Remarks by
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I would like to welcome this fine group of public-spirited bankers who have taken the time, and in some cases traveled considerable distances, to share your insights at this meeting. Those insights are truly invaluable as we strive to create a healthy balance of entrepreneurial freedom and regulatory oversight of the banking business.

We have been fortunate indeed to have someone with John Reich's unique qualifications to lead the EGRPRA effort over the past two and half years. Few individuals can combine John's perspective as a key Capitol Hill and FDIC insider with his community banker's understanding of what it means to run a banking business. Also, on a personal note, I must add that he is a wonderful colleague to work with. I look forward to his continued leadership once he assumes his responsibilities as Director of the Office of Thrift Supervision.

One thing experience has taught all of us is that regulatory burden can come in many different forms and fashions. From this and other industry outreach meetings, and from the hundreds of comment letters that we've received in connection with the EGRPRA process, we've identified many antiquated and superfluous regulations, regulations that could be streamlined, and regulations that do not deliver benefits commensurate with their costs.

What I'd like to discuss with you today is one important aspect of the current debate concerning regulatory burden – how we use disclosures to accomplish consumer protection objectives in the banking business, and how, despite good intentions and enormous resources expended, it's not working as well as it should for consumers, and is imposing unnecessary burdens on bankers.

In recent years, regulators – and Congress – with the best of motives, have approached consumer issues in the financial services arena by requiring more and more information to be provided to consumers – constantly playing catch-up with rapidly evolving market practices.

So where has this brought us? Do you feel enlightened by the disclosures you get? Do you think that the stacks of paper, pamphlets and reams of disclosures that your customers get are helpful to them? Do they understand the blizzard of information coming at them? Just think of the volume of consumer disclosures people just throw out because consumers don't find them useful.

Credit cards are a good example. How many of you have credit cards? How many of you – *bankers* – understand the detail and fine print of your credit card agreement? Have you ever actually tried to read it? How many of you could *find* your credit card agreement and all its change-in-terms notices today? How many could tell me under what circumstances your credit card company is allowed to change your rate and what your options are if that happens?

This current state of affairs breeds understandable frustration and cynicism among consumers. Consumers who see just a haze of fine print, instead of the information they want and need, may understandably conclude that certain information is *deliberately* being obscured.

And banks large and small complain about the costs and burdens of various consumer compliance requirements. The EGRPRA regulatory burden reduction project so ably led by Vice Chairman Reich has highlighted these concerns. And this industry reaction is not just as a complaint about costs. The expense associated with developing and distributing disclosures would be more bearable if people thought all the effort effectively accomplished their purpose: to get vital information into the hands of consumers to make informed choices and to promote healthy competition among financial providers. But the evidence suggests that, despite all this investment in disclosures, we have a way to go.

I don't mean to suggest that we should discard the basic approach of reliance on disclosures and consumer choice to accomplish important consumer protection objectives. I believe that one of the great strengths of our financial system is that, with limited exception, the government does *not* dictate the price and terms of products and services that may be offered. But, in order for this free market to work, consumers need to have the means to make *informed* decisions.

Continuing with credit cards as an example, there are two arenas where current developments hold promise of positive developments to produce *better, more effective, and less burdensome approaches to consumer disclosures.* The first is in Congress, and second is through revisions to regulations – in this case, Regulation Z.

Next week, the Senate Banking Committee will be holding a hearing, at which I will testify, on credit card disclosures. I am encouraged by the Committee's interest, and I hope that the Committee will use the opportunity not simply to criticize the current state of credit card disclosures – which we would agree leave room for improvement – but to begin a re-examination of the processes of developing, designing, implementing, overseeing and evaluating consumer disclosures for financial products and services. Our goal here ought to be consumer disclosures that consumers can understand and find useful, provided in a manner that minimizes unnecessary regulatory burdens on the company required to provide them.

In recent decades, when Congress has passed laws with a consumer protection component, the legislation frequently included specific requirements concerning the content of information to be provided to consumers. Also, it has been typical of recent legislation for the agencies charged with drafting rules to implement those requirements to be given very short deadlines to finish their work.

Typically, the job of drafting these rules falls to compliance specialists and lawyers. The results can be expected to be comprehensible – to other lawyers and compliance experts – who are justifiably concerned about civil liability from the consequences of noncompliance with complex compliance requirements.

I would encourage anyone interested in effective and efficient consumer disclosures to look at the experience of the Food and Drug Administration (FDA) in developing another type of consumer disclosure, the "Nutrition Facts" label that we consult to make sure that we get our vitamins and minerals – and not too many calories, carbs, sodium, or fat. The "Nutrition Facts" box may be the most prevalent and frequently used consumer disclosure in the marketplace today. Just think about how frequently you check out the calorie count on a candy bar or bag of potato chips, the carbs for a loaf of bread, or the fat content of different brands of ice cream or yogurt. And the clear labeling of nutrition content has not only enabled consumers to find products with the nutritional characteristics they're seeking, it has influenced food producers to develop products that consumers want. In other words, these disclosures have been effective and *useful* to consumers.

How did this happen? The effort that led to the FDA's nutrition labeling began with a clear statement by Congress of the *objective* the FDA was charged to accomplish. While Congress did specify certain nutrition facts to be disclosed, it also provided the FDA with the flexibility to delete or add to these requirements in the interest of assisting consumers in "maintaining healthy dietary practices." It left to the FDA's discretion the design and format of the nutrition label.

