

Remarks by
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Consumer Federation of America
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Let me first thank Steve Brobeck and the Consumer Federation of America for inviting me to participate in your annual Financial Services Conference. It's a real pleasure to be here, and I'm looking forward to the opportunity for some give and take discussion after these remarks. CFA is an important partner that we rely upon at the OCC, both to alert us to new and emerging issues, and to provide a reliable sounding board as we consider policy affecting bank customers. And we've always been able to count on Steve to offer sound advice on issues affecting bank customers.

This year the OCC is celebrating its 150th anniversary, so we have been thinking a lot about the history and mission of the agency. Since its Civil War-era beginnings as an agency designed to promote a safe and sound national banking system, the OCC has seen major market disruptions, changes in technology that would have been inconceivable to the drafters of the National Bank Act, and an evolution in Congressional priorities. Consumer protection has long been a key component of the OCC's examination and supervision process. And, of course today, the OCC's mission statement, as outlined in the Dodd-Frank legislation, clearly lays out our twin supervisory objectives of ensuring that national banks and federal savings associations operate in a safe and sound manner and in compliance with laws requiring fair treatment of their customers and fair access to credit and financial products.

In fact, if you visit our new Washington Headquarters, you will see this mandate written on the wall as you enter.

In the 1970s, Congress enacted a series of laws increasing consumer protection for financial transactions, and the OCC responded by broadening the agency's focus on consumer compliance. During that decade, the OCC established a consumer affairs division, reporting directly to the Comptroller, developed a system for tracking consumer complaints, and became the first federal banking agency to conduct regular, separate, full-scope consumer compliance examinations and produce detailed consumer compliance examination manuals. Ensuring compliance with consumer protection laws became an integral part of the OCC's safety and soundness prudential regulation.

The OCC embeds consumer protection into our supervision and examination regime. We created the Customer Assistance Group to help manage complaints against banks, and the Ombudsman who reports directly to the Comptroller was put in charge to ensure that this information would receive attention at the highest level. We consider consumer protection issues when evaluating merger and acquisition applications and, when warranted, have imposed conditions before approving those requests. Our compliance examiners consider violations of consumer protection laws, including unfair or deceptive acts or practices, as an element of the performance evaluation for an institution's Community Reinvestment Act rating.

We have our own internal standing Committee on Consumer Issues that meets regularly to discuss emerging issues related to consumer protection. Senior managers from across the agency, including Compliance, Legal, Bank Supervision, and Community Affairs participate in these meetings. This group provides a mechanism for communicating new concerns to me and OCC senior management as they arise – including those brought to our attention by consumer groups. It also provides input to our agency’s National Risk Committee about possible responses that the OCC could take to address these concerns, such as issuing guidance to the banking industry.

These and other systems of incorporating consumer protection into our ongoing supervisory systems allow the OCC to respond in a timely and effective way to identify the potential impact on consumers of new developments in an ever-evolving market. We regularly issue guidance – sometimes jointly with our federal partners – to alert the institutions that we regulate to emerging risks and to make clear our supervisory expectation that consumers are to be protected. Over the years the OCC has weighed in with guidance addressing problematic practices, such as “rent-a-charter” payday lending, auto title lending, and tax refund loans.

The OCC also has taken innovative enforcement steps in furtherance of our consumer protection mandate. While it has become an established practice for a banking agency to take an enforcement action against an institution for unfair or deceptive acts or practices under the Federal Trade Commission Act, the OCC was the first such agency to do so – and faced criticism for our actions. Beginning in 1999, the OCC began to develop a more expansive interpretation of our authority to bring consumer protection actions. The OCC took the position that it could use its authority under section 8 of the Federal Deposit Insurance Act to enforce the prohibition on unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act, even though there were no regulations that specifically banned banks from engaging in such conduct.

In 2000, the OCC relied on this novel legal interpretation to take a major enforcement order against Provident National Bank requiring that it pay more than \$300 million in restitution to consumers for unfair and deceptive credit card practices. This landmark case was the first action ever taken by a federal banking agency to enforce section 5 of the FTC Act, and the first of many such actions brought against banks by the OCC. Two years later, we formalized guidance outlining the standards under which the OCC would evaluate unfair or deceptive acts or practices as part of our regular safety and soundness or compliance examination process.

Against this backdrop, let us fast forward to present-day.

In the Dodd-Frank legislation, Congress transitioned the exclusive authority to write regulations administering enumerated federal consumer financial laws to the Consumer Financial Protection Bureau. The CFPB was given authority to examine national banks and federal savings associations that have more than \$10 billion in assets for compliance with those laws. For banks and savings associations with total assets below that amount, the OCC and the other prudential banking regulators retained consumer compliance examination and supervision authority to enforce the regulations that the CFPB writes.

Even before the advent of the CFPB, we have recognized the critical need for coordination with our fellow regulators in order to carry out our mission effectively. Real collaboration among the various banking and consumer protection regulators is essential to achieve sound risk management and ensure that consumer laws are effectively administered and enforced. This important principle is strongly reinforced by the creation of the CFPB and the many provisions of the Dodd-Frank legislation that specifically require or foster consultation and coordination. The OCC is committed to making collaboration with the CFPB meaningful and real.

Since the passage of Dodd-Frank Act, the banking regulators and the CFPB have worked together constructively to establish and maintain an ongoing dialogue. My senior staff and I meet regularly with our counterparts at the CFPB to coordinate on the range of tools we use to ensure compliance with consumer protection laws. And throughout the OCC and the other agencies, similar meetings take place at all levels on a regular basis. So far, we have combined forces to draft and execute a memorandum of understanding clarifying how we will coordinate our respective supervisory activities, issued joint guidance to regulated entities, and developed examination procedures.

