Retail Delivery of Financial Services after the Gramm-Leach-Bliley Act: How Will Public Policy Shape the Financial Services Supermarket

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RETAIL DELIVERY OF FINANCIAL SERVICES AFTER THE GRAMM-LEACH-BLILEY ACT: HOW WILL PUBLIC POLICY SHAPE THE “FINANCIAL SERVICES SUPERMARKET”?

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I. INTRODUCTION

The enactment by Congress of the Gramm-Leach-Bliley Act (“Gramm-Leach-Bliley”) was the culmination of years of legislative and regulatory action regarding the shape of the financial services industry in the United States. The adoption of Gramm-Leach-Bliley was intended, among other things, “to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial services providers.”

This legislative goal is sought to be achieved by breaking down regulatory barriers to the entry by banking, insurance and securities firms into other financial services businesses, either through mergers and acquisitions or de novo, by removing arbitrary restrictions on such activities, and by establishing a framework for coordinated regulation of such activities among various regulatory agencies. Gramm-Leach-Bliley frees national banks from the prior federal restrictions on the conduct of the business of insurance and all banks from potential discriminatory conduct

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by state regulators in regulating the business of insurance.\(^2\) Further, to the extent that banks were subject to any meaningful regulatory restrictions on the securities activities, such restrictions are gone as well. In the retail financial services market, the powers available to traditional banks are broad and relatively unfettered.

Among the perceived benefits of Gramm-Leach-Bliley is a clearing away of regulatory obstacles that will allow banks, insurance companies and securities firms to create "financial services supermarkets," offering to customers in one place a wide array of financial products and services rather than the relatively limited offerings allowed under prior law.\(^3\) This article will offer a preliminary view of the impact of Gramm-Leach-Bliley on the organization and operation of the financial services supermarket and on the delivery of products and services to retail customers, by which I mean individuals and small businesses. It will argue that Gramm-Leach-Bliley has created an environment that can result in great benefit to the retail customer, so long as the implementation of policy designed to protect consumers does not inhibit financial services companies from effectively offering services to this market.

II. BACKGROUND AND ANALYTIC FOCUS

Gramm-Leach-Bliley affects the banking, insurance and securities industries and, accordingly, can profitably be discussed

\(^2\) As an officer of an institution not subject to the restrictions of the National Bank Act on insurance sales and a resident of a state characterized by numerous areas having less than 5,000 people, I would like to express a fond and wistful farewell to the limitations formerly faced by national banks in the sale of insurance. They will be missed.

\(^3\) The author realizes that defining the locus of an activity as a "place" in the age of the Internet places him dangerously close to dinosaur status; however, the analysis that follows will generally refer to the traditional delivery channels because (i) such channels continue to account for the vast majority of retail transactions and (ii) the regulatory regimes governing the financial services supermarket will have to govern both traditional and non-traditional channels. In addition, references to securities and insurance activities of banks in this article will be to brokerage, rather than underwriting activity.
from the perspective of each industry. In order to tax neither the reader’s patience nor the author’s knowledge, this article will proceed from the perspective of banking, which is, in itself, impossible to define in any general manner. The industry comprises a wide variety of companies, organized in a variety of corporate forms, conducting a variety of businesses and regulated by a variety of federal and state agencies. That having been said, traditional banking institutions are all confronted with a radically changing marketplace that is being driven by revolutionary developments in information processing and communications technology and by deregulation. Gramm–Leach–Bliley is only the latest portal of entry into the business of banking by non-bank competitors. As Fed Governor Meyer noted in an address following the passage of Gramm–Leach–Bliley: “The Gramm–Leach–Bliley Act will likely accelerate certain trends already underway in the financial services industry, resulting in further consolidation of the industry and a wider range of financial activities within many banking organizations.”

As suggested above, I cannot comment on how “the industry” will respond to these developments, because there is not one response. I will discuss my company’s response and will use that example to assess certain legal and regulatory challenges confronting both traditional and non-traditional competitors in marketing retail financial services under Gramm–Leach–Bliley.

