2015

Economic Growth and Regulatory Paperwork Reduction Act

OUTREACH MEETING

Federal Reserve Board ■ Federal Deposit Insurance Corporation ■ Office of the Comptroller of the Currency

Chicago, Illinois
October 19, 2015

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) requires the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (the Agencies) to request comments identifying areas of their regulations that are outdated, unnecessary, or unduly burdensome. The Agencies have begun publishing a series of four Federal Register notices that provide an opportunity to comment on their regulations through Regulations.gov. Today's outreach meeting is an additional way the Agencies are requesting comments.

You may use this space below to provide written comments to the Agencies. Comments received, including attachments and other supporting materials, as well as any business or personal information you provide, such as your name and address, email address, or phone number, are part of the public record and subject to public disclosure. Therefore, please do not include any information with your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

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Comments:

Comments attached for regulation O and 12 CFR 225 Subpart E.

EGRPRA Comments
Outreach meeting, October 19, 2015, Federal Reserve Bank of Chicago,
Submitted by Richard Hodgson, Chairman, Charlevoix State Bank, Charlevoix, Michigan

Regulation O
The aggregate dollar limits specified in Regulation O for prior board approval ($500,000) and loans to an executive officer ($100,000) are out of date and overly limiting. They should be increased or removed, reference 12CFR215.4(b)(2) and 12CFR215.5(c)(4) respectively. A simple increase would be appropriate as these dollar amounts don't go as far as they did when this regulation was enacted. For this recommendation, it would also be appropriate to add some indexing for the future.

Alternatively, removal of the dollar limits should be considered because, in both cases, the code also specifies limits based on percentages of capital and surplus. The percentage limits should suffice for overall bank safety and would naturally index over time. However, for a larger bank, removal would make the bank's board responsible for keeping executive loan dollar amounts reasonable, but that is a normal board function anyway.

12 CFR 225, Subpart E – Change in Bank Control
Subpart E contains requirements that result in unnecessary and excessive reporting for non-material changes. Some additional exceptions should be added or some reasonably high materiality thresholds should be established that reduce or eliminate some reporting. In particular, this becomes apparent when applied to changes associated with an immediate family (broadly defined in the subpart) deemed to be acting in concert per the code. This comment may have limited applicability, but considering the number of small and closely held banks, non-material submissions related to Subpart E are a regular nuisance exercise for both the regulator and the regulated.

For example, if a grandfather in a bank ownership control group gives a small share to a grandson that constitutes a change to the control group. Per the code, that starts a 90 day clock for submittal of a change in bank control notice incorporating background and financial data to the applicable Federal Reserve Bank plus notice of a "Change in Bank Control" in the local newspaper. This is followed by a 60 day review at the applicable Federal Reserve Bank and publication in the Federal Register. Subpart E deems an immediate family as a group acting in concert and thus as a control group if members of the family own or control more than twenty five percent of a bank (in some cases only 10%). It broadly defines an immediate family as including: "a person's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of any of the foregoing, and the person's spouse."

The example points to how, in many cases, the implementation of Subpart E can be excessive and potentially misleading to the public. The effort involved in such an example can hardly have much regulatory purpose and advertising a change in bank control in a small town, when nothing material has occurred, is not appropriate. Furthermore, given the broad definition of immediate family, other reasonable exceptions to prior approval of a change in bank control are applicable, such as marriage, divorce, or adoption.

12CFR225.42, "Transactions Not Requiring Prior Notice" should be augmented to allow for changes to an immediate family (as defined) that is part of a previously recognized control group. One could argue for complete exemption or exemption below some materiality threshold such as 10 percent. In any case, changes resulting from marriage, divorce, or adoption should be exempt from prior approval alongside gifts and inheritance (ref. 12CFR225.42(b)). Perhaps a reduced notice (letter) requirement to update the applicable Federal Reserve Bank regarding immediate family changes to a previously recognized control group could take the place of the existing formal notice, background checks, and publication requirements.