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Micro Business Loans Jumped in 2002

The number of micro business loans made by U.S. banks jumped by 45 percent in 2001-2002 according to a report released today by the Office of Advocacy. The report, *Small Business and Micro Business Lending in the United States, 2002 Edition*, indicates that the large increase in the number of micro-business loans (under \$100,000) was primarily the result of the promotion and use of small business credit cards.

Small business lending as a whole showed only moderate increases during the same period. The country was just emerging from recession and both borrowers and lenders continued to hold off new borrowing and lending in reaction to the uncertain economy. While the smallest business loans increased by 45 percent, the number of loans between \$100,000 and \$250,000 increased 8.8 percent and those between \$250,000 and \$1 million increased by 9.8 percent.

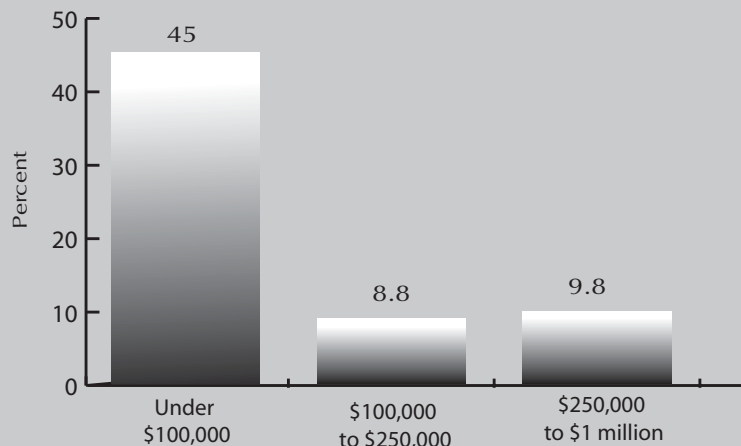
“Access to credit is vital for small business survival,” said Thomas M. Sullivan, chief counsel for advocacy. “It’s critical that small firms know how banks are meeting their credit needs and which banks are investing in small business. This report is one tool small businesses can use when they shop for loans, and it also provides policymakers with data they need to make informed decisions on financial matters,” he said.

Designed to help small firms in their search for capital, the report also analyzes bank lending patterns across the United States and across commercial bank sizes. It ranks banks based on their small business-friendly and micro business-friendly lending. The report does not rank bank participation in SBA guaranteed loan programs.

The report is based on Consolidated Reports of Condition and Income (call reports) and

Continued on page 8

**Growth in Small and Micro Business Loans, 2001-2002
(Number of Loans)**



Source: *Small Business and Micro Business Lending in the United States, 2002 Edition*. U.S. Small Business Administration, Office of Advocacy, December 2003.

Regional News

Voters Approve Washington State Initiative Repealing State Ergo Rule

by Norm Proctor, Regional Advocate, Seattle, Washington

Employers breathed a sigh of relief in 2001 when Congress and President Bush repealed the punitive federal ergonomics rules—that is, except for employers in Washington State.

Washington was the only state with its own ergonomics rule. The rule was designed to prevent stress and strain injuries from repetitive motion, but even ergonomic experts cannot agree on precisely what causes such injuries or how to prevent them. Nevertheless, the state required that employers analyze their workplaces for ergonomic hazards and do whatever was necessary to prevent them.

Employers argued that Washington State's ergonomics rule was hopelessly vague, complex, and costly. With no clear science to guide enforcement, employers feared that the ergonomics rule could become a lightning rod for activist regulators and trial lawyers. In addition, they pointed out that current voluntary efforts provide much more flexibility to address ergonomics injuries.

Unfortunately, those arguments fell on deaf ears as Washington State's Department of Labor and

Industries went full speed ahead adopting ergonomics standards.

Despite efforts in the state legislature to repeal those rules and replace them with a more collaborative approach targeted at the problem jobs, Gov. Gary Locke and leaders in the legislature allowed the department to press forward.

As a result, employers were forced to take up the monumental challenge of gaining voter approval on Initiative 841, which was fought every step of the way by the huge Olympia regulatory establishment. On Nov. 4, Washington State voters passed I-841 with a 54 percent majority. The measure repeals the ergonomics rule and bars state regulators from trying to put another rule in place unless required by the federal government.

