REG-146097-09

OFR | FLORIDA OFFICE OF FINANCIAL REGULATION
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LEGAL PROCESSING DIVISION
PUBLICATION & REGULATIONS
BRANCH

May 9, 2011

Internal Revenue Service
CC:PA:LDP:PR
Room 5203
PO Box 7604
Ben Franklin Station
Washington, DC 20044

RE: SUPPLEMENTAL MATERIAL
Notice of Proposed Rulemaking 146097-09
(76 Fed. Reg. 1105 (January 7, 2011)

Dear Sir or Madam:

The Office of Financial Regulation would like to supplement its comments to the Notice of Proposed Rulemaking 146097.

SURVEY

The Office of Financial Regulation has conducted a survey of NRA deposits in South Florida. There are 32 state chartered banks and 22 foreign banks or banking corporations in that area over which OFR has regulatory responsibility. The survey reflects data from 16 of the state chartered banks and 21 of the 22 foreign entities.

As reflected in the tables below there are $14.2 billion dollars in NRA deposits in Florida regulated institutions.

With respect to the 16 Florida chartered commercial banks surveyed, 41% of their total deposits were in NRA deposits.

Institution Name	Total NRA Deposits	Total Deposits (including NRA's)	% Total NRA Deposits to Total Deposits
Bank 1	$734,738	$802,233	**91.59%**
Bank 2	$230,508	$347,871	**66.26%**
Bank 3	$63,467	$169,694	**37.40%**
Bank 4	$46,489	$476,988	**9.75%**
Bank 5	$413,260	$463,634	**89.13%**
Bank 6	$13,933	$91,591	**15.21%**
Bank 7	$100,337	$219,331	**45.75%**
Bank 8	$646,043	$700,190	**92.27%**
Bank 9	$329,253	$455,750	**72.24%**
Bank 10	$1,605,665	$3,412,205	**47.06%**
Bank 11	$26,471	$79,272	**33.39%**
Bank 12	$41,233	$132,563	**31.10%**
Bank 13	$45,185	$1,352,921	**3.34%**
Bank 14	$174,228	$1,279,015	**13.62%**
Bank 15	$67,004	$140,857	**47.57%**
Bank 16	$195,665	$1,444,091	**13.55%**
TOTAL	**$4,733,479**	**$11,568,206**	**40.92%**

With respect to the 21 Florida regulated foreign institutions surveyed, 90% of their total deposits NRA deposits.

Institution Name	Total NRA Deposits	Total Deposits (including NRA's)	% Total NRA Deposits to Total Deposits
Bank 1	$131,855	$152,753	86.32%
Bank 2	$2,802,193	$2,802,193	100.00%
Bank 3	$297,733	$294,292	101.17%
Bank 4	$1,315,665	$1,440,756	91.32%
Bank 5	$1,100,000	$1,097,055	100.27%
Bank 6	$885	$11,375	7.78%
Bank 7	$205,634	$205,655	99.99%
Bank 8	$90,747	$134,615	67.41%
Bank 9	$598,090	$598,434	99.94%
Bank 10	$414,465	$423,107	97.96%
Bank 11	$167,333	$587,599	28.48%
Bank 12	$385,368	$391,103	98.53%
Bank 13	$35,079	$130,773	26.82%
Bank 14	$17,774	$25,661	69.26%
Bank 15	$30,505	$97,870	31.17%
Bank 16	$197,516	$200,076	98.72%
Bank 17	$291,946	$292,363	99.86%
Bank 18	$514,610	$514,914	99.94%
Bank 19	$698,791	$698,922	99.98%
Bank 20	$208,785	$219,045	95.32%
Bank 21	$6,453	$6,906	93.44%
TOTAL	**$9,811,427**	**$10,325,467**	**89.91%**

It should be noted that these figures do not include NRA deposits in nationally chartered banks or federally regulated foreign institutions or in banks chartered in other states that are operating in Florida. While we do not have hard figures, it is probable that NRA funds in these other institutions substantially exceed those in Florida regulated entities.

EFFECT ON LIQUIDITY

Banks do not keep their deposits in their vaults. They lend the money to borrowers. A typical loan to deposit ratio is 85%. The loans are illiquid. Borrowers do not have to return the money other than on the stated terms.

A deposit runoff of 15% could place an institution in jeopardy. There would not be cash available to pay off depositors. When this happens the bank fails.

Eleven (11) of the sixteen (16) surveyed banks in South Florida have over 30% NRA deposits. A loss in a short period of time of even half of those deposits would put those institutions at risk of failure.

LEVEL OF NRA DEPOSITS	NUMBER OF AFFECTED SOUTH FLORIDA BANKS
NRA Deposits Comprise Over **80%** of Total Deposits	3
NRA Deposits Comprise Over **47%** of Total Deposits	7
NRA Deposits Comprise Over **30%** of Total Deposits	11

The 22 foreign entities are less at risk for complete failure. However given their high percentage of NRA deposits (14 over 90%, 17 over 67%) it is unlikely there would be any reason for them to continue to do business in Florida. There would thus be a Florida failure in the sense the institution would be gone from Florida's economic landscape.

LEVEL OF NRA DEPOSITS	NUMBER OF FLORIDA REGULATED FOREIGN ENTITIES
NRA Deposits Comprise Over **90%** of Total Deposits	14
NRA Deposits Comprise Over **67%** of Total Deposits	17
NRA Deposits Comprise Over **27%** of Total Deposits	19

EFFECT ON LENDING

The domestic banks we regulate are primarily community banks. These are the backbone of small business lending. The foreign institutions also lend their deposits to Florida borrowers. They also lend those deposits to individuals and businesses in foreign countries to enable them to do business here. Examples are loans to buy property in Florida or to finance trade transactions with U.S. based businesses.

It is estimated that every dollar in deposits generates nine (9) dollars in lending. The table below shows the impact of deposit loss on lending capacity.

EXISTING RELATIONSHIP: **$14.2 Billion in NRA Deposits** **Support $127.8 Billion in Lending**	
% Decrease in NRA Deposits	**Estimated Decrease in South Florida Lending (Billions)**
20%	$ (25.56)
30%	$ (38.34)
40%	$ (51.12)
50%	$ (63.90)
60%	$ (76.68)

Florida's economy is fragile. As of the end of 2010 19.4% of Florida residential mortgages were 90 days or more past due. 47% were under water.

DISPROPORTIONATE IMPACT

Some believe that the ratio of NRA deposits to total deposits nationally is such that the proposed rule will have no significant impact. However it is the nature of NRA deposits that they are concentrated in geographic areas. There are real institutions that are placed at risk by this proposed regulation. An identifiable geographic part of the economy will be adversely affected.

CONCLUSION

As drafted the proposed rule creates a substantial risk of harm. I would hope that further careful thought would be given to how that harm can be avoided. I would hope that the goal of international tax transparency sought by the IRS could be achieved without the collateral damage that I fear will result under the present proposal.

Sincerely,

J Thomas Cardwell

J. Thomas Cardwell