



SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

CHAIRMAN'S OFFICE
MAILED

SEP 15 1975

Honorable Wright Patman
U.S. House of Representatives
Subcommittee on Domestic Monetary Policy
of the Committee on Banking, Currency and Housing
Washington, D.C. 20515

Signed by: _____

*Bank Regulations
W. H. C.*

Re: Proposed revisions to Regulation F of the
Federal Reserve System

Dear Mr. Chairman:

In your letter of March 5, 1975, you requested our opinion as to whether regulations proposed by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency and the Federal Deposit Insurance Corporation are substantially similar to corresponding rules of this Commission. As stated in my acknowledgement to you on March 27, 1975, I requested the Division of Corporation Finance to review these materials. This is to report the results of that review to you.

You indicated that Public Law 93-495 requires each of the bank regulatory agencies to issue certain rules and regulations under the Securities Exchange Act of 1934 ("Exchange Act") substantially similar to corresponding rules of the Commission, unless it finds that implementation of substantially similar regulations is not necessary or appropriate in the public interest or for the protection of investors. It is further required that the reasons for not adopting substantially similar regulations be published by the bank agencies.

The Commission's staff has reviewed the proposed rules of these agencies and advised me that, in their view, the proposals, with the exception of the three areas detailed below, are substantially similar to those of this Commission.

The following material does not represent a word-for-word comparison of the rules, regulations and forms adopted by the SEC with those of the bank agencies. Instead, it represents a summary of the apparent differences that appear under the two regulatory patterns, and, in general, the emphasis in the following information is on requirements that appear in the Commission's rules and regulations but that do not appear in the proposed bank regulations. Except as described more specifically later, each of the three bank agencies have proposed virtually identical rules and regulations, pursuant to Public Law 93-495.

Financial Statements

The Commission requires that financial statements, including those of banks contained in registration statements and certain periodic reports under the Exchange Act filed by bank holding companies, be audited by an independent public accountant.

In contrast, each of the bank agencies proposes to continue their present practice of accepting financial statements verified by the bank's principal accounting officer and internal auditor, in lieu of audited financial statements. On this point, the Board, the FDIC and the Comptroller stated that they had not concluded whether a certification requirement is necessary or appropriate in the public interest or for the protection of investors and specifically requested interested persons to comment on this issue.

The Commission has published guidelines for the preparation of information to be filed with a summary of earnings or summary of operations under the Securities Act and the Exchange Act. Under the guides, the issuer is required to make an analysis and give an explanation of the Summary of Earnings or Summary of Operations whenever there are material changes in the amount and source of revenues and expenses, including tax expenses, or when there are changes in accounting principles or methods or their application that have a material effect on net income or loss. The issuer should include in the explanation a discussion of material facts, whether favorable or unfavorable, which in the opinion of management may make historical operations or earnings not indicative of current or future operations or earnings. While it does not appear the bank agencies, either in regulations or in guidelines, have adopted disclosure requirements comparable to the Commission guides described above, it may be noted that P.L. 93-495 by its terms applies to rules and regulations and not to guidelines or staff opinions.

Line of Business; Classes of Similar Products or Services

The Commission's registration and reporting forms require the disclosure of line of business and/or class of similar products or services data, including disclosure of the sources of a registrant's sales and revenues in dollar amount or percentage of total operations. (Securities Act Release No. 4988, Securities Exchange Act Release No. 8650. 34 F.R. 12176, July 14, 1969).

In amending our disclosure forms to require such information, the Commission did not undertake to specify means by which lines of business or classes of similar products or services might be identified. Instead, as stated in Release No. 4988, this determination was left with the registrant:

Management, because of its familiarity with company structure, is in the most informed position to separate the company into components on a reasonable basis for reporting purposes. Accordingly, discretion is left to the management to devise a reporting pattern appropriate to the particular company's operations and responsive to its organizational concepts.

None of the proposed provisions of the bank agencies require information as to lines of business or classes of similar products or services comparable to those of the Commission. With respect to line of business disclosure, the three bank agencies generally all conclude that banks are primarily involved in a single line of business -- commercial banking -- and that more extensive disclosure regulations are not necessary in the public interest and for the protection of investors. Also, the Comptroller has indicated to the Commission that this conclusion is reinforced through the provisions of 12 U.S.C. 24 (seventh) which limits bank activities to those incidental powers which are necessary to carry on the business of banking.

The bank agencies' proposals are generally silent on the question of whether a bank might be involved in activities which constitute two or more classes of similar products or services. The proposals of the Board do call for a statement of the types of services offered by the bank. However, the disclosure required pursuant to this proposal apparently would not require any indication of the extent to which such services contribute to revenues or income; a mere list of additional services is all that would be required.

It should also be noted that the proposals of the FDIC would call for disclosure of nonbanking business. However, there would be no requirement to disclose the impact of such business on the revenues or income of the bank.

The Comptroller stated that their income statement requirements enable investors to obtain information with respect to the sources of revenues by each bank activity. However, such information would not be provided in the textual portion of filings with the Comptroller, nor would it require disclosures which would indicate the comparative effect of particular classes of services on the bank's operations.

Annual Reports: Description of Business

In another area of disclosure, the description of business to be included in annual reports filed pursuant to Section 13 of the Exchange Act, the Board's regulations are not substantially similar to those of the Commission.

Under the Commission's requirements, each annual report on Form 10-K is required to describe briefly the business done and intended to be done by the registrant and its subsidiaries. Also, more detailed disclosure is required as to material changes and developments in the business done and intended to be done. This approach is premised upon the Commission's view that each annual report should include a brief but complete description of the registrant's business, since a description only of material changes would require an examination of numerous prior reports to determine the registrant's present business.

The Board's annual report business item calls only for a description of any material changes and developments since the beginning of the fiscal year in the business done and intended to be done by the bank and its subsidiaries. Essentially, this item requires the updating of previously filed information, not the restatement thereof. Should the bank not alter its operations during the fiscal year, the following disclosures would not be required to be included in the bank's annual report:

- (1) Information as to the bank's competitive position;
- (2) Estimated dollar amounts spent for the development of new services or the improvement of existing services;
- (3) Number of persons employed by the bank;
- (4) The number of banking offices in each city (or county) in the United States in which the bank has offices;
- (5) Number of banking offices located in each foreign country;
- (6) Information as to concentration of the bank's loans.

In contrast, the annual report business item for both the Comptroller and the FDIC do require, each year, a description of the business done and intended to be done by the bank and its subsidiaries.

With the exception of the areas discussed above, the bank regulation agencies' proposed regulations appear to be substantially similar to rules and regulations of this Commission.

Thank you for the opportunity to express our views on this matter.

Sincerely,

Ray Garrett, Jr.
Chairman