"The vote is a major win for the small business community," said Chief Counsel for Advocacy Thomas M. Sullivan. The Office of Advocacy lent its support to I-841 during meetings with key business leaders, public officials, and trade associations, as well as in speeches and an op-ed. Washington State's experience highlights the role state regulators often play in stifling

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entrepreneurship and job creation. It points out just how important it is for states to encourage small business-friendly regulations.

Advocacy Launches State Reg Flex Webpage

State legislators, small business owners, and activists in the fight for economic development now have a new web tool in their arsenal. Launched in December, the Office of Advocacy's state regulatory policy webpage offers a wealth of information on current state laws, proposed legislation, statistics, information, and much more. The new web tool, located at www.sba.gov/advo/laws/law_modeleg.html, is the latest step

in Advocacy's promotion of small business-friendly regulatory policy at the state level. In Dec. 2002, Advocacy presented draft model regulatory flexibility legislation to the American Legislative Exchange Council (ALEC) for consideration by state legislators. ALEC endorsed the model legislation earlier this year. Since then many states have taken steps to encourage small business-friendly regulations, including Colorado, Massachusetts,

Missouri, North Dakota, and West Virginia.

The legislation, modeled after the federal Regulatory Flexibility Act (RFA), would require state agencies to consider their impact on small business before imposing regulatory mandates.

For more information, contact Jaime Willis, state and local regulatory analyst, at (202) 401-9787 or jaime.willis@sba.gov.

Message from the Chief Counsel

Taking the Pulse of Small Business—Critical Issue Roundtables

by Thomas M. Sullivan, Chief Counsel for Advocacy

To function effectively as the voice of small business within the federal government, Advocacy needs input from small businesses on a myriad of issues. I hear directly from small business owners during visits and speeches around the country, and many contact this office directly. Since federal agencies often take months or even years to bring a rule from draft to final stage, it would strain the resources of even the most dedicated small business owner to track and meet every relevant comment deadline.

Industry trade associations are Advocacy's principal source of information on the potential impact of federal rules and legislation on small businesses. Advocacy gathers information from trades and the small businesses they represent in roundtable discussions. Roundtables bring together many parties involved in rulemaking issues. Two recent ones are good examples. In November, my staff convened roundtables on rules currently being considered by the U.S. Department of Agriculture (USDA) and the Federal Communications Commission (FCC).

Country-of-Origin Labeling. Last year's Farm Bill required a great many products sold by food retailers to have their country of origin identified. This requirement, called country-of-origin labeling, or COOL, is of interest to consumers, but it imposes great expenses on small food retailers, produce distributors and small farms, meat packers, and ranchers. To make useful comments on a rule, Advocacy needs to show a specific economic impact of a rule, and many of those present at the roundtable had done this kind of calculation. The owner of a small supermarket chain in New Jersey

showed how the labeling requirements added costs at every stage of food distribution, from farm to supermarket display, as the hundreds of items on sale every day would have to be separated into additional smaller units, requiring warehouse and retail slots to be tripled or even quadrupled.

Present at the session were trade association staff, small business members of the associations, and staff members of the House Government Reform Committee. One trade association representative participated via conference call from Nebraska. Based on the roundtable input, Advocacy filed a comment letter with the USDA on Dec. 5 spelling out the disproportionate impact of the COOL regulations on small businesses.

Do-Not-Fax Rule. One part of the FCC's widely discussed do-not-call rule that has not received much media attention is a provision aimed at fax spammers, termed the "do-not-fax" rule. The rule requires any business or nonprofit that sends an unsolicited fax to have written permission, including a signature, prior to sending a fax. At least a dozen trade associations were represented at the roundtable. Also present were two FCC observers and staff from the Senate Committee on Small Business and Entrepreneurship.

The consensus among small business representatives was that the do-not-fax rule hobbles the fax machine as a piece of marketing equipment. A phone or email request for a fax is not recognized as legal permission under the rule and exposes the sender to large penalties. The rule also interferes with routine communications: it prohibits membership and trade associations from communicating

with their members by fax without expressly signed consent and does not recognize an established business relationship as grounds for sending a fax. As one participant commented, the rule is a blunt instrument aimed at a specific problem—fax spamming. As a result of the roundtable, Advocacy sent a letter to the FCC on Nov. 21 highlighting the economic impacts of the do-not-fax rule and proposing less burdensome alternatives.

