Office of the Comptroller of the Currency

Interpretive Letter #743

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12 U.S.C. 371

October 17, 1996

Richard L. Gray, Esquire
Vice President and General Counsel
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Dear Mr. Gray:

This responds to your request of September 5, 1996, that the Office of the Comptroller of the Currency ("OCC") confirm that a national bank may establish an operating subsidiary ("Subsidiary") to reinsure a portion of the mortgage insurance on loans originated or purchased by the parent bank or one of its affiliates. Your request is on behalf of United Guaranty Residential Insurance Company ("United Guaranty"), a monoline mortgage guaranty insurer, which is a member company of American International Group ("AIG"). AIG is among the nation's largest underwriters of commercial and industrial coverages. Based on the information and representations provided, and for the reasons discussed below, we agree with your conclusion that the proposed activity would be permissible under the National Bank Act.

BACKGROUND

A. Mortgage Guaranty Insurance Generally

Mortgage guaranty insurance, also known as private mortgage insurance, protects an investor holding a mortgage loan against default by the mortgagor. Banks and mortgage lenders generally require that borrowers obtain mortgage guaranty insurance from third-party mortgage guaranty insurers on low down payment loans.<**NOTE:**For purposes of this letter, "low down payment loans" are those loans with down payments of less than 20 percent of the property's value, or loans with loan-to-value ratios in excess of 80 percent.>

Mortgage guaranty insurance has played a vital role in helping low and moderate-income families become homeowners by allowing families to buy homes with less cash. Mortgage guaranty insurance also has expanded the secondary market for low down payment mortgages and the funding available for these loans. Government sponsored enterprises ("GSE's") such as the Federal National Mortgage

Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), and most other purchasers in the secondary market, typically will not consider purchasing low down payment conventional loans unless the loans have mortgage guaranty insurance. Secondary market purchases of low down payment loans with mortgage guaranty insurance helped fuel the expansion in home construction and sales during the 1970s and 1980s, aiding many first-time and other home buyers. *See* Mortgage Insurance Companies of America 1995-1996 Fact Book.

B. The Proposed Reinsurance Activities

1. The Reinsurance Relationship Generally

Under the proposal, the Subsidiary would reinsure <**NOTE:**Reinsurance is a process whereby an original insurer reduces its risk by passing part or all of it on to another insurance company. The original insurer may retain only a portion of the risk and reinsure the balance with a second company that then assumes that portion of the risk. *See* 13A John Alan Appleman & Jean Appleman, Insurance Law and Practice 7681 (1976).> a portion of the mortgage guaranty risk exposure written by primary mortgage guaranty insurers, including United Guaranty, on loans originated or purchased by the parent national bank or its affiliates. The Subsidiary would thus be assuming a portion of the credit risk that the national bank or its affiliate originally would have accepted had it originated or purchased the loan without mortgage guaranty insurance in the first instance. In return, the primary mortgage guaranty insurer would pay the Subsidiary a reinsurance premium equal to a percentage of the primary insurer's own premium.

2. Standard Terms of United Guaranty's Reinsurance Agreement

United Guaranty expects that national banks generally will choose an arrangement referred to as [ ]. However, the structure and terms of the reinsurance arrangement, like the terms of the direct insurance relationship, may differ according to the business plans and objectives of the parties.<**NOTE:** For example, the reinsurance arrangement may be based on [ ] instead of a [ ]. Similarly, the terms of the [ ] arrangement may be varied to suit a national bank's business objectives. For example, there may be modifications to the provisions establishing the point at which the reinsurer becomes liable for its portion of any claim payments, the initial capitalization requirement, or the premium paid.> Under United Guaranty's [ ] agreement, the Subsidiary generally would agree to reimburse United Guaranty for direct paid losses in a given [ ] in an amount equal to or greater than [ ], but not greater than [ ]. United Guaranty would retain liability for all losses up to [ ] and all losses above [ ]. In return, United Guaranty would pay to the Subsidiary a reinsurance premium of [ ] that United Guaranty collects on the reinsured loans.

