that it would make sense to have one agency write consumer protection rules for all firms, no matter what their line of activity. But in the case of financial institutions, we believe the principle of uniformity must be weighed against the concern for monetary policy and the payments mechanism. As you know, the Board is vitally interested in the way in which the payments mechanism should evolve, an interest arising out of our responsibility to provide for the efficient transfer of funds in the economy. Financial institutions are currently in a transitional stage between the use of checks for settlement and an electronic payments system. A number of innovations promise to become a part of the future system of electronic payments, including credit cards and point-of-sale terminals for on-line computer operation. There is no question that consumers will be the ultimate beneficiaries of the changes that are beginning to be made in the payments field, but at this point the final shape of the payments system is still unclear. The way to assure that the evolution of the payments system to continue smoothly and innovatively is for Congress to give a single banking agency the authority to write rules against unfair and deceptive consumer practices for Federally-supervised financial institutions.

S. 1052: "Truth in Savings Act"

Because of our experience in the implementation of the Truth in Lending Act, the Board believes that full disclosure of credit terms, while perhaps not the ultimate consumer protection measure, is a highly useful procedure to help guide consumers in the marketplace. From the economic standpoint, it is undeniably helpful in increasing competition among the various vendors of credit. Similarly, we believe it is also likely to be useful, and pro-competitive, to require the full disclosure of the terms and conditions under which interest is payable on savings deposits of all kinds.

There has already been some progress made in this area by the Board and the other Federal agencies responsible for supervising financial institutions. For example, in February 1970 the Board issued an interpretation to its Regulation Q (1970 Bulletin 279) requiring member banks to inform their customers who maintain time or savings accounts of the methods used in the computation and payment of interest on these accounts. The interpretation provides that if a member bank makes a change in its methods that will be less favorable to the depositor, then notice of the change should be mailed to each depositor at his last known address.

This interpretation, as well as others issued by the Board which seek to prohibit deceptive advertising of interest rates, have helped to provide meaningful disclosure of the terms of savings and time accounts offered consumers by member banks. Similar policies have been adopted by the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board with respect to the institutions under their supervision. Nevertheless, the Board recognizes that more can be done in the way of providing for uniform disclosures of savings plans and making these standards applicable to all depository institutions, bank and non-bank. The approach embodied in S. 1052 would give consumers the opportunity to assess the relative merits of all available savings plans, and select the one which best suits their requirements.

While the Board supports the enactment of legislation along the lines of S. 1052, we believe care should be taken to insure, first, that unnecessary burdens are not placed on financial institutions, and, second, that the required disclosures are as clear and simple as possible. The Board believes it would be helpful to consumers if deposit-taking institutions were required to disclose the rates, terms and conditions affecting their savings deposits, just as it has proven helpful to consumers for lenders to disclose the rates, terms and conditions on extensions of consumer credit. Specifically, the Board believes depository institutions should be required to disclose an annual percentage rate. It may also be helpful to require the disclosure of a periodic percentage rate. Because of the possibility that consumers may be confused by the disclosure of a multiplicity of rates, the Board questions the usefulness of requiring lenders to disclose "the annual percentage yield," which would be a hypothetical dollar figure representing the compounded earnings on $100 for one year. The Board's views on these and several other technical aspects of the bill are set forth in the appendix attached to this statement.

As you know, S. 1052 would give the Board the responsibility of writing rules to implement the Act. The Board on previous occasions has recommended that another agency be assigned the rule-writing responsibility under Truth in Lending. However, as I indicated earlier, we believe the authority for writing broad consumer-protection rules affecting financial institutions should be placed in a bank supervisory agency. The limited kind of regulatory activity which would be required under S. 1052 is one that perhaps ideally should be lodged in an agency such as the Bureau of Consumer Credit proposed by the National Commission on Consumer Finance. Lacking such an agency, however, the Board recommends that the rule-writing authority contained in S. 1052 should be given to one of the bank supervisory agencies. Of course, if the authority is given to the Board, every effort will be made to implement the legislation to assure that consumers get the benefits intended by Congress.

