WW

(1) ATM disclosure
(2) fix disclosure box on credit cards
(3) advance notice on interest rate ↑ on credit cards

FINANCIAL CONSUMER IDEAS

(4) Advance notice
(5) Student card limits
(6) SW

Bill	Date	Sponsor	Description
ATM Fees			
HR264 ATM Fee Reform Act of 1997	1/7/97	Rep. Roukema	Amends the Electronic Fund Transfer Act to require disclosure of ATM fees. Requires the Comptroller General to study the feasibility of requiring specified fee disclosures before the consumer is committed to completing any electronic fund transfer.
HR795 Electronic Fund Transfer Fees Act of 1997	2/13/97	Rep. Sanders	Amends the Electronic Fund Transfer Act to prohibit ATM fees if the transaction is initiated by a consumer from an electronic terminal operated by a bank other than the financial institution holding the account. Prohibits ATM fees if the transaction is conducted through a national or regional electronic banking network.
S885 Fair ATM Fees for Consumers Act	6/11/97	Sen. D'Amato	Amends the Electronic Fund Transfer Act to prohibit ATM surcharges if the transaction neither relates to nor affects an account held by the consumer with the financial institution that owns or operates the terminal. Prohibits ATM fees if the transaction is conducted through a national or regional electronic banking network.
Credit Cards			✓
HR274 Truth in Credit Card Offers Act	1/7/97	Rep. Schumer	Amends the Truth in Lending Act to mandate disclosure of the annual percentage rate of interest that will actually apply to preapproved credit card solicitations or applications for an open end consumer credit plan. Requires exact description of the index or manner used to determine such rate.
HR1722 Bank Regulation Adjustment Act	5/22/97	Rep. Fox	Amends the Truth in Lending Act to establish a criminal penalty for specified activities pertaining to fraudulent use of credit cards.
HR1975 Credit Card Consumer Protection Act of 1997	6/19/97	Rep. Kennedy	Amends the Truth in Lending Act to prohibit fees solely on the basis of on-time payments. Requires advance notice of any interest rate increase for a credit card account and of the consumer's right to cancel such account before the effective date of increase. Prohibits post-cancellation increases in interest rates and fees on the outstanding balance of any canceled cards. Mandates disclosure to a credit card account holder of the fees and interest rates imposed upon credit advances through the use of third party checks. Proscribes over-the-limit fees in creditor-approved transactions, and two-cycle billing.
HR2599 Cash Consumer Protection Act	10/1/97	Rep. Fattah	Amends the Consumer Credit Protection Act to make it unlawful to require a credit card or demand an unreasonable deposit in cash as a condition for conducting business.
HR2662 Fair Credit Card Application Act of 1997	10/9/97	Rep. Menendez	Amends the Truth in Lending Act to require that certain credit card and charge card applications disclose to the consumer the maximum authorized credit limit and the consumer's right to state in the application the lowest credit limit acceptable to the consumer.

