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July 16, 2008

Via e-mail: comments@fdic.gov

Mr. Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

RE: Guidelines for Appeals of Material Supervisory Determinations

The Federal Deposit Insurance Corporation ("FDIC") proposes to amend its Guidelines for Appeals of Material Supervisory Determinations ("Guidelines") to eliminate the ability of an FDIC insured state nonmember bank to file an appeal with the FDIC's Supervisory Appeals Review Committee ("SARC") with respect facts and circumstances underlying a formal enforcement-related action, including the initiation of an investigation. These comments are submitted on behalf of the Wisconsin Bankers Association ("WBA"). The WBA is the largest financial trade association in Wisconsin (representing approximately 300 state and nationally chartered banks, savings and loan associations and savings banks located in communities throughout the State of Wisconsin).

The WBA opposes the proposed amendment and encourages the FDIC to retain its current appeals procedures for FDIC insured state nonmember banks to appeal certain matters to the SARC. The WBA believes the proposed amendment is unnecessary and that the current Guidelines are adequate to protect the interests of the

Mr. Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
July 16, 2008
Page 2

FDIC while continuing to assure insured state nonmember banks access to important due process rights granted under the current Guidelines and the Riegle Community Development and Regulatory Improvement Act of 1994 ("Riegle Act").

We reviewed the various resolutions of appeals before the SARC published by the FDIC and it appears there are very few appeals which could arguably compromise the FDIC's right and authority to take enforcement or other supervisory actions against banks, and even in those few appeals the interests of the FDIC were not adversely affected by the process. The Guidelines and prior decisions by the SARC clearly state that decisions to initiate formal or informal enforcement actions are not subject to review by the SARC. However, determinations underlying enforcement actions, such as apparent violations of law or regulation, are and should continue to be appealable to the SARC under the Guidelines. The WBA believes that the current Guidelines do not adversely affect or unreasonably encumber the FDIC in connection with its regulatory supervision of insured state nonmember banks and its authority to take enforcement or supervisory actions, and that such appeals are consistent with the intent of the Riegle Act. The FDIC's proposed amendment would remove one of the few efficient opportunities available to banks for an independent review of those underlying facts and circumstances that exist at the time of an examination.

The WBA believes it is essential that an independent appellate process continue to exist within the FDIC to review material supervisory determinations in all respects as and to the extent permitted under the Riegle Act, and that the process for appeals not be further restricted in a way that is adverse to the due process rights granted banks under the Riegle Act. Although there are apparent differences between the FDIC and the other federal banking agencies, there is no requirement under the Riegle Act that the FDIC march in lock step with the other Federal Banking Agencies regarding the appeals process. This is an issue of fundamental fairness for those banks which believe they have been incorrectly judged in connection with material supervisory determinations made by the FDIC.

The WBA believes the FDIC was correct when it initially issued its Guidelines and stated that "the FDIC recognizes that, although determinations to take prompt corrective action or initiate formal or informal enforcement actions are not appealable, the determinations upon which such actions may be based (e.g., loan classifications) are appealable provided they otherwise qualify." The WBA believes this is the correct interpretation of the Riegle Act and helps assure banks of fundamental fairness and

Mr. Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
July 16, 2008
Page 3

due process in connection with material supervisory determinations made by the FDIC. This is a critical component of the process for banks. Banks have few rights available to them in connection with the enforcement process, and those few rights should be retained and respected, including the rights of banks under the current Guidelines. The WBA suggests that it is preferable for the FDIC to error on the side of fairness and due process for the insured state nonmember banks and to continue with the current Guidelines.

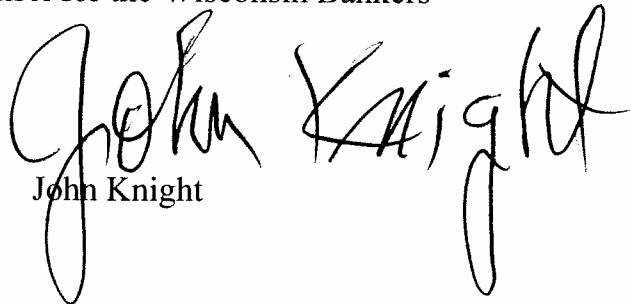
The WBA appreciates the opportunity to comment on the proposed amendments to the Guidelines.

Respectfully submitted,

Boardman Law Firm LLP,
Counsel for the Wisconsin Bankers

Association

By



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