The preparation that trade associations do for these and other roundtables provides crucial data in Advocacy's arguments showing that a rule has much greater costs for a small entity than a large one. At both of these roundtables, trade associations and small businesses presented estimates of costs, which are a key part of our requests for provisions that reduce a rule's burdens on small businesses. Time and again, agencies tell Advocacy, "It's not enough to say that a rule will do harm or impose a burden. We need data." Roundtables are a key way of gathering facts and figures so that Advocacy can make the case for small business before federal agencies and Congress.

For More Information

Advocacy's comment letter to the USDA can be found at www.sba.gov/advo/laws/comments/ams03_1205.html. The associated fact sheet is at www.sba.gov/advo/laws/comments/factsams03_1205.pdf

Advocacy's *ex parte* letter to the FCC is at www.sba.gov/advo/laws/comments/fcc03_1121.html and the fact sheet is at www.sba.gov/advo/laws/comments/factsfcc03_1121.pdf.

Regulatory Update

Environmental Protection Agency

Toxic Release Inventory

Reporting. During 2003, Advocacy worked with EPA to develop options to streamline the regulatory burden of Toxics Release Inventory (TRI) reporting. Advocacy filed comments with EPA on Sept. 2, 2003, which EPA addressed in an issue paper released in November.

The deadline for public comment on the paper is Jan. 5, 2004. EPA is looking to identify a specific burden reduction initiative that effectively lessens the burden on facilities while ensuring that TRI continues to provide communities with the same high level of information on significant chemical releases and other waste management issues. Advocacy will continue to work with EPA and small businesses that file TRI reports to reduce the reporting and paperwork burdens.

Spill Prevention Controls and Countermeasures.

Advocacy is working with industry representatives and EPA to identify possible modifications to the final Spill Prevention Controls and Countermeasures rule that was issued in July 2002. Advocacy has recommended revisions for EPA's consideration and is encouraging EPA to issue a proposed rule in early 2004. This is an important initiative which could save \$200 million in compliance costs for the 200,000 facilities covered by this rule, with no detriment to the environment.

Emissions from Non-road Diesel Engines and Fuels.

Advocacy participated in a SBREFA panel on a draft proposed rule on non-road diesel engines and fuels in late 2002. Advocacy sought to ensure that the proposed emission control requirements would not put smaller equipment manufacturers out of business. The draft proposal would have required costly after-treatment

devices for non-road engines as small as 25 horsepower, and relied on unproven technology. In the panel report, Advocacy recommended that EPA exempt engines below 70 horsepower from the most stringent and costly control technology. The EPA proposed rule included a regulatory alternative consistent with Advocacy's recommendation. Advocacy will continue to work with EPA to achieve additional small business burden reductions in the final rule.

Food Labeling and Safety

Country of Origin Labeling

Regulations. On Oct. 30, the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service published a proposed rule on mandatory country-of-origin labeling. The proposal rule requires that by Sept. 30, 2004, food retailers must disclose a product's country of origin to consumers through labels or signage that indicates whether the product is of U.S., foreign, or mixed origin. The rule requires product producers and suppliers to provide food retailers with country of origin documentation so

that the retailers can adequately advise the consumer. (Food service establishments are exempt from the requirements.) Advocacy filed a comment letter on Dec. 5 asking the agency to continue its study of the rule's economic impacts on small entities and to consider less burdensome alternatives.

FDA Food Bioterrorism

Regulations. In 2003, the Food and Drug Administration (FDA) proposed four rules designed to protect the United States' food supply from acts of bioterrorism. The rules will have an impact on food imported into the United States and will require importers to register their food facilities, give prior notice of food shipments to the FDA, and maintain certain records on food imported into the country. The rules also allow the FDA to administratively detain food shipments on which improper notification was given. The FDA consulted with Advocacy early on in the rulemaking process, and Advocacy was involved throughout FDA's public outreach effort and during intera-

Continued on page 5



To supply products year round, grocers depend on a global supply chain. Country-of-origin labeling would add costs at every stage, from producer to retail, and fall heaviest on small businesses. *Photo courtesy of ShopRite Supermarkets*

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agency review of the rules. As a result significant changes were made to the rules as they progressed from proposed to final. The rules were required by statute to be effective by Dec. 12, 2003.

Telecommunications

Fax Advertising Restrictions. The Federal Communications Commission (FCC) has adopted broad new restrictions on fax advertising that require individuals to obtain prior permission in writing, with a signature from the recipient, before sending an unsolicited fax advertisement. Advocacy supported a stay of the fax advertising provisions and submitted a petition for reconsideration, requesting that the FCC revisit the changes to reduce the impact on small entities. The FCC stayed the changes, preserving the status quo until Jan. 1, 2005, pending the FCC's decision on the petitions for reconsideration.