Effective Date

Finally, the Board is concerned that sufficient lead time be provided before S. 1052 becomes effective. Many complicated regulations will be required if the legislation is to be effective; nearly a year was required to draft Regulation Z which accompanied Truth in Lending. Moreover, some period should be provided to allow savings institutions to adjust to the Act's requirements. Therefore, the Board recommends that a minimum of twelve months be provided before the bill takes effect.

Appendix

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

COMMENTS ON S. 1052

The Truth in Savings Act

While the Board supports the concept of "Truth in Savings" disclosures to consumers, it has the following technical comments on the individual provisions of S. 1052.

Questions of Scope and Coverage

Although it is undoubtedly difficult to define precisely the type of accounts to be covered by S. 1052, the present definition of "individual savings deposit" in Section 3(a)(3) appears overly broad. It could be construed to cover various types of savings vehicles, such as pension funds, annuities, and conceivably, mutual fund participations, all of which are probably not intended to be covered by the legislation. The Board suggests that this definition be drafted to cover only those specific types of time and savings accounts which the bill is designed to encompass.

S. 1052 contains several exemptions, including "any obligation issued by any Federal, State, or local government, or any agency, instrumentality, or authority thereof, except that the Board shall prescribe rules and regulations to require disclosures by any agency, instrumentality, or authority of the Federal Government." (Section 3(b)(3)) The meaning of this provision is unclear. On the one hand, Federal obligations are exempted, yet the Board is directed to prescribe rules and regulations for their inclusion.

Utility of Certain Disclosures

S. 1052 requires disclosure of an "annual percentage yield," a hypothetical dollar figure representing the compounded earnings on $100 for one year. (Sections 4(c), 6(a)(3)) The Board questions whether a dollar amount should be labeled a "percentage," and whether this disclosure would be meaningful to consumers. The dollars and cents indicated may have no relationship to the actual earnings received on an account during a year's period, since deposits and withdrawals during that period would affect actual earnings. Moreover, the only variation between plans which would be highlighted by such a disclosure would be differences in compounding periods. In most cases any such difference is minimal--the dollar difference at a 4-1/2 percent annual rate between the yield with continuous compounding on $100 and the same amount with no compounding for a year is only ten cents. Thus, the utility of this disclosure is questionable and we recommend that it be deleted from the bill. It should be noted that many variations between savings plans will not be reflected in either the "annual percentage rate" or the "annual percentage yield."

Savings institutions under S. 1052 would be required to disclose the terms applicable to a savings plan both annually and "at the time any earnings report is made to an individual." (Section 6(b)) This provision would appear to require new disclosures each time interest is recorded in a passbook, which could be quite often. This could involve unnecessary expense as well as inconvenience to both savings institutions and consumers. The Board believes that an annual report would be sufficient in providing meaningful information to consumers.

The definition of "periodic percentage rate" in section 4(a) appears to need clarification, if the concept is retained in the Act. The "periodic percentage rate" (the rate applied each compounding period) must be disclosed initially, annually, and at the time of each earnings report to the consumer. Apparently in response to questions about the appropriate periodic rate when "continuous" compounding is used, section 4(a) states that "for purposes of disclosure" the period may be construed to be less than one day. Yet, it also states that "the rate to be disclosed in lieu of the true periodic percentage rate shall be the factor used to determine the amount of earnings for a <u>one-day</u> period." These provisos could be construed as being contradictory. Beyond this problem with the language of the provision, there are still problems with the required disclosure of "the principal balance to which the periodic percentage rate was applied." Such a disclosure appears impractical where frequent compounding periods are used. In view of the complicated nature of the periodic percentage rate, the Board believes the regulatory agency should be given discretion as to when this rate should be disclosed.

