



United States
General Accounting Office
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Office of the General Counsel

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May 23, 1996

The Honorable Alfonse M. D'Amato
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Securities Credit Transactions; Review of Regulation T,
"Credit by Brokers and Dealers"

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Board of Governors of the Federal Reserve System, entitled "Securities Credit Transactions; Review of Regulation T, 'Credit by Brokers and Dealers'" (RIN 7100-AB28). Among other things, the rule amends Regulation T to (1) eliminate restrictions on the ability of broker-dealers to arrange for credit; (2) increase the type and number of domestic and foreign securities that may be bought on margin and increase the loan value of some securities that already are marginable; (3) delete Board rules regarding options transactions in favor of the rules of the options exchanges; and (4) reduce restrictions on transactions involving foreign persons, securities, and currency. We received the rule on May 9, 1996. It was published in the Federal Register as a final rule on May 6, 1996. 61 Fed. Reg. 20386.

Enclosed is our assessment of the Board's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Board complied with the applicable requirements.

If you have any questions about this report, please contact Henry R. Wray, Senior Associate General Counsel, at (202) 512-8581. The official responsible for GAO evaluation work relating to the Federal Reserve System is James L. Bothwell, Director, Financial Institutions and Markets Issues. Mr. Bothwell can be reached at (202) 512-8678.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Donald J. Winn
Assistant to the Board
Board of Governors of the
Federal Reserve System

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
ENTITLED
"SECURITIES CREDIT TRANSACTIONS; REVIEW OF
REGULATION T, 'CREDIT BY BROKERS AND DEALERS'"
(RIN 7100-AB28)

(i) Cost-benefit analysis

A cost-benefit analysis was not required or prepared for the rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607 and 609

Pursuant to section 605(b) of the Act, the Board certified in the preamble to both the proposed rulemaking (60 Fed. Reg. 33763, 33771 (June 29, 1995)) and the final rulemaking (61 Fed. Reg. 20386, 20389 (May 6, 1996)) that the rule would not have a substantial effect on a significant number of small entities.¹ Therefore, it was not required to prepare an initial or final regulatory flexibility analysis under sections 603 or 604 of the Act. For the same reason, section 607 is inapplicable. While section 609 likewise is inapplicable, the Board's submission to our Office states that, in addition to publishing the proposed rule in the Federal Register, it took several steps to give small entities the opportunity to participate in the rulemaking. Specifically, the proposal was distributed to interested parties by the twelve Federal Reserve Banks and by the National Association of Securities Dealers.

According to a Board official, the Board's section 605(b) certifications were not provided separately to the Small Business Administration (SBA) Chief Counsel for Advocacy. Rather, in accordance with the Board's practice, publication of the certifications in the Federal Register was treated as providing notice to SBA. An SBA official has confirmed that some agencies follow this practice without objection from SBA.

¹The preamble to the final rule actually states that the rule will not have a substantial "adverse effect" on a significant number of small broker-dealers. However, we understand from the preamble to the proposed rule and the Board's letter to our Office that the Board intended this statement to constitute a certification under section 605(b) that the rule would not have any significant economic impact on a substantial number of small entities. A Board official confirmed our understanding.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The rule, promulgated by an independent regulatory agency, is not subject to title II of the Act.

(iv) Other relevant information or requirements under Acts and Executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The rule was promulgated through the notice and comment rulemaking procedures of the Act, 5 U.S.C. § 553. The proposed rulemaking was published on June 29, 1995, 60 Fed. Reg. 33763, and afforded interested persons the opportunity to comment on the proposed rule. On August 23, 1995, the comment period was extended at the request of commenters. 60 Fed. Reg. 43726. The preamble to the final rule evaluated and responded to comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3512

The rule does not impose information collection requirements subject to the Act.

Statutory authorization for the rule

The rule was authorized by section 7 of the Securities Exchange Act of 1934, as amended, 15 U.S.C. § 78g, which directs the Board to prescribe regulations with respect to the amount of credit that may be extended by a broker-dealer on any non-exempted security.

The preamble to the final rule notes that the rule is encompassed within the Board's regulatory review under section 303 of the Riegle Community Redevelopment and Regulatory Improvement Act of 1994, 12 U.S.C. § 4803. The Board did not identify any other statutes or Executive orders imposing requirements relevant to the rule.