

## **Part I**

### **Joint Agency Report**

#### **A. Overview**

Section 303(a)(2) of CDRI directs the federal banking agencies<sup>1</sup> to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. This mandate is consistent with a longstanding view of the agencies that all depository institutions in the United States should be subject to the same safety and soundness and consumer protection rules. Choice of charter or Federal Reserve membership should not affect the core obligations of a depository institution to operate in a safe and sound manner and serve the convenience and needs of its community.

In many areas, depository institutions generally operate under the same rules regardless of their federal regulator. For example, depository institutions are subject to the same consumer protection rules under the Equal Credit Opportunity Act, Truth in Lending Act, Home Mortgage Disclosure Act, Expedited Funds Availability Act, Truth in Savings Act, and Electronic Fund Transfer Act. All depository institutions receive the same deposit insurance and, at least with respect to banks, are subject to the same system for determining deposit insurance premiums.

However, even in cases where each agency has been authorized to write regulations for the institutions that it supervises, uniformity has been the rule rather than the exception whether Congress has mandated uniformity or not. For example, the agencies have implemented a uniform system of prompt

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<sup>1</sup> The federal banking agencies are: the Board of Governors of the Federal Reserve System (FRB); the Federal Deposit Insurance Corporation (FDIC); the Office of the Comptroller of the Currency (OCC); and the Office of Thrift Supervision (OTS); and will collectively be referred to in this report as “the agencies.”

corrective action against undercapitalized institutions under the authority granted them by the Federal Deposit Insurance Corporation Improvement Act of 1992 (FDICIA). The agencies have also adopted a uniform regulation and standards for safety and soundness, real estate lending, and use of real estate appraisals. In the consumer area, the agencies have adopted uniform regulations and policy statements under the Community Reinvestment Act, and a policy statement for the branch closing notification statute. The agencies generally operate under the same rules of practice and use the same pool of administrative law judges when enforcement actions are contested.

The risk-based capital standards constitute perhaps the most significant regulation where differences exist among the agencies. As described later in this report, these differences are relatively minor; the major elements of the capital standards -- the required minimum levels, the definition of capital, the risk weights assigned to the vast majority of assets, and the treatment of off-balance-sheet obligations -- effectively have been consistently uniform. The agencies are continuing efforts that predate CDRI to eliminate remaining inconsistencies. These efforts include the issuance of one proposal that is currently out for public comment and the drafting of another proposal aimed at resolving almost all other inconsistencies.

When the agencies have not been able to make regulations or guidelines uniform, the differences among the agencies usually reflect the impact of an agency-specific statutory mandate, policy or mission. Often complete uniformity will exist with respect to several of the agencies, while in other instances many individual sections of a regulation or guideline will be uniform across all the agencies.

Section C of this report highlights ten projects as examples of the progress the agencies have made to achieve the goals of CDRI section 303(a)(2). These are projects to which the agencies have devoted particular attention during this review -- generally because the issuance was of particular significance to the industry or there were inconsistencies to be addressed -- and are described in detail. The remaining projects are discussed in a more summary fashion in Section D beginning on page I-28.

## **B. Methodology**

To comply with the Section 303(a)(2) mandate to review their regulations and written policies and to coordinate review of interagency regulations and guidelines, the agencies convened a Steering Committee under the auspices of the Federal Financial Institutions Examination Council (FFIEC). The goal of the Steering Committee and the agencies is to try to achieve uniformity and reduce burden with respect to all regulations and guidelines implementing common statutory or supervisory policies.

As a first step to achieve this goal, each agency identified its own regulations and guidelines that it believed should be subject to the 303(a)(2) review. The Steering Committee then convened a working group composed of two persons from each agency to create a definitive list of common statutory provisions and supervisory policies.

This working group reviewed each agency's list and developed its own list of statutes, regulations, guidelines, or supervisory policies common to at least three of the agencies. The working group recommended that the 303(a)(2) review be expanded to include other issuances such as joint policy and interagency statements formally adopted by the agencies. All of these issuances are described in this report.

The working group did not include regulations or guidance regarding procedural, processing, or policy issues in non-supervisory areas. For instance, statutes of government-wide applicability such as the Freedom of Information Act did not fall within the purview of Section 303's interagency mandate. In addition, the working group did not review procedures contained in the agencies' examination handbooks.

The working group also considered how to treat regulations that are promulgated by a single agency but enforced by all the agencies, such as

Regulation O (lending to bank insiders) and Regulation DD that implements the Truth in Savings Act. The working group determined that this type of regulation would be subject to the internal review process of the promulgating agency pursuant to Section 303(a)(1). There was agreement that interested agencies would have an opportunity to comment on these regulations.

The working group divided the issuances to be reviewed for Section 303(a)(2) purposes into three groups.

- Seventeen regulations and related guidelines derived from a common statutory requirement or supervisory policy that had not been implemented in a uniform manner among the agencies. These are the areas that Congress mandated the agencies work jointly to make uniform.
- Eleven regulations and twenty-eight items of guidance derived from a common statutory requirement or supervisory policy that were already uniform. These issuances were reviewed to determine whether they needed clarification or streamlining.
- Nine issuances derived from a common supervisory policy (mostly FFIEC policy statements) rendered obsolete or superseded by subsequent guidance or legislation.

The final list approved by the Steering Committee for review included 65 issuances. An FFIEC Task Force (Supervision, Consumer Compliance, or Legal Advisory Group) was assigned responsibility to oversee the review of the issuances within its area of expertise. These FFIEC Task Forces created 65 interagency working groups composed of knowledgeable individuals from each agency to review each issuance. Each working group designated a lead agency, provided status reports to the Steering Committee, and made recommendations to the appropriate FFIEC Task Force. In turn, the Task Forces will see that approved actions (e.g., revisions or deletions) are implemented. The Steering Committee retains general oversight of all Section 303(a)(2) projects.

The agencies, through the Steering Committee, agreed that the statutory mandate to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies could be satisfied without the agencies' adopting identical language and format. Instead of conducting word-by-word comparisons of the issuances, the working groups focused on the issuances' substantive impact. If issuances under review affected a person or financial institution in the same way, the issuances were considered uniform. Of course, in those instances where the same language and format could be adopted by all the agencies, the working groups recommended that it be done.

Each issuance was also reviewed using the criteria set forth in section 303(a)(1). If the working groups determined that an issuance should be simplified or modified to achieve the goals of section 303(a)(1), the working groups recommended changes to the appropriate FFIEC Task Force. The working groups and Task Forces were keenly aware that such revisions had to be coordinated to maintain uniformity among the agencies.

## C. Significant Accomplishments

### 1. Risk-Based and Leverage Capital Adequacy Standards

An existing interagency capital working group was directed to perform the section 303 review of the capital adequacy regulations. In performing this review, the working group identified a few technical differences among the agencies' capital standards.

In 1989, the agencies issued risk-based capital standards implementing the Basle Accord's framework for measuring the capital adequacy of banking organizations. Each of the agencies have regulations and guidelines that establish certain "risk-based capital" standards. The concept of risk-based capital is that an institution should have a level of capital that corresponds to the amount and type of risk in its assets. The greater risk in the asset, the greater its risk weight and the capital required to be held against it. In 1990-1991, the agencies adopted a leverage measure setting forth minimum ratios of capital to total assets. The agencies' capital standards are largely, but not totally, uniform in substance. There are however, some substantive differences with OTS' regulations that arise in most cases from statutory mandates.

While the agencies require the same risk-based capital percentages, the risk weighting for some types of transactions differ. The working group found five types of transactions where the agencies have different applications of the risk-based capital rules. These differences are being addressed.

- *Collateralized Transactions.* On August 16, 1996, the agencies published a joint proposed rulemaking which, if implemented, resolves the most substantive of these differences, the treatment of collateralized transactions.<sup>2</sup> The FDIC and OTS currently risk weight portions of claims collateralized by cash or Organization for Economic Cooperation and Development (OECD) government

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<sup>2</sup> 61 Federal Register 42,565 (1996).

securities at 20 percent. Both the FRB and OCC apply a zero risk weight for certain collateralized transactions that meet specified criteria. The criteria specified by the FRB and OCC, however, are not identical. Under the proposed rule, portions of claims collateralized by cash or OECD government securities could be assigned a zero percent risk weight, provided the transactions meet certain criteria, which would be uniform among all the agencies.

- *Presold Residential Properties.* Each of the agencies presently assigns qualifying construction loans on presold 1- to 4-family properties to the 50 percent risk category. The OCC and OTS require that the property be sold to individuals who will occupy the residence before the construction loan is made in order for the loan to qualify for the 50 percent risk category. The FRB and the FDIC permit loans to builders for residential construction to qualify for a 50 percent risk weight once the property is presold, even if the event occurs after the construction loan has been made. One proposal under consideration is to assign a 50 percent risk weight whenever the property is presold.
- *Junior Liens on 1- to 4-Family Residential Properties.* The agencies currently do not treat junior liens on 1- to 4-family residential properties uniformly where the lending institution holds the first lien and no other party holds an intervening lien. The FRB and OTS treat the first and junior liens as a single loan and assign a risk weight based on the combined loan-to-value (LTV) ratio. The FDIC also combines the liens to determine the LTV ratio, but applies the risk weight differently than the FRB and OTS. If the combined lien satisfies prudent underwriting standards, the FDIC risk weights the first lien at 50 percent and the junior at 100 percent; otherwise, both liens are risk weighted at 100 percent. The OCC treats first and second liens separately, with qualifying first liens risk weighted at 50 percent and non-qualifying first liens and all junior liens at 100 percent.

A proposal under consideration is to treat first and junior liens separately with qualifying first liens risk weighted at 50 percent and non-qualifying first liens and all junior liens at 100 percent.

