

May 15, 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

Charles Yi
General Counsel

SUBJECT: Third joint Federal Register notice soliciting comments on FDIC Regulations in accordance with the Economic Growth and Regulatory Paperwork Reduction Act

Staff seeks approval of the Board to publish the attached third joint Federal Register notice (“Third Notice”) requesting comment as part of the inter-agency EGRPRA regulatory review. The Third Notice will ask the public to assist in identifying those regulatory requirements imposed on insured depository institutions that are outdated or otherwise unnecessary in the following categories: (1) Consumer Protection; (2) Directors, Officers and Employees; and (3) Money Laundering. Included in the Third Notice is a chart that lists applicable regulations in these three categories. The comment period would be open for 90 days from the date of publication in the Federal Register.

Staff have 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 asking for public comment on their Applications and Reporting; Powers and Activities; and International Operations regulations, and received approximately 40 comments.¹ On February 13, 2015, the Agencies published the second joint Federal Register notice asking for public comment on their Banking Operations; Capital; and Community Reinvestment Act regulations.² The comment period for the Second Notice closed on May 14, 2015, and the Agencies received approximately 20 comments. Staff are currently reviewing all of the comments, and the Agencies will decide whether further action is appropriate with respect to the regulations. The Agencies will make this decision jointly in the case of rules issued on an interagency basis. Similarly, the Agencies will undertake any rulemaking to amend or repeal those rules on an interagency basis. For rules issued by an

¹ <http://www.gpo.gov/fdsys/pkg/FR-2014-06-04/pdf/2014-12741.pdf>

² <http://www.gpo.gov/fdsys/pkg/FR-2015-02-13/pdf/2015-02998.pdf>

individual Agency, the issuing Agency will review the comments received and independently determine whether amendments to or repeal of its rules are appropriate. If so, that Agency will initiate a rulemaking to effect such change.

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 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 Agencies completed the last regulatory review under EGRPRA in 2006 and issued a Joint Report to Congress describing issues raised in public comments and the actions taken by the Agencies in response to these comments.³

The EGRPRA Review Process

The Agencies’ regulations governing insured depository institutions cover a wide range of subjects.⁴ Initially, the agencies had not included rules that would 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 be as inclusive as possible, the Agencies subsequently decided to expand the scope of this EGRPRA review to include rules that the Agencies have recently finalized, including those issued pursuant to the Dodd-Frank Act and the recent domestic capital and liquidity rules. The Agencies will seek specific comment on these additional rules in the fourth EGRPRA Federal Register notice, which the Agencies plan to issue by the end of this year.

Chart A in Section IV of the attached Federal Register notice lists the applicable regulations in the following categories: Consumer Protection; Directors, Officers, and Employees; and Money Laundering. Chart B categorizes and specifies the additional rules, or the “Newly Listed Rules”, that will now be part of the EGRPRA review. Prior to the publication of the fourth and final notice of the EGRPRA review, the Agencies will add to Chart B any additional rules finalized by that time. We also note that it has been the practice of the Agencies to accept comments on any of the Agencies’ rules during the EGRPRA

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

⁴ 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.

review. The Agencies will continue this practice and accept comments at any time on any of the rules of the Agencies, including those in Charts A and B of the attached Federal Register notice, as well as those rules published in the prior Federal Register notices.

As noted above, the Agencies intend to publish one additional Federal Register notice by the end of this year, which will address the remaining categories of rules, as well as the Newly Listed Rules and will have a 90-day comment period. The remaining categories are: Rules of Procedure; Safety & Soundness; and Securities.

Finally, EGRPRA 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. (Comments received at the outreach sessions will be included as part of this summary.) EGRPRA directs the Agencies to eliminate unnecessary regulations to the extent that such action is appropriate. The statute additionally requires the FFIEC to submit to Congress a report that summarizes any significant issues raised in the public comments and the 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.

Recommendation

Staff recommends that the FDIC's Board of Directors approve the third joint Federal Register notice, attached, asking the public to comment on regulations in the Consumer Protection; Directors, Officers and Employees; and Money Laundering 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.

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Attachments