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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Frank Newman & Gene Ludwig to POTUS re: Credit Availability and Other Banking Policy Matters (partial) (3 pages)	10/06/93	P2, P5, P6/b(6)

COLLECTION:
Clinton Presidential Records
Domestic Policy Council
Bruce Reed (Subject File)
OA/Box Number: 21199

FOLDER TITLE:
Banking

rs36

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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Freedom of Information Act - [5 U.S.C. 552(b)]

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THE WHITE HOUSE

WASHINGTON

October 8, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT E. RUBIN

SUBJECT: **Treasury's Bank Policy Memo**

The attached memorandum is in response to the conversation you, George and I had with respect to the effectiveness of your credit crunch policy, the possibility of changing the Basle agreement on reserve requirements, and an FDIC appointment.

As the memorandum states, Treasury needs your guidance on several important banking issues for Congressional testimony over the next couple of months. Certain of the issues on which Treasury provides recommendations are quite controversial, and I would suggest that this memo be used as the basis for a well-organized discussion with you of the pros and cons relating to those issues.

Please let us know if you agree.

Attachment

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

October 7, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: LLOYD BENTSEN

SUBJECT: Banking Policy

Attached is a memo prepared by Frank Newman and Gene Ludwig in response to your expression of interest in a range of banking issues. I believe the memo provides excellent background on a number of important matters that bear on the overall economy, as well as the banking system. I have worked with Frank, Gene, and Roger Altman on these issues, and support the recommendations. Frank and Gene have also worked closely with others in the Administration, particularly NEC and OMB, and the memo reflects a largely shared view of policy direction.

I believe it is important for our Administration to have such a comprehensive approach to banking system issues, and to state it publicly and carefully. The U.S. banking system is facing secular decline, with enormous potential implications for the economy. We have the opportunity to take actions to strengthen the system while simultaneously delivering benefits to a broad range of consumers and businesses. The approach described in the memo should expand productive lending, help distressed communities, increase U.S. competitiveness internationally, and improve the financial condition of the industry.

The memo also provides background and an opportunity to settle on an appropriate nominee for Chairperson of the FDIC, the last especially important financial system appointment remaining to be filled.

I understand that Bob Rubin will be arranging a time soon for Frank, Gene, Bob, Roger and me to meet with you on these issues, and we all look forward to discussing them with you.

Attachment

cc: Bob Rubin

MEMORANDUM

To: The President

From: Frank Newman, Gene Ludwig

Re: Credit Availability and Other Banking Policy Matters

CC: Vice President Gore, Lloyd Bentsen, Bob Rubin, Roger Altman, Chris Edley, Ellen Seidman, Joe Stiglitz, Howard Paster

Date: October 6, 1993

This memorandum responds to Bob Rubin's request that we briefly outline for you (1) broadly, what we propose as the architecture of Clinton Administration depository institutions policy; (2) the progress of the Administration's credit availability program to date along with further actions that could stimulate bank lending; (3) our views on several pending legislative issues; and, finally, (4) our current thoughts on selection of an FDIC Chair.

INTRODUCTION

The banking and thrift industries in this country find themselves in the midst of a long term secular decline that worsened markedly in the last decade. Assets under management of banks and thrifts fell a full 10% in the last decade from 58% to 48% of total assets. This trend continues, but is temporarily overshadowed in the press by a cyclical upturn in profitability that in part reflects the interest rate environment but also reflects improvements to balance sheets as we have moved away from the depths of the last recession.

This secular decline results in part from anachronistic, inconsistent and frequently excessive legislative and regulatory restrictions on banks and thrifts. A perpetuation of such an environment will produce continued pressure for contraction of these industries. If the contraction results from regulatory inertia or excess, rather than economically sound rationalization, it could have a serious adverse impact on the overall economy. Banks and thrifts remain major sources of financing for consumers and businesses, and banks are

critical elements of both monetary policy and the payment system. A disorderly, non-economically based contraction of the system would harm businesses, consumers and communities, both directly and indirectly.