HR3066 Credit Card Interest Rate Change Disclosure Act	11/13/97	Rep. Maloney	Amends the Truth in Lending Act to establish a 90-day advance notice period as a prerequisite to any increase in an annual percentage rate of interest, or in the index used to determine APR, applicable to an open-end consumer credit plan.
Debit Cards			debit cards
HR2234 Dual-Use Debit Cardholder Protection Act of 1997	7/23/97	Rep. Schumer	Amends the Electronic Fund Transfer Act to provide that if an unauthorized electronic fund transfer has been initiated with a card that does not require the use of a unique identifier, consumer liability will be determined as if the transfer was an extension of credit.
HR2319 Consumer Debit Card Protection Act	7/31/97	Rep. Barrett	Amends the Electronic Fund Transfer Act to require prominent consumer protection warning that debit cards can be used without a code or unique identifier. Repeals guidelines governing consumer reimbursement and maximum liability for losses caused by the consumer's failure to timely report unauthorized electronic fund transfers. Limits consumer liability to a $50 maximum in all circumstances.
S1154 Dual-Use Debit Cardholder Protection Act of 1997	9/9/97	Sen. Reed	Amends the Electronic Fund Transfer Act to impose consumer liability for unauthorized electronic fund transfers only if the issuer provided a unique identifier.
S1203 Debit Card Consumer Protection Act of 1997	9/23/97	Sen. D'Amato	Amends the Electronic Fund Transfer Act to cite conditions limiting consumer liability for unauthorized debit card transactions.
Information Privacy			
S512 Identity Theft and Assumption Deterrence Act of 1997	3/21/97	Sen. Kyl	Amends the Federal criminal code to provide penalties against any person who defrauds, obtains, uses, or attempts to obtain or use one or more means of identification other than that lawfully issued.
HR1287 Social Security On-line Privacy Protection Act of 1996 [sic]	4/10/97	Rep. Franks	Prohibits an interactive computer service from disclosing to a third party an individual's SSN or related personally identifiable information without individual's prior informed written consent. Gives the Federal Trade Commission enforcement authority.
S600 Personal Information Privacy Act of 1997	4/16/97	Sen. Feinstein	Amends the Fair Credit Reporting Act to redefine the term "consumer report" to exclude identifying information listed in a local telephone directory. Prohibits commercial acquisition or distribution of an individual's SSN. Prohibits use of SSN as a personal identification number, without written consent. Prohibits the use of SSNs by marketing companies.
HR1813 Personal Information Privacy Act of 1997	6/5/97	Rep. Kleczka	Amends the Fair Credit Reporting Act to redefine the term "consumer report" to exclude identifying information listed in a local telephone directory. Prohibits commercial acquisition or distribution of an individual's SSN. Prohibits use of SSN as a personal identification number, without written consent. Prohibits the use of SSNs by marketing companies.

HR1900 Depository Institution Consumer Protection Act of 1997	6/17/97	Rep. LaFalce	Amends the Federal Deposit Insurance Act to require each Federal banking agency to prescribe consumer protection regulations pertaining to the sales, solicitations, advertising, or offers of a nondeposit product by a retail depository institution. Includes: (1) anticoercion sales and product marketing rules; (2) product suitability; (3) mandatory disclosure of the non-insured and non-guaranteed status of a nondeposit product, including investment risks; (4) prohibition of misrepresentation; (5) physical segregation of banking and nonbanking activities; (6) sales personnel qualification requirements and training; and (7) the structuring of compensation programs with respect to nondeposit product referral or sales incentives. Directs Federal banking regulators to jointly establish a consumer enforcement mechanism for consumer complaint resolution. Sets forth safeguards relating to confidential consumer financial information.
HR1964 Communications Privacy and Consumer Empowerment Act	6/19/97	Rep. Markey	Requires the FTC to determine the methods by which consumers may be enabled to learn what consumer information is being collected, used and sold. Calls for proposed changes in legislation and FTC regulations to correct defects in privacy rights and remedies.
HR2368 Data Privacy Act of 1997	7/31/97	Rep. Tauzin	Provides for a computer interactive services industry working group to establish voluntary guidelines. Prohibits commercial marketing use of certain government information regarding an individual without their prior consent. Prohibits display of SSN. Prohibits the commercial marketing use of any personal health and medical information obtained through an interactive computer service without prior consent.
Rent/Rent to Own			
HR2019 Consumer Disclosure and Rental Purchase Agreement Act	6/24/97	Rep. Jones	Amends the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental purchase agreements. Sets forth provisions for receipts and accounts of rental payments, renegotiations and extensions of rental-purchase agreements, and the content of rental-purchase advertising.
HR3060 Rent-To-Own Reform Act of 1997	11/13/97	Rep. Kennedy	Amends the Consumer Credit Protection Act to protect consumers from inadequate disclosures and abusive practices in rent-to-own transactions.
Unsolicited Loans Debt Collection Bankruptcy			
HR3150 Bankruptcy Reform Act of 1998	2/3/98	Rep. Gekas	Amends title 11 of the United States Code relating to bankruptcy. Calls for adequate protections for consumers, including: notice of alternatives, disclosures, debtor's bill of rights, and enforcement.
HR837 Fair Debt Collection Practices Amendments of 1997	2/26/97	Rep. Bachus	Amends the Fair Debt Collection Practices Act to require that the consumer notify the debt collector in writing of any dispute within 30 days of receiving a debt notice. Allows the debt collector to demand payment of a debt, and attempt to collect it, within the 30 days of consumer notice. Allows the debt collector to obtain information concerning location, income, asset, or credit of the consumer from any person besides the consumer's lawyer if the lawyer refuses to provide such information.
HR1059 Credit Cost Reduction Act of 1997	3/13/97	Rep. Bachus	Permits collection activities and communications to continue during the 30-day period following the initial debt notice by the debt collector to the debtor. Modifies civil liability guidelines.

