

# THE 2000 FIIA RAIKEN - SENDER BANK INSURANCE INDUSTRY AWARD

Honoring  
EUGENE A. LUDWIG

## ACCEPTANCE REMARKS & KEYNOTE ADDRESS

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EUGENE A. LUDWIG  
MANAGING PARTNER OF  
PROMONTORY CAPITAL GROUP  
COMPTROLLER OF THE CURRENCY, 1993-98

### INTRODUCTION

Let me begin by thanking you from the bottom of my heart for this honor. The Financial Institutions Insurance Association really is an extraordinary organization, and I feel very privileged to receive the FIIA's Raiken-Sender Bank Insurance Industry Award. I have a great deal of respect for the outstanding job the FIIA has done over the years.

I have known Michael White for a number of years as one of your champions in the battle to achieve a market-oriented, level playing field in financial services. I have also known Kathy Collins and your superb team at Morgan Lewis & Bockius. As coincidence would have it, although I was an attorney at the very fine Washington, D.C. law firm of Covington & Burling for a number of years, I actually started my career as a summer associate with Morgan Lewis & Bockius in Philadelphia. Had I chosen to stay in Philadelphia, I would have almost certainly practiced with that highly regarded firm.

Yes, the FIIA is indeed an extraordinary organization. It is amazing what your organization has been able to do over the years in advancing your interests. I remember well, as Comptroller, the important work that was done by the FIIA. In fact, Michael White and I were just discussing a few moments ago a paper that he authored in 1995 which was extremely significant in making positive changes happen in this area. I also want to acknowledge your new Executive Director Margie Lechowicz, and your distinguished chairman Dick Star and current president Dick Klovstad.

In sum, you are very well led and this is a wonderful organization that has been at the forefront of promoting a modern, market-oriented environment for financial services. And, you have done this both when it was in fashion and out of fashion.

It is also an honor for me to be here today because, as I look around this room, it is filled with individuals of character, conviction and ability, many of whom I am proud to call my friends.

I have worked as a part of the financial services industry for almost 30 years as a lawyer/counselor, Comptroller of the Currency and a banker. This is a very special sector of the American economy made up of very special people. It is no hyperbole to say that the contribution of our industry, and therefore its well being, is essential to the well being of every American, indeed of every world citizen.

When I became actively involved in financial services work, almost 30 years ago, five things were clear to me – that:

- (1) The industry is a very special industry. It is the bedrock of a sound economy.
- (2) To survive and prosper, the industry has to be allowed to innovate and compete in all manner of business activities, and insurance sales by banks were a natural opportunity for safe, fair and profitable innovation and competition.
- (3) The dead hand of excessive regulation was often counter-productive and had to be pruned back.
- (4) The failure to take the necessary steps to allow the industry to modernize and prune back regulation was causing serious safety and soundness problems.
- (5) And, the industry had the talent and the capability to do an even better job of connecting with its communities at all levels of the economic scale.

It seems like a lifetime ago, but the first year I became Comptroller 100 national banks failed and the country, particularly California and New England, was in the grip of a credit crunch that was severely impacting the lives of businessmen and consumers. Insurance sales by banks were minimal and were viewed by many policy makers in Washington as unsound, if not unsafe. Moreover, the industry was under intense attack for alleged failures to serve low and moderate income Americans.

For me, having an opportunity as Comptroller to effectuate the changes needed to help bring this industry back to health, allow it to prosper and better serve all Americans was a true labor of love.

As many of you know, actually making change happen was not always easy. However, doing the right thing has its psychic rewards. The changes we wrought set the stage for a real turn around. In the last 2 years I was Comptroller not a single national bank failed, the credit crunch was a distant memory, the banking industry recorded the most profitable period in the history of this country, and credit commitments for low and moderate income Americans went from approximately \$ 2.7 billion a year to in excess of \$ 75 billion a year. Moreover, sales by banks of non-deposit products, including importantly insurance and annuity sales dramatically increased during this period.

## THE CHALLENGE OF ALLOWING BANKS TO SELL INSURANCE PRODUCTS

Now letting banking organizations engage in the sale of insurance may to some seem like a small thing. And truthfully it is not the equivalent of ending the cold war, although many of us in this room suspect that it may have been harder to accomplish. Even in domestic economic terms, does this compare in importance with airline deregulation or the Internet?

But it is really a much more important issue than most people think. It is important both in and of itself and for its symbolic value. Let me say a word about each.

First, allowing banks to sell insurance benefits consumers and the economy. It increases competition thereby increasing availability, increasing innovation and lowering prices. Since it is a safe, fee income business for banks, it increases revenues and increases the safety and soundness of banks at the same time. It is a win/win for everybody, even insurance agents, because I believe that over time allowing banks to sell insurance, increases customer attention to the product, thereby increasing the size of the overall market.

However, even more than these admirable reasons to encourage bank sales of insurance is the symbolic importance this activity. Let me explain. At the very heart of the American economic miracle that has brought well being not merely to our citizens but to citizens all over the world is a commitment to free and fair markets. Restricting market access in order to protect special interest groups is of course inimical to this commitment.

Such restrictions create market distortions that hurt the economy and consumers, but more importantly they set a precedent; create a symbol, that undercuts the fundamental integrity of our free market system in the eyes of our citizens and the world. If you protect a group in the insurance area, why not protect any other group that can yell loudly and wield heavy-duty political clout. How about protections for mortgage lenders, computer salesmen or ice cream vendors?