The Clinton Administration has an opportunity to reduce the layers of inconsistent and excessively restrictive legislation and regulation that shackle the economic potential of these industries. To accomplish this requires a principled policy that is very carefully executed. Careful execution is particularly necessary here because of the complex politics of the relevant committees in Congress, the 4 federal bank and thrift regulatory agencies, and the powerful special interest lobbies.

In our view, Administration policy with respect to insured depository institutions should emphasize two overarching themes:

- Access to credit and other financial services for all financially capable businesses and individuals through the elimination of non-economic barriers, including in particular those raised by regulation and discrimination; and

- Steady and prudent regulation in the interests of solid, long-term economic growth and the prevention of further deposit insurance crises.

Main Treasury and the OCC, in cooperation with the other federal bank regulatory agencies (FDIC, OTS, Federal Reserve), have launched several initiatives that reflect these themes, promoting credit availability through the removal and reform of regulations that irrationally impede lending to various kinds of borrowers. We believe these measures are having a positive effect on bank lending and will have an increasingly positive effect in the months ahead. We will pursue several additional steps in the weeks and months ahead.

We have also launched initiatives to end illegal lending discrimination and to otherwise encourage the availability of credit to low and moderate income individuals and small and medium sized companies and farms.

However, there remain several critically important matters that must be dealt with by Congress. Several of these matters will be taken up by Congress within the next few months. Options on how to deal with these issues and our preferred legislative approaches are outlined below. We seek your guidance on whether to proceed with our approach or to follow another path.

In carrying out the policies we have outlined above, it will be necessary to have an FDIC chairperson who, in addition to being competent on the issues, is loyal to your

Administration and its vision in this area, is a team player and does not detract from the Administration's ability to deal with Congress and the key Congressional committees. We have recommended Ricki Tigert for this position. However, as will be discussed in greater detail below, we believe that Bill Brandon would also be a fine candidate for this position, though his confirmation, and, if confirmed, his chairmanship, are likely to present some serious challenges resulting from his presidency of the ABA. (Further considerations on this important selection are discussed in section IV below.)

In developing our views in this policy area as well as our policy initiatives to date we have had a very cooperative relationship with a variety of people in the White House and in other Departments and agencies. In particular, we have worked closely with both Chris Edley at OMB and Ellen Seidman at the NEC, both of whom share the overall thrust of this memorandum. We would expect to work closely with Chris and Ellen in elaborating upon the approaches suggested by this memorandum, should these approaches meet with your approval.

DISCUSSION

I. The Architecture of Clinton Administration Depository Institutions Policy

(1) Elimination of unnecessary barriers to the provision of credit and other products and services by banks and thrifts. Such barriers can take a wide variety of forms, including:

- outmoded statutes, regulations, and supervisory practices;
- duplicative or conflicting regulatory requirements that consume financial and personnel resources that might better be expended in service to the economy; and
- illegal discrimination against classes of prospective borrowers and customers and other forms of prejudice that blind some lenders to the existence of sound business opportunities.

From the very start of this Administration, we have focused our attention – and that of the institutions we regulate – on this theme. It is the basis of the Credit Availability Program, and the Community Reinvestment Act reform effort you have asked us to implement, as well as the Community Development Financial Institutions Initiative moving through Congress. Emphasis on broadened credit availability is not only the right thing to do both philosophically and economically, but additionally, the Administration's vigorous pursuit of this goal has given the Administration political credibility with

community groups and others whose support will be important as we move to rationalize the regulatory system.

(2) ***Steady, prudent regulation in the interests of solid, long-term economic growth and the prevention of further deposit insurance crises.*** America's economy remains to some degree in a state of shock, partly induced by the serial collapses of the savings and loan industry and the savings and loan insurance fund as well as by the troubled bank environment of the 1987-92 period. Rebuilding confidence in America's depository institutions as well as the federal regulatory agencies that supervise and insure them is a critical step along the path of economic recovery. This combination of confidence and participation in the economic recovery depends on establishing a new balance between encouraging the risk-taking that is the role of financial intermediaries and regulating the system so risk is prudent, well managed, and properly capitalized.

