

# SENIOR INTERAGENCY GROUP

## POLICY STATEMENT

### *REGARDING*

#### **NATIONAL POLICY ON COLLECTION AND REPORTING PROCEDURES FOR RESTITUTION PAYABLE TO FINANCIAL INSTITUTION REGULATORY AGENCIES**

Adopted June 25, 1992

#### I. AGENCIES' INPUT INTO RESTITUTION-SETTING PROCESS

##### A. Initial Contact – Department of Justice

1. In major cases,<sup>1</sup> the Financial Institution Fraud Coordinator in each United States Attorney's Office ("USAO") or Department of Justice trial attorney and the appropriate investigative agency will contact the responsible regulatory agency upon the opening of a financial institution fraud ("FIF") matter, to establish a line of communication for the ongoing exchange of information as the matter progresses. The name and address of the contact point in the regulatory agency should be obtained and this information provided to the USAO Victim/Witness Unit for routine notifications. The names of the Assistant United States Attorney ("AUSA") or trial attorney and the investigative agent(s) handling the matter should be made available to the regulatory agency.
2. In appropriate cases, exchanges of information can be accomplished in local or regional bank fraud working group meetings.

##### B. Initial Contact – Regulatory Agencies

1. In major cases, each regulatory agency will follow up with the appropriate investigative agency and/or the USAO or trial attorney on criminal referrals it has made, and on other criminal referrals which it deems appropriate for follow up, to establish a line of communication for the ongoing exchange of information as the matter progresses. The names of the case agent and the AUSA or trial attorney should be obtained to facilitate future communications. The name and address of the regulatory agency contact point should be made available to the investigative agency and the USAO or trial attorney to facilitate communications and routine notifications.
2. In appropriate cases, exchanges of information can be accomplished in local or regional bank fraud working group meetings.

##### C. Ongoing Contacts – Department of Justice

In major cases, the AUSA or trial attorney handling the FIF matter/case will contact the regulatory

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<sup>1</sup> Major cases: any cases (1) in which the possible dollar loss to the financial institution(s) is \$100,000 or greater; (2) in which the defendant was an officer, director, attorney, or owner (including shareholder) of the financial institution; (3) in which the scheme involved multiple borrowers in the same financial institution; or (4) that involved other factors that warrant "major" status.

agency at the following stages of the prosecution:

1. Pre-Indictment. Regarding proposed changes and proposed pleas in light of Hughey v. United States, 110 S. Ct. 1979 (1990), and to obtain any information necessary to the investigation, such as amount of loss to the financial institution;
2. Post-Indictment. Regarding proposed pleas or assistance required for trial; and
3. Post-Trial. Regarding information needed for the sentencing hearing.

#### D. Ongoing Contacts – Regulatory Agencies

In major cases, the regulatory agency will contact the AUSA or trial attorney handling the matter case at the following times:

1. When information becomes available related to the amount of loss to the institution, in accordance with procedures mutually agreed upon by the regulatory agency and the AUSA or trial attorney;
2. When information becomes available related to assets in the defendant's possession or available to the defendant, in accordance with procedures mutually agreed upon by the regulatory agency and the AUSA or trial attorney;
3. Reasonable notice prior to filing or settlement of civil monetary penalty actions that raise issues under United States v. Halper, 490 U.S. 435 (1989);
4. When assistance is needed to obtain grand jury information under 18 U.S.C. §3322; and
5. When information is to be provided to, or when it is requested by, the United States Probation Office or the Court.

#### E. Ongoing Contacts – Joint Responsibilities

In major cases, when parallel proceedings, or global settlements of civil, administrative, or criminal proceedings are in process or anticipated, the concerned regulatory agency or agencies will provide notice to the Department of Justice regarding such proceedings or proposed settlements. The Department of Justice will provide similar notice to the concerned agency or agencies.

## II. COLLECTION ON RESTITUTION ORDERS

In cases in which the Court orders restitution payable to a bank regulatory agency in its corporate, conservatorship, or receivership capacity, as appropriate:

1. The Department of Justice will:
  - A. Forward a copy of the judgment and commitment order to that agency through the Victim-Witness Unit of the appropriate USAO;
  - B. Enforce collection of the monies ordered by working with that agency to (1) identify the assets of the defendant; (2) reduce the restitution order to civil judgment, when appropriate; and (3) initiate

judicial or other proceedings.