First a few words about my company. Centura Banks, Inc. is a North Carolina bank holding company whose primary subsidiary is Centura Bank, a North Carolina Federal Reserve member bank. Centura Bank offers personal and business banking services through a network of traditional branches (which we call stores), in-store facilities in grocery stores, ATMs, a telephone banking operation and over the Internet. Because of the relatively liberal regulatory atmosphere in North Carolina, Centura has conducted retail securities brokerage and retail and commercial

insurance brokerage activities through bank subsidiaries for a number of years. Centura also has an active investment management program, including both trust investment and investment advisory activities for three equity mutual funds and two bond funds marketed under the Centura name. In sum, Centura seeks to be a full-service provider of financial services to the retail market.

Like most other traditional banking firms, Centura is aware of incursions into the business of banking by non-traditional competitors that have occurred since the beginning of the deregulation process in the 1970's and the shrinking share of wallets for banks as a result. Frankly, you would have had to be asleep and brain dead not to have observed the impact on the banking industry of money market funds, asset management accounts, discount securities brokers, captive financial operations of commercial firms and the trust operations of securities and insurance firms, to name only the most obvious of these incursions. Clearly, traditional banking institutions have to respond to these developments if they are to compete effectively and survive.

Centura’s response has been to reinvent itself as a retailer of financial services rather than a bank. It has invested a significant sum of money in developing a customer information system that allows us to analyze customer profitability and the patterns of conduct that lead to such profitability (or lack of it). It has instituted a sales culture that provides significant financial incentives to our customer contact people to learn as much as possible about customers and to broaden and deepen customer relationships by selling such customers as many products as possible, either directly or through referral to licensed brokers of insurance or securities. Unlike some of our competitors, Centura views the various methods of customer contact (traditional stores, in-store locations, ATMs, telephone, Internet) as distribution channels in one retail distribution system, not as separate businesses. In consumer and business lending Centura is an originator of loans; however, in the securities and insurance businesses, it is a distributor of the products of other companies and of “house brand” mutual funds. In its capacity as a distributor, Centura has close
and continuing relations with a number of mutual fund families and insurance companies, many of which are also its competitors. The operating strategy that Centura has established is not friction-free and is a work in progress; however, its management and board are satisfied that it gives the company a reasonably good chance of survival in the markets we serve. In addition, the Centura operating strategy serves as a proxy for thinking in the traditional banking industry about how banks can compete effectively with both traditional and non-traditional competitors. Whether the path that Centura has chosen is right or wrong, Gramm-Leach-Bliley and the issues that have been raised in connection with its enactment have changed the landscape for us and our competitors in ways that are not yet totally certain. In the next section of this article, I will discuss a number of issues that I believe are important to all competitors in the financial services marketplace as we begin to operate in this new environment.

III. THE IMPACT OF GRAMM-LEACH-BLILEY

A. Regulatory Arbitrage

As noted above, Gramm-Leach-Bliley has altered and generally extended the powers of financial services firms. To banking industry competitors, this development raises issues regarding their forms and domiciles of organization. In analyzing a recent thrift acquisition, the chief financial officer of my company pointed out that thrift customers were thrift customers for a reason; as he put it, “They didn’t just get lost trying to find a bank.” In similar fashion, banking organizations have chosen a form of organization and domicile because it has suited the development of the firm over time and has conferred some perceived advantage in conducting the firm’s businesses. For example, North Carolina state chartered banks have maintained that domicile and organization because of the perceived advantages of state-wide branching and a progressive regulatory environment, the benefits of which outweighed the burdens of
relatively restrictive consumer protection laws. A number of other firms have chosen to organize as national banks or federal thrifts because of the benefits of preemption and (at least in the case of thrifts) relatively broad powers, again outweighing the applicable regulatory burdens. Restrictions on branching have been gone for several years as a result of the Riegle-Neal Act. If and to the extent Gramm-Leach-Bliley has really "leveled the playing field" in terms of powers, each traditional competitor ought to review its particular circumstances to see whether and how any advantage is maintained from its current form of organization and domicile, and, more importantly, whether it is disadvantaged by the status quo. Firms with multiple forms of organization and domicile under a holding company will need to assess each of the subsidiary organizations to see if the perceived advantages of such organization remain, or whether organizational simplification is now in order.

