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Comptroller of the Currency  
Administrator of National Banks

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Central District Office  
One Financial Place, Suite 2700  
440 South LaSalle Street  
Chicago, Illinois 60605

May 15, 2000

**Interpretive Letter #899**  
**December 2000**  
**12 USC 84**  
**12 CFR 32.3(c)(5)**

David L. Wirth  
Executive Director  
Illinois Farm Development Authority  
427 East Monroe  
Suite 210  
Springfield, Illinois 62701

Dear Mr. Wirth:

This is in response to your recent letter concerning national bank lending limit exemptions and Illinois Farm Development Authority (IFDA) loan guarantees. The facts set out in your letter are as follows.

Illinois state chartered banks have been receiving lending limit exemptions on IFDA loan guarantees since 1986. National banks have been unable to receive a similar lending limit exemption due to the regulation in 12 C.F.R. § 32.3(c)(5). Until now, there was no clear legal authority to consider the IFDA loan guarantees as backed by the full faith and credit of the State of Illinois. You recently received a letter from Illinois Attorney General Jim Ryan dated March 7, 2000 (AG Letter), wherein he renders his opinion that the State of Illinois has pledged its full faith and credit to back the guarantees issued by the IFDA. In light of the AG Letter you seek our determination that loans guaranteed by the IFDA are exempt from the national bank legal lending limit.

The AG Letter determined that Public Act 91-386 (effective January 1, 2000) amended the Illinois Farm Development Act to delete the limits that were placed on the amounts that could be transferred into the guarantee funds that backed the IFDA guarantees. Those limits were replaced by language that permits the IFDA to transfer to the funds “such amounts as are necessary to satisfy claims” made under the IFDA guarantees. The AG Letter further determined

that the amended Illinois Farm Development Act “constitutes and irrevocable and continuing appropriation of the amounts necessary to secure the guarantees as defaults occur.”

In general, a national bank’s loans to one borrower are limited to 15 percent of the bank’s capital. 12 U.S.C. § 84; 12 C.F.R. § 32.3(a). OCC rules provide that certain types of loans and extensions of credit are not subject to the lending limits. Among those exemptions are:

. . . loans or extensions of credit, including portions thereof, to the extent guaranteed or secured by a general obligation of a State or political subdivision and for which the lending bank has obtained the opinion of counsel that the guarantee or collateral is a valid and enforceable general obligation of that public body.

12 C.F.R. § 32.3(c)(5)

Under OCC rules a general obligation of a State or political subdivision means: “An obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation . . .” 12 C.F.R. § 1.2(b). It is clear under the AG Letter that IFDA guarantees are general obligations of the State of Illinois because they are supported by the full faith and credit of the State of Illinois. Therefore, loans guaranteed by the IFDA qualify for the lending limit exemption to the extent of the guarantee.

The general obligation exemption requires the lending bank to obtain an opinion of counsel that the guarantee is a valid and enforceable obligation of the State. The national banks that will need to rely on this exemption typically will be smaller national banks. Because the expense of obtaining an opinion of counsel may be prohibitive for many of these banks, the OCC will not require national banks to obtain an opinion of counsel to take advantage of the IFDA guarantees but will allow national banks to rely on the AG Letter.

We trust this is responsive to your inquiry. If you have any further questions feel free to contact me or Senior Attorney Daniel C. Jordan at 312-360-8805.

Sincerely,

**-signed-**

Coreen S. Arnold  
District Counsel