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Testimony

of

Nicolas Retsinas, Director

Office of Thrift Supervision

concerning

# Financial Modernization

before the

Committee on Banking and Financial Services

United States House of Representatives

May 22, 1997

Office of Thrift Supervision
Department of the Treasury

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# FINANCIAL MODERNIZATION TESTIMONY
# BEFORE THE COMMITTEE ON BANKING
# AND FINANCIAL SERVICES
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**Office of Thrift Supervision**

## I. Introduction

I appreciate this opportunity to present the Office of Thrift Supervision's (OTS) views on the very important subject of financial modernization. The issues surrounding financial modernization have been vigorously discussed for some time now. As you are aware, this debate has been contentious and remains unsettled. I would not characterize it as unproductive, however, since open debate ultimately makes for good public policy.

The issues we are grappling with are important. Advancing technology, financial globalization, industry consolidation and rapidly changing markets have been driving the evolution of our financial services sector for a generation. Those forces have profoundly changed the industry and, regardless of government's response to these changes, future change is inevitable.

Determining the appropriate course of action that we must take is no easy task. The discussions on financial modernization to date have crystallized several areas of intense disagreement among various players in the industry and government. Today, I will discuss several issues that have taken on heightened importance as this debate has progressed. The issues include the impact of rapid changes in the financial services sector, particularly in the delivery of these services, the government's role in the dynamic financial services marketplace, and aspects of the details set forth in proposed legislation, such as holding company structures, merger of the insurance funds, and regulatory structure. Before delving into these issues, however, I think it instructive to take a moment to review the historical context of the current statutory framework. This will better assist us, perhaps, in understanding how we got where we are today, and in mapping out the course that we should follow tomorrow.

## II. Historical Background of Statutory Provisions

In exploring the statutory history of the banking and commerce issue, several legislative provisions are noteworthy. These are described in greater detail in the appendix, but I will briefly highlight them here.

First, the Glass-Steagall Act provisions of the Banking Act of 1933 legislated the existing separation of commercial banking from investment banking, i.e., securities activities. Significantly, the Glass-Steagall provisions did not separate commerce and banking, but curbed the combination of commercial and depository banking with investment banking.

It was not until the Bank Holding Company Act of 1956 (BHCA) that Congress instituted its first cut at restricting the combination of banking and commerce—and then only for multiple bank holding companies (BHCs), i.e., BHCs owning two or more banks. In that Act, Congress generally prohibited multiple BHCs from owning shares in nonbanking companies, subject to certain exceptions. In 1970, the BHCA was amended, due primarily to the expansion of unregulated (unitary) BHC activities, to extend its coverage to unitary BHCs.

The historical basis for the combination of banking and commercial activities in the unitary savings and loan holding company (SLHC) structure was not set forth until enactment of the Savings and Loan Holding Company Act of 1967 (SLHCA). The SLHCA provided a framework for the registration and supervision of SLHCs and imposed activities restrictions on multiple SLHCs, but did not restrict the ownership and operation of nonthrift-related businesses by unitary SLHCs. Since 1967, unitary SLHCs have been permitted to engage in any legitimate business enterprise that does not pose a safety and soundness risk to their thrift subsidiaries. This authority was folded into the Home Owners' Loan Act (HOLA) pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

## III. The Changing World of Financial Services

As with changes that prompted enactment of the aforementioned legislation, America's financial services industry is once again in the midst of rapid and radical change. Unlike most of the changes that prefaced prior legislative responses, today we are faced with an unusual set of circumstances. We are not compelled to act by a crisis or the need to shore-up government supervision and oversight, but by the need to reexamine the government's role in a rapidly changing financial world.

Insured depository institutions, once the "safest place" for people's money, are no longer the dominant holder of America's savings. Consumers eager for higher returns have been turning to other places to keep their money. Investments in mutual funds are now equal to, and may even exceed, bank and thrift deposits.

Thrifts, once the bastion of home lending operations in the United States, are now subject to increased competition in the residential mortgage markets from numerous competitors, including entities sponsored by the U.S. government. The rapid growth of Fannie Mae and Freddie Mac, along with the increasing availability of bank-like products offered by nonbanks, has imposed significant pressure on depository institutions' bottom lines.

We are also seeing more cross-pollination and integration across the various sectors of the financial services industry. A large money-center bank recently announced its intent to purchase a regional investment banking firm. Various securities firms and insurance companies currently own federal thrifts, and there is significant interest in the federal thrift charter by others in the securities and insurance industries. It is also becoming increasingly difficult to classify companies as either "financial" or "commercial." The fundamental elements of our financial services marketplace, such as the nature of the competitors and the corporate structures they take, are changing.

