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BANK ONE

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December 21, 2000

Docket No. 00-17
Communications Division, Third Floor
Office of the Comptroller of the Currency
250 E Street, SW.
Washington, DC 20219

Robert E. Feldman
Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429

Docket No. R-1080
Jennifer J. Johnson
Secretary, Board of Governors of the
Federal Reserve System
20th Street & Constitution Avenue, NW.
Washington, DC 20551

Manager, Dissemination Branch
Information Management
and Services Division
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552
Attention Docket No. 2000-70

Re: Agencies Proposed Revision of Capital Rules for the Treatment of Residual Interests

Ladies and Gentlemen:

BANK ONE CORPORATION (Bank One) appreciates the opportunity to comment on "Agencies Proposed Revision of Capital Rules for the Treatment of Residual Interests," the notice of proposed rule making issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (collectively, the Agencies) in September of 2000 and referred to herein as the "Proposal." Bank One is a multi-bank holding company with managed assets of $325 billion as of September 30, 2000. We commend the Agencies' efforts to address the potential problems arising from the complex nature of residual interests and the rapid growth of these assets on bank's balance sheets, especially when sophisticated risk management tools are lacking. Bank One's comments on the Proposal are detailed below.

Bank One agrees that residual interests can present real risks to a company's balance sheet and economic value, and that sophisticated valuation tools are a prerequisite to understanding the volatility inherent in these assets. As we stated in our comments on the "Basel Committee Proposal," we strongly believe this thought process extends to the entire balance sheet and that a financial institution's internal appraisal of risk should serve as the foundation for any measure of capital adequacy. Further, we believe the Agencies should view any standardized measure of capital adequacy as a true minimum, not one that will influence a bank's decision-making under normal operating conditions. Banks should be required to operate above a minimum capital threshold, but merely achieving this threshold level should not imply that capital is adequate. Actual capital levels should be measured and determined by internal processes, overseen by supervisors, and validated by financial markets. More specifically Bank One notes the following:

- While Bank One supports a path of greater disclosure and transparency in place of blanket regulation, we acknowledge the immense burden of regulating an entire industry with the limited resources available to the Agencies. The greater reporting requirements of FAS 140 will ensure significantly more disclosure of information, which should provide a mechanism to adequately monitor the industry. This information will be in the hands of the marketplace and shareholders easing the oversight burden on the Agencies.

- Bank One would argue that the definition of residual interest should not include a seller's interest in the assets conveyed to a trust because the seller's interest stands pari passu with the individual series in the trust held by third parties. Inclusion of the seller's interest in the definition would bias decisions toward securitizing a greater percentage of the assets in that trust. Companies could be motivated to reduce their seller's interest by doing more securitization in order to stay within capital constraints, thereby increasing the liquidity risk of the company.

- Bank One believes that the current eight percent capital requirement for on balance sheet items represents an over-generalized assessment of risk. To refine the measure for securitized assets, while leaving the eight percent level for balance sheet assets, creates an inconsistency that may lead to non-economic decisions. We would not advocate a framework that requires different capital for the same asset depending on how it is financed. A capital-constrained company might choose to avoid securitization as a financing tool if it triggers an increase in required capital for the same risk. Bank One would encourage the Agencies to apply a consistent framework in determining threshold capital.

- Bank One believes that limiting concentration of residual interests to 25% of Tier 1 capital is a redundant control when the assets in question are already capital weighted at 100%. Excessive capital requirements could reduce the ability of regulated firms to compete in the industry. Any regulatory capital arbitrage could drive risk outside the Agencies' oversight into non-regulated firms. However, Bank One does believe that gain-on-sale assets do represent a concentration risk, because they are subject to internal valuation assumptions. We would support narrowing the concentration limit to include only the gain-on-sale on the balance sheet.

- Bank One agrees with the proposal to use a "net-of-tax" approach, as it is consistent with other elements of the risk based capital calculations, such as certain intangible assets and low-level recourse deductions. The approach also presents a realistic view of the bank's capital position, should a write-off of the asset be required.

In conclusion, Bank One agrees in principal with the goals and direction of the Agencies' Proposal, and fully supports efforts to improve the capitalization, disclosure, and risk management associated with residual interests. Understanding that blanket regulation cannot adequately differentiate problem firms from the rest of the industry, we are encouraged by the move toward market and supervisory oversight. This direction is facilitated in part by the increased transparency in disclosure required under FAS 140, which will greatly reduce the burden of oversight placed on the Agencies. We reiterate our belief that regulatory capital standards should be used to establish minimum capital requirements, with the primary level of capital adequacy defined by internal risk models. By focusing on review and market disclosure rather than regulation, the Agencies will be encouraging better risk management skills within the industry. As well, the risk inherent in residual interests will remain in the hands of regulated firms, subject to the Agencies' supervision and review. Finally, with this approach, the Agencies preserve the role of securitization as a financing tool and source of liquidity.

Again, Bank One appreciates the opportunity to comment on such an important topic.

Respectfully,

Charles W. Scharf
Executive Vice President and
Chief Financial Officer