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Statement of the Shadow Financial Regulatory Committee

on

**Proposed Amendments to Part 5 of the Regulations of the
Office of the Comptroller of the Currency**

May 22, 1995

In November 1994, the Office of the Comptroller of the Currency (OCC) published amendments to Part 5 of its regulation concerning policies for conducting banking activities. These amendments were proposed to reduce the regulatory burden on banks and to modernize the OCC's regulations to meet the dynamics of the nation's banking markets. This action followed the landmark VALIC case (Nations Bank of North Carolina, N.A. vs. Variable Annuity Life Insurance Company, 115S.Ct.810) in which the U.S. Supreme Court ruled that the business of banking was not limited to enumerated powers in the National Bank Act and that the Comptroller of the Currency had discretion to authorize activities incidental to banking beyond those specifically enumerated in the Act. The broader interpretive authority will be implemented through banks' operating subsidiaries as governed by the proposed amendments to Part 5 of the OCC regulations.

Passage of interstate branching laws and recent court decisions on national bank incidental operating powers could allow bank management to effectively expand banks' services within the bank charter and avoid use of the cumbersome and inefficient bank holding company format.

The Shadow Financial Regulatory Committee believes that the proposed regulations are consistent with the Committee's principles for banking reform (see statement 118). The regulation would expand operating powers, but with adequate prudential oversight. The OCC regulation properly limits expanded operating authority to strongly capitalized banks. In addition, the proposed regulation contains adequate supervisory oversight for approval of new activities and investment by banks in operating subsidiaries. The exercise of these activities in operating subsidiaries will facilitate the monitoring of the activities. At this time it appears that the OCC regulatory proposal offers an effective approach to accommodate market change.