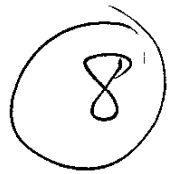




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December 5, 2001

To Whom it May Concern Regulations Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington, D.C. 20552

RE: Lending and Investment; OTS No. 2001-67; 66 Federal Register 55131
(November 1, 2001)

Dear Sir or Madam:

The American Bankers Association ("ABA") appreciates the opportunity to comment on the above-cited proposed rulemaking simplifying and clarifying the lending and investment authority of federal savings associations. 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.

ABA supports the proposed rule as granting needed flexibility for savings associations providing a variety of financial services to meet the growing and complex credit needs of their customers and communities. The Qualified Thrift Lender test ("QTL") maintains the homeownership focus of savings associations, but does not fully reflect the complexity of the home focus. The OTS, through this proposed rulemaking, attempts to recognize that home ownership needs community infrastructure and that the Home Ownership Loan Act ("HOLA") has greater flexibility than traditionally contemplated.

ABA also supports the recently released Thrift Bulletin 79, Lending Limits Pilot Program. It provides federal savings associations with the same opportunities as national banks. We are aware of at least one institution that has been approved under the program and can report that the agency's flexibility demonstrated by the adoption and application of the Pilot Program is appreciated.

In addition to the above general comments, we have the following specific comments.

1. Definition of "Loans Secured by Real Estate." ABA supports the removal of the word, "substantially," from the definition. This change will allow

institutions to reflect the loan as appropriate on their TFR and loan classification reports. A rote application of a rule that does not reflect the true circumstances of the loan transaction is unduly inhibiting and the proposal provides needed flexibility.

2. Definition of "small business loans and loans to small businesses." ABA supports the increase in the safe harbor amount from \$1 million to \$2 million. We additionally support the change proposed by a commenter that the focus of the definition be on the use of the proceeds rather than the borrowing entity. This may be accomplished by removing the requirement for the loan to be made to a business borrower. By amending the proposal in this manner, the goal of the proposal will be facilitated by expanding available funds for small businesses while avoiding compliance concerns about sole proprietorships or unincorporated associations and whether they qualify as "business borrowers."
3. Preapproved Activities. ABA supports the broadening of preauthorized service corporation activities to parallel similar authorities for banks and bank subsidiaries as permitted under the HOLA. Included in these are allowance of "as agent" activities, investment authority in SBICs and new markets venture capital companies, and public welfare investments.
4. Commercial Paper and Corporate Debt Securities. The OTS proposes to codify the need to exercise due diligence and prudence before buying or committing to buy securities. ABA supports the exercise of due diligence both at the time of the purchase and on an ongoing basis. ABA suggests that the OTS may wish to consider a slight modification of its proposal to mirror flexibility granted by the OCC to national banks. In OCC Interpretative Letter #777, issued April 1997, the OCC concluded that national banks could invest in securities if they were "marketable" and "not predominately speculative." For the OCC, a security is "not predominately speculative" if the security is rated investment grade "or is the credit equivalent of a security rated investment grade." ABA encourages the OTS to consider favorably a parallel provision and incorporate the full OCC definition of "not predominately speculative."
5. State and Local Government Obligations. ABA also supports the proposed investment authority enhancements for state and local government obligations. The OTS proposes to ease those percentage limitations that do not have their origin in statute. The proposed amendment would allow Federal savings associations to invest in the general obligations of state or political subdivisions without limitation; however, the 10% of total capital limit of securities from one issuer would remain for those other obligations of a government entity that hold one of the four highest investment ratings. In addition, those governmental obligations that do not fall in either category may be purchased by Federal savings associations for investment subject to the approval and conditions established by the institution's Regional Director. These amendments will provide Federal savings associations more complete access to the flexibility provided by the HOLA.

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December 5, 2001
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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