



Networth News

State of Utah, Department of Financial Institutions, Second Quarter 2007

COMMISSIONER'S COMMENTS

G. Edward Leary, Commissioner

UTAH FINANCIAL INSTITUTION HOLDING COMPANY INSPECTIONS

Under the Utah Financial Institutions Act ("Act"), the Department has jurisdiction over all Financial Institutions Holding Companies that own or control a Utah Financial Institution. The relevant part of the Act is found in Section 7-1-510 UCA, which states:

If the commissioner finds that it is in the public interest and necessary to protect the depositors and other customers of a financial institution, he may:

(1) examine the books and records of any financial institution holding company and

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CHIEFLY SPEAKING

Michael Jones, Chief Examiner

Last tax year, it was estimated that 40,000 Utah households neglected to claim the Earned Income Tax Credit (EITC) for which they were eligible. This left between \$60 and \$80 million in EITC benefits unclaimed. The EITC is a refundable federal tax credit that can effectively supplement the wage for qualifying low and moderate income households by up to two dollars per hour. The EITC benefit is based upon family composition and earnings. Many households who failed to file for the EITC did so because they were unaware of the credit, weren't required to file a tax return because of low earnings, or faced education or language barriers which stopped them from learning of the benefit.

To strengthen financial stability, the State of Utah has joined a public-private partnership to increase use of the EITC. Through the Utah Community Action Partnership Association and the United Way of Salt Lake, state agencies are working together to find ways to publicize the availability and benefit of the EITC and to identify ways of increasing its utilization. Under a state-wide Earn It. Keep It. Save It. Initiative, this partnership is using tax preparation services and asset formation programs to meet these objectives.

One service organized through the Earn It. Keep It. Save It. campaign is the Volunteer Income Tax Assistance (VITA) program. VITA provides free tax preparation for households whose income is under \$40,000. VITA volunteers work to ensure that tax filers receive all of the credits to which they are entitled. This tax year, more than 500 volunteers working from over 40 VITA sites throughout the state of Utah completed more than 12,000 free returns, helping Utahans claim more than \$8.6 million in EITC and other tax credits and saving more than \$1.3 million in tax preparation fees for the filers.

Knowing this information, you may ask, what can I do to help publicize the availability and benefits of the EITC and increase its use? First, and probably the most

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require the company to furnish whatever reports that he considers appropriate to properly supervise the company's financial institution subsidiaries;

(2) adopt and issue rules consistent with the purposes and provisions of this title as they pertain to financial institution holding companies; and

(3) require a financial institution holding company to take any action he finds reasonable and necessary to protect the interests of depositors, other customers, and creditors of any subsidiary financial institution, to maintain its solvency or to prevent its failure.

While the Department has always had the authority to inspect financial institution holding companies, it had not regularly exercised that authority.

For years, the Department has required all financial institution holding companies to register annually and, for a number of reasons, has periodically performed inspections of those holding companies. Those inspections were performed unilaterally or in cooperation with a federal agency.

Largely as a result of the increased growth and national exposure of Utah industrial banks, the GAO was asked by Congress to provide a specific report on the industry. The GAO Report stated that from an operational standpoint the industrial banks did not present more risk to the deposit insurance fund than other charter forms but the Department did receive criticism that it had not exercised that holding company authority through inspections or Orders.

In the Congressional debate on the industrial bank industry, the Department was also criticized for the lack of regulation and supervision of industrial bank holding companies.

The Department made the policy decision in 2005 to create a new division with a Supervisor of Holding Companies. The Department also focused on providing additional training to examiners that may be called upon to perform holding company inspections to better equip them for future inspections.

In November of 2006, Shaun Berrett was selected as Holding Company Supervisor. His charge was to establish

a holding company inspection program and perform those inspections on a regular basis. As part of that charge, he was to establish holding company files and records which documented the Department's actions with respect to all registered holding companies. He was also charged with developing an offsite monitoring system of the financial condition of the holding companies and overseeing the training and qualification of those examiners charged with performing holding company inspections.

