**Statement in opposition to a clean FSLIC bill**

March 26, 1987

SEN. WILLIAM PROXMIRE

Mr. President, I rise to oppose the _____ amendment that would strike everything but the emergency measures.

Let me begin by referring to the comments made yesterday on the Senate floor by my good friend Alan Dixon of Illinois. We can get a FSLIC bill, he said. We will get a FSLIC bill. But we on the Banking Committe think we can do more than that. We have ambitious plans to examine the entire financial framework. To do that, we've got to arrest the proliferation of nonbanks and other turf invasions.

When Alan Dixon is willing to ask us to do more, I think we should listen, because it is Alan Dixon who faces some of the fiercest pressure to allow nonbanks to proliferate.

There is also an immediate danger to this amendment. Stripping this bill invites an end to the foundation of financial law that has served this country so well for several hundred years. That foundation is the separation of banking and commerce.

What has this foundation given us? It's produced an astounding population of banks, thrifts, credit unions and other sources of credit.

This legislation is aimed at preserving this vast network of credit from both large sources, and small, far-flung sources. It achieves this by attacking the so-called nonbank bank loophole.

Nonbank banks escape major regulations. They can expand interstate. And they escape the ban on mixing banking with commerce.

Naturally, nonbank banks are a means that large diversified companies can invade the banking business. Some of the nation's largest retailing, securities, and insurance companies have been able to enter the banking business through the nonbank bank loophole while banks are prevented from entering those businesses by the Bank Holding Company Act.

Leaving this loophole open poses grave dangers and inequities: It will subvert the right of the States to determine their own banking structure; needlessly increase the cost of recapitalizing the FSLIC; erode the policy of separating banking from commerce; create new competitive inequities in our financial system; undermine the ability of the bank regulators to maintain a safe banking system; and jeopardize the payments system. As Chairman Volcker testified before the Committee, closing the nonbank bank loophole is just as important and urgent as recapitalizing the FSLIC.

Let me expand briefly on the the principle menace: nonbank banks threaten the separation of banking and commerce. Most corporations are free to engage in any lawful business; banks, by contrast, are limited to the business of banking.

Our free-enterprise economy relies on banks to allocate credit to its most productive use. When bankers make good credit decisions, the entire economy benefits; when bankers make poor credit decisions, economic growth is impaired. The separation of banking from commerce helps ensure that banks allocate credit impartially, and without conflicts of interest. The nonbank bank loophole erodes that separation by allowing commercial companies to control banks. It raises the risk that banks' credit decisions will be based not on economic merit but on the business strategies of their corporate parents.

Closing the nonbank bank loophole while placing restrictions on existing nonbank banks does not mean either I or the Committee necessarily conclude that the current boundary line between banking and nonbanking activities is optimal. Given the pace of technological change in the delivery of financial services, it may be that banks need to engage in a broader range of financial services, while other financial services firms may need greater entry into banking. But the Committee believes any redrawing of the boundary lines must come about as the result of deliberate

congressional decision and not through the exploitation of loopholes.

SENATOR, DELETE NEXT PASSAGE IF THE "STRIP TITLE II" AMENDMENT HAS ALREADY BEEN OFFERED"

My fellow Senators, let me now turn to Title II. In this section of the bill, we place several moratoria on proposed new activities of banks. I know many of you have heard from bankers complaining that this provision sets back progress by several years.

As many of you know, I favor many of the powers that bankers seek. I think it would be good for the economy to introduce new competition into the commercial paper, municipal bond, mortgage-backed securities, and even real estate and insurance markets. Competition is what makes all American industry strong.

However, my fellow committee members whom I was able to convince that we needed to ban nonbank banks pending a thorough review, in turn persuaded me of the necessity of a similar ban on new bank powers. The price of a nonbank ban, of keeping commercial firms out of the banking industry, is a freeze on bankers getting into new businesses.

On March 18, the Federal Reserve approved an application by Chase Manhattan Bank to underwrite commercial paper. While this

activity is in the economic interests of America, it is Congress, and not the Fed, that should grant such a power. My fellow Senators, if we do not approve Title II, we will be abdicating our responsibilities for writing banking law.

The Competitive Equality Banking Act of 1987 gives all of the major industry participants an interest in participating constructively in the development of comprehensive legislation.

The bill, then, is a series of political carrots and sticks designed to encourage the various financial services interest groups--including consumers--to participate constructively in shaping new legislation.

As discussed, the bill places freezes the proliferation of nonbanks. And with a growth restriction of 7 percent in one year, those parents will be pressing for new legislation to relieve that restrition. Seven percent may sound like ample growth, but remember that small companies often grow at 100 percent, or 200 percent a year. Sears' nonbank bank in Delaware grew from $24 million in assets to $1 billion in one year. That's a 3,000 percent growth rate. Seven percent growth is the rate of a mature firm, and will be a severe restriction on these nonbank bucaneers.

Title II also places a hold on certain securities activities that will prevent the Federal Reserve Board from approving the pending applications.This bill gives Congress an additional year

in which to consider, in the context of a comprehensive review of the financial services industry, the issues raised by the proposed new securities powers. But because the moratorium is not permanent, the securities industry will have a strong incentive to participate constructively in the development of new legislation.

The one-year moratorium on regulatory approval of new insurance and real estate powers will also help preserve the status quo while the Congress considers comprehensive reform in those areas. Because the moratorium is not permanent, the insurance and real estate industries will have a stake in new legislation. By contrast, if those industries obtained the permanent bans they are seeking, they would have no incentive to cooperate in framing new legislation.

Needless to say, banking groups will strongly push Congress to act, since the bill does not give them new securities powers, nor does it loosen the Bank Holding Company Act's restrictions on nonbanking activities.

By encouraging all the major participants to come back to the bargaining table, we greatly enhance the prospects for constructive hearings and legislation. The Committee will promptly review and, if needed, propose major revisions of the laws governing the activities of companies that own federally insured depository institutions. I have stated on several occasions that if the Competitive Equality Banking Act is

enacted, will immediately schedule hearings on a broad range of fundamental issues confronting the financial services industry, with his goal being to bring the Committee together to make permanent decisions by October 1987.