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EXECUTIVE OFFICES

February 8, 2001

Manager, Dissemination Branch
Information Management and Services Division
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

Attention: Docket No. 2000-91, Savings and Loan Holding Companies Notice of Significant Transactions or Activities and OTS Review of Capital Adequacy

Dear Sir or Madam:

The Office of Thrift Supervision ("OTS") should withdraw the notice of proposed rulemaking published in the Federal Register on October 27, 2000 ("Proposed Regulation"), requiring prior notice by certain savings and loan holding companies ("SLHCs") to commit to engage in transactions above certain thresholds that would increase SLHC debt, increase SLHC assets, or decrease SLHC capital. Instead, the OTS should substitute improved reporting requirements for all SLHCs and adopt a supervisory policy of periodic face-to-face meetings with SLHCs that pose significant risks for the safety and soundness of their savings association subsidiaries.

The OTS should not issue a regulation codifying its policies governing SLHC consolidated capital requirements for the reasons set forth below. Since an SLHC capital regulation could significantly impact many SLHCs, it is imperative that, if the OTS nevertheless proceeds with a capital regulation, the OTS should propose the actual text of the regulation first, subject to public comment, and not issue a final regulation based solely on the general and nonspecific discussion of SLHC capital regulation in the preamble to the Proposed Regulation.

Archer-Daniels-Midland Company

The Archer-Daniels-Midland Company ("ADM") is engaged primarily in the business of procuring, transporting, storing, processing and merchandising agricultural commodities and products on a worldwide basis. Presently, ADM conducts business in over 100 countries around the globe. ADM became an SLHC in 1998, upon the conversion of its state-chartered commercial bank to a federal savings bank now known

as Hickory Point Bank and Trust, fsb ("Hickory Point"), which has its offices in Decatur, Illinois. As of September 30, 2000, ADM had consolidated total assets of over $14.4 billion, while Hickory Point had total assets of approximately $528 million. For the fiscal year ended June 30, 2000, ADM had net income of over $300 million, while Hickory Point had net income of approximately $4 million.

Prior Notice Requirement

The prior notice requirement incorporated in the Proposed Regulation would seriously impede the conduct of business by SLHCs with significant diversified activities, such as ADM, if the SLHCs are required to delay committing to transactions while their notices are reviewed by the OTS. Obviously, an SLHC will be at a tremendous competitive disadvantage if it is required to wait at least 30 days or as long as 60 days before contracting with a third party to engage in a transaction when its non-SLHC competitors are not subject to the same waiting periods. Moreover, a large diversified SLHC like ADM with worldwide operations would be required to devote significant internal administrative resources to tracking its potential contractual commitments and maintaining compliance with the prior notice requirement, if the SLHC became subject to the prior notice requirement. Once an SLHC has triggered a notice requirement as a result of a single large transaction, every similar type of transaction during the following 12-month period, no matter how small, would require an additional notice filing with the OTS and at least a 30-day waiting period.

On the other hand, the preamble to the Proposed Regulation does not cite a single instance in which if the proposed prior notice requirement had been in place the OTS could have prevented SLHC actions that were detrimental to the interests of savings association subsidiaries and that the OTS was not able to prevent under the existing regulatory framework. Therefore, the competitive disadvantages and administrative burdens imposed under the Proposed Regulation on SLHCs would greatly outweigh any apparent justification for implementation of the Proposed Regulation.

Although ADM initially would be exempt from the prior notice requirement because Hickory Point constitutes significantly less than 20 percent of ADM's consolidated assets, ADM is greatly concerned about adoption of the Proposed Regulation in its present form as a final regulation for two primary reasons. First, even if otherwise exempt, ADM could be required to provide prior notice under the Proposed Regulation if the OTS Regional Director informs ADM that either of the following two general, vague standards are determined in the judgment of the Regional Director to be met:

(i) a transaction or activity "may pose a risk to the financial safety, soundness, or stability of the subsidiary savings association. . ."; or

(ii) "OTS has concerns relating to . . .[the SLHC's] financial condition, or the safety and soundness of . . .[the SLHC's] subsidiary savings association."

Given the major adverse consequences to a company like ADM from being required to delay entering into major transactions anywhere in the world, the broad discretion given to

the OTS staff to impose the proposed notice requirement on a case-by-case basis would create an unjustifiable regulatory risk for companies like ADM.

