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Robert E. Feldman
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SENT VIA EMAIL: Comments@FDIC.gov

RE: Response to request for comments on industrial loan companies and industrial banks

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We respectfully submit our comments as requested in the Federal Register, August 23, 2006 regarding industrial loan companies and industrial banks.

Cordially,

John M. Taggart
President/CEO
Medallion Bank

1. *Have developments in the ILC industry in recent years altered the relative risk profile of ILCs compared to other depository institutions? What specific effects have there been on the ILC industry, safety and soundness, risks to the Deposit Insurance Fund, and other insured depository institutions? What modifications, if any, to its supervisory programs or regulations should the FDIC consider in light of the evolution of the ILC industry?*

I have been involved with the industrial bank industry since before 1986 when they first qualified for FDIC insurance in the state of Utah. Although the nature of companies owning an ILC charter has changed during that period, the strength of the ownership of ILCs has dramatically increased in that period. During the majority of my banking career, I operated under the regulation of the OCC. I find the burden of regulations no less favorable nor the regulatory oversight of the FDIC and state regulators no less capable or professional than that experienced with the OCC in relation to our industrial bank or our parent company and our transactions with affiliates. I would conclude that 1)Industrial banks present no greater risk to the deposit insurance fund than any other type of bank, 2) the FDIC and state regulators have sufficient authority to adequately regulate and oversee industrial banks whose affiliates are not regulated under the Bank Holding Company Act, 3) banks can be successfully regulated in a way that insulates them from risks associated with non bank affiliates, and 4) current laws governing affiliate transactions applicable to all banks, including our own, have proven effective to protect the bank from undue risk.

2. *Do the risks posed by ILCs to safety and soundness or to the Deposit Insurance Fund differ based on whether the owner is a financial entity or a commercial entity? If so, how and why? Should the FDIC apply its supervisory or regulatory authority differently based upon whether the owner is a financial entity or a commercial entity? If so, how should the FDIC determine when an entity is "financial" and in what way should it apply its authority differently?*

The type of ownership, whether commercial or financial, does not determine the safety and soundness of the institution. All industrial banks are subject to the same standards, requirements and regulatory oversight as other banks. Both financial and commercial companies are major providers of financial services in the market generally and there is no evidence that either group presents more or less risk to the deposit insurance fund.

Our parent company is a "financial entity" making loans that are generally indistinguishable from loans made by a commercial bank. Its incentive in obtaining an ILC charter was to secure a more favorable and consistent source of funds that would allow it to compete more effectively against other federally insured banks and credit unions doing the same type of lending. Since the opening of the bank, we have expanded our lending services to an underserved niche of non-prime marine and RV financing that is dominated by two major players – us and another Utah industrial bank. Without the ILC charter, this consumer niche would not get financed or at least would be absent some financing alternatives.

We are a real bank subject to the same standards and requirements of every other bank regardless of how our parent is classified. The risk profiles of all of industrial banks are generally the same as traditional banks. That is why we believe no valid or meaningful distinctions can be drawn between banks solely on the basis of whether their owners are engaged in commercial or financial activities. It is far more important to look at the risk profile of the products and services offered by each individual bank and the strength and experience of management and the board of directors.

3. *Do the risks posed by ILCs to safety and soundness or to the Deposit Insurance Fund differ based on whether the owner is subject to some form of consolidated Federal supervision? If so, how and why? Should the*

FDIC assess differently the potential risks associated with ILCs owned by companies that (i) are subject to some form of consolidated Federal supervision, (ii) are financial in nature but not currently subject to some form of consolidated Federal supervision, or (iii) cannot qualify for some form of consolidated Federal supervision? How and why should the consideration of these factors be affected?

