



Comptroller of the Currency
Administrator of National Banks

US Department of the Treasury

ENSURING A SAFE AND SOUND
NATIONAL BANKING SYSTEM
FOR ALL AMERICANS

2007 Significant Legal, Licensing, and Community Development Precedents for National Banks



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CONTENTS

2007 SIGNIFICANT LEGAL, LICENSING, AND COMMUNITY DEVELOPMENT PRECEDENTS FOR NATIONAL BANKS.....1

ACTIVITIES1

General Banking Activities1

 Capital.....1

 Corporate Governance and Structure1

 Fiduciary Activities.....2

 Lending.....2

 Other Activities.....2

Securities Activities3

 Derivatives.....3

 Other.....5

ENFORCEMENT ACTIONS5

Consumer Lending5

Bank Secrecy Act/Anti-Money Laundering6

Identity Theft and Information Security7

Professional Services.....7

Other.....8

INVESTMENTS9

Community Development9

Other Investments9

PREEMPTION.....9

REGULATIONS11

2007 Significant Legal, Licensing, and Community Development Precedents for National Banks

ACTIVITIES

General Banking Activities

Capital

- *Margin Loans.* OCC and the Federal Reserve Board issued a joint opinion that for risk-based capital purposes, a liquidity facility should be considered an eligible asset-backed commercial paper (ABCP) liquidity facility so long as the liquidity provider is only permitted to purchase margin loan facilities from the conduit at par if the market value of the collateral exceeds the outstanding loan balance by 25 percent. The risk-based capital treatment would be: apply a 10 percent credit conversion factor to the unused amount of the commitment with an original maturity of one year or less and assign a 100 percent risk weight to the resulting credit equivalent assets based on the nature of the obligor and collateral. OCC Interpretive Letter No. 1099 (May 11, 2007) (publication pending).
- *Private Rating.* OCC and the Federal Reserve Board issued a joint opinion that concluded that, for risk-based capital purposes, private ratings do not qualify as external ratings for purposes of determining eligibility for liquidity facilities that support asset-backed commercial paper (ABCP) conduit assets under the asset quality test. However, in the absence of an acceptable external rating, a bank may, in certain instances, look through asset-backed securities to the underlying assets to determine the eligibility of an ABCP liquidity facility. OCC Interpretive Letter No. 1098 (March 1, 2007) (publication pending).

Corporate Governance and Structure

- *Bank Merger Act.* The OCC, along with the other federal financial institution regulators, issued a joint opinion concluding that the Bank Merger Act is not applicable to the acquisition of a credit card portfolio containing some credit balances by a financial institution from another financial institution, provided that the credit balances represent less than 1 percent of the value of the credit card receivables transferred and the selling institution is in compliance with section 165 of the Truth in Lending Act. OCC Interpretive Letter No. 1083 (May 3, 2007).

- *Deferred Share Units.* Deferred share units of a national bank's holding company were found to be the equivalent of stock of the bank holding company and therefore qualified as an "equivalent interest" under the qualifying share requirement of 12 USC 72. Under section 72, a national bank director is required to hold a financial stake in the operations of the bank (or its parent company) so that the director will have an incentive to be vigilant in protecting the bank's interests. The deferred share units were found to have characteristics of and to create financial incentives similar to equity interests. OCC Interpretive Letter No. 1087 (September 5, 2007).
- *Retention of a Noncontrolling Investment in a Financial Services Holding Company Following the Conversion of the Holding Company's Wholly Owned Subsidiary from a State Limited Commercial Bank Charter to a National Bank Charter.* Because the standards in 12 CFR 5.36 for noncontrolling investments appeared to be satisfied, existing national bank shareholders of a financial services holding company could retain their noncontrolling investments following the conversion of a holding company subsidiary from a state limited commercial bank charter to a national bank charter. The subsidiary would continue to operate primarily as a provider of correspondent services to community banks, but would not qualify as a banker's bank because of its current and proposed activity of making direct commercial loans to nonbank customers. OCC Interpretive Letter No. 1092 (March 22, 2007).

Fiduciary Activities

- *Custody Trust Ledger Deposit Account Program.* A national bank's custody activities with respect to the described Custody Trust Ledger Deposit Account Program are permissible, and the program's non-cash earnings credit feature is not inconsistent with safe and sound banking practices. The program provides for the deposit by broker-dealers of customer funds in accordance with SEC Rule 15c3-3 (special reserve bank account for the exclusive benefit of customers) to accounts maintained in the bank's trust department. OCC Interpretive Letter No. 1078 (April 19, 2007).