Labor Law

Overtime Simplification and Reform. The Department of Labor is in the process of revising the regulations that determine which employees are deemed "executive, administrative, or professional" and are therefore exempt from the overtime pay requirement of the Fair Labor Standards Act. Small employers prefer the updated and simplified rules that DOL is proposing over the current "duties test," whose complexity makes compliance difficult for small employers. Advocacy wrote letters to the Department of Labor and the U.S. Congress in support of the rulemaking. Currently, the department is reviewing public comments prior to issuing its final rule to update and simplify the overtime rules.

Fish and Wildlife Service Critical Habitat Designations.

This year, the U.S. Fish and Wildlife Service proposed numerous rules under the Endangered Species Act designating millions of acres of land as critical habitat for endangered species. Critical habitat designation requires small entities in these areas to engage in time-consuming consultation and potentially costly mitigation if the Fish and Wildlife Service determines that their activities may result in an "adverse modification" to endangered species habitat, regardless of whether the species is present. Recent federal court decisions have interpreted the Endangered Species Act to require the designation of critical habitat for every listed species under the Endangered Species Act. Therefore, the Fish and Wildlife Service must designate habitat for hundreds of species across the United States. Advocacy will continue to work with affected small entities and the Fish and Wildlife Service to ensure that any designations of land as critical habitat take into account the economic impact on small entities.

Americans with Disabilities Act

Accessibility Guidelines Near Final. In November, the Architectural and Transportation Barriers Compliance Board met to discuss its final draft updates to the Americans with Disabilities Act accessibility guidelines. The guidelines set minimum standards of accessibility for new construction, alterations, and retrofitting small hotels, banks, movie theaters, and other businesses that regularly serve the public. Advocacy remains committed to ensuring that any revision to the accessibility guidelines considers the potential impacts on small businesses with existing public facilities. The

Department of Justice will rely on the Access Board's guidelines when it initiates rulemaking on retrofitting existing facilities.

Consequently, the standards they contain are a major concern for small businesses.

Tax Issues

Depreciation of Vans and Light Trucks. When Congress placed limits on the depreciation of passenger vehicles used in business or trade, it authorized the Internal Revenue Service (IRS) to issue regulations to exclude vans and light trucks from the cap. In July 2003, the IRS issued a temporary regulation providing a limited exclusion for vans and light trucks that are specially designed or modified so they can be used in a business. In October, the IRS issued a related revenue procedure which raises the total amount that a business owner can write off on unmodified trucks and vans used in business to \$23,500. While these actions are encouraging, Advocacy has urged the IRS to consider allowing the full depreciation of unmodified vans and light trucks if a business can prove a business-related purpose and little or no personal use of the vehicle.

Excise Taxes on Mobile Machinery. In June 2002, the IRS proposed a rule changing the definition of "highway vehicle" which had been in use for 30 years. The definition had exempted certain vehicles, known as mobile machinery, from highway use excise taxes (including taxes on diesel fuel and gasoline, chassis and tires, and highway use). Under the proposed rule, small businesses that own large equipment used at jobsites rather than for transportation (drills, cranes, cement pumps, and other mobile machinery) would be

Continued on page 6

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subject to the excise taxes. Advocacy joined members of Congress and the small business community in expressing concern about the proposal. The IRS agreed to postpone further action to give Congress time to address the underlying statute. Advocacy continues to monitor the issue and will urge the IRS to complete a thorough analysis before issuing a final rule.

Occupational Safety

In 2003, Advocacy participated in small business review panels on three draft proposed rules under development at the Occupational Safety and Health Administration (OSHA). The Small Business Regulatory Enforcement Fairness Act (SBREFA) requires OSHA to convene small business panels on certain draft proposed regulations to allow officials to hear directly from small businesses.

Electrical Power Generation, Transmission and Distribution.

The panel report on electrical power generation, transmission and distribution told OSHA

Administrator John Henshaw that the agency had greatly underestimated the costs of the draft proposed rule, which would set new safety requirements for the construction of new power lines. The panel noted that some of the new requirements would create new hazards, and recommended that a new rule for the construction industry should be similar to the rule for general industry.

Confined Spaces. The panel on confined spaces in construction reported that OSHA did not account for the costs of the draft proposed rule to the home building industry, which could represent half or more of the total costs of the rule. The report also pointed out that the rule was too complicated, costly, and ambiguous.

