Wal-Mart Bank Federal Deposit Insurance Application - Public Hearings

Public Hearings Regarding the Deposit Insurance Application of Wal-Mart Bank
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Panel 3

MR. BOVENZI: Good morning, everyone. Welcome. You all have the honor of getting in the final word of our first set of hearings. We're glad to have you here. And we shall start out with Mr. Wallison, please.

MR. WALLISON: Thank you very much. I would like to say at the beginning that despite what the program says, I'm not representing AEI despite what the program says. AEI does not take positions on individual matters or on policies. Its scholars do, and so I'm speaking for myself here.

Those who oppose the Wal-Mart application argue that despite the absence of any legal bar to Wal-Mart acquiring an ILC, the FDIC should nevertheless reject the application because it violates a purported national policy that commerce should be separated from banking. The point I want to make today is that if there ever was such a policy, it was abandoned when Congress adopted the Gramm-Leach-Bliley Act in 1999.

Proponents of separating banking and commerce have always justified the policy underlying the Bank Holding Company Act by citing three different potential dangers associated with affiliations between banks and commercial firms. First, a bank with a commercial affiliate will lend preferentially to its commercial affiliate. A bank with a commercial affiliate will not lend to competitors of its commercial affiliate. And finally, if a bank's commercial affiliate encounters financial difficulty, the bank's resources will be marshaled to bail it out.

Parenthetically, I would like to mention that all of these things would be violations of banking laws and regulation and would subject the employees involved to personal liability of up to a million dollars per day. So it's highly unlikely that any of these things would occur, but that's not the point of my argument today.

The first two grounds that I mentioned suggest that the separation idea is based on the notion that suppliers of credit, at least credit supported by federal deposit insurance, should be separated from users of credit. The third ground suggests that separation is necessary to protect the safety and soundness of the bank and, hence, the financial condition of the deposit insurance fund.

The Gramm-Leach-Bliley Act broadened the range of activities with which banks could be associated, permitting affiliation with securities firms and insurance companies and any other firm engaged solely in financial activities. This, however, was not a minor change. When considered in light of the policy reasons for separating banking and commerce, there is no significant difference between a bank's affiliating with a firm solely engaged in financial activities or affiliating with a purely commercial firm such as a Wal-Mart.

This can easily be seen by considering how the policy reasons underlying the separation idea would apply to an affiliation between a bank and, say, a securities firm. Assuming its management is willing to violate the banking laws and violations, could a bank lend preferentially to its affiliate? Of course. And could a bank refuse to lend to the competitors of its securities affiliate? Again, certainly. Indeed, securities firms need and use more bank credit than most commercial firms because they carry their portfolios of securities largely with bank loans.

And finally, if a securities firm that controls or is under common control with the bank got into financial difficulties, could its affiliated bank be importuned to bail it out? And again, of course, assuming the officers at both are willing to violate banking laws.

And would the same thing be true in the case of a retailer? Well, yes. So is there any difference from the perspective of the harms or abuses that the so-called separation of banking and commerce is intended to prevent between a bank affiliating with a securities firm and the same bank affiliating with a retailer like Wal-Mart? It seems obvious to me that the answer is no. And if this is true, the rationale that is the policy foundation underlying the separation of banking and commerce was completely undermined by the Gramm-Leach-Bliley Act.

If every abuse or potential abuse that is supposed to provide the basis for separating banking and commerce could occur if banks were affiliated with securities firms, which Congress permitted under that act, what basis would there be for prohibiting affiliations with retailers? In effect, the Gramm-Leach-Bliley Act was a statement by Congress that there was no longer any basis for believing that affiliations between suppliers of credit and users of credit represent a danger either to the bank or to the economy generally.

If that's true, the FDIC is certainly not bound to implement a policy that Congress has abandoned.

In the 1980s, and I was there, the securities and insurance industries opposed bank entry to their industries by pointing to the separation of banking and commerce. Now, the realtors, as we heard this morning, are doing exactly the same thing. In the Wal-Mart case, the FDIC is being enlisted to protect the banking industry against competition. It's time people realized that there is no public policy involved in the separation of banking and commerce. It is only the protection of various industries against unwanted competition. Thanks very much.

