Alliance Capital Partners, Inc.

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Robert M. Clements
President and CEO

February 8, 2001

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

Alliance Capital Partners, L.L.P. ("ACP"), a registered savings and loan holding company ("SLHC") strongly urges the Office of Thrift Supervision ("OTS") to withdraw the notice of proposed rulemaking published in the Federal Register on October 27, 2000 ("Proposed Regulation"), requiring prior notice by certain SLHCs to commit to engage in transactions above certain thresholds that would increase SLHC debt, increase SLHC assets, or decrease SLHC capital. Requiring prior notice for such transactions, as set forth in the Proposed Regulation, would greatly impede the ability of ACP's mortgage banking company subsidiary, Alliance Mortgage Company ("Alliance Mortgage"), to conduct its normal business operations and to compete on an equitable basis with other mortgage banking companies that would not be subject to the same prior notice requirements.

ACP also strongly urges the OTS not to issue a regulation codifying its policies governing SLHC consolidated capital requirements, as discussed in the preamble to the Proposed Regulation, for the reasons set forth below. However, if the OTS nevertheless proceeds with a capital regulation, it is imperative that the OTS 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.

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I. Alliance Capital Partners L.L.P.

ACP is a Delaware limited partnership that owns all of the issued and outstanding shares of two operating businesses, Alliance Mortgage, which has its headquarters in Jacksonville, Florida, and First Alliance Bank ("FAB"), a federal savings bank, which also has its headquarters in Jacksonville. As of the end of January 2001, FAB had consolidated assets of approximately $222 million and ACP had consolidated assets of approximately $768 million. Therefore, ACP would not qualify presently for the exception from the prior notice requirement in Section 584.110(a)(1) of the Proposed Regulation since FAB's consolidated assets constitute approximately 29 percent of ACP's consolidated assets. Nor would ACP presently qualify for the exception set forth in Section 584.110(a)(2) of the Proposed Regulation, since its consolidated tangible capital ratio is below 10 percent. Nor is it expected that circumstances will change in the foreseeable future that would cause ACP to qualify for either of these two exceptions. Therefore, under the Proposed Regulation, ACP would be required to file prior notices under Section 584.130 and comply with the waiting periods and other requirements set forth in Section 584.150 if ACP or Alliance Mortgage commit to enter into the types of transactions described in Section 584.120 of the Proposed Regulation.

II. Key Elements of Alliance Mortgage Business Affected by Notice Requirement

Two key elements of Alliance Mortgage's ongoing business would be adversely affected by the prior notice requirement incorporated in the Proposed Regulation: (1) the ability to increase the Alliance Mortgage warehouse line; and (2) the ability to increase Alliance Mortgage's loan servicing portfolio. Since Alliance Mortgage, like FAB, is a successful company that has grown significantly in recent years, the likelihood that Alliance Mortgage would be required to file at least several notices each year prior to committing to engage in these types of transactions is extremely high. The prior notice requirement also would greatly inhibit the ability of Alliance Mortgage to attempt to acquire other mortgage banking companies.

A. Warehouse Line Increases

As a fundamental element of its mortgage banking business, Alliance Mortgage maintains a warehouse line of credit with a group of unrelated lenders, which credit is used to originate loans and which is repaid with the proceeds from the sale of the loans in the secondary market. Alliance Mortgage's warehouse line was increased 3 times in the 1998-2000 period, and borrowings under the line increased 168 percent during this period. Given current market conditions, the warehouse line will be increased significantly again in the first part of 2001, as will borrowings under the line. This warehouse line growth is directly linked to increases in the level of Alliance Mortgage's loan originations. However, given the unpredictability of mortgage loan interest rates and their impact on the level of loan originations,

it is simply not possible to predict with sufficient accuracy the required future size of Alliance Mortgage's warehouse line.

It is imperative that no uncertainty be allowed to exist with respect to Alliance Mortgage's ability to increase its warehouse line to accommodate higher levels of originations and that no delays occur in increasing the line that would prevent Alliance Mortgage from funding loans. Therefore, the apparent minimum 30-day delay in the ability of Alliance Mortgage to commit to obtain an increase in its warehouse line above the threshold amount under the prior notice requirement could have very adverse consequences for Alliance Mortgage, given the time sensitivity inherent in the mortgage banking business. Moreover, greater than 30-day OTS delays in processing notice filings and OTS denials of prior notices to increase the warehouse line -- which are both possible under the Proposed Regulation -- would have even greater adverse consequences for Alliance Mortgage.

Nor is it practical to attempt to avoid the problems under the Proposed Regulation for warehouse line increases by obtaining in advance a larger warehouse line as a cushion to allow for unexpected funding needs. Significant fees are incurred to obtain or increase a warehouse line, and multiple lenders are involved. Thus, obtaining a larger line than necessary only to protect against the adverse consequences of lengthy OTS processing delays or denials of proposed warehouse line increases would significantly increase Alliance Mortgage's operating costs and place Alliance Mortgage at a significant competitive disadvantage to other mortgage companies not subject to the prior notice requirement in the Proposed Regulation.

B. Loan Servicing Increases

In recent years Alliance Mortgage has been increasing its loan servicing rights portfolio, which is also a typical element of the mortgage banking business. In the 1998-2000 period, Alliance Mortgage expanded the size of its loan servicing credit agreement five times for an increase of 102 percent. Borrowings under the line increased 144 percent. This increase was accomplished to allow for over 60 separate purchases of loan servicing portfolios.

