

# Massachusetts Bankers Association

73 Tremont Street, Suite 306, Boston, MA 02108-3906/Telephone: 617-523-7595

October 25, 2000

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20th Street and C Streets, N.W.  
Washington, D.C. 20551  
Docket R-1079  
e-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Robert E. Feldman  
Executive Secretary  
Attn: Comments/OES  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429  
12 CFR Part 434  
e-mail: [comments@fdic.gov](mailto:comments@fdic.gov)

Communications Division  
Office of the Comptroller of the Currency  
250 E Street Washington, S.W.  
Third Floor, Attn: 1557-0081  
Washington, D.C. 20219  
Docket No. 00-16  
e-mail: [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov)

Manager, Dissemination Branch  
Office of Thrift Supervision  
Information Management & Services Division  
1700 G Street, NW  
Washington, DC 20552  
Docket No. 2000-68

Subject: Consumer Protections for Depository Institutions Sales of Insurance, 65 Federal Register 50881

Dear Sir/Madam:

Thank you for the opportunity to comment on the above referenced proposed rulemaking, which would implement depository institutions insurance sales consumer protections mandated by the Gramm-Leach-Bliley Act of 1999 (GLBA). Section 305 of GLBA added a new section 47 to the FDIA, which directs Agencies to prescribe joint consumer protection regulations that apply to retail sales practices, solicitations, advertising, or offers of insurance products by depository institutions or persons engaged in these activities at an office of the institution or on behalf of the institution. The Massachusetts Bankers Association, which represents more than 200 commercial, savings, and co-operative banks and savings and loan associations with \$340 billion in assets would like to offer its comments on the proposal. In general, these regulations should:

- (a) not conflict with the Interagency Statement on Retail Sales of Non-Deposit Investment Products;
- (b) not create unrealistic and onerous rules for mail solicitations in which there is no in-person contact with consumers;
- (c) not create barriers to the full utilization of sales of insurance over the Internet; and
- (d) not include credit-related insurance products.

### Purpose and Scope

We agree with the Agencies' decision to limit the proposed regulations to those depository institution subsidiaries that are selling at a location of, or on behalf of, their parent company.

### **Definitions**

The definition of “consumer” should not be expanded to include all retail customers, including small businesses. The definition of “consumer” should be consistent with other consumer protection laws to aid in compliance and should only include individuals who apply for insurance products or annuities primarily for personal, family or household purposes.

The definition of “on behalf of” should be revised to focus on whether a person orally or in writing represents to the consumer that the offer or sale of an insurance product is on behalf of a depository institution. As currently defined, a person will be deemed acting “on behalf of” a depository institution if the institution receives commissions or fees, in whole or in part, derived from the sale of an insurance product or annuity as a result of cross-marketing or referrals by the institution or an affiliate. Often in referral or cross-marketing relationships, a depository institution serves as a “middle man” that links consumers to third parties or affiliates, who in turn may solicit insurance products independently or on behalf of an insurance company. Banks should not be required to issue disclosures in these transactions where they serve as “finders” bringing buyers and sellers together. The Association believes that this provision should be excluded in the final regulation, because it could inadvertently include insurance sales transactions that have no relationship to any depository institution under the regulation or include cross-marketing activities in which an affiliate or third party is acting independently of the bank.

### **Not Covered**

We agree with the Agencies’ decision not to define “insurance.” However, insurance products that have traditionally been provided in conjunction with extensions of credit should not be covered by these regulations, i.e., credit life, unemployment, and disability insurance, and others. We also recommend that flood and crop insurance should be exempt from the regulations since they are federally guaranteed programs and not intended to be covered under the statute. It is unlikely that consumers would believe that these insurance products are FDIC insured. Many of these products have disclosure requirements under existing law and regulations. We encourage the agencies to limit the regulations to products that have an investment feature or could be confused with deposits but not other types of insurance.

### **Oral and Written Disclosures**

The Act requires that the disclosures be provided both orally and in writing. In certain instances, this requirement may be impractical. Consumers may initiate transactions through direct mail or other solicitations that do not involve a telephone or in-person contact. While the proposal makes exceptions for electronic and telephone transactions, mail-ins or similar marketing practices in which there is no telephone or face-to-face contact should also be provided an exception.

### **Adaptation to Technology**

With the passage of the electronic signatures legislation, we ask that the Agencies adopt flexible rules that will facilitate the selling of insurance over the Internet.

Consumer Protections for Depository Institutions Sales of Insurance  
October 25, 2000  
Page Three

**Time Extension**

We ask that the Agencies provide an extension to the compliance deadline for the final regulations. If institutions, particularly smaller community banks, are required to create new disclosures and change internal policies, they will need at least a 12-month transition period.

Thank you very much for your time and consideration of this matter. If you have any questions, please contact me at (617) 523-7595

Sincerely,

Tanya M. Duncan

Tanya M. Duncan  
Director Federal Regulatory  
and Legislative Policy