3. Capitalization and Reserve Requirements

The capitalization of the Subsidiary would be subject to both initial and ongoing requirements, which may vary depending on its size and expected book of business, and other factors. The Subsidiary will maintain a statutory contingency reserve as required under state insurance regulations. This reserve is not a separate reserve or liability, but a "reservation of capital" that restricts dividend payments. United Guaranty represents that in most states, the contingency reserve is accumulated by retaining 50 percent of earned premiums each year.<**NOTE:** The Subsidiary will invest its assets only in investment-grade debt securities that are permissible investments for national banks as required by law.> The Subsidiary may make withdrawals from the contingency reserves to the extent that losses exceed 35 percent of earned premium in any year. Additional capital requirements would be imposed under United Guaranty's standard reinsurance agreement.

Also, the OCC requires that national banks hold capital commensurate with the level and nature of all the risks of their business, including the operation of operating subsidiaries. If the OCC determines that a bank's capital levels do not adequately protect the bank from any risks of the reinsurance business of its

Subsidiary the OCC may use its authority under 12 C.F.R. Part 3 to require the bank to maintain additional capital.<**NOTE:**Section 3.10 specifically authorizes the OCC to require higher capital ratios for an individual bank in view of its circumstances. For example, higher capital ratios may be required for "a bank with significant exposure due to the risks from concentrations of credit, certain risks arising from nontraditional activities, or management's overall inability to monitor and control financial and operating risks presented by concentrations of credit and nontraditional activities." 12 C.F.R. 3.10(d).> Such a requirement could be imposed at the time a subsidiary is established, or thereafter, based upon the bank's capital levels and the OCC's supervisory experience with the subsidiary.

United Guaranty represents that under standard insurance accounting practices and the applicable reinsurance agreement, the reinsurer is required to establish the following types of reserves: an unearned premium ("UEP") reserve, a loss reserve, and an incurred but not reported ("IBNR") loss reserve. The UEP reserve represents the unearned portion of premiums assumed. The loss reserve represents estimated future loss payments for loans that are delinquent but for which an insurance claim has not yet been perfected and paid. The IBNR loss reserve is a liability for future estimated losses and loss adjustment expenses for loans which are delinquent, but not yet reported as such to United Guaranty.

4. Consumer Provisions

Banks generally purchase mortgage insurance directly from an insurer and charge the borrower for the cost of the insurance. Those charges for mortgage insurance are included in the monthly payments and annual percentage rates disclosed by banks to customers who are shopping for a low down payment mortgage. Mortgage insurance fees thus will be a component of the costs customers consider when comparing competitive loan products.

In connection with United Guaranty's reinsurance agreement with a Subsidiary, United Guaranty will recommend that the national bank, and any of its affiliates that may originate loans to be included in the Subsidiary's reinsurance program, disclose to borrowers prior to the loan closing that the Subsidiary may be providing reinsurance and may receive a portion of the mortgage insurance premium. These disclosures will also assure borrowers that the existence of the reinsurance agreement does not change the premium paid for mortgage insurance. Borrowers will also be provided the option of having their loan excluded from the reinsurance agreement.

5. Safety and Soundness Considerations

United Guaranty's proposal includes safeguards to limit the national bank's mortgage guaranty reinsurance risk. The national bank would establish a state-chartered reinsurer as an operating subsidiary. The Subsidiary would be a monoline company (that is, its business will be restricted to the reinsurance of mortgage guaranty insurance) and would reinsure third party mortgage guaranty insurance only on loans originated or purchased by the national bank or one of its affiliates. The Subsidiary would not reinsure mortgage guaranty risks on other mortgage loans, and it would not underwrite mortgage guaranty insurance as a primary insurer, an activity which the law of its chartering state may prohibit.

The national bank's own credit standards and credit underwriting experience will provide a valuable safeguard against excessive risk since the Subsidiary will only accept home mortgage loan credit risks consistent with the bank's underwriting standards. United Guaranty has represented that under the proposed arrangement, in order for loans originated or purchased by the bank or its affiliates to receive mortgage insurance, these loans must meet the bank's credit standards.

The Subsidiary's risk exposure also will be limited because the Subsidiary will reinsure only a specified loss layer of United Guaranty's mortgage guaranty risk exposure. This means that under many loss scenarios, the Subsidiary will not be required to make any payment under the reinsurance agreement with United Guaranty.