Lending

- *Daily Netting Requirement.* A national bank that is a member of a centralized clearing facility that requires daily netting of obligations may aggregate the daily net obligation amounts in order to determine compliance with the legal lending limit, provided that the bank excludes those days for which the net obligation amount is an amount payable by the bank. OCC Interpretive Letter No. 1088 (September 11, 2007).

Other Activities

- *Banking Services for State Lottery Manager.* A national bank is not prohibited from taking deposits from, and providing ordinary banking services to, a state lottery or its

private manager under 12 USC 25a. Such services are expressly authorized by subsection (d). OCC Interpretive Letter No. 1085 (March 8, 2007).

Securities Activities

- *Limited Equity Investment in Connection with Investment Management Activities.* OCC approved a national bank application to establish a third-tier financial subsidiary to serve as the general partner of a newly formed private investment fund and to allow the financial subsidiary, or its direct parent subsidiary, to hold a limited equity interest in the fund in connection with the subsidiary's investment management activities. Holding this interest is an integral part of the compensation structure for investment advisers to private investment funds, and this investment is permissible as an activity that is incidental to the authority of a national bank's subsidiary to provide investment advisory services. OCC Conditional Approval No. 819 (September 7, 2007).
- *Trust Bank Subsidiary and Limited Equity Investment Incident to Investment Management Activities.* The OCC conditionally approved a national bank's application to establish a limited-purpose national trust bank as a subsidiary and for the trust bank to establish an operating subsidiary that would organize and manage two private investment funds. In connection with the operating subsidiary's investment management activities, it would hold special, limited-equity interests in the two private investment funds. Holding such interests is an integral part of the compensation structure for investment advisers to private investment funds, and this investment is permissible as an activity that is incidental to the authority of a national bank's subsidiary to provide investment advisory services. The conditional approval also required the trust bank to maintain minimum capital and liquidity levels, to implement systems and controls to manage risks associated with organizing and managing private investment funds, to notify the OCC of the departure of the investment manager of the operating subsidiary, and to notify OCC of changes in the trust bank's business plan. OCC Conditional Approval No. 804 (May 1, 2007).

Derivatives

- *Customer-Driven Derivatives Transactions—Inflation Indices.* A national bank may engage in customer-driven, perfectly matched, cash-settled derivative transactions on inflation indices. Before the bank may engage in the transactions, the bank must notify its examiner-in-charge (EIC), in writing, of the proposed activities and must receive written notification of the EIC's supervisory no-objection, based on the EIC's evaluation of the adequacy of the bank's risk measurement and management systems and controls to enable the bank to engage in the proposed activities on a safe and sound basis, and the EIC's evaluation of any other supervisory considerations relevant to the particular proposal. OCC Interpretive Letter No. 1079 (April 19, 2007).

- *Customer-Driven Derivatives Transactions—Metal Derivatives.* National banks and certain foreign (London) branches may engage in customer-driven, metal derivative transactions that settle in cash or by transitory title transfer and that are hedged on a portfolio basis with derivatives that settle in cash or by transitory title transfer. OCC Interpretive Letter No. 1073 (October 19, 2006).
- *Customer-Driven Derivatives Transactions—Specified Property Indices.* A national bank may engage in customer-driven, perfectly matched, cash-settled derivative transactions on certain specified property indices. Before the bank may engage in the transactions, the bank must notify its examiner-in-charge (EIC), in writing, of the proposed activities and must receive written notification of the EIC’s supervisory no-objection, based on the EIC’s evaluation of the adequacy of the bank’s risk measurement and management systems and controls to enable the bank to engage in the proposed activities on a safe and sound basis, and the EIC’s evaluation of any other supervisory considerations relevant to the particular proposal. OCC Interpretive Letter No. 1081 (May 15, 2007).
- *Customer-Driven Property Index Derivatives Transactions—Broad-Based Property Indices.* A national bank may engage in customer-driven, perfectly matched, cash-settled property index derivative transactions on regularly produced broad-based property indices that use appraisal- and sales-based data on foreign and domestic commercial and residential real estate. Before the bank may engage in these transactions, the bank must notify its examiner-in-charge (EIC), in writing, of the proposed activities and must receive written notification of the EIC’s supervisory no-objection. OCC Interpretive Letter No. 1089 (October 15, 2007).
- *Equity Derivatives Transactions.* A national bank may purchase and hold the following securities to hedge bank permissible equity derivative transactions: common and preferred stock, convertible and exchangeable securities, master limited partnership interests, limited partnership interests, limited liability corporation interests, depositary receipts (including American and Global), closed- and open-end mutual funds, exchange traded funds, and certain real estate investment trusts. Before the bank may engage in physical hedges involving these equity securities for which it has not received a supervisory no-objection, the bank must notify its examiner-in-charge (EIC), in writing, and must receive written notification of the EIC’s supervisory no-objection. OCC Interpretive Letter No. 1090 (October 25, 2007).

