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December 13, 2011

Don Fox
Acting Director and General Counsel
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

RE: RIN 3209-AA04
Proposed Amendments Limiting Gifts from Registered Lobbyists and
Lobbying Organizations

Dear Mr. Fox:

The following comments are submitted on behalf of the Community Bankers of Iowa (CBI), a section 501(c)(6) trade association representing approximately 350 independent community banks domiciled in Iowa. CBI was organized in 1972 to promote the interests of independent banking. While we have read and agree with the comment letter submitted by the American Society of Association Executives, we wanted to comment from our unique perspective.

CBI agrees with the Office of Government Ethics (OGE) that when gifts are offered by persons who are paid to influence government action, the concerns are indeed magnified. The OGE's commitment to reigning in some of the exceptions to the general standards of ethical conduct for employees of the executive branch with regard to gifts from outside sources is understandable. The OGE's proposed amendment addressing its perception that over the years there have been some instances in which the widely attended gathering (WAG) exception was used to permit Federal employee attendance at WAGs, particularly social WAGs where the nexus to the government's interest was attenuated, is unnecessarily broad. If the proposed rule is adopted as drafted, Federal employees will be effectively prohibited from accepting free attendance at many WAGs where there are valuable and unique educational and professional opportunities merely because the sponsoring organization is a trade association. Only Federal employees who are there for an official speaking/presenting engagement on the day of the WAG will accept free attendance. And most likely, because of the negative connotations the preamble to the proposed rule places on such WAGs, Federal employees will likely avoid trade association WAGs regardless of value or who is paying for it.

The OGE states that “trade associations may sponsor educational activities for their members and even the public, but the primary concern of such associations generally is not the education and development of members of a profession or discipline, which is the focus of the proposed exclusion.” Although education and professional development may not be CBI’s primary concern, it equals or exceeds any of our other concerns. Regardless of an association’s primary concern, there isn’t a compelling reason to disqualify from the exemption all the WAGs of any trade association merely because education and development of member profession and discipline isn’t the association’s primary concern.

There is a substantial benefit from Federal employees and members of trade associations attending the same educational and professional development activities. These WAGs provide a neutral and stress-free environment for our members to interact informally with employees of the prudential bank regulators. When these two groups attend the same educational and professional development programs, it provides an opportunity for them to voice differences and similarities of opinions regarding various issues in a nonthreatening environment. This environment may not otherwise exist. The relationship between employees of Federal bank regulators, community banks, and community bank associations is unique. Employees of Federal bank regulators promulgate the rules under which banks must operate. Employees of Federal bank regulators perform examinations of various functions of the bank, primarily safety and soundness and compliance. The rules and examinations are highly technical requiring an experienced and trained workforce both on behalf of the banks and the Federal regulators. Much of the experience and training that Federal regulatory examiners receive is on-the-job at banks. Banks are actually asked to actively participate in training new federal employees in the banks for examinations.

One of the biggest complaints about Federal bank regulators is that many of them haven’t worked in banking; therefore, they don’t understand how their rules and enforcement affects banks’ day to day business. Banking trade associations regularly hold seminars, trade shows, conferences, conventions, and other WAGs – with substantive educational and professional development opportunities – where employees of Federal bank regulators can learn how banks are affected by laws and regulations, view new products and services, and attend educational and professional development offerings, which are presented by some of the best and brightest minds in the banking industry. If Federal employees don’t attend these WAGs, their education and professional development will become insular and incomplete. It is a symbiotic relationship that is important to the health and stability of our banking system. More than likely, the Federal banking regulators would readily agree with this. Inexplicably, educational and professional development activities of professional associations are excluded by the proposed rule.

As ASAE pointed out in their comment letter, the “educational and professional development programs conducted by trade associations are virtually indistinguishable from those conducted by the other types of organizations listed in the proposed rule.” Professional associations are no less likely to lobby and have lobbyists in attendance at their educational and professional development activities than trade associations.

Banking trade association programs are important to the education and professional development of Federal banking employees, and the Federal government should be doing everything that it can to encourage those employees to attend them rather than installing further impediments. A more measured and fair approach would be to judge each WAG on its own merit rather than disqualifying an entire organizational type based on generalities and the perception that there were some instances where the nexus to the government's interest was attenuated.

Requiring that Federal employees either speak or present at the WAGs or pay full price is a significant impediment. Couple that with the erroneous suggestion, in the proposed rule's preamble, that these WAGs are fraught with lobbying abuses, and no Federal banking regulator employees will attend regardless of the educational/professional value and regardless of who is paying. Federal banking regulators need to be at these WAGs for professional development, education, and to glean matters that can't be learned in their offices, by examining a bank, or by attending any other educational offering. In a time when the Federal banking rules are changing quickly and the employees of both the banks and the regulators are both struggling to keep up the changes, this deterrence is a serious mistake.

Rather than leaving trade associations out of the exception in §2635.203(h)(4), we suggest the OGE revise the definition of "registered lobbyist or lobbying organization" to state that it doesn't include "a nonprofit professional or trade association ..." with respect to any gift made in connection with the entity's educational or professional development activities. Then, address actual cases of abuse, if any, individually. After all, it is the requirement that a gift is in connection with an educational or professional development activity, not whether or not that activity is proffered by a professional association or a trade association.

Thank you in advance for your consideration and if you have any questions, please contact Don Hole, EVP and CEO at Community Bankers of Iowa, at 515.453.1495 or dhole@cbiaonline.org.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hole", written over a horizontal line.

Don Hole, EVP and CEO
Community Bankers of Iowa