C. Notify that agency, or cause it to be notified, (1) by the Bureau of Prisons concerning the completion of the prison term; and (2) by the Victim/Witness Unit of the USAO concerning the completion of the appeal or any other reason that may legally delay the enforceability of the restitution order.

2. The regulatory agency to which restitution is payable will:

A. Track receipt of payments of that restitution; and

B. Report such restitution receipts to the Department of Justice.

### III. COLLECTION REPORTING RESPONSIBILITIES

Responsibilities for the uniform reporting of collections by the regulatory agencies through the Department of Justice to Congress are as follows:

1. Regulatory agencies that are the named recipients of criminal restitution orders will coordinate with and will provide regularly to the Priority Programs Team ("PPT"), Executive Office for United States Attorneys, Department of Justice, information they possess regarding the collection and reporting of restitution payment information. This is anticipated to be a short-term effort to reconcile collection information.
2. Regulatory agencies also will provide regularly to the PPT information they possess on recoveries obtained through enforcement and liquidation activities, including civil litigation and administrative proceedings.

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### RECOMMENDATION ON COLLECTION REPORTING RESPONSIBILITIES

The financial institution regulatory agencies and the Department of Justice:

1. Recommend funding and implementation of the National Fine Center in the Administrative Office for United States Courts, to the extent necessary to provide complete information regarding payment of fines and restitution, including an audit trail of payments received and disbursements made for restitution. Because this reporting system is underway and partially funded, an additional system managed by the Department of Justice would be duplicative and thus is not recommended; and
2. Will continue to work with the Administrative Office for United States Courts and its United States Probation Division in developing a suitable restitution tracking mechanism.

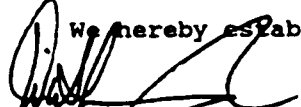
PROTOCOL ON THE FORMATION OF  
SENIOR INTERAGENCY GROUP


Pursuant to Section 2539(c) of the Crime Control Act of 1990, we senior officials have gathered at the invitation of the Attorney General, Dick Thornburgh, to assist in the collective effort to prosecute crimes against financial institutions under that Act and the Financial Institutions Reform, Recovery and Enforcement Act, and to collect the proceeds of those crimes through all available means.

In establishing this group, we reaffirm our commitment to use the best efforts of our respective agencies and components to carry out our statutory responsibility to "enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institution fraud."


Moreover, in carrying out these responsibilities, we believe that the Senior Interagency Group comprised of senior officials will serve best as a policy making body for the existing National Interagency Bank Fraud Enforcement Working Group and advisory body to the Attorney General through his Special Counsel.


We hereby establish that Senior Interagency Group.

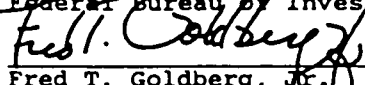
  
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Dick Thornburgh  
Attorney General

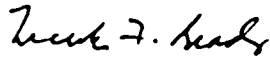
  
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L. William Seidman  
Chairman, Federal Deposit  
Insurance Corp.  
Resolution Trust Corp.


  
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Timothy Ryan  
Director, Office of Thrift  
Supervision

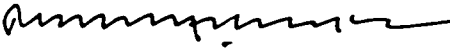
  
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Roger W. Jepsen  
Chairman, National Credit  
Union Association

  
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William S. Sessions, Director  
Federal Bureau of Investigation

  
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Fred T. Goldberg, Jr.  
Commissioner  
Internal Revenue Service


  
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Nicholas F. Brady, Secretary  
Department of the Treasury

  
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John P. LaWare  
Governor, Federal Reserve  
System

  
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Robert L. Clarke  
Comptroller of the Currency  
Department of the Treasury

  
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Joseph M. Whittle  
Chairman, Attorney General's  
Advisory Committee

  
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John R. Simpson, Director  
U.S. Secret Service

  
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Charles R. Clauson  
Chief Postal Inspector  
U.S. Postal Service