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October 5, 2000

Communications Division
Office of the Comptroller of the Currency
250 E Street, SW, Third Floor
Washington, DC 20219

12 CFR Part 14
Docket No. 00-16

Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th and C Streets, NW
Washington, DC 20551

12 CFR Part 208
Docket No. R-1079

Robert E. Feldman, Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

12 CFR Part 343

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

12 CFR Part 536
Docket No. 2000-68

Dear Sirs/Madams:

Re: Consumer Protections for Depository Institution Sales of Insurance

You have invited public comment on the proposed joint insurance consumer protection rules that will apply to retail sales practices, solicitations, advertising, or offers of any insurance product by a depository institution. These rules are a result of the Congressional mandate set forth in Section 305 of the Gramm-Leach-Bliley Act, codified in Section 47 of the Federal Deposit Insurance Act, 12 USC § 1831x.

I extend my support for the proposed rules and believe they will have a positive effect on the national landscape in curbing past abuses in the sale of insurance products by financial institutions. Having said that, I also wish to put on record the fact that even greater protection is needed by the public. By way of example, I draw your attention to Section 1243 of our state's Insurance Code of 1956, MCL 500.1243; MSA 24.11243. Michigan law goes considerably further than the proposed federal rules, and provides greater protection for consumers in the following ways that are not addressed in the proposed federal rules:

1. *Michigan requires physical separation of insurance sales from lending activity.*

Section 1243(19): The offering of a loan by a lender and the sale or provision of insurance products by the lender or an affiliated agency shall be made in different areas that are clearly and conspicuously signed and separated so as to preclude confusion on the part of customers. However, in the limited situation where physical or employee considerations prevent lending and the sale of insurance products from being conducted in different areas, the lender shall take appropriate measures to minimize customer confusion. In unique circumstances to accommodate the needs of or for the convenience of particular customers, this subsection does not prohibit on an irregular basis, taking applications for loans, extensions of loans, and the sale of insurance products at the same location.

2. *Michigan bars a loan officer from selling insurance product.*

Section 1243(13): A loan representative may not act as an agent or solicitor for the sale or provision of required insurance related to an application, approval, commitment, or closing of a loan if the loan representative participated in the application, approval, commitment, or closing of that loan.

3. *Insurance products may not be discussed or offered until after a loan application has been approved.*

Section 1243(14): A lender or its employees shall not knowingly initiate a discussion concerning the availability of insurance products from the lender or an affiliated agency to or with a person in response to an inquiry about credit made by the person or to a loan applicant prior to the loan applicant being notified of the disposition of the loan application. This subsection does not prohibit a lender or its employees from discussing with the person making the inquiry or loan applicant that certain required insurance must be maintained as a condition of

obtaining a loan.

I believe these consumer protections should be added to the proposed federal rules.

In addition, Michigan law contains other protections that should be considered by your agencies in promulgating comprehensive rules. Please note the following provisions:

Section 1243(10): The board of directors of an insurance agency affiliated with a lender shall act separately from the board of directors of the lender. A director of a lender may also serve as a director of an affiliated agency, except that a majority of directors of the affiliated agency shall not be directors of the lender. This subsection does not apply to a lender that is also the licensed agency.

Section 1243(11): An officer or employee of a lender may be an officer or employee of an affiliated agency. However, except as otherwise provided by this section, for purposes of soliciting or selling insurance products, such officer or employee shall not use or disclose information that the lender may not disclose to the affiliated agency.

Section 1243(12): An officer or employee of a lender shall not directly or indirectly delay or impede the completion of a loan transaction for the purpose of influencing a consumer's selection or purchase of insurance products from an agent, solicitor, agency or insurer that is not affiliated with the lender.

Section 1243(18): If insurance is required as a condition of obtaining a loan, the credit and insurance transactions shall be completed independently and through separate documents. A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.

Section 1243(20): Signs and other informational material concerning the availability of insurance products from the lender or an affiliated agency shall not be displayed in an area when loan applications are being taken and when loans are being closed in that area.