HR2053 Unsolicited Loan Consumer Protection Act	6/25/97	Rep. Hinchey	Amends the Truth in Lending Act to prohibit a creditor from soliciting a consumer loan through the use of an unsolicited check. Protects a consumer from liability for any unsolicited check unless the consumer actually receives and negotiates the check. Prohibits information on any liability pertaining to such unsolicited loan from being reported to or received by any consumer reporting agency.
S1163 Unsolicited Loan Consumer Protection Act	9/1//97	Sen. Bryan	Amends the Truth in Lending Act to prohibit a creditor from soliciting a consumer loan through the use of an unsolicited check. Protects a consumer from liability for any unsolicited check unless the consumer actually receives and negotiates such check. Prohibits information on any liability pertaining to such unsolicited instrument from being reported to or received by any consumer reporting agency.
S1301 Consumer Bankruptcy Reform Act of 1997	10/21/97	Sen. Grassley	Amends title 11, United States Code, to provide for consumer bankruptcy protections.
S1405 Financial Regulatory Relief and Economic Efficiency Act of 1997	11/7/97	Sen. Shelby	Amends the Truth in Lending Act disclosure requirements for open end consumer credit plans to permit, as an alternative to the currently required table illustration, a statement that periodic payments may increase or decrease substantially. Amends specified consumer protection disclosure requirements for advertisements for credit other than open end plans. Establishes requirements for alternative compliance methods for advertising credit terms.

MEMORANDUM

TO: Tom Freedman, Mary Smith
FROM: Amy Block
RE: Consumer Financial Bills
DATE: February 19, 1998

SW

Over fifty bills dealing with consumer financial issues were introduced in the 105th Congress. The bills primarily address electronic consumer privacy, ATM surcharges, debit cards, credit cards, credit reports, unsolicited loans and fair lending practices. This list does not include a number of bills on information privacy, telemarketing fraud, slamming and other consumer privacy issues.

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H.L.C.

To: Kate

(Original signature of Member)

104TH CONGRESS
1ST SESSION

H. RES. ______

IN THE HOUSE OF REPRESENTATIVES

Mr. GONZALEZ (for himself, [see insert for original cosponsors]) submitted the following resolution; which was referred to the Committee on ______________

RESOLUTION

Affirming the support of the House of Representatives for the American Consumer Banking Bill of Rights.

Whereas efforts are underway in the 104th Congress to reduce and abolish many cherished consumer safeguards and legal protections for American citizens in the daily conduct of their financial affairs;

Whereas such efforts would have a disproportionate and adverse impact on moderate- and middle-income Americans;

Whereas such legal protections, financial rights, and consumer safeguards contained in various Acts of Congress have contributed significantly to the financial certainty and well-being of all Americans;

Whereas the repeal or dilution of such consumer safeguards and legal protections would subject Americans to in-creased risk of fraud, financial loss, and discrimination; and

Whereas regulations may warrant review for the purpose of streamlining and increasing their efficiency and effectiveness, those regulations that go to the heart of consumer safeguards in financial services warrant protection: Now, therefore, be it

Resolved, That the House of Representatives affirms its continued support for the rights and protections granted and assured to all Americans in the conduct of their financial affairs by various Acts of Congress, including the following:

(1) The right to a safe and sound banking system, without fear of additional taxpayer bailouts, including the right of consumers with deposits in federally insured institutions to have their funds safeguarded through competent and sound examination and supervision.

(2) The right to meaningful, uniform credit-term disclosures, including the right to know, in advance, all of the costs of getting a mortgage, a credit card, or any other type of credit extension or loan, the right to know these costs in simple, uniform terms so that consumers can comparison shop before they take out a loan or purchase credit, and the right to cancel a loan when the important terms

have not been properly disclosed and a consumer's home is at risk.

(3) The right to equal access to credit, including the right to credit extension based on objective criteria relating to a consumer's creditworthiness and without regard to the consumer's race, color, religion, national origin, sex, marital status, or age.

(4) The right to have banks reinvest and provide essential services in their local neighborhoods.