MR. BOVENZI: Thank you.

Mr. Tozzi.

MR. TOZZI: Good morning, Mr. Chairman, and distinguished members of the panel. First I would like to compliment the FDIC for the logistics of this operation. I've conducted a number of hearings and even participated in more. This is a class act. It's on time, even the bells and whistles, and if you read the instructions, even your mic works, so I think you've done a great job.

I'm Jim Tozzi. I'm with the Center for Regulatory Effectiveness, and we are regulatory watchdogs. And to that extent, what our schtick is is that we, quote, unquote, help regulatory agencies. What I mean by help is that we take actions to ensure that regulatory agencies are aware of what we call the good governance statutes that regulate the regulators.

Many people outside this room feel that regulators have unparalleled, vast authorities and they can act on whims and we all know that's not true. I'm going back to 1946 under the APA and, as a result of subsequent statutes, there are a lot of statutes that require regulators to make very precise findings before they act. And so most regulatory agencies of the U.S. Government act according to those, and they're on the record and this is part of the process.

Out of the number of statutes that are around that regulate the regulators, the particular statute I want to call to your attention today that can have a pretty significant impact on these proceedings is the Data Quality Act. I say that because the act was enacted at the last years of the Clinton Administration and it took two years for the regulations to get out and now they're in full force.

And what does the Data Quality Act do? It is an act. It's enrolled. I mean, it's a statute. And basically it sets standards for any information that any federal agency uses, and it applies to the independent agencies, which, as many of you know, it has been applied to the executive branch agencies, but the Data Quality Act applies specifically, including independent agencies.

Now, what is the point that -- and even your clocks work very well, too. I notice that, too. I'm down to 2 minutes and 28 seconds, which I'll make up.

The particular point that I'm asking is to call your attention to that your organization, FDIC, issued data quality guidelines that govern the operation of this regulatory agency. And one portion of their guidelines state that all information in the record on which you base your decisions have to be unbiased.

And unbiased -- there are a lot of definitions of the term unbiased, but most certainly one is the tendency to support -- or that bias is a tendency to support or oppose a particular person or thing in an unfair way by allowing personal opinions to influence your judgment. That's the definition of bias and you can infer what

unbiased is.

So what is my point here? My point is this, is that it's imperative that, when the FDIC makes this very important decision which you're going to make, that you use the same criteria for this ILC as you did for others, that one case being the Target Bank. I'm not suggesting every element in the record is the same, but under your own guidelines, and so there would be no bias, it's imperative that you ensure that whatever decision is made on this application is consistent with the criteria and processes that you used on Target Bank because your own guidelines require that information be unbiased.

Finally, failure to do so could result in any third party petitioning the agency to revisit it, and there is a question of whether those petitions, if denied, are judicially reviewable.

Finally, the act also puts constraints on all parties such as myself that make statements to you, because if any of our statements of the Center For Regulatory Effectiveness or anyone else who made statements, if those statements do not comply with your guidelines, then the FDIC cannot use that information, which means anyone can just make any statement but the FDIC can only use those that they determine meets the standards. Thank you.

MR. BOVENZI: Thank you, Mr. Tozzi.

Mr. Dodd.

MR. DODD: Thank you. I want to state that I'm representing here the Economic Policy Institute as well as the Financial Policy Forum which is a think tank I created to study financial markets in order to ascertain the most appropriate level of regulation for those financial markets.

I wanted to address the question before you on two basic points. One is whether industrial loan companies, or banks, are appropriate for federal regulation. And, secondly, whether Wal-Mart should be receiving a charter for an industrial loan bank.

Let me state first that I think that industrial loan banks -- and we can call them a bank because that's what they are in all but name -- that these are inappropriate for federal regulation. They are essentially a loophole in the prudential framework that we have for the rest of our financial system. They allow a commercial or industrial entity to own and operate what amounts to a bank in contrast to our pillars of regulation that were created back during the Glass-Steagall Act in 1933.

