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Statement by the

Shadow Financial Regulatory Committee

on

Proposals to Facilitate the Interstate Takeover of Failing Depository Institutions

June 9, 1986

Hearings have been held recently by the Senate Banking Committee on legislation being sought by the federal banking agencies to modify the provisions of the Garn-St. Germain Act of 1982 which provide under certain circumstances for the interstate takeover of failed banks and thrifts. The principal changes being proposed include permitting the takeover by bank holding companies of failing but not yet closed commercial banks in other states and lowering the minimum size of failed and failing banks that would be eligible for interstate takeovers from $500 to $250 million in assets.

The proposed legislation is designed to facilitate the bidding process for institutions that are likely to fail by allowing the takeover of firms that have not been closed and to enlarge the pool of potential bidders for failing institutions. The broadening of the definition of takeover candidates to include failing institutions is particularly important because it recognizes the relevance of market value as opposed to the accounting value of the institution's capital. Both of these provisions should facilitate the resolution of bank insolvencies and reduce potential losses to the insurance funds.

In addition the proposal would provide greater flexibility by permitting the acquision of bank holding companies owning troubled banks. However, the retention of limitations on the acquiring institution's ability to expand further in the state of the acquired bank is undesirable. An acquiring institution should be treated the same as other institutions in the acquired bank's state.

We believe that such legislation has great merit and urge its prompt consideration and passage by the Congress. Existing provisions of the Garn-St. Germain bill are unduly restrictive, reduce the likelihood of speedy resolution of failures, and result in unnecessarily high costs to the insurance funds in resolving the failure of many institutions. Objections to these proposals are raised by those fearing that more liberal takeover rules will lead to full interstate banking and will reduce the role of the states vis-a-vis the federal government in regulating and shaping the structure of banking in individual states. The interstate banking concerns are fast becoming moot as regional interstate compact laws, with and without national triggers, are passed. Currently, some three fourths of the states already permit some type of out of state entry by bank holding companies. Morevoer, restricting the FDIC and FSLIC from seeking the lowest cost way of resolving failures by selling failed and failing institutions to the highest bidder, regardless of location, forces the insurance funds, and ultimately the federal taxpayers, to subsidize in-state institutions by protecting them from competition by out-of-state firms.