The banking business has become very competitive. Competition is fierce and global, with the prospects of the slow and inefficient dimming daily. If we wish to maintain a strong banking industry, we must make sure that banks and thrifts have the powers and tools they need to continue to compete effectively.

In addition to these factors, perhaps the most powerful force driving change is the explosion in technology and its rapid adoption by worldwide financial markets that has virtually reshaped the landscape for the delivery of financial services in less than a generation. Technological developments not only affect institutions' ability to do what they do now faster, they are fundamentally affecting relationships between providers and consumers of financial services. The day may come sooner than we think when borrowers will log onto a modem and access a computerized link matching their needs and assets to particular capital pools. This free, and virtually instantaneous, exchange of information raises central questions about the future role of federally insured depository institutions.

In examining the impact that technology has had on the financial world in just the last few years, it is apparent that this dynamic phenomenon is likely to continue. Regardless of what new structures government puts in place for financial institutions, the insistent push of the market and new technologies will continue to alter our financial system. Our failure to account for change could result in government rules that impede, rather than unfetter, the ongoing evolution of our financial markets. If we intend to keep up, then we must adapt our rules and laws to today's—and tomorrow's—developing marketplace.

## IV. Issues

The rapid evolution of the financial services marketplace presents a legislative dilemma. The question is whether it is better to legislate now, based on reasonably accurate, short-term predictions, or wait until there is certainty and thereby run the risk that events may overtake our ability to react in a reasonable and orderly manner.  There is obviously not an "ideal time" to act.  I believe this is, however, the ideal time to debate and discuss financial modernization issues because we are currently blessed with a period of sound profitability for both the banking and thrift industries.

Even with payment of the special assessment to recapitalize the SAIF, the thrift industry recorded its fourth best earnings year in history in 1996.  Absent the special assessment, it would have been the industry's best year.  In addition, thrifts just completed their most profitable five-year cycle in history.  Capital levels remain high and stable, with 97 percent of all thrifts well capitalized.  All indications are that the industry is in the midst of another excellent year.

Similarly, 1996 was the commercial banking industry's most profitable year ever.  Industry net income in 1996 topped $50 billion for the first time.  Three of the four best quarterly earnings totals in the industry's history came in 1996.  The industry's two best years for average return on assets occurred in the last four years.  Fewer FDIC-insured institutions failed in 1996 than in any year since 1972—25 years ago.  Only one of those institutions was a savings association.

Clearly, there is no short-term, looming threat to the banking and thrift industries or the federal deposit insurance funds.  Interest rates are low, growth is strong and there is general prosperity in the underlying economy.  These favorable times present us with an excellent opportunity to discuss the critical public policy issues involved in modernizing the American financial services industry.

Some of the prominent issues that have emerged are very familiar to the OTS, and involve areas of great importance to the institutions that we regulate. I will briefly address several of these issues.

From a public policy perspective, logic dictates that we merge the separate deposit insurance funds. As a member of the FDIC Board, I am acutely aware of the need to eliminate the economic and managerial inefficiencies of a two-fund structure. Operating separate insurance funds for what is the same product is wasteful and potentially costly to the federal government and to the depositors they insure. Given the health of the thrift industry, I believe a deposit fund merger should be an integral part of charter reform.

Another of the more vexing issues in the current modernization debate concerns how the financial services company of the future will structure its various business enterprises. Embedded in this issue is legitimate concern over maintaining and protecting the insurance funds and the fundamental integrity of our financial system.

Perhaps the most contentious of the issues being discussed is whether to remove the activities restrictions placed on BHCs by the BHCA. Although this is not an issue that thrifts or SLHCs must currently grapple with, ironically, it has been one of the most difficult issues for us to address. As you know, because unitary SLHCs are not subject to statutory activities restrictions, the experience of thrifts affiliated with unitary SLHCs engaged in commercial activities and that of the OTS in regulating these entities has become a topic of intense interest.

In order to address some of the questions raised by the unitary SLHC structure, I will briefly highlight the current status of unitary SLHCs, OTS regulation of these entities, and our experience, albeit limited, with the combination of banking and commercial activities that has occurred in these structures.

