



**Remarks Prepared for**

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## ***ACB CONVENTION***

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### **I. OPENING**

Thank you and good morning. I always enjoy coming to this convention. I stand here today in place of Jonathan Fiechter. Jonathan worked very hard on behalf of the thrift industry and OTS the last several years and was instrumental in many of our significant achievements.

Jonathan played a critical role in addressing the SAIF/FICO problem. He was out front on that issue for as long as anyone, and I know he shares everyone's satisfaction that success has now been achieved. Although Jonathan was excited to move on to his new challenge, he will surely be missed at OTS, and I know by many of you.

But, as they say, life goes on. We at OTS have certainly learned that lesson. We are very fortunate to have someone of the caliber of Nic Retsinas to step up to take the leadership role at OTS. During the past few weeks Nic has spent considerable time and effort getting up and running on the issues facing the industry and OTS. I believe time will prove that he was an excellent choice.

Today, I have been asked to address the condition of the industry, the status of OTS and our efforts at reducing regulatory burden. and what the future may hold

## II. WHERE WE HAVE BEEN AND WHERE WE ARE

### A. Condition of the Industry

Interestingly, Jonathan's predecessor, Tim Ryan, spoke before this very group five years ago, almost to the very day, about the state of the thrift industry. At the time of Tim's speech, the industry had just completed one of the most chaotic five-year cycles in its history.

In 1991:

- Only 86% of the industry was profitable;
- Average return on assets was 13 b.p.;
- For the first time since 1985, the industry had two linked quarters of profits;
- Capital ratios were approaching 5 percent;
- Almost a quarter of the industry, about 475 thrifts, was designated as significant problem institutions; and
- OTS completed 903 enforcement actions that year.

Since Tim Ryan's address five years ago, the industry has sustained its strong and full recovery -- a recovery that few at the time thought possible. That recovery has been so sweeping that through June 30, prior to the special SAIF assessment:

- The industry's string of profitable quarters, that had reached two when Tim Ryan spoke in 1991, has continued uninterrupted for the last five years, over twenty quarters;
- the industry's average ROA is nearly 100 b.p.;
- 97 percent of the industry is well capitalized;
- Not one thrift in the entire country is undercapitalized;
- There are now only 29 thrifts, or slightly more than two percent of the industry, with CAMEL ratings of 4 or 5; and
- So far this year, OTS has completed just 62 enforcement actions, almost all of which were against individuals no longer involved in our business.

You are indeed a healthy industry.

**B. Status of OTS**

Like the industry we regulate, OTS also has adapted and streamlined during difficult times.

- As the industry has shrunk, the downsizing of OTS has been even greater. Since 1991, OTS staff has been reduced by more than half, from nearly 3000 employees to 1400.
- In the face of a shrinking asset base, we have reduced our expenses and balanced our budget for the last two years without raising your assessments.
- We continue to fulfill our mandated examination requirements with a cadre of experienced financial institutions examiners who have been with us, on average, since the mid-80's. They are well-trained and understand your business.
- I believe we have developed a good rapport with the industry, Congress and the public.

We are today a more effective, streamlined and efficient supervisory agency.

### **C. Regulatory Burden Reduction**

The progress the industry has made is very much a reflection of your efforts and work, and is something you all can be proud of. At OTS, we want to make sure we do not needlessly impede that progress. Thus, we are committed to reducing the burdens on the industry. We know that thrifts compete every day with a variety of entities that operate without the burdens of items such as insurance premiums and significant government oversight. I am not exaggerating when I say that reducing that burden, consistent with safe and sound banking practices, is one of our agency's highest priorities.

Our efforts to reduce regulatory burden have taken three primary forms:

1. First, we have streamlined the examination process.
  - We have identified areas where we can rely more on the institution's internal processes and systems, and have significantly reduced the amount of on-site examination time;
  - We have focused our attention coordinating our examination process with other state and federal regulators to reduce the burden on institutions; and
  - We have developed a prototype which we are presently testing that will allow us to implement a more automated examination process utilizing technology to perform significant pieces of our examinations off-site and help minimize disruptions to your institutions' operations while on-site.

