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Statement of the Shadow Financial Regulatory Committee on

Industrial Loan Company (ILC) Legislation

February 11, 2008

The Senate Banking Committee is scheduled to mark up a bill on Industrial Loan Companies (ILCs) this week. The bill is likely to restrict the ability of retailers and other nonfinancial companies to acquire or charter ILCs. The bill's proponents argue that it is necessary to continue the policy of separating banking and commerce.

The Shadow Committee has consistently pointed out that this policy makes little if any economic sense (Statements No. 115, 118, 138, 142, 155, 194, 224, and 241). These statements point out that it is bad policy to impose artificial barriers to competition in our economy unless some harm can be shown. There is no significant evidence that commercial companies owning banks or S&Ls creates any harm to the depository institutions themselves, or to the safety net, and commercial companies could add much needed capital to the banking system. The Gramm-Leach-Bliley Act of 1999 permitted banks to affiliate with securities firms, which use as much bank credit as any commercial firm, yet no harm to credit allocation or the safety net has come from these relationships.

A remarkable element of this seriously flawed legislation is that it would make an exception for auto manufacturers, allowing them to acquire ILCs. Automobile manufacturers are certainly commercial firms, and allowing them to own ILCs clearly violates the so-called principle of separating banking and commerce. The fact that the sponsors of this bill would make this exception suggests that the underlying purpose of the legislation is not to protect the safety net, but to protect the banking industry from competition by retailers and others who might be able—through ILCs—to offer lower cost banking services to consumers.

Protecting an industry at the expense of consumers is not something we would have expected Congress to do, and if this legislation passes we urge the President to veto it.