

# CBA | CONSUMER BANKERS ASSOCIATION

October 5, 2000

Manager  
Dissemination Branch  
Information Management & Services Division  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington, D.C. 20552  
**Attention: Docket No. 2000-68**

Mr. Robert E. Feldman  
Executive Secretary  
Federal Deposit Insurance Corporation  
550 17th Street, N.W.  
Washington, D.C. 20429  
**Attention: Comments/OES**

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> and C Streets, N.W.  
Washington, D.C. 20551  
**Attention: Docket No. R-1079**

Communications Division  
Office of the Comptroller of the Currency  
250 E Street, S.W., Third Floor  
Washington, D.C. 20219  
**Attention: Docket No. 00-16**

Re: Consumer Protections for Depository Institution Sales of Insurance

Ladies & Gentlemen:

The Consumer Bankers Association<sup>1</sup> appreciates the opportunity to comment on the proposed consumer protection regulation applicable to insurance sales by depository institutions and other persons that has been jointly issued by the federal banking agencies in response to Section 305 of the Gramm-Leach-Bliley Act ("GLBA"). CBA's members are actively engaged in the sale of insurance and annuities. As representatives of the retail banks, we respectfully ask that you consider the purpose of the GLBA when you finalize the rule. The Act was passed to modernize the banking system and to provide affiliations between banks, insurance and securities firms. Implementing GLBA regulations must balance the needs of consumers and the need to modernize the financial system.

We also request that you review the Interagency Statement on Retail Sales of Non-Deposit Investment Products (February 15, 1997, the "Interagency Statement") to ensure that these requirements are similar or at least do not conflict.

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<sup>1</sup>The Consumer Bankers Association is the recognized voice on retail banking issues in the nation's capital. Member institutions are the leaders in consumer finance (auto, home equity and education), electronic retail delivery systems, bank sales of investment products, small business services, and community development. CBA was founded in 1919 and provides leadership and representation on retail banking issues such as privacy, fair lending, and consumer protection legislation/regulation. CBA members include most of the nation's largest bank holding companies as well as regionals and hold two-thirds of the industry's total assets.

*"Consumer"*

You have asked if the proposed definition of "consumer" should be expanded to include all retail customers, including small businesses, or be limited to individuals who obtain or apply for insurance products or annuities primarily for personal, family or household purposes. CBA believes that the definition of "consumer" should be limited to individuals who obtain or apply for insurance products or annuities primarily for personal, family or household purposes. This would make it consistent with other consumer protection disclosure law.

*Traditional Credit-Related Insurance Products*

Types of insurance that have traditionally been provided in connection with extensions of credit should be excluded from coverage of this proposed rule. These are products such as credit life insurance, credit disability insurance, credit unemployment insurance, mortgage insurance, vendors single interest insurance, GAP insurance, and force-placed insurance. These products have traditionally been provided in connection with extensions of credit predating financial institution sales of more general lines of life and property insurance. We do not believe that there is a danger of consumers being confused about these products being FDIC insured. The federal Truth in Lending Act and Bank Holding Company Act (as well as state law) already have adequate provisions prohibiting unlawful tying of insurance sales to the extension of credit, and the Truth in Lending Act already requires disclosures. Applying the disclosures required by this proposed rule to these insurance products would be confusing or, in the case of the anti-tying disclosures, be repetitive of disclosures already required by the Truth in Lending Act. CBA members would incur significant expenses in revising all of their loan forms to include these new disclosures and in training direct and indirect originators in making oral disclosures.

We also refer you to a letter submitted by the American Financial Services Association (AFSA) for a more detailed discussion of credit life insurance products in particular.

*Requirement to Give Disclosures Orally in Addition to Written Disclosures*

We understand that the requirement to give these disclosures orally, as well as in writing, is a statutory requirement. However, while the agencies do make exceptions and adaptations for telephone and electronic transactions, there is no exception provided for insurance transactions that are handled through direct mail, "take-ones," or other forms of solicitation and sale that do not involve an in-person or telephone session. The requirement to give oral disclosures for such transactions will effectively prohibit non-electronic insurance transactions from being solicited and closed without an in-person or telephone session. We ask that additional exceptions from the oral disclosure requirement be provided for transactions in which no other oral communications can be made.

*Providing Written Disclosures in Telephone Transactions*

We ask that the disclosure requirements in Section \_\_.40(b) be changed. The proposed rule permits written disclosures to be mailed to the consumer within three days after taking a telephone application for credit in connection with which an insurance product is also solicited or sold. However, there is no provision for providing written disclosures by mail with respect to any other telephone solicitation or sale of insurance apart from a credit-related transaction. In connection with non-credit-related transactions, the disclosures must be provided orally and in writing before the completion of the initial sale. In non-credit-related telephone transactions, the sale must wait at least until the time it takes for the consumer to receive the written disclosures by

mail or fax. This appears to be a limitation that can hamper or delay the insurance sale. We recommend that written disclosures be permitted to be mailed within three days for all telephone sales of insurance, not just for credit-related transactions.

*Consumer Acknowledgment of Written Disclosures*

Section \_\_.40(b)(5) of the proposed rule requires a written disclosure. It is unclear how the written acknowledgment requirement is intended to work with respect to telephone or direct mail transactions. No initial sale of insurance can be completed until the covered person obtains the written acknowledgment from the consumer. For in-person or on-line electronic transactions, the acknowledgment can be obtained at the time the disclosure is provided, but otherwise, the initial sale must wait. This can be a significant administrative and procedural complication for insurance providers, and can work an unnecessary hardship on consumers who need insurance coverage quickly. For example, if a consumer has just purchased a vehicle and calls his or her bank-affiliated insurance agent to obtain liability and property insurance on the vehicle, the sale cannot be completed until the consumer (i) hears the oral disclosures, (ii) receives the written disclosures, and (iii) signs the acknowledgment. Typically, insurance agencies can bind coverage immediately, particularly for existing customers, subject to sending out the policy and receiving the premium at a later time. This way, the consumer is covered to drive the new vehicle right away. Under this proposed rule, however, it appears that a consumer cannot obtain immediate coverage (the completion of the initial sale) until there is compliance with all of these technical steps. The effect will be to place bank-affiliated insurance agencies at a significant competitive disadvantage. Thus, we recommend that in contexts that do not permit contemporaneous acknowledgment of the disclosures, covered persons be permitted to obtain the acknowledgment after the completion of the sale.

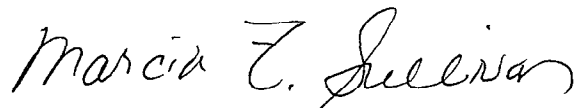
*Internet Web Sites*

Because the sale of insurance over the Internet is evolving, we ask you to adopt rules that are flexible to take advantage of the advances in technology.

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CBA appreciates this opportunity to comment on the proposed rule. If you have any questions, please contact me by phone (703-276-3873), email ([msullivan@cbanet.org](mailto:msullivan@cbanet.org)) or facsimile (703-525-0488).

Sincerely,



Marcia Z. Sullivan  
Director, Government Relations