Office of the General Counsel

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The Blue Chip Company SM

February 8, 2001

Manager, Dissemination Branch
Office of Thrift Supervision
Information Management & Services Division
Attention: Docket No. 2000-91
1700 G Street, N.W.
Washington, D.C. 20552

Re: Savings and Loan Holding Companies Notice of Significant Transactions or Activities and OTS review of Capital Adequacy, 65 Fed. Reg. 64392 (October 27, 2000)

Dear Sir or Madam:

We appreciate the opportunity to comment on the Proposed Rule ("Proposed Rule") entitled "Savings and Loan Holding Companies: Notice of Significant Transactions or Activities and OTS review of Capital Adequacy."

Introduction

Massachusetts Mutual Life Insurance Company ("MassMutual") is the Unitary Savings and Loan Holding Company for The MassMutual Trust Company, a federal stock savings bank currently limited to the exercise of fiduciary powers. MassMutual ranked 173rd in the year 2000 Fortune 500 List and has received the following financial strength ratings from the various insurance rating agencies: Standard & Poor's Corp. AAA (Extremely Strong); A.M. Best Company A++ (Superior); Moody's Investors Service Inc., Aa1 (Excellent); Fitch AAA (Exceptionally Strong). These ratings clearly demonstrate MassMutual's superior financial strength and ability to manage its businesses in a sound manner. When deciding to enter the business of offering fiduciary services, MassMutual management considered a wide array of possible options. MassMutual chose the federal savings bank option, in part, because of the OTS's philosophical approach to holding company regulation which respects the distinctions between the banking operations and other businesses within the holding company framework.

While we recognize that the OTS has incorporated provisions into the Proposed Rule to exempt institutions (such as MassMutual) where the thrift is a relatively small component of the entire organization, the Proposed Rule represents, from our perspective, a substantial and unwarranted shift in the OTS's approach to holding company regulation. In addition, it also allows for disparate treatment of holding companies on a region-by-region basis on competitively sensitive issues.

Concerns Regarding Shift in Regulatory Approach

We believe that the proposal to require prior notification and approval of transactions and activities represents a basic shift in the OTS regulatory framework for holding companies. As a general matter, such a fundamental shift in regulatory approach should be supported by substantial empirical evidence demonstrating that the specific requirements are indeed necessary. Without justification of the specific problem, it becomes difficult to craft potential solutions. When possible, regulatory agencies should narrowly tailor solutions to address only those proven areas that have caused legitimate difficulties. We are concerned that the Proposed Rule does not represent such a narrowly tailored approach

Although MassMutual agrees that the OTS has legitimate concerns whenever a savings and loan holding company acts to put its savings association subsidiary at risk, we believe the OTS'S record of regulating federally chartered savings associations demonstrates quite effectively that the agency already possesses the requisite supervisory tools to prevent such rare occurrences within a narrow universe of rogue holding companies. In addition, MassMutual also believes that the OTS'S ability to engage in regular, meaningful and ongoing dialogue with its regulated institutions results in a better understanding and more productive relationship. This practice, in turn, minimizes the opportunity for risky activities to go undetected and uncorrected.

The presence of a robust, existing supervisory framework only reinforces MassMutual's concern that the Proposed Rule is an unnecessary foray into potentially intrusive regulation. If adopted in its current form, savings and loan holding companies could be substantially burdened by this regulation, and will operate at a significant competitive disadvantage. Implementation of the Proposed Rule could shatter many of the assumptions made by institutions, including MassMutual, when they chose the thrift charter as the method for conducting banking operations. This will, in turn, pose a serious risk to the long-term viability and attractiveness of a federal savings association charter.

The OTS'S attempt to limit this regulation to a particular class of holding companies does not address our fundamental concerns. Even if not covered by the regulation at any particular point in time, this proposal also threatens holding companies that might grow to reach coverage thresholds. In addition, the "catch all" provision (discussed below) potentially opens the door for unwarranted regulation of a much wider universe of holding companies. Therefore, we recommend that the OTS not proceed to a final version of the Proposed Rule.

Concerns Regarding Prior Notice/Regional Discretion

Even though the Proposed Rule contains some minimal thresholds for coverage, it also vests substantial discretion in the regional directors to require prior approval if the OTS has concerns relating to a holding company's financial condition. This "catch all" provision grants significant discretion to the regional director without establishing any guidelines for implementation. This potential for ad hoc review of business decisions could significantly impact the ability of OTS regulated holding companies, such as MassMutual, to negotiate and complete any number of legitimate business transactions that are not appropriate for prior regulatory review.

The regional director discretion portion of the rule creates significant uncertainties that should not be incorporated into a final rule. First, a holding company that does not otherwise meet the prescribed minimums established in the Proposed Rule could find itself subject to a prior approval regime under an undefined standard. Under the Proposed Rule, this potential for disparate treatment for holding companies located different OTS regions could potentially place certain organizations at a competitive disadvantage if they become subject to more restrictive requirements than similar holding companies in other regions. Given the myriad of regulatory requirements already governing a diverse holding company such as MassMutual, the uncertainty posed by this catch all provision is inappropriate.

If you choose to proceed with a final rule, we strongly believe that the "catch all" paragraph (584.110(b)) should be deleted.

Concerns Regarding Capital Guidelines

Although the OTS has stated that this proposal is not designed to establish minimum capital standards for savings and loan holding companies, MassMutual believes that the limited OTS comments create significant ambiguity around this point. Any imposition of minimum capital standards or capital guidelines represents a fundamental regulatory shift that should require ample opportunity for a thorough substantive debate.[1] Given the limited attention provided to the capital issue in the Proposed Rule and the other activity occurring on capital standards (e.g., the Basel Committee), we believe that the issue is not currently ripe for final consideration.

Conclusion

For all of the reasons discussed above, MassMutual strongly opposes the implementation of additional regulations governing transactions by holding companies. Furthermore, we do not believe that the imposition of capital standards would be appropriate at this time.

If you have any questions or comments, please contact Jim Puhala at (413)744-7505.

Sincerely,

James P. Puhala III
Counsel

Kenneth S. Cohen
Senior Vice President & Deputy General Counsel

[1] Following exhaustive debate and careful deliberations, Congress declined to allow the Federal Reserve Board the right to place capital standards on financial holding companies under the Gramm-Leach-Bliley Act. While not controlling, we believe this refusal to endorse capital standards for diverse holding companies reflects a general intent to refrain from imposing capital standards at the holding company level in the post-Gramm-Leach-Bliley era.