

RESCINDED

Office of Thrift Supervision
Department of the Treasury

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Transmittal TR-234

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Federal Register, Vol. 65, No. 165, pgs. 50882-50902

Number: TR-234

In the attached joint notice of proposed rulemaking, the Office of Thrift Supervision (OTS) and the other banking regulatory agencies propose consumer protection rules for the sale of insurance products.

The proposed rule implements section 305 of the recently enacted Gramm-Leach-Bliley, which requires the agencies to publish rules that apply to retail sales practices, solicitations, advertising or offers of insurance.

The proposed rule applies to any depository institution or any person selling, soliciting, advertising, or offering insurance products or annuities to a consumer at an office of the institution (i.e., where retail deposits are accepted from the general public) or on behalf of the institution. Activities are conducted on behalf of an institution if:

- The person represents to a consumer that the sale, solicitation, advertisement or offer is by or on behalf of the institution,
- The institution receives commissions or fees derived from the sale of an insurance product as a result of cross-marketing or referrals by the institution or its affiliate,
- Documents evidencing the sale, solicitation, advertising or offer of an insurance product identify or refer to the institution or use its corporate logo or corporate name, or
- The sale, solicitation, advertising or offer of an insurance product takes place at an off-premises site that identifies or refers to the institution or uses its corporate logo or corporate name.

The following disclosures would be required:

- The insurance product or annuity is not a deposit or other obligation of, or guaranteed by, the depository institution or (if applicable) its affiliate;
- The insurance product or annuity is not insured by the Federal Deposit Insurance Corporation or any other agency of the United States, the depository institution or (if applicable) its affiliate;
- In the case of an insurance product or annuity that involves an investment risk, there is investment risk associated with the product, including the possible loss of value; and

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- The depository institution may not condition an extension of credit on the consumer's purchase of an insurance product or annuity from the depository institution or from any of its affiliates, or on the consumer's agreement not to obtain, or a prohibition on the consumer from obtaining, an insurance product or annuity from an unaffiliated entity.

These disclosures would have to be made orally and in writing before the completion of the sale of an insurance product or annuity. The last of the four disclosures must also be made at the time the consumer applies for an extension of credit in connection with which an insurance product or annuity will be solicited, offered, or sold. The disclosures could be made electronically if the consumer affirmatively consents, provided the consumer can retain or later obtain the disclosures by printing or storing them electronically, such as by downloading. The rule also would require written acknowledgement from the consumer that disclosures were received. The consumer could acknowledge disclosures electronically or in paper form.

The proposed rule also would:

- Prohibit coercion, tying, and misrepresentation in the sale of insurance products or annuities;
- Prohibit discrimination against victims of domestic violence with respect to life and health insurance;
- Require the physical segregation of areas in which a depository institution conducts insurance product and annuity activities from areas in which it takes retail deposits, to the extent practicable;
- Limit referral fees for those taking deposits and referring consumers to persons engaging in insurance product and annuity activities. Any fee would be no more than a one-time, nominal fee that does not depend on whether the referral results in a transaction;
- Require persons engaging in insurance product and annuity activities to be qualified and licensed under applicable state insurance licensing standards; and
- Apply the agencies' existing consumer grievance procedures to complaints that provisions of the rule have been violated.

The joint notice of proposed rulemaking was published in the August 21, 2000, edition of the Federal Register, Vol. 65, No. 162, pp. 50882-50902. Written comments must be received on or before October 5, 2000, and should be addressed to: Manager, Dissemination Branch, Records Management and Information Policy Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552. Comments may be mailed, hand-delivered, faxed to 202/906-7755 or e-mailed to: public.info@ots.treas.gov. All commenters should include their name and telephone number.

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Attachment