Suggested Amendments

Another of the bill's provisions (section 6(a)(8)) requires that when a consumer initially places funds in an account "any terms or conditions which increase or reduce the rate of earnings" as disclosed as the "annual percentage rate" and "annual percentage yield" be shown. The Board recommends that the word "other" be inserted between "any" and "terms" to avoid redundancy, since there are other required disclosures set forth in the Act which may reduce earnings. In addition, as a technical matter, the cross reference in section 12(c) should be to section 9 rather than section 10.

The Board suggests that the duty in section 6(d) of furnishing notice of changes in any items disclosed be limited to mailing notices of a change to the depositor's last known address. Consideration should also be given to limiting the requirement of notice of material changes to those that will be less favorable to the depositor than previous terms. Otherwise, the provision could serve to discourage such changes as an increase in rates paid.

Grant of Authority

The broad grant of authority to the Board to prescribe regulations to carry out the Act's purposes specifies that all disclosures shall be made only in terms defined or used in S. 1052, the Truth in Lending Act, or in regulations issued by the Board. This provision appears overly restrictive. Some of the disclosures required are descriptive, and the Board feels that financial institutions should, therefore, be given more flexibility in complying. We suggest that the second sentence in section 5(a) be deleted and that subsection (b) then be combined into a single provision which would correspond to section 105 of the Truth in Lending Act (15 U. S. C. section 1605).

Effective Date

Finally, the Board is concerned that sufficient lead time be provided before the Act becomes effective. Many complicated regulations will be required if the legislation is to be effective; nearly a year was required to draft Regulation Z which accompanied Truth in Lending. Moreover, some period should be provided to allow savings institutions to adjust to the Act's requirements. Therefore, the Board recommends that a minimum of twelve months be provided before the bill takes effect.

CHAIRMAN OF THE BOARD OF GOVERNORS
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

May 14, 1973

The Honorable John Sparkman
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The Board has considered your request of April 11, 1973, for its views on Title II of S. 356, which is designed to place financial institutions under the jurisdiction of the Federal Trade Commission with regard to the prevention of unfair or deceptive acts or practices. Although the Board recognizes the appeal of having a single Federal agency charged with responsibility for determining what acts or practices may be unfair or deceptive, it believes that, insofar as unfair or deceptive acts or practices in banking are concerned, such responsibility should be assigned to a banking agency. You will recall that Congress granted a specific exemption to banking when the FTC Act was enacted in 1914. We believe the justification for that exemption is as valid today as it was then. Moreover, the unique role of the nation's banks in the execution of monetary policy and the ongoing development of the payments mechanism require careful consideration of whether the imposition of another layer of Federal supervision is in the public interest.

The Board is also concerned that the present language of section 212 of the proposed bill may inadvertently (1) give the Commission extraordinary rule writing authority over financial institutions which it would not possess generally, (2) expand the Commission's jurisdiction over financial institutions far beyond the limited area of consumer protection to which the bill is presumably directed, and (3) subject individual banks to concurrent FTC investigatory procedures (even when enforcement authority has been delegated to the banking agencies as contemplated by the bill) which may be inconsistent with orderly administration of the banking system.

The Federal Reserve's work to improve the payments system is by no means finished; much more needs to be done. A number of innovations promise to become a part of the future system of electronic payments (EFTS), including credit cards and point-of-sale terminals for on-line computer operation. Consumers will be the ultimate beneficiaries of the changes which are beginning to be made in the payments field and during this critical transitional phase where the final shape of the system is still unclear, regulatory action must be carefully designed to reflect both the legitimate interests of consumers and the concurrent need that financial institutions be allowed to proceed with their innovations and experiments leading toward the new payments system. It would be most unfortunate if regulation designed to protect consumers should inadvertently restrict the fundamental improvements now going forward with regard to the payments system, since these will be of direct benefit to consumers as well as to other sectors of the economy. The surest way for this to be avoided and for these benefits to accrue, we believe, is for Congress to assign a single banking agency the authority to write rules against unfair and deceptive consumer practices in the financial institution field, perhaps in consultation with the FTC.

