

Regulatory and Supervisory Roundup

This section provides an overview of recently released regulations and supervisory guidance, arranged in reverse chronological order. Press Release or Financial Institution Letter designations are included so the reader may obtain more information.

Subject	Summary
Federal Banking Agencies Issue New Guidance on Retail Payment Systems (FIL-48-2004, May 3, 2004)	The Federal Financial Institutions Examination Council issued revised guidance for examiners, financial institutions, and technology service providers regarding retail payment systems. The <i>Retail Payment Systems Booklet</i> provides guidance on the risks and risk management practices applicable to checks, card-based electronic payments, and other electronic payment media.
Federal Banking Agencies Publish Proposed Rulemaking Regarding Medical Privacy (FIL-47-2004, April 28, 2004)	The FDIC and other financial institution regulatory agencies are soliciting comment on proposed rules (Part 334 of the FDIC's Rules and Regulations) that implement Section 411 of the Fair and Accurate Credit Transactions Act of 2003 (Fact Act). Section 411 prohibits creditors from obtaining or using medical information to make credit decisions. The proposed rules contain the exceptions to Section 411 that would be permitted by the regulatory agencies. Comments were due May 28, 2004.
Federal Banking Agencies Are Designing a Shared Repository for Call Report Data (FIL-30-2004, March 18, 2004)	Under the auspices of the Federal Financial Institutions Examination Council, the federal banking agencies have collaborated on a conceptual design for a Central Data Repository to modernize the collection, validation, management, and distribution of Call Report information. October 2004 is the target date for implementation, using September 2004 Call Report data.
FDIC Proposes a New Part 324 That Would Interpret Restrictions on Affiliate Transactions (FIL-29-2004, March 17, 2004)	The FDIC's Board of Directors has proposed a new Part 324 that would interpret, for state nonmember banks, the restrictions on affiliate transactions contained in Sections 23A and 23B of the Federal Reserve Act. The proposed new rule would cross-reference the Federal Reserve Board's (FRB) Regulation W, which is the first FRB regulation to deal comprehensively with the laws that govern bank transactions with affiliates.
Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) Releases a New Currency Transaction Report (CTR) Form (FIL-28-2004, March 16, 2004)	FinCEN released a new CTR form—FinCEN Form 104—that replaces Internal Revenue Service CTR Form 4789. The new form may be used immediately; however, banks may continue to use the old form until August 31, 2004. Each financial institution must file a CTR for each deposit, withdrawal, exchange of currency, or other payment or transfer that involves a transaction in currency of more than \$10,000.
FDIC Alerts Banks to the Increasing Prevalence of E-Mail- and Internet-Related Fraud (FIL-27-2004, March 12, 2004)	The FDIC issued guidance to assist financial institutions in helping their customers avoid becoming victims of the recent flood of e-mail- and Internet-related fraudulent schemes. Many of the schemes have targeted financial institution customers.
Update on Accounting for Loan and Lease Losses Is Released (FIL-22-2004, March 1, 2004)	The federal banking agencies issued guidance that addresses recent developments in accounting for loan and lease losses, specifically the status of the proposed Statement of Position, <i>Accounting for Credit Losses</i> , issued by the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants. The Committee has decided to proceed only with guidance related to improving disclosures. The interagency guidance also identifies the current sources of generally accepted accounting principles and supervisory guidance regarding allowances for loan and lease losses that institutions should continue to apply.
FDIC Releases <i>Community Development Investment Guide</i> (FIL-19-2004, February 19, 2004)	The <i>FDIC Community Development Investment Guide</i> is designed to assist banks that are considering community development investment opportunities within the context of compliance with the Community Reinvestment Act.

Subject

Bank Agencies Announce Launch of Website on Call Report Modernization Initiative (PR-12-2004, February 12, 2004)

Interagency Advisory Issued on Accounting for Deferred Compensation Agreements and Bank-Owned Life Insurance (FIL-16-2004, February 11, 2004)

Bank and Thrift Agencies Publish Proposed Rulemaking Regarding the Community Reinvestment Act (FIL-15-2004, February 6, 2004)

FDIC Simplifies Deposit Insurance Rules for Living Trust Accounts (FIL-14-2004, February 4, 2004)

FDIC Broadens Use of Streamlined "Merit" Examination Program (FIL-13-2004, February 4, 2004)

Banking Agencies Solicit Comments on Reducing Regulatory Burden from Lending-Related Consumer Protection Rules (FIL-10-2004, January 22, 2004)

Summary

The federal bank regulatory agencies announced the availability of a website that provides information on the Federal Financial Institutions Examination Council's Call Report Modernization initiative. The FFIEC Call Report agencies (the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency) are building a central data repository to modernize and streamline how the agencies collect, process, and distribute bank financial data.

The FIND (Financial Institutions Data—Bank Call Reports) website features a timeline, progress reports, frequently asked questions and answers, and highlights of future process changes. It provides details about project participants and how financial institutions and software vendors can participate in the initiative. The website can be accessed at www.FFIEC.gov/find.