(5) The right to expedited access to funds, including the right to the use of income from a local check within 1 business day of deposit.

(6) The right to fair and accurate savings accounts terms, including the right to earn interest on all of the money in an interest-bearing account, and the right to know the rates and terms of interest on these accounts.

(7) The right to have an accurate and secure credit history, including the right to have accurate credit reports, and the right to maintain the privacy of sensitive financial information.

(8) The right to be free of abusive and unfair debt collection practices.

(9) The right to protection against unauthorized use of credit cards and debit cards, including

the right to limited consumer liability of no more than $50 when the loss of or the unauthorized use of any such card is promptly reported to the creditor.

Title I -- Electronic Funds Transfer Act Amendments

* Schumer/Gonzalez debit card bill plus a provision on reversible errors

Codifies NACHA (National Automated Clearinghouse Association) rules on permissible error reversal under EFTA (Electronic Funds Transfer Act) (if error is detected within 5 business days of transfer and results in a duplicate payment, involves an incorrect payment amount or is credited to the account of an incorrect payee). Also, requires that consumer whose account is corrected be given notice of the fact within 2 business days. Directs Treasury to establish similar rules for error reversals for federal funds transfers.

{We could add provisions from the Barrett bill on provisional recrediting for debit card errors}

Title II -- Stored Value Card Protections

Provides a comprehensive framework for regulating stored value cards (other than single purpose cards with less than $25 value). Establishes who should issue the card, consumer protections -- disclosures, error resolution, redemption of remaining value on card, fees

This Act should be an amendment to the Consumer Credit Protection Act and must provide for civil and administrative enforcement

Title III -- Internet Consumer Privacy Provisions -- to be drafted

Concept is that whoever conducts business over the Internet in the U.S. and seeks or uses personal and financial information on consumers must first disclose to consumers what their policies are on information sharing. Or, the web site must consumers' privacy preferences as may be expressed through their web server.

Title IV -- Fair Lending Enhancement Act

Amends ECOA (Equal Credit Opportunity Act) to permit creditors to make inquiries or collect information regarding race and gender and use the information to ensure compliance with the title and not to discriminate -- this would permit the collection of data on small business loans, consumer loans (this data is already collected for home mortgages.). This is a direct response to the Fed which refused to permit this via an amendment to Reg B.

Amends the section of HMDA (Home Mortgage Disclosure Act) which requires lenders to collect race and gender data by income and census tract to also require collection of simple interest rates on loans and prepaid finance charges (up-front loan fees such as points, origination fees, any finance charge paid separately in cash or by check before or at consummation of a transaction) expressed as a percentage of the sum of the principal amounts of the loans.

Title V -- Rent to Own Reform Act

Defines rent to own as a credit sale and therefore subjects these transactions to federal consumer protection laws and to state retail installment sales acts and usury ceilings.

Title VI -- Credit Card Consumer Protection Act

Kennedy's bill. This title amends TILA (Truth in Lending Act) to prohibit fees imposed solely on the timely payment of any credit extensions; gives a cardholder the right to cancel a card and pay it off under current interest rates and terms in the event the card issuer raises the interest rate; requires notification of right to cancel prior to imposing higher interest rates; requires a prominent disclosure of interest rates and transaction fees on convenience checks; prohibits fees imposed for a transaction which exceeds a credit limit if the transaction was approved in advance by the issuer; prohibits finance charges imposed retroactively on any unpaid balance for the period between the purchase date and the payment due date, if finance charges for such period are not otherwise imposed if the balance is paid off; requires clear and conspicuous disclosures of permanent rates when teaser rates are offered

Title VII -- Unsolicited Loan Consumer Protection Act

Hinchey's bill -- prohibits the mailing of unsolicited loan checks; insulates the consumer for liability if such check is sent and cashed by another person and shifts the burden to the creditor to prove that the consumer cashed the check; and prohibits the reporting of adverse information to a credit bureau on an unsolicited loan check.

Financial act

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To: Kate

Financial | Consumer

H.L.C.

Henry B. Gonzalez
(Original signature of Member)

104TH CONGRESS
1ST SESSION

H. RES. ______

IN THE HOUSE OF REPRESENTATIVES

Mr. GONZALEZ (for himself, [see insert for original cosponsors]) submitted the following resolution; which was referred to the Committee on ________________

RESOLUTION

Affirming the support of the House of Representatives for the American Consumer Banking Bill of Rights.

