



DEPARTMENT OF THE TREASURY  
WASHINGTON

UNDER SECRETARY

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MEMORANDUM FOR THE HONORABLE C. BOYDEN GRAY  
COUNSEL TO THE PRESIDENT

FROM: ROBERT R. GLAUBER *RG*

SUBJECT: Independent Banking Regulator

As background for your telephone call to Senator Garn regarding the independent banking regulator proposal, attached are three documents:

1. Background outline
2. Talking points
3. Excerpt from Chairman Riegle's Print containing independent regulator language.

We appreciate your willingness to make the call. Good luck!

**OPPOSE SENATE PROPOSAL TO STRIP ADMINISTRATION OF ALL  
AUTHORITY OVER BANKING REGULATION**

**Background**

- o Chairman Riegle of the Senate Banking Committee has released a Committee Print addressing comprehensive banking legislation that is in many ways similar to the Administration's proposal.
- o However, the provision includes one totally unacceptable provision -- the chief banking and thrift regulators would be stripped out of the Treasury Department and merged into an independent agency.
  - The Office of the Comptroller of the Currency (OCC), which is the primary supervisor of over 60 percent of the nation's banking assets, has been a bureau of the Treasury since 1863.
  - The Office of Thrift Supervision (OTS), which supervises all of the nation's thrifts, was moved under the Treasury Department in FIRREA (the recent thrift legislation) after all the problems with the "independent" Federal Home Loan Bank Board.
- o As a part of the Administration, these regulators provide the President's only avenue for directly influencing the nation's banking policy.
- o Unfortunately, a critical reason why this provision is in the Print is that it has the strong support of Senator Garn.
  - He sincerely believes that banking regulators should not be "politically" influenced by the Administration.
  - He thinks the Administration wrongly leaned on bank regulators during the 1980s to reduce examination staff, which he thinks was a major contributor to problems in the industry.
  - He sometimes cites the Administration's leaning on OCC concerning a proposal that Sen. Garn supports -- reducing strict liability for lenders involved in Superfund cleanups -- as an example of improper influence.
- o Senator Riegle is more than happy to accommodate this point of view, especially since it helps him blame the Administration for problems with the OCC, Bob Clarke, and deposit insurance losses in general.

- o Other members of the Senate Banking Committee do not seem overly concerned with the provision, one way or the other -- but it becomes obvious "trade bait" for members, particularly Democratic members, that seek other provisions.
- o The irony of this situation is that the House rejected all efforts to reform the regulatory structure because it was too controversial.
  - It was easy to reach this result when proposals affected not only the Administration, but the Fed and the FDIC as well -- they all got into the act to protect their turf.
  - It is harder to stop something that picks only on the Administration, particularly when the ranking Republican member supports the position.
- o The other irony is that just two years ago, Congress voted in FIRREA to move thrift regulation into the Administration because of a perception that the "independent" Federal Home Loan Bank Board had been "captured" by the industry.
  - Senator Garn opposed this provision, which the Administration had suggested, but he agreed in the end not to go to the mat after high-level discussions with Secretary Brady and other Administration officials.
  - Other members were helpful with this effort, particularly Senators Bond and Gramm. (As a former governor, Sen. Bond was particularly sensitive to the notion that the Executive should have responsibility over agencies whose actions he will be accountable for; other former governors on the Banking Committee are Senators Graham, Bryan, Chafee, and Sanford.)
- o The great concern at this point is that the Senate Committee will go along with the Riegle/Garn initiative, and the Democratic House will readily accept the proposal in conference.
- o It is important to stop the initiative in the Senate Banking Committee, either by convincing Senator Garn to change his position -- or at the very least not oppose efforts to strip the provision from the Committee Print.
- o While Senator Garn is mindful that the Bank Board was too close to the industry, he will bristle at any suggestion that Danny Wall was, or any suggestion that the 1988 deals were improper.
- o Senator Garn's general counsel is very strongly in favor of an independent regulator; but his staff director has less of a strong point of view.

- o Finally, while Senator Garn does support independent banking regulators, he never took the view in the past that the OCC should be stripped out of the Treasury Department.
- o Attached are general talking points opposing the Senate provision.