We believe that, as your Administration proceeds, this theme will resonate in the day-to-day actions of your regulators, and in steady improvement in the condition and lending capacity of America's depository institutions. We also believe that in contrast to the last five years, numerous members of Congress and much of the press (as well as the vast majority of America's bankers) will be looking for actions in support of this theme (and will be hostile toward actions in derogation of it). However, we see no need for affirmative steps to highlight it at the Presidential level in the absence of a crisis.

Both main Treasury and the OCC are engaged, separately and jointly, in a variety of initiatives in this area, including new supervisory approaches, approaches to better protect the deposit insurance funds and approaches to avoid the insolvency of one or several depository institutions becoming a systemic problem. On the issues of further protection for the funds and systemic risk, we have been working closely with the Governors of the Federal Reserve Board.

II. Regulatory Activities

A. The Credit Availability Program

The Administration initiative in the depository institutions sphere that has received greatest attention is the Credit Availability Program ("CAP") announced at the White House on March 10.

First Phase: The federal bank regulatory agencies, coordinated by the OCC, completed the first phase of the CAP in June. With one exception where threatened litigation by the appraisal lobby has made regulatory change a longer process, all of the reforms designed in that phase have now been implemented.

Second Phase: As part of the second phase of the CAP, the OCC is now undertaking and encouraging the other bank regulatory agencies to undertake a number of initiatives:

- Rewriting rules, regulations, and policies to reduce compliance costs and paperwork burden to the industry. The OCC has already targeted over twenty policy areas for reform and will soon release major rule changes for public comment. In addition, bank examiners across the country are reviewing OCC's examiner guidance to identify dispensable procedures and requirements.

- Upon a motion of the OCC, the FDIC Board recently adopted a program to significantly reduce the number and burden of duplicate examinations of the same institution.

- The OCC, and at its behest the FDIC, have used guidelines and performance objectives, rather than command-and-control regulations to implement the most unnecessarily intensive requirements of recent banking legislation.

- The OCC has initiated a program to foster industry self-regulation as an adjunct to federal regulatory efforts. The OCC is working actively and successfully to encourage industry efforts in the areas of equal credit opportunity and mutual fund sales.

- At your initiative, the OCC is working with other bank regulatory agencies to combat discrimination in the banking industry and reform administration of the Community Reinvestment Act. Success with these efforts will significantly broaden credit availability for minority and low-income individuals and households.

- In conjunction with the NEC (Ellen Seidman) and OMB, (Chris Edley), we are working with the SBA (Erskine Bowles) to develop programs to spur small business lending. **From our discussions to date, including discussions with dozens of business leaders and bankers, we believe the most effective additional step the Administration can take to further spur small business lending is to expand the SBA small business guarantee program.** In addition, we are exploring potential improvement and expansion of the Small Business Investment Corp. (SBIC) program, through which banks can provide equity capital for small businesses.

Tone: As with virtually every other economic matter, achieving greater availability of credit and other banking services is heavily dependent upon the psychology of the participants. Accordingly, we have worked hard to set a tone which we believe resonates well with lenders, consumers and examiners.

More particularly, we have attempted to make certain: (i) that industry members understand that the Clinton Administration appreciates and is tackling the problems they face from excessive and inconsistent regulation: (ii) that consumer groups and the general public know that the Clinton Administration is working to ensure fair access to credit for all Americans: and (iii) finally that examiners understand that the Administration believes we can and must combine safety and soundness with fair and efficient access to credit, and examiners working to this end will be supported, not dangled as bait before Congress should there be another crisis.

We have actively gotten this message out through meetings held by the OCC with its examiners around the country, as well as through speeches and press interviews.

Results: Because the CAP initiatives are only beginning to take effect, available data is just beginning to demonstrate results. Nevertheless, we believe the CAP is having a positive effect on bank lending. We expect increasingly positive results as the initiatives taken under the program are adopted by banks and thrifts in the coming months.