Other

- *Fixed-Rate, Cumulative Preferred Securities.* A national bank has authority under 12 USC 24 (Seventh), and in accordance with Part 1, to purchase and hold for its own account shares of fixed-rate cumulative preferred securities. The securities have characteristics typically associated with debt instruments, rather than common stock. This conclusion is subject to the condition that the bank will not exercise conversion rights so long as the securities are held by the bank or any subsidiary. OCC Interpretive Letter No. 1086 (August 23, 2007).

ENFORCEMENT ACTIONS

Consumer Lending

- *Improper FHA Certifications.* The OCC issued personal cease and desist orders and assessed civil money penalties (CMPs) of \$10,000 and \$5,000 against managers, a team leader, and a senior vice president of the lending subsidiary of a national bank for varying levels of culpability in submitting false or improper certifications of the FHA loans. Earlier, the subsidiary had agreed to pay approximately \$6.8 million restitution to the U.S. Department of Housing and Urban Development, agreed not to submit insurance claims (estimated to be at least \$20 million) on certain FHA loans, and was assessed a \$6.25 million CMP by the OCC. *In the Matter of ABN-Amro Mortgage Group, Inc., subsidiary of LaSalle Bank MidWest N.A., Troy, Mich.*, Doc. No. 2005-162 (December 30, 2005); *In the Matter of Dianne M. Schupbach*, Doc. No. 2007-101 (August 15, 2007); *In the Matter of David A. Wright*, Doc. No. 2007-102 (August 15, 2007); *In the Matter of Donna J. O'Toole*, Doc. No. 2007-112 (September 12, 2007); *In the Matter of Kathy A. Yesh*, Doc. No. 2007-131 (December 3, 2007); *In the Matter of John B. Collins*, Doc. No. 2007-096 (August 15, 2007); *In the Matter of Margaret S. Feskorn*, Doc. No. 2007-097 (August 15, 2007); *In the Matter of Tracie B. Hunter*, Doc. No. 2007-098 (August 15, 2007); *In the Matter of Carl B. Johnson*, Doc. No. 2007-099 (August 15, 2007); *In the Matter of David R. Prichard*, Doc. No. 2007-100 (August 15, 2007).
- *Improper Underwriting and Certification.* The OCC issued a prohibition order by consent and assessed a \$5,000 CMP against a former loan officer at a bank lending subsidiary and issued a personal cease and desist order against his supervisor for their actions involving loans for property at a resort development. The loan officer originated as second home mortgages multiple loans that, under the subsidiary's loan policies, should have been originated as more risky investment property loans. As a result, the loans were improperly underwritten. The loan officer's supervisor signed certifications that applications for mortgage loans in the same development satisfied the primary residence criteria of the Federal National Mortgage Association, despite his knowledge of facts that indicated otherwise. The bank foreclosed on approximately 150 mortgage and construction loans associated with the development and suffered losses of at least \$7

million. *In the Matter of J.W. Compton, First Horizon Home Loan Corp., subsidiary of First Tennessee Bank, N.A., Memphis, Tenn.*, Doc. No. 2007-134 (November 29, 2007); *In the Matter of Terry K. Taylor*, Doc. No. 2007-148 (December 20, 2007).

- *Predatory, Abusive, Unfair, or Deceptive Lending Practices.* OCC issued enforcement actions against two employees of a bank's mortgage subsidiary for their alleged involvement in a scheme with an investor who flipped houses. The employees, a loan officer and his spouse, a mortgage processor, allegedly submitted false and misleading loan applications to the bank to obtain mortgages for 64 low-income, first-time homebuyers to buy homes from the investor. The loan officer and mortgage processor allegedly received kickbacks from the investor for each of these loans. Many of the borrowers received mortgages, based on the false and misleading applications, for which they would not have otherwise qualified. When borrowers defaulted, the bank incurred loan losses of approximately \$1 million and many of the borrowers lost their homes. *In the Matter of James Serratore, MNC Mortgage Corp., a subsidiary of First Tennessee Bank N.A., Memphis, Tenn.*, Doc. No. 2007-51 (February 26, 2007); *In the Matter of Aileen Faccenda*, Doc. No. 2007-6 (January 19, 2007).

