

October , 2008

**MEMORANDUM TO:** The Board of Directors

**FROM:** Sara A. Kelsey  
General Counsel

**SUBJECT:** Quadrennial Civil Penalty Inflation Adjustment Final Rule

**PROPOSAL**

We are recommending that the Board of Directors approve, for publication in the *Federal Register*, a final rule amending 12 C.F.R. Part 308 which would: (A) adjust for inflation civil money penalties (CMPs) and (B) implement a technical correction as to one CMP involving Tier Two CMPs for the late filing of quarterly call reports under 12 C.F.R. § 308.132(c)(ii). Both the technical correction and the inflation adjustments would have prospective application only and would apply to violations that occur after December 31, 2008, the effective date of the final rule following publication in the *Federal Register*.

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, requires all Federal agencies with statutory authority to impose CMPs to evaluate and adjust those CMPs every four years. The FDIC last adjusted its CMPs in 2004. Staff recommends that the Board authorize the issuance of this final rule to implement the required adjustments to the FDIC's CMPs.

**BACKGROUND**

The Debt Collection Improvement Act of 1996 (DCIA) amended section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act) (28 U.S.C. § 2461 note), to require each Federal agency once every four years to adjust each CMP that is within the jurisdiction of the agency, by the inflation adjustment formula in section 5(b) of the Inflation Adjustment Act.

To satisfy the requirements of the DCIA, the FDIC is amending those sections of part 308 of its regulations pertaining to its Rules of Practice and Procedure which address CMPs. The amount of each CMP which the FDIC has jurisdiction to impose has been adjusted according to the prescribed formula. The FDIC has coordinated the interpretation of the calculations contained in the final rule with the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, and the National Credit Union Administration, each of which is publishing its own final rule.

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Staff Members With Knowledge About the Final Rule:

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## **RECOMMENDATION**

We recommend that the FDIC adopt the final rule adjusting for inflation the CMPs under its jurisdiction and the technical correction.

Attachments