Shaun has done an admirable job in establishing the filing system, developing a holding company inspection program, establishing coordination and cooperation with relevant federal agencies and with providing holding company training opportunities to the examiners. He has led or assisted in holding company inspections performed thus far in 2007. On September 5, 2007, Shaun sent detailed letters to all banks and holding companies outlining the particulars of the holding company inspection program. I recommend all banks with holding companies become familiar with those requirements. Industrial bank owners should acquaint themselves with the the Pre-Examination Response Kit ("PERK"), which is similar to an Entry Letter for a bank examination. A copy of the PERK was sent out with the September 5 letter. Industrial bank holding companies will receive and return the PERK prior to a scheduled inspection.

It goes without saying that the Department does not have unlimited resources for this holding company program. If there is a federal regulator already overseeing the holding company, the Department will communicate with that supervisor, and offer to work jointly with them and benefit from shared resources.

For some industrial banks, which do not have federal agency oversight, the Department will unilaterally conduct holding company inspections. This policy would generally apply to "commercially"-owned industrial banks. Also for these "commercial" holding companies, the Department will identify what portion of the inspection could be accomplished offsite and what must be accomplished onsite at the holding company. If there are multiple levels of holding companies, the first inspections will determine at what holding company level it is optimal for the Department to conduct the inspection.

It should be clear that the primary focus of these holding company inspections is to determine if the holding company is a "source of strength" to the bank, or stated

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Application Activity Report Utah Department of Financial Institutions For quarter ending June 30, 2007

Branch Approval	Address	Received	Status
State Bank of Southern Utah	145 S River Rd, St George	2/12/07	Approved 3/6/07
Western Community Bank	375 S Main, Alpine UT	3/7/06	Ext Approved 4/2/07
Intermountain Credit Union	7134 S Redwood Rd, SLC	3/16/06	Approved 3/22/06
Pacific Rails Credit Union	7134 S Redwood Rd, SLC UT	3/5/07	Opened 5/4/07
Moroni Feed Credit Union	1050 S State, Mt Pleasant UT	4/24/07	Approved 5/2/07
Healthcare Credit Union	5300 S State St, Salt Lake City UT	5/29/07	Approved 6/8/07
Americanwest Bank	175 S Main, Salt Lake City UT	5/16/07	Accepted 5/23/07
Americanwest Bank	9080 Village Shop Dr, Sandy UT	5/9/07	Accepted 5/23/07
Americanwest Bank	10757 S River Front Pkwy, S Jordan	6/11/07	Accepted 6/21/07
Relocations	Address	Received	Status
Centennial Bank	<i>from</i> 872 W Heritage Park DR <i>to</i> 1333 N Hillfield Rd, Layton	2/22/07	Opened 5/1/07
Transwest Credit Union	<i>from</i> 37 W 1700 S, Salt Lake City UT <i>to</i> 39 W 2100 S, Salt Lake City UT	3/30/07	Approved 4/27/07
Republic Bank	<i>from</i> 801 N 500 W #103, Btfl UT <i>to</i> 1560 Renaissance Town Dr #260	5/15/07	Accepted 6/29/07
Bank Mergers			
Bank	merging with	Received	Status
Far West Bank	American West Bank	11/22/06	Approved 1/11/07
Credit Union Mergers			
Credit Union	merging with	Received	Status
Utah Valley Credit Union	Utah First Federal Credit Union	3/29/07	Approved 5/9/07
Twin Peaks Credit Union	Cyprus Federal Credit Union	5/7/07	Approved 6/20/07
Industrial Supply Credit Union	Utah Central Credit Union	6/21/07	Accepted 6/29/07