The Subsidiary will also be subject to various forms of regulation and oversight by regulatory authorities. <**NOTE:** The national bank also must possess the appropriate level of insurance experience to charter and operate a mortgage guaranty reinsurer effectively, or must contract with a management company to handle these functions, as required by state insurance regulations.> As a state-chartered reinsurer, the Subsidiary will be subject to regulation by the state insurance authority of the state of its domicile and applicable state law requirements including licensing, capital and reserve requirements. Because the Subsidiary will be receiving premiums and reinsuring mortgage insurance provided by United Guaranty, the Subsidiary may also be subject to inquiries from time to time by the insurance department of North Carolina, United Guaranty's state of domicile, or insurance departments of other states in which United Guaranty conducts business. In addition, United Guaranty provides insurance to institutions who sell their loans to Fannie Mae and Freddie Mac, and both GSE's reserve the right to examine United Guaranty's reinsurance arrangements.

In return for accepting the limited credit risk associated with the proposed reinsurance arrangement, the Subsidiary will receive reinsurance premiums, as well as investment income from its cash flow, providing a potentially important source of revenue for the bank and its Subsidiary. United Guaranty represents that it has entered into similar reinsurance arrangements with nonbank mortgage lenders. The proposed reinsurance activities therefore may enable national banks to compete more effectively with nonbank mortgage lenders.

ANALYSIS

A. Statutory Framework

The National Bank Act provides that national banks shall have the power:

> [t]o exercise . . . all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes . . . .

12 U.S.C. 24(Seventh).

The Supreme Court has held that this powers clause is a broad grant of the power to engage in the business of banking, including, but not limited to, the five specifically recited powers and the business of banking as a whole. *See NationsBank of North Carolina, N.A. v. Variable Life Annuity Co.*, 115 S.Ct. 810 (1995) ("*VALIC*"). Many activities that are not included in the enumerated powers are also part of the business of banking. Judicial cases reflect three general principles used to determine whether an activity is within the scope of the "business of banking": (1) is the activity functionally equivalent to or a logical outgrowth of a recognized banking activity; (2) would the activity respond to customer needs or otherwise benefit the bank or its customers; and (3) does the activity involve risks similar in nature to those already assumed by banks. *See, e.g., Merchants' Bank v. State Bank*, 77 U.S. 604 (1871); *M & M Leasing Corp. v. Seattle First National Bank*, 563 F.2d 1377, 1382 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978); *American Insurance Association v. Clarke*, 865 F.2d 278, 282 (2d Cir. 1988). Further, as the Supreme Court established in the *VALIC* decision, national banks are also authorized to engage in an activity if that activity is incidental to the performance of the five specified powers in 12 U.S.C. 24(Seventh) *or* incidental to the performance of an activity that is part of the business of banking.

B. "Business of Banking" Analysis

1. Functionally Equivalent to or a Logical Outgrowth of Recognized Banking Functions

A national bank's reinsurance, through its Subsidiary, of mortgage loans made or purchased by the bank or its affiliates, is functionally equivalent to, or a logical outgrowth of, the bank's business of underwriting mortgage loans. National banks are expressly authorized to make loans under 12 U.S.C. 24(Seventh) and to underwrite mortgages under 12 U.S.C. 371. The proposed reinsurance arrangements are comparable to the extension of low down payment mortgage loans without mortgage insurance, but with higher interest rates to cover the risk of nonpayment. Through the reinsurance vehicle, the bank is engaged in credit judgments and assumes credit risks indistinguishable from those involved in making these mortgage loans without mortgage reinsurance. With both arrangements, the bank's decision to accept those credit risks are determined by the bank's underwriting standards, which are derived from the bank's lending experience and expertise. Moreover, the risks assumed by the bank are credit risks rather than actuarial risks. Unlike many traditional forms of insurance, which relate to casualties, death, disability, etc., the Subsidiary's reinsurance would relate to the ability of the mortgage borrower to pay the underlying mortgage obligation. Thus, when reinsuring a mortgage guaranty insurance risk, the Subsidiary would assume credit rather than actuarial risk.

The Subsidiary's proposed reinsurance activities also are functionally equivalent to a partial repurchase of a national bank's own loans, a traditional banking activity. It is well established that banks may originate, purchase and sell mortgage and other loans. *See* 12 U.S.C. 371(a); OCC Letter No. 418, *reprinted in* Fed. Banking L. Rep. (CCH) [1988-89 Transfer Binder] 85,642, at 78,011 (Feb. 17, 1988) (referring to origination, making, purchase and sale of real estate loans as "centrally traditional banking activities"); OCC, *Mortgage Banking: Comptroller's Handbook* 1-3, 9-10 (March) 1996). Under the proposed reinsurance arrangements, the Subsidiary will accept from a mortgage guaranty insurer part of the credit risk from loans originated and/or purchased by the national bank or its affiliates. Both the proposed mortgage reinsurance and the purchase of participations in the parent bank's loans thus would involve credit decisions based on the same underwriting criteria and comparable credit risks. Both involve the receipt of income for assuming those credit risks and the assumption of losses when the borrower defaults for any reason. The proposed reinsurance activities thus are functionally equivalent to established bank lending activities.