The federal banking agencies issued an advisory letter that discusses the appropriate accounting and reporting for deferred compensation agreements, many of which are linked to investments in bank-owned life insurance.

The federal bank and thrift regulatory agencies published in the *Federal Register* a joint interagency notice of proposed rulemaking regarding the Community Reinvestment Act (CRA). The agencies are proposing amendments to the CRA regulations in two areas:

(1) To amend the definition of "small institution" to mean an institution with total assets of less than \$500 million, without regard to any holding company assets. The proposal would increase the number of institutions that are eligible for evaluation under the small institution performance standards, while only slightly reducing the portion of the nation's bank and thrift assets that is subject to evaluation under the large retail institution performance standards.

(2) To amend the regulations to provide explicitly that an institution's CRA evaluation will be affected adversely by evidence of specified discriminatory, illegal, or abusive practices by the institution or by an affiliate whose loans were considered in the evaluation as part of the institution's own CRA record.

Comments were due April 6, 2004.

The FDIC issued simplified insurance rules for deposits held in connection with a living trust. The new rules became effective April 1, 2004. Under the new rules, if a bank fails, the FDIC will provide insurance coverage of up to \$100,000 for each "qualifying" beneficiary entitled to a living trust account's assets upon the death of the account owner. As with the current rules, a qualifying beneficiary is defined as the account owner's spouse, children, grandchildren, parents, and siblings. However, unlike the current rules, the new rules will not limit FDIC insurance coverage if there are defeating contingencies in the trust agreement. The new rules also eliminate the requirement that beneficiaries of living trust accounts be named in the records of the depository institution.

The FDIC has expanded the use of its streamlined examination program called "MERIT" (for **M**aximum **E**fficiency, **R**isk-Focused, **I**nstitution-Targeted Examinations). Well-rated insured banks with total assets of \$1 billion or less (up from \$250 million or less) are now eligible for examination under the streamlined program. During a MERIT examination, examiners focus on the overall assessment of the institution's risk management processes and tailor the extent of transaction testing to the specific risk profile of each bank.

In accordance with the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the federal banking agencies are seeking comments on any lending-related consumer protection rules that bankers believe are outdated, unnecessary, or unduly burdensome. Comments and suggestions were due April 20, 2004.

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FDIC Expands Fair Lending Examination Specialist Program Nationwide (PR-4-2004, January 15, 2004)	The FDIC announced that it has expanded its fair lending examination program nationwide by appointing examination specialists in each of its six Regions. The fair lending examination specialists in each Region will help ensure implementation of fair lending examination requirements, provide consultation and guidance to compliance examiners during examinations, conduct or participate in large or complex fair lending examinations, coordinate fair lending consumer complaint investigations, and coordinate ongoing fair lending communications and training within each Region.
Federal Regulators Seek Public Comment on Ways to Improve Privacy Notices (FIL-8-2004, January 15, 2004)	Eight federal regulators issued an advance notice of proposed rulemaking (ANPR) requesting public comment on ways to improve the privacy notices financial institutions provide to consumers under the Gramm-Leach-Bliley Act. The ANPR (published in the <i>Federal Register</i> on December 30, 2003) describes various approaches that the agencies could pursue to allow or require financial institutions to provide alternative types of privacy notices that would be more readable and useful to consumers. It also seeks comment on whether differences between federal and state laws pose any special issues for developing a short privacy notice. The ANPR was developed jointly by the Board of Governors of the Federal Reserve System, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, Federal Trade Commission, National Credit Union Administration, Office of the Comptroller of the Currency, Office of Thrift Supervision, and Securities and Exchange Commission. Written comments were due by March 29, 2004.
FDIC Issues Guidance on Spousal Signature Provisions of Regulation B (FIL-6-2004, January 13, 2004)	The FDIC issued guidance to help financial institutions comply with the marital status and spousal signature provisions of the Equal Credit Opportunity Act and Regulation B.
Interagency Guidance Released on the Application of the "Customer Identification Program" (FIL-4-2004, January 9, 2004)	The federal banking, thrift and credit union regulatory agencies, the Financial Crimes Enforcement Network and the Department of Treasury issued guidance in the form of Frequently Asked Questions on how institutions should implement a written risk-based Customer Identification Program as required by Section 326 of the USA PATRIOT Act.
Policy Statement Issued on Financial Institutions Providing Financial Support to Advised Investment Funds (FIL-1-2004, January 5, 2004)	The federal banking and thrift supervisory agencies issued a Policy Statement alerting financial institutions to the safety and soundness and legal issues involved in providing financial support to investment funds advised by the institution or its subsidiaries or affiliates. The Policy Statement makes clear that a financial institution should <i>not</i> <ul style="list-style-type: none">inappropriately place its resources and reputation at risk for the benefit of the fund's investors and creditors;violate the limits and requirements contained in applicable laws or regulations or in any special conditions imposed by the supervisory agencies; orcreate an expectation that it will prop up an advised fund. The Statement sets forth the agencies' expectations regarding the nature of controls that financial institutions should have in place over investment advisory activities and further provides that financial institutions should notify and consult with their primary federal regulator before or, in the event of an emergency, immediately after providing financial support to an advised fund.