Whatever the impact of Gramm-Leach-Bliley on the decisions of traditional banking institutions regarding organization and domicile, it is interesting to note how the legislation has reinvented the holding company form of organization by making it the centerpiece of expanded powers for banks and non-traditional entrants into the business of banking. This is something of a change from the holding company's original function, which was to facilitate geographic expansion for banking organizations that were otherwise subject to legal restrictions on branching. The holding company structure is, of course, the Federal Reserve's organizational form of choice for the exercise of expanded bank powers conferred by Gramm-Leach-Bliley. Use of the holding company structure is intended to prevent the ill consequences of moral hazard to financial institutions resulting from the mixing of non-traditional banking businesses with insured bank deposits. To enter the brave new world of such non-traditional businesses as merchant banking and securities and

5. It is interesting to note that neither Senator Riegle nor Representative Neal is now in Congress. One wonders whether Gramm, Leach and Bliley took this into consideration when S. 900 was named for them.
6. Merchant banking is the investment of banks in non-financial firms. See
insurance underwriting, traditional banking institutions have to adopt the financial holding company form of organization.\(^7\)

On the other hand, Gramm–Leach–Bliley confers fairly broad powers on bank subsidiaries with regard to more traditional "financial" activities\(^8\) and, as noted above, branching restrictions have been pretty well decimated over time. Given these circumstances, it will be interesting to see if any brave souls buck the conventional wisdom by dropping the holding company form of organization altogether and operating as a bank only. Those who followed the debate over Gramm–Leach–Bliley will recall that Treasury supported a result something like this in the debate over the organizational structure through which banks were to exercise their expanded powers. Following the trend of interpretive decisions of the Comptroller of the Currency that substantially liberalized bank powers, Treasury argued that such powers ought to be exercised through bank subsidiaries. While this format will not suit those institutions that want to conduct merchant banking, insurance and securities underwriting, and other "new businesses," it could suit an organization that conducts "plain vanilla" financial services businesses such as traditional banking and insurance and securities brokerage. Such a mode of operation could actually reduce regulatory burden. Don't hold your breath.

A related policy issue, and one of some concern to traditional banking institutions, is that the "leveling of the playing field" will deny us the benefits obtained over the years of the so-called dual banking system, that is to say the availability to banks of the options of organizing under state or federal law. As noted above, the system was and is a multiple banking system, involving multiple federal and state regulators, but the point remains the same. Multiple regulators gave financial institutions choices with regard to the regulatory regimes under which they were to conduct their businesses. More importantly, and particularly in

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7. See generally Gramm–Leach–Bliley Act § 103.
8. See id. § 121.
light of the trend toward consolidation, it gave progressive regulators an excuse to be creative and supportive of change and expanded powers. This was particularly so in a number of states such as North Carolina and, more recently, under the regime of progressive Comptrollers of the Currency. While some might deride this process as a race to the bottom, the reality was that it was a race to the future and the smart regulators won. Given the enactment of Gramm–Leach–Bliley, it will be interesting to see whether the benefits of multiple regulators will continue or whether a uniform package of powers and restrictions applicable to all institutions regardless of form of organization or domicile will evolve. Assuming that the package is a liberal one, regulatory uniformity may not be a bad thing.  

B. Regulatory Friction

Under Gramm–Leach–Bliley there will be functional regulation of the various financial businesses conducted by financial holding companies and banks. The implementation of this regulatory regime will have a profound impact on the delivery of retail financial services and on whether consumers receive the potential benefit of competition among financial services firms that the legislation contemplates.

