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Statement of the Shadow Financial Regulatory Committee

on

**Federal Displacement of State Laws:
Fair Credit Reporting and Interstate Branching**

May 23, 1994

Financial services in the United States are increasingly being offered on an integrated national scale. This is a result of both technological and economic changes. This trend raises conflicts between federal and state regulation. The Shadow Financial Regulatory Committee is concerned that local regulations could impede the efficient delivery of some financial services. In some cases, state and local laws should be replaced by federal law.

Recent developments have made this a matter of current concern in two matters currently before the Congress: amendments to the Fair Credit Reporting Act, and interstate branching.

Fair Credit Reporting Act

The availability nationwide of accurate information about potential borrowers facilitates the availability of credit at low cost to consumers. The U.S. credit reporting industry has made considerable progress in improving the timeliness and accuracy of the information in the files of the credit bureaus. But errors do occur, and some consumers complain of difficulties in correcting errors. The consent decree recently worked out among the Federal Trade Commission and the credit bureaus, and the current legislative amendments seem to resolve most issues in a manner acceptable both to consumer groups and the industry.

One remaining issue is the diversity of state fair credit reporting laws. Many existing and proposed state laws are inconsistent with each other and with the federal law. Most of the state laws do not reflect differences in regulatory philosophy, but represent differences in process and procedures that add to costs without significantly improving consumer protection.

The credit information business and the business of extending consumer credit are national in scope. Three credit bureaus operating on a national basis provide nearly all of the credit reports relied on by lenders. The major credit card issuers operate on an interstate or national basis. Although these businesses clearly involve interstate commerce, Congress has generally allowed the individual states to enact their own laws to define rules governing commercial transactions. In a number of cases, however, there has been a federal preemption of state laws in order to reduce the costs of duplication and inconsistency or to achieve a federal purpose.

The Committee believes that the amended Fair Credit Reporting Act now being considered by Congress should set a uniform national standard.

Interstate Branching

It appears that Congress will soon enact legislation that will allow interstate branching. There are substantial benefits to the public from interstate branching, as discussed in the Committee's Policy Statement 63 (December 10, 1990). The likelihood of imminent interstate branching calls for a reassessment of existing law with respect to the application of state law and regulation to the branches of out-of-state banks. Examples of such state laws relate to loan collateralization, usury ceilings, powers, community reinvestment, and taxation.