Prior to that time, as you know, we had a severe banking problem, and it led to a severe economic problem that's known as the Great Depression. Since passing the Glass-Steagall Act and separating banking from commerce, we've had now over 70 years of largely stable banking industry, thanks to your own work here at the FDIC.

In the rare period where we had some banking instability, it was in the wake of regulatory effort, as you know, in the early '80s which again dropped this firewall between banking and commerce and enabled thrifts and other financial institutions to return to some more direct ownership of commercial and industrial activities. And so I think that that shows from our own country's history that the separation of commerce from banking is very effective.

I think you could look at other countries. In my testimony, I mention Japan. Japan doesn't have the separation between commerce and banking. When Japan's financial markets collapsed in the early '90s, it caused a severe banking crisis. The banks have since been unable to lend to help that country get out of its severe economic downturn, and the country has now suffered from relatively flat to stagnant growth all through the '90s and up until very recently. I would think it would be very bad for our country to have to suffer the same fate. And I think in a period now when our country depends so heavily on massive foreign capital inflows to maintain our current account deficits, it's imperative that we maintain the integrity of our financial system safety.

Toward that point, I might also mention I think some of the comments made earlier by Mr. Wallison were perhaps a bit misleading on the separation of banking and commerce. He cites the Gramm-Leach-Bliley Act which is more formally known as the Financial Modernization Act of 1999. That act actually reaffirmed the separation of commerce from banking.

As you can see very clearly from the act, it ended another loophole such as the industrial loan banks. That

loophole was known as the unitary thrift charter. And by abolishing the unitary thrift charter, they closed the loophole by where commerce and industrial firms could previously buy a bank or a thrift in that particular case. And so by closing that loophole, I think they reaffirmed the separation of commerce and banking.

However, it didn't go far enough in terms of also closing this loophole, the industrial loan banks. And I think it's hard to close it in part because it comes from the states and not entirely from the federal level.

What are the dangers of this cross-ownership of commerce and banking? Well, let me just mention that -- look at the problem of one of the largest industrial loan bank failures, the Pacific Thrift and Loan. Its parent intervened in the behavior of the industrial loan bank, and it was one of the two largest failures in FDIC history of industrial loan banks. And so that's already a precedent of an improper relationship between the ownership parent and the underlying industrial loan bank.

Let me just say that I think that whereas this is a bad policy of having industrial loan banks, extending it to Wal-Mart would be a further mistake. It's a mistake as it's already existed and it's been a mistake in the past to extend it to GM and Toyota and Target, but that doesn't justify extending this mistake by taking a giant step further and extending it to such a retail giant such as Wal-Mart.

Furthermore, if you consider the potential for Congress to pass new laws that would extend interstate banking to industrial loan banks, to extend offering interest payments on business accounts as well as checking accounts, then this would further extend the scope of this loophole in industrial loan banking.

And so, again, by extending this charter to Wal-Mart, we're going to extend the scope and potentially the -- I'm sorry, extend the scale and potentially the scope of this type of loophole and I think that would be a very bad national policy at a time when the stability of our financial system is really critical for economic performance. Thank you.

MR. BOVENZI: Thank you.

Professor White.

MR. WHITE: Thank you, Mr. Chairman. My name is Lawrence J. White. I'm a professor of economics at the NYU Stern School of Business. I'm pleased to be here this morning. I'm pleased to have the opportunity to present my views on this important matter. I'm very pleased that the FDIC is holding a public hearing on such an important matter.

I've submitted a written statement. I've only got a brief amount of time, so I'll have to speak quickly. But since I'm from New York, that comes naturally. I believe there is a general principle based way of deciding what a bank should be allowed to do, what it should not be allowed to do and what its owners should be allowed to do, whether those owners are individuals or a company and, thus, who shall be allowed to own a bank.

The basic idea, as you know, is that banks are special, and they need special safety and soundness regulation. The essence of that regulation is a bank must be adequately capitalized, it must have competent management and it must be limited to activities that are not excessively risky. Bank regulators, again, as you know, have field forces of examiners and supervisors to enforce its regulation.