The process of reinsuring mortgage insurance in the manner proposed by United Guaranty is "functionally interchangeable" with the process of lending and is essentially a new way of conducting an aspect of the very old business of banking. *See M&M Leasing Corp. v. Seattle First National Bank*, 563 F.2d 1377, 1382 - 1383 (9th Cir. 1977). In the *M&M Leasing Corp.* decision, the court affirmed the opinion of the Comptroller, holding that personal property leasing was a permissible activity for national banks. The court concluded that leasing, when the transaction constitutes a loan secured by leased property, is essentially the lending of money on personal security, an express power under the National Bank Act. *Id*. at 1382. In its analysis, the court discussed how financial leasing is similar to lending on personal security, serves the same purpose as lending, and is "functionally interchangeable" with lending. The court stressed that this "functional interchangeability" was the touchstone of its decision. *Id*. at 1383. Similarly, in *American Insurance Association v. Clarke*, 865 F.2d 278 (D.C. Cir. 1988), the court also considered whether a new activity was "functionally equivalent" to a recognized banking power. There, the court affirmed the Comptroller's opinion that the use of standby credits to insure municipal bonds was functionally equivalent to the issuance of a standby letter of credit, a device long recognized as within the business of banking. United Guaranty's proposal that the Subsidiary reinsure the parent bank's and the parent bank's affiliates' mortgage loans is clearly consistent with this line of analysis and represents an alternative way for a national bank to extend mortgage loans.

United Guaranty's proposal is also consistent with other bank activities related to banks' lending powers. Under 12 C.F.R. 7.1013 a national bank may offer debt cancellation contracts for the death or disability of a borrower.<**NOTE:** *See also* Interpretive Letter No. 277, December 21, 1983, *reprinted in* [1983-1984 Transfer Binder] Fed. Banking L. Rep. (CCH) 85,441 (permitting national banks to underwrite credit life insurance); Interpretive Ruling 7.1016 (permitting national banks to issue and honor independent undertakings).> A bank's credit position, as reinsurer of mortgage loans through its Subsidiary, would resemble the position assumed by lenders in issuing debt cancellation contracts. In both of these activities, the initial credit decision also provides the basis for assuming the additional role involving the loan. Moreover, in both cases the risk assumed is closely related to the risk of default that is inherent in banks' lending functions.<**NOTE:**Debt cancellation contracts provide for the cancellation of specified loan amounts upon the occurrence of a specific event (*e.g.*, the borrower's death), whereas private mortgage insurance covers mortgage loan defaults for any reason where there is insufficient mortgage loan collateral. Thus, the risks assumed when a bank reinsures mortgage loans is more analogous to a bank's lending than the risks assumed when a bank issues debt cancellation contracts.>

The fact that the Subsidiary's reinsurance activities would include reinsuring mortgage insurance on certain loans that are not originated or purchased by the parent bank, *i.e.*, mortgage loans that are originated or purchased by the parent bank's affiliates, does not affect the permissibility of United Guaranty's proposal. Under United Guaranty's proposed reinsurance arrangement, a portion of the risk of default associated with a loan of a mortgage lending affiliate would simply be transferred to the Subsidiary. According to United Guaranty, in order for a bank's loans and the bank's affiliates' loans to receive mortgage insurance, the bank and the bank's affiliates' must utilize and meet the same underwriting standards. As a result, the Subsidiary will be reinsuring essentially homogenous mortgage loans subject to the credit guidelines of the same banking company. The fact that the banking company may choose for business reasons to originate some portion of these mortgage loans from the bank's affiliates, or to purchase some portion of these mortgage loans, should not limit the bank's authority to engage in the proposed reinsurance activity through the Subsidiary.

