

nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 3, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Chemical Financial Corporation*, Midland, Michigan; to acquire 30.89 percent of the voting shares of Caledonia Financial Corporation, Caledonia, Michigan, and thereby indirectly acquire State Bank of Caledonia, Caledonia, Michigan.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Tradition Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Katy Bank, N.A., Katy, Texas.

Board of Governors of the Federal Reserve System, October 6, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03-25676 Filed 10-9-03; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC is seeking public comments on its proposal to extend through January 31, 2007 the current PRA clearance for information collection requirements contained in its Mail or Telephone Order Merchandise Trade Regulation Rule. That clearance expires on January 31, 2004.

DATES: Comments must be filed by December 9, 2003.

ADDRESSES: Send comments to Secretary, Federal Trade Commission,

Room H-159, 600 Pennsylvania Ave., NW., Washington, DC 20580 or by e-mail to pra-60-mailorderrule@ftc.gov, as prescribed below. Submissions should include the submitter's name, address, telephone number and, if available, FAX number and e-mail address. All comments should be captioned "Mail or Telephone Order Merchandise Trade Regulation Rule: Paperwork comment."

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be addressed to Joel N. Brewer, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room NJ-2207, 601 New Jersey Ave., NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the MTOR.

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential."¹ Comments that do not contain any nonpublic information may instead be

filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: pra-60-mailorderrule@ftc.gov. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR section 4.9(b)(6)(ii).

The Mail Order Merchandise Trade Regulation Rule 16 CFR part 435 (OMB Control Number: 3084-0106) ("MOR"), was promulgated in 1975 in response to consumer complaints that many merchants were failing to ship mail order merchandise on time, failing to ship at all, or failing to provide prompt refunds for unshipped merchandise. The MOR took effect on February 2, 1976. A second rulemaking proceeding in 1993 demonstrated that the delayed shipment and refund problems of the mail order industry were also being experienced by consumers who ordered merchandise over the telephone. The Commission amended the MOR, effective on March 1, 1994, to include merchandise ordered by telephone, including by telefax or by computer through the use of a modem, and renamed the Rule "Mail or Telephone Order Merchandise" ("MTOR" or "Rule"). The Rule therefore includes orders placed through the Internet.

Generally, the MTOR requires a merchant to: (1) Have a reasonable basis for any express or implied shipment representation made in soliciting the sale; (2) ship within the time period promised and, if no time period is promised, within 30 days; (3) notify the consumer and obtain the consumer's consent to any delay in shipment; and (4) make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule's other requirements.

The notice provisions in the MTOR require a merchant who is unable to ship within the promised shipment time or 30 days to notify the consumer of a revised date and his or her right to cancel the order and obtain a prompt refund. Delays beyond the revised shipment date also trigger a notification requirement to consumers. When the Rule requires the merchant to make a refund and the consumer has paid by credit card, the Rule also requires the merchant to notify the consumer either that any charge to the consumer's charge account will be reversed or that the merchant will take no action that will result in a charge.

Burden statement:

¹ FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must also be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

Estimated total annual hours burden: 3,094,000 hours (rounded up to the nearest thousand).

In its 2000 PRA notice and submission to OMB regarding the Rule, FTC staff estimated that 45,919 established companies each spend an average of 50 hours per year on compliance with the Rule, and that approximately 1,985 new industry entrants spend an average of 230 hours (an industry estimate) for compliance measures associated with start-up.² 65 FR 77031 (December 8, 2000). Thus, the total estimated hours burden was 2,753,000 hours, rounded up to the nearest thousand [(45,919 × 50 hours) + (1,985 × 230 hours)].

No provisions in the Rule have been amended or changed since staff's prior submission to OMB. Thus, the Rule's disclosure and notification requirements remain the same. Since then, however, the number of businesses engaged in the sale of merchandise by mail or by telephone has increased. Based on the U.S. Department of Commerce 2002 Statistical Abstract,³ approximately 53,600 establishments are now subject to the Rule. The staff attributes much of this growth to brick-and-mortar retailers expanding into electronic shopping, and the continued entry of "dot.com" merchants into the retail industry.