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De Novo Charter	Address	Accepted	Status
ComData	500 N Market Place Dr. #250 Centerville UT	9/25/03	Approved 12/19/03
Extension		11/19/04	Approved 12/23/04
Extension		5/27/05	Approved 6/15/05
Extension		12/6/05	Approved 12/14/05
Extension		5/9/06	Approved 6/7/06
Daimler Chrysler	268 S State St, Ste 200 Salt Lake City UT	7/6/05	Approved 4/6/06
Extension		3/13/07	Approved 4/3/07
CapitalSource Bank	2180 S 1300 E Ste 300 Salt Lake City UT	8/16/05	Approved 12/18/05
Extension		12/11/06	Approved 12/13/06
Marlin Business Bank	2795 E Cottonwood Pkwy Ste 120 Salt Lake City UT	1/10/06	Accepted 1/10/06
American Pioneer Bank	39 Jamestowne Ct Baton Rouge LA	2/13/06	Accepted 2/13/06
Blue Healthcare Bank	200 W Civic Center Dr Sandy UT	5/30/06	Accepted 5/30/06
Town & Country Bank	20 N Main #306 St George UT	9/29/06	Approved 4/10/07
Loan Production Office	Location	Received	Status
American Bank of Commerce	500 W 12300 S Draper UT	9/5/06	Approved 9/27/06
Goldman Sachs Bank USA 1 New York Plaza	New York NY	11/1/06	Approved 1/8/07
Franklin Bank SSB	1218 W South Jordan Pkwy South Jordan UT	6/20/07	Waiting acceptance
Field of Membership Expansion	Amend Bylaws to Include	Received	Status
Grand County Credit Union	residents of San Juan County	4/4/07	Approved 5/14/07
Premier Service Credit Union		5/25/07	Accepted 5/30/07
Intermountain Credit Union	members of Great SL Bowling Assn.	6/6/07	Accepted 6/14/07

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another way, if operations at the holding company endanger the safety and soundness of the bank.

While the Department has statutory authority to charge for these inspections, there will not be an additional charge at this point in time. The Department believes that bank supervision fees currently collected are adequate to cover expenses including the costs of doing holding company inspections. This billing approach is a policy decision that could be reviewed and changed at a future time. Only those holding companies whose inspections require examiners to travel out-of-state will be charged for the out-of-state travel related expenses, similar to the reimbursement sought for out-of-state examinations of banks.

If you have more questions, please contact Shaun Berrett at 538-8776 or sberrett@utah.gov~

Holocaust Survivors Compensation

G. Edward Leary, Commissioner

Recently I received a letter from Gideon Taylor, Executive Vice President of the Conference on Jewish Material Claims Against Germany (Claims Conference). The Claims Conference was established in 1951 for the purpose of negotiating on behalf of world Jewry with the German and Austrian Governments for the benefit of Holocaust survivors. The Claims Conference today administers several holocaust-related compensation programs and an institutional allocations program.

As a result of Claims Conference efforts, Holocaust survivors throughout the world have benefited from various types of compensation and restitution programs from Germany and Austria.

Recipients of these payments are often charged fees for transactions that are wire-transferred into their bank accounts. A number of U.S. banks have voluntarily pledged to waive any wire transfer or processing fees associated with the electronic receipt of these payments.

In his letter, Mr. Taylor has asked that I encourage a similar policy within the financial institution community in

Utah so that the recipients can benefit fully from the payments available to them. Please consider the importance of this request to foster financial service to the elderly survivors of the Holocaust. I urge you to adopt this policy for your bank.

To access a list of participating financial institutions, review statements by financial institution executives and public sector regulators, or to obtain more information about this initiative, go to <http://www.claimscon.org/?url=waiver>.

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important, if you know someone who might qualify for the EITC, make them aware of its availability. Encourage them to take advantage of all the tax credits available to them. They can receive more information and answers to questions about the EITC by calling 2-1-1.

Also, if you're interested and have time, you can help by volunteering through VITA to prepare and electronically file tax returns. Volunteers are needed from January to April 15 for a minimum of 3 hours a week. Free training in simple tax law, with an emphasis on credits available for low-to-moderate income households, is provided by the Internal Revenue Service. It is available on-line, through self-study, or in hands-on classes. To volunteer, you can register on-line at www.utahtaxvolunteer.org or by calling 2-1-1. Other volunteer opportunities are also available, such as an Interpreter or a Financial Resource Specialist.