- *Mutual Funds.* The FDIC, FRB, and OCC generally assign all of a bank's holdings in a mutual fund to the risk category appropriate to the highest risk asset that a particular mutual fund is permitted to hold under its operating rules. In contrast, the OTS applies a capital charge appropriate to the riskiest asset that a mutual fund is actually holding at a particular time. Further, both the OTS and the OCC permit, on a case-by-case basis, investments in mutual funds to be allocated on a pro rata basis. However, the OTS and OCC apply the pro rata allocation differently. While the OTS applies the allocation based on the actual holdings of the mutual fund, the OCC applies it based on the highest amount of holdings the fund is permitted to hold as set forth in the prospectus. A proposal under consideration is to allow pro rata allocation of risk weights on a mutual fund's holdings based on limits set forth in the prospectus.
- *Investments in Subsidiaries.* The final area where the agencies differ in their application of risk weighting is investments in subsidiaries. The agencies generally require consolidation of significant majority-owned subsidiaries for risk-based capital purposes. They normally require investments in unconsolidated banking and finance subsidiaries to be deducted from capital. The banking agencies have varying language about situations when they might require deductions of investments in other subsidiaries or associated companies or apply some other treatment for capital purposes, such as line-by-line or pro rata consolidation. The OTS requires deductions of investments in subsidiaries and associated companies that are not deemed to be includable subsidiaries, which are defined based on statutory provisions.

The resolution of these differences could be significantly affected by a formal effort currently underway by the accounting profession

to reconsider the way subsidiaries are consolidated. The agencies will continue to consider ways to simplify the discussion of investments in subsidiaries, particularly in light of any resolution of accounting guidance on consolidation, with the goal of developing uniform regulations in this area.

The working group also reviewed the agencies' leverage capital ratio requirements.<sup>3</sup> The FDIC, FRB, and OCC require the most highly-rated banks (that is, among other things, those rated CAMEL composite 1) to meet a minimum leverage ratio of 3.0 percent. The minimum leverage capital ratio for all other banks is 3.0 percent "plus an additional cushion of at least 100 to 200 basis points" -- that is, a minimum leverage ratio of not less than 4.0 percent. The OTS requires a 3.0 percent core capital ratio and a 1.5 percent tangible capital leverage ratio. Although the OTS' capital rule continues to contain a 3.0 percent leverage ratio requirement and the statutorily required 1.5 percent tangible capital requirement, the 4.0 percent leverage requirement to be "adequately capitalized" under the OTS' Prompt Corrective Action rule is the controlling standard for thrifts.

One proposal under consideration is for the agencies to adopt a uniform leverage ratio subjecting institutions rated a composite CAMEL 1 to a minimum 3.0 percent leverage ratio and all other institutions to a minimum 4.0 percent leverage ratio. This change would simplify and streamline the FDIC's, FRB's, and OCC's leverage rules, and would make all the agencies' rules uniform.

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<sup>3</sup> The leverage capital ratio is the ratio of tier 1 capital to total assets.

## 2. Reports of Crimes or Suspected Crimes

The agencies issued new rules effective April 1, 1996 for all domestic and foreign banking organizations to use when reporting suspected crimes or suspicious activities.<sup>4</sup> Working together with representatives from law enforcement agencies and the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN), the agencies developed a single form, the Suspicious Activity Report (SAR), for the reporting of known or suspected Federal criminal law violations and transactions that an institution suspects involve money laundering or violate the Bank Secrecy Act (BSA). The new uniform rules replace regulations that were similar, but contained different definitions, required the use of different forms, and imposed different obligations on management to report criminal activity to their directors.

The new SAR reporting system adopted by all the agencies makes it significantly easier and less burdensome for financial institutions to report suspected crimes or suspicious activities. The new SAR reporting system:

- Combines the current criminal referral rules of the agencies with the Department of the Treasury's suspicious activity reporting requirements;
- Creates a uniform reporting form, the SAR, for the reporting of known or suspected criminal offenses and transactions that an institution suspects involve money laundering or violate the BSA;
- Provides a system whereby a financial institution need only refer to the SAR and its instructions in order to complete and file the form;
- Requires the filing of only one form with FinCEN;

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<sup>4</sup> FDIC, 61 Federal Register 6,095 (1996); FRB, 61 Federal Register 4,338 (1996); OCC, 61 Federal Register 4,332 (1996); and OTS, 61 Federal Register 6,100 (1996).

- Eliminates the need to file supporting documentation with a SAR;
- Enables a filer, through computer software to be provided by the agencies, to prepare a SAR on a computer and file it by mailing a computer disc or tape;
- Establishes a database that will be accessible to Federal and state financial institution regulators and law enforcement agencies;
- Raises the thresholds for mandatory reporting in two categories and creates a threshold for the reporting of transactions that an institution suspects involve money laundering or violate the BSA in order to reduce unnecessary reporting burdens on financial institutions; and
- Emphasizes recent changes in the law that provide (1) a safe harbor from civil liability to financial institutions and their employees when they report known or suspected criminal activities, by filing a SAR or by reporting by other means; and (2) criminal sanctions for the disclosure of such a report to any party involved in the reported transaction.

### **3. Retail Sales of Nondeposit Investment Products**

Insured institutions are providing customers with an increasing array of financial products and services. They offer nondeposit investment products for the convenience of their customers and to increase fee income. Due to increased involvement of insured institutions in offering these products, the agencies jointly issued the Interagency Statement on Retail Sales of Nondeposit Investment Products on February 15, 1994. The Interagency Statement was developed to offer financial institutions guidance on how to operate nondeposit investment product sales programs in a safe and sound manner while reducing customer confusion that may result when insured institutions offer uninsured products.

The Interagency Statement requires that customers be fully informed of the four basic differences between nondeposit investment products and traditional bank deposits. Unlike traditional deposits, nondeposit investment products are:

- Not insured by the FDIC;
- Not deposits or other obligations of the depository institution;
- Not guaranteed by the depository institution; and
- Subject to investment risk, including possible loss of the principal amount invested.

The Interagency Statement seeks to ensure that insured institutions recommend suitable products and fully inform customers of the risks they are assuming when purchasing mutual funds, annuities, bonds, and other nondeposit investment products.

Through a standing interagency working group, the agencies coordinate interpretations and implementation of the Interagency Statement. In order to provide greater guidance, the agencies issued a joint interpretation on September 12, 1995. The working group also negotiated an information sharing agreement with the National Association of Securities Dealers (NASD) on January 3, 1995. Most (approximately 90%) nondeposit investment products sold on the premises of insured institutions are sold by registered representatives of third party broker-dealers who are supervised by the Securities and Exchange Commission (SEC) and the NASD. This agreement eliminates duplication of effort and regulatory overlap.

The FDIC, OCC, and FRB are considering regulations that would establish professional qualification requirements for bank retail sales personnel. These proposals would require bank retail sales personnel to take the securities industry professional qualification examination and register with the banking

agencies. Under the proposals, bank employees would have to meet the same initial qualifications as NASD-registered representatives, and they would be subject to the same continuing education requirements imposed on NASD-registered representatives. The OTS permits only registered representatives to sell nondeposit products in savings associations.

#### **4. Management Official Interlocks**

The Depository Institutions Management Interlocks Act (DIMIA) (12 U.S.C. 3201 et seq.) seeks to preserve competition by generally prohibiting a management official from serving two non-affiliated depository organizations where the management interlock likely would have an anticompetitive effect. The statute directs the agencies and the National Credit Union Administration (NCUA) to administer and enforce the statutory provisions, and authorizes the agencies to prescribe rules and regulations to carry out the statute.

On August 2, 1996, the agencies published a final rule amending the existing management interlocks regulations.<sup>5</sup> Although the rules were substantially identical, the agencies amended their regulations to improve efficiency, reduce unnecessary costs, and eliminate constraints on credit availability. The revised regulations remove inconsistent, outmoded and duplicative requirements, and are uniform and easier to understand.

The new regulations reduce burden and improve efficiency by changing or expanding the definitions section of the regulations. While the statute refers to an "anticompetitive effect," the earlier regulations neither used nor defined the term. The new regulations define the term to mean "a monopoly or substantial lessening of competition." This definition provides regulated institutions greater certainty, and is familiar to the banking industry since it is derived from the Bank Merger Act.

The agencies also revised the definition of "management official" and replaced "employee with management functions" with "senior executive officer," a term

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<sup>5</sup> 61 Federal Register 40,293 (1996).

used in other banking regulations. This change eliminates the uncertainty and attendant compliance burden created by the ambiguous term "management functions." The new regulations include specific illustrative examples of positions at depository institutions that will be treated as senior executive officers. The changes allow depository organizations to identify impermissible interlocks with greater certainty and, thus, reduce burden and enhance compliance.

In addition to improving the regulatory text by more clearly defining terms, the new regulations make substantive changes that improve consistency with the statute.

The earlier regulations permitted an interlock between depository institutions that were located in the same Relevant Metropolitan Statistical Area (RMSA) but in different communities only if both depository institutions had assets of less than \$20 million. Under the new regulations, an interlock may now take place between two depository institutions within the same RMSA but in different communities if only one of the depository institutions has assets of less than \$20 million. The agencies believe that such interlocks are not likely to result in an anticompetitive effect and that the change will promote rather than inhibit competition. Expansion of the pool of managerial talent for institutions with less than \$20 million in assets could enhance the ability of smaller institutions to compete by improving the management of these institutions.

The revised regulations implement the "regulatory standards" exemption to the interlock prohibition. CDRI amended DIMIA to permit the agencies to exempt an interlock if the institution seeking the interlock certifies that no other qualified candidate is available, and the agency determines the candidate is critical to the institution and the interlock would have no anticompetitive effect.

The revised regulations clarify three other issues. First, newly chartered institutions are defined consistently with certain other banking agency thresholds. Second, the regulation clarifies that the existing exemption for

"minority- and woman-owned institutions" is available for an institution that is owned either by minorities or women. Third, the regulation now permits an interlock if the interlock would strengthen the management of either a newly chartered institution or an institution that is in an unsafe or unsound condition.