2. Second, we have streamlined our reporting requirements.

- After moving from a monthly to quarterly Thrift Financial Report, we have further reduced the burden by moving to consolidated reports, eliminating separate reports for subsidiaries;
- We reduced the number of reportable line items by 40%; and
- Thrift Financial Reports now require only data that is critical to meeting supervisory needs or statutory mandates.

3. Third, we are continuing to redesign our regulations, moving away from producing extremely long, detailed regulations and rules designed to deal with every conceivable event and interpretation. We know that reducing regulatory burden is one of the industry's foremost goals and, as I have said, it is one of ours as well. We have been working closely with ACB, we have heard your concerns and we are responding to them. I wanted to provide a quick overview of what we are doing:

- We are opting for more general, plainly worded regulations.
- We are distilling burdensome, laundry-list regulations into easier to understand charts.
- We are removing regulations that overlap those promulgated and administered by other agencies.
- We are eliminating unnecessary restrictions that are not tied closely to important safety and soundness objectives.
- Last December, we deleted eight percent of our regulations that were redundant or no longer necessary.

- We have eliminated or rewritten 150 pages, or 35%, of all OTS regulations. We are presently working on plans to eliminate or rewrite another 25%.
  - When we are done, we will have eliminated or rewritten 255 pages, or 60% of all OTS regulation.
4. By year-end, we intend to finalize four major rules to streamline the following areas:
- Lending and Investment;
  - Subsidiaries;
  - Conflicts of Interest and Corporate Opportunity; and
  - Corporate Governance.

#### Lending and Investment

The Lending and Investment rule was just published in final form and is being mailed to you this week.

- We deleted half of our lending and investment regulations and reorganized the section. For instance, we removed the detailed loan documentation requirements.
- This will allow you more flexibility to tailor loan documentation to various types of loans and to determine which particular documents are most appropriate for a specific loan.
- This final rule puts thrifts on a level playing field with other insured institutions and non-regulated entities and provides the flexibility needed to adapt to changes in technology and the marketplace.

### Subsidiaries

The new subsidiaries rule would:

- codify a thrift's pass-through investment authority;
- update and expand the list of preapproved activities for service corporations;  
and
- reorganize the subsidiary regulations together in one part and create a chart for easy determination of which type of subsidiary best fits an institution's strategic plans.

### Conflicts of Interest and Corporate Opportunity

The new conflicts of interest and corporate opportunity rule would:

- remove specific prohibitions on referrals for insurance services;
- clarify the exchange of business activity between affiliates;
- delete provisions that only repeat RESPA requirements; and
- allow affiliate mortgage brokers to receive an arms-length fee when acting as an agent soliciting loans for affiliated thrifts.

### Corporate Governance

The new corporate governance proposal would:

- modernize our model charter and bylaws to negate the need for prior regulatory approval for a host of activities;
- provide maximum flexibility to incorporate covenants and provisions consistent with safety and soundness; and

- allow institutions more flexibility to respond to external pressures.

### III. THE THRIFT CHARTER – NOW AND IN THE FUTURE

Although we are focused on relieving regulatory burden, in all likelihood the most imposing burden for you and your institutions has been the insurance premium disparity, and the corresponding FICO burden that you have borne alone until now.

Thanks to a lot of hard work by a lot of people, the BIF/SAIF premium disparity has been resolved. Achieving that solution was a long and often frustrating process.

But, finally, the banking and thrift industries, and the Congress and the Administration, were able to put aside their differences and achieve a sound solution to a difficult problem. It is good public policy, it is good for the financial services industry as a whole, and it is about time.

So now that resolution of the BIF/SAIF issue is behind us, thrifts, for the first time in a long time, can concentrate on building their future. That future will largely depend on your ability to provide at competitive prices the services and products your customers expect.

#### A. Lending Flexibility

Your ability to meet your customers' needs has been significantly enhanced by recent legislative and regulatory changes. These changes have greatly diminished the significant historical disadvantage of the federal thrift charter -- its restrictions on business and consumer lending. In particular, the removal of the bad debt tax provisions, the amendments to the QTL test, and the recent regulatory

changes expanding small business lending have drastically reduced these previous limitations on your lending flexibility.