Available data do not conflict with this surmise. After 11 quarters of decline, bank lending was up in the second quarter of this year. Lending was up in New England, which is just beginning to recover economically. However, lending was still flat in the far West which is not surprising given the economic slowdown in the region.

Given the lag time between the date rules are changed and the date they finally impact credit decisions, we would not expect the full effect of the rule changes to be apparent for several more quarters. However, while it is doubtful that the CAP reforms themselves had a great deal to do with the second quarter's increases, the positive psychology created by the announcement of the program and the aggressive way it has been carried out did, we believe, have a considerable impact on this increase. Informal surveys of bank executives confirm this indirect effect. We expect that as the CAP reforms themselves impact lending decisions, the effect of the program on loan growth will be increasingly positive.

B. Bank Investments in Government Securities

In recent months, various parties have advanced a number of proposals to stimulate bank lending by making it more costly for banks to hold government securities. Proponents of this change argue that, by making investments in government securities more costly, we will make other investment activities, especially loans, more attractive.

Although this step is permissible under the Basle accords, no other nation has placed a credit risk-weighting on its own sovereign securities. Moreover, we believe that

the impact of such a move would be unlikely to be positive in the aggregate. Indeed, it would probably have adverse macroeconomic consequences that vastly outweigh any conceivable benefit. (These views are shared by the Federal Reserve Board.)

Over the last several months, we have had many contacts with banks from all over the country, and we have seen no indication that increasing the capital charge on government securities would increase lending. In addition, we have seen no indication that providing greater flexibility in the area of securitization of small business loans would increase lending to small businesses, at least in the near term.

For the industry as a whole, increasing the capital charge assigned to government securities would have two clear effects:

(1) To the extent banks choose to retain those securities, they would have to hold greater capital reserves, thus reducing their lending capacity; and

(2) To the extent banks choose to divest government securities, the sell-off would increase the amount of federal government debt in the market, decreasing demand for that debt, increasing interest rates, and thereby undermining efforts to spark an economic recovery.

Accordingly, we (and the Federal Reserve) urge rejection of the proposals to artificially impose capital charges on government securities

C. *Securities Underwriting*

One of the important financial services areas from which banking organizations have largely been restricted since the 1930s has been underwriting securities. Although this is an area that has been portrayed as "too risky" for banks, in point of fact the area has proved materially less risky than making loans over the years. In part this stems from a variety of underwriting techniques that limit the extent to which, and the time during which, the underwriter is at risk.

The underwriting of securities is a natural business for banks as it is another facet of the credit extension business. It is an area that has experienced steady growth over the last few decades. Moreover, the securities underwriting business is currently quite concentrated with relatively few participants. The competitive pressures that would be generated by allowing banks to engage in more of this activity would probably benefit both businesses and the economy more generally.

The Federal Reserve Board, under currently applicable law, has permitted certain subsidiaries of bank holding companies to underwrite a limited amount of securities. The Fed has the power to expand this window considerably. However, the Fed has failed to take action in this area out of concern that political forces will either seek to reverse the Fed's action or take other adverse actions.

Accordingly, the Fed is reluctant to take action on its own at this time. However, we have discussed this subject at considerable length with Alan Greenspan who tells us that the Fed would take some modest action to expand the underwriting opportunities for banking organizations if the Clinton Administration would publicly support it as appropriate. This action would still limit banking companies to conducting such activities as a small percentage of separate subsidiaries, funded entirely without insured deposits.

We recommend that we tell the Fed that we would support a technical regulatory change that would modestly expand the opportunities for banking organizations to engage in underwriting activities under existing law, provided that after consultation with the Administration's legislative affairs office it is clear that the timing is appropriate, and that Congressional reaction is not likely to present significant problems. Any further steps in this area would be held for careful consideration next year.

In addition, we propose a serious examination of potential legislation that would permit banking organizations to underwrite securities offerings for, and invest in small and medium sized companies. This is a market that is under served and that needs equity and debt capital. It is a market that the banks often tend to know best.

