



## Real Reform Won't Allow National Banks to Ignore State Laws Targeting New Abuses Not Yet Addressed in Federal Law

### **Urgent Recommendation to Joint Conference Committee on Financial Reform:**

**Keep the House language that requires a “substantive federal standard” before allowing national banks to ignore state consumer protection laws.**

The House bill prohibits the Office of the Comptroller of the Currency from giving national banks immunity from state law unless federal law provides a “substantive standard” regulating the activity in question. In other words, the OCC cannot “replace a state lending rule with nothing,” which is what the OCC has done over the last decade. The OCC continues to be hostile to consumer protection, opposing key provisions of the Credit CARD Act and a strong consumer watchdog. **Letting the OCC replace “something with nothing” leaves consumers unprotected.**

**States are “First Responders” that can address problems when they start, before they spread nationally and get the CFPB’s attention.** We have seen the financial destruction caused by bad lending practices. New abuses start small and are easier to stop then. New problems not addressed by federal law are precisely the *most important ones not to preempt*. Even with a new consumer regulator, the states are essential “first responders.” We should not put all our eggs in one basket.

**Mortgage abuses created a national crisis when they spread to banks states could not touch.** In 2006, the peak year of toxic lending, 32% of subprime loans, 40% of alt-A loans, and 51% of toxic prime mortgages – a total of \$700 billion in risky loans that year alone—were made by banks and their subsidiaries that could ignore state laws. States were also preempted from regulating the most toxic features of *any* mortgage.

**Preempting State Laws Harms Both Consumers and Lenders – An Example:** In 2003-04, in a process initiated by National City Bank and its subprime subsidiary First Franklin, the OCC preempted state anti-predatory lending laws, though there were no federal laws in place to replace the preempted law. Ironically, the ability to abuse that regulatory gap was a fatal “favor,” since neither National City Bank nor First Franklin survived the crisis intact. In fact, later the OCC even identified First Franklin as one of the 10 “worst of the worst” subprime lenders with the highest foreclosure rates in the 10 cities with the highest foreclosures. The OCC used data for years when it supervised First Franklin, as cited in a letter from Comptroller John Dugan to Elizabeth Warren , p. 6 (February 12, 2009).

For more information, contact Ed Mierzwinski at U.S. PIRG ([edm@pirg.org](mailto:edm@pirg.org)), Gail Hillebrand at Consumers Union ([hillga@consumer.org](mailto:hillga@consumer.org)), Kathleen Keest at Center for Responsible Lending ([Kathleen.Keest@responsiblelending.org](mailto:Kathleen.Keest@responsiblelending.org)) or Lauren Saunders at National Consumer Law Center ([lisaunders@nclc.org](mailto:lisaunders@nclc.org)).

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**Americans for Financial Reform** ([ourfinancialsecurity.org](http://ourfinancialsecurity.org)) is an unprecedented coalition of more than 250 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, religious and business groups as well as Nobel Prize-winning economists.