BUREAU OF BANKING
Department of Professional and Financial Regulation
State of Maine
January 20, 1994

BULLETIN #59 DOCUMENTATION OF LOANS TO SMALL AND MEDIUM SIZED BUSINESSES

To the Chief Executive Officer Addressed:

On March 30, 1993, the Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision issued the "Interagency Policy Statement on Documentation for Loans to Small- and Medium-sized Businesses and Farms." Although this policy statement has been in effect for approximately 9 months, it appears that no state-chartered institutions have developed a program as envisioned by the policy statement.

The policy statement permits banks with CAMEL ratings of "1" or "2" and banking institutions meeting the definition of well- or adequately-capitalized under § 38 of the Federal Deposit Insurance Act to make loans which will not be subject to regulatory criticism for lack of documentation. These loans are sometimes referred to as "character" loans, and are limited in the aggregate to 20% of the institution's total capital. This federal agency program is consistent with the Maine Banking Code and Bureau of Banking examination policies regarding relatively small commercial loans. Therefore, the Bureau of Banking encourages institutions subject to its supervision to develop a formal program for character loans consistent with the federal agency guidelines if its Board of Directors deems such a program necessary and desirable for its bank. These loans have played a vital role in the success of Maine's small businesses, particularly those which are natural resource based.

Policy statement guidelines are as follows:

Each institution eligible for the exemption provided in the policy statement may assign eligible loans, subject to the aggregate limit on such eligible loans, to an exempt portion of the portfolio. Loans assigned to this exempt portfolio will not be reviewed for the completeness of their documentation during examinations of the institution. Assignments of loans to the exemptDecember 11, 2006counting segregation of the assigned loans shall be maintained, including the performance status of each loan. The following restrictions with respect to this exemption for "character loans" apply:

1. The institution must evaluate the collectibility of these loans in determining the adequacy of the allowance for loan losses. (Examiner classifications of these loans will be based on credit quality and not the level of documentation.)
2. Only institutions CAMEL-rated "1" or "2" and are considered well- or adequately-capitalized pursuant to § 38 of the Federal Deposit Insurance Act are eligible for the exemption. (If an eligible institution becomes ineligible, it may not assign additional loans to the exempt portfolio.)
3. Loans to any executive officer, director, or principal shareholder of the institution, or any related interest of that person, may not be included in the exempt portfolio.
4. The aggregate of loans exempted shall not exceed 20% of the institution's total capital.
5. A loan or a group of loans to one borrower assigned to the exempt portfolio shall not exceed the lesser of $900,000 or 3% of the institution's total capital.

Before developing a "character loan" program, management of the institution should consult the full text of the Interagency Policy Statement. If you have any questions, please do not hesitate to contact Deputy Superintendent Donald Groves of this office.

/s/H. Donald DeMatteis
Superintendent