Section 1243(21): A lender, its employees, or its representatives may advise the general public and its customers, through mailings or otherwise, that insurance products are available from the lender or affiliated agency and may advise the general public and its customers how to obtain more information about those insurance products, so

long as:

- (a) The information is not provided because of a submission of any loan application until after the loan applicant has been notified of the disposition of the application, or in response to any inquiry about the availability, terms, and conditions of any loan.
- (b) The timing of the communications is not based on the maturity or expiration date of a policy of required insurance or an insurance policy in the lender's possession.
- (c) No information concerning customers that is prohibited for use in the solicitation or sale of insurance products under subsections (23) and (25) is used to determine which customers should receive the information.

Section 1243(22): A lender may provide the names, addresses, telephone numbers, and information related to account relationships with customers to an affiliated agency or agent employed by the lender so long as the lender does not disclose account balances or maturity dates of certificates of deposit and does not disclose account relationships to an affiliated agency or an agent employed by the lender in a manner that account balances or maturity dates of certificates of deposit may be determined by the agency or agent. This section does not prohibit disclosure of minimum required balances, terms, or conditions of an account.

Section 1243(23): A lender shall not directly or indirectly provide to an affiliated agency or an agent employed by the lender the following information if obtained from an insurance policy or preauthorized payment agreement that is in the possession of the lender:

- (a) The expiration date of the insurance policy.
- (b) The name of the insurance company that issued the policy.
- (c) The amount of the premium.
- (d) Scheduled coverages and policy limits contained in the policy.
- (e) Any deductibles contained in the policy.
- (f) Any information contained on the declaration sheet of the policy.
- (g) Cash or surrender values.

Section 1243(25): A lender shall not directly or indirectly provide to an affiliated agency or agent employed by the lender the following customer documents or information:

- (a) Loan applications, except that a lender may provide to an affiliated agency or agent employed by the lender the name, address, telephone number, and account relationship concerning a loan applicant after the applicant has been notified of the disposition of the application.

- (b) Financial statements regarding assets, liabilities, net worth, income, and expenses.
- (c) Budgets or proposed budgets.
- (d) Business plans.
- (e) Contracts.
- (f) Credit reports.
- (g) Inventory records.
- (h) Collateral offered as security for loans.
- (i) Appraisals.
- (j) Personal guarantees and related information.
- (k) Insurance policy, certificate, or binder.

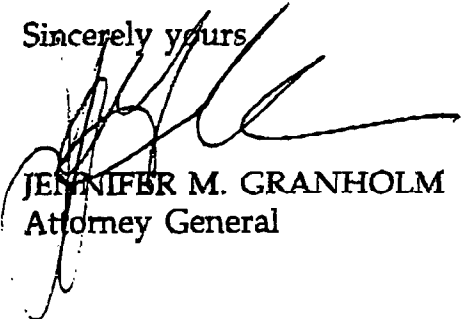
Section 1243(30): Except as provided in subsection (31), an insurance agency or agent shall not reward or remunerate an affiliated lender for procuring or inducing insurance product business for the agency or agent or for furnishing leads and prospects or acting in any other manner as an agent. This subsection does not preclude an affiliated agency from compensating its employees, who may also be employees of the lender, or reimbursing its affiliated lender at fair market value for any goods, services, or facilities that the lender may provide to the agency or for expense incurred by the lender in advising its customers and the general public of the agency's services.

Because I believe the safeguards found in Michigan law would be equally beneficial to the nation's consumers, I encourage you to amend the proposed rules to include substantially similar provisions as those set forth above.

In addition, it is my position that the consumer protection provisions in Section 1243 of our Insurance Code remain intact protecting Michigan consumers under the coordination with State law provision of the FDIA, 12 USC § 1831x(g)(2).

In conclusion, while I am supportive of the agencies' efforts in drafting these proposed rules, I believe these rules should be considered a starting point in this field, and would be substantially strengthened if amended to include the additional protections currently contained in Michigan law.

Sincerely yours,



JENNIFER M. GRANHOLM
Attorney General