Of course, those who would restrict the free market almost always attempt to cooper up reasons that sound high minded and in the public interest. I remember well when I was called up to Congress to explain our steps to allow banks to sell insurance there were a series of reasons given by some for why opening up the market to free market competition was not in the public interest. For example:

- At first it was argued that allowing banks to sell insurance would create a safety and soundness problem as this was a new line of business for the banks, one that they did not understand.
- Once that got beaten back, there was the argument that banks would tie the sale of other financial products to the sale of insurance.
- When it was pointed out that there were already strong anti-tying laws on the books to prevent this kind of abuse, I was still treated to the argument that oh yes, it is possible that allowing banks to sell insurance is a good thing, but

unfortunately the law does not permit it and if you take any steps in that direction you will be acting unlawfully. It took four unanimous U.S. Supreme Court opinions to put that argument to rest.

- And, finally, when all of these arguments and efforts did not work, those who would restrict market access attempted to craft convoluted state regulations – based of course on grandly pronounced public policy arguments – that would in essence prevent banks from selling insurance within a particular state.

Ultimately, thank goodness, principal won out. It was essentially agreed, as reflected in the Financial Services Modernization Act, that our financial markets should be open to fair competition and that banks ought to be able to sell insurance on a level playing field basis.

Thus, for a short moment you have a right to celebrate your victory, a well-deserved victory, and one in the public interest.

## A WORD ABOUT THE FUTURE

But you cannot revel in the moment for long. While the future holds great promise for bank sales of insurance, it also holds great challenges. Let me mention four of them.

- The industry will continually face tendencies on behalf of some of its regulators to over regulate. Some of this attempted over regulation will be competitors trying to do through the back door what they have not been able to do from the front door. But much of the over regulation will come from a regulatory machine merely churning forward, impelled a bit by the natural swing of the regulatory pendulum. We have been through a period of reinventing government, of financial modernization, and this inexorably leads to pressures to re-regulate.

But this is just the tip of the iceberg; the regulatory structure left in the wake of the Financial Modernization Bill is not a stable one. It will have to be dramatically changed at some point in the future. But for the near term, it will survive and will have the tendency to create the toxins of excessive regulation on the one hand with a less strong safety and soundness supervisory environment on the other. Fortunately, there are forces in Washington and often within the regulatory agencies that want to do the right thing and avoid excessive and counterproductive regulation. Nonetheless, it will take constant work on the part of the industry to ensure that excessive regulation does not stifle your exciting new endeavors.

- I have no doubt but that bank sales of insurance will demonstrate over time a high quality distribution system that will greatly serve the consumers interest. However, as with any growing industry there will be those who will step over the line. This is particularly likely in our age with new distribution and sales techniques such as the Internet where the line, for example in the privacy area, is not at all clear. For those who do step over the line, the public, regulators and competitors will be quick to criticize and seek penalties. These penalties will not only impact the particular

individuals or company involved, but will almost certainly affect the entire industry. It is hard to emphasize this latter point strongly enough. Time and again in my almost 30 years of working with the financial services industry I have seen the industry fail to deal with one or two outliers, either by way of condemnation, standards or self-policing. As a result the industry as a whole has become the poster child for the evils of a particular. Such unfair industry-wide characterizations have almost always led to punitive legislation that affects everyone in the industry.

Accordingly, I would strongly advise you as an industry group to work to stay ahead of the curve. Form subgroups to set standards, self-discipline wherever possible. Believe me as painful as an industry lead standards may be, it is almost invariably better than a legislatively imposed one.

- The financial services industry is a dynamic industry, never more so than today. The balance needed to achieve a strong and prosperous industry in the 21<sup>st</sup> century will be quite different than it has been in the last decade. In the decade ahead, the industry will have to balance the new economy, technology and innovation, on the one hand, and the old truths, sufficient touch with the customer and sound operation, including risk control and expense management on the other hand.

The next 10 years will be different for you and your companies in that you will have to be firing on all cylinders most all the time to succeed. The markets will not be kind to laggards. Hence superior best practices knowledge, superior expense management, superior products and effective customer touch will be more and more a necessity.

- Finally, irrespective of what happens to the NASDAQ, technology is the big story for the economy generally and for financial services industry in particular. Sales of insurance will be as affected by technological change as any part of the financial services business. Here is a business where a protected distribution system has made the cost of the product considerably greater than would otherwise have been the case. Some of this excess cost will be wrung out of the system by increased competition brought on by the new financial entrants. However, the Internet distribution mechanism promises to further disintermediate this market. Moreover, technology will give rise not only to new methods of distribution but to new products.

New financial services entrants into this market are in an excellent position to take advantage of these changes. But to succeed you cannot be complacent. Financial companies and non-financial companies are rushing to utilize the new technologies to win over this lucrative market. You are going to have to hustle to stay on top. In this regard, I am reminded of an old Pennsylvania Dutch saying from the part of the world in which I grew up. The saying is “the faster I go, the behinder I get.” It may seem like this some days, but I counsel you to keep up the hustle, technological change is likely to be a marathon and not a sprint. And notwithstanding my Pennsylvania Dutch roots, I suspect that the faster you go the further ahead you will get in the end.

This association and its people have already shown us how to win. You have shown an incredible amount of self-confidence and resolve. Just think of it, a decade ago, you barely had a toe nail hold in this business, and today you have a strong foothold. Even though the waters ahead remain turbulent, I place my bet on you and your industry. I am sure that this will prove a much better bet than most any other choice I have in this city or otherwise.

Thank you again for this award. It has been an honor to work with this industry.

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*Eugene A. Ludwig received the 2000 FIIA Raiken-Sender Bank Insurance Industry Award on Monday, April 17, 2000 at the 12<sup>th</sup> Annual Convention of the Financial Institutions Insurance Association in Las Vegas, NV. Mr. Ludwig's acceptance remarks and keynote address have been published here with his permission.*