It is clearly appropriate and beneficial to regulate the relationships and transactions between banks and their affiliates and to insulate the banks from risks relating to the affiliates, but we find no evidence in our experience that the FDIC does not already accomplish that effectively under current supervisory authority. We would not expect, however, that the FDIC would examine or otherwise intrude into the operations of our affiliate whose operations provide outdoor advertising since it has nothing to do with the bank. Although our parent is regulated by the SEC and examined by the SBA and SBIC, the examinations performed by the FDIC and the extent to which they can reach to the parent on items pertinent to the bank are sufficient to effectively examine the safety and soundness of the bank.

4. *What features or aspects of a parent of an ILC (not already discussed in Questions 2 and 3) should affect the FDIC's evaluation of applications for deposit insurance or other notices or applications? What would be the basis for the FDIC to consider those features or aspects?*

Any factor potentially affecting the safety and soundness of the bank, public needs and convenience, and the safety of the banking system generally would be relevant. It is appropriate for the FDIC to evaluate the reasons why a particular owner wants to organize or acquire a bank, the likelihood that the bank will operate safely, honestly and fairly, the owner's competence and reputation for honesty and integrity, and the credibility of the bank's business plan. There is no evidence to suggest, however, that an ILC application should be held to a higher or different standard than other bank applications.

5. *The FDIC must consider certain statutory factors when evaluating an application for deposit insurance (see 12 U.S.C. 1816), and certain largely similar statutory factors when evaluating a change in control notice (see 12 U.S.C. 1817(j)(7)). Are these the only factors [the] FDIC may consider in making such evaluations? Should the consideration of these factors be affected based on the nature of the ILC's proposed owner? Where an ILC is to be owned by a company that is not subject to some form of consolidated Federal supervision, how would the consideration of these factors be affected?*

Each application should be evaluated on its own merits. Approval should depend on whether the applicant is a legitimate and well run company with a sound business plan and a competent management team and the bank, if approved, will serve public needs and convenience in a safe and sound manner. Nothing inherent in being a commercial company, a financial company or a bank holding company limits the ability of an applicant to satisfy all of the foregoing considerations or any of the statutory factors. Accordingly, it would be arbitrary to impose limitations on a bank solely because its parent is not a bank holding company or a financial company.

6. *Should the FDIC routinely place certain restrictions or requirements on all or certain categories of ILCs that would not necessarily be imposed on other institutions (for example on the institution's growth, ability to establish branches and other offices, ability to implement changes in the business plan, or capital maintenance obligations)? If so which restrictions or requirements should be imposed and why? Should the FDIC routinely place different restrictions or requirements on ILCs based on whether they are owned by commercial companies or companies not subject to some form of consolidated Federal supervision? If such conditions are believed appropriate, should the FDIC seek to establish the underlying requirements and restrictions through a regulation rather than relying upon conditions imposed in the order approving deposit insurance?*

As stated previously, imposing requirements or restrictions such as those suggested in the question on all industrial banks or any of their parent companies would be unauthorized, arbitrary and capricious if based solely on the nature of the bank's owner or the bank charter. No restriction or requirement would be valid without a specific finding based on the record in each individual application linked to one of the statutory factors. As an industrial bank, we are required to comply with all the same bank regulations as other banks. We should be able to operated, expand or branch as any other bank.

7. *Can there be conditions or regulations imposed on deposit insurance applications or changes of control of ILCs that are adequate to protect an ILC from any risks to safety and soundness or to the Deposit Insurance Fund that exist if an ILC is owned by a financial company or a commercial company? In the interest of safety and soundness, should the FDIC consider limiting ownership of ILCs to financial companies?*

As stated above, we believe any such restriction if applied across the board to all ILCs owned by a financial or a commercial company would be arbitrary, unauthorized and illegal.

There is considerable noise and rhetoric being expounded that would suggest that industrial banks are not adequately regulated and pose a particular risk to the insurance fund and the banking system in general. There is no basis for this assertion. As a denovo bank, we were profitable in our first year of operation, even after incurring significant organizational costs due to the extensive delay in the approval of our application. Such is not the case with typical denovo banks who can take two or three years before they are operating profitably. By any objective measure, the industrial bank industry has proven to be at least as safe and sound as any other group of banks and they have proven to be safer than traditional banks owned by bank holding companies.

