



November 8, 2005

VIA FACSIMILE OR EMAIL

Public Information Room
Office of the Comptroller of the Currency
250 E Street, SW., Mailstop 1-5
Washington, DC 20219
Fax 202/874-4448
Attention: Docket No. 05-15

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
Fax 202/452-3819
Docket No. OP-1232

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429
Email: comments@fdic.gov
EGRPRA burden reduction comment

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552
Fax 202/906-6518
No. 2005-26

**RE: Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA),
Reducing Regulatory Burden in Banking Operations; Directors, Officers
and Employees; and Rules of Procedure.**

Dear Ladies and Gentlemen:

The Wisconsin Bankers Association (WBA) is the largest financial institution trade association in Wisconsin, representing 310 state and nationally chartered banks, savings and loan associations, and savings banks located in communities throughout the state. WBA supports the efforts of the federal banking regulatory agencies (OCC, FRB, FDIC, and OTS)(Agencies) to review the identified regulations so as to revise and update outdated and unnecessary statutory obligations, thus reducing the regulatory burdens on financial institutions. WBA appreciates the opportunity to comment on the identified regulations and offers several suggestions for the Agencies' consideration.

WBA has specifically identified: Regulation Q prohibition on the payment of interest on demand deposits and the interpretation of \$10 and \$20 limits on premium values; Regulation D NOW account eligibility and savings deposit account withdrawal limits; Regulation O executive officer loan limitations; and Regulation CC availability of funds as topics the Agencies should review in their efforts to reduce regulatory burdens on financial institutions.

Regulation Q and Regulation D: Regulation Q prohibition on the payment of interest on demand deposits; and Regulation D NOW account eligibility and savings deposit account withdrawal limitations.

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WBA would like to comment on Regulation Q and Regulation D in conjunction with each other as they are closely related and affect similar accounts. The purpose for Regulation Q is simple-to prohibit the payment of interest on demand deposits by financial institutions,¹ while Regulation D identifies NOW account eligibility and sets forth savings deposit account withdrawal limitations.²

The statutory obligations required in these two regulations hinder financial institutions from remaining competitive with other financial institutions not required to comply with these regulatory requirements. Reform of both Regulations Q and D is needed to reduce burdens placed both on consumers and financial institutions, and to level the playing field so as to allow financial institutions regulated by the Agencies, to offer the same type of products and services currently offered by other financial institutions not regulated by the Agencies such as credit unions.

Under the current framework of Regulations Q and D, customers are forced to maintain multiple accounts in order to obtain the greatest level of return on deposits and the high degree of flexibility necessary to manage their financial affairs, such as the payment of bills, and payment for goods and services. Maintaining and managing multiple accounts not only imposes undue inconvenience on customers, but also creates significant burdens on banks as these financial institutions must process additional transactions and devote more personnel to this activity. Customers are inconvenienced as they are required to make additional trips to the branch location to conduct in-person transfer functions, or make additional telephone calls, Internet transfers, or ATM functions in order to transfer money between their multiple accounts. All of these costs could be reduced if financial institutions were allowed to pay interest on demand deposit accounts. The abolishment of the prohibition on paying interest on demand accounts will allow financial institutions the flexibility necessary to create products and services better tailored to meet the needs of the bank's customer and financial market.

If the Agencies are unwilling to eliminate this restriction in Regulation Q, then the premium thresholds it sets forth should be reviewed and increased. Specifically the Regulation states premium payments should not exceed \$10 for deposits of less than \$5,000 or \$20 for deposits of \$5,000 or more.³ While the allowable \$10 or \$20 premiums may have been attractive at the time first established, given inflation and the changes in the value of the dollar over time, these dollar amounts are no longer relevant. For this reason, the Agencies should review and increase the dollar value limitations on premiums.

Very closely related to the Regulation Q is the Regulation D prohibition of NOW account eligibility for business entities. Organized business entities are frequently established by individuals in an effort to provide the individual additional personal liability protection, perpetual life, and tax structuring benefits. Allowing for NOW account eligibility on for-profit business accounts would allow member banks to remain competitive by paying interest on these popular entity structures. WBA members lose account deposits on an increasingly routine basis to other financial institutions not restricted by Regulation D's statutory obligations. WBA recommends the Agencies eliminate restrictions of NOW account eligibility on for-profit business entities.

¹ 12 CFR 217.1(b)

² 12 CFR 204.2(d)(2) and Board Interpretations

³ 12 CFR 217

Next is the issue of limitations on savings deposit account withdrawals in Regulation D. This savings deposit category includes money market deposit accounts. Regulation D currently restricts the number of transfers and withdrawals on a savings deposit account to no more than six per calendar month or statement cycle.⁴ Further restriction is placed on these accounts in limiting the number of automatic or “preauthorized transfer” or check, draft, or debit card transactions.⁵ WBA recommends the Agencies review this restriction as current banking practices and customer demand have increased the use and availability of automatic and “preauthorized transfer” activity.

