



# U.S. Senate Committee on Banking, Housing, and Urban Affairs

U.S. SENATOR RICHARD C. SHELBY, AL, RANKING MEMBER

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EMBARGOED UNTIL BEGINNING OF HEARING

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## **STATEMENT OF SENATOR RICHARD C. SHELBY** *Examining the Regulation and Supervision of Industrial Loan Companies* 10-4-07

“Thank you, Mr. Chairman.”

“Today we examine the regulation and supervision of industrial loan companies or ILCs. The topic raises at least three critical questions which this Committee should consider carefully. First, to what extent, if any, should we allow the continued mixing of banking and commerce through commercial ownership of banks? Second, is a consolidated supervisory approach, rather than a more bank-centric approach, the optimal method for regulating our financial institutions? Third, should we charge the SEC with the additional responsibilities of a prudential supervisor?”

“Although the decision by the FDIC to extend the moratorium on ILCs owned by commercial companies gives a certain impetus to today’s hearing, the issue is not new. In 1987, this Committee passed the Competitive Equality Banking Act or CEBA. While CEBA eliminated further chartering of nonbank banks, it exempted a number of entities from the requirements of the Bank Holding Company Act. Among these entities were credit card banks, trust companies, and ILCs.”

“Twelve years later, we revisited the issue of regulatory modernization in the Gramm-Leach-Bliley Act. Gramm-Leach-Bliley ended the ability of ‘unitary thrift holding companies’ to engage in bank-like activities if they were owned by nonfinancial businesses. But, Gramm-Leach-Bliley did not address the exemption of ILCs and their holding companies from Fed supervision. Other than certain grandfathered unitary thrifts and nonbank banks, this meant that ILCs were the only option for commercial firms to accept insured deposits and make consumer and commercial loans. In the meantime, ILCs gained in popularity. Between 1987, when CEBA was enacted, and 2004, total assets held by ILCs rose 3,500%.”

“The mixing of banking and commerce raises a number of issues which this Committee must review carefully. Perhaps the most significant concern is the potential for conflicts of interest on the part of the commercial owners of a bank which could jeopardize the bank’s Federally-insured deposits. As we consider the supervision and regulation of ILCs, we must be mindful of the history of the separation of banking and commerce and the legislative exceptions to such separation that the Congress has created over the years.”

“In addition to concerns about the mixing of banking and commerce, the ILC debate also raises questions about the optimal regulatory structure. While the vast majority of assets in our banking system are subject to consolidated supervision, a significant minority have been regulated through a more bank-centric approach. Until recently, the FDIC had generally defended the adequacy of the bank-centric approach to regulation. We should consider the merits of both approaches, including the history of bank failures under each approach.”

“This leads to a final question: should the Gramm-Leach-Bliley Act be revisited to give the SEC statutory authority as a consolidated supervisor? Despite the fact that the Congress did not provide this explicit authority to the SEC in Gramm-Leach-Bliley, the SEC has put in place a version of this authority through its own rulemaking. I do not believe it would be appropriate to ratify the SEC’s consolidated supervisory entities program as an afterthought to the ILC debate. If some form of consolidated supervision for unregulated broker-dealer affiliates and holding companies is needed, we should thoroughly consider such a change before it is codified in statute. In any event, we should not forget the careful balancing that went into crafting our current functional regulatory scheme.”

“These issues are important ones with profound implications for the safety and soundness of our financial institutions, the future of financial regulation, and our banking system as we know it today. As we move forward, each of these issues will require the full resources and attention of this Committee as well as the cooperation of the regulators. I thank the Chairman for calling this hearing which I hope is only the first in which should be a series of hearings addressing the profound and fundamental issues surrounding this complex and important topic.”

“Thank you, Mr. Chairman.”