2. Respond to Customer Needs or Otherwise Benefit the Bank or Its Customers

United Guaranty's proposal potentially benefits national banks and their customers. Banks and their mortgage lending affiliates usually require a down payment of at least 20 percent of the appraised value of a home. However, banks and their mortgage lending affiliates will accept smaller down payments if repayment of a mortgage is backed by mortgage insurance. Thus, customers benefit from mortgage insurance because it enables them to make small down payments on the purchases of their homes. They have the option of paying the higher monthly costs associated with low down payments, or paying a larger down payment. Banks' involvement in mortgage insurance reinsurance should not diminish customers' ability to obtain optional mortgage insurance, and may even increase competition and promote the availability of mortgage insurance at competitive rates.<**NOTE:** At this point, it is difficult to measure or predict with certainty the competitive effects of banks' participation in mortgage insurance reinsurance. >

Additionally, United Guaranty represents that its proposed reinsurance program for banks would particularly benefit affordable housing borrowers. United Guaranty participates in several affordable housing loan <**NOTE:** United Guaranty represents that a loan it classifies as an affordable housing loan typically has the following characteristics: the borrower's income level is at or below 115 percent of the area median income, or the property is located in a specified geographic area; and the loan has a loan-to-value ratio of between 95 and 97 percent.>

risk sharing agreements with certain mortgage lenders. United Guaranty represents that these risk sharing agreements have the same basic characteristics as reinsurance programs, although the risk sharing agreements are not reinsurance programs. In both types of arrangements, the mortgage lenders accept a limited amount of risk with respect to the ultimate performance of the insured loans. When a lender enters into a risk sharing arrangement in connection with its affordable housing loan program, United Guaranty is willing to provide more flexibility on underwriting standards than United Guaranty gives to other lenders who are not "at risk" with United Guaranty on these loans. This unity of interests between the insurer and the lender allows United Guaranty to permit the lenders to make a greater number of affordable housing loans, and to obtain mortgage guaranty insurance for those loans. United Guaranty expects that this experience will be replicated in the proposed reinsurance program for national banks.

In addition, United Guaranty represents that some national banks may hold pools of affordable housing loans that do not qualify for traditional mortgage insurance and therefore cannot readily be sold into the secondary market. Through the type of mortgage insurance reinsurance arrangement proposed by United Guaranty, banks may be able to secure mortgage insurance for these pools of loans and sell them into the secondary market. Sales of these pools of loans into the secondary market could further expand the availability of affordable housing loans. To the extent that the proposed reinsurance program encourages greater flexibility in underwriting mortgage insurance on affordable housing loans, the program offers the possibility of an important public benefit by potentially increasing the availability of affordable housing loans.

United Guaranty's proposal also benefits banks by providing flexibility in structuring the banks' activities to obtain new sources of credit-related income. Mortgage guaranty insurers assume some of the credit risks on a bank's low down payment loans that would otherwise be borne by the bank. Through the proposed reinsurance activities, a bank may acquire additional mortgage credit business that can be managed as part of the bank's overall mortgage credit risk management program. This additional business provides the bank an alternative vehicle for achieving risk objectives. One alternative approach by which a bank could expand its mortgage credit-related business would be to buy interests in loans originated by unrelated lenders. However, this approach has the drawback that the initial underwriting of the mortgage-related risk would not have been done by the bank's own (or an affiliate's) personnel, using the bank's underwriting standards. Thus, the bank would need to review the underwriting standards and credit information for the loans, or obtain appropriate credit enhancements and guarantees, since they would not have the same familiarity with the borrowers as with its own (or its affiliate's) loans. Mortgage insurance reinsurance may provide national banks a means to manage their mortgage-related risk exposure that could be preferable due to cost or safety and soundness considerations.

3. Risks Similar in Nature to Those Already Assumed by National Banks

As discussed, the risks a national bank confronts in reinsuring mortgage insurance in the manner proposed by United Guaranty are essentially the same type as the risks associated with the permissible activities of underwriting mortgage loans. Through the proposed reinsurance activities, the Subsidiary would assume additional risks transferred by the bank to a mortgage guaranty insurer. However, these Subsidiary risks are similar to risks that would be incurred by the bank or its mortgage lending affiliates on a loan with a high loan-to-value ratio not covered by mortgage insurance or through purchases of participations in the bank's loans. Under the reinsurance agreement, this credit-like risk is simply transferred from the bank or its mortgage lending affiliates to the mortgage guaranty insurer, and then to the Subsidiary. <**NOTE:** The credit-like risk transferred to the Subsidiary is also similar to the risk assumed by a bank in repurchasing an interest in a loan that the bank has previously sold, or in retaining an interest in a pool of loans that the bank has securitized. > The Subsidiary receives compensation for the risk of default through its share of premiums paid under the reinsurance contract. Moreover, because the underwriting standards for mortgage insurance are the same as those for the mortgage loans themselves, the Subsidiary's likelihood of liability on a claim is no different than that of the bank (or the bank's mortgage lending affiliate) upon default if the loan were not covered by mortgage insurance.

