

# United States Senate

WASHINGTON, DC 20510

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ARMED SERVICES  
BANKING, HOUSING AND  
URBAN AFFAIRS  
AGRICULTURE, NUTRITION AND  
FORESTRY  
SPECIAL COMMITTEE ON AGING



The Honorable Alan Greenspan  
Chairman  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20551

CLO: #G - 13  
CCS: 05-1791  
RECVD: 2/24/05

*Legal*

Dear Chairman Greenspan:

I understand that the Federal Reserve board is currently considering issuing clarifications to the anti-tying restrictions of Section 106 of the Bank Holding Company Act Amendments of 1970. Legislative history and common sense demonstrate that tying by banks is problematic only when banks can coerce their customers. The economic reality is that certain customers, such as large corporations and syndicated loan borrowers are sophisticated players with many options for finance that cannot be coerced. Therefore, at a minimum, I urge the Board to exercise its statutory authority under Section 106 to create an exemption from the coverage of Section 106 for such large corporate borrowers and financial entities, because this category of borrowers, with significant market power, cannot be coerced.

The Antitrust Division of the Department of Justice (DoJ) has recommended that the Board interpret Section 106 to be consistent with, and not broader than, federal antitrust laws. Specifically, the DoJ is concerned that the overly broad interpretation of Section 106 "disadvantages banks as competitors in markets in which banks and non-banks compete, thus lessening competition and harming consumers." The DoJ also has recommended that the Board create an exemption from the coverage of Section 106 for large corporate borrowers and financial entities that cannot be coerced. I urge the Board to adopt this recommendation.

An overly broad interpretation of Section 106 will create inefficiencies and inhibit pro-competitive practices, which ultimately will harm industry. I trust the Board will take this into consideration as it clarifies Section 106.

With my warmest best wishes,