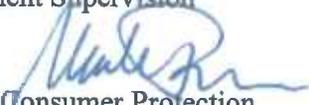


January 8, 2015

**MEMORANDUM TO:** Board of Directors  
Federal Deposit Insurance Corporation

**FROM:** Doreen R. Eberley, Director   
Division of Risk Management Supervision

Mark E. Pearce, Director   
Division of Depositor and Consumer Protection

Richard J. Osterman, Jr.   
Acting General Counsel

**SUBJECT:** Second joint Federal Register notice addressing FDIC Regulations in Accordance with the Economic Growth and Regulatory Paperwork Reduction Act ("EGRPRA")

---

Staff seeks approval of the Board to publish the second joint Federal Register notice (or "Second Notice") requesting comment as part of the inter-agency EGRPRA regulatory review. The Second Notice will ask the public to assist in identifying those statutes and regulations that are outdated or otherwise unnecessary in the categories of Banking Operations, Capital,<sup>1</sup> and Community Reinvestment Act. Included in the Second Notice, which is attached to this memorandum, is a chart that lists applicable regulations in these three categories. The comment period would be open for 90 days from publication in the Federal Register.

Staff has been working with our counterparts at the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System (collectively, the "Agencies"), to continue a coordinated and comprehensive review of agency regulations in accordance with the requirements of EGRPRA. On June 4, 2014, the Agencies published the first joint Federal Register notice ("First Notice") asking for public comment on their Applications and Reporting, Powers and Activities, and International Operations regulations.<sup>2</sup> The 90-day comment period for the First Notice ended on September 2, 2014. Approximately 40 comments were received and the Agencies currently are reviewing these comments.

### Background

Section 2222 of EGRPRA, 12 U.S.C. § 3311, provides that, not less frequently than once every 10 years, the Federal Financial Institutions Examination Council ("FFIEC") and each appropriate Federal banking agency represented on the FFIEC, must conduct a review of all

<sup>1</sup> The recently promulgated joint Regulatory Capital Rules amended several capital-related regulations. These regulations include capital adequacy, prompt corrective action, stress testing, implementation of Basel III, standardized and risk-based approaches, and market risk. The changes either have gone into effect during the current year or will go into effect in 2015. Consistent with the above-described EGRPRA Review Process, the Capital category chart in the attached Second Notice clarifies the specific regulations on which the Agencies are requesting comment.

<sup>2</sup> <http://www.gpo.gov/fdsys/pkg/FR-2014-06-04/pdf/2014-12741.pdf>

regulations prescribed by the FFIEC and each appropriate Federal banking agency, to identify any outdated or otherwise unnecessary regulations imposed on insured depository institutions. The EGRPRA review may facilitate the identification of statutes and regulations that share similar goals or complementary methods where one or more Agencies could eliminate overlapping requirements. Alternatively, interested parties may identify regulations or statutes that impose requirements that are no longer consistent with the way that business is conducted and that, therefore, the Agencies might eliminate. Any changes, however, must be compatible with the safety and soundness of insured depository institutions, their affiliates, and the financial system as a whole, as well as consumer protection.

The FDIC, the OCC and the FRB completed the last regulatory review under EGRPRA in 2006 and, after completing that review, issued a Joint Report to Congress describing issues raised in public comments and the actions taken by the Agencies in response to these comments.<sup>3</sup>

### **The EGRPRA Review Process**

The Agencies' regulations covering insured depository institutions cover a wide range of subjects. Consistent with EGRPRA's focus on reducing burden on insured depository institutions, the Agencies have not included their internal, organizational, or operational regulations in this review. Further, the Agencies have not included in this review those rules that will go into effect during the EGRPRA review, new regulations that have only recently gone into effect, or rules that the Agencies have yet to fully implement.

To carry out the EGRPRA review, the Agencies intend to publish three additional Federal Register notices, including the attached Second Notice. Each Federal Register notice will address one or more of the remaining categories of rules and will have a 90-day comment period. As noted above, the Agencies published the First Notice, seeking comment on three categories of rules: (1) Applications and Reporting, (2) Powers and Activities, and (3) International Operations. This Second Notice proposes to address the Agencies' rules on (4) Banking Operations, (5) Capital, and the (6) Community Reinvestment Act. The subsequent notices will review the remaining categories, which include: (7) Consumer Protection, (8) Directors, Officers and Employees, (9) Money Laundering, (10) Rules and Procedure, (11) Safety and Soundness, and (12) Securities.

Further, while not required by the statute, the Agencies are holding a series of outreach meetings to provide an opportunity for bankers, consumer and community groups, and other interested persons to present their views directly to senior management and staff of the Agencies on any of categories of regulations in the EGRPRA review. Comments from these meetings will also be incorporated into the EGRPRA review.

EGRPRA also requires the FFIEC or the Agencies to publish in the Federal Register a summary of the comments received, identifying significant issues raised and commenting on these issues. It further directs the Agencies to eliminate unnecessary regulations to the extent that such action is appropriate. Finally, the statute additionally requires the FFIEC to submit to Congress a report that summarizes any significant issues raised in the public comments and the

---

<sup>3</sup> <http://www.gpo.gov/fdsys/pkg/FR-2007-11-01/pdf/07-5385.pdf>

relative merits of such issues. The FFIEC report also must include an analysis of whether the Agencies are able to address the burdens associated with regulations or whether these issues must be addressed by legislative action.

### **Public Response to the First Notice**

As previously noted, the agencies received approximately 40 comments from financial institutions, industry trade groups, and consumer advocacy groups, and other members of the public. Some comments related to the EGRPRA review process, generally, and the Agencies address these in the Second Notice. First, the Agencies received comments concerning which of the Agencies' rules are included in the EGRPRA review. The Second Notice provides that the Agencies have not included those rules that will go into effect during the EGRPRA review, new regulations that have only recently gone into effect, or rules that the Agencies have yet to fully implement.

Second, some commenters questioned which agencies participate in the EGRPRA review process. The Second Notice provides that only the OCC, FRB, and FDIC statutorily are required to undertake this review.

Lastly, the Agencies received comments about whether the consumer regulations which were transferred to the Consumer Financial Protection Bureau by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") are included in the EGRPRA review. The Second Notice provides that the Agencies are seeking comments on only those consumer regulations for which they retain rulemaking authority following passage of the Dodd-Frank Act, such as the fair housing advertising and recordkeeping, flood insurance, safeguarding customer information, and identity theft rules. The Agencies plan to forward comments about regulations issued by another agency to that agency.

### **Recommendation**

Staff recommends that the FDIC's Board of Directors approve the second joint Federal Register notice, attached, asking the public to comment on regulations in the Banking Operations, Capital, and the Community Reinvestment Act categories to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions and their regulated holding companies. The comment period will be open for 90 days.

Staff Contacts:

Rae-Ann Miller  
Karen J. Currie  
Division of Risk Management Supervision

Luke H. Brown  
Paul Robin  
Patience R. Singleton  
Division of Depositor and Consumer Protection

Ruth R. Amberg  
Ann Taylor  
Vivek V. Khare  
Legal Division

Attachments