So building on these general ideas, what should a bank be permitted to do? There is a logical and principled response. Activities that are examinable and supervisable. By that I mean activities for which regulators can sensibly set capital requirements and judge the competence of the management of the activity.

Think about it for a minute. If an activity is examinable and supervisable, why shouldn't a bank be allowed to undertake that activity?

Conversely, if an activity is not examinable and supervisable, why should a bank be permitted to undertake the activity? And again, think about it. You just can't allow a bank to undertake an activity where the examiners and supervisors can't figure out what an appropriate capital requirement is, can't judge the managerial competence with which it is being matched.

But what about the bank's owners, the parent, as they're frequently referred to. Why should they be restricted in their activities so long as the activities are otherwise legitimate? In fact, they should not be restricted.

Well, what is important about a parent and a bank is monitoring the financial transactions that occur between the parent, the owner and the bank, regardless of whether the owners are individuals or a company because it is too easy for owners to drain money out of a bank and thereby potentially harm depositors and/or the deposit insurer. So regulators must insist that all such transactions must be on arm's-length terms, and this should apply regardless of whether the owners are individual or the local car dealer or a software company or a steel company or the world's largest retailer.

So subject to that monitoring requirement, any party that is financially capable, that has a sound business plan and is of good character should be allowed to own a bank so long as the bank itself is adequately capitalized and competently managed and restricted to examinable and supervisable activities. And again, it's important to stress the monitoring of all financial transactions between the owner and the bank so as to reduce and hopefully eliminate the opportunities for draining money out of the bank.

Based on these principles, I believe that Wal-Mart's application should be approved. And let me emphasize, I represent solely myself in my testimony. I do not represent any organization. I've talked with no organization about this. This is simply my own views as to what constitutes good public policy.

Parenthetically, you heard from Mr. Stevens of the National Association of Realtors earlier this morning who told you that the Wal-Mart application and the issue of allowing banks to enter real estate brokerage are basically the same issue. He's right. They are basically the same issue. But I come to a very different conclusion than Mr. Stevens does. I believe that Wal-Mart should be granted this application and I believe that banks or bank holding companies, depending on whether real estate brokerage is considered to be an examinable and supervisable activity or not, either banks or bank holding companies should be permitted to enter real estate brokerage.

What about the claims that Wal-Mart is going to scour the countryside and destroy community banks right and left and deprive rival retailers of finance? I don't believe those claims hold up. I think this is just rival bankers who don't like the prospects of greater competition.

So in conclusion, I urge the FDIC to grant Wal-Mart's application and also I urge you to encourage your fellow regulators and encourage the Congress to permit commercial banks to enter real estate brokerage. Thank you. And I'm happy to answer questions.

MR. BOVENZI: Thank you. We'll turn to the questions now.

MS. SANDRA THOMPSON: I have a question for Mr. Dodd. And then after I ask my question, if Mr. Wallison chooses, he can respond to your earlier comments about Gramm-Leach-Bliley. But my question for you specifically is that there are other types of banks that are excepted from the Bank Holding Company Act by -- for example, credit card banks. Do you think ILCs pose risks over and above these types of institutions?

MR. DODD: Yes, I do. I think, one, because they interact more directly with the public. People put deposits in ILBs, industrial loan banks, and they can make loans to the general public, to consumers, to businesses. They're engaged in a much wider range of activities than a credit card bank.

But I do agree with, I think, the thrust of your point, which is that this is not the only exception from the Bank Holding Company Act. I think that they should all nonetheless be brought under the Bank Holding Company Act because today's corporations are large and complex entities.

Professor White has mentioned that it's hard to monitor and examine these. The only hope of possibly monitoring and examining these large, complex entities is looking at them as a whole, as a consolidated entity. And that means they need to be subject to the Bank Holding Company Act and that doesn't in any way diminish the role the FDIC plays. It just means the FDIC doesn't have that authority.

And so I think that the ILBs are perhaps the largest of such exemptions from the Bank Holding Company Act but, as you point out, it's not the only one.

