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DISSEMINATION
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Manager
Dissemination Branch
Information Management and Services Division
Attention: 1550-0023
Office of Thrift Supervision
1700 G Street, N.W.
Washington, DC 20552

Re: Application Processing
65 FR 66118 (November 2, 2000) Docket No. 2000-94

Dear Sir/Madam:

America's Community Bankers ("ACB")¹ welcomes the opportunity to comment on the proposal issued by the Office of Thrift Supervision ("OTS") to revise its application processing and guidelines and procedures.²

ACB supports the revision of the application guidelines and procedures to clarify existing procedures and to reflect current policy. It is important that when an applicant wishes to file an application with the OTS that the agency expectations and the general time frames are known to all parties. We also strongly support the inclusion of all of this information and guidance in the Applications Processing Handbook, which is in a serious need of an update.

This handbook should provide all of the information that an applicant needs to prepare an application and should contain explicit guidance to assist in the preparation of the applications. The OTS states that it is in the process of updating the handbook and we recommend that this handbook be updated expeditiously and that it be revised frequently to ensure that the policies and procedures used by the agency are known to applicants. We agree that the final rule including these proposed changes should not be issued until the handbook is finalized. The version of the handbook currently available is not useful because it is outdated. We also believe that the time frames used by the OTS should be well established and followed. The Applications Processing Handbook should provide information about the circumstances under which the time frames will not be adhered to.

¹ ACB represents the nation's community banks of all charter types and sizes. ACB members pursue progressive, entrepreneurial and service-oriented strategies in providing financial services to benefit their customers and communities.

² 65 Fed. Reg. 66118 (Nov. 2, 2000).

In the preamble to the proposal,³ the OTS states that it is proposing only a few substantive changes to the existing rules. These include the addition of a pre-filing requirement for complex applications, permitting the OTS to extend the certain application processing time frames, and allowing OTS to deem certain long-pending applications to be withdrawn. The agency believes that the addition of these proposed changes would provide greater efficiency and flexibility in the processing of applications.

While ACB supports proposed changes that will establish a procedure and process to be followed by applicants and by the agency, we are concerned about an aspect of the proposed pre-filing process. We agree that a pre-filing meeting with the applicant and agency staff is an important step in helping to manage the process involving a complex application. At such a meeting, issues can be addressed that will otherwise delay the granting of approval. However, we suggest that the final regulation not contain a rigid time frame within which this meeting must be held. The proposal provides that certain applicants must meet with OTS at least 30 days prior to the filing of the application.⁴ In some situations the 30-day time period may be appropriate, but we believe a shorter time may be sufficient in other circumstances. We suggest that the final regulation not provide a fixed time period, but that applicants and OTS staff can determine an appropriate time for a pre-filing meeting. There are circumstances in which 30 days is inadequate. Applicants may discover at the pre-filing meeting that they need more time to prepare an application that can be filed. OTS and applicants need more flexibility than the 30-day period proposed.

Another concern that we have with the proposed changes is the explicit requirement that a draft business plan be filed a minimum of seven days prior to the pre-filing meeting.⁵ The proposal contains a number of specific items that must be covered in the draft business plan. We believe that it is important for applicants involved in complex applications to have a business plan and to understand what it contains. We believe that the pre-filing meeting is an opportunity for the applicants to discuss the business plan with the OTS staff prior to submitting the plan for review.

The business plan should provide information about the business of the savings association. The information should show how the savings association operates in a safe and sound manner and how the transaction will effect its operations. The factors enumerated in the proposal are generally the factors that applicants and the OTS must look in the context of an application. We are concerned that some of the specific proposed requirements are not realistic particularly at the pre-filing stage. For example, the proposed requirement⁶ that the draft business plan clearly and completely describe the projected operations and activities of the savings association, including financial projections for a minimum of three years may be difficult to provide at the pre-filing stage. For some kinds of transaction, this three-year requirement may be possible and the projections will be realistic, but for others, it may take the full three years to achieve the benefit of the transaction.

³ Id.

⁴ Id at 66127.

⁵ Id.

⁶ Id.

We request that the OTS develop a description of the business plan requirement that is more flexible to be included in the proposed regulation. It may contain a description of the general areas to be covered. We agree that the general areas to be discussed are appropriate, including operations, risks, management, and service to community. We believe that the draft business plan, including all of these factors, should be a part of the discussion at the pre-filing meeting. The more specific information requirements can be included in the guidance to be issued as part of the Application Processing Handbook.

In conclusion, ACB supports an application process that is clearly described in the Application Processing Handbook. The OTS must balance the need for a clear descriptive process without eliminating the flexibility necessary in the establishment of a process that is applicable to so many different types of applications and applicants with varying degrees of understanding of the agency. The process should be responsive to the questions of applicants filing complex applications as well as those that are routine. It must be one in which the agency provides a forum for a dialogue between applicants and regulators that will lead to better, more complete applications.

ACB appreciates the opportunity to comment on this important matter. We welcome the review of the application process undertaken by the OTS and we look forward to working with the agency as the changes are implemented. If you have any questions, please contact the undersigned at (202) 857-3121.

Sincerely,



Charlotte M. Bahin
Director of Regulatory Affairs
Senior Regulatory Counsel