As noted above, the purpose of Gramm–Leach–Bliley is to increase competition in the financial services industry. From the point of view of many, if not most traditional banking institutions, the operating model employed to compete in the new environment is based on broadening and deepening customer relationships ("cross-selling" to the cognoscenti). Generally, the bank competitive model is based on the idea that the customer is first dealt with by a customer service employee, a bank employee

9. An interesting early return on the multiple jurisdiction issue may be the Comptroller’s recent decision to allow National Commerce Bank to underwrite corporate debt through a bank subsidiary. I am told by National Commerce’s general counsel that there were only a few letters of comment on the application for permission to do so, among which was one from the Federal Reserve opposing this expansion of bank powers.
who is trained to assess the customer’s overall needs for various
financial services, through the generation of a financial profile if
possible. This bank generalist then seeks to meet the financial
needs revealed by his or her work with the customer. If the cus-
tomer needs traditional bank products or services, the generalist
can provide them directly. If the customer needs specialized
bank services, insurance or securities, the generalist seeks to refer
the customer to a specialist or licensed broker.

The referral process is dictated both by the competitive
requirement that customers receive service from personnel com-
petent to render it and, in the case of insurance and securities,
from the requirements of law.10 Human nature being what it is, a
key to success under this model is providing the financial incentive
to bank generalists necessary to cause them to refer to li-
censed securities and insurance brokers where such referral is
appropriate. Absent such incentives, the generalists will sell the
customer what they can, traditional bank products, and, as a re-
result, the perceived benefits of the financial services supermarket
(variety of products and services in one place) will be reduced or
lost.

Prior to Gramm-Leach-Bliley, a number of institutions
such as Centura have operated under a customer service model
similar to the one described above, with customer service gener-
alists compensated in a unified compensation both for direct
sales to customers and for referrals to specialists, including in-
surance and securities brokers. With regard to securities sales,
banks (and, derivatively, their employees) were exempt from reg-
istration under the Exchange Act by section 3(a)(4) of that statute.
The conduct of bank employees with regard to the sale of insur-
ance and securities was governed by the Interagency Statement

10. It should be noted that Gramm-Leach-Bliley also amends the definition of “broker” and “investment advisor” such that activities previously conducted as exempt activities under Exchange Act or Investment Advisors Act may now be subject to such acts and the SEC jurisdiction that comes with it. See Gramm-Leach-Bliley Act §§201, 215-219. Accordingly, the analysis of referral regulation set forth with regard to securities may also apply to such activities to the extent they are no longer exempt.
on Sales of Non-depository Products (the "Interagency Statement"), section 5 of which provides that: "Depository institution employees, including tellers, may receive a one-time nominal fee of a fixed dollar amount for each customer referral for non-deposit investment products. The payment of this referral fee should not depend on whether the referral results in a transaction."

Conduct by registered securities brokers on the bank premises was governed by NASD Rule 2350, which incorporated applicable provisions of the Interagency Statement. The sale of insurance products was governed by the Interagency Statement and applicable state law, which (at least in Centura's experience) contained provisions restricting referral fees to persons not licensed to conduct insurance business in the state.

While the details of the manner and methods of calculation of compensation to bank employees for insurance and securities referrals vary between firms, in general they conform to applicable public policy because they: (i) were incorporated into an overall compensation system, (ii) were not exclusively targeted to the sale of securities or insurance products, and (iii) were based on referrals only and not on completed sales. Referral programs of the kind now in use have been conducted for a number of years under the scrutiny of the applicable regulatory authorities under the regulatory regime described above and have satisfactorily addressed the investor protection concerns that should be addressed by public policy.