III. Legislative Issues

Congressional actions are rapidly moving the Administration toward the point at which it must take definitive positions on a number of legislative issues. In particular, Senate Banking Committee and the Financial Institutions Subcommittee of the House Banking Committee (Neal) have announced fall legislative agendas that focus on four issues with significant policy implications: (1) reduction of regulatory burden; (2) interstate branching; (3) consolidation of the bank regulatory agencies; and (4) bank sales of insurance.

This portion of the memorandum provides recommendations and brief overviews of each of these issues.

We believe any decision in these areas should be based on the broad architecture (or basic themes) of a Clinton era depository institutions policy, as outlined above. That architecture can be applied to the issues set out below and other major issues if we assess them on the basis of two tests.

- Does the proposal on balance benefit the economy and the consumer (including business and individual consumers); and

- Does the proposal on balance materially decrease or increase the safety and soundness of depository institutions?

A. Reduction of Regulatory Burden: Although much is being done now to reduce needless regulatory burdens on banks through administrative actions, some steps require legislative change. Bills have been introduced in both the House and Senate, based on a "laundry list" from the bank trade associations to provide "regulatory relief." While many of the provisions of these bills are sound and appropriate, many others are overdone and would be highly controversial in Congress if actually brought to mark-up.

Members of both Houses have initiated efforts to add these bills to the Community Development Financial Institutions Bill ("CDFI"). Although we believe that there is merit in supporting the constructive elements of these regulatory relief bills, we have had a great concern that, if laden down with the full laundry list, the CDFI bill would get mired in long and vehement Congressional disputes. Fortunately, working with others in the Administration and in the Senate, we have been able to get a more focused version of the regulatory relief legislation incorporated into the Senate version of the CDFI bill, and to reach an agreement with the American Bankers Association that this focused approach is wise. The CDFI bill, incorporating this focused regulatory relief approach, recently passed the Senate Banking Committee with a strong bipartisan vote of 18-1. We will be working towards a similar approach in the House.

B. Interstate Branching: The Douglas amendment to the Bank Holding Company Act permits banking organizations to own banks in any state where the host state permits such ownership. Currently, virtually every state in the United States allows some out-of-state banking organizations to own a bank in the state. Accordingly, interstate banking, though something of a patchwork, already exists. The current structure is extremely clumsy, however, for customers as well as for the banks. For example, even though several banking companies operate subsidiary banks in Virginia, Maryland and the District of Columbia, they are legally separate – so a customer of NationsBank who has an account at a Virginia branch cannot make a deposit at a NationsBank branch near his or her office in D.C.

The current patchwork can be altered in a variety of ways to make it more rational. At the furthest extreme, so-called "full interstate branch banking," a bank could be permitted to branch anywhere in the country it wished. At the other extreme, so-called "branch consolidation," a banking organization would merely be allowed to convert its existing multi-bank, multi-state system into a one bank multiple-branch organization.

This latter option, branch consolidation, would leave it entirely to the states to determine which banks they let into their states and where in their states an entrant could branch. Given the complex politics on this issue in Congress, we favor pursuing the branch consolidation route at this time.

If we analyze branch consolidation on the basis of the two criteria we have proposed, it is highly desirable: first, allowing branch consolidation would make existing organizations much more efficient. These efficiencies will, in part at least, translate into increased lending or more competitive service to the benefit of the consumer, and will provide more rational, convenient service for bank customers. Moreover, branch consolidation raises virtually none of the states rights issues or the community service issues raised by full interstate branch banking. This approach would apply only to those states that already permit out-of-state bank holding companies to own banks in the state, and would honor each state's laws governing branch locations.

Concurrently, branch consolidation translates into more rationally organized and run banking organizations that are easier to examine. The increased efficiency should aid in capital formation. Hence, permitting branch consolidation increases the safety and soundness of the system.

