



David R. Fontaine
Executive Vice President and General Counsel



October 10, 2006

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

Dear Mr. Feldman:

Ruesch International, Inc. ("Ruesch") provides global payment services, including various money transmission services in the United States, the United Kingdom, Switzerland, the Czech Republic and Australia. The company is registered as a money services business with the United States Department of Treasury and is licensed in numerous U.S. states and several foreign jurisdictions. The company's headquarters office is in Washington, D.C. While Ruesch is not currently in the banking business, the company has considered from time to time the possibility of establishing an industrial bank or industrial loan company (collectively, "ILCs") to facilitate its business in the U.S., and therefore, we have become generally familiar with the regulatory landscape regarding ILCs and their parent companies. We have been impressed by the operational advantages an ILC charter would offer, and hope that the FDIC does not take any action to foreclose that option.

As discussed further below, we believe that ILCs pose no special safety and soundness concerns, or greater risk to the deposit insurance fund than other insured institutions. Further, we believe the FDIC has ample authority under existing statutes and regulations to protect the interests of depositors. Finally, the availability of the ILC charter provides an alternative that has competitive benefits to customers in the financial services marketplace. Accordingly, we believe that no supervisory changes in the FDIC's oversight of ILCs are necessary.

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A. ILCs Pose No Greater Risks than Other Depository Institutions

The history of ILCs and other limited charter depository institutions that can be owned by non-bank holding company entities indicates that such institutions pose no greater safety and soundness issues, or risks to the deposit insurance fund. Just two years ago, the FDIC's Office of Inspector General completed an evaluation report of ILCs which concluded that "ILCs pose no greater risks to the insurance fund than other financial institutions."¹ As quoted in the report, then-chairman Donald E. Powell stated "The FDIC believes the ILC charter, *per se*, poses no greater safety and soundness risk than other charter types."² Rather, he noted, the risk posed by an ILC, like any depository institution, depends on the appropriateness of the institution's business plan and model, management's competency, the quality of risk-management processes, and the institution's capital level.

B. The FDIC Has Ample Supervisory Authority

The FDIC already has supervisory authority with respect to ILCs and their affiliates, including their parent companies, which authority is fully adequate to protect the interests of depositors. As the FDIC points out in its request for comments, since ILCs are insured state nonmember banks, they are subject to FDIC rules and regulations, restrictions under the Federal Reserve Act governing transactions with affiliates, anti-tying provisions of the Bank Holding Company Act of 1956 ("BHCA"), various consumer protection laws and regulations, and the Community Reinvestment Act. ILCs also are subject to regular examination by both the FDIC and state regulators focusing on safety and soundness, consumer protection, community reinvestment, information technology and trust activities.³

In addition to this direct authority with respect to ILCs, the FDIC has authority with respect to affiliates of an ILC, including parent

¹ Office of Inspector General, FDIC, Report No. 2004-048, "The Division of Supervision and Consumer Protection's Approach for Supervising Limited-Charter Depository Institutions" (Sept. 30, 2004) ("FDIC Report"), at p. 33.

² Id. (quoting Donald E. Powell, Speech before the Conference of State Bank Supervisors (May 30, 2003)).

³ 71 Fed. Reg. 49456, 49457 (Aug. 23, 2006).

companies, to ensure adequate supervision of the ILC. Thus, under Section 10(b)(4) of the Federal Deposit Insurance Act ("FDIA"), the FDIC can conduct onsite examination of a parent company for the purpose of determining the relationship between the ILC and the parent company, and the effect of the relationship on the ILC.⁴ Further, the FDIC has stated its view that a non-bank holding company parent of an ILC is an "institution-affiliated party" ("IAP") within the meaning of the FDIA. The FDIC can issue cease and desist orders against non-bank holding company parent companies or other IAPs for engaging in unsafe or unsound practices in conducting the business of a depository institution. The FDIC also could ban an IAP from further involvement with an ILC or assess civil money penalties, and could require divestiture of an ILC in appropriate circumstances.⁵

The FDIC has described the foregoing approach to examining financial institutions and their affiliates as a "bank-centric or bank-up approach," meaning that "the FDIC uses its examination authority, especially Sections 23A and 23B of the [Federal Reserve Act], to insulate the bank from affiliates that may pose a threat to the safety and soundness of the bank."⁶ Together with the anti-tying provisions of the BHCA, these provisions have been effective in generally protecting ILCs from affiliation risks. Again quoting Chairman Powell, the FDIC Report states:

We can and do visit the parent companies – and other affiliated entities, for that matter – to look over issues or operations that could impact the insured institution. Congress has given us the power to protect the integrity of those relationships. We have exercised that power, and we have coordinated closely with . . . the state regulators . . . in our work. We have found parent companies of ILCs to be acutely conscious of their responsibilities with respect to their ILC subsidiaries and the consequences of violating applicable laws and regulations.

⁴ 12 U.S.C. § 1820(b)(4); *see* FDIC Report, at p. 1 n.1, p. 28.

⁵ 12 U.S.C. § 1818; *see* FDIC Report, at pp. 41-42; 12 U.S.C. § 1813(u).

⁶ FDIC Report, at p. 40.

Further, the firewalls and systems of governance safeguarding ILCs from misuse by their parent companies are, in many cases, more stringent than what exists in many affiliates of bank holding companies. In part, the generally positive experience of the ILC charter in recent years is attributable to a continually evolving supervisory approach that considers each institution's purpose and placement within the organizational structure.

In sum, the supervisory scheme applicable to ILCs is fully adequate to protect the deposit insurance fund. As stated by former Chairman Powell, "the FDIC does not believe that consolidated supervision of an ILC's corporate owner is necessary to ensure the safety and soundness of the ILC itself. . . . [T]he record shows the FDIC's authorities are as effective in achieving [the] goal [of preserving the safety and soundness of insured depository institutions] as are the authorities of consolidated supervisors."⁸

C. Competitive Benefits

The ILC charter has provided an attractive depository institution option that has resulted in competitive benefits to customers in the financial services marketplace. Many different types of companies, including both financial services providers and commercial companies, have found that a depository institution charter provides the most efficient means to conduct their businesses, and a cost-effective way to offer services desired by their customers. The ILC charter thus has fostered the entry of new companies into the financial services business, increasing the availability of services to customers. Maintaining the distinctive features of the ILC charter will ensure that customers continue to reap the benefits of increased competition.

⁷ Id.

⁸ Government Accountability Office, "Industrial Loan Corporations: Recent Asset Growth and Commercial Interest Highlight Differences in Regulatory Authority" (Sept. 2005), at p.92 (Appendix III, Comments from the FDIC).

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Thank you for the opportunity to comment on these issues relating
to ILCs.

Sincerely,



David R. Fontaine

Enclosure