Electronic transactions of all means have increased substantially since the enactment of Regulation D. Financial institutions and customers both have looked for ways to streamline and automate routine or recurring transactions, and provide remote and convenient non-branch access 24 hours a day, seven days a week. These types of automatic transactions provide timely payments, accurate processing, and safety to customers. This automation affords not only a more economic and time-saving means of completing the transaction, but also affords the institution timely repayment and a more cost effective transaction to process. ATM/debit card transactions, Internet and telephone transfer services have become normal transactions rather than an infrequently used service. For these reasons WBA recommends that the Agencies review the withdrawal limitations on savings deposit accounts.

Regulation O: Executive officer cap on lending exceptions.

Regulation O currently identifies limitations on insider abuses by identifying general lending prohibitions to bank executive officers.⁶ Regulation O does provide for several exceptions to the general prohibitions.⁷ However, extensions of credit by a bank not secured by a first lien on the executive officer’s primary residence, or not used for the purpose of the officer’s children’s education, or properly secured by government securities, must not exceed a \$100,000 cap. At the time Regulation O was enacted and amended, \$100,000 was a substantial dollar amount, yet by today’s standards, it is a fairly small dollar amount.

Today, with increased asset and property valuations, executive officers (just as other consumers) look to participate in bank products and services, such as open-end home equity lines of credit; however these officers are limited to a \$100,000 cap even though the officer may have equity in excess of this cap. For example, the officer may have a first mortgage with a competitive fixed interest rate. And for this reason the officer may not want to refinance the first mortgage lien to utilize the built-up equity, but instead looks to close a second mortgage home equity line of credit product the bank offers. In this situation, a second mortgage is then limited to the \$100,000 cap even if the officer has a considerably higher amount of equity in the property. WBA understands there are good reasons for a cap, yet recommends that the Agencies review this dollar amount and increase the dollar cap in light of today’s real estate market.

Regulation CC: Availability of Funds

Regulation CC identifies that certain check deposits, including government checks,

⁴ 12 CFR 204.2(d)(2)

⁵ *Id.*

⁶ 12 CFR 215.4

⁷ 12 CFR 215.5

cashiers checks and money orders be given next day availability.⁸ If the account is a new account, financial institutions are allowed to place a hold on these certain check deposits on any amounts in excess of \$5,000.⁹ Unfortunately, financial institutions have experienced an increase in the number of losses suffered as a result of fraudulent government checks, cashiers checks and money orders. Typically, a perpetrator will open a new account with such a check(s) totaling up to \$5,000. Under the current requirements, the financial institution must provide next day availability. This check(s) is later returned as fraudulent and the bank is left trying to recoup money already withdrawn by the customer. This scenario is not unique to new account situations; however, fraud tends to be more prevalent on new account openings or on an account only recently opened, as perpetrators of these frauds are aware of the availability requirements imposed on institutions relating to these certain checks. To help thwart these frauds and attendant losses, WBA recommends the Agencies review the next day availability requirements with respect to the first \$5,000 availability on government checks, cashiers checks and money orders under the new account exception of Regulation CC, and make appropriate adjustments.

Conclusion:

In summary, WBA recommends that the Agencies look to abolish the prohibition on the payment of interest on demand deposits currently restricted by Regulation Q. WBA also recommends that if the Agencies are unwilling to eliminate Regulation Q, the Agencies review and increase the dollar value limitations on premiums. Very closely related to Regulation Q is NOW account eligibility and savings deposit account withdrawal restrictions in Regulation D. WBA recommends the Agencies expand NOW account eligibility to include for-profit business entities and review the limitations on savings deposit account withdrawals.

WBA offers the suggestion that the Agencies increase the Regulation O \$100,000 cap on the extension of credit to an executive officer not secured by first lien, not used for his or her child's education, nor secured by government securities exception. And finally, WBA recommends the Agencies review the \$5,000 next day availability requirement as it relates to new accounts when a government check, cashiers check or money order is used in the initial deposit or within the first thirty days.

Once again, WBA appreciates the opportunity to submit comment on the topics of: Banking Operations; Directors, Officers and Employees; and Rules of Procedures. WBA supports the efforts of the Agencies to identify ways in which current regulations and statutory obligations can be revised, updated or eliminated in an effort to reduce the regulatory burden on financial institutions.

Sincerely,



President/CEO

⁸ 12 CFR 229.10

⁹ 12 CFR 229.10