Based on the direction and goals set out by Congress, the FDA took several *years*, in an effort that involved intensive research not only by nutritionists, but also by social scientists who polled focus groups to elicit ideas on the kind of information consumers *wanted* to see, experimented with dozens of different formats, and tested those formats with target consumer audiences to determine what actually worked. The "Nutrition Facts" box disclosure was the result of painstaking laboratory and fieldwork, notably including extensive input by consumers.

Why can't we do something similar for financial products? Why can't we have concise, easy to follow disclosures of the information that consumers most want to know about financial products that is less burdensome on the businesses required to provide it? Why can't one sheet of paper with key information clearly presented in a user-friendly format take the place of all those pamphlets and long forms with type so small you really do need a magnifying glass to read it?

For critics of the adequacy and effectiveness of consumer disclosures, as well as those who question the costs and other burdens associated with compliance with current consumer disclosure requirements, what can we learn from the FDA experience?

First, it teaches that legislators should consider more emphasis in financial services legislation on articulating the *goals* to be achieved through a particular consumer protection disclosure regime, rather than the precise content of mandated disclosures.

A second lesson is to look for opportunities to require, and *please provide adequate time for*, regulators to include consumer testing as part of their rulemaking processes. Personally, I would *welcome a mandate* that before we issue any new consumer disclosure rules and regulations, bank regulators must undertake thorough consumer testing to discover what information consumers most want to know about in connection with a particular product and how to most effectively communicate that information to them.

And finally, given the example of the concise disclosures that resulted from the FDA's careful process, I would hope legislators would require that regulators take into account both the burden associated with implementing any new standards, together with the effectiveness of those disclosures. The EGRPRA effort as it plays into regulatory burden reduction legislative proposals that are currently being developed is the perfect opportunity for Congress to do this.

Regulators also have a great opportunity now to make needed changes to enhance the effectiveness and utility of various consumer disclosure requirements while lessening their regulatory burden. This can occur through the EGRPRA regulatory review process and through separate initiatives that are unique to a particular agency. Continuing to use credit card disclosures as an example, the rulemaking process just undertaken by the Federal Reserve Board to review the requirements for credit card disclosures under Regulation Z offers an interesting test.

Last month, the OCC took the unusual step of submitting a comment letter responding to the Board's Advance Notice of Proposed Rulemaking on Regulation Z's open-end credit rules. In addition to pointing out a number of specific inconsistencies and other issues that we believe should be considered in the Board's review of Regulation Z, our comment letter stressed several key themes.

Our letter discussed both the development of the FDA's "Nutrition Facts" label and the efforts of the Financial Services Authority (FSA) in the United Kingdom to develop revised disclosure requirements for a variety of financial products. We also noted that the OCC, the Board, and several other federal agencies are currently engaged in a multi-phase consumer testing project to improve financial institution privacy notices. Our comments highlighted several techniques that have been found to be key to effective – and efficient – consumer disclosures.

- Focus on key information that is central to the consumer's decision making (with supplementary information provided separately in a fair and clear manner);
- Ensure that this key information is highlighted in such a way that consumers will notice it and understand its significance;
- Employ a standardized disclosure format that consumers can readily navigate; and
- Use simple language and an otherwise user-friendly manner of disclosure.

A second general theme of our comment letter related to the approach to consumer disclosure requirements reflected in Regulation Z and countless other consumer protection rules in the financial services arena: extensively detailed, prescriptive rules specifying (among other things) the content of information to be provided to consumers. While this approach has informed consumers about many features of their credit card accounts, it also risks information overload, and has the potential for important information to be obscured by the volume of specific disclosures.

The third general theme of our comments related to the need to ensure that credit disclosure rules keep pace with the evolution of credit products and industry practices. For example, one source of an increasing number of credit card consumer complaints is the exercise by creditors of change-in-terms provisions to "reprice" credit card accounts, and the information that consumers receive about those practices. It would seem pretty basic that customers should be clearly informed of the circumstances under which their rates will be, or may be, changed.

But Regulation Z currently addresses the various ways in which an account may be "repriced" in very inconsistent ways. For example:

- For variable rates, specific disclosure is required of the fact that the rate may vary and an explanation of how the rate will be determined, as well as detailed rules about the actual numerical rate that is disclosed.
- For promotional rates, specific disclosure of the promotional rate and a large print disclosure of the rate that will apply after expiration of the promotional rate is required, but *no disclosure* is required of the different circumstances under which the promotional rate will be or may be terminated.
- For penalty rates, specific disclosure of the increased penalty rate that may apply upon the occurrence of one or more specific events is required, but the disclosure of those events is not required to be particularly detailed, or necessarily prominent, and *no disclosure* of the duration of the penalty rate is required.
- And, *no disclosure* is required of the issuer's reservation of a unilateral right to increase the interest rate, fees, or any other terms of the account.

This doesn't make sense, but it is but one example of consumer disclosure requirements that are extensive and call on significant bank resources, but do not provide key information of most interest to bank customers.

My point is that by conducting the right kind of qualitative and quantitative research and designing our disclosures accordingly, we can find ways to address systematically some of the most problematic credit issues for consumers, and *also* reduce the disclosure burden on both the industry and consumers.

Quality rather than quantity; disclosure in the spirit of openness and free markets rather than as a mere compliance gesture; research rather than guesswork – these are values that should guide us. If we take these values to heart, I believe we can develop a framework for consumer compliance disclosures that work *effectively* for consumers and *efficiently* for the bankers that seek to serve them.

Let me close by again thanking you for being here and being engaged in this vital challenge.