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SECRETARY OF BANKING

October 31, 2008

**To: Chief Executive Officers of all Pennsylvania State-Chartered Banks,  
Bank and Trust Companies and Stock Savings Banks**

This letter is in response to inquiries that the Commonwealth of Pennsylvania Department of Banking (the "Department") has received from Pennsylvania state-chartered banks, bank and trust companies and stock savings banks ("Institutions") regarding the ability of Institutions to participate in the United States Treasury's (the "Treasury") Capital Purchase Program (the "CPP") in light of certain requirements contained in the Banking Code of 1965 (the "Banking Code").

The application guidelines for the CPP may be found on the United States Treasury's website at <http://www.treas.gov/initiatives/eesa/docs/application-guidelines.pdf>. The application for the CPP must be filed with the applicant's primary federal regulator.

#### *Authorization of Preferred Shares*

As a fundamental matter, entities wishing to participate in the CPP must be authorized by their articles of incorporation to issue preferred stock. Bank holding companies or savings and loan holding companies that are not authorized to issue preferred stock must amend their articles of incorporation consistent with the requirements contained in the Business Corporation Law of 1988 ("BCL"), 15 Pa.C.S. § 1101 *et seq.* Institutions without holding companies must amend their articles of incorporation consistent with Chapter 15 of the Banking Code. Institutions contemplating participation in the CPP that need to amend their articles of incorporation should begin this process immediately.

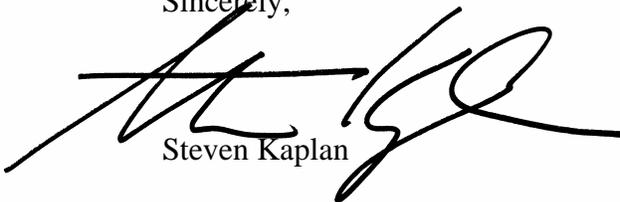
In order to participate in the CPP, Institutions and holding companies will need to authorize the issuance of a series of preferred stock specifically for the purpose of the CPP. Bank holding companies and savings and loan holding companies will need to authorize the issuance of such stock consistent with the requirements of the BCL, while Institutions without holding companies will need to authorize the issuance of such stock consistent with the requirements of Section 1202(f) of the Banking Code, 7 P.S. § 1202(f).

*Payment of Dividends on Shares Issued Under the CPP*

The preferred stock issued to the United States Treasury under the CPP is required to pay a dividend of 5% for the first five years and 9% thereafter. For Institutions without holding companies, Section 1302(a) of the Banking Code only permits the payment of dividends out of accumulated net earnings. Concern has been raised that Institutions that have not yet been able to generate accumulated net earnings will not be able to pay the required dividend in order to participate in the CPP. For the exclusive purpose of permitting Institutions to participate in the CPP, the Department has determined that the dividend payment required by the CPP is permissible as an incidental power for all qualified Institutions participating in the CPP under Sections 315(i) and 502(h) of the Banking Code, 7 P.S. §§ 315(i), 502(h), notwithstanding the requirements of Section 1302(a) of the Banking Code. This determination is made consistent with the Department's discretionary authority under Section 103(b) of the Banking Code, 7 P.S. § 103(b) (through 7 P.S. § 103(a)(iv), (v), (vi) and (x)). All other dividend payments made by Institutions without holding companies remain subject to the requirements of Section 1302 of the Banking Code.

The Department supports the CPP initiative and encourages Institutions to explore whether the CPP is suitable for their operations. If you should have any questions regarding the specific requirements of the CPP and how they relate to the Banking Code, please contact Joe Moretz, Manager, Corporate Applications, at (717) 783-2253. For general information regarding the Treasury Troubled Asset Relief Program or the FDIC's Temporary Liquidity Guarantee Program, please contact Kevin Pyle, Director of the Office of Economic Development, at (717) 214-4760.

Sincerely,



Steven Kaplan