LC

OFFICE OF LEGISLATIVE AFFAIRS
CORRESPONDENCE ASSIGNMENT

LA 05-351 and 05-352 ASSIGNED TO: DSC-S DATE: 11/07/2005

DUE DATE: 11/15/2005

CORRESPONDENT: HONORABLE BARNEY FRANK
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

CONGRESSMEN FRANK AND GILLMOR WRITE REGARDING THE FDIC'S AUTHORITY TO PERMANENTLY RESTRICT A BANK'S ACTIVITIES TO THOSE IN ITS APPLICATION.

THE ATTACHED INQUIRY HAS BEEN ASSIGNED TO DSC-S FOR PREPARATION OF A DRAFT RESPONSE FOR THE SIGNATURE OF THE **CHAIRMAN**. THE DRAFT RESPONSE SHOULD BE DELIVERED TO THE OFFICE OF LEGISLATIVE AFFAIRS CORRESPONDENCE UNIT (MB 6067) NO LATER THAN COB **11/15/2005**.

IF YOU HAVE ANY QUESTIONS RELATING TO THIS ASSIGNMENT, PLEASE REFER TO DIRECTIVE 1211.2 OR CONTACT THE CORRESPONDENCE UNIT OF THE OFFICE OF LEGISLATIVE AFFAIRS AT 898-7055.

DISTRIBUTION:

VICE CHAIRMAN
MR. VOGEL
MS. BOLLEA (OIG)
MR. VAUGHN

LA05-351

MICHAEL G. OXLEY, OH, CHAIRMAN

JAMES A. LEACH, IA
RICHARD H. BAKER, LA
DEBRAH PRYCE, OH
SPENCER BACHUS, AL
MICHAEL N. CASTLE, DE
PETER T. KING, NY
EDWARD R. ROYCE, CA
FRANK D. LUCAS, OK
ROBERT W. NEY, OH
SUE W. KELLY, NY
Vice Chairs
RON PAUL, TX
PAUL E. GILLMOR, OH
JIM RYUN, KS
STEVEN C. LATOURETTE, OH
DONALD A. MANZULLO, IL
WALTER B. JONES, JR., NC
JUDY BIGGERT, IL
CHRISTOPHER SHAYS, CT
VITO FOSSELLA, NY
GARY G. MILLER, CA
PATRICK J. TIBERI, OH
MARK R. KENNEDY, MN
TOM FEENEY, FL
JEB HENSARLING, TX
SCOTT GARRETT, NJ
GINNY BROWN-WAITE, FL
J. GRESHAM BARRETT, SC
KATHERINE HARRIS, FL
RICK RENZI, AZ
JIM GERLACH, PA
STEVAN PEARCE, NM
RANDY NEUGEBAUER, TX
TOM PRICE, GA
MICHAEL G. FITZPATRICK, PA
GEOFF DAVIS, KY
PATRICK T. MCHENRY, NC

ROBERT U. FOSTER III
STAFF DIRECTOR

U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

BARNEY FRANK, MA, RANKING MEMBER

PAUL E. KANJORSKI, PA
MAXINE WATERS, CA
CAROLYN B. MALONEY, NY
LUIS V. GUTIERREZ, IL
NYDIA M. VELÁZQUEZ, NY
MELVIN L. WATT, NC
GARY L. ACKERMAN, NY
DARLENE HOOLEY, OR
JULIA CARSON, IN
BRAD SHERMAN, CA
GREGORY W. MEEKS, NY
BARBARA LEE, CA
DENNIS MOORE, KS
MICHAEL E. CAPUANO, MA
HAROLD E. FORD, JR., TN
RUBÉN HINOJOSA, TX
JOSEPH CROWLEY, NY
WM LACY CLAY, MO
STEVE ISRAEL, NY
CAROLYN McCARTHY, NY
JOE BACA, CA
JIM MATHESON, UT
STEPHEN F. LYNCH, MA
BRAD MILLER, NC
DAVID SCOTT, GA
ARTUR DAVIS, AL
AL GREEN, TX
EMANUEL CLEAVER, MO
MELISSA L. BEAN, IL
DEBBIE WASSERMAN SCHULTZ, FL
GWEN MOORE, WI

BERNARD SANDERS, VT

The Honorable Donald E. Powell
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

November 7, 2005

FDIC
NOV - 7 2005
OFFICE OF LEGISLATIVE AFFAIRS

Dear Chairman Powell:

We write to you concerning the attached letter from Jane Thompson, President of Financial Services for Wal-Mart Stores, Inc. In her letter Ms. Thompson wrote that Wal-Mart makes an "unqualified commitment not to engage in branch banking on an interstate basis or within Utah." She also wrote that the purpose " in seeking this charter is to act as sponsor in connection with electronic checks as well as credit and debit card transactions." These statements mirror what is contained in the public portions of the Wal-Mart application for deposit insurance.

The Federal Deposit Insurance Corporation has frequently imposed, as a condition on deposit insurance applications, that a new bank must "operate within the parameters of the business plan submitted to the FDIC." (See, e.g., industrial loan company application approvals for *Lehman Brothers Commercial Bank*, Salt Lake City, UT, August 10, 2005; *Medallion Bank*, Salt Lake City, UT, October 2, 2003; *Volkswagen Bank USA*, Salt Lake City, UT, December 11, 2001). Approvals often require that during the first three years of operations, a bank must notify the FDIC in advance of any proposed major deviation or material change from the submitted plan 60 days before consummation of the change.

We ask whether, should the FDIC approve the Wal-Mart application for deposit insurance, the FDIC has the authority to permanently restrict the bank's application to those activities requested in the application, and whether those restrictions are binding on the applicant.

Sincerely,

Paul Gillmor
Member of Congress

Barney Frank
Member of Congress

Attachment

WAL★MART STORES, INC.

Jane J. Thompson, President
Wal-Mart Financial Services
702 S. W. 8th Street
Bentonville, AR 72716-0565
Dial Direct 479-204-3002
Fax 479-204-9515

October 26, 2005

Honorable Paul Gillmor
U.S. House of Representatives
Washington, DC 20515

Dear Representative Gillmor:

I want to thank you respectfully for sharing your thoughts with us about Wal-Mart Stores pending application before the FDIC for an industrial bank (ILC).

I want to personally underscore for you our unqualified commitment not to engage in branch banking on an interstate basis or within Utah, consistent with the policy set forth in the Gillmor-Frank provision in H.R. 3505.

As we discussed, Wal-Mart Stores implemented a strategy beginning in 2003 to seek out local and community banks to be tenants in our stores. To date, we have long-term contractual obligations with over 300 banks that are operating in over 1100 Wal-Mart Stores. These contracts are renewable through 2023 and beyond, and can only be canceled by the bank tenants. We are currently recruiting unaffiliated bank tenants in all 50 states.

The purpose of Wal-Mart Stores, Inc. in seeking this charter is to act as sponsor in connection with electronic checks as well as credit and debit card transactions.

Thank you again for the opportunity to clarify further our position on this issue.

Sincerely,

Jane Thompson

Jane Thompson
President, Financial Services
Wal-Mart Stores, Inc.