In addition, just as Dodd-Frank directed, the OCC consults closely with the CFPB as that agency proceeds with its ambitious consumer protection rulemaking agenda. The OCC takes this responsibility seriously and has commented to the CFPB on a range of consumer protection matters, including ongoing discussion on implementation of the new mortgage rules. This consultative process has enabled the OCC to have meaningful input in the CFPB's regulatory process.

The Dodd-Frank Act also made significant amendments to a variety of consumer protection laws and included provisions granting the CFPB authority to identify and prevent unfair, deceptive, or abusive acts or practices.

The CFPB has also been granted the authority to take enforcement actions against entities, including national banks and federal savings associations, over which it has supervisory authority.

I have never wavered in my belief that when it comes to protecting consumers against unfair or deceptive acts or practices, the more supervisory oversight we have, the better the public will be protected. Even though the supervisory authority for Federal consumer financial laws transitioned to the CFPB for the large financial institutions, the OCC is also in these institutions examining for safety and soundness, as well as other laws that did not transfer to the CFPB, including section 5 of the FTC Act, the Servicemembers Civil Relief Act and the Community Reinvestment Act.

When we uncover consumer protection issues or violations of consumer law in the course of our supervisory activities or safety and soundness examinations at these institutions, the OCC works collaboratively with the CFPB to address the problem, including taking enforcement actions for UDAP violations in appropriate cases. In reality, there is no neat dividing line between consumer compliance and safety and soundness issues. If an institution has a compliance issue, they are certain to have underlying risk management issues. This principle just underscores why it is so important for the OCC and the CFPB to work closely together.

Since I became Comptroller, the OCC has secured cease and desist orders against various large banks based on findings of unfair or deceptive acts or practices under section 5 of the FTC Act. These orders required that the offending banks pay approximately \$467 million in restitution to potentially millions of customers. In addition, we used that same UDAP authority to impose civil monetary penalties totaling just over \$100 million dollars against those same institutions. The issues addressed in these consent orders include collection of consumer debt, billing practices for credit and identity theft monitoring products, overdraft protection, checking rewards programs, and stop payment processes for preauthorized electronic fund transfers. Additionally, we have taken significant enforcement actions to address safety and soundness concerns related to foreclosure processing and mortgage servicing deficiencies.

We have continued to issue guidance relating to consumer protection matters where we believe that those issues may impair the safety and soundness of the national banks and federal thrifts that the OCC regulates. Indeed, last month we issued guidance addressing the risk management of third-party consultants, including their compliance with consumer protection laws, guidance concerning privacy protections and reporting financial abuse of older adults, best practices on debt collection and debt sales, and most recently, guidance outlining our expectations with regard to deposit advance products.

I know that deposit advance products have been on the minds of many of you as well as many of us at the OCC.

Deposit advance products share a number of characteristics with traditional payday loans, including high fees, short repayment periods, and inadequate attention to the ability to repay, all of which can lead to consumers becoming trapped in a cycle of high-cost debt. We recognized how important it was for the OCC to issue guidance on these products, and we appreciated the opportunity to work closely with the FDIC to ensure that all perspectives were carefully considered.

Our deposit advance guidance describes in detail our supervisory expectations for OCC-regulated institutions that offer the product. We make clear that we will take appropriate supervisory action to address any unsafe or unsound banking practices, as well as to prevent harm to consumers and ensure compliance with all applicable laws. Importantly, we describe our expectations regarding a cooling-off period to assist consumers in avoiding repeated use of the product.

Having said all that, we are keenly aware of consumers' need for access to affordable, small dollar loans. That is why our guidance encourages OCC-regulated institutions to step up and develop products that meet this need, but do not exhibit the same risky features associated with deposit advance products and payday loans.

We know that a number of financial institutions have taken up the challenge of providing responsible options for consumers, and we applaud their efforts. We are willing to work with individual institutions and the CFPB to develop parameters for affordable small dollar loan products.

Before I close, I'd like to say something about the report we just received from an international team of regulators that I had brought together to review the effectiveness of our large and midsize bank supervision program. The team's report made a number of thoughtful and important recommendations that I think we can use to help make the OCC a stronger and more effective supervisor. Among the recommendations was one that urged us to make safety and soundness of the institutions we supervise the primary objective of the OCC.

That might seem at odds with some of what I have said today about our concern for consumer protection, but it's very important to keep in mind that a bank can't be safe and sound if it mistreats or abuses its customers. In an industry where reputation means everything, a financial institution that engages in shoddy practices will soon find its best customers running for the doors – and law enforcement running in. And as I said a moment ago, when a financial institution has a compliance problem, it almost always has a risk management problem that raises significant questions about the quality of its leadership. Consumer protection is inextricably linked to safety and soundness. That's a principle that will be front and center as we begin the process of implementing the report's recommendations.

Moving forward, the OCC is committed to working together with the CFPB, with our other federal agency partners, and on our own, to evaluate banks' products and practices in order to ensure that consumers are treated fairly by the financial institutions that we supervise. To borrow a phrase, if we see something, we will say something. Strong supervisory guidance, oversight, and enforcement actions are a logical extension of the OCC's safety and soundness mandate.

As part of the OCC's goal to maintain and strengthen a world-class supervision regime, we continue to rely on our partners in the consumer advocacy sphere to alert us to important issues.

We know that the people here in this room work directly with individuals and local community organizations, so you hear about problems that consumers are facing long before they filter up to us in Washington. We rely on the voices of CFA members and your organization's leaders to help us identify concerns and craft the right solutions to address them. Thank you for your attention and I would be happy to take a few questions.