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Department of Banking and Finance

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Sonny Perdue
Governor

Robert M. Braswell
Commissioner

March 9, 2006

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

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

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 2006-01

Dear Sir or Madam:

The Georgia Department of Banking and Finance is a diversified financial services regulatory agency that supervises state chartered banks, credit unions, international agencies and representative offices, bank holding companies, money service businesses and mortgage lenders and brokers. We appreciate the opportunity to comment on the proposed guidance regarding commercial real estate (CRE) lending. The metropolitan Atlanta area has been an area identified as having a significant concentration in this type of lending and we believe that we have some insights into these markets and recommendations regarding the federal interagency guidance that is being proposed regarding CRE lending.

I want to state at the outset that we recognize that at least on an aggregate basis that there is a concentration of the various types of credit that have been characterized as CRE lending in many of our markets. We have recognized that this area of risk deserves to be a focus of attention in the examination and supervision process. We believe that we have been able to appropriately tailor our focus on this area of risk in each of the institutions that we examine, by reviewing the portfolio composition, the management of the financial institution, the risk management procedures and controls that are in place and the quality of management information systems that track risk in this area. We view our agency as being in partnership with the federal bank regulatory agencies in maintaining an examination focus on areas of potential risk and believe it is appropriate to continue to focus attention on the area of CRE lending.

Our experience reflects that Georgia state chartered banks are doing an effective job of risk management regarding CRE lending, with a few exceptions that have been dealt with through the examination process. The federal agencies, including the Federal Deposit Insurance Corporation and the Federal Reserve Bank of Atlanta have similarly looked at this area of risk in the examination process and through targeted pilot programs focused on financial institutions that exhibited higher levels of CRE concentrations. The results of the reviews that have been shared with this Department reflected similar findings regarding the overall management and control of risk related to CRE lending. This was reflected in the overall positive comments regarding the FDIC's pilot program which examined the risk management of CRE lending in banks in the metro Atlanta area with significant concentrations of CRE lending. The results were published in the Fall 2003 Regional Outlook for the Atlanta Region and in the Summer 2004 issue of the FDIC's "Supervisory Insights."

One issue that has become readily apparent to the Department from our active involvement in this area is that it can be misleading to aggregate all types of commercial real estate loans as a single market sector. The risk characteristics of single family residential construction lending, condominium construction lending, multi-family construction lending, development lending, retail shopping center lending, industrial lending, and hotel and motel lending all have varying levels of risk. It has been our observation, which was also reflected in the FDIC publications above, that banks in the metro Atlanta area have substantial involvement in single family residential construction and development lending and owner occupied office development but lesser exposures in these other areas. We believe this reflects that bankers in our area have been more selective about the risks that they wish to take into their loan portfolio.

We have concerns that the proposed guidance seems to be focused on aggregate limits of capital, without considering the individual risk mitigants and controls that well-run banks have in place to monitor and control risk. The result is that a materially large percentage of banks that are in the metro Atlanta area are going to be subject to the expanded procedures proposed in the interagency guidance regardless of how well they are currently managing and controlling the risk related to CRE lending. Many of our bankers have expressed concern regarding the level of regulatory burden that they have been subject to recently, including heightened expectations regarding the Bank Secrecy Act, and for a number of banks, increased costs related to compliance with the Sarbanes-Oxley Act of 2002. The question that I have received from bankers is, "If regulatory reviews have reflected that our banks are doing a good job of overall risk management in this area, then why are blanket expanded requirements being proposed in an area where banks have been appropriately managing their risk?" Bankers note that they are already subject to limitations under Part 335 of the FDIC Rules and Regulations (and similar provisions for national and Federal Reserve member banks) that require certain loan to value limitations be maintained. Additional risk mitigants include individual loans limits under state law and bank policy limits on builders, speculative construction loans and other similar bank specific policy limitations.

There are concerns that some of the practices in the proposed guidance, such as portfolio stress testing and comparison of the institution's underwriting standards for individual property types with those that exist in the secondary market, are more appropriate for larger and more complex financial institutions than for smaller community banks. We would encourage the federal agencies to consider whether the procedures proposed are cost effective and appropriate for all financial institutions regardless of size.

The Department has always encouraged banks to diversify risk within their lending portfolio; however, we have always been careful to not discourage legal activity that has otherwise been done in a safe and sound manner. I am concerned that this effort to identify CRE lending as being an area of elevated risk may inadvertently encourage bankers to enter areas of specialized lending in which they may lack sufficient expertise, such as merchant processing of credit cards, asset based lending or accounts receivable financing.

In summary we support the continued attention that has been devoted to the area of CRE lending, despite the fact that our overall examination results have reflected that our banks are effectively managing risk in this area. We continue to believe that the best method of monitoring risk management in this area is through the examination process, enabling examiners to assess risk in each institution based on the management, portfolio composition and risk control procedures in that institution. Banks that fail to properly manage risk in this area should be subject to prompt and appropriate supervisory action. We appreciate the opportunity to comment regarding these provisions and look forward to working with the federal bank regulatory agencies in this area.

Sincerely,

Robert M. Braswell

Robert M. Braswell, CFE
Commissioner