In addition to the revisions described above, the new regulations include a change to the language of the Change in Circumstances and Enforcement sections to make them more readily understandable. The Grandfathered Interlocking Relationships section was removed because it was unnecessary and redundant in light of the statute. The exemption contained in this section expires November 10, 1998 unless Congress amends the Interlock Act again.

## **5. Uniform Financial Institutions Rating System**

The Uniform Financial Institutions Rating System (UFIRS) was adopted by the FFIEC on November 13, 1979. The agencies assign a numerical rating from 1 to 5 to the financial institutions they supervise. These ratings, often referred to as CAMEL (representing **C**apital, **A**sset Quality, **M**anagement, **E**arnings and **L**iquidity), can affect an institution's status for various purposes such as supervisory activities, bank powers, and insurance assessments. Over the years, the UFIRS has proven to be an effective internal supervisory tool. It has allowed the regulators to: (1) evaluate the safety and soundness of an institution based on considerations of financial, operational, managerial, and compliance factors; (2) assign ratings that represent a current assessment of an institution's overall condition; and (3) monitor and manage risk within individual institutions and the overall financial system.

On July 18, 1996, the FFIEC published a draft revised UFIRS and asked the public to provide the agencies with comments.<sup>6</sup> The agencies' goals in revising the UFIRS were to make it more readable and understandable, eliminate outdated information, adapt the system to today's financial industry environment, and reflect the current concepts of risk management and supervision according to risk.

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<sup>6</sup> 61 Federal Register 37,472 (1996).

The most significant change that the agencies are considering would add a sixth component to the rating system addressing the sensitivity to market risks. As financial institutions have increased their holdings of complicated on- and off-balance-sheet instruments that are sensitive to changes in interest rates, the need to monitor and manage effectively this risk has grown. Competitive pressures that have constrained institutions' ability to advantageously price loans and deposits have further heightened the need to monitor and manage these risks.

Accordingly, the proposal would add an additional component rating to UFIRS to reflect sensitivity to interest rate and other market risks. While this component is primarily intended to reflect exposure to interest rate risk, it is also intended to reflect sensitivity to price and foreign exchange risks at those institutions where these risks are significant.

The proposed UFIRS would also explicitly incorporate the quality of risk management in the management component. While the quality of risk management processes has always been considered in evaluating the management component, in many cases the rating of the component has depended heavily on the financial performance of the institution. Changes in the financial services industry have widened the range of products offered by financial institutions and accelerated the pace of transactions. Emphasis on recent financial performance as a sole indicator of management quality is no longer appropriate. In assigning the management component rating, the quality of risk management is now balanced with the financial performance of an institution.

The proposed UFIRS would explicitly identify the various risks that can affect a component rating. While the component descriptions incorporate elements and concepts of “supervision by risk” and “risk management” such as identification, measurement, monitoring, and control, the proposal refers to the quality and quantity of the various risk elements that should be considered when assigning a rating to the components. The quality of a bank's risk management process and the quantity of risk exposures have always been considered when assigning component ratings. The proposed inclusion of

references to risk elements in component rating descriptions would strengthen and clarify the rating system.

The proposed component rating descriptions would improve readability, clarify ambiguous language, and incorporate current regulatory and supervisory issues. Component rating descriptions would be reformatted into three distinct sections: introduction, evaluation factors, and narrative descriptions of component ratings. The introduction would describe what each component reflects and the broad issues that should be considered when evaluating that component. The evaluation factors would be presented individually, and expanded to reflect regulatory and supervisory items not addressed in the 1979 version. The proposed ratings would be clearly presented and refer to risk levels and practices where appropriate. The comment period on the proposed UFIRS closed September 16, 1996.

## 6. Change in Bank Control

Each of the banking agencies has issued regulations implementing the Change in Bank Control Act of 1978, 12 U.S.C. 1817(j) (CIBC Act).<sup>7</sup> The CIBC Act requires persons seeking to acquire control of any insured depository institution or holding company thereof to provide 60 days prior written notice to the appropriate agency, unless the transaction is otherwise exempted. The CIBC Act requires prior notice for any transaction, unless exempted, that would result in the acquiring person or group of persons acting in concert, directly or indirectly, having the power to vote 25 percent or more of any class of voting securities of an insured depository institution. The CIBC Act describes transactions that are exempted, the general information that the notice must contain, the factors that the agencies must consider in determining whether a proposed transaction should be disapproved, the time period for processing a notice, publication requirements for the notice for public comment, the right to request a hearing and appeal any disapproval of a notice, and the reporting of stock loans secured by insured depository institution stock.

Each agency has promulgated a rule implementing the CIBC Act. Although the agencies' rules were identical when they were issued in 1979, subsequent amendments to the rules have led to certain material differences.

The members of the working group have identified provisions in the agencies' regulations that would benefit from clarification and simplification to reduce regulatory burden. This list includes: (1) whether to consider rebuttable presumptions when groups of persons are deemed to be "acting in concert" for purposes of the regulations; (2) how to treat acquisitions of loans in default

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<sup>7</sup> The banking agencies CIBC regulations are located at: 12 CFR. §§ 225.41-225.43 (FRB); 12 CFR § 5.50 (OCC); 12 CFR §§ 303.4, 308.110-308.114 (FDIC); and 12 CFR §§ 574.1-574.100 (OTS). The OCC issued a proposed rule in November 1994 to amend its change in control regulations, but has not yet issued a final rule amending such regulations. See 59 Federal Register 61, 034 (1994).

that are secured by financial stock for purposes of the regulations; (3) which transactions should be exempted from any notice requirement or exempt from the prior notice requirement; (4) developing uniform definitions of major terms in the regulation; (5) how to calculate the notice processing period; (6) publication requirements for notice announcements (timing and content); and (7) whether to include regulations on the stock loan reporting requirements in the CIBC Act.

The banking agencies are continuing efforts to resolve inconsistencies among the regulations and to streamline the regulations. The FRB recently issued a proposed rule to amend its change in control regulations, as part of its proposal to amend Regulation Y.<sup>8</sup> The proposal includes a uniform method of calculating the processing period for notices, consistent definitions of major terms, and asks for comment on the rebuttable presumption of “acting in concert.” The OCC issued a proposed rule in November, 1994. The FDIC intends to issue a proposed rule to amend its change in control regulations by year-end 1996. The OTS currently has not scheduled a date for proposing revisions to its change in control regulations, but intends to do so after reviewing the recommendations of the working group.

## **7. Standards for Safety and Soundness**

The recently-promulgated interagency standards for safety and soundness represent an example of the agencies achieving uniformity in substantive and procedural rules while not imposing overly burdensome regulations on the industry.

On July 10, 1995, the agencies published final rules setting forth: (1) Interagency Guidelines Establishing Standards for Safety and Soundness (Guidelines), and (2) regulations establishing procedures for the submission of safety and soundness compliance plans that insured depository institutions are to file if they fail to meet the standards set forth in the Guidelines. Section 39

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<sup>8</sup> 61 Federal Register 47,241 (1996).

of the Federal Deposit Insurance Act<sup>9</sup> requires each agency to establish certain safety and soundness standards by regulation or by guideline for all insured depository institutions. Under section 39, the agencies must establish three types of standards:

- Operational and managerial standards;
- Compensation standards; and
- Such standards relating to asset quality, earnings, and stock valuation as they determine to be appropriate.

Pursuant to the statutory mandate the agencies established a single set of uniform Guidelines that set out the safety and soundness standards that the agencies use to identify and address problems at insured depository institutions before capital becomes impaired. The agencies believe that the standards adopted in these Guidelines serve this end without dictating how institutions must be managed and operated. The standards are designed to identify potential safety and soundness concerns and ensure that action is taken to address those concerns before they pose a risk to the deposit insurance funds.

If an agency determines that an institution fails to meet the standards enunciated in the Guidelines, it may require the institution to submit to the agency an acceptable plan to achieve compliance with the standard. The agencies intend to preserve their discretion and flexibility in determining when it is appropriate to take action for a breach of the standards. As a result, the agencies are authorized (not required) to request a compliance plan for failure to satisfy the safety and soundness standards set out in the Guidelines. The agencies expect to request a compliance plan from an institution whose failure

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<sup>9</sup> Section 39 of the Federal Deposit Insurance Act (12 U.S.C. §§ 1831p-1) was added by section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Pub. L. 102-242, 105 Stat. 2236 (1991), and amended by section 956 of the Housing and Community Development Act of 1992, Pub. L. 102-550, 106 Stat. 3895 (1992) and section 318 of CDRI.

to meet one or more of the standards is so severe that it could threaten the safe and sound operation of the institution.

The procedures for issuing orders are modeled after those adopted by the agencies for issuing prompt corrective action directives pursuant to Section 38 of the FDI Act. The agencies adopted August 27, 1996, a single set of substantive guidelines and uniform rules of procedure that apply industry-wide.<sup>10</sup>

## **8. Loans In Identified Flood Hazard Areas**

On August 29, 1996, the agencies and National Credit Union Administration (NCUA) issued joint final rules amending their regulations regarding loans in areas having special flood hazards.<sup>11</sup> The revised regulations implement the provisions of the National Flood Insurance Reform Act of 1994, enacted as part of CDRI. Among other statutorily mandated provisions, the revised regulations establish:

- New escrow requirements for flood insurance premiums;
- Explicit authority and the requirement for lenders and servicers to "force-place" flood insurance under certain circumstances;
- A new standard Flood Hazard Determination Form; and
- New authority for lenders to charge fees for determining if a property is located in a special flood hazard area.