Robert Greenstein, with the Center on Budget and Policy, said of the EITC, "The Federal Earned Income Tax Credit (EITC) lifts more children out of poverty than any other social program in America – indeed, more than all other means-tested benefit programs combined." An economic impact study commissioned by the United Way of Salt Lake noted that an increase in the use of the EITC would not only benefit the qualifying household, it would also improve the overall economy. It was estimated that for each increase of 10,000 households receiving the tax credit, it would bring an additional \$17 million in direct EITC payments to Utah and would generate approximately \$63 million in additional state and local economic activity.~

Guidance on Non-Traditional Mortgage Products

(Combined article presented to licensees from both the Utah Division of Real Estate and the Utah Department of Financial Institutions.)

The Utah Department of Financial Institutions endorses this guidance for non-depository institutions. The guidance was issued jointly by the Conference of State Bank Supervisors (CSBS) and The American Association of Residential Mortgage Regulators AARMR.) It substantially mirrors the federal guidance for depository institutions, but is applicable to all non-federally regulated lenders.

The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) have offered guidance on nontraditional mortgage products with the expectation that state agencies that regulate residential mortgage brokers and lenders would issue guidance for use by their respective licensees.

In recent years, consumer demand and secondary market appetite have grown rapidly for mortgage products that allow borrowers to defer payment of principal and, sometimes, interest. These products, often referred to as nontraditional mortgage loans, including "interest-only" mortgages and "payment option" adjustable-rate mortgages have been available in similar forms for many years.

Lenders are increasingly combining these loans with other practices, such as making simultaneous second-lien mortgages and allowing reduced documentation in evaluating the applicant's creditworthiness. While innovations in mortgage lending can benefit some consumers, these layering practices can present unique risks that lenders must appropriately measure, monitor and control.

Concerns are elevated with nontraditional products due to the lack of principal amortization and potential accumulation of negative amortization. Further concerns arise due to the fact that these products and practices are being offered to a wider spectrum

of borrowers, including some who may not otherwise qualify for traditional fixed-rate or other adjustable-rate mortgage loans, and who may not fully understand the associated risks.

Nontraditional mortgage loan products are more complex than traditional fixed-rate products and adjustable rate products and present greater risks of payment shock and negative amortization. Lenders should ensure that consumers are provided clear and balanced information about the relative benefits and risks of these products, at a time that will help consumers' decision-making process.

Areas of particular concern to regulatory agencies include the following:

Collateral-Dependent Loans - Lenders should avoid the use of loan terms and underwriting practices that may result in the borrower having to rely on the sale or refinancing of the property once amortization begins. Loans to borrowers who do not demonstrate the capacity to repay, as structured, from sources other than the collateral pledged are generally considered unsafe and unsound.

Risk Layering - Nontraditional mortgage loans combined with risk layering features, such as reduced documentation and/or a simultaneous second-lien loan, pose increased risk. When risks are layered, an institution should compensate for this increased risk with mitigating factors that support the underwriting decision and the borrower's repayment capacity.

Reduced Documentation - Institutions are increasingly relying on reduced documentation, particularly unverified income to qualify borrowers for nontraditional mortgage loans. Because these practices essentially substitute assumptions and alternate information for the waived data in analyzing a borrower's repayment capacity and general creditworthiness, they should be used with caution.

Simultaneous Second-Lien Loans - Simultaneous second-lien loans result in reduced owner equity and higher credit risk. Historically, as combined loan-to-value ratios rise, defaults rise as well. A delinquent borrower with minimal or no equity in a property may have little incentive to work with the

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lender to bring the loan current to avoid foreclosure. In addition, second-lien home equity lines of credit (HELOCs) typically increase borrower exposure to increasing interest rates and monthly payment burdens. Loans with minimal owner equity should generally not have a payment structure that allows for delayed or negative amortization.

Introductory Interest Rates - Many lenders offer introductory interest rates that are set will below the fully indexed rate as a marketing tool for payment option ARM products. In developing nontraditional mortgage products, a lender should consider the spread between the introductory rate and the fully indexed rate. Since initial monthly mortgage payments are based on these low introductory rates, there is a greater potential for a borrower to experience negative amortization, increased payment shock, and earlier recasting of the borrower's monthly payments than originally scheduled.

Lending to Subprime Borrowers - Mortgage programs that target subprime borrowers through tailored marketing, underwriting standards, and risk selection should bellow the applicable interagency guidance on subprime lending. Among other things, the subprime guidance discusses the circumstances under which subprime lending can become predatory or abusive.