Whereas efforts are underway in the 104th Congress to reduce and abolish many cherished consumer safeguards and legal protections for American citizens in the daily conduct of their financial affairs;

Whereas such efforts would have a disproportionate and adverse impact on moderate- and middle-income Americans;

Whereas such legal protections, financial rights, and consumer safeguards contained in various Acts of Congress have contributed significantly to the financial certainty and well-being of all Americans;

Whereas the repeal or dilution of such consumer safeguards and legal protections would subject Americans to in-creased risk of fraud, financial loss, and discrimination; and

Whereas regulations may warrant review for the purpose of streamlining and increasing their efficiency and effectiveness, those regulations that go to the heart of consumer safeguards in financial services warrant protection: Now, therefore, be it

Resolved, That the House of Representatives affirms its continued support for the rights and protections granted and assured to all Americans in the conduct of their financial affairs by various Acts of Congress, including the following:

(1) The right to a safe and sound banking system, without fear of additional taxpayer bailouts, including the right of consumers with deposits in federally insured institutions to have their funds safeguarded through competent and sound examination and supervision.

(2) The right to meaningful, uniform credit-term disclosures, including the right to know, in advance, all of the costs of getting a mortgage, a credit card, or any other type of credit extension or loan, the right to know these costs in simple, uniform terms so that consumers can comparison shop before they take out a loan or purchase credit, and the right to cancel a loan when the important terms

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Financial Consumer

DEPARTMENT OF THE TREASURY
Office of Financial Institutions
1500 Pennsylvania Avenue, NW
Washington, DC 20220

TO: **TOM FREEDMAN**

Addressee's fax number: 202-456-7431

FROM: **GREGORY A. BAER**
Deputy Assistant Secretary of the Treasury
Telephone: **202/622-2610**
Fax: **202/622-2027**

DATE: **April 7, 1998**

Number of pages to follow: 7

Tom Kalil
Gay Joshlyn
to: Tom Freedman

Department of the Treasury

Gregory A. Baer
Deputy Assistant Secretary
Financial Institutions Policy

room: ______ date: 4/6/98

Re: H.R. 1900

Attached is a summary of H.R. 1900, LaFalce's consumer protection bill, prepared by Gerry Hughes of our staff. Please let me know if you have any questions.

Greg Baer

Attachment

cc: Becky Burr

room 2326
phone 622-2610

Analysis of H.R. 1900 --
The Depository Institution Consumer Protection Act of 1997

Summary

H.R. 1900 would require banks to take numerous steps to ensure that customers who purchase non-deposit products such as insurance or securities from a bank are not under a misimpression that such products are federally insured or bank-guaranteed. H.R. 1900 would also prohibit banks from coercing customers into purchasing non-deposit products or from selling products to customers for whom they are unsuitable. H.R. 1900 contains various other sales practice rules as well.

The great majority of restrictions contained in H.R. 1900 are already required of banks. Most notably, the Interagency Statement on Retail Sales of Non-deposit Investment Products imposes many of the disclosure and sales practice rules H.R. 1900 would require. On the other hand, violations of the Interagency Statement, while subject to examiner criticism (something banks do not take lightly), are not considered violations of law. Codification of the Interagency Statement in H.R. 1900 would thus take proven requirements and give them more teeth.

The version of H.R. 10 (the financial modernization bill) adopted by the House Banking Committee contained many of the provisions in H.R. 1900. The Treasury supported passage of H.R. 10, and our statement of concerns about the bill did not raise concerns about the provisions that were borrowed from H.R. 1900. H.R. 10 bill did not include, however, H.R. 1900's most controversial provisions, which would permit consumer recovery for damages if banks did not comply with the consumer protection rules and would prohibit a bank from sharing customer information with an affiliate.

Set out below is a summary of the major provisions of H.R. 1900, along with a discussion of how each provision relates to the status quo.

1. General Rulemaking Requirement

- H.R. 1900 would amend the FDI Act to require each federal banking agency to adopt, within six months of enactment, consumer protection rules applicable to sales, solicitations, advertising or offers of any non-deposit product. A "non-deposit product" is defined to include investment and insurance products, including mutual funds, that are not insured deposits. The banking agencies must consult with the SEC and, to the greatest extent possible, adopt joint consumer protection rules.