In this joint rule, the agencies achieved uniformity on substantive and procedural rules while avoiding the imposition of overly burdensome regulation upon the industry. All agencies involved (including the Farm

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<sup>10</sup> 61 Federal Register 43,948 (1996).

<sup>11</sup> 61 Federal Register 45,684 (1996).

Credit Administration) coordinated their efforts and consulted with each other via the FFIEC. The agencies kept regulatory burden to a minimum and, accordingly, the regulations reflect only the requirements necessary to implement the Reform Act.

The joint final rule complies with the mandate of section 303 by minimizing regulatory burden and reducing the costs of compliance for financial institutions, thereby enhancing their efficiency. For example, the joint final rule:

- Adds or revises definitions to make technically complex flood insurance rules more readily understood;
- Clarifies the responsibilities of mortgage servicers with respect to Federal flood insurance requirements;
- Interprets Federal flood insurance legislation to not impose a requirement of portfolio review on regulated lending institutions;
- Interprets the applicability of escrow requirements under the Real Estate Settlement Procedures Act to flood insurance escrow accounts in the most straightforward, least burdensome manner;
- Extends the authority of a regulated lending institution or its servicer to charge a reasonable fee for a flood hazard determination and to charge a "life-of-loan" monitoring fee;
- Interprets Federal flood insurance legislation to not equate the purchase of a loan to the making of a loan for flood insurance purposes, thus minimizing burden on loan purchasers and also establishing uniformity among the four agencies on this point, as required by section 303;
- Applies uniformly Federal flood insurance requirements to the subsidiaries of the institutions that the agencies supervise; and

- Designs notice and recordkeeping requirements that impose minimal compliance burdens on regulated lending institutions.

## 9. Community Reinvestment Act Regulations<sup>12</sup>

The Community Reinvestment Act (CRA) and implementing regulations are designed to encourage financial institutions to help meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Although CRA has been successful in improving access to credit, banks and savings and loan institutions, as well as community and consumer groups, maintain that its full potential had not been realized, in large part because regulatory compliance efforts focused on the internal processes of an institution rather than its actual performance in the community.

In response to these comments, the Federal financial supervisory agencies began a comprehensive effort in July, 1993 to revise their standards for evaluating compliance with CRA requirements. On May 4, 1995, the agencies issued a final rule that creates a new system for measuring CRA compliance that evaluates institutions based on their actual performance in helping to meet their communities' credit needs.<sup>13</sup> While the initiative to revise the CRA regulations predates the passage of CDRI, the resulting regulations provide an excellent example of the Federal banking agencies achieving uniformity with respect to substantive and procedural rules while attempting to reduce the level of regulatory burden upon the industry. Moreover, the agencies have reached tentative agreement to further streamline CRA by repealing several CRA-related policy statements that will be rendered obsolete when the new regulations are fully implemented in 1997.

The CRA has come to play an increasingly important role in improving access to credit in communities - both rural and urban - across the country. Under the

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<sup>12</sup> FDIC 12 CFR 345; FRB 12 CFR 228; OCC 12 CFR 25; and OTS 12 CFR 563e.

<sup>13</sup> 60 Federal Register 22,156 (1995).

impetus of the CRA, many banks and thrifts opened new branches, provided expanded services, and made substantial commitments to increase lending across all income levels. Despite these successes, the CRA examination system has been criticized. Financial institutions have indicated that policy guidance from the agencies on the CRA has been unclear and that examination standards have been applied inconsistently. Some financial institutions also stated that the CRA examination process encouraged them to generate excessive paperwork at the expense of providing loans, services, and investments to their communities.

The revised CRA regulations emphasize performance rather than process, promote consistency in evaluations of institutions' records of helping to meet the credit needs of their communities, and eliminate unnecessary burden. Consistent with the goals of CDRI, the regulations reduce recordkeeping for all institutions without sacrificing the validity of the data needed by the agencies to conduct their evaluations. The agencies also worked together, through the FFIEC, to develop and implement examination procedures and examiner training. The agencies continue to work together to develop interpretive guidance on the new rules.

The needs of small institutions were given specific consideration in drafting the new regulations. Recognizing that data collection may place a greater relative burden on smaller institutions than larger institutions due to limitations in staff and financial resources, the regulators have implemented a streamlined examination process for smaller banks and thrifts that does not require the periodic collection or reporting by small banks of any data. This approach for smaller banks and thrifts strikes a balance between the benefit of collecting additional data with the associated burden. The volume of originations of loans other than home mortgage loans in a small institution will generally be small enough that an examiner can view a substantial sampling of loans without advance collection and reporting of information by the institution. In addition, although small institutions are large in number, they have a relatively small percentage of the total assets of the industry.

The agencies plan to continue to work together on CRA because an interagency approach to the CRA regulation provides a level playing field and reduces regulatory burden for all insured institutions. To this end the agencies have agreed to conduct another full review of the final rule in the year 2002, five years after the rule is fully implemented. This review will be conducted to determine whether the regulations have been effective in establishing the framework and criteria by which the agencies carry out CRA's mandate.

The agencies are now turning their attention to updating CRA-related policy statements. The FFIEC Consumer Compliance Task Force has concluded that several interagency policy statements regarding the statute and regulations will be outmoded or unnecessary, and should be rescinded when the new CRA regulations are fully implemented.

- *Community Reinvestment Act Policy on Analyses of Geographic Distribution of Lending* will be inconsistent with the new regulations once the regulations are fully implemented in July, 1997. The new regulations no longer require institutions to analyze the geographic distribution of their lending. Instead, the analysis is done by the agencies.
- *Community Reinvestment Act Assessment Rating System* prescribes an examination rating system that will be obsolete because the regulations that will be fully implemented in July, 1997 contain a different rating system.
- *Community Reinvestment Act Joint 1989 Policy Statement*, addresses issues under the original CRA relating to "best practices," applications processing, and private meetings. This statement is now largely out of date given the amendments to the regulations.

- *Community Reinvestment Act Information Statement* is now outmoded as most of the issues are covered in the new regulations.

In each instance, the FFIEC Consumer Compliance Task Force recommends that the policy statement be repealed when the CRA regulations are fully implemented in 1997. If this recommendation were implemented, the removal of these outmoded written policies would serve to eliminate a potential source of confusion and ambiguity with respect to CRA and would advance the CDRI mandate to “remove inconsistencies and outmoded and duplicative requirements” in the overall regulatory framework.

## **10. Real Estate Lending Standards**

Section 303(a)(1)(C) of CDRI requires the agencies to consider the impact that regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act<sup>14</sup> governing real estate lending standards “have on the availability of credit for small business, residential, and agricultural purposes, and on low-and moderate-income communities.”<sup>15</sup> Adopted in 1992, these regulations and accompanying interagency guidelines are substantively uniform.

These regulations prescribe standards for real estate lending to be used by nonmember banks in adopting internal real estate lending policies. Specifically, institutions must adopt and maintain written policies that are consistent with safe and sound banking practices, are appropriate for the size of the institution and the nature of its operation, and are reviewed and approved by the board at least annually. These policies must establish diversification standards for the institution, as well as clear and measurable underwriting standards that include loan-to-value limits and loan administration procedures.

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<sup>14</sup> 12 U.S.C. 1828(o).

<sup>15</sup> 12 CFR Part 34, Subpart D (OCC); 12 CFR 208.51 - 52 (FRB); 12 CFR Part 365 (FDIC); and 12 CFR Part 563.100 (OTS).

The FFIEC interagency working group has recommended that the agencies retain the regulations in their present form. The regulations set forth essential principles for developing prudent real estate underwriting standards. The interagency guidelines included in the appendix to the regulation are intended to assist in the formulation and maintenance of real estate lending policies appropriate for the size of the institution and the nature and scope of its operations. Together with the guidelines, these regulations provide sufficient flexibility for the institutions to design a lending program that meets the credit availability needs of their markets -- especially with regard to the credit needs of small business, farms, residential and agricultural properties, and low- and moderate-income communities.

## **D. Summary Status Reports**

Summary status reports on all the interagency projects follow. The first 32 reports describe issuances that one or more of the agencies have or are in the process of revising in order to meet the mandates of Section 303(a)(2). The next 14 reports describe issuances that one or more agency has or will rescind. The final 19 reports describe issuances that the agencies will retain.

## REGULATIONS OR GUIDELINES ONE OR MORE AGENCY WILL REVISE

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**Title:**           **Allocated Transfer Risk Reserve**

FDIC - 12 CFR Part 351

FRB - 12 CFR § 211.41

OCC - 12 CFR Part 20

OTS - N/A<sup>16</sup>

**Subject Matter:** The International Lending Supervision Act of 1983 (ILSA) mandated the agencies to adopt regulations establishing special reserves and accounting treatment on international loans, and required the collection of country exposure data on a quarterly basis. In 1984, the agencies jointly issued regulations requiring quarterly reports and the establishment of special reserves. In 1989, ILSA was amended to provide for a re-evaluation of country risk-rating.

**Action/Status:** The working group has recommended that the regulations be revised to incorporate the interagency policy decisions. The revisions will also streamline and update the regulatory language, and reflect accounting and reporting changes.

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**Title:**           **Assessment of Civil Money Penalties**

**Subject Matter:** This 1980 interagency policy statement sets forth 13 standards the agencies are to use to determine the amount of civil money penalties that should be assessed. Although in 1990 the agencies agreed to revise the policy statement, the revision was not formally adopted.

**Action/Status:** The working group is updating the interagency statement to incorporate modifications proposed in 1990. The modifications basically restate the factors the agencies should consider when assessing civil money penalties.

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<sup>16</sup> N/A denotes the agency does not have a relevant regulation or guideline.

## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**           **Bank Merger Act**  
FDIC - 12 CFR §§ 303.6, 303.7  
FRB - 12 CFR § 262.3  
OCC - 12 CFR § 5.33  
OTS - 12 CFR § 563.22

**Subject Matter:** The agencies must approve mergers, consolidations, assumptions of deposit liabilities, and certain acquisitions of assets between insured depository institutions. Pursuant to the Bank Merger Act (BMA), enacted in 1960, the agencies are required to consider the competitive impact, financial and managerial resources, future prospects of the merging and resulting institutions, and the convenience and needs of the community to be served when evaluating merger applications.

**Action/Status:** The agencies implement BMA in a substantively uniform manner. The working group is addressing the differences that do exist - the timing and number of times notice must be published; whether to consider compliance with the National Environmental Policy Act and National Historic Preservation Act; the use of certain expedited consummation procedures; and the timing and procedures for appeals.

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**Title:**           **Banks as Registered Clearing Agencies**  
FDIC - 12 CFR Part 342  
FRB - 12 CFR § 208.8(g)-(I)  
OCC - 12 CFR § 9.21-22  
OTS - N/A

**Subject Matter:** These regulations are issued pursuant to section 17A, 19, and 23 of the Securities and Exchange Act of 1934 (the Act). The regulations provide for banks to obtain a stay or review of certain actions (including final disciplinary sanctions) imposed by clearing agencies registered under the Act for which the Securities and Exchange Commission (SEC) is not the appropriate regulatory agency under section 3(a)(34)(B) of the Act.

**Action/Status:** There are only a handful of bank clearing agencies, all non-insured trust companies that are members of the Federal Reserve System. There is no regulatory burden imposed by these regulations which track SEC rules. Since the SEC regulations cover more than required of FRB regulated institutions, the FRB intends to retain one of its current regulations, not incorporate by reference the SEC regulations for another of its regulations. The FDIC will revise its regulation and cross-reference the applicable SEC regulations. The OCC intends to revise and streamline its regulations by cross-referencing applicable SEC regulations.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title: Banks as Securities Transfer Agents**

FDIC - 12 CFR Part 341  
FRB - 12 CFR § 208.8(f)  
OCC - 12 CFR § 9.20  
OTS - N/A

**Subject Matter:** These regulations are issued pursuant to section 17A(c)(1) of the Securities and Exchange Act of 1934. The regulations require that organizations that transfer certain securities must register with the appropriate agency of the federal government. Banks are required to: (1) register as transfer agents; and (2) file as-needed amendments to keep registration information current.

**Action/Status:** The functional requirements imposed by the regulations are uniform among the FDIC, FRB, OCC and the SEC. The FDIC's regulation requires the state non-member banks that it regulates to de-register if they cease functioning as transfer agents. FRB and OCC have no comparable requirement in their regulations, and cover the issue of de-registration in their examination handbooks and manuals. The FRB and the OCC will consider revising their regulations to address the issue of de-registration.

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**Title: Change in Bank Control**

See discussion beginning on page I-18 above.

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**Title: Community Reinvestment Act Regulations**

See discussion beginning on page I-23 above.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**           **Coordination of Formal Corrective Action**

**Subject Matter:** This interagency 1979 policy statement requires that any Federal agency that initiates formal enforcement action against a banking organization shall provide the other agencies with prior written notification that such action is being taken. The policy also requires that the agencies coordinate any complementary actions taken by two or more agencies, and describes the dispute resolution process in the event the Federal agencies disagree with respect to any aspect of the complimentary actions. Finally, the policy statement requires that the Federal agency provide prior written notice to the state supervisory authority whenever the Federal agency intends to initiate formal enforcement action against a state chartered bank.

**Action/Status:** The agencies have revised this policy statement to streamline interagency notification procedures and to ensure timely notice of proposed enforcement action.

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**Title:**           **EDP Interagency Examination, Scheduling and Distribution Policy**

**Subject Matter:** This 1991 FFIEC policy statement sets forth guidelines for conducting joint or rotated information systems examinations of data centers providing electronic data processing services to insured institutions supervised by more than one Federal agency. This includes examinations under the Multi-regional Data Processing Services program, which covers the 16 servicers representing a high degree of systemic risk to the industry. The policy statement also includes examination report distribution policies and procedures.

**Action/Status:** The agencies' staffs are discussing how to revise this policy statement. Unresolved issues relate to the June 10, 1993 Interagency Policy Statement on Examination and Implementation and the impact that CDRI Section 305 will have on the manner in which joint speciality examinations will be conducted.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**           **Equal Credit Opportunity and Fair Housing Acts Enforcement Policy Statement**

**Subject Matter:** The 1981 FFIEC policy statement and companion enforcement guide ensure that the rights of credit applicants are protected by requiring creditors to take corrective action for certain, more serious past violations of the Equal Credit Opportunity and Fair Housing Acts, as well as to be in compliance in the future. The agencies encourage voluntary correction and compliance with the Acts. The policy statement lists violations that are considered serious and may be subject to retroactive corrective action.

**Action/Status:** The interagency working group recommends that the policy be revised. The working group plans to present an updated draft to the FFIEC and the individual agencies by year-end 1996.

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**Title:**           **Fair Housing Reporting and Recordkeeping Requirements**

FDIC - 12 CFR Part 338  
FRB - 12 CFR Parts 202 and 203  
OCC - 12 CFR Part 27  
OTS - 12 CFR Part 528

**Subject Matter:** The regulations on nondiscriminatory advertising set forth the text of the Equal Housing Lender poster that must be publicly displayed. The regulations implement the Equal Credit Opportunity and Home Mortgage Disclosure Acts, and require institutions to request and report information about a home purchase loan applicant's race or national origin, sex, age, and marital status, as well as certain information about the loan request. The regulations provide for the optional reporting of the reasons for denials.

**Action/Status:** Agency rules on data collection differ. The OCC and OTS mandate that lenders report the reasons for denial. The FDIC and OCC collect other data not required by the FRB and OTS. The FDIC published a notice of proposed rulemaking in September, 1996. 61 Federal Register 49,420 (1996). The OCC is in the process of reviewing these additional data collection requirements. The FRB will consider general changes to Regulations B and C in its internal review set for 1997.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**            **Internal Control for Foreign Exchange Activities in Commercial Banks**

**Subject Matter:** The 1980 FFIEC guidelines set forth minimum internal controls for foreign exchange activities for commercial banks.

**Action/Status:** The guidelines are general in nature and give banks sufficient latitude to establish controls that are commensurate with the risk at the institution. However, because the policy statement is over fifteen years old, it is being reviewed and will be modified as necessary to ensure that it reflects the current foreign exchange environment. The working group has identified six issues for consideration. A draft is in process.

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**Title:**            **Investment in Bank Premises**

FDIC - N/A  
FRB - 12 CFR § 208.22  
OCC - 12 CFR § 7.3100  
OTS - 12 CFR § 545.77

**Subject Matter:** National and state member banks are required by statute to obtain supervisory approval for investments in bank premises in excess of capital stock. The current FRB rule provides automatic regulatory approval for certain banks to invest up to 50 percent of Tier 1 capital in premises. The OCC has proposed granting automatic approval for certain national banks to invest up to 20 percent of capital and surplus (Tier 1 and Tier 2 capital, plus the portion of the ALLL not included in Tier 2) .

**Action/Status:** The OCC and FRB are working to harmonize the differences between their regulations implementing 12 U.S.C. 371d.

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**Title:**            **Loans in Identified Flood Hazard Areas**

See discussion beginning on page I-21 above.

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**Title:**            **Management Official Interlocks**

See discussion beginning on page I-13 above.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**           **Municipal Securities Dealer Activities of Banks**

FDIC - 12 CFR Part 343  
FRB - 12 CFR § 208.8(j)  
OCC - 12 CFR Part 10  
OTS - N/A

**Subject Matter:** The 1975 amendments to the Securities Exchange Act of 1934 required: bank municipal securities dealers to register with the SEC; and the Municipal Securities Rulemaking Board (MSRB) to establish qualifications for those dealers. The FDIC, FRB and OCC have regulations on the qualification requirements for municipal securities representatives.

**Action/Status:** The agencies' regulations governing qualifications are substantially similar and are considered uniform for purposes of CDRI Section 303. Unnecessary and duplicative regulatory burden will be reduced in two ways. First, the agencies will either rescind the agencies' qualification rules entirely and rely instead on the controlling qualification rules of the MSRB, or simply cross reference the MSRB rules. Second, the forms used by the agencies are being revised to make them identical, clarify regulatory requirements, and eliminate the collection of unnecessary information.

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**Title:**           **Notice of Addition or Change of Directors and Senior Executive Officers**

FDIC - 12 CFR §§ 303.14 and 303.151-155  
FRB - 12 CFR § 225.71-73  
OCC - 12 CFR § 5.51  
OTS - 12 CFR § 574.9

**Subject Matter:** Each of the agencies has regulations that require an insured depository institution or depository institution holding company to notify the appropriate agency before adding or changing directors or senior executive officers if certain trigger circumstances exist. Notice is required if there has been a change in control at the bank or thrift within the preceding two years, if the bank or thrift is not in compliance with applicable minimum capital requirements or is otherwise in troubled condition.

**Action/Status:** The agencies are discussing: 1) whether a notice is required by a bank or thrift if there has been a change in control of the institution's holding company; 2) if the agencies should exercise discretion in determining whether an institution is in troubled condition if there is an outstanding enforcement action; and 3) the appropriate length of time needed to process notices under certain circumstances. The working group continues to meet to resolve these issues.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**           **Policy Statement Concerning Branch Closing Notices and Policies**

**Subject Matter:** This 1993 interagency policy statement provides guidance to insured depository institutions concerning requirements that an institution provide prior notice of any proposed branch closing and establish internal policies for branch closings.

**Action/Status:** The language of the current policy statement is substantially identical among the agencies. The agencies will make minor revisions to the statement to incorporate changes to the underlying statute by Section 106 of the Interstate Act of 1994.