Bank Secrecy Act/Anti-Money Laundering

- *Failure to Maintain Effective Anti-Money Laundering Procedures.* The OCC issued a cease and desist order by consent and a \$10 million CMP against a bank for violations of the Bank Secrecy Act. The CMP was assessed concurrently with the Financial Crimes Enforcement Network (FinCEN). The enforcement actions were part of coordinated actions with the U.S. Department of Justice, which issued a Deferred Prosecution Agreement and accompanying \$21,600,000 forfeiture in connection with charges that the bank failed to maintain an effective anti-money laundering program. The OCC determined that the bank failed to monitor adequately certain Mexican *casa de cambio* accounts, identify suspicious activity and file suspicious activity reports in a timely manner, and comply with requirements to improve its processes for identifying and reporting suspicious transactions, resulting in the movement of millions of dollars of suspected proceeds of drug sales through the foreign accounts without detection. *In the Matter of Union Bank of California, San Francisco, Calif.*, Doc. No. 2007-110 (September 14, 2007).
- *Failure to Meet BSA/AML Requirements.* OCC assessed a \$250,000 CMP by consent against a bank for failure to meet BSA/AML requirements and unsafe or unsound practices in a specialized lending division. In addition, the OCC issued cease and desist orders by consent and assessed a CMP against division officers. *In the Matter of International Bank of Miami, N.A., Coral Gables, Fla.*, Doc. No. 2007-11 (February 12, 2007); *In the Matter of Edward Farah*, Doc. No. 2007-37 (April 9, 2007); *In the Matter of Gustavo Quesada*, Doc. No. 2007-38 (April 9, 2007); *In the Matter of Stephen Moynahan*, Doc. No. 2007-25 (March 26, 2007).

- *Failure to Meet BSA/AML Requirements.* OCC issued a cease and desist order by consent and assessed a \$500,000 CMP against a federal branch for failure to meet BSA/AML requirements, including failure to identify suspicious activities and file suspicious activity reports. *In the Matter of United Bank For Africa PLC (federal branch), New York, N.Y.*, Doc. Nos. 2007-3 (January 18, 2007) and 2007-39 (May 2, 2007).

Identity Theft and Information Security

- *Confidential Customer Information.* The OCC collaborated with the Bergen County, New Jersey, county prosecutor to obtain prohibition orders against bank employees who were paid by a third party to gather confidential information on selected bank customers. The third party, in turn, sold the confidential customer information to law firms for collection purposes. *In the Matter of Maurice Williams, Wachovia Bank, N.A., Charlotte, N.C.*, Doc. No. 2007-29 (January 8, 2007); *In the Matter of Myron Frierson, Wachovia Bank, N.A., Charlotte, N.C.*, Doc. No. 2007-76 (April 17, 2007); *In the Matter of James Digangi, PNC Bank, N.A., Pittsburgh, Pa.*, Doc. No. 2007-56 (May 9, 2007); *In the Matter of Kelvin Diaz, Bank of America, N.A., Charlotte, N.C.*, Doc. No. 2007-84 (May 11, 2007).
- *Nonpublic Customer Information.* The OCC issued a personal cease and desist order, by consent, and assessed a \$7,500 CMP against a former bank officer for allegedly misappropriating the nonpublic personal information of bank customers. *In the Matter of Jono Anzalone, American National Bank, Omaha, Neb.*, Doc. No. 2007-132 (December 3, 2007).

Professional Services

- *Restrictions on Attorneys' Professional Services.* In its continuing investigation of alleged misappropriation of bank funds and nominee loans, obstruction of an OCC examination, noncompliance with prior enforcement actions, and other misconduct, and after filing notices of charges against a number of a bank's officers and directors, the OCC obtained consent orders against 14 officers, directors, and employees. In particular, the OCC obtained prohibition and personal cease and desist orders by consent and assessed CMPs against the bank's former CEO and chairman of the board (a licensed attorney) and the bank's former chief legal officer and in-house counsel. In consenting to the cease and desist orders, the two attorneys agreed not to provide professional representation (including legal work) of any kind to any insured depository institution. *In the Matter of William T. Harrison, Sr., First National Bank of Shelby County, Columbiana, Ala.*, Doc. No. 2007-34 (April 13, 2007); *In the Matter of William R. Justice*, Doc. No. 2007-122 (October 18, 2007).