2. Disclosures and Advertising

H.R. 1900

- Under H.R. 1900, rules adopted under the general requirement above must include provisions relating to disclosures and misrepresentations.

  -- Disclosures. The following disclosures would have to be made orally and in writing before the completion of the sale and, with respect to anti-coercion disclosures, at the time of applying for credit: (1) the product is not FDIC-insured or U.S. government-insured, (2) an insurance policy sold by the retail bank, affiliate, subsidiary or agent is not guaranteed by the bank, (3) there is investment risk associated with an investment product, including possible loss of principal, and (4) a retail bank's approval of a credit extension may not be conditioned on the purchase of a non-deposit product sold by the bank or an affiliate or agent or on an agreement by the consumer not to obtain, or a prohibition on obtaining, a non-deposit product from an unaffiliated entity.

  -- Customer acknowledgment. A retail bank would have to require persons selling non-deposit products at any office or on behalf of the bank to obtain, at the time of initial purchase, a signed acknowledgment from the consumer that the purchaser has received the required disclosure.

  -- Misrepresentations. The bill would prohibit any practice or advertising at an office or on behalf of the retail bank that "could mislead any person" or otherwise cause a reasonable person to reach an erroneous belief regarding the uninsured nature or investment risk of the product.

Current Law

- The federal banking agencies -- OCC, Fed, FDIC, and OTS -- have jointly adopted an Interagency Statement on Retail Sales of Non-Deposit Investment Products.[1] The disclosures required by H.R. 1900 would track the Interagency Statement very closely. However, the Interagency Statement does not require an anti-coercion disclosure for investment products.

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[1] Interagency Statement on Retail Sales of Non-Deposit Investment Products (Feb. 15, 1994). The Interagency Statement does not apply to subsidiaries of insured state nonmember banks, which are subject to separate provisions in 12 CFR 337.4.

- The OCC also has issued an Advisory Letter on Insurance and Annuity Sales Activities[2] that also is similar to H.R. 1900, including anti-coercion disclosure for insurance and annuity products. However, the written customer acknowledgment is suggested, not required, and it applies only to the anti-coercion disclosure. In addition, disclosure that products are not FDIC-insured, etc., would not be necessary if the bank determined, for specific products, that customers would not benefit from the disclosure.

3. Sales Practices

H.R. 1900

- H.R. 1900 would specifically require the agencies to adopt rules addressing coercion and product suitability and appropriateness.

  -- Anti-coercion. The bill would prohibit banks from making credit extensions conditional upon (1) purchases of non-deposit products from "the same retail banks" or their affiliates, subsidiaries, or agents, or (2) an agreement not to obtain, or a prohibition on obtaining, a non-deposit product from an unaffiliated entity. The bill also would prohibit banks and their affiliates from marketing non-deposit products to consumers while credit applications are pending (unless by mail unrelated to the credit application).

  -- Suitability and appropriateness. The bill would require a bank to ensure that a non-deposit product is "suitable and appropriate" for the consumer based on financial information disclosed by the consumer. Regarding sales of investments, the banking agencies would be required to "take into account" the NASD's Rules of Fair Practice. Neither, the Interagency Statement nor the OCC Advisory Letter prohibits marketing non-deposit products while a credit application is pending.

Current Law

- Coercion. Section 106 of the Bank Holding Company Act Amendments of 1970 already prohibits a bank from requiring a customer to purchase one product as a condition for obtaining another product, or from requiring a customer to refrain from dealing with a competitor as a condition for obtaining a product from the bank. Thus, H.R. 1900's anti-

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[2]OCC Advisory Letter 96-8 -- Guidance to National Banks on Insurance and Annuity Sales Activities (Oct. 8, 1996). The OCC issued the Advisory Letter because national banks have insurance sales authority under the National Bank Act. The other federal banking agencies have not issued guidance to banks comparable to the Advisory Letter, but their examiner guidance may include insurance sales. Both the OCC Advisory Letter and the Interagency Statement apply to annuities.

coercion requirements largely duplicate existing law, though the prohibition on marketing other products whenever a credit application is pending is new.

- Suitability. The Interagency Statement and OCC Advisory Letter contain suitability and appropriateness requirements that are similar to H.R. 1900's.

