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U P D A T E

News of Developments in the Financial Sector and Related Areas

* *IN THIS ISSUE* *

FASB Staff Implementation Guides

The Financial Accounting Standards Board ("FASB") has recently released an updated version of *FASB Staff Implementation Guides*, a 378-page publication which includes and updates where necessary, all of the implementation guides issued by the FASB to date. In the past, FASB question and answer implementation guides have only been available as individual publications covering a single FASB Statement. The publication contains the question and answer implementation guides for FASB Statements as follows: 5, 86, 87, 88, 91, 106, 109, 113, 114, 115, 116, 117, 125 and 131. Order information for the publication is available at http://www.rutgers.edu/Accounting/raw/fasb/qaad.html.

Motor Carrier Liability

Robertson v. Motor Cargo, Inc., an Arizona Court of Appeals case, reprinted in [1996-1999 Federal Carriers Cases] Federal Carriers Rep. (CCH) ¶ No. 84120, involved a motor carrier that leased equipment and services from an independent trucking company. The motor carrier, as lessee, was held liable for injuries incurred by a third party due to the negligence of the lessor's driver under the Interstate Commerce Commission ("ICC") regulations. The ICC regulations require that leases contain language that guarantees that the lessee will have exclusive possession, control, and use of the equipment and complete responsibility for it. As a result of these requirements, the court held that federal law creates an irrebuttable presumption that the lessor's driver is an employee of the lessee, whose placards identify the vehicle. Once the lease went into effect, the lessee and its insurer became responsible for any negligence of the lessor. The fact that the motor carrier was transporting an exempt commodity, i.e. used pallets, did not excuse the motor carrier from liability under ICC regulations. The Court held that ICC regulations applied because the motor carrier was transporting goods that had to be moved in interstate commerce.

Insurance Activities of Banks

In Interpretive Letter No. 874, the Office of the Comptroller of the Currency ("OCC") held that an insurance agency that was a wholly-owned subsidiary of a national bank could sell insurance through satellite offices that were located in a different state in addition to the insurance agency's main office and a place where the national bank did business, i.e. a place in Illinois with a population of which does not exceed 5,000 inhabitants. Under 12 U.S.C. § 92, a national bank located and doing business in a place with a population of 5,000 or fewer may act as agent for state-authorized insurance companies by soliciting and selling insurance, collecting premiums, and receiving commissions and fees for these services from the insurance company. Section 92 does not require a bank's insurance solicitation and sales activities to occur within the "place of 5,000". The national bank may also contract with third parties to assist the agency's sales activities, including advertising support, direct mail marketing services, telemarketing services, payments, processing and other types of "back office" support. Accordingly, a national bank with an insurance agency located in a place with a population of 5,000 or less may solicit and sell insurance in the same manner permissible for licensed insurance agencies in other states. In Interpretive Letter No. 873, the OCC held that a national bank which held a noncontrolling interest in an insurance agency located in a place with a population of 5,000 or less in which the national bank is located could sell insurance from satellite offices that were located outside of the "place of 5,000" in the same manner as any other insurance agency. These rulings by the OCC are consistent with the OCC's prior Interpretive Letters No. 753 (November 4, 1996), reprinted in [1996-1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-107, Interpretive Letter No. 844 (October 20, 1998), reprinted in [1998-1999 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-299 and Interpretive Letter No. 864 (May 19, 1999) reprinted in [Current Binder] Fed. Banking L. Rep. (CCH) ¶ 81-358, regarding the activities of national banks engaging in insurance agency's activities.

Decimal Pricing of Securities

On January 28, 2000, the Securities and Exchange Commission entered an Order directing the various exchanges and the National Association of Securities Dealers, Inc. to submit a decimalization implementation plan requiring the securities markets to begin quoting securities prices in decimals by July 3, 2000. The Order requires the markets to submit a decimals pricing implementation plan within 45 days of the date of the Order and requires the options and equity markets to phase in decimal pricing by year end. Supporters of the decimalization claim that decimal prices are easier to use and understand than fractional prices and could also result in savings to investors by prompting price competition and narrow bid-ask spreads. The Order can be accessed on the internet at http://www.sec.gov/news/decimals.htm.

Charles Schwab Corp.

Charles Schwab Corp. ("Charles Schwab"), a securities firm subject to regulation by the Securities and Exchange Commission, recently announced the proposed acquisition of U. S. Trust Corp. which, when consummated, will make it subject to regulation by the Federal Reserve Board. As a result, Charles Schwab will possibly be the first financial holding company under the Gramm-Leach-Bliley Act which was signed into law on November 2, 1999. To obtain approval as a financial holding company, Charles Schwab will be required to demonstrate that U. S. Trust is well-capitalized, well-managed, and has a rating of satisfactory or better by banking regulatory authorities in its most recent Community Reinvestment Act Examination.

Sale of Title Insurance

Section 303 of the Gramm-Leach-Bliley Act permits a national bank to sell title insurance through a subsidiary to the same extent and under the same restrictions as state banks are authorized to sell title insurance as agent in a particular state. In Arkansas, state chartered banks are permitted to sell title insurance.