January 17, 2006

VIA EMAIL ONLY

Regulatory Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington, DC 20552
reg.comments@ots.treas.gov

RE: Docket No. 2005-40/Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Domestic Capital Modifications (the "Capital Proposals")
70 FR 61068 (October 20, 2005)

Dear Chief Counsel:

Guaranty Bank is a federal savings bank headquartered in the Milwaukee Wisconsin area with over 145 retail bank locations throughout Wisconsin, Northern Illinois, metropolitan Detroit Michigan, Atlanta Georgia and the Minneapolis, Minnesota area. Despite having just under $2 billion in assets, over the past 3 years our lending operations have originated over $20 billion in home mortgage loans throughout the United States. Given the potential impact that the Capital Proposals could have on our ability to continue to successfully originate and hold home loans, and particularly second mortgage loans, we are eager to share our comments.

Along with most other first mortgage lenders, Guaranty Bank has seen its number of second mortgage originations rise as the growth of 80/10/10 type loans has resulted in lower (and generally tax deductible) payments for consumers in lieu of private mortgage insurance ("PMI"). Guaranty Bank has actively sought and originated second mortgage loans throughout the country through its GB Home Equity subsidiary. Guaranty Bank maintains high credit and debt to income requirements on its high CLTV second mortgage originations. Accordingly, for over 10 years, second mortgage loans have been a strong and important component of our balance sheet.

Nevertheless, to reduce credit risk exposure, Guaranty Bank has insured virtually all of its second mortgage portfolio with PMI. The insurance is underwritten on a pool basis by strong mortgage insurance companies and meets the regulatory requirements for recognition as adequate credit support. Guaranty's second mortgage loans are insured for 100% of the credit loss for the life of the loan and each individual loan is insured down to 89.9% combined loan to value ratio ("CLTV") without regard to any policy caps.

Surprisingly, the Capital Proposals fail to specifically recognize the value of PMI covering second lien mortgages. Further, the Capital Proposals suggest that the risk weighting for high CLTV second mortgages (over 90%) could be increased to a number greater than 100%. Without the capital relief afforded by PMI and/or higher risk weights for high CLTV seconds, Guaranty Bank is fearful that it may be impossible for us to safely continue to originate affordable second mortgages.

PMI Treatment on Second Mortgages

From a risk weight perspective, PMI for second liens should be treated the same (on a combined basis) as PMI on a first liens. The value provided by our second lien PMI has been aptly demonstrated in the recoveries we have obtained for years from multiple mortgage insurance companies. In terms of recoveries, our pool PMI on second mortgages has been no different than individual loan first lien coverage. Our current and former regulators have all recognized the value of these recoveries in determining the adequacy of our loss reserves.

Furthermore, pool-based PMI is recognized as an "efficient and effective credit management tool" for second mortgages in the recently issued *Credit Risk Management Guidance for Home Equity Lending* dated May 16, 2005 (the "Home Equity Guidance") and is also recognized in the *Interagency Guidance on High LTV Residential Real Estate Lending* dated October 8, 1999 (the "High LTV Guidance"). To be consistent with the Home Equity Guidance and the High LTV Guidance, pool PMI on second mortgages must also be recognized in the risk based capital standards applicable to the industry.

Risk Weighting for High CLTV Second Mortgages

When prudently underwritten, the risk of high CLTV second mortgages is no greater than a comparable first mortgage of the same LTV, and may even be of lower risk when the high credit standards we employ are applied. Concerns the regulators may have with the credit standards employed by some institutions for these loans are already thoroughly addressed in the recent Home Equity Guidance and in other regulatory issuances. We strongly believe that the risk based capital rules are a poor and imprecise tool to affect changes in the underwriting of high CLTV second mortgages (or other loans) and may cause unintended consequences adversely affecting the competitive nature of the market for these products. Accordingly, Guaranty Bank is taking this opportunity to urge the regulators to develop capital standards that will treat high CLTV second mortgages no differently from any high LTV first mortgage loan (on a combined CLTV basis) and to rely on the other guidance for ensuring that proper underwriting standards are used.

Thank you, for the opportunity to comment on the Capital Proposals in an ANPR format which should facilitate a more open and thoroughly vetted process for developing this regulation. Feel free to contact me if you have any questions.

Sincerely,

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