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Accountability for Wall Street Executives Act of 2019

For decades, state attorneys general and federal banking regulators have enjoyed a cooperative arrangement whereby state AGs have had “visitorial” oversight of the activities of federally-chartered banks. Under these visitorial powers, state AGs traditionally could examine a bank, its books and records, conduct supervision of authorized activities permitted pursuant to banking law, and enforce compliance with applicable state laws concerning those activities.

State AGs, along with the federal regulator, the Office of the Comptroller of the Currency (OCC), traditionally have been able to use this authority to issue subpoenas to inspect banking records and interview bank employees and executives. In 2009, however, a divided Supreme Court ruled for the first time that state AGs are preempted from using their visitorial powers to conduct oversight of federally-chartered banks, finding these powers reside exclusively with the OCC. This ruling has had the unfortunate effect of preventing state AGs from conducting oversight to ensure banks are in compliance with state financial protection laws, leaving evidentiary discovery through lawsuits as the only means for state attorneys general to obtain bank records and interview bank employees for compliance with state laws. Given the expense and uncertainty of protracted litigation, AGs now must either file a lawsuit to conduct oversight or rely exclusively on the OCC to protect banking customers. Four Supreme Court Justices (Justice Thomas, Chief Justice Roberts and Justices Kennedy and Alito) found that no federal banking law or common law compels this result.

The *Accountability for Wall Street Executives Act* addresses this problem by:

- Clarifying that state attorneys general have visitorial authority to conduct oversight of federally-chartered national banks by to issue subpoenas to inspect bank records and interview bank executives.
- Repairing language in the National Bank Act that the Supreme Court interpreted as limiting the visitorial powers of state law enforcers when addressing compliance with state law by national banks.
- Upon request, permitting subpoenas for suspected violations of real estate lending laws; requiring specific information pertaining to loans, services, and products offered from the bank in question. With this subpoena power, genuine law enforcement becomes possible.
- Ensuring there will always be at least two “cops on the block” to ensure federally-chartered banks are complying with state financial protection laws and avoiding the kinds of risky bets that would contribute to another financial crisis like the mortgage scandal that caused the Great Recession.

Public Citizen, the Center for Responsible Lending, the Democratic Attorneys General Association (DAGA), and the National Consumer Law Center (on behalf of its low income clients) support this bill.