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Statement of the Shadow Financial Regulatory Committee on

The FDIC's ILC Moratorium

February 12, 2007

At the end of January, the FDIC announced that it was extending until January 31, 2008, the moratorium on the approval of new applications by non-financial companies to charter or acquire industrial loan companies (ILCs). This will presumably give Congress time to adopt legislation that will narrow the so-called "ILC loophole" and continue what it likes to call the separation of banking and commerce. The FDIC's action is possibly an effort to avoid approving for Wal-Mart an application that it had previously granted on even broader terms—including deposit taking and lending—for some of Wal-Mart's competitors. The FDIC's action also foreclosed for at least a year any decision on applications by others, including Home Depot, to acquire or charter ILCs.

The Committee has never seen any rational economic basis for the policy of separating banking and commerce (Statements No. 115, 118, 138, 142, 155, and 194). In particular, we have urged the FDIC to grant Wal-Mart's application (Statement No. 224). However, the banking industry remains fearful of competition from Wal-Mart, and the extension of the moratorium on ILCs is a victory for the industry's lobbyists.

It is significant that within the past month legislation was introduced in the Senate that would explicitly bar banks from entering the business of real estate brokerage, an activity banks have been attempting to enter for almost seven years. This legislation will undoubtedly be defended as another example of the policy of separating banking and commerce, but this time the banks stand on the other side, trying to draw fine distinctions between Wal-Mart or some other firm acquiring an ILC and banks themselves getting into the business of real estate brokerage.

The banks deserve, in logic, to lose the real estate brokerage fight. The industry cannot claim protection against competition from Wal-Mart and others and still expect Congress to allow them to expand into other profitable areas of the economy.