- *Restrictions on Law Firm's Activities.* OCC entered into agreements with an attorney and the attorney's law firm in connection with the law firm's investigation, on behalf of a bank, of the activities of certain bank officers, including the bank's CEO/chairman of the board. The OCC had discovered evidence to suggest that the officers had engaged in fraudulent transactions to hide bank losses. However, the law firm's reports cleared the officers of wrongdoing. The bank subsequently was closed. In related criminal actions, the CEO/chairman and two other bank officers were incarcerated. The law firm and the firm attorney signed agreements with the OCC governing their representation of insured depository institution clients and agreed to pay CMPs of \$750,000 and \$175,000, respectively. The law firm agreed to pay more than \$7 million to the FDIC as the receiver for the bank. *In the Matter of Greenberg Traurig LLP, special outside counsel for Hamilton Bank, N.A., Miami, Fla.*, Doc. No. 2006-135 (October 31, 2006); *In the Matter of Robert L. Grossman*, Doc. No. 2006-136 (November 7, 2006).

Other

- *Adjusted Price Trades.* OCC issued a prohibition order against the bank's former senior vice president/chief financial officer for participating in adjusted price trades, which caused loss to the bank of approximately \$8 million, and filing inaccurate call reports. *In the Matter of John Jacobs, Hamilton Bank, N.A., Miami, Fla.*, Doc. No. 2007-117 (January 19, 2007).
- *Enforcement of a Consent Order in U.S. District Court.* After a bank president/director/CEO failed to make reimbursement (\$100,000) and restitution (\$406,976) payments as he had agreed in signing an earlier order, the OCC successfully enforced the reimbursement and restitution requirements in U.S. District Court. The judge also ordered the officer to pay a 10 percent surcharge to the OCC (\$50,697) for costs associated with recovering the debt and enforcing the order, pursuant to the Federal Debt Collection Procedures Act, 28 USC 3001 *et seq.* The officer subsequently paid all amounts due in full. *In the Matter of Uriel Mendieta, Terrabank N.A., Miami, Fla.*, Doc. No. 2006-45 (May 25, 2006); *OCC v. Mendieta*, Case No. 06-23058-Civ-Seitz/McAliley (S.D. Fla. August 20, 2007).
- *Trade Advance Loans.* OCC issued a prohibition order by consent against a bank's former senior vice president/director for fraudulently obtaining more than 100 trade advance loans and causing loss to the bank of \$18.6 million. In a related criminal proceeding, the former officer pled guilty to bank fraud. He was sentenced to a 97-month prison term and ordered to pay \$18.6 million in restitution to the bank. *In the Matter of David F. Verhotz, KeyBank N.A., Cleveland, Ohio*, Doc. No. 2007-44 (April 20, 2007); *United States v. Verhotz*, No. 1:06CR557 (N.D. Ohio April 23, 2007).

INVESTMENTS

Community Development

- *Investment in the Construction and Sale of Single Family Properties.* A national bank's subsidiary community development corporation may invest in the construction of single family homes, which are then resold, located in low- or moderate-income communities. CDIL 2007-2 (October 11, 2007).
- *Investment in the renovation and resale of single family properties.* A national bank's subsidiary community development corporation may invest in the acquisition, renovation, of single family homes, which are then resold, located in low- or moderate-income communities. CDIL 2007-1 (August 17, 2007).

Other Investments

- *Noncontrolling Investment in Fraud Prevention Company.* A national bank can hold a noncontrolling investment in a company that offers fraud prevention, identity verification, credential validation, and payment/deposit risk services to financial institutions and other companies in the financial industry. OCC Interpretive Letter No. 1077 (January 11, 2007).

PREEMPTION

- *Fee for Preparation of Bank Mortgage Documents.* A national bank does not engage in the unauthorized practice of law by charging a fee for preparing its own mortgage documents. The OCC filed an amicus brief supporting a national bank's argument that the National Bank Act and OCC regulations preempt Indiana law making it the unauthorized practice of law for lenders to charge document preparation fees in connection with their mortgage lending operations. Although the Indiana Court of Appeals rejected the bank's argument, the Indiana Supreme Court ultimately concluded that lenders could charge such fees without violating state law. *Charter One Mortgage Corp. v. Condra*, 865 N.E.2d 602 (Ind. 2007).
- *Fiduciary Powers.* A national bank is authorized under federal law to be appointed, and accept any appointment, to act in a fiduciary capacity permitted to state fiduciaries in Missouri without obtaining any express qualification under Missouri law, including a reciprocity certificate. OCC Interpretive Letter No. 1080 (April 4, 2007).
- *New York State Attorney General Barred from Enforcing Subpoenas for Mortgage Loan Records of National Banks.* The Second Circuit Court of Appeals upheld federal district court decisions barring the New York State Attorney General from enforcing subpoenas