There are currently 102 unitary SLHCs, owning 73 thrifts, that actively engage in nonbanking activities. The 73 thrifts hold approximately $196 billion in assets—representing about 26 percent of the industry total. Of the 102 unitary SLHCs engaged in nonbanking activities, most are engaged in businesses very familiar to thrifts, such as real estate development, investment and management activities (51 SLHCs), and insurance sales and underwriting (27 SLHCs). Others have business interests in areas as diverse as automobile sales, country club development and management, fast food and dairy farming.

A question that often arises with respect to OTS regulation of unitary SLHCs is to compare what we do with how the Board of Governors of the Federal Reserve System (FRB) regulates BHCs.

First, we have a different supervisory focus than the FRB. FRB regulation of BHCs, by statutory design, focuses on BHCs. In this regard, BHCs are subject to FRB supervision and oversight that is intended to insulate bank subsidiaries from undue safety and soundness risks. By contrast, OTS regulation of SLHCs focuses not so much on the holding company, but on the insured subsidiary thrift institution(s) under the SLHC. That is, thrifts owned by SLHCs are subject to OTS supervision and oversight targeted at insulating the thrift from undue safety and soundness risks posed by interaction and affiliations with its parent SLHC and affiliates thereof.

In managing affiliations between thrifts and non-banking holding company affiliates, we have a variety of supervisory tools at our disposal. Although SLHCs are generally not subject to BHC-type activity restrictions or capital requirements, OTS closely monitors the relationship between the holding company and the subsidiary thrift.

For example, the OTS limits capital distributions from a thrift to its holding company, based on the capitalization and earnings of the thrift. We also impose stringent affiliate transaction restrictions on a thrift's dealings with its holding company and affiliates. In addition, a thrift cannot make any loans or extensions of credit to a parent holding company or affiliate that is engaged in activities not permissible for a BHC.

In our limited experience, we have found that affiliations between thrifts and commercial firms do not involve inherently greater risk to a thrift than affiliations between a thrift and a more traditional "financial services" company. With respect to concerns about thrift lending to commercial affiliates in the unitary SLHC structure, such activity is prohibited by a FIRREA amendment to the SLHCA that bars thrift lending to affiliates not engaged exclusively in permissible BHC activities. In fact, since the implementation of FIRREA, it can be argued that the affiliation of thrifts with companies engaged in commercial activities has benefited thrifts more than it has benefited the holding companies.

SLHCs that engage in diverse lines of business often have substantially greater financial resources than nondiversified companies. They have enhanced access to capital markets, diversification of liquidity sources, and lower borrowing costs. Diverse SLHCs can also contribute business and managerial talent and expertise to a subsidiary thrift. This is particularly true for SLHCs that have significant experience in a broad array of financial services activities. Such firms can also promote operating efficiencies through economies of scale.

Customers also benefit when they are able to do business with an integrated financial services company. Such companies can provide customers an opportunity to engage in "one-stop" shopping for all their financial services needs. In addition, customers benefit from the cross-marketing of products and services offered by various entities within the holding company structure.

I must caution, however, as I noted earlier, that the unitary SLHC experience is limited. Given the limitations on a thrift's commercial lending activities imposed by both its statutory lending authority and the statutory qualified thrift lender (QTL) test, there is less opportunity for a thrift in a commercial SLHC structure to make discriminatory lending or pricing decisions. The statutory lending limit restricts federal thrifts' commercial loans to 20 percent of assets—10 percent of which may only be used for small business loans. The QTL test, by contrast, restricts commercial lending from a different angle—by requiring 65 percent of a thrift's portfolio assets to be in mortgage- and consumer-related assets, subject to certain exceptions. The combination of these two provisions curtails the extent of traditional commercial lending-type operations that thrifts conduct. Nonetheless, I believe the unitary SLHC model offers valuable insights into the banking and commerce debate.

Another issue of contention in the financial modernization debate involves the potential exposure of the federal deposit insurance funds to the operations of an insured depository institution's subsidiaries. The question raised here is whether adequate safeguards can be implemented to protect the system from activities conducted outside an insured institution, but that potentially expose the institution's insured deposits. The suggestions for addressing this issue include the implementation of firewalls and the application of affiliate transaction restrictions between the insured institution and any subsidiaries engaged in riskier types of nontraditional banking activities. Again, I believe the current thrift model offers some insights on how to address this issue.

