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September 1, 2004

Via e-mail to: rule-comments@sec.gov

Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington D.C. 20549-0609

Re: Proposed Regulation B (File No.S7-26-04)

Dear Mr. Katz:

The Compliance Department of Commerce Bancshares, Inc. appreciates the opportunity to comment on the above-referenced Proposed Rule [the “Rule”] issued by the Securities and Exchange Commission [the “Commission”].

Commerce Bancshares, Inc. [“Commerce”] is a registered bank holding company with total assets of \$14.4 billion at June 30, 2004, and three bank subsidiaries. Two of these banks are full-service banks, with approximately 200 branch locations in Missouri, Illinois, and Kansas. The other bank is a limited-purpose bank, with one office in Omaha, Nebraska. All of the banks are national banks.

Commerce provides brokerage services through Commerce Brokerage Services Inc., a registered broker-dealer with approximately 70 employees in 3 states.

Commerce provides trust services through trust divisions in each of the retail banks. Collectively, these trust divisions are known as the Commerce Trust Company [“CTC”]. CTC provides fiduciary and investment services to institutional, corporate, mutual fund, and personal customers, with managed and non-managed assets as of June 30, 2004 totaling \$13.3 billion.

Our comments on the proposed Rule are directed to the Trust and Fiduciary Activities exception to broker-dealer registration - more specifically, the line-of-business alternative of the “chiefly compensated” calculation.

Trust and Fiduciary Activities Exception

To qualify for the trust and fiduciary activities exception within the Rule, Exchange Act Section 3(a)(4)(B)(ii) requires a bank to be "chiefly compensated" for transactions effected in its trustee or fiduciary capacity, consistent with fiduciary principles and standards. Although the term "chiefly compensated" is not specifically defined in the GLB Act, it is defined in the Exchange Act. Exchange Act Rule 3b-17(a) defines the term “chiefly

compensated” to mean that “the relationship compensation received by a bank from a trust or fiduciary account exceeds the sales compensation received by the bank from such account during the immediately preceding year.” A bank may satisfy the “chiefly compensated” requirement either on an account-by-account basis, or on a line-of-business basis (proposed rule 721), or bank-wide basis.

Line-of-Business Proposal (Rule 721)

Under the proposal, a bank could use an alternative to the account-by-account calculation for "chiefly compensated" during one year if it could demonstrate that during the preceding year its ratio of "sales compensation" to "relationship compensation" was no more than one to nine (1:9 ratio), either on a line-of-business or bank-wide basis. A bank could use this proposed alternative on a line-of-business basis provided that the "sales compensation" and "relationship compensation" from all trust and fiduciary activity accounts within a particular line of business (or all such accounts within a line-of-business established before a single date certain) is used to determine whether the bank meets this condition.

As proposed, banks relying on the line-of-business alternative would, prior to opening or establishing an account, be required to review the account to ensure that the bank is likely to receive more "relationship compensation" than "sales compensation", with respect to that account. While the line-of-business calculation, in concept, appears to be a desirable alternative (simply in terms of timesavings to banks), we feel that the procedural requirements under proposed Rule 721 override its intended benefits.

Also, we do not believe that a one-to-nine ratio (or, if expressed as a percentage, 11 percent) is the most appropriate ratio to use, nor what was intended in the GLB Act. For consistency with the account-by-account alternative, and in keeping with Exchange Act Rule 3b-17(a), we believe that compliance with the “chiefly compensated” requirement of the Rule should result if simply over half (i.e., 51%) of the targeted business line’s compensation is “relationship compensation”.

We believe that banks should be permitted to compare "sales compensation" to total trust and fiduciary activities compensation, rather than to "relationship compensation". We believe that excluding “unrelated compensation” (e.g., fees charged separately for activities, including taking deposits, lending funds, preparing fiduciary tax filings) from relationship income when performing the “chiefly compensated” test simply adds to cost outlays (e.g., systems upgrades), while adding little value toward achieving the ultimate goal of the Rule - protecting customers.

We appreciate the opportunity to provide what we hope are constructive comments on the proposed Rule.

Respectfully yours,

Michael A. Dardis
Compliance Risk Manager for Trust and Investment Products
Commerce Bancshares, Inc.