MR. WALLISON: Well, let me comment just a little bit on this. Why Congress decided as it did in the Gramm-Leach-Bliley Act is a very complicated question, and deserves a lot of study. I wanted to make clear in my testimony to this group and to the FDIC that when you are asked to turn down this application, because there is some kind of policy of separating banking and commerce, you want to look very carefully at what Congress was actually saying in the Gramm-Leach-Bliley Act.

And there, as I hope I made clear and certainly in my written statement I try it again, the Congress allowed what is essentially a commercial activity, that is, securities or insurance, to be affiliated with banking. And any of the dangers that have been cited in the past for reasons why banks and commercial firms should not be affiliated exists just as much when banks are affiliated with insurance companies and securities firms.

So from my perspective, the FDIC is being asked to invoke a policy that Congress has already abandoned. Thank you.

MR. JONES: Could I follow up on that just a little bit, Mr. Wallison? It's a little confusing to me. Are you saying there was a ban on mixing banking and commerce but Congress lifted that, or there never was a ban on banking and commerce?

MR. WALLISON: You have to go back to the origins of the Bank Holding Company Act of 1956 and if you look at the debate at that time -- actually, let me stop and step back just a little bit because the whole idea of separating banking and commerce is not some sort of immutable, eternal principle that has always been applied in our economy.

It actually arose, as far as my research indicates, in 1938 in a statement that the Federal Reserve made to Congress that somehow there ought to be a separation between banking and commerce. That idea did catch on in Congress and became very popular and was, I think, one of the underlying reasons for the adoption of the Bank Holding Company Act in 1956.

But at that time -- and this is a much longer story -- we had an entirely different economy, a much less competitive economy involving financial resources. And banks did have, I think, in the 1950s, some kind of market power. They don't have that market power anymore. They now compete among themselves very strongly. There is interstate banking. Some of the larger banks compete across the country entirely, and some of the smaller banks compete interstate in their local areas.

And there are securities firms and insurance companies and pension funds, all of which are offering financing to business. So that the whole business of finance is much different today than it was, and I think Congress recognized that in 1999 when it decided that it would no longer try to keep separate the securities business, the insurance business and the banking business.

But it recognized at the same time that the dangers of separating -- the dangers that invoked the policy of separating banking and commerce were no longer present in our economy and that banking regulations and laws made it very, very unlikely that officials at banks would lend preferentially to their affiliates, would not lend to commercial competitors of their affiliates or would allow the bank to be overreached when their commercial affiliate or any other affiliate got into financial difficulty.

And all of those things, I am sure, when Congress thought about it, no longer worried Congress about why they should continue to control and separate commercial activities from banking.

MR. JONES: But your views seem a little -- I'll follow up because I have questions for the others -- but your views seem to be a little bit at odds with the letter we recently got from Congressman Leach in which he said that Congress has specifically forbidden banks from engaging in commercial endeavors.

MR. WALLISON: Banks or bank holding companies?

MR. JONES: He actually says banks engaging. So, I just wondered if you see a distinction. I think in his reference, he's going broader. But do you see a distinction from what he said, or are you agreeing with what he said?

MR. WALLISON: I've disagreed with Congressman Leach many, many times and I continue to, yes. I don't know exactly what he meant by that statement, but assuming he was talking about bank holding companies, I don't think there is a line that can be drawn between commercial activities and financial activities, and I don't think that line has any conceptual validity.

And we're seeing that today in this whole issue today of whether bank holding companies or banks can get into the issue of -- get into the business of real estate brokerage, because who can ever tell whether real estate

brokerage is a commercial activity or is a financial activity. The realtors assert it's a commercial activity.

But you can just as easily assert that if securities brokerage or if the brokerage of automobile parts is a financial activity, then real estate brokerage is also a financial activity. There isn't any principled way to make this decision. When Congress adopted the Gramm-Leach-Bliley Act in 1999, essentially they were helping the Fed maintain its power for another few years, but they did not provide the Fed with any way of making a judgment between what is a financial activity and what isn't a financial activity.

