

### Treasury Borrowing Advisory Committee

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting calls for a discussion by the members of their individual views on the appropriate size of the inflation-indexed security auction on January 29. The Committee is not being asked to make a group recommendation as to the appropriate size of the auction. Detailed minutes will be made available on January 21. The short period of time between the announcement of the date for the first auction and the date of the formal offering announcement of the details of the first auction, and the need for the Treasury to hear the views of Committee members before proceeding with its offering announcement, require that this meeting be held without providing the full fifteen days notice.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92-463, and vested in me by Treasury Department Order 101-05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(9)(A) of title 5 of the United States Code, and that the public interest requires that such meeting be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92-463.

The nature and content of the discussion and individual members' recommendations are such that their premature disclosure would likely lead to significant speculation in the securities market. Thus, the meeting falls within the exemption covered by section 552b(c)(9)(A) of title 5 of the United States Code.

The Office of the Under Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of

section 552b of title 5 of the United States Code.

Dated: January 9, 1997.  
John D. Hawke, Jr.,  
*Under Secretary Domestic Finance.*  
[FR Doc. 97-867 Filed 1-13-97; 8:45 am]  
BILLING CODE 4810-25-M

### Office of the Comptroller of the Currency

[Docket No. 97-01]

#### Preemption Determination

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is publishing for comment a written request for the OCC's determination of whether certain provisions of legislation entitled "Financial Institution Insurance Sales Act," recently enacted by the State of Rhode Island, are preempted by Federal law. The purpose of this notice and request for comment is to provide interested persons with an opportunity to submit comments prior to the OCC's issuance of a final determination responding to the request.

**DATES:** Comments should be submitted on or before February 13, 1997.

**ADDRESSES:** Comments should be sent to the Communications Division, 250 E Street, SW, Third Floor, Washington, DC 20219. Attention Docket No. 97-01. Comments will be available for inspection and photocopying at the same location. Appointments for inspection of comments can be made by calling (202) 874-4700.

**FOR FURTHER INFORMATION CONTACT:** Suzette H. Greco, Senior Attorney, Securities and Corporate Practices Division, (202) 874-5210.

#### SUPPLEMENTARY INFORMATION:

##### Background

The OCC has received a request from a trade association that represents financial institutions and insurance companies (Requester) for a determination that certain provisions of legislation entitled "Financial Institution Insurance Sales Act," R.I. Gen. Laws §27-58-1 *et seq.*, (the Rhode Island law), recently enacted by the State of Rhode Island, are preempted by provisions of the National Bank Act.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (section 114), Pub. L. 103-328 (12 U.S.C. 43), generally requires the OCC to publish in

the Federal Register a descriptive notice of certain requests that the OCC receives for preemption determinations. Under section 114, the OCC must publish notice before it issues any opinion letter or interpretive rule concluding that Federal law preempts the application to a national bank of any State law in four designated areas: community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches. Pursuant to section 114, interested persons have at least 30 days to submit written comments.

The Requester has offered reasons why the request should not be subject to section 114. Whether or not section 114 applies to the request, the OCC has determined that it is appropriate to use notice and comment procedures in this case, given the broad interest in the issues presented in the request and the benefit the OCC will derive by receiving comments from all parties with an interest in these issues. The OCC will publish in the Federal Register any final opinion letter or interpretive rule that concludes that Federal law preempts State law.

#### Specific Request for OCC Preemption Determination

The OCC has been asked to determine whether certain provisions of the Rhode Island law are preempted by section 92 of the National Bank Act (12 U.S.C. 92) and other specific Federal laws noted later in this notice and request for comment.

Section 92 authorizes a national bank "located and doing business in a place where the population is less than five thousand to act as an agent for any fire, life, or other insurance company," to "solicit and sell insurance," to "collect premiums," and to "receive for services so rendered . . . fees or commissions," subject to regulations issued by the Comptroller of the Currency. 12 U.S.C. 92. State laws that apply generally to regulated insurance agents and agencies will apply to national banks provided the law does not effectively prevent national banks from conducting activities authorized under Federal law, and provided that, if the law interferes with those authorized activities, the interference is not significant. See *Barnett Bank of Marion County, N.A. v. Nelson*, 116 S.Ct. 1103 (1996).

The Rhode Island law imposes a number of requirements upon financial institutions engaged in the solicitation and sale of insurance that differ from the requirements that apply to other insurance agents and agencies. The Requester contends these special requirements prevent or significantly interfere with the ability of a national

bank to exercise its authority under section 92. The special requirements include a provision prohibiting banks from requiring or implying that the purchase of insurance products from a bank is related to receiving another banking product or service, a provision restricting where a bank's licensed agent can solicit the sale of insurance, a provision prohibiting certain bank employees from soliciting and selling insurance, a provision requiring separate applications for loans and insurance, and a provision limiting the ability of a bank to use its customer information to solicit and sell insurance.

Specifically, section 6 of the Rhode Island law provides that:

(a) No financial institution may offer a banking product or service, or fix or vary the conditions of such offer, on a condition or requirement that the customer obtain insurance from the financial institution, or any particular insurance producer.

(b) No person shall require or imply that the purchase of an insurance product from a financial institution by a customer or prospective customer of the institution is required as a condition of, or is any way related to, the lending of money or extension of credit, the establishment or maintenance of a trust account, the establishment or maintenance of a checking or savings account or other deposit account, or the provision of services related to any such activities.