Exposure to Silica Dust. The small business representatives told

the panel on occupational exposure to silica dust that the draft proposed rule was unnecessary and that it was too expensive and cumbersome to be useful in the construction, manufacturing, or foundry industries.

Occupational Exposure to

Hexavalent Chromium.

OSHA will convene a panel on occupational exposure to hexavalent chromium in Feb. 2004. OSHA is under a court order to issue a final rule on hex chrome by Nov. 2004. Advocacy will monitor any proposed rules from OSHA to ensure that the agency is responsive to the recommendations in the panel reports.

Procurement

SBA Size Standard

Modernization. SBA's size standards define whether a business entity can be considered "small" and consequently, whether it is eligible for assistance through various government programs. Size standards have been established by type of economic activity or industry, and generally under the North American Industry Classification

System. Currently, a business may be classified as small based on the number of employees or its annual receipts averaged over a three-year period. SBA will soon issue a proposed rule to convert all small business size definitions to equivalent employee-based standards.

Advocacy will work closely with small entities to assess the proposed changes and provide comment on the SBA proposal.

Contract Bundling. In accordance with the President Bush's 2002 Small Business Agenda, SBA and the Federal Acquisition Regulation Council have published final bundling regulations. These new regulations will require the federal agencies' Offices of Small and Disadvantaged Business Utilization to perform increased oversight functions; reduce the threshold and revise the documentation required for what constitutes substantial bundling; and revise the definition of bundling to include multiple award contract vehicles, as well as task and delivery orders issued under such vehicles.

Service-Disabled Veterans.

Congress has passed legislation to provide a procurement program for qualified service-disabled veterans. The new law provides federal agencies with discretionary authority to create sole-source contracts for service-disabled veterans and allows the bidding pool for certain contracts to be restricted to such veterans if at least two are qualified to bid. The new law also creates a pilot program in the U.S. Department of Veterans Affairs in which service-disabled, veteran-owned and -controlled small businesses will have the same contracting priority as in the 8(a) program, which gives access to sole-source contracts and set-asides to companies owned by socially and economically disadvantaged individuals.

For More Information

Advocacy's assistant chief counsels can answer questions about these regulatory issues:

ADA/Labor/Fish and Wildlife Service. Michael See, (202) 619-0312 or michael.see@sba.gov

Environment. Kevin Bromberg, (202) 205-6964 or kevin.bromberg@sba.gov

FDA/Agriculture. Linwood Rayford, (202) 401-6880 or linwood.rayford@sba.gov

Occupational Safety. Charles Maresca, (202) 205-6978 or charles.maresca@sba.gov

Procurement. Major Clark, (202) 205-7150 or major.clark@sba.gov

Taxes. Russ Orban, (202) 205-6946 or russell.orban@sba.gov

Telecom. Eric Menge, (202) 205-6949 or eric.menge@sba.gov

Research Notes

Kauffman Foundation Gathering Focuses Economic Heavyweights on Entrepreneurship

On Nov. 7 and 8, 2003, an historic conference took place. The invitation-only gathering, “Entrepreneurship, Innovation, and the Growth Mechanism of the Free-Market Economies,” was awe-inspiring for students of entrepreneurship. Sponsored by the E. M. Kauffman Foundation, the conference was held at New York University’s Starr Center for Applied Economics. The combined forces of Kauffman and NYU brought together many of the greatest minds in economics today to focus on the topic of entrepreneurship. William Baumol of NYU hosted the event; four Nobel laureates in economics spoke, and seven of the country’s top 10 economics programs were represented.

Although entrepreneurship is garnering increasing attention in business schools, its study has languished in economics. Nevertheless, entrepreneurship is integral to the study of industrial organization, labor economics, and finance. The attention given to the subject in this setting hinted of renewed interest in this topic among economists.