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**Title:**           **Policy Statement on Intercorporate Income Tax Payments**

**Subject Matter:** In 1978, the FDIC, FRB, and OCC each adopted a policy statement on intercorporate income tax payments between bank holding companies and banks. This statement was issued to address a questionable income tax payment practice in which some bank holding companies and their bank subsidiaries had engaged that had the effect of transferring assets from the subsidiary to the parent company without offsetting benefits to the bank subsidiary. It established the general principle that a bank that is a subsidiary of a holding company should be no less well off as a result of its cash income tax payments to and reimbursements from its parent than it would have been had it paid taxes as a separate entity. The OTS issued a similar policy in 1990.

**Action/Status:** The working group is updating the policy statement to reflect current income tax laws and financial accounting standards.

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**Title:**           **Policy Statement on Securities Lending**

**Subject Matter:** In 1985, the agencies issued a policy statement to provide guidance to those institutions engaged in bank and customer securities lending. The policy statement identifies the capacities in which institutions may engage in securities lending and provides guidelines for recordkeeping, administration, credit and collateral requirements.

**Action/Status:** Minor, generally technical revisions to the policy statement will be made. The Call Report Instructions will be referenced rather than repeated in the policy statement. The citation to ERISA will be corrected and the list of acceptable collateral will be expanded to include certain foreign sovereign debt instruments.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**           **Recordkeeping and Confirmation of Securities Transactions Effected by Banks**

FDIC - 12 CFR Part 344  
FRB - 12 CFR § 208.8(k)  
OCC - 12 CFR Part 12  
OTS - N/A

**Subject Matter:** In 1979, the FDIC, FRB, and OCC issued substantially similar regulations governing recordkeeping and confirmation of securities transactions effected by banks. During 1995, the three agencies conducted coordinated reviews of their respective regulations.

**Action/Status:** In December 1995 the FRB and OCC each published very similar notices of proposed rulemaking. The comment periods for these two notices of proposed rulemaking have closed and the FRB and OCC are considering the comments. In June 1996, the FDIC published an advance notice of proposed rulemaking seeking comments on broad policy issues. The FRB and OCC will continue to coordinate their actions prior to issuing final regulations. The two proposals are very similar and the two agencies plan to make the final rules as uniform as possible. The FDIC will continue to keep the other agencies apprised of its efforts in this area.

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**Title:**           **Reporting Requirements for Registered Securities under the Securities Exchange Act of 1934**

FDIC - 12 CFR Part 335  
FRB - 12 CFR §208.16  
OCC - 12 CFR Part 11  
OTS - 12 CFR §§ 563c, 563g

**Subject Matter:** The regulations on reporting requirements for registered securities consist of disclosure rules for financial institutions that have a class of securities registered under the Securities Exchange Act of 1934 (Act). The agencies issued the regulations to meet the requirements of the Act. The Act gives the agencies authority to administer and enforce specified sections, and requires the agencies to issue regulations that are substantially similar to comparable rules issued by the Securities and Exchange Commission (SEC).

**Action/Status:** The FRB and OCC rules generally incorporate by reference certain SEC rules. The OTS regulations incorporate most of the same SEC rules by reference and include some other requirements that are quite similar to SEC requirements. The FDIC issued a proposal that would revise its regulations to incorporate the SEC rules by reference. If the FDIC's proposal is finalized, the agencies regulations will be substantially uniform.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:            Reports and Public Disclosure of Indebtedness of Executive Officers and Principal Shareholders**

FDIC - 12 CFR § 349.4

FRB - 12 CFR §215.10-.11, 215.20-.23

OCC - 12 CFR Part 31, Subpart B

OTS - 12 CFR § 563.43

**Subject Matter:** The agencies have regulations that require reporting and public disclosure of information concerning extensions of credit by the institution or its correspondent institutions to the bank's executive officers and principal shareholders. The agencies' regulations are intended to aid in the monitoring of adherence to the insider lending requirements of Regulation O.

**Action/Status:** The agencies currently have very similar requirements based on the statute. The agencies are awaiting legislative action on regulatory burden reduction bills pending in Congress before making any further changes. If the statute is not amended, the agencies plan to revise their regulations to resolve small inconsistencies and correct technical errors.

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**Title:            Reports of Crimes or Suspected Crimes**

See discussion beginning on page I-10 above.

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**Title:            Retail Sales of Nondeposit Investment Products**

See discussion beginning on page I-11 above.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:**           **Repurchase Agreements of Depository Institutions with Securities Dealers and Others**

**Subject Matter:** In 1985, the agencies adopted an FFIEC policy statement that addresses the need for financial institutions to manage credit risk exposure to counterparties under securities repurchase agreements and to control the securities in those transactions.

**Action/Status:** The agencies' policies on repurchase agreements are substantially the same and are considered "uniform" for purposes of this report. The working group concluded that the agencies could reduce unnecessary and duplicative regulatory burdens by clarifying and updating the statement. The revisions would focus on: updating the statement to include provisions of the Government Securities Act of 1986 that deal with repurchase agreements; clarifying that only the unsecured reverse repurchase agreements for which the counterparty defaults or commits fraud are likely to result in substantial losses; deleting references to lending limits; and setting guidelines for types of securities that are and are not acceptable as collateral.

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**Title:**           **Risk-Based and Leverage Capital Adequacy Standards**

See discussion beginning on page I-6 above.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:           Securities Activities**

**Subject Matter:** In 1988, the FFIEC endorsed a policy for the selection of securities dealers and unsuitable investment practices. In 1991, the FFIEC expanded the policy to include a more comprehensive discussion about accounting for securities, and established a testing requirement for mortgage derivative products. The policy has generally achieved a uniform and effective supervisory approach.

**Action/Status:** Even prior to the passage of CDRI, the Supervision Task Force established a working group to address securities activities. This working group continues to discuss how the policy statement could be revised to reflect changes in the securities markets, accounting principles, and most importantly, the growing shift toward supervision based on portfolio, rather than individual asset risks. The working group is considering: 1) whether the existing test for mortgage derivative products should also include other debt instruments; 2) whether institutions that have effective risk measurement and management systems, or maintain strong capital levels should be able to purchase certain “high risk” securities; 3) whether the policy statement should address derivative transactions, especially those used as investment substitutes; 4) whether the agencies could reduce burdens on banks by relaxing documentation requirements for well managed institutions that effectively measure investment risk on a “portfolio” basis; and 5) whether the policy statement should tie more directly into the agencies’ interest rate risk guidance.

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**Title:           Standards for Safety and Soundness**

See discussion beginning on page I-19 above.

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**Title:           Statement of Policy on Supervision of U.S. Branches and Agencies of Foreign Banks**

**Subject Matter:** This 1979 FFIEC policy statement describes the authorities conveyed by the International Banking Act of 1978 and how the banking agencies intend to supervise and examine the U.S. offices of foreign banks.

**Action/Status:** The working group is considering how the statement should be revised in light of the amendments to the International Banking Act and the current supervisory approach for foreign banks in the U.S.

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## Regulations or Guidelines One or More Agency Will Revise (Continued)

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**Title:** Uniform Financial Institutions Rating System

See discussion beginning on page I-15 above.

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**Title:** Uniform Policy for Classification of Consumer Installment Credit based on Delinquency

**Subject Matter:** This 1980 interagency policy statement establishes uniform guidelines for the classification of installment credit during bank examinations based upon delinquency status.

**Action/Status:** This policy statement is outdated for today's environment and will be revised before year-end. The interagency working group has identified the following issues to be addressed: (1) inconsistencies between the charge-off policy for closed-end versus unsecured open-end credit; (2) small business loans serviced in an institution's installment loan department; (3) the partial-payment policy; (4) historical loss experience for determining the proper level of charge-offs; (5) treatment of cumulative payments for determining delinquency; and (6) a uniform extension/deferral policy.

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## REGULATIONS OR GUIDELINES ONE OR MORE AGENCY WILL RESCIND

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**Title: Agricultural Loan Loss Amortization**

FDIC - 12 CFR Part 324

FRB - 12 CFR § 208.15

OCC - 12 CFR Part 35

OTS - N/A

**Subject Matter:** Title VIII of the Competitive Equality Banking Act of 1987 sought to alleviate some of the financial pressures facing agricultural banks. The statute permitted an agriculture bank (25 percent or more of assets related to agricultural activities ) to amortize certain losses arising from agricultural loans, over a period not to exceed seven years.

**Action/Status:** The FDIC, FRB, and OCC regulations are substantially uniform. The OTS has no regulations because the underlying statutory authority applies only to banks. The OCC issued a final rule in May 1995 that establishes a sunset provision for its regulation. The sunset provision coincides with the statutory limits. The FDIC amended its regulation to include a similar sunset provision. The FRB plans to streamline its regulations and establish a sunset provision. The agencies' regulatory requirements will remain uniform.

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**Title: Community Reinvestment Act Assessment Rating System**

See discussion on page I-25 above.

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**Title: Community Reinvestment Act Information Statement**

See discussion on page I-26 above.

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**Title: Community Reinvestment Act Joint 1989 Policy Statement**

See discussion on page I-25 above.

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**Title: Community Reinvestment Act Policy on Analyses of Geographic Distribution of Lending**

See discussion on page I-25 above.

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## Regulations or Guidelines One or More Agency Will Rescind (Continued)

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**Title:**           **Coordination of Bank Holding Company Inspections and Subsidiary Bank Examinations**

**Subject Matter:** This 1979 FFIEC policy statement outlines a framework for coordinating holding company inspections and lead bank examinations for holding companies with combined assets of \$10 billion or more; for holding companies rated 4 or 5; and for holding companies where the lead bank is rated a 3 and is deteriorating rapidly.

**Action/Status:** The FFIEC rescinded the 1979 policy statement that was superseded by an interagency policy statement issued in 1993.