R.I. Gen. Laws §27-58-6. The Requester contends that this provision would prohibit a bank employee from even mentioning to a customer that insurance products are available from the bank. As a result, the Requester believes that the provision discriminates against national banks and significantly interferes with the ability of a national bank to solicit or sell insurance under section 92.

Moreover, the Requester contends that the provision conflicts with the anti-tying provisions of the Bank Holding Company Act, 12 U.S.C. 1972, and Federal regulations enacted pursuant to that section. Under the Federal anti-tying laws and regulations, banks are permitted to inform a customer that insurance is required in order to obtain a loan or that loan approval is contingent on the customer obtaining acceptable insurance. In such circumstances, the bank may indicate that insurance is available from the bank. Thus, the Requester contends that under traditional preemption standards the Rhode Island law is preempted by Federal law. The Requester further contends that the Rhode Island law was enacted for the purpose of regulating

lenders rather than regulating the business of insurance and thus, is not protected from preemption by the McCarran-Ferguson Act, 15 U.S.C. 1011 *et seq.*

In addition, section 12 of the Rhode Island law permits financial institutions to solicit and sell insurance only from an office physically separated from the banking activities of the institution. Specifically, section 12 provides that:

The place of solicitation or sale of insurance by any financial institution shall be from an office physically separated from the banking activities of the institution. Physical separation shall not be defined as a separate building. The commissioner shall have the authority to promulgate rules to implement this section pursuant to §27-58-4.

R.I. Gen. Laws §27-58-12. The Requester contends this provision will effectively prohibit insurance activities at small bank or branch offices. As a result, the Requester believes that the provision significantly interferes with a national bank's ability to solicit and sell insurance under section 92.

In addition, section 8 of the Rhode Island law prohibits bank employees with lending or deposit taking responsibilities from soliciting and selling insurance. Specifically, section 8 provides that:

Solicitation for the purchase and sale of insurance by a financial institution shall be conducted only by persons whose responsibilities do not include loan transactions or other transactions involving the extension of credit, or the taking of deposits.

R.I. Gen. Laws §27-58-8. The Requester contends that this provision would prohibit the use of qualified "platform" employees to solicit and sell insurance, as is permitted for national banks. Moreover, the Requester believes that the provision could effectively bar insurance activities in small banks or branches where different employees may not be available to offer insurance and banking products and services. For these reasons, the Requester believes the provision discriminates against national banks and prevents or significantly interferes with their authority to solicit and sell insurance under section 92.

Section 11 of the Rhode Island law requires that loan and insurance applications be completed independently and through separate documents. Section 11 provides that:

(a) If insurance is required as a condition of obtaining a loan, the credit and insurance transactions shall be completed independently and through separate documents.

(b) A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.

R.I. Gen. Laws §27-58-11. The Requester contends that this provision, particularly when coupled with other requirements of the Rhode Island law, including the provision requiring the physical separation of insurance and banking activities and the provision prohibiting certain bank employees from soliciting and selling insurance, will impose an undue burden upon the bank and its customers by necessitating that the customer make multiple visits with different bank employees to multiple locations in order to purchase bank and insurance products.

Section 10 of the Rhode Island law prohibits financial institutions from using or disclosing certain customer information for the purpose of selling or soliciting insurance. Specifically, section 10 provides that:

(1)(b) "Nonpublic customer information" means information regarding a person that has been derived from a record of a financial institution, including information concerning the terms and conditions of insurance coverage, insurance expirations, insurance claims, or insurance history of an individual. "Nonpublic customer information" does not include customer names, addresses or telephone numbers.

(2) No financial institution shall use any nonpublic customer information for the purpose of selling or soliciting the purchase of insurance or provide the nonpublic customer information to a third party for the purpose of another's sale or solicitation of the purchase of insurance.

R.I. Gen. Laws §27-58-10. The Requester contends that this provision will cripple a bank's ability to use customer information to meet customer needs. The Requester believes that the limitation on use and disclosure of customer information would even prohibit the marketing of insurance products to bank customers who had requested such information. Moreover, like the other provisions cited by the Requester, the Requester contends that this provision discriminates against financial institutions because a collateral limitation has not been placed on other insurance agents and agencies in Rhode Island.

#### Request for Comments

The OCC requests comments on whether Federal law preempts the provisions of the Rhode Island law cited above.

Dated: December 16, 1996.  
Eugene A. Ludwig,  
*Comptroller of the Currency.*  
[FR Doc. 97-674 Filed 1-13-97; 8:45 am]  
**BILLING CODE 4810-33-P**

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**UNITED STATES INSTITUTE OF  
PEACE**

**Announcement of the Spring  
Unsolicited Grant Program**

**AGENCY:** United States Institute of Peace.

**ACTION:** Notice.

**SUMMARY:** The Agency Announces a  
Change in Deadline for the Spring  
Unsolicited Grant Competition.

Previous Deadline: April 1  
New Deadline: March 1

**DATES:** Application Material Available  
Upon Request. Receipt Date for Return  
of Applications: March 1, 1997.  
Notification of Awards: June, 1997.

**ADDRESSES:** For Application Package:  
United States Institute of Peace, Grant

Program, 1550 M Street, NW, Suite 700,  
Washington, DC 20005-1708, (202) 429-  
6063 (fax), (202) 457-1719 (TTY), Email:  
grant\_program@usip.org.

**FOR FURTHER INFORMATION CONTACT:**

The Grant Program, Phone (202)-429-  
3842.

Dated: January 8, 1997.  
Bernice J. Carney,  
*Director, Office of Administration.*  
[FR Doc. 97-822 Filed 1-13-97; 8:45 am]  
**BILLING CODE BAC-3155-01-M**