4. Separation of Banking and Non-banking Activities

H.R. 1900

- The bill would require banks to ensure that a bank's deposit-taking and lending functions are kept physically separated from non-deposit product activity. At a minimum, these provisions would require a separate setting, prohibit certain persons from selling non-deposit products, limit referrals on non-deposit products, provide for qualification requirements and training, and provide standards for compensation programs.

  -- The separate setting provision would require clear delineation of the setting and circumstances of transactions and referrals to ensure physical segregation from the area where retail deposits are accepted, credit extensions are granted, or insured products are sold.

  -- The prohibition on sales by certain persons would provide standards prohibiting persons accepting deposits from the public at any office or on behalf of an insured bank from offering, selling, or offering an opinion or investment advice, on any non-deposit product.

  -- The referrals limitation would provide standards requiring persons accepting deposits from the public or on behalf of an insured bank to refer customers seeking to purchase or seeking an opinion or investment advice about a non-deposit product to persons who sell or provide opinions or investment advice on such products only if the consumer requests the referral and the person accepting deposits does not solicit the request, discloses that the product is uninsured, etc. and is not compensated for the referral.

  -- The qualification and training provision would require standards prohibiting banks from allowing any person to offer, sell, or provide an opinion or investment advice about any non-deposit product in any part of any office or on behalf of the bank unless the person is a registered broker-dealer or investment adviser, meets qualification and training requirements the federal banking agencies determine are equivalent to broker-dealers or investment advisers, or in the case of insurance sales, is qualified in accordance with federal banking regulation or state law, as appropriate.

-- The compensation program provision requires standards ensuring that compensation programs are not structured in a way that provides incentives for referrals or sales that are not suitable or appropriate for the customer.

Current Law

- The Interagency Statement and OCC Advisory Letter are similar to H.R. 1900, but somewhat less stringent about teller prohibitions, accepting payment for referrals, and training. Under the Interagency Statement, for example, bank employees, including tellers, may receive a one-time nominal fee of a fixed dollar amount for each customer referral for non-deposit investment products. The limitations on referrals are less detailed. Licensing and training of investment advisers is not mentioned, nor is verification of third party licensing and training.

5. Consumer Enforcement Mechanism

H.R. 1900

- H.R. 1900 would require the federal banking agencies jointly to establish a consumer enforcement mechanism for resolving non-frivolous consumer complaints involving violations of rules issued under this section. The mechanism would have to involve an impartial decision maker, allow consumers to recover damages from an institution that violates the rules, and provide a written statement of the basis for its decisions and a public record of the proceedings.

Current Law

- The Interagency Statement and OCC Advisory Letter are much less stringent than H.R. 1900. They mention the need for a system to address customer complaints but do not provide for customer recovery for rule violations, an impartial decision maker, or a record of the proceedings.

6. Use of Names of Depository Institutions

H.R. 1900

- H.R. 1900 would prohibit insured banks and their affiliates from using or allowing other persons to use the bank's name, title or logo, or any word or design that is the same as or substantially similar to the bank's, in connection with any non-deposit product (1) offered for sale by the bank or affiliate or by another person at an office of or on behalf of the bank, or (2) with respect to which the institution, affiliate or other person provides an opinion or advice.

Current Law

- The Interagency Statement is less stringent than H.R. 1900, and the OCC Advisory Letter does not address the issue. For example, the Interagency Statement allows use of a similar (but not identical) name under a sales program designed to minimize the risk of customer confusion. Recognizing that the Investment Company Act of 1940 prohibits misleading names of mutual funds, the Interagency Statement advises banks to take appropriate steps to assure issuer compliance with SEC requirements.

7. Confidential Customer Financial Information

H.R. 1900

- H.R. 1900 would prohibit (notwithstanding an exclusion in the Fair Credit Reporting Act) "retail banks" from disclosing to their non-retail bank affiliates or subsidiaries information regarding "transactions or experiences" between a customer and the bank unless the customer has been given an opportunity to object.

Current Law

- The Interagency Statement is less stringent than H.R. 1900 in that it requires banks to have procedures for use of customer information but leaves the issue of prohibited use to current law. The OCC Advisory Letter merely cautions banks to be sensitive to the issue.

8. Effect on Other Authority

- H.R. 1900 does not limit or affect any authority of the SEC or state insurance regulators or the applicability of the federal securities laws or state insurance laws to any person.