8. *Is there a greater likelihood that conflicts of interest or tying between an ILC, its parent, and affiliates will occur if the ILC parent is a commercial company or a company not subject to some form of consolidated Federal supervision? If so, please describe those conflicts of interest or tying and indicate whether or to what extent such conflicts of interest are controllable under current laws and regulations. What regulatory or supervisory steps can reduce or eliminate such risks? Does the FDIC have authority to address such risks in acting on applications and notices? What additional regulatory or supervisory authority would help reduce or eliminate such risks?*

Our parent is financial in nature but my experience in the industry would indicate that Sections 23A and 23B and the anti-tying provisions of the Bank Holding Company Act effectively control potential conflicts of interest between a bank and its affiliates. Our experience further suggests that the FDIC currently adequately focuses on the proper enforcement of these provisions. All loans to buy products and services from an affiliate are covered transactions subject to Sections 23A and 23B and anti-tying laws. For the most part, industrial banks have over-reacted to affiliate transactions to where services for the bank are provided at little or no cost to ensure that they don't become an issue with regulators, knowing that the value of the charter is not worth the regulatory risk of inappropriate transactions.

Covered transactions and compliance with Sections 23A and 23B and the anti-tying laws were carefully reviewed in our de novo bank application. Both the State department of financial institutions and the FDIC adequately described the type of transactions that could and could not exist between affiliates of the Bank. Business plans that do not ensure compliance can be disapproved for that reason. This has proven adequate to control affiliate transactions and avoid conflicts of interest in the application process. Our examination experience leads us to believe that the FDIC already has the tools and authority necessary to adequately review and control conflicts of interest between a bank and its affiliates.

9. *Do ILCs owned by commercial entities have a competitive advantage over other insured depository institutions? If so, what factors account for that advantage? To what extent can or should the FDIC consider this competitive environment in acting on applications and notices? Can those elements be addressed through supervisory processes or regulatory authority? If so, how?*

No comment.

10. *Are there potential public benefits when a bank is affiliated with a commercial concern? Could those benefits include, for example, providing greater access to banking services for consumers? To what extend can or should the FDIC consider these benefits if they exist?*

The FDIC already has an excellent tool to evaluate the contribution made by banks associated with commercial concerns. All industrial banks are subject to and embrace the Community Reinvestment Act. A simple review of the CRA ratings of the existing banks will confirm an excellent track record of providing greater access to banking services.

Public needs and convenience is one of the statutory factors the FDIC must consider when evaluating an application or notice of change of control. We cannot think of any consideration that could be more relevant or pertinent to that assessment than the kinds of banking services that are provided to otherwise underserved segments of the public.

11. *In addition to the information requested by the above questions, are there other issues or facts that the FDIC should consider that might assist the FDIC in determining whether statutory, regulatory, or policy changes should be made in the FDIC's oversight of ILCs?*

No comment.

12. *Given that Congress has expressly excepted owners of ILCs from consolidated bank holding company regulation under the Bank Holding Company Act, what are the limits on the FDIC's authority to impose such regulation absent further Congressional action?*

Clearly, the FDIC could not impose restrictions on the owners of industrial banks that are not authorized by law, especially if they would effectively repeal the exemption for industrial bank owners in the Bank Holding Company Act.

We believe the FDIC can, on a case-by-case basis, place restrictions on owners and affiliates of industrial banks that will help ensure the safety and soundness of the bank. That can be done through conditions on approval of an application and examination recommendations enforceable through a variety of prompt corrective actions already at the disposal of the FDIC. We also believe the FDIC can place restrictions on owners and affiliates and the bank that will help ensure that the bank and competing banks serve the public needs and convenience.