Non Owner-Occupied Investor Loans - Borrowers financing non owner-occupied investment properties should be qualified on their ability to service the debt over the life of the loan. Loan terms should also reflect an appropriate combined LTV ratio that considers the potential for negative amortization and maintains sufficient borrower equity over the life of the loan. Further, nontraditional mortgages to finance non owner-occupied investor properties should require evidence that the borrower has sufficient cash reserves to service the loan in the near term in the event that the property becomes vacant.

While nontraditional mortgage loans provide flexibility for consumers, regulators are concerned that consumers may enter into these transactions without fully understanding the product terms. Nontraditional mortgage products have been advertised and promoted based on their near-term

monthly payment affordability, and consumers have been encouraged to select nontraditional mortgage products based on the lower monthly payments that such products permit compared with traditional types of mortgages. In addition to apprising consumers of the benefits of nontraditional mortgage products, lenders should ensure that they also appropriately alert consumers to the risks of these products, including the likelihood of increased future payment obligations. Lenders should also ensure that consumers have information that is timely and sufficient for making a sound product selection decision.

To find the source information for this article proceed to the following website: http://www.csbs.org/AM/Template.cfm?Section=Press_Releases_Archives&Template=/CM/HTMLDisplay.cfm&ContentID=7461

The Names (and more) Behind the Faces . . .

Continuing from the three prior issues of the Networth News, featured below are three more fairly recent employee additions to the Department. If not already, you're sure to meet them in the future. We'll bio more employees in upcoming issues of the Networth News.

Jahn Curran, Examiner

Jahn started with the Department in November 2006. His past experience includes several positions in a number of financial institutions, both stateside and overseas, including branch manager, operations analyst, project manager, and marketing. Jahn's education includes both a bachelors degree (Brigham Young University) and a masters degree (Thunderbird American Graduate School of International Management) in international relations. Though essentially a California native, he's a

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“happily-adopted” Utahan. Jahn’s passions include his two children, his dog, two cats and “a bunch of fish”. In addition, he climbs mountains, plays and composes music, and enjoys gardening, art, and cooking.

Terry Kanies, Examiner

Terry joined the Department in November 2006. He is originally from Denver. Before heading here to Utah he earned an accounting degree from Colorado State University, and worked with banks in Denver. More recently he’s filled several positions with a Utah bank, including branch manager, commercial loan officer, consumer loan center manager, and consumer loan administrator. Terry and his wife are the parents of 3 children, and as a consequence, 5 grandchildren. His hobbies include photography, NASCAR, and golf.

Alan Lacey, Examiner

Alan was hired in November 2006. A native of Montana, he’s also lived in Arizona, California, and Virginia. Related experience includes serving on the Arizona Legislature EFT Standards Development Committee, and writing a real estate tracking, accounting, sales, and reporting program for the Resolution Trust Corporation (RTC) in Arizona. He also developed real estate programs for a major Arizona lender, and managed Arizona lending operations for an out-of-state mortgage banker. Alan holds a bachelors degree in physics, and an MBA in finance/marketing, both from Brigham Young University. Family consists of 5 daughters and 3 sons scattered from California to Georgia . . . plus, 9 grandchildren. You would think that would be enough to fill a life, but he also enjoys music (both playing instruments and singing), amateur radio operation, and on and on.

ValIDate

New Fraud Prevention Tool

ValIDate is now available at Utah.Gov for use by depository institutions. This new service was developed to assist the financial industry in preventing identification fraud, specifically by preventing customers from falsely obtaining new accounts and credit lines. ValIDate verifies the information on certificates issued by Utah’s Driver License Division, including driver licenses, driving privilege cards, and identification cards.

The service is available for use online or with a direct online integration with your institution’s financial system. At the point of service, your employee simply enters basic information, such as the identification number, name, and date of birth. The service verifies that the data entered matches the data on file with the Driver License Division and immediately reports either a “match” or “no match” message.

Since this service is only available to depository institutions, prior approval and registration is required. A downloadable approval form is available at www.utah.gov/validate. Complete information and an online demonstration are also available online.~

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