NetBank®

member FDIC

9710 Two Notch Road
Columbia, SC 29223

Main 800/933-2890
803/462-8000
www.netbank.com

96/914

January 4, 2006

Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Attention No. 2005-40: Risk Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Domestic Capital Modifications

Dear Sir or Madam:

The Chief Counsel's Office recently solicited comments regarding to the proposed rule 2005-40: Risk Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Domestic Capital Modifications. Netbank, Inc. is pleased to comment on the above mentioned proposal. Our comments on select aspects of the proposal are summarized below.

Increase the Number of Risk-Weight Categories

Proposal 2005-40 suggests increasing the current risk-weight categories from five to nine with the addition of 35, 75, 150 and 350 percent categories. The Company believes that adding additional risk-weight categories may be appropriate. However, we are of the opinion that categories which would permit lower risk weight classification to assets of the highest quality would be equally important as adding higher risk weight categories. The Company believes that additional lower risk weight categories should be permitted for assets of high quality, very low historical delinquency rates or the existence of mortgage default insurance (PMI, VA or FHA). In addition, we believe lower risk weighting should be permitted for performing and well seasoned mortgage assets .

Use of External Credit Ratings

The proposal also suggests new risk-weighting classes of investment securities based on external ratings. The proposed risk weight classifications include establishing 35, 75, 200 and 350 percent categories. Although there would not be an additional reporting burden to classify securities as such, we believe the risk weights assigned to the long-term rating categories should be adjusted. Instead, we view 350% as an extreme classification for an investment security of a B rating. We believe such a security would be better classified no higher than 200%.

One-to-Four Family Mortgages: First and Second Liens

We have also reviewed suggestions within the proposal for risk-weighting one-to-four family mortgages. The Company strongly supports the use of tiering based upon algorithms using LTVand FICO scores We do not support the use of debt ratios since many loans, including agency-eligible loans, are presently underwritten with minimal support for income levels ("stated income" and other reduced documentation products). We also do not support the suggestion that LTVs, FICO scores and debt ratios be updated periodically except perhaps for > 100% LTV or negative amortization loan products. The cost of obtaining an annual updated appraisal and

10070

EQUAL HOUSING LENDER

credit report would reduce the net value of a mortgage loan to the point that its risk rated return, net of those added expenses, would no longer be attractive. We suspect that most banks and thrifts would opt to shed their whole-loan mortgage portfolios and replace those investments with GNMA and agency securities. The real losers as a result would be the tens of millions of households that do not qualify for conforming conventional, FHA or VA loans. Likewise, we do not believe that our legal agreement with mortgagor allows us to require periodic updating of the personal income and credit information nor to obtain physical access to their property for an updated appraisal. In fact, the frequency of credit report requests can actually negatively impact a person's credit rating, and many loans are originated as no debt ratio or reduced income documentation loans.

We propose that the initial and ongoing risk classification of a loan be determined based upon the LTV and FICO scores at loan origination. If a loan subsequently becomes chronically delinquent, the bank should be required to reclassify to a higher risk tranche. Likewise, once a loan "fully seasons" and has a good payment history, it should be reclassified into a lower risk tranche. We recommend that such "seasoning" should be set at 4 to 5 years after origination for fixed rate loans and after several rate adjustments for an adjustable rate loan. If a bank has a large number of loans in a geographic area that experiences large and consistent increases in home values, perhaps the regulation should allow the bank to voluntarily update all of the information used in the risk tiering algorithms and reclassify to a new risk tier, accordingly. Likewise, more risky loan products like loans with > 100% LTV or loans with negative principal amortization should be required to be reviewed periodically for possible upgrade or downgrade.

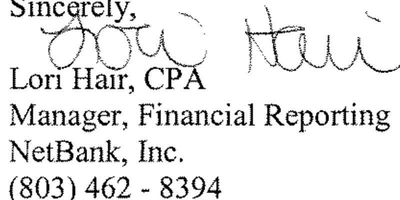
Small Business Loans

As a bank that serves small business customers, we are delighted with the proposed changes to treatment of small business loans in section J of the proposal. We believe that the economy's future growth lies with emerging businesses and agree with the Agencies' initiative to afford a lower risk rating for certain small business loans under $1 million.

****

Thank you for the opportunity to submit our comments. Although we agree with the majority of the proposals within the rule, if adopted the proposal would implement sweeping changes. Therefore, we suggest a transition period of a minimum of two filing cycles. We look forward to the outcome of the rule-making process.

Sincerely,



Lori Hair, CPA
Manager, Financial Reporting
NetBank, Inc.
(803) 462 - 8394