

900 Nineteenth St. NW, Ste. 40.

Washington, DC 20009

TEL: (202) 857-3100

FAX: (202) 296-8721

E-MAIL: info@acbankers.org

<http://www.AmericasCommunityBankers.com>

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November 30, 2001

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
Attention: Docket No. 2001-67
1700 G Street, N.W.
Washington, D.C. 20552

Re: Lending and Investment
66 FR 55131 (November 1, 2001) Docket No. 2001-67

Dear Sir or Madam:

America's Community Bankers (ACB)¹ is pleased to comment on the notice of proposed rulemaking by the Office of Thrift Supervision (the "OTS"), which would clarify and revise the OTS's lending and investment regulations to provide savings associations with greater flexibility under the Home Owners' Loan Act.²

ACB Position

ACB strongly supports this effort – and all efforts – to enhance the viability of the savings association charter. We believe the proposed revisions outlined below will enable federal savings associations to be even more responsive to customer and community lending and investment needs, and we support their adoption.

We believe an additional modification is necessary. The OTS is proposing to revise the small business (and small farm) loan reporting threshold to \$2 million. Because many loans for small businesses are, in fact, made to individual proprietors of such enterprises, we believe the \$2 million reporting threshold also should apply to any loan up to \$2 million, the proceeds of which are utilized by a small business.

Today, savings associations are increasingly important providers of small business credit in communities throughout the country. For example, at the end of the second quarter of 2001, nearly \$31 billion of total savings association assets were in commercial loans, or approximately \$15 billion in small business loans. This represents a 25 percent increase over the prior year.

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

² 66 Fed. Reg. 55131 (November 1, 2001).

At the same time, continued industry consolidation and challenging economic times, which have been exacerbated by the events following the September 11 terrorist attacks, are making it harder for small businesses to obtain credit. The October 2001 report from the National Federation of Independent Business ("NFIB") on its survey of independent and small business owners found that seven percent of respondents reported "harder borrowing conditions." The NFIB noted that this uptick in negative responses was a "significant departure" from prior years. As has been reported often, small businesses contribute enormously to job creation in this country and their ability to grow obviously is impacted by access to credit.

Given these conditions, we believe the additional flexibility afforded by ACB's proposed modification to the small business loan reporting threshold will enable more savings associations to serve a broader range of their small business customers and with credit products tailored to their specific needs.

The Proposal

The OTS is proposing a number of amendments to its lending and investment regulations. These revisions respond to recent statutory changes, as well as to market forces and regular feedback to the OTS. Several of the proposed changes are important to ACB members in their efforts to serve their entire communities. The proposed changes include:

- Amending the list of preapproved activities for service corporations to allow a service corporation to make, on a preapproved basis, investments in small business investment corporations ("SBICs") licensed by the Small Business Administration ("SBA") without regard to the underlying activities conducted by the SBIC. This preapproved investment authority would include investments in SBA-licensed new markets venture capital companies ("NMVCCs"). These revisions reflect recent statutory changes in the investment of national banks and federal savings associations.³ Under the proposal, investments in SBICs and NMVCCs would be limited to five percent of the association's total capital.
- Revising the regulatory definition of "real estate loan" to include any loan where the association "substantially relies upon a security in real estate given by the borrower as a condition of making the loan." This change is intended to remove some confusion over which loans fall within the category while confirming that loans should be treated as real estate loans only if the loan would not have been made, or made on the same terms, in the absence of the real estate security.
- Revising the "safe harbor"-reporting threshold for small business and small farm loans from \$1 million and \$500,000, respectively, to \$2 million for both types of loans.

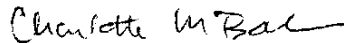
³ Consolidated Appropriations Act – FY 2001, Pub. L. 106-554 (December 21, 2000).

Conclusion

With the additional recommendation incorporated, ACB believes the proposed revisions are appropriate and necessary. The additional flexibility afforded savings associations with these changes will further strengthen their ability to serve as a valuable source of credit and investment for communities through the United States, and at a critical time. The factors referred to above, industry consolidation and challenging economic times, will continue to have an impact on the operational strategy of savings associations. ACB suggests that the lending and investment limits be reviewed annually to ensure that the regulations and supervisory guidance are not unnecessarily hindering the ability of savings associations to serve their communities. We look forward to working with the OTS in any way possible in developing progressive regulations that provide greater flexibility and reduce unnecessary regulatory burdens for OTS-supervised institutions.

Should you have any questions, please contact the undersigned at 202-857-3121 or via email at cbahin@acbankers.org; or Michael W. Briggs at 202-857-3122 or via email at mbriggs@acbankers.org.

Sincerely,



Charlotte M. Bahin
Director of Regulatory Affairs and
Senior Regulatory Counsel