

69

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<<5-2005\_SCBT Response To Request For Burden Reduction Recommendations.doc>>

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May 4, 2005

**VIA EMAIL**

Office of the Comptroller of the Currency  
Washington, DC

Attn: Docket No. 05-01

Request for burden reduction recommendations – Bank Secrecy Act 12 CFR Part 21 and Real Estate Lending Standards 12 CFR Part 34.

South Carolina Bank and Trust, N.A. [SCBT] is a South Carolina based community bank with thirty-four (34) offices. Working within regulatory requirements is very important to us. We offer the following information relative to the interagency request for burden reduction recommendations with respect to Bank Secrecy Act and Real Estate Lending Standards.

**Bank Secrecy Act 12 CFR Part 21:**

By its terms 12CFR21, subpart C, requires national banks establish and maintain procedures reasonably designed to assure and monitor their compliance with the requirements of statutory and regulatory mandates commonly known as the Bank Secrecy Act. The individual components which include (1) a system of internal controls to assure ongoing compliance, (2) independent compliance testing, (3) designate a responsible individual for coordinating/monitoring day-to-day compliance, and (4) training for appropriate personnel continue to consume community bank resources [financial and personnel] at geometric rates since the events of 9/11/2001. To alleviate some of the time/resource burden associated with BSA compliance, SCBT echoes the ABA's recommendation with respect to raising the CTR threshold to an amount such as \$20,000 or \$25,000 across the board.

Additionally, SCBT has not made use of the Phase II exemption process due to the time and personnel resources needed to monitor and document activity over a running 12-month period to ensure customers continue to qualify for this exemption. Even with all of the necessary internal monitoring, financial institutions also have to provide a form to

FinCEN bi-annually to document this process. For this process to work effectively and truly save financial institution time and resources, SCBT again echoes the ABA's recommendation that the only requirement be to eliminate the exemption when the customer's attributes no longer qualify for exempt treatment. This ensures no loss of critical oversight and may encourage community banks such as SCBT to take advantage of this process.

**Real Estate Lending Standards 12CFR Part 34, Subpart D:**

It is not often that we encounter regulatory issues that hamper our ability to complete but the Supervisory Loan to Value Limits noted in 12 CFR 34 subpart D has done just that. These standards require banks to originate real estate loans within established loan to value limits. Banks are allowed to exceed these limits on individual loans, but only until the total of the loans with exceptions equals 100% of the bank's capital. Certainly these limitations were called for after the real estate lending problems faced by many institutions in the 70s and 80s. However today most community banks are not making the larger more speculative real estate loans that led to these requirements. Although not totally devoid of some true commercial real estate lending, community banks tend to focus more on loans secured by owner occupied business real estate, residential first mortgage loans, equity lines of credit and the financing of residential lots. By nature community banks have a larger percentage of loans secured with real estate and are more likely to have higher levels of supervisory loan to value exceptions in relation to capital than regionally or nationally based competitors.

The loan portfolios of larger institutions not only include larger more speculative commercial real estate loans, but also larger non real estate middle market, corporate and international business loans. The capital positions required to support these larger bank loan portfolios as well as the mix of the loan portfolios make supervisory loan to value exceptions in relation to capital a non-issue while community banks have limited ability to make supervisory loan to value exceptions.

To illustrate, total real estate secured loans were 57% of Bank of America's portfolio versus 76% for SCBT at September 30, 2004. At that same date, Bank of America had 57 billion dollars in capital versus 109 million dollars for SCBT. Our own track record of low loan losses and problem assets supports our assertion that our real estate lending is safe and sound but we do not enjoy a level playing field. Bank of America and other large institutions enjoy a clear competitive advantage in this regard unless the application of these requirements to smaller, well managed community banks with strong lending records is revisited.

The second concern involves specific supervisory loan to value limits. Loans to individuals to purchase residential lots are not specifically addressed in the supervisory LTV chart. Therefore for years, residential lot loans were classified under the category of "Improved Property" which carries a supervisory LTV of 85%. Improved Property includes farmland, rangeland or timberland committed to ongoing management and agricultural production – all generally more risky than financing a couple's future retirement lot. These loans were not included in the "Land Development category since

the infrastructure of the subdivision is completed and the source of repayment of individual lot loans is based on the diverse income stream of multiple working families as opposed to multiple speculative sales of lots by a single subdivision developer.

OCC Advisory Letter 2003-7 clarified that loans to individuals secured with finished lots carry the same supervisory LTV limits as loans to develop subdivisions, causing us to move the limit from 85% to 75% using up 19 million dollars or 17% of our ability to make supervisory exceptions at 12/31/2004. Competition in the very active lot market necessitates an LTV of 90% or more regularly – especially in our coastal markets where there is fierce competition for lot loans. These loans are usually requested by financially secure borrowers who may be looking to build a second home or relocate to the area in the near future – the loans perform well with low historical loss records. Often we are able to refinance the lot loan when construction and permanent loans are requested. This is good for both the South Carolina economy and our bank.

Although successful in growing our lot loan portfolio, a large number of these lot loans to individuals have resulted in supervisory exceptions. Compliance will necessitate either aggressively curtailing this type of lending or selling part of our existing portfolio. Either option adversely affects our business model and limits our flexibility in meeting customer needs in South Carolina. Given the success of this type lending, historical low losses, and repayment sources available SCBT requests individual residential lot loans be classified separately with a minimum LTV of 85%.

South Carolina Bank and Trust appreciates the opportunity to comment on these concerns. If additional information is needed or there are questions about any of the information in this letter, please contact Lesley Lampert, Senior Vice President, Compliance.

Sincerely,

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