Beyond the broad policy considerations of the appropriate locus for this administrative authority, the Board is troubled by the language which presently is contained in § 212 of S. 356. In National Petroleum Refiners Assoc. v. FTC (340 F. Supp. 1343) a Federal District Court has recently held that the Federal Trade Commission does not have the authority to promulgate trade regulation rules. No such general authority is contained in S. 356 and, absent any reversal of this case, the Commission's lack of such authority must be presumed to be the law. Nevertheless, section 212 appears to assume the existence of Commission rule writing authority with respect to financial institutions.

That section requires consultation with the Federal supervisory agencies in connection with "rules or regulations prescribed by the Commission in carrying out the authority conferred by this section with respect to unfair or deceptive acts or practices (including acts or practices which are unfair or deceptive to a consumer). . .insofar as they apply to or affect any financial institution." Thus it appears that the provision may grant the FTC jurisdiction to write legislative rules applicable to financial institutions when it does not have that same power with regard to those businesses already subject to its jurisdiction.

Should the National Petroleum case be reversed on appeal and the court declare that the Commission has general implied rule making authority under the present statute, the fact that the reference to "rules and regulations" in section 212 dealing with financial institutions is the only statutory reference to substantive rule making in the FTC Act may still leave considerable confusion as to whether the Commission may have extraordinary power in regard to financial institutions which is beyond what it has in regard to businesses generally.

The Board understands that section 212 was intended to confine the grant of FTC jurisdiction over financial institutions to matters other than those relating to antitrust issues. We believe it was not the Committee's intent to add the Federal Trade Commission as a third Federal agency (along with the Department of Justice and the appropriate banking agency) to supervise the antitrust aspects of banking. This intent is manifest in the deletion of authority with regard to "unfair methods of competition," otherwise covered by section 5 of the FTC Act. However, the Board questions whether the draft language actually accomplishes this objective.

As the Board understands it, the Federal Trade Commission's authority to proceed in cases in which it believes there are full blown or incipient antitrust violations is still evolving. Recently, the Supreme Court in the FTC v. Sperry and Hutchinson Co. (405 U.S. 233) held that the power of the FTC to condemn practices as "unfair" is extremely broad. The Court held that the Commission had power like a court of equity, to consider public issues beyond those simply enshrined in the letter or even the spirit of the antitrust laws. One may argue that whatever power the Commission may possess to prevent "unfair or deceptive acts or practices" may also encompass practices which are objectionable as "unfair methods of competition." In other words the exclusion of FTC jurisdiction over financial institutions with regard to "unfair methods of competition," but not "unfair or deceptive acts or practices," may ultimately prove to be inconsequential, and the apparent exclusion of jurisdiction over antitrust matters sought in section 212 may be illusory. The language of section 212 may thus have the potential for expanding Federal Trade Commission jurisdiction over financial institutions far beyond questions of proper advertising, abusive creditor remedies, and the like. Conceivably, questions could arise with respect to FTC authority in connection with bank mergers, holding company acquisitions, rates of finance charge, the structure of credit card interchange systems, the development of EFTS systems and other areas not intended to be covered.

A final question revolves around the "redelegation" provision in section 212. This provision specifies that – although the FTC shall delegate enforcement authority to the banking supervisory agencies – it may request and receive redelegation from the bank supervisory agencies of the power "to prevent particular financial institutions" from using unfair or deceptive acts or practices. Such a redelegation may very well require a finding under the Administrative Procedure Act. Presumably, development of such a finding would require the Commission to investigate the practices of the particular institution involved. At present, the investigative powers of the Commission contained in section 6 of the Federal Trade Commission Act specifically exclude their application to banks, and the present draft of S. 356 does not remove that exclusion. However, it is difficult to understand how redelegation with respect to a particular financial institution could be accomplished without a prior investigation by the Commission. Consequently, there may be some implied investigatory power in the redelegation provision or, at some future time, an extension of the specific investigative powers may be sought with regard to banks. It is worth observing that under section 6 not only is the Commission empowered to investigate the business, conduct, practices, and management of an institution, but it is also granted specific authority "to make public from time to time such portions of the information obtained by it. . .as it shall deem expedient in the public interest."

