

From: grady@southappfund.com  
Sent: Friday, January 21, 2005 8:37 AM  
To: Comments, Regs  
Subject: Regulator Information Number No. 2004-53

Importance: High

Regulation Comments

Chief Counsel's Office

Office of Thrift Supervision

1700 G Street, NW.

Washington, DC 20552

Attention: No. 2004-53

Dear Counsel:

The Southern Appalachian Fund (SAF) is a \$12.5M venture capital fund formed to provide equity capital and operational assistance to qualifying businesses in southern Appalachia. The Fund focuses specifically on companies in Kentucky, Tennessee, and the Appalachian counties of Georgia, Alabama, and Mississippi. SAF is one of six New Markets Venture Capital (NMVC) Companies in the United States. The NMVC Program is a developmental venture capital program designed to promote the creation of wealth and job opportunities in low-income geographic areas and among individuals living in such areas. To learn more about the New Markets Venture Capital program, go to [www.sba.gov/INV/venture.html](http://www.sba.gov/INV/venture.html). The Fund's investors include a number of institutional investors, including six banks. For more information about SAF, please visit [www.southappfund.com](http://www.southappfund.com).

The Southern Appalachian Fund strongly opposes your proposal to allow large thrifts to potentially ignore the Investment and Service Tests of the current regulations. By making these two tests optional, OTS would undermine the successes of community development venture capital (CDVC) funds across the country. We are also concerned that your proposal to modify the definition of "community development" to include any investing or service activities in rural areas runs counter the goals of the Act.

Research conducted by the Community Development Venture Capital Alliance (CDVCA), the national trade association for CDVC funds, shows that OTS-regulated

institutions invest in CDVC funds, especially funds located in rural areas. We believe that the Investment Test has helped to spur thrifts' interest in CDVC, and could create more interest in the future if the Investment Test were to remain mandatory for all thrifts. Banks are the single largest provider of private capital in our industry, accounting for more than 36 percent of all private equity investments in our industry. If OTS were to weaken the Investment Test we would be very concerned that this would set a bad precedent for other federal regulators.

Furthermore we do not support your proposed change in the definition of "community development," which would append "rural areas" to the current definition of community development. We strongly believe that the current definition, which clearly and rightly emphasizes low- or moderate-income individuals and geographies, is the proper definition. The Southern Appalachian Fund encourages the OTS and all of the federal regulators to continue their focus on improving access to credit and capital in rural areas. Not only would this proposal confuse the regulatory environment, but it also runs the risk of worsening access to credit and capital for low- and moderate-income persons and low- and moderate-income communities in both rural and urban areas.

Thank you very much for the opportunity to comment on OTS's proposed changes to the CRA regulations. If you have any questions about these comments please do not hesitate to contact us.

Sincerely,

Grady Vanderhoofven

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Executive Vice President

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