OPENING STATEMENT OF CHAIRMAN SPENCER BACHUS ON SECURITIES "PUSH OUT" PROVISIONS OF THE GRAMM-LEACH-BLILEY ACT
AUGUST 2, 2001

Thank you, Chairman Baker, for convening this joint hearing of our two subcommittees to review the SEC's proposed rule governing the securities activities of banks.

As Chairman Oxley has often reminded us, one of our Committee's central responsibilities in this Congress is overseeing implementation of the historic Gramm-Leach-Bliley financial modernization legislation enacted by the last Congress. The Financial Institutions Subcommittee has played an active role in that effort. In April, these same two subcommittees reviewed rules promulgated by the Federal financial regulators governing merchant banking operations authorized by Gramm-Leach-Bliley. In May, the Financial Institutions Subcommittee held hearings on the proposal by the Federal Reserve Board and the Treasury Department to permit banks to offer real estate brokerage and real estate management services.

Today, our focus is on an SEC proposal implementing the so-called "push-out" provisions of Title II of Gramm-Leach-Bliley, which generally require banks to conduct securities activities through registered broker-dealers. Title II contains important exemptions from these requirements, however, which are designed to permit banks to continue offering their customers trust and

fiduciary, custody and safekeeping, and other traditional banking products and services outside of a broker-dealer structure.

The legislative history of these provisions reflects an attempt to balance two competing concerns. On the one hand, Congress sought to ensure that banks could not conduct full-blown brokerage operations shielded from SEC oversight and the application of the Federal securities laws. On the other hand, Congress wanted to avoid disrupting longstanding trust and other fiduciary relationships between banks and their customers, which are already governed by comprehensive State laws enforced by Federal and State bank regulatory authorities. The Gramm-Leach-Bliley Act conference committee, on which I was proud to serve, instructed the SEC that, in writing regulations implementing Title II, the agency should "not disturb traditional bank trust activities." The interim final rule that the SEC released earlier this year simply cannot be squared with this clear expression of congressional intent.

Particularly troubling to me is the effect that the SEC's proposal would have on the availability of trust and other fiduciary services at America's small community banks. For large Wall Street firms with integrated banking and securities units, the burden of "pushing out" activities previously conducted in a bank trust department into an affiliated broker-dealer, while significant, would not be insurmountable. But for many smaller

banks, the cost of registering as a broker-dealer or creating a broker-dealer affiliate from scratch would be prohibitive. The likely consequence of the SEC rule on some of these institutions would be that they would discontinue their trust operations, to the obvious detriment of customers who have come to rely on those services. For community banks already facing funding pressures caused by a declining deposit base, the SEC proposal could not come at a worse time.

In closing, let me just say that the SEC's recent decision to extend the comment period and effective date on its interim final rule is welcomed by this Committee. As it heads back to the drawing board, I hope that the SEC will seriously consider the views of the Federal banking regulators and others who have identified serious shortcomings in the "push-out" proposal, resulting in a final agency product that all of us can support.

I yield back the balance of my time.