



May 31, 2011

SENT VIA ELECTRONIC MAIL

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

Attn: OTS-2011-0004

RE: Docket No. OTS-2011-0004: Incentive-Based Compensation Arrangements

Ladies and Gentlemen:

I am writing on behalf of Macy's, Inc. ("Macy's"), a grandfathered unitary savings and loan holding company ("SLHC"). Macy's is one of the nation's premier retailers, with fiscal 2010 sales of \$25 billion. Macy's indirectly, through its ownership of FDS Thrift Holding Co., Inc. ("Thrift Holding"), also an SLHC, owns FDS Bank ("Bank"), a federally-chartered savings association.

As Macy's had \$20.417 billion in assets as of April 30, 2011, it is a "covered financial institution" ("CFI") under the OTS' proposed rules. *See* proposed 12 C.F.R. § 563h.3(c). Neither Thrift Holding nor the Bank, however, has total consolidated assets of \$1 billion or more. Accordingly, neither is a CFI.

The OTS is in a highly unusual position with regard to finalizing these proposed rules because, as of July 21, 2011, its supervision of (i) SLHCs is transferred to the Federal Reserve Board ("Board") and (ii) federal savings associations is transferred to the OCC. As only Macy's is a CFI under the OTS' proposed rules, our comments relate only to Macy's. Additionally, given that the Board will be implementing the OTS' final rules as to Macy's (as an SLHC), our comments reflect this reality by addressing how we believe that Macy's should be regulated by the OTS and the Board under the final rules.

"Comparable Compensation Practices at Comparable Institutions"

Among the standards under the OTS' proposed rule for determining when an "incentive-based compensation arrangement" ("IBCA") provides excessive compensation is "[c]omparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location and the complexity of the [CFI's] operation and assets." *See* proposed *id.* § 563h.5(a)(2)(iv). Macy's is one of only two department store retailers that is an SLHC; Nordstrom Inc. ("Nordstrom") is the other.

Moreover, Macy's and Nordstrom are not "comparable." Macy's operates about 850 department stores in 45 states, the District of Columbia, Guam and Puerto Rico under the names Macy's and Bloomingdale's, the macys.com and bloomingdales.com websites and four Bloomingdale's Outlet stores. By contrast, as of March 19, 2010, Nordstrom, with fiscal 2010 sales of \$9.94 billion, operates only 112 Nordstrom full-line department stores, 72 off-price Nordstrom Rack stores, two Jeffrey boutiques and one Last Chance clearance store in only 28 states. Clearly, Macy's is much larger, much more geographically diverse and has far more complex operations than Nordstrom. Thus, there are no SLHCs, and obviously no bank

holding companies (“BHCs”), that are “comparable” to Macy’s, as banking and retailing are fundamentally different business.

Moreover, Macy’s total consolidated banking assets are significantly less than \$1 billion. Given this fact and the reality that there are no SLHCs, BHCs or, for that matter, banks or savings associations, that are “comparable” to Macy’s, we believe that Macy’s should not be regulated as a CFI under the proposed rules. Indeed, less than 1% of Macy’s assets are held by FDS Bank. Clearly, the OTS’ (and the Board’s) proposed rules are intended to regulate IBCAs at banks, savings associations, BHCs and SLHCs engaged primarily or exclusively in banking or financial activities.

As Macy’s is not such an entity, and is engaged predominantly in retailing, a business completely different than banking, we believe that it would be inappropriate for the OTS (or, for that matter, beginning July 21, 2011, the Board) to apply the final IBCA rules governing SLHCs to Macy’s. Accordingly, Macy’s respectfully requests that we be exempted from the application of these final rules on IBCAs.

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We appreciate the opportunity to comment on the proposed rules.

Very truly yours,

/s/ Dennis J. Broderick

Dennis J. Broderick  
Executive Vice President,  
General Counsel and Secretary