

THE FINANCIAL SERVICES ROUNDTABLE



Testimony of

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Before the

United States House of Representatives

Financial Services Subcommittees on
Oversight and Investigations and
Financial Institutions and Consumer Credit

on

“Protecting Consumers: What Can Congress Do To Help Financial
Regulators Coordinate Efforts To Fight Fraud?”

March 6, 2001

Good afternoon, Chairmen and Members of the Subcommittees.

My name is Steve Bartlett and I am the President of The Financial Services Roundtable. Thank you for inviting me to testify today on the Financial Services Committee's draft legislation to create an anti-fraud network among the financial services regulators. The Roundtable supports the continuing efforts of the Committee to move towards a seamless, coordinated system of regulating the financial services marketplace. In particular, the Roundtable appreciates the Committee's efforts to protect legitimate financial services companies and their customers from fraudulent actors by facilitating the sharing of relevant anti-fraud information among the agencies. We support the concepts of the proposed legislation as it has been outlined to us and we look forward to working with the Committee towards its enactment.

The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to American consumers. Member companies participate through their Chief Executive Officer and other senior executives nominated by the CEO.

Roundtable member companies provide fuel for the engine of our nation's economy, accounting directly for \$17 trillion in managed assets, \$6.6 trillion in assets, and \$462 billion in revenue, and providing jobs for 1.6 million employees.

In 1999, Congress passed the Gramm-Leach-Bliley Act ("the GLB Act"), historic legislation that allowed banks, insurance companies, and securities firms to affiliate under one corporate structure so that financial services companies can more readily anticipate and meet their customers' financial needs on a comprehensive basis. The GLB Act also

established a system of functional regulation and requires greater coordination among the various agencies.

Now, the financial services community is faced with the complex task of making functional regulation work. Collectively, there are almost 200 different financial services regulators, including the various state banking, insurance, and securities regulators and all of the federal banking, thrift, and securities agencies. As integrated financial services companies increase the scope of their business activities and the products and services they offer, they face a substantial compliance burden by having to file duplicative reports to multiple regulators. In addition, new regulations are being issued much faster than anyone could have imagined. In the past three months, the Roundtable alone has reviewed for formal comment over twenty-five proposed regulations.

Functional regulation can work, and I believe it will be efficient and effective at some point in the future. But today, in 2001, functional regulation still has some significant overlap and duplication. This issue is for a different hearing, but as the Oversight Subcommittee, you may wish to further examine the state of functional regulation.

The legislation under discussion today proposes increased communication among the regulators for the purposes of fraud reduction, which is an important step towards fully implementing functional regulation. In particular, identifying the fraudulent activities of a few bad actors, who can cause great harm to American consumers and, potentially, to the entire financial services system, is a significant improvement. Financial services providers lose significant amounts of money from fraud, some or all of which will ultimately be borne by customers. It is estimated that the financial services industry loses more than \$100 billion a year in fraud, which includes \$85 billion to \$120 billion in insurance fraud,

\$24 billion of which comes from property/casualty fraud¹; \$13 billion in check fraud; \$3 billion in identity fraud; and \$600 million in credit card fraud.² If financial services regulators had a consistent and coordinated system of sharing information on fraud, they would be better equipped to expose fraud sooner and limit the damage to the American public.

The integrated management of information is the single most powerful weapon in combating fraud. As evidence of this, Ernst & Young released a study at the end of last year on the benefits that customers of Roundtable member companies receive as a result of our companies' ability to integrate information.³ The study found that information integration among financial services companies helps prevent fraud and reduces the incidence of identity theft. Moreover, the sharing of information makes it easier for companies to resolve problems and limit damage after fraud has been detected. We would be happy to provide a copy of the study and a briefing of its results to any interested member of this committee.

The financial services industry is deeply committed to deterring and detecting financial fraud. As evidence of this, the Roundtable's affiliate organization specializing in emerging technology issues, BITS, has established a Fraud Reduction Steering Committee to lessen the effect of fraud in financial services organizations. Representatives from the Roundtable's member companies who serve on the Steering Committee work together with financial services regulators to develop ways to combat fraud, particularly with regard to the electrification of the industry. For example, through their efforts, the growth of check fraud in large institutions was reduced from 17.5 percent to 11.7 percent annually.

