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May 30, 2001

Manager, Dissemination Branch
Information Management and Securities Division
Office of Thrift Supervision
1700 G Street NW
Washington, D.C. 20552

RE: Assessments and Fees; OTS No. 2001-30; 66 Federal Register 21288 (April 30, 2001)

Dear Sir or Madam:

The American Bankers Association ("ABA") appreciates the opportunity to comment on the above-cited proposed rulemaking raising the assessments and fees charged institutions with lower CAMELS ratings. The ABA brings together all categories of banking institutions to best represent the interests of the rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies, savings banks, and savings and loan holding companies – makes ABA the largest banking trade association in the country.

The OTS proposes to raise the assessments charged to 3-, 4-, and 5-rated institutions by increasing the condition component. For 3-rated institutions, the condition component would increase to 50% of the size component; for 4- and 5-rated institutions, the condition component would be raised to 100% of the size component. The purpose behind the assessment increase is to more closely match the costs of supervising these institutions with their assessments.

Assessment calculations are the result of a delicate balance of a number of factors including the expenses of the agency, the difficulty of supervision, and the competitive price of supervision among other federal and state regulators. OTS must take into account whether its assessment structure encourages its regulated population to seek other charters while assuring itself and the country that it has the resources necessary to fulfill the supervisory mission of the agency. Given the many benefits of the savings association charter, ABA encourages the OTS not to disadvantage its charter by overwhelming its assessment base with cost increases.

The proposed assessment increase attempts to target its impact on those institutions that cause the most expense. ABA supports focused regulation that recognizes that "one size does not fit all." The dollar amount raised by this increase will not be much. As noted by the proposal, 43 institutions under $100 million are 3-rated; and six institutions under $100 million are 4- or 5-rated.[1] The OTS further noted in its "2000 Performance Report and 2001 Performance Plan" issued February, 2001, "Among OTS-regulated thrifts, 98% exceeded well-capitalized standards, and only two thrifts were less than adequately capitalized at the end of the third quarter... The number of problem thrifts – those with examination ratings of 4 or 5 – fell by one institution to 13 during the third quarter."[2]

Because the dollars raised from the limited universe of institutions impacted by the proposal will not be much, the issue begs a larger question. Is this another of several interim "band aids" the industry can expect from the agency as it attempts to live within its budget? OTS receives 88% of its revenue via assessments.[3] A review of the 2000 and 1999 OTS financials reveals that while assessments have increased slightly in 2000 ($127,171,000 in 2000 as opposed to $125,264,000 in 1999),[4] expenses continue to outpace revenues having grown from a deficit of $9,996,000 in 1999 to $13,073,000 in 2000[5], and more dramatically from $168,000 in 1998.[6] Operating expenses continue to climb as noted in the chart in the 2001 Performance Plan growing from $147.8 million in 1997, to a projected $162.3 million in 2001.[7] At the same time, the number of institutions regulated by OTS has declined to 1058 as of May 29, 2001.[8] ABA encourages the OTS to address the larger budget issues in a comprehensive fashion.[9]

The proposed assessment increase also questions whether the OTS should adjust its schedule to reflect "complexity" in its assessments. ABA respectfully suggests that this is a much bigger issue that merits a more complete regulatory airing than as a secondary issue in an assessment adjustment proposal. Complexity evolves. What may be a complex set of circumstances today, may be normal practice tomorrow. Every institution is evaluating its mix of products and services to ascertain which items serve its customer base best. Many institutions are moving to serve the small business market, not a new market to financial services, but a new market to some in the savings association industry.

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[1] 66 Fed. Reg. 21290 (April 30, 2001).

[2] *OTS 2000 Performance Report and 2001 Performance Plan*, pp. 1 (Feb. 2001).

[3] *Id.* at pp. 6 ("Assessments charged to the thrift industry provide approximately 88% of OTS's operating funds.")

[4] *OTS 2000 Financial Report*, pp. 3, (March30, 2001).

[5] *Id.*

[6] *OTS 1999 Financial Report*, pp.7 (March 24, 2000).

[7] *OTS 2000 Performance Report and 2001 Performance Plan*, pp.6 (Feb. 2001).

[8] OTS Website, www.ots.treas.gov, Industry & Institution Data, "OTS Active Institutions Summary," May 29, 2001.

[9] OTS has the flexibility to take a more comprehensive view given its financial resources. See, *OTS 2000 Financial Report*, pp.3 (March 30, 2001) "Net Position, Ending Balance, $119,814,000."

It would be unfortunate to punish innovation in the delivery and mix of financial services by increasing the assessment rates using "complexity" as the basis.

ABA welcomes this opportunity to share its views and concerns with the OTS and consideration of these comments is appreciated. If there are any questions on the issues raised by this letter, please do not hesitate to me at (202) 663-5434.

Sincerely,

C. Dawn Causey