

Efficiency Act of 1994¹ requires the OCC to publish notice in the **Federal Register** before issuing a final written opinion about the preemptive effect of Federal law in four specified areas: community reinvestment, consumer protection, fair lending, or the establishment of interstate branches. It is not clear that the Pennsylvania statute under review falls within one of the four areas covered by section 114. The Bank's written submission does not address this issue. Nevertheless, in light of the novelty of the preemption question presented by the Bank—the applicability of state law to national banks that provide traditional financial services through electronic means—comments from interested parties will aid the OCC in considering the Bank's request. Therefore, we have concluded that it is appropriate to publish a notice and request comment on the Bank's request. We will also publish any final written opinion responding to the request in the **Federal Register**.

The Bank's Online Deposit Program

The Bank is headquartered in Pennsylvania and has branches in four other states. The Bank's Internet website permits visitors to link to a site (the Auction Site) on which the Bank offers potential customers the opportunity to purchase CDs that it issues and that are priced through an online auction process, which the Bank describes as follows.

The Bank periodically posts on the Auction Site a notice of an online auction of CDs offered by the Bank. Each auction has a starting and ending time and identifies the dollar amount, the term, the quantity, and the maximum annual percentage yield (APY) of the CDs offered. For example, an auction might contain 100 CDs, each with a face amount of \$10,000, a term of six months, and a maximum APY of 8%. In this case, the 100 bids with the lowest APY equal to or below 8% will be selected as the winning bidders. The winning bidders are required to complete an application to purchase a CD at their respective bid prices, pursuant to terms and conditions that the Bank has established for the online deposit program and that are posted on the Auction Site.²

¹ Pub. L. 103-328, sec. 114, 108 Stat. 2338, 2366-68 (1994), codified at 12 U.S.C. 43. This publication requirement is subject to certain exceptions that are described in section 114(c) of the statute.

² The Bank's request to the OCC contains additional information about its online deposit program, including eligibility requirements for CD purchasers and the mechanics of the bidding process, that is not pertinent to the preemption issue. The Bank represents that it maintains the confidentiality of information provided by

The Pennsylvania Auction Statute

The Pennsylvania auction statute is codified at 63 Pa. Stat. § 734 *et seq.* (1998). It governs the licensing and regulation of persons—"auctioneers"—engaged in the sale of property at auction. The Pennsylvania statute defines an "auction" as

the offer to sell property to the members of an audience congregated for the purpose of making bids for the purchase of property in an effort by the auctioneer or apprentice auctioneer to advance the amount of the bids to obtain the highest or most favorable offer.³

Auctioneers must be licensed by the State Board of Auctioneer Examiners⁴ and are required to keep detailed records of sales of property at auction.⁵ Pennsylvania auctioneers are subject to examination by the state.⁶ An auctioneer who fails to obtain a license is subject to civil and criminal penalties.⁷ The Pennsylvania statute permits either individuals or corporations to be auctioneers, and the Bank believes that a corporation that employs an individual auctioneer may have to be licensed both as an auctioneer and as an auction company.

Issues Presented by the Bank

The Bank asserts that Federal law authorizes it to conduct the online deposit program, that the licensing, recordkeeping, and examination requirements in the Pennsylvania auction statute impermissibly condition and burden the exercise of this Federal authority, and that the Pennsylvania statute is therefore preempted. The Bank relies on the express authority provided by 12 U.S.C. 24(Seventh) to "receive deposits," on the incidental powers clause of 12 U.S.C. 24(Seventh), and on the OCC's regulation at 12 CFR 7.1019, which authorizes national banks to perform, provide, or deliver through electronic means any authorized product or service.

The Bank also cites a line of national bank preemption cases decided by the U.S. Supreme Court and culminating in the Court's decision in *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25 (1996), in support of its position that a state may not regulate an activity that a national bank is Federally authorized to conduct. The Bank notes that its use of the online Auction Site may constitute the promotion and advertising of its deposit products and

participants in the online deposit program in accordance with its privacy policy, which is posted on the Auction Site.

³ 63 Pa. Stat. at § 734.2.

⁴ *Id.* at § 734.3.

⁵ *Id.* at § 734.16.

⁶ *Id.* at § 734.20.

⁷ *Id.* at § 734.29.

that the Supreme Court has specifically held that a state law purporting to limit or restrict national bank advertising is preempted.⁸ In addition, the Bank relies on prior OCC interpretive letters opining that state laws purporting to apply licensing requirements to national banks' Federally authorized activities are preempted.⁹ Finally, the Bank asserts that application of the Pennsylvania statute to its online auction activities is preempted because the national bank visitorial powers statute, 12 U.S.C. 484, vests the OCC with exclusive authority to examine and supervise national banks.

Request for Comments

The OCC solicits comment on whether Federal law preempts the Pennsylvania auction statute as it would apply to the Bank's online deposit program.