With respect to a thrift's exposure to the activities of its subsidiaries, several points are relevant. First, a federal thrift may engage in activities not otherwise permissible for the thrift itself only in a service corporation. In addition, a federal thrift may invest only 3 percent of its total assets, in the aggregate, in all of its service corporations. Finally, unlike problems with thrift direct investments that arose in the past, today, investments in thrift service corporations that engage in activities not permissible for a national bank must be deducted dollar for dollar in calculating a thrift's capital.

While it is not possible completely to insulate an insured institution from the operations of its subsidiaries, the separate capitalization requirement imposed on thrift service corporations by FIRREA effectively limits a thrift's exposure to the amount of its original investment in the subsidiary. With the proper safeguards and monitoring in place, institutions can operate a wide range of subsidiaries and service corporations without unduly threatening the institution or the federal insurance funds.

On the issue of umbrella supervision raised in the Chairman's invitation letter and the related topic of functional regulation, the existing thrift model provides a template that may or may not be instructive to the Committee in its deliberations. The OTS is the umbrella regulator for all insured savings associations, their subsidiaries, and their holding companies. In this regard, the thrift model is unique—it is the only segment of the banking industry that enjoys a single federal regulator for both its insured institutions and their holding companies. In our experience, this arrangement has worked well. The agency has access to information on all aspects of an institution's operations—including at the holding company level—and the regulated entities are afforded "one-stop" regulatory oversight.

With respect to the functional regulation component of our umbrella oversight, thrift subsidiaries engaged in securities activities must register with the Securities and Exchange Commission, and insurance affiliates and subsidiaries must be licensed and regulated by the appropriate state insurance regulator. We do maintain oversight of all thrifts' subsidiary activities, which in some respects may result in tandem regulation, but we do not displace the functional regulator.

In addressing the thrift charter conversion issue raised in the Chairman's letter, I note that there has been concern about proposals to grandfather the existing activities of SLHCs for a specified time period. Any approach to grandfathering must be considered very carefully. Grandfathering can impose significant costs on the affected entities, such as diminished franchise values. In addition, in certain circumstances forced divestitures may require the use of different accounting methods, which may be costly and burdensome.

Many unitary SLHCs operate businesses that are profitable and have posed no safety and soundness risk to their thrift subsidiary. We should avoid forcing these companies to divest profitable, safe businesses. If there is no evidence that an existing affiliation threatens the insurance funds, how can we justify prohibiting the affiliation in the name of “modernization”?

Another issue of concern to OTS and the residential mortgage lenders it regulates is the view expressed by some that a concentration in residential home lending increases an institution’s risk. Such a position is hard to square with the facts. There is ample evidence that residential mortgage loans present a much lower credit risk than commercial loans. With effective supervision, constant monitoring of interest rate risk, and maintenance of adequate capital levels, residential mortgage lending is substantially less risky than some more diversified portfolios.

Any financial modernization proposal must avoid punishing those institutions that, by choice, focus on traditional mortgage lending. We in the United States have always recognized the value of promoting home ownership. A concentration in residential mortgage lending is both good business and good for our communities. Institutions should not be forced to abandon a profitable lending line that also serves an important public purpose.

Some in the thrift industry have also voiced a strong desire to make sure that the concept of mutual ownership is not lost in the process of financial modernization. OTS currently regulates over 500 mutual savings and loan associations. Most of those institutions operate in mutual form by choice and at a profit. They should not be forced to change their fundamental corporate structure for reasons unrelated to their business plans.

We are pleased that all of the legislative proposals offered to date have provided for the continuation of the mutual form of ownership. Any modernization proposal that restricts, rather than expands, an institution's flexibility to adapt and compete in today's dynamic financial services marketplace is inconsistent with our prime objective—maintaining the competitiveness of our financial institutions.

A final point that bears emphasizing in this debate is that, along with the need to adapt our rules to recognize market realities, we must also adopt rules that provide certainty to community-based lending institutions that play a crucial role in America's local business and civic communities. Preserving the viability of small, local institutions is vitally important to the future economic health of those communities. We should be careful about any changes that negatively affect those institutions. Even well-intentioned reform can have unintended consequences.

## V. Conclusion

As I stated at the outset, the march of change in the financial services industry will continue regardless of what actions government eventually takes.

The need to remain competitive in today's fast-moving, global economy has driven many institutions to embrace new technologies—and the access to markets and new delivery systems that those new technologies offer. Fundamental changes in the relationships between consumers and providers, and the various sectors of the financial services industry, are occurring almost daily. We should expect and encourage institutions to do what is necessary to stay flexible and competitive in today's financial services marketplace.