- With the elimination of the bad debt tax provision, thrifts no longer have to retain at least 60% of their assets in narrowly-defined mortgage related products solely due to tax considerations.
- Thrifts are now allowed to increase their commercial lending portfolios for small businesses from 10% to 20%. This is in addition to commercial real estate loans, which may be made in an amount up to 400% of capital. All loans to small business now count as qualified thrift investments for purposes of the QTL test.
- The QTL test has also been expanded so that all credit card and student loans qualify as QTI without restriction. Parallel changes have been made to the HOLA investment limits.
- Our new lending regulation, which was just published in final form, permits greater business lending through service corporations.

With these recent reforms, federal thrifts can remain a major provider of housing finance and are in a position to originate the same amount of consumer and small business loans as the typical commercial bank does today. In effect, today's federal thrift charter provides you the opportunity to meet a much broader range of community lending needs.

#### B. Advantages of the Thrift Charter

This expanded lending flexibility was provided without impairing any of the existing advantages thrifts enjoy under the federal thrift charter. The current federal thrift charter has several very attractive features, such as holding company flexibility, service corporation flexibility, and broad branching powers.

## **1. Holding Company Flexibility**

- **Currently, thrifts are permitted to associate with holding companies engaged in any line of business that does not adversely affect the thrift's safety and soundness.**
- **The broad affiliation powers enjoyed by thrift holding companies constitute a significant advantage, particularly when contrasted with the restrictions applicable to bank holding companies. Thrifts can be owned by companies engaged in any line of business, unlike banks, which can only be owned by banking companies and can only engage in activities deemed to be "closely related" to banking.**

## **2. Service Corporation Flexibility**

- **Federal thrift service corporations are authorized to engage in any activity OTS deems reasonably related to the business of thrifts.**
- **For example, thrift service corporations can engage in real estate development and management provided appropriate capital reserves are established.**
- **Thrift service corporations can also sell insurance directly to the general public without being subject to the town-of-5000 limitation applicable to banks (although the service corporation would be subject to state laws governing licensing and insurance sales by depository institutions).**

### 3. Increased Branching Powers

- Federal thrifts are authorized to branch both interstate and intrastate free from state law restrictions.
- Even with the recent passage of the interstate banking bill, thrifts have more flexibility than national banks to branch interstate.

#### C. Charter Modernization

When the traditional thrift powers and branching advantages are combined with the new lending flexibility, thrifts now have close to an ideal community bank charter -- lending flexibility comparable to banks, and greater affiliation and branching powers.

As ACB continues to participate in the process of charter modernization, be aware of what you already have and what you may be giving up. With Congress moving forward on its quest for the so-called "modern charter," the focus must be on a charter that allows both thrifts and banks to compete effectively in the financial services market place. The good features of the recently enhanced thrift charter should not be destroyed. As Under Secretary Hawke recently noted in a somewhat different context, we should protect competition, not competitors.

Diluting the thrift charter to provide a level playing field for banks would be a major step backward for financial modernization. Any changes to the thrift or bank charters should meet some basic principles:

- They should strengthen or at least maintain the safety and soundness of the deposit insurance system as a whole and the depository institutions within the system.

- They should increase the efficiency and competitiveness of the U.S. banking system in financial markets.
- Any changes should support reliance on market-based incentives to guide choices on strategies and business activities for meeting customer needs.
- Any changes should provide flexibility for institutions to respond to changes in market conditions, technology and customers' financial needs.
- Any changes should reduce current regulatory burdens and supervisory costs on institutions and their customers.
- And finally, institutions should have a choice between state and federal, mutual and stock form.

OTS Staff has discussed the mutuality issue with numerous offices on Capitol Hill. I can assure you that no one we have talked to has any intention of denying, or complicating, the ability of mutuals to choose their form of ownership. If you are a mutual and you change your charter or ownership bylaws, do it because you believe it is in the best interest of your institution's current business plan. not because you think someone will force you to change.

To close, there is much in the current federal thrift charter that is worth preserving. You all have a strong interest in securing a charter that allows you the flexibility and power to serve the needs of your communities and customers. The future debate on charter modernization will be critical to that objective, and I urge you to personally get more involved in the process. I know you will.

Thank you again.