Alliance Mortgage expects to continue to purchase loan servicing in 2001 and future years as attractively priced servicing portfolios periodically become available. ACP believes that the increases in ACP consolidated assets in 2001 and the following years from the combination of increased loan servicing rights and increased loans in portfolio awaiting sale into the secondary market will exceed 15 percent annually. (As a point of reference, ACP consolidated assets, other than FAB assets, increased by approximately 13 percent in 1999 and by approximately 43 percent in 2000.)

Therefore, assuming this 15 percent annual growth rate is achieved, every Alliance Mortgage agreement to purchase a loan servicing rights portfolio, no matter how small, would be subject to the prior notice requirement incorporated in the Proposed Regulation once the 15 percent threshold percentage were reached. Given the typical way in which loan servicing rights are purchased, Alliance Mortgage would be severely disadvantaged by the prior notice requirement in its efforts to acquire servicing. Loan servicing rights portfolios are typically marketed by brokers, who send out bid packages and typically require bids to be submitted at the end of a two or three week period, but on occasion bids are requested in a matter of days. When a bid is accepted, the successful bidder is typically required to negotiate a definitive agreement within a period that is typically no longer than 60 days, during which time the buyer conducts its due diligence. Neither the initial bid nor the definitive agreement to purchase loan servicing rights typically contains a condition that the purchase is subject to regulatory agency approval.

It would not be feasible for Alliance Mortgage to complete the OTS prior notice process prior to making a bid for a loan servicing portfolio due to the brief period for submitting such bids. Moreover, requiring notice prior to making bids would be extremely inefficient since, due to the large number of bidders for portfolios and the very competitive environment, only a small minority of bids for loan servicing portfolios made by Alliance Mortgage have been, and are likely to be, accepted by sellers.

Nor would it be possible, as a practical matter, for ACP to file a prior notice after a loan servicing portfolio bid has been accepted by a seller, but before the definitive agreement has been executed. If, for any reason, as a result of its review of a prior notice, the OTS objected to a proposed purchase and/or required significant modifications of the proposed purchase terms, or delayed significantly the execution of the definitive agreement, it would be highly unlikely that any loan servicing rights broker would ever allow Alliance Mortgage in the future to be the successful bidder for a servicing rights portfolio. This is because, in the view of brokers generally, the only acceptable grounds for a qualified bidder not completing a transaction are problems arising from the due diligence review. Since the market price for servicing portfolios can change quickly, failure of an initially selected bidder to complete a purchase could have unfavorable consequences for a seller who might be required to enter into a second transaction at a significantly lower price.

C. Acquisition of Other Mortgage Banking Companies

Another type of transaction that Alliance Mortgage might implement in the coming years that would trigger the prior notice requirement in the Proposed Regulation would be the acquisition of another mortgage banking company. As in the case of the purchase of loan servicing portfolios, the conditions under which mortgage companies are sold would make it highly impractical in many circumstances for Alliance Mortgage to adhere to the prior notice process before committing to acquire another mortgage company.

In some instances, Alliance Mortgage will become aware of an opportunity to acquire another company that is not being shopped in a competitive auction. In such a case, if Alliance Mortgage were required to adhere to the prior notice process, it could not submit all of the required information to the OTS about the transaction terms until those terms had been negotiated with the seller. Thus, Alliance would have to wait between the time the terms were negotiated and the OTS effectively approved the notice until it could commit to the acquisition. Many sellers might be unwilling to accept such a waiting period and the uncertainty as to whether the OTS would, in effect, authorize the transaction. Filing prior notice materials with the OTS in these circumstances also may raise issues relating to confidentiality of the transaction and the seller's financial information.

In other instances, mortgage companies are marketed in organized auctions in which potential bidders, including Alliance Mortgage, would be required to submit bids rapidly. Requiring Alliance Mortgage to go through the OTS prior notice process with the attendant delay and uncertainty would place Alliance Mortgage at a clear competitive disadvantage compared to other bidders that would not be subject to a similar regulatory notice requirement.

III. Prior Notice Requirement

For the reasons set forth above, the prior notice requirement incorporated in the Proposed Regulation would seriously impede the ability of Alliance Mortgage to enter into significant common business transactions. Moreover, once ACP has triggered a notice requirement as a result of a single large transaction or group of smaller transactions, 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. Obviously, if a prior notice requirement incorporating elements of the Proposed Regulation were ever adopted by the OTS, it would have to include a meaningful de minimus rule. Otherwise, even the smallest transactions lacking any possible impact on subsidiary savings associations would be impeded by the prior notice requirement.

Most importantly, 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 major impediments to the conduct of normal business and the competitive disadvantages imposed under the Proposed Regulation on ACP would greatly outweigh any apparent justification for implementation of the Proposed Regulation.

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 mortgage banking companies, such as Alliance Mortgage, 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 ACP, 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.

IV. 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 many SLHCs that have significant non-financial 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 such SLHCs are 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 (904) 281-6204 if you need additional information with respect to any matters discussed in this letter or if you would like to discuss any of these matters with me or other members of the ACP staff.

Sincerely,

Robert M. Clements
President and Chief Executive Officer

cc: John E. Ryan
Southeast Regional Director