The conference touched on many entrepreneurship angles, including innovation, finance, and trade. Using history as a guide, Nobel laureate Douglass North developed the political and economic foundations necessary for innovation. As innovations occur, he explained, formal and informal institutions need to evolve as well. Melissa Schilling, of NYU, spoke about the patent licensing networks which have become a key tool for large and small firms to participate in innovation, research, and product development. Boyan Jovanovic (one of the founders of entrant/entrepreneurial theory) focused on the Information Revolution. He discussed how smaller firms have

fared better than larger ones amid the technology shocks of the past hundred years. Nobel laureates Kenneth Arrow and Robert Solow discussed the underpinnings of entrepreneurship in the macro- and microeconomic contexts. Robert Schiller, of Yale University, and Nobel laureate Robert Merton discussed risk-reducing financial instruments that could lower the stakes associated with entrepreneurship. The presumption was that with this sort of product, type-B as well as type-A personalities might be better able to participate in entrepreneurship. William Baumol followed up with an inspiring talk about the importance of focusing on the winners in innovation, not average or aggregate innovation numbers.

The conference helped raise and refine questions, a prerequisite for meshing entrepreneurship with traditional economics disciplines. Two of the authors of today’s prevailing university economics curriculum,

William Baumol and Alan Blinder, were both avid participants. Having these individuals extol the virtues of entrepreneurship is a sure sign that it will have a distinguished presence in the classroom in the future.

Advocacy’s Senior Economist, Ying Lowrey, had the honor of introducing Professor Baumol before his talk on innovation. Advocacy Economist Brian Headd also participated in the gathering. Advocacy is proud to be allied with the Kauffman Foundation in a follow-on event, “Entrepreneurship in the 21st Century,” a Kauffman-sponsored conference in Washington, D.C. (see page 8).

Entrepreneurs Expect Modest Startup Costs For Most New Ventures

Would-be entrepreneurs project modest startup costs for most new ventures, according to a study released by the Office of Advocacy in November. Solo entrepreneurs expect median startup costs of \$6,000, while the median cost expected by team ventures is \$20,000. More than 80 percent of the entrepreneurs studied expected to cover their startup costs without bank loans, although on average they had saved only \$2,000 toward that goal.

The study showed that optimism about their business potential underlies the entrepreneurs’ activities. On average, solo entrepreneurs believe they will have business

income of \$90,000 in the fifth year of their venture, while team ventures expect an income of \$125,000 in the fifth year. The higher team venture projected income makes it more likely that such ventures will result in new job generation.

Expected Costs of Startup Ventures was written by Blade Consulting with funding from the Advocacy, and used data from more than 800 individuals in the process of starting businesses. The data came from the Panel Study of Entrepreneurial Dynamics supported by the E.M. Kauffman Foundation. The report is available at www.sba.gov/advo/research/rs232tot.pdf.

Advocacy Announces March 2004 Conference: Entrepreneurship in the 21st Century

On March 26, 2004, the Office of Advocacy and the Ewing Marion Kauffman Foundation will host "Entrepreneurship in the 21st Century," a forward-looking conference exploring the economic issues most likely to affect small business. U.S. Treasury Secretary John Snow will deliver the keynote address. The event will take place at the U.S. Chamber of Commerce in Washington, D.C.

Conference sessions include

- Business Dynamics, Entrepreneurship, and the Macroeconomy in the 21st Century
- Small Business and Demographic Trends in the 21st Century
- Small Business, Technology, and Innovation in the 21st Century,
- Small Business Finance in the 21st Century, and
- The Future of Small Business Policymaking.

Advocacy is well known for its research and outreach that help

identify specific issues of concern to small business, and it has convened many gatherings to focus attention on these issues. In 1994, Advocacy partnered with the Kauffman Foundation and the Mott Foundation to publish an extensive issue paper, *The Third Millennium: Small Business and Entrepreneurship in the 21st Century*, which was based on focus groups held around the country. "Entrepreneurship in the 21st Century"

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Community Reinvestment Act (CRA) reports. Both the call report and CRA data provide useful information, but they are not comparable. Call report data are most useful for analyzing a bank's commitment to small business lending in its state. CRA data are best for understanding small business lending activities in different states by large

banks and bank holding companies. will continue this theme of examining current issues of concern and crystallizing thinking on emerging issues. *The Third Millennium* was reissued in 2000 and is online at www.sba.gov/advo/stats/thirdmill.pdf.

Please direct inquiries to Chad Moutray at (202) 205-6973 or chad.moutray@sba.gov. To register for the conference, visit www.sba.gov/advo/stats/conference.

banks and bank holding companies.

The report is available at www.sba.gov/advo/stats/lending/-2002. In addition, the website contains rankings of *all banks in the 50 states and District of Columbia*, not just the small business-friendly ones. For further information, contact Advocacy Senior Economist Charles Ou, at (202) 205-6966 or charles.ou@sba.gov.

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