



**NATIONAL ASSOCIATION
OF REALTORS®**

The Voice for Real Estate®

430 North Michigan Avenue
Chicago, Illinois 60611-4087
312.329.8411 Fax 312.329.5962
Visit us at www.REALTOR.org.

NRT, Inc.
465 Maple Avenue West, Suite B
Vienna, Virginia 22180-3441
703/268-2001 Fax 703/356-3441
E-mail: tstevens@cbmove.com

Thomas M. Stevens, CRB, CRS, GRI
President

**SUMMARY OF
WRITTEN STATEMENT OF THE
NATIONAL ASSOCIATION OF REALTORS®

BEFORE THE
FEDERAL DEPOSIT INSURANCE CORPORATION

HEARING ON THE DEPOSIT INSURANCE
APPLICATION OF WAL-MART BANK**

APRIL 11, 2006

NATIONAL ASSOCIATION OF REALTORS®

NAR believes that Wal-Mart's effort to obtain a federally-insured depository institution, if successful, will establish a dangerous precedent leading inevitably to an erosion of the national policy against mixing of banking and commerce and have serious consequences for the continued stability and growth of the nation's financial system.

Mixing Banking and Commerce Creates Conflicts of Interest and an Unlevel Playing Field

Banks must be "honest brokers" of financial services and not be swayed into making credit and other business decisions based on their affiliation with commercial firms. But when commercial firms are allowed to engage in banking, the bank functions under an inherent and irreconcilable conflict of interest.

Federally insured depository institutions have access to cheap capital and funding because of federal deposit insurance. In addition, banks are the only entities that have access to the Federal Reserve's discount window and payment system. The availability of Federal deposit insurance, access to the payments system, and the Fed's discount window are advantages available only to banking institutions. Permitting Wal-Mart to affiliate with an insured bank will enable it to benefit indirectly from the federal subsidy enjoyed exclusively by banks and will enable Wal-Mart to compete on an unlevel playing field with other commercial firms.

If the Wal-Mart Bank were to expand its business plan into retail banking, it is reasonable to expect that it would use the enormous financial resources of its parent, Wal-Mart Stores, to seek to become the dominant, or even sole, player in banking in its rural markets. If Wal-Mart Bank becomes the main or only provider of financial services in a market, it would place commercial competitors at a serious disadvantage in seeking financial services.

Risk to the Stability of the Financial System

Federal Reserve Board Chairman Ben Bernanke has recently reaffirmed statements made by former Federal Reserve Chairman Alan Greenspan and other Federal Reserve Board Governors raising concerns about the industrial loan company loophole. NAR believes that these statements support NAR's recommendation that the FDIC should not approve the Wal-Mart application until Congress has an opportunity to consider the appropriateness of existing law and vote on whether to sunset existing authority, as it did in 1999 when the Gramm-Leach-Bliley Act slammed the door on commercial firms acquiring thrifts.

One of the most important risks raised by the application is that providing Wal-Mart with direct access to the payments system would enable Wal-Mart to spread the risk of the company's commercial operations to other participants in the payment system. Today, banks serve as trusted intermediaries when making or collecting payments on

behalf of customers. The process breaks down, however, when the merchant's bank is a captive of the merchant, for the bank cannot exercise independent credit judgment. Wal-Mart Bank's failure to exercise independent credit judgment will mean that Wal-Mart's credit risk will be transferred to the payment system from the banks with which it now does business and that apply controls on the amount of payments they process for Wal-Mart. As a result, banks participating in the payment system will be forced to absorb the risk of a default by Wal-Mart Stores. If this were to happen, by the time the true condition of the enterprise became known, it could very well be too late to save the Bank or minimize harm to the rest of the financial system.

Section 6 requires the FDIC Board to consider the risk to the deposit insurance fund (12 U.S.C. § 1816(5)). The risks to the insurance fund that I have outlined provide, by themselves, an ample basis for an FDIC decision to disapprove the application.

Absence of Community Benefit

Section 6 of the Federal Deposit Insurance Act also requires the FDIC Board, in considering an application for deposit insurance, to consider the convenience and needs of the community to be served by the bank (12 U.S.C. § 1816(6)). The bank will contract out almost all its functions and projects meager earnings of approximately \$13.5 million over three years, suggesting Wal-Mart Bank will generate almost no significant savings, considering its enormous income. NAR sees virtually no benefit to the community resulting from approval of the Wal-Mart Bank application.

Other Initiatives to Permit Banks into Commerce Should Also Be Blocked

While the banking industry generally opposes the Wal-Mart application, it is simultaneously seeking to expand permissible bank activities into real estate brokerage, management, and real estate development—essentially commercial activities. NAR believes that the various government agencies involved should reverse any trend in this direction. In 2001, for example, the Federal Reserve Board and the Treasury Department published a proposed rule that would permit financial holding companies and financial subsidiaries of national banks to engage in real estate management and brokerage. More recently, the Office of the Comptroller of the Currency (OCC) has issued several rulings that, in our view, go beyond the statutory authority banks have to own real estate to accommodate their businesses. We think that permitting banks to develop and own luxury hotels and develop residential condominiums for immediate sale in order to make the remainder of a project economically feasible stretches the law to the breaking point.

Conclusion

Accordingly, the National Association of REALTORS® urges the FDIC not to approve the Wal-Mart Bank deposit insurance application because it does not meet the statutory standards for approval and because the issue is of such significance that Congress should decide whether it is appropriate to permit the mixing of banking and commerce under these circumstances.