Gramm-Leach-Bliley changes the regulatory regime discussed above with regard to securities sales by amending section 3(a)(4) of the Securities and Exchange Act of 1934 to remove the statutory exemption of banks from "broker" status, except for a

11. See Interagency Statement on Sales of Non-depository Products, § 5 (emphasis added).

12. See, e.g., N.C. Gen. Stat. § 58-33-25(j) (1999) (providing that, "[n]o insurer, agent, broker, or limited representative shall pay, directly or indirectly, any commission, brokerage or other valuable consideration to any person for services as an agent, broker or limited representative within this State, unless such person at the time such services were performed had a valid license for that kind of insurance and appropriate company appointments as required by this Article for such services").
series of defined exempted activities.\textsuperscript{13} The exemptions applicable to a discussion of cross-selling are contained in new section 3(a)(4)(B)(i), which contains nine paragraphs defining the permissible securities activities by bank personnel not subject to the securities laws.\textsuperscript{14} Of particular interest are paragraph 3(a)(4)(B)(i)(V), which exempts bank employee performing "only clerical or ministerial functions in connection with brokerage transactions" and paragraph 3(a)(4)(B)(i)(VI), which exempts bank employee activities where:

\textit{... bank employees do not receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction."}\textsuperscript{15}

It will be noted that this language is substantially similar to the language of the Interagency Statement; however, it is not exactly the same. The statutory language of Gramm-Leach-Bliley refers to a "cash" fee, which language could be implied to require a direct nexus between the referral and the compensation. In addition, there are differences in literal language between NASD Rule 2350 and comparable provisions of Gramm-Leach-Bliley. Each of these new provisions will be interpreted and enforced by the SEC and self-regulatory organizations (in particular, the NASD), a new development in the case of referral compensation.

With regard to the sale of insurance, Gramm-Leach-Bliley

\textsuperscript{14} See id.
\textsuperscript{15} See id (emphasis added).
expressly reserves to the states regulation of the business of insurance, subject to the certain non-discrimination requirements.\textsuperscript{16} Section 104(d)(2)(B) of the statute expressly reserves state powers with regard to restrictions on the sale of insurance. Of particular interest to a discussion of cross-selling are clauses 104(d)(2)(B)(iv) and (v). Clause 104(d)(2)(B)(iv) authorizes:

Restrictions prohibiting the payment or receipt of any commission or brokerage fee or other valuable consideration for services as an insurance agent or broker ... to or by any person unless such person holds a valid State license ... except that, in this clause, the term “services as an insurance agent or broker” does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.\textsuperscript{17}

Clause 104(d)(2)(B)(v) authorizes restrictions, “[p]rohibiting any compensation paid to or received by any individual who is not licensed to sell insurance, for the referral of a customer ... to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer.” \textsuperscript{18}

Given the active participation of insurance industry representatives in the negotiation of Gramm-Leach-Bliley, it is no surprise that the provisions regarding insurance referrals are substantially similar to prior law. The similarities of the Gramm-Leach-Bliley provisions applicable to securities and insurance referrals to the restrictions in effect prior to the legislation could, and should, allow continuation of the referral compensation systems for bank employees of the kind discussed above. My con-

\textsuperscript{16} See § 104.
\textsuperscript{17} See § 104(d)(2)(B)(iv).
\textsuperscript{18} See § 104(d)(2)(B)(v).
cern regarding the new law is that it creates opportunities for administrative interpretation that could lead to another and less happy outcome. An overly restrictive interpretation of laws regarding referrals and enforcement activities based on that interpretation can, in the worst of the imaginable horrors, shut down the referral process by essentially requiring that all bank personnel associated with the sale of securities and insurance products, including customer service generalists, have to be licensed to sell such products. Given the size, educational level and turnover of bank sales forces, such regulatory activity would be prohibitively expensive for all but the largest organizations (if even they could afford it). As a result, the referral process, and the perceived benefits to consumers of competition in the financial services marketplace resulting from it, would be substantially reduced.

