

31

September 5, 2002

Regulation Comments, Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

(via email to: Regs.comments@OTS.treas.gov)

Attention: No. 2002-27

Dear Sir or Madam:

Jackson Federal Bank (the "Bank") is an OTS-chartered savings bank with \$1.5 billion in assets. We operate primarily within southern California, where we operate 15 retail offices and 3 lending offices. We have approximately 54,000 accounts representing approximately 34,000 households.

Our deposit accounts are primarily marketed to individuals. Our current deposit identification and verification requirements consist of requiring the initial signer to present a government issued photo ID ("ID") at the time they open the account. The Bank records the information from the ID, but it is not our business practice to retain a copy of the ID. In many instances, we do not physically see the additional signers on consumer accounts at the time the account is opened. The signature card is provided to the first account signer, while the ID information is completed by the second and any additional signers. We believe this to be a common business practice within our market. The inability of the Bank to physically verify the IDs increases when opening accounts via US mail, telephone and the Internet. These services are offered to the benefit of the customers. The Bank currently uses a negative verification system for all signers on consumer accounts. This is performed at account opening for signers that are physically present, and upon return of the signature card with identifying information for any additional account signers. We believe this practice is sufficient to identify our customers. Unfortunately, this practice does not produce a report that will satisfy the proposed requirements of 31 CFR 103.121(b)(3)(C).

We are concerned about how this part of the proposal affects our ability to conduct business in an efficient manner. Not allowing any activity to occur on the account prior to the proposed verification procedures may inhibit the ability of customers to easily switch their banking relationship. Worse, it could encourage customers to conduct business with non-financial services firms that are not subject to the strict requirements of this rule. We are requesting additional clarification on how to handle identification information collection, verification and retention when not all parties are present at account opening. We do not believe it is necessary or feasible to require all parties to be present, because we believe that we obtain a comparable level of identifying information regardless of whether the customer is physically present or not.

In addition, our lending is to borrowers who finance multifamily and commercial properties through mortgage brokers; therefore we have no direct contact with the loan applicants. We believe that our current underwriting process provides us with sufficient information to allow us to ascertain the identity of our borrowers. Additionally, we have concerns that requiring or even requesting mortgage brokers to provide photocopies of borrower identification at application creates potential Regulation B issues that the Bank cannot control. The Bank uses credit

reporting agencies and other services to assist us in identifying and determining the credit worthiness of loan applicants. However, the addition of race, age and gender information to the application process exposes the Bank to unfounded discrimination claims, particularly on non-HMDA reportable loans. We urge you to develop a safe harbor for the collection of race/gender information for non-HMDA related applications if the final rule retains the requirement to keep copies of identifying information.

We strongly support the objective of obtaining identifying information for all customers at account opening and retaining that identifying information throughout the life of the account. However, the record-keeping and retention requirements of proposed section 31 CFR 103.121(b)(3)(B) are unnecessarily burdensome and do not further the objective. The agencies have substantially underestimated the number of hours that it will take for institutions to comply with the record-keeping and retention requirements. The industry in general is not currently retaining copies of identification because it records the pertinent information (such as a drivers' license number) into data systems rather than retaining a physical copy. In most instances, the pictures on drivers' licenses and other IDs do not copy well, so future use for visual identification is not particularly valuable. Further, in California, new licenses may be issued every few years but frequently the pictures and descriptive information are many years out of date. Therefore, we question the need and value of retaining a copy, physical or electronic, of the identification used to open an account or obtain a loan. The costs of obtaining and retaining this documentation is significant, the identifying information has already been recorded in the bank's records, and it impairs our ability to open new accounts and to compete with other non-regulated lenders.

Finally, if we are required to obtain copies of the identification, please provide clarification as to when identification must be obtained in the lending process. For example, we believe obtaining copies of the identification at any time prior to loan funding should comply with the requirement.

We support the requirement to create a public notice to inform customers of the new identification requirements because we believe that this notice will assist the banking community in consistently communicating these requirements. Most regulations provide model language for banks to use in creating the public notices. Proposed section 31 CFR 103.121(b)(5) requires a notice, while not providing model language. This could be confusing to customers, while leaving discretion to bank examiners to determine (after the fact) whether the language is sufficient. We strongly urge the agencies to develop model language, while allowing the addition of information to the recommended language.

We would like to suggest that the government could dramatically aid the financial services industry in reducing identity theft and terrorist financing if the Social Security Administration and/or the Internal Revenue Service developed a database where banks could check the authenticity of taxpayer identification numbers. Currently, the industry is unable to determine a fraudulent taxpayer identification number from a valid one because we do not have access to a database to validate the name/number combination. We strongly urge the agencies to work with the Treasury Department and the Social Security Administration / Internal Revenue Service to develop such a database.

Finally, we have concerns over the implementation date of the final regulations. This proposal was not published until July 23 and the comment period ends September 6. Even if the agencies spend very little time reviewing and drafting final regulations, the best-case scenario is that the final regulations will be issued very close to the effective date of October 25. We

suggest that immediately after the comment period ends that the agencies announce that compliance with the final regulations will not be mandatory until 90 days after their publication in the Federal Register.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Tad Lowrey". The signature is written in a cursive style with a large, stylized "D" and "L".

D. Tad Lowrey
Chairman, President and
Chief Executive Officer
Jackson Federal Bank