This does not mean this proposal is non-controversial. On the contrary, community bankers will fight any move that makes multi-state banking better, and some community groups are concerned that any move toward larger banks will reduce commitment to and service in local, particularly small and rural, communities. By adopting the branch consolidation version of interstate branching, we believe those objections can be overcome on the merits. We believe that after voicing some concern the community groups will accept branch consolidation legislation, if they get something in return. And, while the community bankers, as a trade association, are unlikely ever to support any form of interstate branching, we think they might be inclined not to fight too much – again if they get something in return. The key, in our opinion, is CRA reform. If the community groups believe our CRA effort will indeed force all banks – but particularly regional and national banks, to serve all communities in which they are located, and the small bankers are able to be relieved of some regulatory burden in this area, opposition to branch consolidation could dissipate. The key is attention to the varied interests, and careful timing of the CRA proposals.

We recommend that the Administration support legislation to permit branch consolidation. (Such legislation has already been introduced in Congress in various forms.)

As a timing matter, Chairman Riegle has decided to hold hearings on interstate branching this fall, and has asked both of us to address this issue in testimony before the Senate Banking Committee. A similar request has been made by Congressman Neal for testimony before the House Banking Committee's Financial Institutions Subcommittee.

C. ***Regulatory Consolidation:*** Both Chairman Riegle and Chairman Gonzalez strongly support legislation to consolidate the existing bank regulatory agencies into a single regulator. Senator Riegle has asked Frank Newman to present the Administration's views on this issue at a November hearing.

We believe that carefully structured and implemented regulatory consolidation is good public policy. The existing multiplicity of bank regulatory agencies is highly inefficient and a significant source of regulatory burden to the banking industry. Having a single regulator (or at least fewer than today's four) would significantly simplify both the formulation of policy and the conduct of supervision. The current system is complex, confused, and provides at best a barely workable mechanism for setting and implementing policy. It should be rationalized now, when the banking industry is healthy and rationalization enjoys substantial congressional support. **We therefore recommend that the Administration support regulatory consolidation in an appropriate form.**

The approach we have been taking in discussing this issue with the Fed emphasizes three legs to the safety and soundness stool -- balanced and effective supervision, management of systemic risk and deposit insurance. In this structure we see the OCC taking the lead on supervision, the Fed on systemic risk (and its use of the discount window and other tools to deal with this problem), and the FDIC on deposit insurance and liquidation. By focusing these agencies on their historic missions, we will be working towards improvements in the environment for safety and soundness, efficiencies in the federal government's operations, and reductions in unnecessary burdens on the regulated entities.

Alan Greenspan is largely in agreement with the thrust of this approach, although he has a not surprising inclination towards protecting some of the activities of the Fed. We have been having discussions with Alan Greenspan, as well as Fed Governors Mullins and LaWare to explore those activities in which the Fed feels strongly about maintaining a continuing role.

A potential stumbling block for consolidation is the question whether the consolidated regulator should be part of the Treasury or independent of the Executive Branch. In 1991, a Bush Administration consolidation proposal died partly over this issue, with House and Senate leadership both insisting on independence. We believe compromise solutions are possible (for example, the principal regulator could be governed by a board including significant Treasury and majority Administrative representation), and have received expressions of interest from the Hill in negotiating a compromise. In the end, although the new entity need not be housed in Treasury, it is extremely important that Treasury have significant influence over the entity, and thus over banking policy, in order to maintain this aspect of the Administration's ability to influence the economy.

Although more work is needed to develop the specific structures, we recommend that the Administration support an approach along these policy lines that would reduce the number of regulators from four to one or two. Such consolidation would also be in concert with the directions espoused in the National Performance Review.

D. ***Bank Insurance Sales:*** Recent court decisions have established the authority of national banks to use branches in small towns as platforms for nationwide insurance sales. The Senate and House Banking Committees have invited the two of us to testify for the Administration on this issue in October or November. We expect that insurance-agent lobbies will press for legislation to cut back this existing authority.

We know of no legitimate public policy reasons for denying banks the ability to sell insurance. However, there is a strong, self-interested lobbying effort underway against this on the part of the insurance industry and agents, and there will be an active political battle over this issue in Congress, regardless of the position of the Administration.

