1/31/99

Proposed Bank Report Rules Rile Customers

By Danny M. Boyd
Staff Writer

Viola Davidson was shocked when she read about a proposal that would force banks to scour their customers' transactions and report suspicious activities to federal regulators.

A Moore school bus driver, Davidson, 56, said there's nothing underhanded about her bank account. But that's not the point.

"Unless they think I've got something to hide, they shouldn't be delving into my bank account," she said. "I believe it's devious and unnecessary for them to treat everybody like criminals."

She may draft a letter of protest. Thousands have.

Consumers and bankers have bombarded federal regulators with complaints about a proposed "know your customer" regulation, published Dec. 7 in the Federal Register. The public comment period ends March 8.

Designed to more effectively expose money laundering, fraud and other illicit activities, consumers fear that know-your-customer rules will instead allow regulators to routinely violate their privacy.

Bankers argue that the proposed rule would turn them into informants on their own customers. Bankers also complain that it would not apply to credit unions and brokerages, which could lure away customers fearful of government snooping.

New rules could be effective by April 1, 2000, but the Federal Deposit Insurance Corp. is searching for alternatives amid the uproar.

"We are looking very

See BANKS, Page 7-A

Banks

From Page 1-A

hard at it and we're thinking very seriously about how we're going to have to change it because it's clear we're going to have to," said Christie Sciacca, associate director of the FDIC's division of supervision in Washington.

The volume of comments is four times the FDIC's previous high on an unrelated proposal in 1984.

As of the end of the business day Friday, the agency had received 14,374 correspondences, mostly via an e-mail address available from its Internet Web site at www.fdic.gov. Only 16 have been supportive. About 90 percent of the responses are from citizens rather than banks.

The FDIC jointly published the proposal with the Office of Comptroller of the Currency, Office of Thrift Supervision and the Federal Reserve, which inspired it.

Know-your-customer rules would require banks and thrifts to create a system to identify sources of depositors' funds and monitor customers' banking habits in order to determine "normal and expected" transactions, according to the proposal.

Banks would be required to spot "suspicious" transactions, or those potentially criminal and report them to regulators.

"We are not asking banks to create proposal ask banks to report all customer account information and activities to the government, he said.

The FDIC places a high priority on protecting customer privacy and seeks comments from banks about the added burden of complying with the regulation, Sciacca said.

Banking agencies proposed the know-your-customer regulation partly in response to banks wanting more uniform monitoring guidelines, he said.

Regulations implementing the Bank Secrecy Act and other laws have for years required banks to file suspicious activity reports, as well as reports for cash transactions exceeding $10,000.

"For existing customers of the bank, what we want the bank to do is to understand when something is suspicious, and banks already have to do that," Sciacca said. "That's one thing that gets lost here."

But banking interests argue that the proposal goes further than any existing reporting rules.

Although federal agencies insist that the regulation is not intended to be applied as broadly as some fear, a "literal reading of the proposal shows otherwise," said John Byrne, senior legal counsel for the American Bankers Association.

The association, which is the largest banking trade group

posal be withdrawn. Bankers are concerned that the public would lose confidence in the banking industry — and move their money elsewhere — if the rule is imposed amid widespread angst.

Bankers now report illegal activities upon discovery, but the proposal replaces current policies and saddles bankers with the expansive and expensive burden of investigating all customers to determine if any illegalities have occurred, according to the letter.

Oklahoma bankers are among the protesters.

Roger Beverage, president of the Oklahoma Bankers Association, said Oklahoma-based banks object because of the additional expense and because credit unions and brokerage firms would not be subject to the regulation.

State bankers also believe the know-your-customer regulation would lead to unwarranted intrusions on customers' privacy by the banks, Beverage said.

Bankers shouldn't be forced to quiz customers about out-of-the-ordinary transactions as simple as a worker deciding to keep more cash than usual when depositing a paycheck.

"It's none of a bank's business how a customer comes into money," Beverage said.

The proposal also expands the definition of customer to include not only the named accountholder but those who have an interest in the account, he said.

Other regulators are raising concerns.

John D. Hawke Jr., the new U.S. comptroller of the currency, "has some very serious questions about whether this is the way to go," said Bob Garrson, Hawke's spokesman.

"We realize that law enforcement agencies have real interests here, but that must be balanced against confidentiality."

The proposal was introduced a day before Hawke was sworn in. Hawke's reservations could lead to changes in the comptroller's proposal.

Other critics include Jerry Kenna, a retired FBI agent from Florida who advises banking associations on helping members comply with anti-money laundering regulations.

The requirement that banks investigate customers and possibly report them could make customers subject to federal criminal investigations for having violated, perhaps innocently, federal laws or regulations, he said.

The proposal raises civil liberties issues that should go to Congress, Kenna said.

Banks would have little choice but to comply or face the possibility of having their deposit insurance revoked, said Solveig Singleton, director of information services for the Cato Institute, a Washington think tank.

Bank customers who balk at answering government questions about their accounts could have the accounts seized, she said. The courts have typically viewed asset forfeitures as actions against things instead of people, which allows seizures often to occur without a trial or finding of guilt.

Regulators could alter the proposal and adopt it in different form or issue less formal policy statements or guidelines.

One way or another, however, know-your-customer will be different. Federal regulators are listening to citizens.

"We have to listen to them and we will listen to them," Sciacca said.