MidFirst Bank

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October 4, 2000

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ATTENTION DOCKET: 2000-68

Manager
Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Manager,

This is in response to the Joint Notice of Proposed Rulemaking on the Consumer Protections for Depository Institution Sales of Insurance as published August 21, 2000.

MidFirst suggests that the final rule should limit the definition of consumer to those individuals who apply for insurance products or annuities primarily for personal, family, or household purposes. By doing so, the rule would parallel the requirements of the Interagency Statement on Retail Sales of Nondeposit Investment Products. In addition to this consistency, nonretail customers such as fiduciaries and business customers have more experience with situations involving insurance and annuities and generally have a reduced risk of confusion regarding deposit insurance and risk of principal.

MidFirst supports the inclusion in the final rule of a clear and specific definition of the term "insurance". Not specifically defining this term subjects institutions to the undue burden of determining all definitions of "insurance" as used in any and all judicial interpretations and federal statues as well as the perhaps infinite number of common usage and conventional definitions. As a result, and in order to avoid a third party from ever claiming a violation of the rule based on an obscure definition of insurance, an institution may decide to include an initial insurance and annuity disclosure on a product that is technically neither an insurance or annuity product. By not defining the term insurance, the rule encourages unnecessary disclosure and confusion.

MidFirst suggests that a third party provider of annuities or insurance that arranges to utilize the logo of a bank affiliate would not be a situation falling within the definition of acting "on behalf of a savings association". To assume that the logo arrangement between the third party and the bank affiliate results in a situation in which the third party, or the affiliate, per se is acting "on behalf of a savings association" voids the concept of separate corporate identity and the economic reality of the arrangement. By including the logo sharing arrangement between an affiliate and a third party within the concept of the definition of "on behalf of a savings association" would unnecessarily burden the insured institution and confuse the customer. Requiring disclosures for arrangements between a bank affiliate and a third party could result in customers believing the noninsured affiliate is able to sell FDIC insured products.

MidFirst opposes any requirement to increase the number or type of disclosures in situations involving electronic media. The disclosures as proposed address the general economic characteristics of the annuity or insurance product as they relate to deposit insurance, risk of loss, lack of a bank guarantee, and tying. Whether the transaction occurs in person at a bank office location or via an electronic connection does not alter these general characteristics or alter the risk of customer confusion that the rule addresses. Stating that the "annuity is not a deposit or obligation of or guaranteed by ABC Bank" and "the annuity is not FDIC insured" is clear enough regardless of the medium in which the transaction occurs. Further, merely providing a portal to a third party insurance related website does not in itself justify the need for an institution to provide any disclosures including those contained in the proposed rule.

Finally, MidFirst is concerned with the proposed 12 CFR 536.40(b)(ii) that states in part "You must also provide the disclosure required by paragraph (a)(4) of this section orally and in writing at the time the consumer applies for an extension of credit in connection with which an insurance product or annuity will be solicited, offered, or sold." The requirement to make both oral and written disclosures and to obtain customer acknowledgement in all cases involving credit applications simply because an insurance product can be associated with the credit product is burdensome, unnecessary, and confusing. MidFirst does not object to disclosures in situations in which insurance and annuity products are discussed during the credit transaction, but, as written, the rule implies that such disclosures are required on all credit products. Further complicating this matter is the fact that the proposal takes an all encompassing and the broadest possible interpretation of "insurance"; as a result, the rule implies that disclosures are required in credits involving mortgage related insurance (FHA, VA, and private), title

insurance, hazard insurance, flood insurance, and all other types of insurance. Finally, the rule seems to impose a requirement for disclosure in situations involving insurance subsequent to a loan origination such as when the loan servicer places insurance on a borrower's behalf. Many of these situations and insurance types are beyond the scope and intent of the rule and impose unnecessary burdens and confusion.

MidFirst welcomes the opportunity to provide any additional information the OTS might request.

Sincerely,

Charles R. Lee
Vice President
MidFirst Bank