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**Title:**           **Delayed Availability of Funds**

**Subject Matter:** This 1984 interagency policy statement sets forth the practice by some financial institutions to delay a depositor's ability to withdraw funds deposited by check, a practice known as "delayed availability of funds." The statement urged institutions to: (1) review their policies on check holds; (2) disclose their policies to depositors; and (3) refrain from imposing unnecessary delays on all checks.

**Action/Status:** The statement is obsolete. Regulation CC issued by the Federal Reserve System implements the Expedited Funds Availability Act (Title VI of Pub. L. 100-86), as amended by section 1001 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (Pub. L. 101-625) and sections 212(h), 225, and 227 of the Federal Deposit Insurance Corporation Improvement Act of 1991. This law now mandates the actions set forth in the policy statement and more.

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## Regulations or Guidelines One or More Agency Will Rescind (Continued)

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**Title:** Disclosure of Statutory Enforcement Actions

**Subject Matter:** This FFIEC Policy Statement was jointly issued by the agencies on January 22, 1980 to govern disclosure of information relating to statutory enforcement actions. The policy statement was designed to ensure that the agencies made public the substantive standards used by the agencies in taking statutory enforcement actions. In accordance with this policy, the agencies prepared, on a semiannual basis, a written summary of every final cease and desist, suspension, removal, civil money penalty and insurance termination order as well as every formal supervisory written agreement issued pursuant to statute taken since the last reporting date.

**Action/Status:** The working group recommends that the Policy statement be rescinded. The policy statement was superseded by Section 913 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. Section 1818(u)). This statutory provision requires the agencies to submit an annual report to the Congress giving specific information related to enforcement actions, civil money penalties, criminal referrals, and recommendations concerning the need for additional legislation or financial resources. If there is a serious threat to the safety and soundness of an insured depository institution, the agencies may delay the publication of an order for a reasonable period of time.

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**Title:** FFIEC Statement on the Home Mortgage Disclosure Act

**Subject Matter:** This 1989 FFIEC policy statement encourages financial institutions covered by the Home Mortgage Disclosure Act (HMDA) to adhere to the specific reporting requirements and deadlines set forth by HMDA and Regulation C. Covered institutions are also encouraged to develop policies and procedures that will ensure full compliance with HMDA and Regulation C.

**Action/Status:** The policy statement is obsolete because of changes made to HMDA since 1989. The agencies have issued superseding guidance. The FFIEC Consumer Compliance Task Force recommends rescission.

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## Regulations or Guidelines One or More Agency Will Rescind (Continued)

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**Title:**            **Improper and Illegal Payments by Banks and Bank Holding Companies**

**Subject Matter:** This 1978 joint policy statement issued by the FDIC, FRB, and OCC provides information to insured institutions and holding companies about political contributions, bribes, and other payments which may be illegal or may constitute unsafe or unsound practices by identifying certain devices used to make questionable payments. The policy statement also encourages organizations to review their corporate policies and accounting practices to ensure that their funds are applied only for proper purposes. Organizations are reminded that appropriate enforcement actions will be taken or referrals to law enforcement agencies will be made when violations of law or unsafe or unsound banking practices result from improper payments. The principles enunciated in the policy statement essentially cover the Foreign Corrupt Practices Act of 1977 (FCPA) and the Federal Election Campaign Act of 1971.

**Action/Status:** This policy statement consists of statements that should be self-evident to banking organizations, e.g., that they are expected to conduct their operations in accordance with applicable laws and that improper payments may reflect adversely on an organization's management. The agencies have not routinely issued policy statements governing the other criminal statutes that relate to banks. Therefore, although this policy statement may have been informative when it was first issued, it no longer appears sufficiently beneficial to retain it. Further, the agencies have implemented examination guidelines to enforce the FCPA.

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**Title:**            **Policy Statements on Advertising of NOW Accounts**

**Subject Matter:** Adopted in 1980, the purpose of the FFIEC Policy Statement was to remind depository institutions that they must comply with applicable regulations when advertising interest rates on NOW accounts. The Statement also addresses certain start-up issues, i.e., the treatment of advertising and promotion of NOW accounts prior to 1980.

**Action/Status:** The FFIEC and the banking agencies have rescinded this policy statement as it is obsolete. The Truth-In-Savings Act (TISA), 12 U.S.C. §§ 4301 *et seq.*, sets forth the requirements for the advertisement and payment of interest on deposits. The statute requires the FRB to prescribe any necessary regulations. The FRB has adopted Regulation DD, 12 CFR Part 230, in response to the statutory mandate which addresses the issues and supersedes the policy statement.

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## **Regulations or Guidelines One or More Agency Will Rescind (Continued)**

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**Title:**           **Policy Statements on Money Laundering**

**Subject Matter:** This 1992 FFIEC policy statement addresses the use of large-value funds transfers for money laundering. It recommends that banks maintain certain records of funds transfers originated or received at the institution to help detect and aid in the investigation of suspected money laundering.

**Action/Status:** The FFIEC and banking agencies have rescinded this policy statement. The statement is no longer needed due to recent amendments to the Bank Secrecy Act that require financial institutions to maintain records for wire transfers. Treasury and the FRB jointly issued rules on May 28, 1996 addressing wire transfer recordkeeping requirements that reflect these statutory changes.

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**Title:**           **Policy Statement on the Sale of U.S. Government Secured Loans and Sales Premiums**

**Subject Matter:** This 1985 FFIEC policy statement outlines supervisory recommendations for financial institutions that purchase, originate, or sell US Government guaranteed loans. The guidance addressed accounting for income and balance sheet recognition.

**Action/Status:** This issuance was repealed by the FFIEC. Accounting changes and Call Report Instructions rendered the policy statement outdated.

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## Regulations or Guidelines One or More Agency Will Rescind (Continued)

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**Title:**           **Prohibition Against Payment of Interest on Demand Deposits**

FDIC - 12 CFR Part 329

FRB - 12 CFR § 217

OCC - N/A

OTS - 12 CFR § 561.16

**Subject Matter:** Pursuant to Section 11 of the Banking Act of 1933 (12 USC § 371(a)), banks are prohibited from paying interest on demand deposits. The FDIC, FRB, and OTS have regulations implementing this statutory prohibition. The OCC enforces the FRB regulation.

**Action/Status:** The agencies believe that this 1933 statutory prohibition against paying interest on demand deposits no longer serves a public purpose. Without statutory change however, the agencies cannot rescind the regulatory requirement. The agencies will request Congress consider the continued need for this statutory prohibition.

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## REGULATIONS OR GUIDELINES THE AGENCIES WILL RETAIN

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**Title:**           **Appraisal Standards for Federally Related Transactions**

FDIC - 12 CFR Part 323  
FRB - 12 CFR §§ 208.18 and 225.61  
OCC - 12 CFR Part 34  
OTS - 12 CFR Part 564

**Subject Matter:** In 1990, the agencies all adopted real estate appraisal rules pursuant to the provisions of Title XI of FIRREA. The agencies' regulations identify which transactions by financial institutions require appraisals prepared by a state licensed or certified appraiser and establish minimum appraisal standards.

**Action/Status:** The agencies' appraisal regulations and related Interagency Appraisal and Evaluations Guidelines have been amended on several occasions, most recently in June 1994, to reduce regulatory burden. At this time, all agencies have uniform appraisal regulations and coordinate implementation and interpretation to the greatest extent possible. The agencies plan to retain their current regulations as they are uniform.

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**Title:**           **Bank Secrecy Act Compliance**

FDIC - 12 CFR Part 326  
FRB - 12 CFR § 208.14  
OCC - 12 CFR Part 21  
OTS - 12 CFR § 563.177

**Subject Matter:** Pursuant to 12 USC 1818(s), each of the agencies is required to prescribe regulations that require depository institutions to establish and implement procedures to assure and monitor their compliance with the requirements of subchapter II of chapter 53 of Title 31 of the Bank Secrecy Act (BSA). Effective January 29, 1987, the agencies promulgated identical regulations requiring institutions to maintain a BSA compliance program.

**Action/Status:** The regulations are uniform and do not need revision at this time.

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## Regulations or Guidelines the Agencies Will Retain (Continued)

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**Title:**           **Disclosure of Financial Information**

FDIC - 12 CFR Part 350

FRB - 12 CFR § 208.17

OCC - 12 CFR Part 18

OTS - N/A

**Subject Matter:** These regulations require financial institutions to prepare an annual disclosure statement and make that statement available upon request to depositors, shareholders and the general public. The regulations permit financial institutions to use all or certain specified schedules of their reports of condition and income (Call Reports) to fulfill this requirement. The disclosure statement may also contain a narrative section.

**Action/Status:** The FDIC, FRB, and OCC's regulations are substantially uniform. The regulations require financial institutions to make almost identical information available. The OTS had a similar regulation (12 CFR 562.3) which differed in part from the other agencies' regulations. In connection with its CDRI 303(a)(1) review, OTS repealed its regulation as unnecessary. The FDIC, FRB, and OCC may consider removing their regulations when Call Report or other financial information on the financial institutions they regulate is readily available electronically.

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**Title:**           **Discrimination**

**Subject Matter:** In 1979, the FFIEC issued a policy statement that encourages depository institutions to periodically assess their employment practices to ensure that they do not discriminate on a prohibited basis. If discrimination is found, appropriate corrective action must be implemented to eliminate it. The self assessment should consider the depository institution's policies with respect to the payment of dues on behalf of employees to private clubs that discriminate on the basis of race, color, national origin, sex or religion. The statement also specifically discourages institutions from paying the costs of "business" or "social functions" held at organizations that discriminate. The policy statement concludes that since business is commonly conducted at private clubs, membership exclusions on a prohibited basis may have an adverse and discriminatory effect on the career advancement of employees who are denied equal opportunity to access either as members or guests.

**Action/Status:** The policy statement is uniform and uniformly applied by the agencies. It is not necessary to revise it at this time.

