

SEN. JOHNSON: Mr. Curry, as comptroller, you will be expected to be independent, exercise independent judgment and act independently from the Treasury Department. Are you prepared to act independently and use your own judgment?

THOMAS CURRY: Senator, yes, I believe so. I have, I think, a 25-year history of acting independently as both a member of the FDIC, an independent agency of the United States, and as bank commissioner for the Commonwealth of Massachusetts.

As bank commissioner in particular, you are called upon often to make decisions that affect individuals, institutions and communities. Many times, those decisions are unpopular. However, I believe in my past history and experience, I've demonstrated the independence to fairly and reasonably apply the rules and laws that govern bank regulation.

SEN. SHELBY: Pre-emption language. I'll address this to Mr. Curry.

There's an ongoing debate on whether the Dodd-Frank Act changed this standard for determining when national banks are subject to state law. The OCC and the authors of the Pre-emption Amendment in Dodd-Frank have taken one position. The Treasury Department has disagreed with that view.

Mr. Curry, what are your views about how the Dodd-Frank pre-emption provisions have been interpreted by the OCC and the Treasury Department?

MR. CURRY: I understand that the actual language of Dodd-Frank is a matter of some controversy between interested parties. Generally speaking, I think the principle is clear from the Constitution that the federal law supercedes conflicting state law, and that's an important concept to remember.

SEN. SHELBY: Is that the position that the Comptroller's Office takes?

MR. CURRY: I believe so. It's a federal agency.

SEN. SHELBY: Are you aware of the position that the Treasury Department is taking?

MR. CURRY: I understand that the Treasury Department did file a public comment on the OCC's position. I think that having a comment on the record is probably the most appropriate way to express those views.

Ultimately, I think it's incumbent upon the OCC to maintain its independence as a bank regulatory agency and to remain free from any undue influence from any external source.

SEN. CORKER: Just so -- I have a few seconds -- to you, Mr. Curry -- I think we all are concerned about this federal preemption issue and, you know, I know that you were commissioner -- state commissioner of banking for Massachusetts back in 2000 and made a quote -- and I just want you to reaffirm that this is not where you are, but -- "we suggest that" -- this is you -- "we suggest that federal preemption itself sometimes has the unintended consequence of limiting state regulators' ability to protect consumers and ensure a healthy banking and lending industry."

"Many states have responded through statute or regulation to protect consumers from predatory practices." However, it's "been the perhaps unintended consequence of federal preemption that has made it difficult for states to offer the protection" of -- "their consumers demand."

So you're going to be in a position obviously of making sure that we have uniform national standards and yet seem to have in the past indicated that you question that, and we just want you

to affirm that you absolutely are not going -- you're going to be independent, you're not going to let Treasury browbeat you into a different position and that you're denouncing this former position.

MR. CURRY: I want to assure you, Senator, that I will zealously enforce and uphold the National Bank Act and particularly where it relates to federal preemption. What I would want to point out is that I think that the Dodd-Frank act's provisions actually resolve some of the issues that I was highlighting in that statement. There is now much more clarity in terms of the role of state attorneys generals, the applicability of federal law to -- in its relation back to state consumer financial laws. And you also have the creation of the CFPB to address any gaps in terms of consumer protection. So I do think that, you know, my statement in the past is actually addressed by Dodd-Frank.

CFPB Question

SEN. JOHNSON: Mr. Curry, do you anticipate a good and effective partnership with the CFPB in the rulemaking process and other functions?

MR. CURRY: I think there's an important opportunity to collaborate between the bank regulatory agencies and the CFPB. I think that issues and rulemakings really tend -- in this area, tend to have elements of both disciplines at stake. I would use, as an example, the implications, from a financial safety and soundness or risk management standpoint, of the non-traditional mortgage loan products. They have both elements of consumer protection and also significant -- as we saw in the financial crisis, significant financial consequences to our banking system.

So the extent to which the banking agencies and the OCC, if I were to be confirmed, I think it would be beneficial as a two-way street for the OCC to communicate to the CFPB the financial context in which a proposal would operate and also for the OCC, who will retain the ability to -- or the responsibility to supervise institutions under \$10 billion, the opportunity to be aware of emerging or potential consumer protection issues. So in summary, I think there really is a need for close collaboration and communication between the OCC, the bank agencies and the CFPB.