

TESTIMONY OF

RICHARD H. NEIMAN
SUPERINTENDENT OF BANKS

On behalf of
THE CONFERENCE OF STATE BANK SUPERVISORS
and the
NEW YORK STATE BANKING DEPARTMENT

On
“THE FINANCIAL CONSUMER HOTLINE ACT OF 2007: PROVIDING
CONSUMERS WITH EASY ACCESS TO THE APPROPRIATE BANKING
REGULATOR”

Before the
FINANCIAL SERVICES COMMITTEE,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

THE U.S. HOUSE OF REPRESENTATIVES

December 12, 2007, 10:00 a.m.

Good morning, Madam Chair, Ranking Member Price, and distinguished members of the Subcommittee. On behalf of the Conference of State Bank Supervisors (CSBS) and the New York State Banking Department, I appreciate this opportunity to speak with you today and to share our perspective on the proposal to establish a national call number and centralized intake process for consumer inquiries directed to financial regulators.

CSBS is the professional association of state officials responsible for chartering, supervising, and regulating the nation's 6,146 state-chartered commercial and savings banks, and 400 state-licensed foreign banking offices nationwide. CSBS represents the bank regulators of the 50 states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands. For more than a century, CSBS has given state regulators a national forum to coordinate, communicate, advocate and educate on behalf of state financial regulation.

The New York State Banking Department is the nation's oldest bank regulatory agency, responsible for the licensing, regulation and supervision of domestic state-chartered banks; foreign agencies, branches and representative offices; savings institutions, trust companies, credit unions and other financial institutions operating within New York, including mortgage bankers and brokers, check cashers, money transmitters and licensed lenders. In total, the New York State Banking Department regulates nearly \$1.8 trillion in assets.

This year marks the tenth anniversary of nationwide branch banking. While both state and federal regulators have dedicated much energy and many resources to creating a system that facilitates interstate banking business models, it has become evident that we also need to create a more coordinated regulatory interface with the consumer.

Nationwide branching was intended to make banking more convenient for both consumers and financial institutions, and it has largely achieved this goal. For consumers, however, it has sometimes created confusion about how to seek redress for problems with their bank on the corner when the headquarters is on the other side of the country. Add to that the confusion of chartering authorities, holding company affiliates and operating subsidiaries and we have a Byzantine system for the consumer to navigate.

The Importance of Enhanced Complaint-sharing

We believe that a centralized system that routes calls to the respective state agencies when appropriate would expedite the process of matching borrowers with the form of public or private assistance that best meets their needs. Consumers with a variety of concerns, whether related to credit cards, payment billing, funds availability or other issues, would benefit from enhanced inter-agency information sharing.

In the context of the present turmoil in the mortgage market, an expedited approach to handling consumer inquiries would be especially useful in outreach to borrowers facing a mortgage hardship. The goal is to connect with these homeowners early in the delinquency process, before their credit history is damaged or they lose their homes to foreclosure.

With our complex financial services system, however, borrowers who want to be proactive may be confused -- and understandably so -- when trying to identify the correct government agency to contact. A consumer shouldn't need to know whether their financial institution is a subsidiary of national bank, a state-chartered bank, or a holding company affiliate in order to receive assistance.

As you may be aware, the Federal Financial Institutions Examination Council (FFIEC) recently voted for a vendor to review ways to improve a consumer's ability to file a

complaint with a financial regulatory agency. The vendor would review the feasibility of the following:

- A web portal for consumers to submit complaints and inquiries;
- A process for routing consumer calls, letters, and emails to the appropriate agency; and
- A consumer friendly institution look-up tool.

The vendor will also review best practices, including:

- A secure, electronic process for forwarding complaints to the appropriate agency;
- A complaint code mapping process for identification of trends/emerging issues; and
- Exploring the possibility of a uniform agency complaint and inquiry database and case management system.

While no recommendations have yet been issued, the FFIEC is reviewing the very concerns that your proposed legislation seeks to address. Also, as a result of the Financial Services Regulatory Relief Act of 2006, the Chairman of the State Liaison Committee (SLC) is now a voting member of the FFIEC. The states strongly support the FFIEC initiative to review complaint filing practices by the regulatory agencies and improve the ability of a consumer to not only file a complaint, but also receive a timely response.

State bank regulators strongly believe that any national hotline number linking the federal regulatory agencies includes the capability to refer consumer inquiries to the states, and I am pleased that your proposal provides for this feature. Resolution of the underlying issues that prompted the consumer complaint often requires local assistance. This is especially true in the case of mortgage lending which, due to the nature of the collateral, is unavoidably local.

Coordinated Call Center Initiatives in New York

In New York, we have already taken steps to ensure that complaints that relate to federally-supervised institutions are referred to the appropriate agency. The Banking Department has partnered with both the Office of the Comptroller of the Currency (OCC) and with a major nonprofit organization to link consumer call center functions and increase community outreach. In addition, the New York City government has also created a successful hotline to link calls related to all city services.