¹ *The Insurance Information Institute Fact Book, 2001.*

² *Customer Benefits from Current Information Sharing by Financial Services Companies*, conducted for The Financial Services Roundtable by Ernst & Young, December 2000.

³ Id.

The Roundtable strongly supports the Financial Services Committee's efforts to safeguard the public from ongoing fraud by streamlining the anti-fraud coordination efforts of the financial services regulators. As we understand it, the draft legislation would create a computerized network linking existing anti-fraud databases of federal and state financial regulators through the Federal Financial Institutions Examination Council ("FFIEC"). If crafted carefully and implemented effectively, the proposed anti-fraud network could have tremendous long-term advantages by assisting regulators in detecting patterns of fraud, reducing duplicative information requests by regulators, and allowing the agencies to take advantage of emerging technologies to modernize fraud fighting.

The Roundtable is pleased to hear that the legislation will clearly state that no information that is unrelated to fraudulent activities would be shared. We believe that the legislation should be as specific as possible about the type of information that is involved.

The Roundtable is especially pleased that the Committee will seek to ensure that no information on customers would be shared under the new anti-fraud network. Financial services companies rely on the trust and confidence of their customers and are undertaking extraordinary efforts to protect the privacy of their customer's information. Any new anti-fraud regulatory network must assure the continued protection of customer privacy.

The Roundtable is also appreciative of the Committee's efforts to ensure that in creating an anti-fraud network, Congress would not create any new bureaucracy, new regulators, or new regulations, and would not require the collection of any new information. The benefits of the anti-fraud streamlining could be counterbalanced if the proposal imposed additional regulatory burdens on the industry.

In addition, the Roundtable is pleased that the Committee intends to ensure that confidentiality and liability protections would be provided for all networked information to

allow regulators to share information without losing existing legal privileges. Towards this end, the Roundtable would support a national uniform standard of confidentiality for all financial regulators.

Critical to the Roundtable's support for this initiative is the Committee's assurance that the shared information will only be available to financial regulators. Allowing public access to the regulatory databases could increase the liability risk for companies and undermine the bill's primary goal of preventing fraud.

As the Committee continues to explore ways to improve information sharing among regulatory agencies, the Roundtable urges the Committee to again consider the "Bank Examination Report Privilege Act," or "BERPA," as it is commonly called. This draft legislation would protect the integrity and effectiveness of the bank examination process by preserving the cooperative, non-adversarial exchange of information between supervised financial institutions and their examiners. First, BERPA would clarify that a supervised institution may voluntarily disclose to the examining agencies information that is protected by the institution's own privileges without waiving the privileges as to third parties. Second, BERPA would codify and strengthen the bank supervisory privilege by defining confidential supervisory information, affirming that such information is the property of the agency that created or requested it, and protecting this information from unwarranted disclosure to third parties, subject to appropriate judicial review. Finally, BERPA would reaffirm the agencies' power to establish procedures governing the production of confidential supervisory information to third parties.

A version of BERPA passed the House by voice vote in the 105th Congress as part of H.R. 4364, the "Depository Institution Regulatory Streamlining Act of 1998," and was included in similar legislation, H.R. 1585, introduced in the 106th Congress by Congresswoman Marge Roukema (R-NJ). The Roundtable appreciates Mrs. Roukema's

leadership and encourages the new Financial Services Committee to reintroduce and pass this important legislation, either in connection with the anti-fraud network legislation or as a stand-alone bill. Additionally, to reflect the recent integration of the financial services industry, the Roundtable urges the Committee to expand the bill to extend its security protection provisions to examination information shared by insurance and securities companies and their regulators.

In conclusion, The Financial Services Roundtable supports congressional efforts to promote greater coordination among the financial services regulators to share relevant anti-fraud information. Such an anti-fraud network would greatly benefit the financial services industry and its customers, as well as the regulatory agencies. We look forward to working with the Committee to draft balanced legislation that achieves this laudable goal.

I will be glad to try to answer any questions that Members of the Committee might have.