The concept of "redelegation" would appear to reflect some degree of Congressional uncertainty over the wisdom of its initial authorization. The Board believes that Congress rather than an independent agency may be the more appropriate party to delegate authority and it questions the necessity of the redelegation provision and the propriety of having implied separate investigatory power in the Commission.

The Board recognizes that well-intentioned concern over consumer protection has motivated the proposed amendment. We are cognizant of our role in furthering such protection, and you may be assured that the Board will take any necessary steps to insure that the consumer's interest is not overlooked in its bank supervisory efforts.

Sincerely yours,

Arthur F. Burns

CHAIRMAN OF THE BOARD OF GOVERNORS
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

April 3, 1973

The Honorable Harley O. Staggers
Chairman
Committee on Interstate and Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I am writing in response to your request of February 15 for a report on H.R. 20, a bill which would, among other things, expand the consumer protection powers of the Federal Trade Commission. Title II of H.R. 20 grants the F.T.C. the authority to issue rules defining unfair or deceptive acts or practices, and would direct the Federal banking agencies to enforce any rules F.T.C. might promulgate affecting financial institutions under the jurisdiction of the bank supervisory agencies.

The Board expressed its views on a similar proposal embodied in Title II of H.R. 4809 as reported on June 29, 1972, by the Subcommittee on Commerce and Finance. Our views were set forth at that time in a letter dated July 13, 1972, to the Honorable William L. Springer, and we wish to reiterate those views today.

With regard to financial institutions, the Board considered two questions relating to legislation along the lines of Title II of H.R. 20: first, what is the proper locus of enforcement authority; and, second, what is the proper locus of rule-writing authority?

The Board believes that enforcement authority should be divided, as provided in Title II, among the three Federal bank supervisory agencies (as was done in the Truth in Lending Act) and that rule-writing authority should be placed in a single banking agency.

Ideally, rule-writing authority for all agencies, banking and nonbanking, should be placed in a single agency, to avoid the problems of possibly conflicting rules as to what may be "unfair or deceptive" acts or practices, particularly where the same classes of creditors are involved. However, the Board believes that a single bank supervisory agency (as opposed to the Federal Trade Commission) should be given rule-writing authority over Federally-supervised financial institutions. While this would involve division of rule-writing authority between two agencies, the two would be concerned with different classes of creditors, and, to a certain extent, different trade practices. Through their long experience with the unique character of financial institutions, the Federal bank supervisory agencies have developed the requisite background and expertise to formulate rules sensitive to the complex roles of these institutions in the national economy.

One consideration which motivates the Board to recommend that Congress provide a banking agency with the authority to write rules for Federally-supervised financial institutions in dealing with consumers is the rapid change taking place in the payments system. Financial institutions are currently in the transitional stage between the use of checks for the settlement of accounts and an electronic payments system. A number of innovations promise to become a part of the future system of electronic payments, including credit cards and point-of-sale terminals for on-line computer operation. There is no question that consumers will be the ultimate beneficiaries of the changes that are beginning to be made in the payments field, but in this critical transitional phase where the final shape of the system is still unclear, regulatory action must be carefully designed to reflect both the legitimate interests of consumers and the concurrent need that financial institutions be allowed to proceed with their innovations and experiments leading toward the new payments system.

The surest way for this objective to be served, we believe, is for Congress to give a single banking agency the authority to write rules against unfair and deceptive consumer practices in the financial institution field.

Sincerely yours,

Arthur F. Burns