

99-17

Contact: Robert M. Garsson
March 4, 1999

202-874-5770

Comptroller Says "Know-Your-Customer" Rule Should be Rejected

WASHINGTON -- Comptroller of the Currency John D. Hawke, Jr. told Congress today that he believes the proposed "Know-Your-Customer" regulation should be promptly withdrawn once the comment period ends Monday.

The Comptroller said the law enforcement objectives that underlie the Know-Your-Customer proposal are of enormous importance to the nation. It is widely recognized, he said, that the ability to launder the proceeds of illegal activity -- particularly drug traffic -- facilitates criminals engaged in such activity. However, he added, the rule strikes the wrong balance between the legitimate needs of law enforcement agencies and the privacy concerns of bank customers.

"I firmly believe that any marginal advantages for law enforcement in this proposal are strongly outweighed by its potential for inflicting lasting damage on our banking system," he said in testimony before the House Judiciary Subcommittee on Commercial and Administrative Law.

The Comptroller said that maintaining public confidence in the banking system is a vital public policy objective that would be undermined by the proposed Know-Your-Customer rule, which was published for comment by the four federal banking agencies.

"Crucial to maintaining the confidence of bank customers in our banking system is their expectation that their relationships with their banks will be private and confidential -- that information they provide to their banks will not be used for ulterior purposes; that transactions will be processed objectively and nonjudgmentally; and that the interests of the customer will be paramount in importance," he said.

Mr. Hawke expressed "grave concern" about a provision in the rule that would require banks to maintain systems for "monitoring customer transactions and identifying transactions that are inconsistent with normal and expected transactions" for each customer.

"Law-abiding citizens -- who make up the overwhelming proportion of bank customers -- are likely to have serious concerns that their everyday relationships with their banks will be routinely scrutinized for evidence of misconduct," Mr. Hawke said.

"They will be understandably apprehensive that their banks will report any transactions that may be the least out-of-the-ordinary, or that don't meet some predetermined customer profile' established by a faceless bank employee or some computer program, as a suspicious activity,' " he said. "And they are likely to come to the view that instead of being

protectors of a confidential relationship, their banks have turned into an extension of the law enforcement apparatus.

"Were this to occur, it could do lasting damage to our banking system," he said.

The Comptroller said the proposed rule would also:

- Obstruct efforts to bring more Americans into the financial mainstream. Surveys show that many citizens without bank accounts cite confidentiality as a reason for staying out of the system;
- Give other financial providers, who would not be bound by the Know-Your-Customer requirement, a competitive advantage over banks among those customers concerned about confidentiality of their financial affairs; and
- Add to the regulatory burden on banks, since a body of rulings and interpretations would be needed to help interpret the rule. Community banks in particular would be affected, Mr. Hawke said.

The Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the Office of the Comptroller of the Currency are currently seeking comments on the proposed rule.

#

The OCC charters, regulates and examines approximately 2,600 national banks and 66 federal branches of foreign banks in the U.S., accounting for more than 58 percent of the nation's banking assets. Its mission is to ensure a safe and sound and competitive national banking system that supports the citizens, communities and economy of the United States.