C. Incidental To the Business of Banking Analysis

Even if United Guaranty's proposal were not viewed as part of the business of banking, the proposal clearly is incidental to the business of banking. In *VALIC*, the Supreme Court expressly held that the "business of banking" is not limited to the enumerated powers in 12 U.S.C. 24(Seventh), but encompasses more broadly activities that are part of the business of banking. *VALIC* at 814, n.2. The *VALIC* decision further established that banks may engage in activities that are incidental to the enumerated powers as well as the broader "business of banking."

Prior to *VALIC*, the standard that was often considered in determining whether an activity was incidental to banking was the one advanced by the First Circuit Court of Appeals in *Arnold Tours, Inc. v. Camp*, 472 F.2d 427 (1st Cir. 1972) ("*Arnold Tours*"). The *Arnold Tours* standard defined an incidental power as one that is "convenient or useful in connection with the performance of one of the bank's established activities pursuant to its *express* powers under the National Bank Act." *Arnold Tours* at 432 (emphasis added). Even prior to *VALIC*, the *Arnold Tours* formula represented the narrow interpretation of the "incidental powers" provision of the National Bank Act. OCC Interpretive Letter 494 (December 20, 1989). The *VALIC* decision, however, has established that the *Arnold Tours* formula provides that an incidental power includes one that is convenient and useful to the "business of banking," as well as a power incidental to the express powers specifically enumerated in 12 U.S.C. 24(Seventh).

The activity United Guaranty proposes is incidental to the business of banking under the *Arnold Tours* standard. Reinsuring mortgage insurance in the manner proposed by United Guaranty is incidental to a national bank's express power to make loans under 12 U.S.C. 24(Seventh). <**NOTE:** National banks are also expressly authorized to make real estate loans under 12 U.S.C. 371.> The proposed activity is "convenient" and "useful" to a national bank's power to make loans because it will enable a national bank to structure mortgage loans in a more flexible way. *Arnold Tours*.<**NOTE** *See also Franklin National Bank of Franklin Square v. New York*, 347 U.S. 373 (1954) (power to advertise bank services); and *Auten v. United States Nat'l Bank*, 174 U.S. 125 (1899) (power to borrow money). In these cases the courts' holdings relied on whether the activity was "useful."> Specifically, the proposed activity will provide national banks an alternative structure for making loans that could otherwise be made with a higher rate of interest to cover the increased risk of nonpayment associated with a low down payment.<**NOTE:** This same rationale also supports a Subsidiary's reinsurance of loans purchased by the parent bank or the bank's affiliate, since the bank or the affiliate could otherwise have originated the purchased loan with a higher rate of interest to cover the increased risk of nonpayment associated with a low down payment.>

The proposed activities also provide national banks an alternative to participating in loans to expand their credit activities. This flexibility is convenient and useful to banks in determining how to structure their mortgage lending activities in the most efficient and profitable manner and in offering a competitive array of mortgage lending products to their customers. The proposed activities also are incidental to lending activities because they enable banks to use existing credit staff and credit expertise to generate additional revenues through activities that supplement the banks' lending efforts. The activities also enable banks to better manage their credit portfolios.

CONCLUSION

Based upon the foregoing facts and analysis, we agree with your conclusion that reinsuring a portion of the mortgage insurance on loans originated or purchased by the Subsidiary's parent bank or the bank's mortgage lending affiliates, in the manner described herein, is permissible under the National Bank Act.

<**NOTE:** A specific proposal by a national bank to establish a Subsidiary to reinsure mortgage insurance requires an application and would be subject to the OCC's review under 12 C.F.R. § 5.34. The OCC's review would include an assessment of whether any supervisory concerns or legal issues in addition to those discussed herein are presented in each case. Also, of course, activities of individual banks and their subsidiaries are subject to other applicable laws and regulations..>

Sincerely,

/s/
Julie L. Williams
Chief Counsel