Although we are not in a crisis mode, the longer we delay action, the more likely it becomes that we will miss the opportunity to strengthen and modernize our financial system. Our depository institutions must be provided the flexibility and the tools required to compete in our modern economy. Impediments to enhancing competitiveness and flexibility should be removed. Settling for anything less could have significant implications for the future of our financial institutions and the American economy.

**Appendix**

## Historical Background of Statutory Provisions

### A. The Glass-Steagall Act

Perhaps the most significant piece of legislation enacted after the stock market crash of 1929 was the Banking Act of 1933. The Act established the FDIC and legislated restrictions on securities activities and affiliations substantially prior to enactment of the Bank Holding Company Act and included the affiliate transaction restrictions of the Federal Reserve Act. In addition, it included several provisions, commonly referred to as the Glass-Steagall Act, that established the existing separation of commercial banking from investment banking, i.e., securities activities.

Significantly, the central theme of the Glass-Steagall provisions was not the separation of commerce and banking, but curbing the combination of commercial and depository banking with investment banking.[1] Consistent with this theme, the Glass-Steagall provisions addressed perceived risks posed by the overlap of securities and deposit-taking activities in a BHC structure.[2] Since their

1. Among the dangers that many believed contributed significantly to the 1929 market crash, and that Congress sought to minimize by enactment of the Glass-Steagall Act, were: (i) investments of a bank's assets in securities promoted by securities affiliates; (ii) pressures on banks to shore up faltering securities affiliates; (iii) more favorable availability of a bank's credit to customers of its securities affiliate; (iv) losses to bank depositors on investments made in reliance on the relationship of a bank and its securities affiliate; (v) bank lending to customers to purchase stock underwritten by a bank's securities affiliate; and (vi) conflicts between a bank's ownership stake in its securities affiliate and its obligation to render impartial investment advice. See *Investment Company Institute* v. *Camp*, 401 U.S. 617, 630 (1971).

2. The measures enacted to minimize these hazards included: (i) limiting commercial bank purchases of equity securities to acquisitions for the accounts of their customers; (ii) prohibiting commercial banks from purchasing debt securities other than those approved by the Comptroller of the Currency and from underwriting and dealing in securities other than certain government securities; (iii) prohibiting entities engaged in securities activities from accepting demand, or similar, deposits; (iv) precluding commercial banks from affiliating with entities engaged principally in securities activities; and (v) barring director, officer and employee interlocks between commercial banks and entities engaged primarily in securities activities.

enactment in 1933, the Glass-Steagall provisions have generally separated commercial banking from investment banking, albeit with limited caveats.

### B. The Bank Holding Company Act

In enacting the Bank Holding Company Act of 1956 (BHCA), Congress sought to remedy two significant issues with bank holding companies (BHCs). First, there was concern with the unrestricted ability of BHCs to expand geographically and to concentrate commercial banking facilities in particular areas of the country under single control. Second, fears were expressed over the combined ownership by BHCs of banking and nonbanking enterprises, i.e., the mixture of commerce and banking, that was undermining the principle that banks should not engage in businesses unrelated to banking.

To address concerns with geographic expansion and concentration, Congress subjected future BHC acquisitions of banks to comprehensive Federal Reserve Board (FRB) approval standards. Instead of applying the new standards uniformly to all potential BHC acquirors, however, it was determined sufficient to extend the provisions only to BHCs controlling two or more banks. This was because unitary BHC (owning one bank) operations at the time were generally small and raised no serious concerns. Thus, only multiple BHCs were covered by the original BHCA provisions.

With respect to concerns over the combination of banking and non-banking activities under the BHC umbrella, BHCs were generally prohibited from owning shares in nonbanking companies, subject to certain exceptions.[3]

During the late 1960s a number of banking organizations—following the lead of an influential commercial bank—formed one-bank holding companies as a means of diversifying into other financial activities. In response to this development, Congress amended the BHCA in 1970 to extend its coverage to unitary BHCs. The exceptions available under the original provisions of the BHCA for BHC acquisitions of nonbank businesses were somewhat liberalized, but nonfinancial activities were not permitted. Thus, unitary BHCs became subject to restraints similar to those applied to multiple BHCs with respect to the nonbanking activities in which they could engage.[4]

### C. The Savings and Loan Holding Company Act

Following an eight-year, limited moratorium on the expansion of SLHCs, the modern version of the Savings and Loan Holding Company Act (SLHCA) was enacted in 1967. The Act was intended to provide a comprehensive framework for the registration and supervision of SLHCs by the federal thrift regulator, the Federal Home Loan Bank Board. Unlike the then existing version of the BHCA on which it was modeled, the registration and acquisition

