



**Shadow Financial  
Regulatory Committee**

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Statement of the  
  
Shadow Financial Regulatory Committee

on

Federal Regulation of Activities  
of State Chartered Financial Institutions

November 17, 1986

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A basic premise of the dual banking system is that the powers of state chartered financial institutions are to be defined in the first instance by the states. Recently, however, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation have asserted broad authority to limit and condition the activities of state chartered institutions. These initiatives have been prompted by laws in an increasing number of states that have given state banks broader powers than national banks and, in some cases, broader powers than nonbanking subsidiaries of bank holding companies, principally in the areas of real estate, securities, and insurance.

While we recognize that there is a legitimate federal interest in the scope of the activities permitted to state chartered institutions -- the interests of the FDIC and FSLIC as insurer of deposits -- we believe the states should have maximum freedom to define the powers of the institutions they create. Ideally, the question of state bank and thrift powers should be addressed in the context of a risk-related deposit insurance system. Absent such a system, however, if federal authority is to intervene at all with respect to banks, we believe the FDIC, rather than the Federal Reserve is the appropriate agency to protect the federal interest. The Bank Holding Company Act was not intended to give the Federal Reserve the responsibility of regulating the activities of banks, and it is inappropriate for the Federal Reserve to create disparities among state chartered banks by using the Bank Holding Company Act to regulate the activities of state banks that happen to be in holding companies, whether such activities are carried on directly in the bank or through a bank subsidiary.

There should, we believe, be a strong presumption that state chartered financial institutions may properly exercise any powers conferred upon them by state law, and the FDIC and FSLIC should not intercede to curtail such powers except in the most compelling circumstances, where a substantial, well-defined and clearly documented threat to the insurance interest is presented.

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