

September 28, 2011

MEMORANDUM TO: The Board of Directors

FROM: Sandra L. Thompson 
Director
Division of Risk Management Supervision

Michael H. Krimminger 
General Counsel

SUBJECT: Final Rule: Amendments to Part 309 (Disclosure of Information) and Part 310 (Privacy Act Regulations).

I. SUMMARY

On June 14, 2011, the Board of Directors (Board) approved three documents for publication in the *Federal Register*. Each document was related to the transfer of certain functions of the Office of Thrift Supervision (OTS) to the Federal Deposit Insurance Corporation (FDIC) as of the established OTS transfer date of July 21, 2011. The documents and their respective *Federal Register* publication dates are: (1) a Joint Notice of a List of Regulations of the Office of Thrift Supervision (OTS) that will be Enforced by the Office of Comptroller of the Currency (OCC) and the FDIC (*76 Fed. Reg.* 29246 (July 6, 2011)); (2) an Interim Rule with request for comments concerning Disclosure of Information and the Privacy Act (*76 Fed. Reg.* 35963 (June 21, 2011)); and (3) an Interim Rule with request for comment concerning Transferring Rules of the OTS (*76 Fed. Reg.* 47652 (August 5, 2011)).

The FDIC received no comments regarding its Interim Rule amending Parts 309 and 310, the FDIC's regulations governing the Disclosure of Information and the Privacy Act, respectively. Staff recommends that the Board adopt a Final Rule, substantively identical to the Interim Rule, finalizing the amendments to Parts 309 and 310.

Discussion

Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act or the Act) abolished the OTS, and Section 312 of the Act generally transferred the powers, duties, and functions of the OTS to the FDIC (with respect to State savings associations), to the OCC (with respect to Federal savings associations), and to the Board of Governors of the Federal Reserve System (FRB) (with respect to savings and loan holding companies.) Similarly, Section 323 of the Act redistributed the records, examination papers, and other property of the OTS among the three agencies.

Because the functions and property relating to State savings associations transferred from the OTS to the FDIC on July 21, 2011, the FDIC's Board took steps to avoid confusion and uncertainty regarding this transfer. On June 14, 2011, the Board adopted an Interim Rule to clarify that issues applicable to the disclosure of information and the Privacy Act that involved State savings associations would be enforced in accordance with the FDIC's existing procedural disclosure and Privacy Act regulations, found in Parts 309 (Disclosure of Information) and 310 (Privacy Act Regulations). The Board also approved certain technical amendments to correct relevant addresses and telephone numbers and to make other non-substantive changes to these rules.

Because only technical amendments were proposed to the FDIC's procedural rules and because it was critical to emphasize that, as of the transfer date, the FDIC's regulations would govern transferred OTS records and information, the Board found good cause to issue the proposed amendments as an Interim Rule, effective upon the transfer date. Although public comments were accepted on the Interim Rule for 30 days, the FDIC received no comments on the Interim Rule.

The proposed Final Rule is identical to the Interim Rule, with one exception: the proposed Final Rule would make a correction to a referenced fax number found in § 309.5 of the Interim Rule.

II. RECOMMENDATION

The Division of Risk Management Supervision and the Legal Division recommend that the Board approve the publication in the *Federal Register* of the Final Rule substantially the form provided.

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