In this regard, it should be noted that the Conference Report on Gramm-Leach-Bliley expresses a clear intention to support continued “networking” arrangements between banks and brokers, including affiliated brokers. Prior to the adoption of Gramm-Leach-Bliley, the NASD had adopted amendments to Rule 1060, dealing with persons exempt from registration. Although the amendment was originally intended to deal with the perceived abuses of “cold calling,” it included provisions that severely limited the permissible conduct of persons who are not registered, including bank customer service generalists. The Conference Report stated:

The Conferees provided for and exception for networking arrangements between banks and brokers. Revisions to Rule 1060 recently approved by the National Association of Securities Dealers (“NASD”) are in conflict with this provision. As a consequence, revisions to the rule should be made to exempt banks and their employees from the provisions’ coverage.19

The NASD Regulation staff is, as a result of this statement, currently “evaluating methods to address this congressional re-

quest."\textsuperscript{20} The statement of the Conference Committee referred to above shows a clear intention to cause Gramm-Leach-Bliley to be implemented in a way that fosters competition by allowing the conduct of securities sales by banks and their affiliates without undue interference. I hope that this policy will be honored in the interpretation of other statutory and administrative provisions relating to referral compensation. This is not a quarrel with the legal requirement of regulation of referrals or the need for investor protection. It is rather an expression of hope that the regulatory process will be modulated in a way that allows incentive programs that encourage unlicensed employees to do the right thing continue, without undue restriction as to form or content.

C. Privacy

Gramm-Leach-Bliley contains provisions regarding privacy of customer financial information that were both path-breaking and heavily debated.\textsuperscript{21} These provisions are a major topic by themselves, but a comment about their relationship to the retail financial services model discussed above are in order. The Gramm-Leach-Bliley provisions do not appear to be unduly restrictive from the point of view of this model, as information sharing by a financial institution, its affiliates and certain third parties is permitted, subject to disclosure and the ability of customers to "opt out" of information sharing with third parties.\textsuperscript{22} Satisfaction with the privacy provisions is subject to three material caveats: (i) the provisions are to be fleshed out by administrative rulemaking; (ii) the proponents of more restrictive privacy regulation have made it clear that they will raise the issue again in the next session of Congress; and (iii) Gramm-Leach-Bliley preserves substantial rights in the states to adopt more restrictive

\textsuperscript{20.} NASD Memorandum to District Committees, regarding Financial Modernization (January 20, 2000).
\textsuperscript{22.} See §§ 502-503.
privacy protections. I don’t know of anyone who is interested in the privacy issue who thinks that the debate over customers’ financial privacy is over.

Privacy is a major issue with competitors in the financial services marketplace. As is the case with referral compensation, increased legal restrictions on the collection and use of customer information can substantially reduce the effectiveness of the delivery of retail financial services by banks. Imposing restrictions on the sharing of information among corporate affiliates will, at best, increase the cost of using information gathering technology and know-how that many industry participants have spent significant amounts to develop. Opt in requirements will make it expensive and cumbersome to obtain and use such information. From the point of view of financial institutions the imposition of additional costs at the margin reduces their effectiveness in understanding consumer needs and customizing the offering and delivery of products and services to customers. The use of customer information will increase competition in the financial services marketplace and should increase consumer welfare as a result. It bears repeating; increasing competition is the policy goal of Gramm-Leach-Bliley.

All of the foregoing having been said, the privacy issue is going to be with us in financial services for the foreseeable future. Public concern with the issue is growing, assisted by recent and unfortunate charges that major financial institutions have sold customer information without customer consent. Further, privacy is an issue that affects our foreign trade, given the much more restrictive requirements of the European Union, which are being used as a barrier to entry by US firms. We in the industry can and should fight the good fight to prevent further restrictions on access to and use of customer financial information from being enacted; however, we should also think about how to make such use more accepted by customers, legislators and regulators. In dealing with this issue, I think we should pay attention to research on the topic of customer information use that suggests

23. See § 524.
that a source of customer dissatisfaction is the belief that a customer’s personal information has been appropriated by business firms without providing the customer with anything of value in return.\textsuperscript{24} In that regard, financial institutions might consider development of inducements to customers to share information similar in concept to the affiliation programs of airlines and car rental companies or the “free” subscription offered by the online \textit{New York Times} in exchange for certain personal information of the subscriber. Approaches like these, tailored to the context of financial services, may be a helpful augmentation to technical arguments against further regulation.

