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September 10, 2002

Communications Division
Office of the Comptroller of the
Currency
250 E Street, SW, Third Floor
Washington, DC 20219

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

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th and C Streets, NW
Washington, DC 20551

Mr. Alexander T. Hunt
Office of Information and Regulatory
Affairs
Office of Management and Budget
New Executive Office Building,
Room 3208
Washington, DC 20503

Re: Proposed Revisions to the Consolidated Reports of Condition and Income
and the Thrift Financial Report; 67 Federal Register 46250; July 12, 2002

Madame and Messrs:

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision (collectively "the Agencies") have proposed to add to the Consolidated Reports of Condition and Income and the Thrift Financial Report ("Call Reports") a new Schedule for reporting of subprime loans under any subprime lending programs. The Call Reports are required of all banks and savings associations. The American Bankers Association ("ABA") brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership - which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks - makes ABA the largest banking trade association in the country. ABA appreciates the opportunity to comment on the proposed changes to the Call Reports.

The Agencies made a similar proposal in 2000 as part of the overall revision of the Call Reports. At that time, the ABA objected strongly to a number of problems raised by the proposed subprime loan reporting. Specifically, ABA objected (see ABA's letter of July 31, 2000, to the Agencies) that the Agencies' definition of subprime was too broad, that it was incorrect to apply the same definition of subprime over a number of loan products, that the Agencies' estimate of the new burden was too low, that the Agencies might require reporting of all individual subprime loans as opposed to subprime loans forming part of a subprime lending

program, and that there should be a *de minimis* exception to reporting for small portfolios of subprime loans.

While the current proposal still raises some of the same previously expressed concerns, the Agencies' have made changes to improve the proposal. The Agencies have retained the overly broad definition of "subprime" that the Agencies adopted in the January 31, 2001, Expanded Guidance for Subprime Lending Programs. However, the Agencies will accord confidential treatment to information collected under the new Schedule. We believe that this confidential treatment is appropriate for the reasons stated by the Agencies. Notwithstanding the Examiner Guidance on Subprime Lending, there is no standard industry-wide approach to the definitions of either "subprime" or "program," which means that the meanings of these terms are institution specific and the reported information will not be entirely comparable from one institution to the next. Such differences would lead to potential misinterpretation of the data by the public, if it were public. The agencies additionally provide that institutions unclear as to whether any lending program of theirs meets the definition of a "subprime lending program" should request a determination from their appropriate regulator. Given the somewhat subjective nature of the definition of such a "program," this is appropriate but also supports confidential treatment of the reporting, since it is not likely to be consistent over all institutions and across all regulators. Nonetheless, this mechanism reduces concerns that institutions will be incorrectly filing Call Report information as a result of differences of opinion as to whether a program is a "subprime lending program."

While the according of confidential treatment to the information reported on the new Schedule allays many of our concerns, ABA notes that it still believes that the Agencies' definition of "subprime" is too broad. The Agencies state that subprime borrowers will display a range of credit risk characteristics that may include one or more of the following:

- Two or more 30-day delinquencies in the last 12 months, or one or more 60-day delinquencies in the last 24 months;
- Judgment, foreclosure, repossession, or charge-off in the prior 24 months;
- Bankruptcy in the last 5 years;
- Relatively high default probability as evidenced by, for example, a credit bureau score (FICO) of 660 or below (depending on the product/collateral), or other bureau or proprietary scores with an equivalent default probability likelihood; and/or
- Debt service-to-income ratio of 50% or greater, or otherwise limited ability to cover family living expenses after deducting total monthly debt-service requirements from monthly income.

Although the Agencies now acknowledge that a FICO score of 660 may not be subprime, depending upon the product and collateral, the Agencies further state that this list is illustrative and not exhaustive, leaving room for a further broadening of the definition by examiners. Bankers have told us that many of their consumers' loans may exhibit one of these characteristics, yet the bank does not consider the loan subprime. We note also that the proposal requires institutions that have identified borrowers as "subprime" based on their own internal rating systems to report them as such. While this provides a valuable flexibility to lenders in

determining reporting compliance, it is likely to mean that the reporting will be less consistent over institutions, since institutions that are conservatively estimating risk may use a more conservative definition of subprime. Until these concerns about the lack of consistency in reporting lending in subprime programs are addressed, ABA urges the Agencies to maintain the confidential treatment of the new Schedule.

ABA has one additional concern. We have already been advised by one banker that his bank's examiner-in-charge ("EIC") has told him that even though his bank does not have a subprime lending program, nonetheless the EIC wants the banker to use the Call Report definition to identify what percentage of the bank's portfolio of loans is subprime and to begin separately monitoring and reporting on these loans to the EIC as per the proposed Call Report Schedule. If other examiners begin requesting this additional information, the number of banks required to report might well be many times the 130 institutions the Agencies have stated they believe will be subject to the requirement. Thousands of banks should not have to do this additional reporting at the whim of their examiners. ABA urges the Agencies to stop this type of demand for additional information now.

Sincerely,

A handwritten signature in cursive script that reads "Paul A. Smith".

Paul A. Smith
Senior Counsel