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3. The primary exception for control of nonbanking activities pertained to the acquisition of shares in "any company all the activities of which are of a financial, fiduciary, or insurance nature," which the FRB found to be "so closely related to the business of banking . . . as to be a proper incident thereto." Expanded somewhat in 1966 with the removal of the "financial, fiduciary or insurance" standard, this provision, now set forth at BHCA § 4(c)(8), determines the extent to which BHCs may own and operate nonbank subsidiaries.

provisions of the SLHCA were applied to both unitary and multiple SLHCs.[5] The SLHCA, however, did not restrict a unitary SLHC from owning and operating nonthrift-related businesses.[6]

Since enactment of the SLHCA in 1967, unitary SLHCs have generally been permitted to engage directly or through their nonthrift subsidiaries in any legitimate business enterprise, i.e., provided the activity does not otherwise pose a safety and soundness risk to the thrift subsidiary. With the growth of the stock form of ownership of thrifts from the mid-1970s onward, primarily through the mutual-to-stock conversion process, the SLHCA provided the statutory authority for the expansion of the unitary SLHC structure in the thrift industry. Over the years, this expansion has occasionally prompted Congressional concerns regarding the overlap of commercial and banking activities in the SLHC structure.[7]

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(note continued from previous page)

4. Significantly, BHCA § 4(c)(8) has been fairly strictly administered by the FRB and, after passage of the 1970 amendments to the BHCA, has generally been regarded as successful in achieving its objective of separating commercial banking from unrelated businesses.

5. As previously described, the provisions of the BHCA were not applied to unitary BHCs until 1970. See n. 4, supra., and accompanying text.

6. This treatment was extended to unitary SLHCs for many of the same reasons that unitary BHCs were originally exempted from coverage of the BHCA in 1956. Significantly, although multiple SLHCs are generally restricted to activities authorized for BHCs under the BHCA, they are specifically authorized to conduct certain additional activities that BHCs may not conduct. These activities include the acquisition, development, management, sale and rental of real estate.

7. When the SLHCA was enacted, thrifts lacked many typical banking powers, including commercial lending authority. In addition, most thrifts were organized as mutuals and, therefore, could not be owned by a holding company. With the gradual expansion of thrift powers after 1967—particularly pursuant to the Garn-St Germain Depository Institutions Act of 1982—and the growth in SLHC ownership, Congressional interest focused increasingly on the absence of activities' restrictions enjoyed by unitary SLHCs. To a certain extent, this issue was addressed by enactment of the "thriftness" requirement, or QTL test, in the Competitive Equality Banking Act of 1987 (CEBA).

   The QTL test, which requires a thrift to hold a substantial portion of its assets in residential mortgage-related products, had to be met for a parent SLHC to avoid imposition of BHC activities restrictions. CEBA also subjected SLHCs to interaffiliate and other restrictions substantially similar to those imposed on BHCs. These banking parity provisions were largely intended to ensure that SLHCs not have the opportunity to engage in transactions that could jeopardize the safety and soundness of their subsidiary thrift institutions.

### D. The Home Owners' Loan Act

The SLHCA was folded into the statutory framework of the Home Owners' Loan Act (HOLA) pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Significantly, FIRREA expanded upon its statutory predecessor, CEBA, and imposed virtual parity with banks with respect to affiliate transaction restrictions. In addition, amendments made by FIRREA and the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) generally subjected thrifts to the same capital standards as banks.[8]

As a result of these legislative changes to the HOLA, thrifts today are subject to many of the same supervisory standards as banks. In addition, thrifts must continue to satisfy the QTL test, which was subsumed in the HOLA pursuant to FIRREA, for their parent unitary SLHC to avoid the imposition of BHC activities restrictions. The QTL requirement was recently modified, however, to permit certain additional consumer and community-oriented lending activities.[9] This change has been instrumental in permitting thrifts to remain true to their core statutory mission of serving the housing and related lending needs of their local communities while preserving their safe and sound operation.

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8. Completing the statutory revamping of the HOLA, FDICIA also established the prompt corrective action (PCA) standards that, today, provide all of the federal banking agencies wide latitude in taking corrective actions against insured depository institutions with declining, substandard capital levels.

9. These include educational loans, credit card lending, and increased small business lending activities.