for mortgage loan records of national banks to investigate compliance with state fair lending statutes. The New York Attorney General had appealed two related federal district court decisions in suits brought by the OCC and the New York Clearing House Association in which the court enjoined the attorney general from: 1) issuing subpoenas or demanding inspection of the books and records of any national banks for his investigation into residential lending practices, 2) instituting any enforcement actions to compel compliance with existing information demands, 3) instituting actions in court to enforce state fair lending laws; and 4) instituting a *parens patriae* action to enforce the federal Fair Housing Act. The Second Circuit upheld in its entirety the district court decision in the suit brought by the OCC, but vacated the decision in the Clearing House case regarding the Fair Housing Act upon concluding that the district court lacked jurisdiction because the issue was not yet ripe for review. The New York Attorney General has petitioned the Second Circuit to grant *en banc* review of the panel's decision. *Clearing House Association, LLC, Office of the Comptroller of the Currency v. Cuomo*, 510 F.3d 105 (2d Cir. 2007).

- *Overdraft Practices.* A national bank is federally authorized to honor overdrafts and charge fees for doing so. These practices do not implicate the OCC's rules concerning state laws pertaining to the "right to collect debts." OCC Interpretive Letter No. 1082 (May 17, 2007).
- *Sale of Authorized Stored Value Cards.* States may not interfere with a national bank's sale of authorized stored value cards with particular features by prohibiting third-party agents from performing services for the bank. The First Circuit Court of Appeals upheld a district court decision that the National Bank Act preempts a state law that purports to prohibit a national bank from using a shopping mall operator to market and deliver to retail customers the national bank's gift cards that carry an expiration date and dormancy fee. The district court and court of appeals rejected the state's argument that, because the bank was free to sell its gift cards to customers through other means, the state statute regulated only the conduct of the mall operator, not the bank. The Supreme Court denied the New Hampshire Attorney Generals petition for certiorari on the Supreme Court. *SPGGC LLC v. Ayotte*, 488 F.3d 525 (1st Cir. 2007).
- *Supreme Court Affirmation of Ruling that Federal Law Preempts Michigan's Restrictions on the Activities of National Bank Mortgage Operating Subsidiaries.* The Supreme Court affirmed that the National Bank Act preempts state laws that would require national bank operating subsidiaries to obtain state licenses to engage in banking activities authorized for their parent national banks and that the National Bank Act prohibits states from exercising any "visitorial" powers over operating subsidiaries of national banks. The case heard by the Supreme Court was one of four cases in which U.S. courts of appeal upheld decisions by district courts in California, Connecticut, Maryland, and Michigan that granted national banks declaratory and injunctive relief in suits challenging states' efforts to license and exercise enforcement authority over national bank mortgage subsidiaries. After issuing its ruling in the Michigan case, the Supreme Court denied

petitions for Supreme Court review filed by Connecticut and Maryland. *Watters v. Wachovia Bank, N.A.*, ___ U.S. ___, 127 S.Ct. 1559 (2007).

REGULATIONS

- *Lending Limits Pilot Program.* The OCC issued an interim final rule that makes permanent the Lending Limits Pilot Program, which provides special lending limits for 1- to 4-family residential real estate loans, small business loans, and small farm loans. Under the interim rule, a national bank may use a higher lending limit for 1- to 4-family residential real estate loans, small business loans, and small farm loans, if the state where the bank is located allows its state-chartered banks to use a higher lending limit for these types of loans. The interim rule also eliminates the \$10 million cap on loans to one borrower for each type of loan covered by the program. The other limits that apply to the program remain unchanged. Like the pilot program, the interim rule contains a number of safeguards to ensure that the special lending limits are available only to banks in good financial condition with a demonstrated record of making sound loans. A national bank is eligible to make use of these special lending limits if it is well capitalized and has a rating of 1 or 2 under the CAMELS system, with at least a rating of 2 for asset quality and management. (12 CFR 32) 72 *Federal Register* 31441 (June 7, 2007).