From: Alden Buerge [mailto:alden@fsbj.com]
Sent: Thursday, September 07, 2006 12:59 PM
To: Comments
Subject: Industrial Loan Companies and Industrial Banks

August 24, 2006

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

RE: Industrial Loan Companies and Industrial Banks

Response to question #7.

Financial firms operate in a much more highly regulated environment than commercial firms and are accustomed to that environment. Financial firms do not have the distinct competitive advantage, discussed in the answer to question #9, that commercial firms have. In the interest of safety and soundness, Commercial firms should not be allowed to own ILCs.

Response to question #8.

The possibilities for conflicts of interest or tying between an ILC, its parent, and affiliates not regulated by some form of Federal supervision are almost endless. For example, Wal-Mart could offer discounts on sales to customers who also had an account at the subsidiary ILC. Conversely, Wal-Mart could offer discounts on loans to people who purchased products from Wal-Mart. This would provide an additional advantage to Wal-Mart that other smaller retailers and banks do not have.

Ford Motor Company, which is in the junk bond category, could provide low interest loans to sub-prime purchasers of Ford products. If Ford Motor Company owned an ILC subsidiary, the FDIC fund could be jeopardized by poor credit quality loans that were funded by FDIC insured deposits. A parent firm's financial interest is in financing its own products, and not the products of a competitor. Banks don't sell cars. This is a conflict of interest and a competitive advantage.

Imagine a shoe store needing a business loan to buy inventory for sale. Imagine that shoe store owner going to a Wal-Mart ILC subsidiary to borrow money for a loan to buy shoe inventory. Wal-Mart sells shoes. How would a Wal-Mart ILC subsidiary consider a loan to finance a competitor's business. What loan committee is going to approve a loan that will compete with their owner's financial interest? Banks don't sell shoes. This is a conflict of interest. When FDIC insured deposits are used to fund loans, there categorically should be no financial steerage involved. There can be no law written in such a manner to effectively prohibit tying arrangements between an subsidiary ILC and its unregulated commercial company parent.

Answer to question # 9

Clearly, commercial firms that own ILCs have a phenomenal competitive advantage over Banks who do not have an ability to enter the retail sales market. Large commercial firms have a marketing advantage and the ability to tie relationships between their retail operation and their ILC operation. Commercial firms can offer discounts and other financial incentives as a mechanism to attract customers to the subsidiary ILC of the commercial firm.

The distinct competitive advantage lies in the ability of a commercial firm with a subsidiary ILC to make money through two separate profit centers. First of all, the commercial firm has the traditional way of making a profit, by selling a product for more than the cost of manufacturing or distributing a product for a profit. If a commercial firm also owns a subsidiary ILC, the ILC can also make a profit from the financing of the sale of its own products. This provides 2 separate profit centers. When one firm controls both profit centers, the profitability can be shared between both entities or it can be steered to either entity through the pricing mechanisms. The commercial firm who owns a subsidiary ILC can choose to break even on its cost of money and still make money at the commercial firm parent level or it can make money at the subsidiary ILC level by financing the product with FDIC insured deposits and lowering the mark up at the parent level. The parent can also make money at both levels. This clearly provides an insurmountable competitive advantage that Banks do not have.

Currently many firms utilize zero or low interest rates to attract buyers to buy products sold by that firm. Ford, Toyota, GM and most automobile firms currently offer attractive financial packages to sell their own vehicles. This is a legal and acceptable business practice unless the use of FDIC insured deposits is used to fund the purchases. This is a competitive advantage that insured banks do not have.

The FDIC does not have the authority to regulate the parent commercial firm owning an ILC that could offer retail discounts and incentives. While the FDIC may have the authority to limit tying arrangements at the ILC level, the FDIC clearly lacks the authority to restrict, limit, or prohibit the offering of incentives at the parent level which is not subject to some form of consolidated Federal supervision of retail business practices.

Publicly traded firms have access to the capital markets to fund such financing packages. Sophisticated investors can choose which firms to invest in based on financial analysis. If a commercial firm utilized FDIC insured deposits to fund the lending function at the subsidiary ILC, this would also provide an unfair competitive advantage over other non-publicly traded firms and banks and small business owners. This would be an inappropriate use of FDIC insured deposits and offers a higher level of protection to investors arguably suggesting that the parent commercial firm is partially backed by the

FDIC. This FDIC backing of a subsidiary could give the parent commercial firm a higher than deserved commercial bond rating.

If commercial firms are allowed to use this ILC loophole to enter the banking business, firms will be able to use FDIC insured deposits to selectively make business loans to their friends and deny loans to competitors and potential competitors. There can be no arms length objectivity in such a situation. This is an insurmountable competitive advantage.

Response to question #10.

There are many hundreds of banks serving small towns that are not currently served by large commercial firms such as Wal-Mart, Target, Ford or Toyota or others. Consumers have access to over 90,000 separate banking offices plus ATMs and insured banks are always looking for more opportunities to expand and provide greater access to banking services. The risks of a conflict of interest and tying greatly outweigh any perceived benefits to a bank being affiliated with a commercial firm. A commercial firm offering retail office space for an un-affiliated bank is the optimum situation for both entities and consumers.

The separation of banking and commerce has served to make this the greatest economy in the world. Japan allowed the combining of banking and commerce in the early 1990s and has suffered economically because of it. Allowing commercial firms to own ILCs will provide a insurmountable competitive advantage, jeopardize the FDIC fund and provide biased access to credit by the American consumer. The only option for the FDIC is to reject all commercial firms interested in owning ILCs because the competitive advantage cannot be overcome by regulation or law.

The American consumer and businesses are entitled to the impartial and objective access to credit which is not biased on whose product will be purchased when FDIC insured deposits are the funding mechanism.

Alden Buerge
Chairman & CEO
First State Bank
Joplin, MO