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## Regulations or Guidelines the Agencies Will Retain (Continued)

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**Title:**           **FFIEC Policy Statement on Basic Financial Services**

**Subject Matter:** This 1986 FFIEC policy statement encourages financial institutions to meet certain minimum needs of all consumers, particularly, the need for a safe and accessible place to keep money; the need for a way to obtain cash; and the need for a way to make third party payments. The statement also prompts industry trade associations to encourage members to offer and publicize low-cost financial services, survey the current availability of such services among member institutions, and make material reflecting the successful experience of other organizations available to members not providing such services.

**Action/Status:** FFIEC Consumer Compliance Task Force recommends that the policy statement be retained. The statement provides encouragement for institutions to provide basic financial services and does not conflict with any existing regulation or policy, and is uniform among the agencies.

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**Title:**           **Interagency Policy on Contingency Planning for Financial Institutions**

**Subject Matter:** This 1989 interagency policy statement alerts the board of directors and management of financial institutions to the need for contingency planning in the event of natural disasters. The agencies require annual approval of a contingency plan by an institution's board of directors.

**Action/Status:** The agencies plan to retain this policy because the increased occurrence of natural disasters, and resulting physical damage to financial institutions, support the continued need for this policy. Institutions that are operated in a safe and sound manner routinely maintain a contingency plan in the event a disaster should occur.

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**Title:**           **Interagency Policy Statement on Coordination and Communication Between External Auditors And Examiners**

**Subject Matter:** This 1993 interagency policy statement clarifies and makes uniform the agencies' guidelines regarding the information a depository institution should provide to its external auditor and the circumstances under which external auditors may attend meetings between examiners and management.

**Action/Status:** No changes are needed at this time. This remains the uniform policy of the four financial institution regulatory agencies regarding communications between examiners and auditors.

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## Regulations or Guidelines the Agencies Will Retain (Continued)

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**Title:**            **Interagency Policy Statement on Documentation for Loans to Small- and Medium-sized Businesses and Farms**

**Subject Matter:** This 1993 interagency policy statement permits well or adequately capitalized insured institutions with satisfactory supervisory ratings to identify a portion of their small- and medium-sized business and farm loans to be exempt from examiner criticism with regard to documentation.

**Action/Status:** The policy remains useful, and no changes are deemed necessary at this time.

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**Title:**            **Interagency Statement on EDP Service Contracts**

**Subject Matter:** This 1990 policy statement alerts financial institutions to potential risks in contracting for electronic data processing (EDP) services and/or failing to properly account for certain contract provisions. The policy statement also reinforces provisions of Section 225 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which prohibits insured institutions from entering into written or oral contracts if the performance of the contract would adversely affect the safety or soundness of the institution.

**Action/Status:** The policy will be retained as presently written. The policy remains relevant, and historical experience has proved that certain provisions of EDP contracts can cause substantial losses to insured institutions and the deposit insurance fund.

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**Title:**            **Large Scale Integrated Financial Software Systems (LSIS)**

**Subject Matter:** This 1988 FFIEC policy statement subsequently issued by each agency alerts financial institutions to the risks associated with large scale integrated financial software systems. The document does not require any specific action from the institutions. Instead, it provides advice without imposing burden on institutions.

**Action/Status:** The policy statement was adopted jointly and is uniformly applied by the agencies. It is not necessary to revise the policy statement at this time.

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## Regulations or Guidelines the Agencies Will Retain (Continued)

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**Title:**           **Prescreening by Financial Institutions and the Fair Credit Reporting Act**

**Subject Matter:** This 1991 FFIEC policy statement defines prescreening practices by financial institutions (i.e. process by which credit bureaus compile or edit lists of consumers meeting specific criteria) and answers questions such as when prescreening is permissible, what controls institutions may use to develop a list, what constitutes an offer of credit, and other permissible practices.

**Action/Status:** The FFIEC policy statement is helpful to institutions and examiners who have questions about prescreening practices. Since the agencies' policies are currently uniform, the FFIEC Consumer Compliance Task Force recommends that the policy be retained as is.

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**Title:**           **Policy Statement on Discrimination in Lending**

**Subject Matter:** This 1994 interagency policy statement was issued because there was concern that some prospective home buyers and other borrowers may be experiencing discriminatory treatment in their efforts to obtain loans. The statement (which applies to all lenders, including mortgage brokers, issuers of credit cards, and any other person who extends credit of any type) provides guidance about what the agencies should consider to determine if lending discrimination exists. It also provides a general foundation for future interpretations and rulemakings by the agencies on the Equal Credit Opportunity and Fair Housing Acts for purposes of administrative enforcement of those statutes and their implementing regulations.

**Action/Status:** The policy statement was issued fairly recently and is helpful to institutions. The Compliance Task Force recommends that the policy be retained as is. Implementation is uniform and the current policy is providing adequate guidance to the industry.

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## Regulations or Guidelines the Agencies Will Retain (Continued)

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**Title:**           **Prompt Corrective Action**  
FDIC - 12 CFR Part 325, Subpart B  
FRB - 12 CFR § 208.30-.35  
OCC - 12 CFR Part 6  
OTS - 12 CFR Part 565

**Subject Matter:** In 1992, the agencies adopted uniform rules implementing the provisions of section 131 of FDICIA (the Federal Deposit Insurance Corporation Improvement Act of 1991) that established a framework of supervisory actions for institutions that are not adequately capitalized.

**Action/Status:** The agencies adopted uniform rules implementing the statutory provisions. A uniform approach to capital definitions and capital categories, as well as a uniform framework of procedures, simplifies the tasks facing bank and thrift management of monitoring and maintaining the capital levels of insured depository institutions. Further, it removes any competitive distortions that might arise if different standards were applied to competing institutions. The agencies' rules were uniform when written in 1992 and are uniformly applied. It is not necessary to modify the rules at this time.

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**Title:**           **Real Estate Lending Standards**

See discussion beginning on page I-26 above.

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**Title:**           **Securities Issued by Banks**  
FDIC - N/A  
FRB - N/A  
OCC - 12 CFR Part 16  
OTS - 12 CFR 563g

**Subject Matter:** The regulations set forth the disclosure requirements that apply to the offers and sales of securities issued by financial institutions. The OCC's and OTS's regulations require some of the same disclosures and both cross-reference SEC requirements. The FRB does not have regulations addressing this area since the banks it supervises are subject to state securities laws. The FDIC does not have regulations, but issued a policy statement in 1979 and amended it in 1996. The FDIC policy statement provides disclosure recommendations.

**Action/Status:** The agencies views on the need for regulations to govern the offers and sales of securities issued by financial institutions vary.

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## Regulations or Guidelines the Agencies Will Retain (Continued)

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**Title:**           **Security Devices and Procedures**  
FDIC - 12 CFR Part 326  
FRB - 12 CFR Part 208, Appendix D  
OCC - 12 CFR Part 30  
OTS - 12 CFR Part 568

**Subject Matter:** The Bank Protection Act of 1968 requires the Federal financial institution supervisory agencies to establish minimum standards for security devices and procedures to discourage financial-type crime and to assist in the identification of persons who commit such crimes. To implement this statute, a uniform set of regulations was adopted in 1969 by each of the supervisory agencies -- the FDIC, FRB, OCC, and the predecessor to the OTS. These regulations require institutions to adopt appropriate security procedures to discourage robberies, burglaries, and larcenies and to assist law enforcement authorities in identifying and apprehending persons who commit such acts.

**Action/Status:** These regulations were amended in 1991. They are substantially uniform, and present straightforward and easy-to-understand guidance. The regulations impose the minimum burden dictated by the statute, and no revisions are deemed necessary.

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**Title:**           **Truth in Lending Act - Restitution**

**Subject Matter:** The 1980 FFIEC policy statement summarizes and explains the restitution provisions of the Truth in Lending Act (TILA). The policy statement also explains corrective actions the financial regulatory agencies believe will be appropriate and generally intend to take in those situations in which the TILA gives the agencies the authority to take equitable remedial action. The FRB is responsible for promulgating regulations (Regulation Z) under TILA.

**Action/Status:** Due to 1995 changes in the TILA, the FRB has proposed revisions to Regulation Z. After Regulation Z is amended, the FFIEC policy statement will be reviewed. The public comment period on Regulation Z closed June 24, 1996.

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## Regulations or Guidelines the Agencies Will Retain (Continued)

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**Title:**           **Uniform Interagency Consumer Compliance Rating System**

**Subject Matter:** In 1980, the agencies set forth their rating system in interagency guidelines. The primary purpose of the Consumer Compliance Rating System is to help identify those institutions whose compliance with consumer protection statutes and regulations display weaknesses requiring special supervisory attention. Composite ratings are assigned on a scale of 1 through 5 in ascending order of supervisory concern.

**Action/Status:** The working group recommends that this rating system be retained without change. The guidelines are used uniformly by the agencies.

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**Title:**           **Uniform Rules of Practice and Procedure**

FDIC - 12 CFR Part 308  
FRB - 12 CFR Part 263  
OCC - 12 CFR Part 19  
OTS - 12 CFR Part 509

**Subject Matter:** Section 916 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 required the agencies to develop uniform rules and procedures for administrative hearings. The agencies each adopted final uniform rules in August 1991. The agencies proposed amendments to the uniform rules on June 23, 1995. The agencies adopted final amendments to the uniform rules on May 6, 1996. The amendments modified the uniform rules based on the agencies' experience in using the rules. The final rule was intended to clarify certain provisions and to increase the efficiency and fairness of administrative hearings. The amendments also added references to two statutory provisions enacted by the Community Development and Regulatory Improvement Act of 1994 to the list of civil money penalty provisions to which the uniform rules apply.

**Action/Status:** The agencies plan to retain these rules. The regulations were recently revised and are substantively identical.

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