\textbf{D. Community Reinvestment Act}

After a lively legislative debate, the Community Reinvestment Act (“CRA”) will live on into the new millennium, subject to a few “sunshine” provisions that should not present much of a challenge to its continuing vitality.\textsuperscript{25} In fact, Gramm-Leach-Bliley extends the reach of CRA by incorporating its requirements into approval of the new activities of financial holding companies, whether \textit{de novo} or through mergers or acquisitions.\textsuperscript{26} To our friends in the insurance and securities industries who are entering the “business of banking,” we in the “traditional” banking industry welcome you to the world of the CRA. Although the CRA technically deals with meeting the credit needs of the communities served by banks, the insurance sales activities of banks like Centura make such activities a likely subject of discussion with community activist groups in the future. For example, in connection with a recent acquisition by Centura, the matters discussed with a group of community activists included a proposal that Centura adopt a series of “Principles for Responsible Property Insurance Providers.” These principles attempt to apply

\begin{footnotes}
\footnotetext[26]{See § 102(l)(2).}
\end{footnotes}
a number of CRA / HMDA concepts to the underwriting and delivery of insurance. While we did not adopt the proposed principles, it is clear that our ongoing dialogue with community groups in the future will involve insurance along with lending and other more traditional CRA topics. As more banks enter the insurance business, I believe they will have to deal with this issue as well.

It is interesting to note in this regard that an example of community reinvestment undertakings in the context of a cross-industry merger is already in existence. In connection with the Citicorp / Travelers transaction forming Citigroup, both Citicorp and Travelers made significant CRA undertakings. In addition to a $115 billion commitment to lending in low and moderate income communities and to small businesses, Citigroup also announced substantial insurance commitments, as follows:

In a first effort by a bank to enhance its community program by integrating the products, services and community programs of a non-depository institution, Citigroup also announced that it voluntarily will expand the availability of commercial and homeowners insurance coverage and provide special pricing to low and moderate income customers. Travelers Group, which generally is not subject to CRA requirements, has pledged that the non-bank businesses it is contributing to the new Citigroup will actively support a broad range of community development activities as a reflection of its commitment to good corporate citizenship.27

The release goes on to outline a number of additional commitments, including undertakings as to community investments, charitable contributions and workplace diversity.

I believe that the Citigroup undertakings are, in concept if not in scale, the wave of the future in CRA. Like privacy, the issues of fairness and access to capital that underlie CRA will remain with us, particularly as the financial services industry continues to consolidate. As banks, securities firms, and insurers work together, whether through mergers and acquisitions, alliances or distribution agreements, dealing with the issues of equity addressed by CRA will be a part of what we do. In my view, the best thing we can do is to treat outreach to alleged underserved communities as a business opportunity, rather than a regulatory burden.

IV. Final Thoughts and An Attempt at Summing Up

This article is not and is not intended to be comprehensive of all of the issues arising from Gramm–Leach–Bliley or dispositional of the issues it deals with. It is intended to highlight a few issues that will confront traditional banks and new entrants into the “business of banking” as we compete in a new and significantly altered regulatory environment. Although some of the issues discussed above are particular to banks, I believe most will apply to all competitors in one way or another as each of us attempts to grow in the years to come. Let us hope that the new competitive environment arising from Gramm–Leach–Bliley results in the benefits envisioned by its proponents both for consumers and for the industry itself. Onward and, let us hope, upward.