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95

August 27, 2004

Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: Regulation B, File No. S7-26-04
(69 Federal Register 39682; June 30, 2004)

Dear Mr. Katz:

This letter is in response to the SEC's invitation to comment on Regulation B, the proposed broker "push out" rules. Our group of four affiliated community banks total approximately $800,000,000 in assets. Country Club Bank, n.a., the largest of our affiliates, has approximately $425,000,000 in assets. In addition, our group includes an affiliate trust company with approximately $700,000,000 in trust assets.

We *strongly* oppose Regulation B as currently proposed. In our view, the proposal is unworkable as now drafted, and would be unduly disruptive to our business - in some instances it will force our institutions out of certain business lines completely. Moreover, several aspects of the proposal are anti-competitive as they create new rules and regulations ***for banks only*** – putting our institutions at significant disadvantage against other non-bank, financial services firms. Further, we feel that the proposal is not in the best interests of our customers or consumers in general. We believe it will result in fewer consumers having knowledge of the availability of resources necessary to assist them with college planning or retirement, and force some customers to have two accounts – one with a bank and one with a broker. It has not simplified the financial services business for the consumer, but rather created more confusion. We do not believe this is what Congress intended when it passed the Gramm-Leach-Bliley Act in 1999.

First, we are most concerned that the proposal will force our institutions out of the custody business, as the majority of our clients do not satisfy the qualified investor definition. Further, we will not be able to offer new custody clients the ability to place orders through the bank. Rollovers from 401(k) accounts, and IRA accounts, which do not fall under the qualified investor definition, are a very important part of our business strategy and it appears that we would be prohibited from engaging in these activities.

There is clear demand for bank custody services. We are able to take custody of all types of investment products including real estate and restricted securities, while brokers cannot. If a client custody account includes investments that broker-dealers are unable to hold, what other alternative is available to our customers? Must the customer deal with two account opening processes, doubling the time, paperwork and costs merely to find institutions able hold a mix of assets?

Second, there is a significant problem with the proposal's "chiefly compensated" test required under the trust and fiduciary exception. In our view, the account-by-account test is far too costly for a bank of our size to undertake. Moreover, we do not believe our bank can satisfy the 9-to-1 ratio of relationship to sales compensation, especially since the employee benefit plan exemption is not at all workable.

The proposed test is overly complex and burdensome, particularly given the exemption for some, but not all, personal and charitable trust accounts. Even with corrections to the employee benefit plan which might permit us to fall within the 9-to-1 ratio, the penalties and exposure of having our bank deemed to be an unregistered broker-dealer are so great, and the procedural rules so complex, that the institution will still have to invest in technology and systems to track transaction compensation. We must weigh heavily the profitability of this business against the potential liability; we fear the consumer will be the ultimate loser in this equation.

We suggest that it would be far better for the SEC to examine "chiefly compensated" by looking at sales compensation, as compared to total trust department compensation, provided that sales compensation is less than 50 percent of total compensation. Alternatively, relationship compensation could be compared to total trust operation compensation. Again, so long as relationship compensation is more than 50 percent of total compensation the bank's trust and fiduciary operations would be in compliance, and able to remain with in the bank. A general review of how the trust operation earns it revenue in a given year should be more than satisfactory to determine that our bank is not engaging in brokerage business.

Third, we find the sweep exception very troubling. Our bank sweeps asset and deposit accounts into money market mutual funds, for which we receive income greater than 25 basis points. This fee is fully disclosed to our clients. Under the current proposal, we would no longer be able to offer most of our customers the ability to have their deposit account assets swept into these funds, taking away a popular product that consumers demand. This would put our institution at a competitive disadvantage against broker-dealers offering a cash management account – which from the consumer's perspective looks identical to a checking account – because broker dealers can receive fees from mutual funds in excess of 25 basis points.

This also raises the issue of application of a consistent regulatory standard. If 12(b)(1) fees in excess of 25 basis points are not appropriate for banks to accept, why is it acceptable for broker-dealers to receive them? It was our understanding that "functional regulation" was going to eliminate these inconsistencies.

Finally, the SEC should refrain from regulating bank compensation programs. All companies, across all industries set performance goals for their employees - banks are no different. It makes good business sense to do so, yet the proposal would prevent banks from implementing these types of programs unless their employees are licensed, registered representatives. Why should the bank be prohibited from setting yearly performance goals for its employees in terms of sales of products offered by the bank and its affiliate? It is certainly anti-competitive for banks to be precluded from doing so, while broker-dealers are free to engage in the practice.

We also strenuously object to the notion that either base hourly wages, $15 in 1999 dollars or $25 dollars, is an appropriate referral fee for non-retail referrals. In a time when consumer debt has risen, banks should be encouraged to train and manage associates to educate consumers about the need for saving and investing for college and retirement. By unnecessarily regulating bonus plans and creating such uncertainty around how brokerage might be deemed to directly or indirectly taint a bonus plan, regulations will thwart our ability to best serve our customers needs. We feel that the most appropriate avenue for the SEC to best protect the individual consumer is by regulating the registered individuals and brokerage companies to whom the customer is directed by the bank's referral.

We do feel that the length of time banks are given to comply with the proposal is acceptable. We hope that when the final rule is adopted, with the changes we have suggested, the SEC will retain the minimum compliance period of one year.

We trust that you will consider our comments with the same level of concern with which we respectfully submit them to you.

Very truly yours,

Timothy J. Thompson
Senior V.P. & General Counsel