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OTS 97-45 - H.R. 10 Grand fathering Provisions Raise Concerns Says OTS Director

Office of Thrift Supervision

NEWS

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For further information
Contact: William Fulwider
202/906-6913

H.R.10 GRANDFATHERING PROVISIONS RAISE CONCERNS; SAYS OTS DIRECTOR

WASHINGTON, D.C., July 17, 1997 - The nation's top thrift regulator said today that provisions in the House version of a financial modernization bill that grandfather certain powers of thrift institutions and their holding companies raise concerns because of their ambiguity.

Although the grandfathering provisions in H.R. 10 are generous, said Director Nicolas Retsinas of the Office of Thrift Supervision (OTS), they are unclear in a number of ways. Moreover, he testified before a House Commerce subcommittee, the need for grandfathering arises "only because the bill cuts back on existing powers and activities" of thrifts, reducing the competitive options currently available to all financial service providers. H.R. 10 would eliminate the federal thrift charter.

Retsinas identified five areas where the grandfathering provisions are either ambiguous or raise concerns about the potentially unwieldy results that may hamper sound regulation of the savings and loan holding companies (SLHCs) and their thrift subsidiaries:

1. Transfer of federal thrift powers to national banks - The question arises whether national banks could exercise only federal thrift powers set by statute and OTS regulations or also those powers authorized by OTS through such means as interpretive opinions.

2. Federal savings association activities - It is not clear that the Office of the Comptroller of the Currency (OCC) would have the authority to curtail a grandfathered activity if a safety and soundness issue subsequently arose because of the activity, nor is it clear what happens if a thrift undergoes a change of control, such as a mutual-to-stock conversion.

3. SLHC activities - The entity would have limited ability to acquire another bank and would face broad restrictions when undergoing a change of control or merger.

4. SLHC regulation - The holding company capital rules of another regulator, such as the Federal Reserve Board, could never be applied to a thrift holding company, although the rules would apply to a bank holding company engaged in the same activities as an existing SLHC.

5. Branching rights - Existing branching rights of a federal thrift are not grandfathered in H.R.10. Enactment of the bill "may invite a spate of last minute maneuverings by existing thrifts to garner as many grandfathered branches and agency offices as possible before they have to convert to a bank charter."

While embracing financial reform now, Retsinas said, "We must remember that the ultimate indicator of success is if the change is to the betterment of America's communities, including its homebuyers, small businesses, and local bank customers.

"That is why, in adopting needed changes to our financial services system and its regulatory oversight, we should keep in mind those features of our existing system that have served us well. Historically, we have relied on a decentralized system for the delivery of credit and depository services through smaller, community-oriented financial institutions. Despite many changes in the financial services industry over the past two decades, over 70 percent of savings associations and 87 percent of commercial banks have assets under \$250 million. Locally based institutions provide healthy competition in the delivery of financial services to their communities. We should not take this contribution for granted," he urged.

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The Office of Thrift Supervision (OTS), a bureau of the U.S. Treasury, regulates and supervises the nation's thrift industry. OTS' mission is to ensure the safety and soundness of thrift institutions and to support their role as home mortgage lenders and providers of other community credit and financial services.