



Capital One, F.S.B.  
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January 24, 2005

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington, D.C. 20552  
regs.comments@ots.treas.gov

**EGRPRA Regulatory Review - Application and Reporting Requirements: Comments  
on Interim Rule  
Attention: 2004-54**

Dear Sir or Madam:

Capital One, F.S.B. (Capital One) appreciates the opportunity to comment on the Interim Rule of the Office of the Thrift Supervision (OTS), implementing regulatory burden reductions under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

Capital One is a federal savings bank and offers a range of consumer and small-business lending products including credit cards, small-business loans, mortgages, and installment loans, as well as deposits. As of December 31, 2004, Capital One managed outstanding loans of \$14 billion, and held \$11 billion of deposits. Capital One is a subsidiary of Capital One Financial Corporation, a bank holding company and Fortune 500 company, one of the largest providers of MasterCard and Visa credit cards in the world, whose subsidiaries, as of December 31, 2004, collectively had 48.6 million accounts and \$79.9 billion in managed loans outstanding.

Capital One applauds the action of the OTS in the Interim Rule in simplifying and streamlining a number of regulatory requirements and processes. We believe that the OTS initiative is important, not only to lighten the regulatory load on savings associations and enable them to do business more flexibly and compete more effectively, but also to focus scarce regulatory resources where they will be most effective in ensuring the safety and soundness of the thrift industry. The purpose of Capital One's comments on the Interim Rule is to further those objectives with respect to certain specific points on which the OTS has solicited comment.

**A. Branch and Home Offices**

**1. OTS Question: Should the final rule require an application or notice if a savings association's investment in branch and home offices exceeds a specified limit or if the association is engaged in multiple branch expansions?**

Consistently with the goals stated above – enhancing business flexibility and competitiveness of savings associations, and efficiently focusing regulatory attention where it will have the most impact on safety and soundness – Capital One believes that the final rule should not contain an application or notice requirement in the circumstances that the OTS has identified. We believe that the existing supervisory process, in conjunction with the existing OTS regulation limiting the amount that a federal savings association may invest in real estate used for offices and facilities, is sufficient to address the safety and soundness issues raised by business expansion. In particular, we believe that the existing processes of reporting and examination are sufficient to capture situations that the OTS is concerned with, in which rapid expansion or investment in real estate pose safety and soundness risks even within the parameters set by the real estate investment rule.

**2. OTS Question: In the provisions of its final rule governing approval standards for branch office applications, should the OTS include factors that are currently not stated in the OTS rule but which the OTS in fact considers such as the National Historic Preservation Act and the National Environmental Policy Act?**

Capital One believes that the final rule should accurately reflect all significant factors that the OTS presently considers in deciding weather to approve branch applications. Including those factors in the rule will enable associations to appropriately address those factors in their initial applications, avoiding processing delays and further communications back and forth to resolve issues that are identified only after the initial filing has been made.

**B. Agency Offices**

**OTS Question: Are there other activities, beyond those identified by the OTS, that should be added to the list of activities that an association can carry on at an agency office without prior OTS approval?**

Capital One believes that deposit marketing activities, and other activities in support of a deposit business that do not involve the taking of deposits, do not present safety and soundness concerns and therefore should be added to the list of activities that can be carried on at an agency office without prior OTS approval. Capital One has a large deposit business that is not presently conducted through branches. Rather, Capital One receives deposits at its central facilities, which are generated by marketing initiatives of various kinds. Including deposit marketing and support activities on the list of activities permissible for agency offices would enable Capital One to deploy associates or representatives to distribute marketing materials and provide consumers with information regarding Capital One's deposit offerings. To the extent that these associate's or agents' activities are so limited, they should not present any safety or soundness concerns, and should not require advance OTS approval. In addition, we ask that the OTS clarify that no agency office need be established (and hence no

advance approval is required) if the savings associations' employees or agents provide deposit marketing, support and solicitation services in public venues, such as setting up tables at county fairs.

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Capital One appreciates the opportunity to comment on the OTS's Interim Rule, and commends the OTS for its dedication to regulatory efficiency. If you have any questions about this matter and our comments, please contact me at 703-720-2255.

Sincerely,



Christopher T. Curtis  
Associate General Counsel  
Policy Affairs