

May 11, 2005

George J. Arnold, Esq.
Sosin Lawler & Arnold, Ltd.
11800 South 75th Avenue
Suite 300
Palos Heights, Illinois 60463

Re: Member Business Loans (MBLs).

Dear Mr. Arnold:

You have asked if a business purpose loan is exempt from the MBL definition under 12 C.F.R. §723.1(b)(4) if either the Federal Home Loan Mortgage Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae) has made an advance commitment to purchase the loan in full. No, a business loan with an advance commitment from Freddie Mac or Fannie Mae is not exempt from the MBL definition because neither entity is a government agency.

The MBL rule provides an exception to the MBL definition for any “loan where a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full.” 12 C.F.R. §723.1(b)(4). The rule tracks the exception in the Federal Credit Union Act. 12 U.S.C. §1757a(c)(1)(B)(iv).

Fannie Mae and Freddie Mac are government-sponsored enterprises (GSEs), not federal or state agencies or political subdivisions. “Fannie Mae and Freddie Mac are Congressionally-chartered, publicly-owned corporations whose shares are listed on the New York Stock Exchange. Under terms of their GSE charters, they are exempt from state and local taxation and from registration requirements of the Securities and Exchange Commission. Each firm has a back-up credit line with the U.S. Treasury.” Office of Federal Housing Enterprise Oversight at <http://www.ofheo.gov/Mission.asp>.

Business loans made with an advance commitment to purchase from Fannie Mae and Freddie Mac, which are not otherwise exempt, are subject to Part 723 because the GSEs are not government agencies as contemplated by the relevant exception.

Sincerely,

/s/

Sheila A. Albin
Associate General Counsel

OGC/CJL:bhs
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