Remarks by Under Secretary of the Treasury Gary Gensler
to the Bond Market Association Annual Legal and Compliance Conference

I am very pleased to be here today. This is a historic moment for the U.S. financial system. Legislation that will repeal the Depression era Glass-Steagall Act will be voted on by both Houses of Congress in the coming week. For decades, prior Congresses and Administrations have worked to repeal the laws that have separated the banking, securities, and insurance industries. Finally, we are on the brink of success. We believe that the final bill is one that is good for the economy and the financial system, as well as being good for consumers and for communities. The Administration supports enactment of this historic legislation.

When the Glass-Steagall Act was passed, the financial and economic landscape of the country differed greatly from today. In 1933, banks dominated the financial industry and the economy to an extent that we find difficult to imagine today. Banks held the mortgages and loans they originated and consumers had little choice as to where to place their savings. Banks served only local markets.

Today, there is broad consumer choice. Banks compete for deposits with money market funds and with savings products offered by insurers. Securitization has changed the way banks manage their assets -- mortgages and other loans are readily put in tradeable form and sold. Financial derivatives have revolutionized the way financial firms manage their risks and the products they offer. And today, the markets for financial products are not just national, but truly global in reach. Spurred by competition, innovation, and technology, our financial industry and our economy have been reshaped over the decades since 1933.

To a significant extent, our financial services industry has already modernized itself even without the final repeal of the Glass-Steagall Act. The repeal of Glass-Steagall has been an evolutionary process, not a revolutionary one. The walls erected in 1933 have been significantly eroded over the years through judicial and regulatory actions that allowed banking institutions to offer brokerage services and engage in securities underwriting through so-called "Section 20" firms. While Section 20 firms are subject to certain limits on their underwriting activities, they represent a major erosion of the Glass-Steagall barriers.

Benefits of the Bill

The greatest benefit of the bill, now renamed the Gramm-Leach-Bliley Act, will be to permit financial services firms to offer banking, securities, and insurance products all within one organization. At its core, the bill pulls down barriers to competition.

Allowing financial services firms to offer this wider array of products will give these firms the flexibility to respond to their customers' needs. Financial institutions will be able to expand the securities and insurance products they offer without the artificial structural limitations.

Common ownership of diverse financial services firms will enable these firms to bring to bear on their activities the best that each discipline has to offer. Asset and risk management techniques, funding techniques, technological innovation, product development, and approaches to serving customers and communities are just some of the areas in which significant gains can be made through new business combinations. Particularly in an era of rapidly changing technology, firms will be able to take advantage of greater operating efficiencies.

I believe that this legislation will result in a diversity of approaches to financial services. Just as with any other industry, some companies will be successful at serving their customers by remaining specialized and focusing on particular markets or areas. Others will be successful by offering a broad range of products or by serving many markets. There will not be just one single approach that will be successful. This legislation will ensure that the choices firms make are dictated by the markets and by customers -- not by artificial barriers erected by the government decades ago.

Consumers and Communities

As important as these benefits of financial modernization are, the President insisted that a financial modernization bill must include adequate protections for consumers and must preserve the relevance of the Community Reinvestment Act. As a result of the provisions included in the final bill on CRA, investor protection, and privacy, we believe the final bill achieves these objectives.

On consumer privacy, we had an uphill climb. No bill in prior years even addressed this issue. The President first laid out his principles on protection of individual privacy on May 4th. The Senate bills, which had already passed, included no privacy provisions. The House then acted by a vote of 427-1 to add privacy to their bill. The final bill goes further, providing significant privacy protections.

For the first time, financial institutions will be required to adopt privacy policies and to disclose these policies to their customers. Consumers will have the right to prevent personal financial information from being shared with third parties, subject to limited exceptions that will permit institutions to continue to operate efficiently. The financial regulatory agencies will have the authority to write and enforce rules to implement these privacy protections. The rights of States to provide stronger protections are preserved. While more can and should be done to give consumers choice before their information is shared with affiliates, the final bill takes an important first step.

We believe that communities also will benefit from the bill. For the first time, a bank's ratings under the Community Reinvestment Act will be considered when it expands outside of traditional banking activities. A banking organization will not be able to commence a new activity, either through merger, acquisition, or de novo commencement, unless every insured

bank within the organization is serving its communities, as measured by a satisfactory CRA rating.

Under the bill, CRA will continue to apply to all banks without exception, and existing procedures for public comment are preserved. The final bill includes disclosure provisions related to certain agreements entered into by banks related to CRA. These provisions were narrowed substantially from the Senate bill. It is important that these requirements be implemented in a reasonable manner to ensure that they do not chill the work of those who do so much in our underserved communities. We will work hard in the regulatory process to ensure this result.

I believe that, taken together, these provisions will ensure that CRA continues to work for all communities.

Banking and Commerce

The bill contains important limitations on the financial services firms of the future. We are not embracing the European model of universal banking. The final bill preserves an appropriate level of organizational separation of commercial banking from equity and insurance underwriting, with most securities and insurance activities regulated on a functional basis.

At the same time, the bill allows for organizational choice, enabling a financial institution to structure itself and its activities in a manner that best suits its needs. This issue was critical to the Administration. In addition to providing business choice and promoting safety and soundness, the provisions of the final bill will preserve an important role for the executive branch with regard to banking policy and the evolution of the financial system of the future.

Commodity Exchange Act

As Congress passes this historic legislation this week, we are also embarking on another effort to revise a significant piece of legislation that is in need of updating -- the Commodity Exchange Act.

The President's Working Group on Financial Markets will shortly be reporting on our joint views on over-the-counter derivatives. We will also be report on proposed revisions to the Commodity Exchange Act in connection with the upcoming reauthorization of the Commodity Futures Trading Commission. The process represents a unique opportunity to move forward to modernize the legal and regulatory framework for the derivatives markets. There are a number of important principles I would like to mention in that regard.

First, it is critical that we provide legal certainty for OTC derivatives. Legitimate transactions have come under a legal cloud as a result of expansive interpretations of the CEA over the years.

Such uncertainty can create systemic risk and must be resolved. Second, we must seriously consider the potential for properly designed, centralized clearing of OTC contracts. This could significantly reduce systemic risk in these markets and contribute to the stability of our financial markets. Third, we must allow for innovation and the emergence of more efficient trading mechanisms in order to ensure that the U.S. remains preeminent in these markets. Fourth, the Working Group also must address other extremely important areas, particularly concerning the Treasury Amendment, which excludes from the CEA transactions in government securities or foreign currency. Lastly, we need to ensure that frameworks designed to permit wholesale markets to function do not create loopholes that allow bucket shops and other fraudulent operators to prey on retail customers.

The members of the Working Group are working diligently to achieve a consensus on recommendations that can be sent forward to the Congress. The Working Group has focused on finding resolutions that will ensure the integrity of markets while fostering innovation and competition. These two goals, ensuring market integrity and fostering innovation, need not be competing or incompatible objectives. Innovation and competition are critical to ensuring the integrity of our markets over the long term.

Let me conclude by saying that we have a historic opportunity to prepare for the 21st Century by repealing archaic laws from the early 20th Century. It will strengthen our financial sector and promote our economy.

Thank you.