At the state level, our first initiative involved a Memorandum of Understanding (MOU) with the OCC, signed in November 2006. This agreement facilitates the transfer of complaints, as well as providing mechanisms for follow-up on the case status and resolution.

The second initiative, with the national nonprofit NeighborWorks America, is an outgrowth of New York Governor Eliot Spitzer's HALT Task Force to "Halt Abusive Lending Transactions." The foundation was laid in March 2007, when Governor Spitzer created this Task Force that I chair, which is composed of the state agencies and departments that relate to the mortgage market. The purpose is to unite the resources at the state level to provide an integrated response to the subprime problem. As part of its outreach mission, the HALT Task Force has partnered with NeighborWorks America and this cooperation includes promotion of the centralized HOPE hotline.

The HOPE hotline is featured in a public service ad campaign and refers calls to service providers, including the Banking Department's Consumer Help Unit. This form of coordinated outreach with a major nonprofit has expanded public access and maximized the impact of the Consumer Help Unit, as well as the call centers of the other participating state agencies.

The Role of CSBS in Promoting Consistency in the Collection of Complaint Information

Once a consumer makes contact with the hotline or central call number, however, the receiving agency has the additional responsibility of recording sufficient information in a consistent manner. CSBS has taken a lead role in developing model forms and best practices recommendations to help ensure that calls are adequately recorded, to facilitate speedy resolution.

The first step was the creation of a model complaint form by the state working group. This form is a template, and while not every state will be able to use this document, it serves as an example of the type of information that all agencies should be collecting. Provisions include a signature page with a Privacy Act Statement, and a series of concise intake questions. The form could be completed on-line by the consumer or over the phone during an interview with an agency staffer. I have attached a copy of the model form with my testimony for reference. In addition to the model form, CSBS has been developing a list of best practices recommendations for complaint processing.

While the recommendations are still taking their final form, I can share with you a preliminary list of these ten principles:

1. **Number one** is simply having written procedures for handling complaints. CSBS expects its member agencies to have written policies and procedures in place for handling consumer disputes.
2. **Second**, use of the model complaint form will make sure that every staff person who takes a complaint from a consumer will have the information necessary for the appropriate agency to take steps to address the complaint.
3. **Third**, we must offer easy access for consumers, with a variety of contact points: telephone, Internet, mail, and physical offices where needed.

4. **Fourth**, each agency needs a case management process for screening and referral to the agency that has jurisdiction over the complaint, whether that agency is in another state, a federal banking agency, the FTC, or elsewhere in state or federal government.
5. **Fifth**, agencies must have the legal authority to require their regulated entities to respond, and to assess whether the institution's response and resolution are reasonable.
6. **Sixth**, agencies should have management systems in place to track complaints and resolutions on a timely basis.
7. **Seventh**, agencies should – either separately or together – maintain a database to track trends and identify potential supervisory matters. Consumer complaints, as we all know, are often an early warning sign of more serious internal controls or safety and soundness issues; an institution that is sloppy about customer service or compliance is likely to have problems in other areas as well.
8. **Eighth**, agencies should have data retention policies in place. At the state level, we pride ourselves on personalized service and local knowledge, but we cannot allow institutional knowledge to disappear when a key staffer retires.
9. **Ninth**, agencies should commit staff and training to handling consumer complaints, and not treat this area as an “extra” or a sideline to their primary mission. The mission is protecting the financial well-being of our citizens and our communities.
10. And **tenth**, agencies should sign the information-sharing agreements with other agencies in order to provide consumers with the best possible service across state and agency lines.

Suggestions for Amending the Current Proposed Legislation

We offer these best practices recommendations as models, and I would like to conclude by offering three suggestions to further enhance the current version of the Financial Consumer Hotline Act of 2007:

1. **Referral from the states to the federal regulators.** First, while the proposed legislation addresses the federal-to-state referral mechanism, the current draft does not directly address the reverse ability to refer state-to-federal. We would suggest making this two-way process more explicit, as there could be a significant flow of referrals in this direction. Troubled consumers tend to look locally first when seeking help and, with many citizens unaware of the chartering authority for their financial institution, state agencies regularly receive local inquiries related to institutions that are federally supervised.
2. **Trend and case monitoring.** Second, the database connected to a centralized intake system would be a source for vital statistics about trends in consumer complaints. This information could also be used to identify institutions generating a high volume of complaints that might warrant a target examination or other form of enhanced supervision. The same system could also be used to track case resolution status and response times. We recommend expanding the proposed legislation to mandate the FFIEC to produce such monitoring reports, to maximize the value of the system.
3. **Model forms and intake processes.** And third, consideration should be given to the development of model forms and intake processes, as described above, to ensure that all participating agencies collect sufficient and consistent information. Operating guidelines will also be necessary to support the type of centralized intake process envisioned in the proposed legislation.

Conclusion

The states welcome the opportunity to share our perspective on the approaches to complaint case management that we have tried and found effective. The New York State Banking Department has been one of the first state regulators to enter into a complaint sharing agreement with the OCC, and we offer our positive experience with this partnership in support of the concept of a nationwide hotline. I thank you for your time this morning, and would be glad to answer any questions you may have.