Dated: January 4, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 00-968 Filed 1-13-00; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on Mutual to Stock Conversion.

DATES: Submit written comments on or before March 14, 2000.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G

⁸ See *Franklin Nat'l Bank v. New York*, 347 U.S. 373 (1954).

⁹ See, e.g., OCC Interpretive Letter No. 749 (Sept. 13, 1996) (opining that state law requiring licensing of national banks' annuities sales activities is preempted); OCC Interpretive Letter No. 628 (July 19, 1993) (opining that state securities board regulation requiring a national bank providing trust services to register as an investment adviser is preempted).

Street, NW., Washington, DC 20552, Attention 1550-0014. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906-7755; or (202) 906-6956 (if comments are over 25 pages). Send e-mails to "public.info@ots.treas.gov", and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW, from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906-6706.

SUPPLEMENTARY INFORMATION:

Title: Mutual to Stock Conversion.

OMB Number: 1550-0014.

Form Number: Not applicable.

Abstract: 12 CFR Part 563b states that no mutual association shall convert to a stock association without previous written consent of the Office of Thrift Supervision.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 500 hours.

Estimated Total Annual Burden Hours: 5,000 hours.

Request for Comments

The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 10, 2000.

John E. Werner,

Director, Information & Management Services Division.

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TWENTY-FIRST CENTURY WORKFORCE COMMISSION

Notice of Public Information Hearing

AGENCY: Twenty-First Century Workforce Commission.

ACTION: Notice of public information hearing.

SUMMARY: This notice is to announce a public information hearing on Thursday, January 20, 2000. Members of the public are invited to attend the hearing. Several witnesses have been invited by the Commissioners to testify and to address the questions identified by the agenda set forth below.

DATES: The Public Information Hearing will be held on Thursday, January 20, 2000, from 9:00 am to approximately 3 p.m. Registration is from 9:00 am to 10:00 am. The dates, locations and times for subsequent meetings will be announced in advance in the **Federal Register**.

ADDRESSES: The Eagle Ridge Conference Center in Jackson, Mississippi at Hinds Community College, Raymond Campus, is located at 1500 Raymond Lake Road, Raymond, MS 39154. For directions or other information about the Conference Center, call 664-857-3100. All interested parties are invited to attend this Information Hearing. Seating may be limited and will be available on a first-come, first-serve basis.

FOR FURTHER INFORMATION CONTACT: Mr. Hans Meeder, Executive Director, Twenty-First Century Workforce Commission, 1201 New York Avenue, NW, Suite 700, Washington, DC 20005. (Telephone (202-289-2939. TTY (202) 289-2977) These are not toll-free numbers. Email: *Workforce21@nab.com*.

SUPPLEMENTARY INFORMATION: Establishment of the Twenty-First Century Workforce Commission was mandated by Subtitle C of Title III of the Workforce Investment Act, Sec. 331 of Pub. L. 105-220, 112 Stat. 1087-1091, (29 U.S.C. 2701 note), signed into law on August 7, 1998. The 15 voting member Twenty-First Century Workforce Commission is charged with studying all aspects of the information technology workforce in the United States. Notice is hereby given of the first Public Information Hearing of the

Twenty-First Century Workforce Commission.

The Workforce Investment Act (Pub. L. No. 105-220), signed into law on August 7, 1998, established the Twenty-First Century Workforce Commission. The Commission is charged with carrying out a study of the information technology workforce in the U.S., including the examination of the following issues:

1. What skills are currently required to enter the information technology workforce? What technical skills will be demanded in the near future?

2. How can the United States expand its number of skilled information technology workers?

3. How do information technology education programs in the United States compare with other countries in effectively training information technology workers? [The Commission study should place particular emphasis upon contrasting secondary, non-and-post-baccalaureate degree education programs available within the U.S. and foreign countries.]

The Workforce Investment Act directs the Commission to issue recommendations to the President and Congress within six months. The Commission first met on November 16, 1999, and will issue its recommendations by May 16, 2000.

Agenda: At the Jackson, Mississippi hearing, the Commission working group conducting the hearing will emphasize the following issues: (1) What are the Information Technology workforce needs of Mississippi and what strategies are the private sector, educational institutions, and federal, state and local governments developing and implementing to address these workforce shortages? (2) How can community colleges participate in initiatives to address information technology workforce development? (3) What are the special challenges and opportunities facing rural communities and what strategies are being developed and implemented to address these challenges and opportunities?

Commission Membership: The Workforce Investment Act mandates that 15 voting members be appointed by the President, Majority Leader of the Senate, and Speaker of the House (5 members each), including 3 educators, 3 state and local government representatives, 8 business representatives and 1 labor representative. The Act also mandates that the President appoint 2 ex-officio members, one each from the Departments of Labor and Education.

The Commissioners are: Chairman Lawrence Perlman, Ceridian