So the congressmen can assert that there was an effort to separate commercial activities from banking, but that isn't actually what Congress did when it permitted banks to be affiliated with securities firms and insurance companies.

MR. JONES: Do other panelists have any comments?

MR. DODD: Yes. One, I think we should be clear that securities activities are very distinct from commercial activities, and I think most other people are pretty clear on that. And I think also if you look at what happened in the Gramm-Leach-Bliley Act, while it did change the interaction between banking and securities activities, it made sure that, one, it was always subject to consolidated bank holding company oversight. And, two, it actually raised the prudential firewalls between the securities activities and the banking activities.

So to say that it was some sort of a green light to mix all you want between banking and securities, I think that is not a very accurate representation of what the bill did or what Congress intended to do in the bill.

And I think it was also -- we might look instead not at the Bank Holding Company Act, but rather the Glass-Steagall Act of 1933 as the source for separation of banking and commerce as well as banking and securities.

And as far as the U.S. economy not being competitive in the 1950s, I remember that as being a period when we were not the world's military superpower but we were the world's economic superpower. That was the most relatively competitive period in U.S. economic history, so I don't know why we were lacking for competitiveness back then.

MR. JONES: Any other comments?

MR. WALLISON: I will just add that essentially the Glass-Steagall Act was repealed by the Gramm-Leach-Bliley Act in 1999.

MR. JONES: Thank you. I have one more question for you, Mr. Wallison. You went through what you said were the three points most oftentimes cited as reasons why you shouldn't allow banking and commerce. One of them was the idea that, if a bank's affiliate encounters financial difficulties, the bank's resources may be used to bail out the affiliate, jeopardizing the health of the deposit insurance fund.

Many of the presenters we've heard over the last two days, and the panel just before you particularly, also went into the concept that mixing banking with a retail operation is a particularly dangerous area. Going to the uncertainty of the retail business -- a risky business over the long run that it seems to pose -- and therefore it poses an exceptional risk for a bank. Do you have any comments or views on that?

MR. WALLISON: Yes, I would have two points. I don't want to argue about whether the retail business is more risky than any other kind of business. I would kind of doubt that that is true. It seems to me that the securities business is also an extremely risky business.

But the point I think I would like to make is simply that Congress has not been concerned about the affiliation of banks with other kinds of organizations because, I think, they believe that the banking laws and regulations will prevent the overreaching of a bank when an affiliate gets into some kind of financial difficulties.

So whether it's retail, whether it's a steel company, an oil company or a securities firm, Congress, I think, was under the view that if one of those affiliates got into difficulty and the bank attempted to bail it out, the officers of the bank would be subject to enormous personal liability and, as you know, the FDIC Improvement Act of 1991 imposes fines of up to $1 million a day personally on the officers of banks that permit that sort of thing to happen.

So we're sort of in a fairy land here in which people are talking about things that could conceivably happen under some circumstances, but so unlikely to happen that it's not worth, I think, the FDIC being concerned about it.

And I would point out finally that the FDIC has all the power it needs to prevent those sorts of things from happening if it finds that there are any kinds of transactions between the bank and its affiliate, its troubled affiliate. And as soon as the affiliate begins to experience trouble, I'm sure that the FDIC, as a responsible agency, would send in more examiners and be even more careful about the transactions that might be occurring between the bank and its affiliate in those circumstances.

So it's kind of an airy-fairy sort of situation here in which the likelihood of these things happening is quite remote.

MR. WHITE: Can I just add that a lot of this rhetoric is exactly the same rhetoric we heard in the 1970s and '80s and early '90s as there was this, by regulation, erosion and lawsuits brought by the securities industry trying to slow down the expansion of banks into various kinds of underwriting, securities brokerage, exactly the same kinds of rhetoric, arguments. Securities, oh, highly risky. That has not been a problem.

Further, the history that I lived through of the thrift holding company, the unitary thrift holding company with Ford Motor Company and steel companies and forestry companies owning depository institutions, they were not the problem of the 1980s and the savings and loan debacle. By contrast, they were a source of strength. This is just a false issue.

