April 26, 2007

Regulation Comments
Office of Thrift Supervision
1700 G Street NW
Washington, DC 20552

Attention: OTS-2007-0007

RE: Permissible Activities of Savings and Loan Holding Companies, 72 FR 14246 (March 27, 2007)

Dear Sir or Madam:

America's Community Bankers ("ACB")[1] welcomes the opportunity to comment on the proposal issued by the Office of Thrift Supervision ("OTS") that would revise the regulation governing the regulated activities of holding companies.[2] The proposal would expand the permissible activities of savings and loan holding companies to the full extent permitted under the Home Owners' Loan Act.[3] A further proposed change would conform the regulation to the statute and clarify a statutory requirement regarding a regulatory approval requirement for the acquisition of more than five percent of the voting shares of a savings association or a savings and loan holding company that is not a subsidiary of the holding company.

ACB Position

ACB supports the proposal. Clarification of the permitted activities for savings and loan holding companies in the regulation is timely and appropriate. The current regulation has not been changed substantially since 1987, and in the intervening years the regulatory framework for savings and loan holding companies has changed significantly. Since the passage of the Gramm-Leach-Bliley Act in 1999,[4] the number of savings and loan holding companies that are subject to activity restrictions has increased as a result of changes made in the law. Prior to 1999, the vast majority of savings and loan holding companies generally did not have statutory restrictions on the activities in which they are engaged. Those holding companies formed since then are subject to a number of activities limitations.

[1] America's Community Bankers is the national trade association committed to shaping the future of banking by being the innovative industry leader strengthening the competitive position of community banks. To learn more about ACB, visit *www.AmericasCommunityBankers.com*.
[2] 72 Fed Reg 14246 (March 27, 2007).
[3] 12 USC 1461 *et seq.*
[4] Pub. L. 106-102. 113 Stat. 338 (November 12, 1999).

ACB also supports the amendment that conforms 12 CFR section 584.4 to the statute and provides consistency for savings and loan holding companies wishing to acquire five percent or more of the voting shares of a savings association that is not a subsidiary of the savings and loan holding company or more than five percent of the voting shares of a savings and loan holding company that is not a subsidiary of the acquiring holding company. The statute was amended in 2000 to include a regulatory approval requirement instead of an absolute prohibition; however, the implementing regulation was not amended at that time. ACB supports the amendment to the regulation that includes a process that may be used by savings and loan holding companies to seek approval to acquire more than five percent of a savings association or a savings and loan holding company that is not a subsidiary of the savings and loan holding company.

Background

Prior to the passage of Gramm-Leach-Bliley in 1999, savings and loan holding companies that controlled only one savings association were exempt from activities restrictions so long as the savings association subsidiary met the statutory qualified thrift lender test. Savings and loan holding companies that controlled more than one savings association subsidiary also were exempt from activities limitations if the savings association subsidiaries were acquired through certain supervisory transactions and the subsidiaries met the statutory qualified thrift lender test. In 1999, the limitation on activities of savings and loan holding companies was amended, and any savings and loan holding company not in existence or with an application on file on May 4, 1999 became subject to the activities limitations in the Home Owners' Loan Act that had previously been imposed on nonexempt holding companies.

In addition to certain activities, the statute specifically permits savings and loan holding companies to engage in activities that have been permitted for bank holding companies under section 4(c) of the Bank Holding Company Act, consistent with the regulations of the Federal Reserve. However, the current regulation restricts certain activities by referring only to the sections of the regulations of the Federal Reserve that describe the activities that are permitted under section 4(c)(8) and to the process by which approval is sought from the Federal Reserve.

The Proposal

The proposal would provide more flexibility and clarification for savings and loan holding companies that are subject to activities limitations. It would replace the references to specific regulations of the Federal Reserve with more general references to the statute and implementing rules of the Federal Reserve. The amended regulation also would clarify that when an activity is already permissible for savings and loan holding companies and the Federal Reserve has found the activity to be permissible for bank holding companies, the activity is pre-approved. The amendment would reduce the burden of seeking approval and would avoid the imposition of additional restrictions on currently permissible activities.

The implementation of the regulatory approval requirement for the acquisition by savings and loan holding companies of more than five percent of the voting stock of a savings association or savings and loan holding company that is not a subsidiary clarifies the process that may be used by the holding company to seek approval to acquire the shares.

The amendment also would conform the regulation to the statute and eliminate any possible confusion resulting from inconsistency. Given the changes in the regulatory environment for savings and loan holding companies, it is important that the rule clearly sets forth the requirements and the process that holding companies may use to make the acquisitions described.

Proposed Clarifications

We recommend that the OTS make a clarification or provide guidance that may help savings and loan holding companies as they look to the regulation to determine whether an activity is pre-approved. We understand that as a result of the changes made in Gramm-Leach-Bliley to the holding company rulemaking authority granted to the Federal Reserve, that activities that were not approved as of 1999 have in some instances been approved on a more informal basis through the issuance of interpretations. We urge the OTS to confirm that if the activity has been approved by an interpretation of Section 4(c)(8) for bank holding companies, that the activity be considered approved for savings and loan holding companies.

On a final note, we recognize that the proposed changes that reference Federal Reserve regulations offer clarity for savings and loan holding companies. However, we recommend the OTS clarify that overall the agency's procedures and requirements for savings and loan holding companies remain separate and distinct from those of the Federal Reserve for bank holding companies. Furthermore, we believe that any imposition of additional regulatory procedures and requirements for savings and loan holding companies would require further public notice and comment.

Conclusion

ACB appreciates the opportunity to comment on this important matter. The savings and loan holding company structure is a valuable and useful vehicle for the industry and has been for a number of years. It is important that the rules governing recently formed holding companies and those that will be formed in the future are flexible and that the processes established are clear. Please do not hesitate to contact me at (202)-857-3121 or pmilon@acbankers.org should you have any questions about this letter.

Very truly yours,

Patricia A. Milon
Chief Legal Officer and Senior Vice President, Regulatory Affairs