One possible compromise that we have raised publicly and that seems to have received a positive response from both community groups and banks is to allow banks to establish insurance sales operations in poor inner city areas and from there perhaps to sell insurance to a broader market, perhaps statewide or throughout a metropolitan area. This would allow banks to provide a much needed service in the inner cities as well as to encourage them to increase employment in the inner cities by establishing their insurance sales headquarters there.

There are valid public policy reasons for permitting banks to offer insurance services, benefitting both consumers and banking industry soundness and capacity. At the same time, the inter-industry fight could prove hard to win and distracting to other Administration priorities. **Accordingly, we recommend that the Administration support on public-interest grounds the notion that banks ought to be allowed to continue to sell**

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insurance as current law permits and work to develop further the idea of insurance sales by banks in and from inner cities. Because of the political complexities of the issue, however, we further recommend that the Administration avoid significant investments of political capital in this position. This process would be coordinated closely with Howard Paster as well as Michael Levy, who heads legislative affairs for Treasury.

IV. FDIC Chairmanship

[REDACTED]

[REDACTED]

[REDACTED]

* * *

Pursuing an appropriate bank and thrift regulatory policy can prove to be a material support to the economy. In the past, policy and regulation in this area has been badly handled. Without significant changes, this support will be almost impossible to realize. Moreover, the banking and thrift sector, without significant changes, could well prove over time to be a drag on the economy. We believe that the program described in this memo provides the initial steps to make needed changes, as well as a framework for additional initiatives to implement over time. We look forward to the opportunity to discuss the specifics with you.

Bruce FYI / PGW

BANKING

THE WHITE HOUSE

WASHINGTON

October 4, 1993

MEMORANDUM FOR FRANK NEWMAN, GENE LUDWIG, RICK CARNELL, FE MORALES MARKS, ELLEN SEIDMAN, CHRIS EDLEY, MICHAEL LEVY, PAUL CAREY

FROM: Paul Weinstein

SUBJECT: National Governors' Association (NGA) Position On Interstate Branching and Banking

Attached is a copy of the NGA's position paper on interstate bank branching. This policy paper was adopted unanimously while President Clinton was still serving on the NGA. Because the President wasn't actually physically present when the vote occurred (although he was on the Committee that drafted this paper) I don't think we have to be committed to the NGA position. However, upon review, it is my belief that the President would feel pretty comfortable with the position taken by the NGA in this document (he likes to be on the same side as NGA whenever he can).

NATIONAL GOVERNORS ASSOCIATION

Governor of South Carolina
Chairman

Howard Dean
Governor of Vermont
Vice Chairman

Executive Director

Hall of the States
444 North Capitol Street
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E-8. INTERSTATE BANK BRANCHING

The nation's Governors reaffirm their strong support for the continuation of the dual banking system. This system has served the communities of America well, and has also demonstrated the strengths inherent in state regulation. The ratio of equity capital to assets is higher for state-chartered banks than for national banks and the failure rate for state banks is below that of national banks.

The availability of financial services is critical to state economies. States must have the ability to work with banks to promote economic development, community reinvestment, and credit availability. If legislation authorizing interstate branching is enacted, state regulatory interests and responsibilities, such as safeguarding consumer rights, must be recognized and protected. Furthermore, any federal legislation authorizing interstate branching should strictly respect and support state tax sovereignty concerning interstate banking operations. Accordingly, any final decision to permit interstate branching should provide for the following:

- Whether under an opt-in or an opt-out structure, states must have the ability to decide ultimately if interstate branching is appropriate for their state. Any legislation should provide a means and three years for states to make an informed judgment as to what is in their best interest.
- No interstate branching law should preempt state statutes or regulations that limit branching within a particular state. Each state's system for intrastate branching should remain entirely within the purview of states.
- Federal interstate branching legislation should not preempt, limit, or interfere with the right to tax that states have under the U.S. Constitution or other federal laws currently in effect. Such legislation should be neutral with respect to the methods a state can use to tax a bank or its branches.

The Governors call on Congress and the administration to consult with the Governors, state bank supervisors, and state tax administrators concerning the impact on states of any federal legislative proposals to authorize interstate bank branching and to ensure that states retain essential control over the conduct of banking operations within their borders.

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