Statement of

John C. Dugan

Comptroller of the Currency

Before the

Committee on Banking, Housing, and Urban Affairs

United States Senate

August 4, 2009

Chairman Dodd, Ranking Member Shelby, and Members of the Committee, I appreciate this opportunity to discuss the Administration's proposal for regulatory reform.

The OCC supports many elements of the proposal, including the establishment of a council of financial regulators to identify and monitor systemic risk, and enhanced authority to resolve systemically significant financial firms.

We also believe it would be appropriate to establish a consolidated supervisor of all systemically significant financial firms. The Federal Reserve already plays this role for the largest bank holding companies. But during the financial crisis, the absence of a comparable supervisor for large securities and insurance firms proved to be an enormous problem. The Proposal would fill this gap by extending the Federal Reserve's holding company regulation to such firms, which we believe would be appropriate. However, one aspect of the proposal goes much too far, which is to grant broad new authority to the Federal Reserve to override the primary banking supervisor on standards, examination, and enforcement applicable to the bank. Such override power would fundamentally undermine the authority and accountability of the banking supervisor.

We also support the proposal to effectively merge the OTS into the OCC, with a phaseout of the federal thrift charter. My written testimony responds in detail to the Chairman's questions about options for additional banking agency consolidation by first, establishing either the Federal Reserve or the FDIC as the single federal agency responsible for regulating state chartered banks; second, establishing a single prudential supervisor to supervise all national and state banks; and third, transferring all holding company regulation from the Federal Reserve to the prudential supervisor. While there are significant potential benefits to be gained from all three proposals, there are also potential costs, especially with removing the Federal Reserve altogether from the holding company regulation of systemically important companies.

Finally, we support enhanced consumer financial protection standards, and believe that a dedicated consumer protection agency CFPA could help achieve that goal. However, we have significant concerns with the parts of the proposed CFPA that would consolidate all financial consumer protection rulewriting, examination, and enforcement in one agency – which would completely divorce these functions from safety and soundness regulation.

It makes sense to consolidate all consumer protection rulewriting in a single agency, with the rules applying to all financial providers of a product, both bank and nonbank. But we believe the rules must be uniform, and that banking supervisors must have meaningful input into formulating them. Unfortunately, the proposed CFPA falls short on both counts.

First, the rules would not be uniform because the Proposal would expressly authorize states to adopt different rules for all financial firms, including national banks, by repealing the federal preemption that has always allowed national banks to operate under uniform federal standards. This repeal of the uniform federal standards option is a radical change that will make it far more difficult and costly for national banks to provide financial services to consumers in different states having different rules – and these costs will ultimately be borne by the consumer. The change will also undermine the national banking charter and the dual banking system that have served us very well for nearly 150 years.

Second, the rules do not afford meaningful input from banking supervisors, even on real safety and soundness issues, because in the event of any disputes, the proposed CFPA would always win. The new agency needs to have a strong mechanism for ensuring meaningful bank supervisor input into CFPA rulemaking.

Finally, the CFPA should not take examination and enforcement responsibilities away from the banking agencies. The current bank supervisory process works well, where the integration of consumer compliance and safety and soundness supervision provides real benefits for both functions.

Moreover, moving bank examination and enforcement functions to the CFPA would only distract it from its most important and daunting implementation challenge: establishing an effective enforcement regime for the "shadow banking system" of the tens of thousands of nonbank providers that are currently unregulated or lightly regulated, like nonbank mortgage brokers and originators. The CFPA's resources should be focused on this fundamental regulatory gap rather than on already regulated depository institutions.

Thank you.