As long as the monitoring -- I can't emphasize too much the importance of the monitoring of financial transactions between the owners, the parent, whether it's an individual, whether it's a car dealer, whether it's a steel company or the world's largest retailer, monitoring those transactions carefully, make sure they're arm's-length, figuratively hang people, fine them, send them to jail if they've violated those arm's-length provisions. That's the important aspect.

MR. BOVENZI: Mr. Dodd.

MR. DODD: I just want to point out that I don't think it's quite fair to say that unitary thrifts were not the problem in the 1980s. They didn't exist until afterwards. They were an attempt to bring in fresh capital to a market that was already devastated by massive loss, so of course they weren't the problem. They didn't exist at the time. I think the broader issue here is our concern with what kind of risks can be transmitted from the parent and other affiliates to the bank and vice versa, and whether those dangers can be properly examined and overseen without bank holding company authority.

And I think in today's modern and complex corporations, there are two ways of addressing that. One is to prohibit it outright, and then we don't have to worry about the effort and the cost and the effectiveness of that oversight. The second way is to make sure that you at least have the chance of catching it through some sort of consolidated oversight.

Keep in mind, the series of financial scandals we've seen in the last five years, that they're now engaging through the use of derivatives, through overseas special purpose entities and other types of transactions and some fairly complicated, opaque, hard to detect transactions that make it very difficult to detect tax evasion and avoidance. It's very hard to ascertain where the debt and liabilities of the firm lie and who owns them. It's a much more complicated picture now.

And I think one thing that protects the integrity of our financial system is that not more of that is occurring. And so the more you allow a commercial enterprise to own a bank to then potentially benefit from that sort of nefarious conduct without even the chance of catching it through consolidated oversight, I think you're bringing in a great, big new vulnerability into our financial system at a time when we can't afford it.

We are heavily dependent on foreigners investing in this country right now. We should be strengthening our financial system, making it a better place to invest, not weakening the regulatory framework and making it a more dangerous place to invest.

MR. WHITE: Can I just correct one factual matter that Mr. Dodd just said? When I got to the Federal Home Loan Bank Board as one of the board members in 1986, Ford Motor Company was the parent owner of one of the larger savings and loans in the savings and loan system, and there were hundreds of such unitary thrifts. I

believe the unitary thrift authorization goes back to the 1960s. But Peter, who was probably there at the time, could possibly help me out.

MR. DODD: I'm sorry if I misspoke --

MR. BOVENZI: Excuse me, one speaker at a time, please.

MR. DODD: I just wanted to apologize.

MR. WHITE: So I was there, and Ford Motor Company owned a thrift in 1986.

MR. BOVENZI: Mr. Tozzi.

MR. TOZZI: Since my colleagues on this panel are way older than I am, I can't say I was there, but let me make one point. With all deference to these very learned scholars on both sides of me, whether to the right or to the left, of all these important issues, we all know that the judiciary is sometimes bound by precedent. And I think regulatory agencies are somewhat bound by that, and I think the Data Quality Act is going to make them even a little somewhat more bound.

And it seems to me these issues you've addressed on a number of other applications, particularly Target, and so I'm not sure this is a de novo review of the entire FDIC processes of the past. It seems to me that you're bound to judge this application in light of others that you have done. And so I'm looking at the marginal changes of how this differs from some of the others that you approved. And I think if you look at it from that light, I'm not sure how significant the difference is.

MR. BOVENZI: Thank you. At this point, I would like to wrap up the panel. This has been an extremely helpful discussion. We really appreciate the participation of all of you on this. It's a subject that we could talk about for a long time, and all of you are welcome to submit any additional material you may like if you so choose. But we very much appreciate the discussion. So I would like to thank you all for being here today.

And I would just like to say that this concludes our second day of hearings. We will be continuing again later in the month in Kansas City, or in Kansas, with a day of hearings. But for all the panels that were here for the day and a half that we've spent, it's been very helpful for us. I thank all the presenters for how they handled themselves in this day and a half and all the participants in the audience who have been here as well. We appreciate your attendance, and we appreciate everything for the past day and a half. This concludes our session.