Second, if the basic concept of a mandatory waiting period prior to SLHCs being able to commit to major transactions were adopted, the exemptions incorporated in the Proposed Regulation could very possibly be pared back in subsequent regulatory initiatives. Thus, even a prior notice requirement initially applicable only to a minority of SLHCs would constitute a very dangerous precedent for companies like ADM.

The alternative to prior notice in Section 584.130(c) of the Proposed Regulation of a schedule proposing transactions or activities to be entered into over a specified period not to exceed 12 months is simply not viable. The business environment for multinational companies changes too rapidly for schedules to be submitted up to 12 months in advance for all significant commitments affecting debt, asset growth or tangible capital.

Not only are the prior notice requirements and the alternative schedule requirement patently impractical for companies with multinational, diversified activities, such as ADM, very serious questions exist with respect to whether the OTS would have the statutory authority to impose such requirements. In November 1989, OTS repealed, inter alia, Section 584.6 of its regulations, which had required prior OTS approval, in general, for the incurrence of debt by nondiversified SLHCs in excess of 15 percent of their consolidated net worth. The OTS repealed this regulation because the statutory authority for the regulation had been repealed in the prior month as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). The express repeal by Congress in 1989 of the statutory authority for one of the prior notice requirements the OTS has incorporated in the Proposed Regulation and the failure of Congress to reauthorize such a requirement since 1989 raise very serious questions with respect to whether OTS, in fact, has the authority to reimpose a prior notice requirement with respect to the incurrence of debt by SLHCs.

Substitutes for Prior Notice Requirement

The OTS could require reporting by all SLHCs on a quarterly basis of their financial condition, including detailed balance sheets, income statements, and cashflow statements. These reports could be mandated to be filed in formats that would facilitate OTS analysis and review through computer technology. In addition, SLHCs could be required to report on a current basis any transaction that would require a Form 8-K filing by a public company.

In addition, the OTS could require periodic meetings between Regional Directors and the management of SLHCs that pose significant risks because the SLHCs meet certain objective high risk standards, such as, for example:

(i) Classification in the lowest OTS holding company examination rating category in its most recent OTS examination;

(ii) Having a low Moody's or Standard & Poor's rating; or

(iii) Having significant double leverage.

Requiring periodic meetings with SLHCs with one or more of these characteristics would enable the OTS to obtain current, in-depth information about pending major business initiatives concerning those SLHCs whose activities, in fact, could pose real risks for their savings association subsidiaries, while not inhibiting the activities of the great majority of SLHCs whose activities would not pose such concerns.

Capital Regulation

The preamble to the Proposed Regulation does not indicate why an SLHC capital regulation is needed in addition to the current OTS supervisory monitoring and examination procedures for SLHC capital adequacy and the current case-by-case review of SLHC capital adequacy as part of application reviews. Evaluating SLHC capital adequacy on a case-by-case basis, which is what OTS currently does and says it will continue to do, does not lend itself to being the subject of a regulation, since the regulation would not set forth numerical capital standards as other regulatory capital requirements do.

Moreover, in the case of an SLHC like ADM, which has hundreds of multinational agricultural and transportation subsidiaries, it would be extremely difficult for OTS supervisory analysts and/or examiners, who would be extremely unlikely to have any experience in analyzing these types of businesses, to determine with sufficient precision whether ADM is adequately capitalized.

Since an SLHC capital adequacy regulation would have a significant impact on many SLHCs, it would be imperative, if the OTS nevertheless proceeds with an SLHC capital regulation, that it propose the actual text of the regulation first, subject to public comment, and not issue a final regulation based solely on the general and nonspecific discussion in the preamble to the Proposed Regulation. The preamble language is simply not specific enough as to what the SLHC capital adequacy regulation would say or how it would work.

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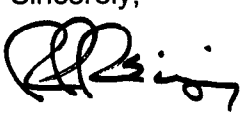
Please contact me at (217) 424-5503 or our counsel, Ira Tannenbaum, at (202) 778-9350 if you would like to discuss any of the matters discussed in this letter.

Sincerely,



R. P. Reising
Senior Vice President

cc: Mr. Philip A. Gerbick
Central Regional Office