Conversely, based on the 2002 Statistical Abstract data, staff is reducing its estimate of new businesses per year from 1,985 to 1,800. Thus, the current total of affected entities is approximately 55,400 (established and new businesses).

Accordingly, staff estimates total industry hours to comply with the MTOR is 3,094,000 hours [(53,600 × 50 hours) + (1,800 × 230 hours)].

This is a conservative estimate. Arguably much of the estimated time burden for disclosure-related compliance would be incurred even absent the Rule. Industry trade associations and individual witnesses have consistently taken the position that compliance with the MTOR is widely regarded by direct marketers as being good business practice. The Rule's notification requirements would be followed in any event by most merchants to meet consumer expectations regarding timely shipment, notification of delay, and prompt and

full refunds. Providing consumers with notice about the status of their orders fosters consumers loyalty and encourages repeat purchases, which are important to direct marketers' success. Thus, it appears that much of the time and expense associated with Rule compliance may not constitute "burden" under the PRA⁴ although the above estimates account for it as such.

The mail-order industry has been subject to the basic provisions of the Rule since 1976 and the telephone-order industry since 1994. Thus, businesses have had several years (and some have had decades) to integrate compliance systems into their business procedures. Since staff's preceding PRA submission to OMB for the Rule, many businesses have upgraded the information management systems they need, in part, to comply with the Rule, and to track orders more effectively. These upgrades, however, were needed to deal with growing consumer demand for merchandise resulting, in part, from increased public acceptance of making purchases over the telephone and, more recently, the Internet.

Accordingly, most companies now maintain records and provide updated order information of the kind required by the Rule in their ordinary course of business. Nevertheless, staff continues to conservatively assume that the time devoted to compliance with the Rule by existing and new companies remains unchanged from its preceding estimate.

Estimated labor costs: \$51,825,000, rounded to the nearest thousand.

Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. According to the 2002 Statistical Abstract, average payroll for "electronic shipping and mail order houses," "direct selling establishments," and "other direct selling establishments" rose from \$14.41 per hour in 1999 to \$15.19 per hour in 2000, an increase of \$0.78 per hour. Assuming average payroll continued to increase \$0.78 per hour per year, average payroll in 2002 would have reached \$16.75 per hour. Because the bulk of the burden of complying with the MTOR is borne by clerical personnel, staff believes that the average hourly payroll figure for electronic shipping and mail order houses and direct selling establishments is an appropriate measure of a direct marketer's average labor cost to comply with the Rule. Thus, the total annual labor cost to new and established

businesses in 2002 for MTOR compliance is approximately \$51,825,000 (3,094,000 hours × \$16.75/hr.). Relative to direct industry sales, this total is negligible.⁵

Estimated annual non-labor cost burden: \$0 or minimal.

The applicable requirements impose minimal start-up costs, as businesses subject to the Rule generally have or obtain necessary equipment for other business purposes, *i.e.*, inventory and order management, and customer relations. For the same reason, staff anticipates printing and copying costs to be minimal, especially given that telephone order merchants have increasingly turned to electronic communications to notify consumers of delay and to provide cancellation options. Staff believes that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates, but that this would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with the information collected under the Rule.

William E. Kovacic,

General Counsel.

[FR Doc. 03-25792 Filed 10-9-03; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting period Under Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, is added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the

² Most of the estimated start-up time relates to the development and installation of computer systems geared to more efficiently handle customer orders.

³ Statistical Abstract of the United States, 122nd edition, 2002, U.S. Department of Commerce, Economics and Statistics Administration, Table 1000, "Retail Trade—Establishments, Employees and Payroll: 1999 and 2000." This is the most recent edition currently available.

⁴ Under the OMB regulation implementing the PRA, burden is defined to exclude any effort that would be expended regardless of any regulatory requirements. 5 CFR 1320.3(b)(2).

⁵ Projecting sales for "electronic shopping and mail-order houses," "direct selling establishments," and "other direct selling establishments" (according to the 2002 Statistical Abstract) to all merchants subject to the MTOR, staff estimates that total direct sales to consumers in 2002 to have been \$124.88 billion. Thus, the labor cost for compliance by existing and new businesses in 2002 would have amounted to .042% of sales.