MISSOURI BANKERS ASSOCIATION

Wade L. Nash, General Counsel

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Submitted via E-Mail Attachment
comments@sec.gov and by Mail.

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

RE: File Number S7-26-04
Proposed SEC Regulation B
Broker Exemptions to Trust Dept.
Relating to brokers and fees

Dear Sir:

The Missouri Bankers Association (MBA) is a state bankers association representing the banking industry in Missouri and composed of about 350 commercial banks and savings and loan associations. The MBA is principally an advocacy association representing these banks before federal and state legislative bodies, federal and state regulators and other parties. This letter is submitted in response to the SEC's request for comments on the above-proposed regulation and on behalf of the member banks. Many banks are concerned that they will not fit within the very confining framework of the proposed regulation; **if so, then, the banks will be required to qualify as a broker, push out the trust business tied to the unlawful conduct, or perhaps so rearrange the trust business that for the size trust business involved it simply is not worth the trouble.** This is one of the most complicated regulations on record with far reaching impact on banks.

Request for Action: We respectfully request that the Proposed Regulation B comment period be extended to sixty days from the date of publication in the Federal Register, thereby changing the deadline for comments to August 30, 2004.

Introduction The Gramm-Leach-Bliley Act that passed in 1999 eliminated the bankers' blanket exemption from the requirements to register as a broker/dealer. Banks will now have to meet one or more specific exemptions as proposed in SEC Regulation B. Bankers have already been through the first SEC proposal to push-out broker activity

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and they were outraged. These current exemptions in Proposed Regulation B are incredibly complex. Even if the banks could meet such exemptions, documenting them is paper work intensive and too time consuming.

Looking at the details: A review of one of many of the exemptions is instructive. Mutual fund transaction orders for certain employee benefit plans would be exempt completely from the broker push-out provision under proposed Rule 770. This means that banks that serve as trustees or in a fiduciary capacity with respect to covered plans would not have to comply with the requirement of the trust and fiduciary exceptions, including the "chiefly compensated" calculations. Similarly, banks serving in a custodial capacity with respect to the covered plans need not satisfy the requirements of the proposed custodial exceptions.

But Wait, Nothing is Simple Here Only bank activity with respect to qualified plans and 403(b) and 457 plans would be exempted under Rule 770. Other bank employee benefit fiduciary plans involving Individual Retirement Accounts, Simple IRA's SEPs and other non-qualified deferred compensation plans would not be exempted and instead need to fit within another exemption.

Conditions on this Exemption These exemptions do not appear workable. For example, in order to take advantage of the exemption, a bank would be required to offset or credit any compensation that it receives from a fund complex against fees and expenses that the plan owes to the bank. The SEC proposed this condition under the mistaken belief that most banks followed ERISA Advisory Opinion 97-15A, when, most banks are not investment fiduciaries and thus follow ERISA Advisory Opinion 97-16A. In addition, the exemption's references to compensation appear to include not only 12b-1 fees but also shareholders administration fees and even investment management fees received when a plan invests in proprietary mutual funds.

- Other requirements provide clear and conspicuous disclosure requirements so that the plan sponsor understands all fees and expenses assessed for services provided to the plan and all compensation received or to be received from a fund complex. Then, the plan sponsor may tell if the plan should receive a credit from the bank for the mutual fund fees the bank has collected.

- Prohibits incentive compensation to any individual that is not a holder of a Securities license

- Directs all trades of publicly traded securities in a bank be sent to a broker-dealer for execution.

The issues in this single exemption go on and on.

Conclusion: For the above reasons, please extend the comment period.

Thank you for your time and consideration. If we may be of additional assistance from free to contact the undersigned.

Sincerely

(signed)

Wade L. Nash