



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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March 4, 2008

The Honorable Luis V. Gutierrez
2266 Rayburn House Office Building
Washington, DC 20510

RE: *The Preservation of Federalism in Banking Act*

Dear Congressman Gutierrez:

On behalf of the North American Securities Administrators Association (NASAA),¹ I am writing to thank you for introducing H.R.1996, the Preservation of Federalism in Banking Act. NASAA supports H.R.1996 and believes it would help to rectify the Supreme Court's decision in *Watters v. Wachovia* that ruled that wholly owned operating subsidiaries of national banks are provided the same ability as national banks to ignore state consumer protection statutes and regulations.

The state-federal system of regulation within the United States is collaborative and complementary. As an organization dedicated to investor protection and attuned to the critical role of state regulation with respect to all types of financial services, NASAA is concerned that as the worlds of banking, insurance, and securities increasingly intersect, federal regulators, such as the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) may seek to encroach further upon state regulatory jurisdiction, not only in banking, but potentially in the areas of insurance and securities as well.

Specifically, H.R.1996 addresses the need for states to be able to enforce both state and federal laws when a financial institution's primary federal regulator is not protecting the citizens of the state. Furthermore, state legislators and attorneys general need a clear statement of their roles in protecting the citizens of their states.

The Gramm-Leach-Bliley Act (GLBA) affirmatively preserves the authority of the Securities and Exchange Commission and state securities regulators to investigate and bring enforcement

¹The oldest international organization devoted to investor protection, the North American Securities Administrators Association, Inc., was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, the U.S. Virgin Islands, Canada, Mexico and Puerto Rico. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

actions with respect to fraud and deceit or unlawful conduct by any person when the activities are conducted in a functionally regulated subsidiary of a depository institution. Clearly, Congress understood weakening the authority of state regulators in this area would be harmful to investors.

Congress should consider adopting legislation such as H.R. 1996 that expressly preserves the authority of state regulators to protect consumers from fraud and abuse in the banking and securities sectors.

Once again, NASAA would support passage of H.R. 1996. Please feel free to contact Director of Policy, Deborah House at 202-737-0900 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Tyler', with a long horizontal flourish extending to the right.

Karen Tyler
Commissioner, North Dakota Securities Department
NASAA President