THE WHITE HOUSE

Tom

SARAH ROSEN
SENIOR ADVISOR
NATIONAL ECONOMIC COUNCIL
(202) 456-5386 (Tel.)
(202) 456-2223 (Fax)

Consumer Financial

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THE WHITE HOUSE
WASHINGTON

August 6, 1998

MEMORANDUM TO CONSUMER FINANCIAL SERVICES WORKING GROUP

FROM: SARAH ROSEN

RE: CONSUMER FINANCIAL SERVICES INITIATIVES

In late June, I convened the members of the Bankruptcy Working Group and other interested parties to create a new working group to consider a wide array of policy issues and initiatives related to financial services and consumers. The work may prove helpful in a number of different arenas. For example, there will be amendments targeted at credit card practices offered if the bankruptcy bill is considered on the Senate floor in September. Similarly, in the context of a Financial Modernization legislation mark-up in September, we anticipate that consumer privacy amendments may be offered. Senator D'Amato has already offered an ATM fee amendment to one bill (which failed) but he has pledged to bring the issue back again. Finally, there is interest in putting together a package of consumer protection initiatives, maybe a consumer financial bill of rights, for later this year, and if not, for use during next February's Consumer Week, which will focus on financial services.

At the last meeting, we decided that it would be best to work in subcommittees on the topics identified below. Subcommittee co-chairs volunteered (or were nominated). However, the press of other work delayed scheduling of these subcommittee meetings.

The subcommittees described below will convene at the dates, times and locations described below to get this effort back in motion. While vacations may make August a difficult time to schedule meetings, the inevitable flurry of activities in September makes it imperative that we make progress now.

Please call the contact name and number given for each subcommittee below to indicate your attendance at the meetings noted. Agencies previously identified as interested in each subcommittee are also noted, but all interested are welcome and encouraged to attend each subcommittee.

<u>Privacy – Wednesday, August 12, 1998 at 4:00 p.m., OEOB, room 239</u>
(Call Sonyia Matthews for clearance at 456-5386.)

Financial privacy issues were considered in the context of a broader NEC working group on privacy which produced recommendations announced by the Vice President last week. However, there is now interest among Senate Democrats in advancing a consumer privacy amendment to the Financial Modernization bill when it is marked up in early September. We met to discuss a response on Wednesday, August 5th and will meet again as noted above to continue the discussion.
Co-Chair – Tom Kalil
Others to include: Treasury, Commerce, FTC, OCC, and OTS.

Changes to TILA Disclosures --Wednesday, August 12, 1998 at 10:00 am., Main Treasury, room 1104
(Call Vinnette Gordon at 622-2610 for clearance.)

We have already decided that we would support a change to credit card disclosures to require disclosure of the time period over which a loan would be repaid if the minimum payment is made. There has been discussion about whether we could recommend other improvements to ensure that consumers best understand the consequences of the credit they assume. Senator Durbin may propose that all consumers get a worksheet with each new credit card that would help them determine how much credit they can afford to use. This group will explore other such options after consultations with Federal Reserve.
Co-Chair: Greg Baer, Treasury
Others to include: DPC and OCC.

ATM and Other Service Fees --Thursday, August 13, 1998 at 10:00 am, Main Treasury, room 1104
(Call Vinnette Gordon at 622-2610 for clearance.)

This group will explore issues involving ATM and other consumer fees.
Co-Chair: Greg Baer, Treasury
Others to include: DoJ, DPC

Consumer Education/Bully Pulpit ---Wednesday, August 12, 1998 at 2:00 pm, Main Treasury, room 3454
(Call Chris Develin at 622-0090 for clearance.)

This group will explore what we can do legislatively and administratively to enhance consumer understanding of the impact of use of credit, the services they receive and the fees they pay, and their rights. The benefits of and concerns about consumer credit counseling agencies will be explored.
Co-Chair: Mark McClellan, Treasury
Others to include: FTC, DPC

Enforcement -- Meeting to occur 3rd week in August
(Notify Fran Allegra's office at 514-2987 if you want to be invited when scheduled.)

This group will explore whether existing laws provide adequate enforcement authority for existing consumer protections involving financial services.
Co-Chair: Fran Allegra
Others to include: OCC and OTS.