



Office of Thrift Supervision  
Department of the Treasury

Timothy Ryan  
Director

1700 G Street, N.W., Washington, D.C. 20552 • (202) 906-6280

May 29, 1992

Chief Executive Officers:

RE: JOINT EXAMINATION AGREEMENT

On May 18, 1992, the Office of Thrift Supervision (OTS) and the Federal Deposit Insurance Corporation (FDIC) entered into an agreement governing the examination and supervision of savings institutions.

By clarifying the role of each agency, this agreement will result in a more efficient and effective examination process. The agencies will strive to reach a common conclusion regarding the overall condition of the institution and communicate the results through one report of examination.

We feel the agreement is a significant step in reducing the burden on thrift institutions and improving the examination process. Attached is a copy of the memorandum distributed to FDIC and OTS Regional Directors.

Sincerely,



Timothy Ryan

Attachment



Office of Thrift Supervision  
Department of the Treasury

**FDIC** FEDERAL DEPOSIT  
INSURANCE CORPORATION

May 18, 1992

## MEMORANDUM

**TO: FDIC and OTS Regional Directors**

The Office of Thrift Supervision (OTS) is the primary federal regulator of federally chartered savings banks and associations and state chartered, federally insured savings associations. The Federal Deposit Insurance Corporation (FDIC) is the federal insurer of deposits and has specified authorities over operations of savings associations and has backup enforcement authority over these institutions, pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), and the Federal Deposit Insurance Corporation Improvement Act of 1991. On October 12, 1989, the OTS and FDIC entered into a Joint Agreement, designed to promote coordination between the two agencies to ensure that each can effectively and efficiently carry out its supervisory and/or insurance responsibilities.

The FDIC has examined all the insured savings associations and has considered a substantial number of enforcement actions pursuant to Section 8(t) of the Federal Deposit Insurance Act. This activity has been beneficial to the effective supervision of the thrift industry. With the benefit of the joint experience gained over the two-year period since the enactment of FIRREA, it now seems appropriate to set forth certain standard procedures for the examination and supervision of these institutions in order that the statutory responsibilities of both agencies can be more efficiently discharged.

The FDIC and OTS have adopted certain guidelines and procedures which will:

- \* Better clarify the role of the OTS as primary federal regulator and the FDIC as the federal insurer of deposits, with backup enforcement responsibilities;
- \* Establish communication responsibilities among and between the FDIC, OTS and the institution;
- \* Define the OTS' and FDIC's roles and responsibilities with respect to conducting examinations of savings associations as well as the processing of the resulting examination reports, supervisory correspondence, enforcement actions and capital plans;
- \* Establish a resolution process for material differences in FDIC and OTS examination findings, and proposed corrective actions; and,
- \* Promote the most efficient use of FDIC and OTS resources.

These procedures are effective immediately. Realization of the above stated objectives should resolve procedural questions and work flow delays with respect to your particular roles and responsibilities regarding examination and supervision of the savings associations.

  
Timothy Ryan, Director  
Office of Thrift Supervision

  
William Taylor, Chairman  
Federal Deposit Insurance Corporation

(Guidelines and Procedures Attached)

## OTS/FDIC JOINT EXAMINATION PROCESS

- o OTS and FDIC regional staffs will meet quarterly to review the examination schedule for the next six months.
- o FDIC will indicate those examinations in which joint participation is desired. The FDIC generally will want to participate in full-scope examinations of nonstable 3-rated institutions, all 4- and 5-rated institutions, and a sample of the remaining institutions. Each agency will make reasonable adjustments in their examination plans to accommodate the other agency with a view toward eliminating unnecessary overlap. It is assumed that all FDIC savings association examination activities will be performed on a joint basis unless compelling reasons dictate otherwise.
- o For joint examinations, FDIC and OTS will jointly scope the examination at the examiner-in-charge level or at the respective Regional Offices. Disagreements over scope will default to the broader alternative. When examinations of savings association affiliates are considered necessary, the examiners-in-charge will decide how the examinations will be conducted.
- o For non-joint examinations, OTS will determine scope and provide FDIC a copy of the proposed final report and allow ten-day period for review and comment prior to OTS transmission to the institution.
- o Joint examinations will represent a division of responsibilities among the joint staff; OTS and FDIC will each provide an examiner-in-charge, who will share responsibility for managing the examination and will be responsible for resolving inter-agency differences during the examination process.
- o FDIC's report of examination will be for internal purposes only although a copy will be provided to OTS. However, should the FDIC Board authorize an enforcement action, the FDIC would then transmit its examination report to the institution.
- o Non-substantive differences in examination interpretations, conclusions and report comments will be resolved in favor of the OTS. Substantive differences in examination conclusions, which could lead to an enforcement action by the FDIC if not pursued by OTS, and which cannot be resolved by the examiners-in-charge, will be referred

to the OTS and FDIC Regional Offices for resolution at the time such differences are identified. Such differences will be resolved by the Regional Offices within ten days. If resolution of such differences cannot be achieved following full review and communication between the Regional Offices within the appropriate time frame, these matters will be referred to the Director of Supervision and Deputy Director for Regional Operations, where it is expected that such differences will be resolved within 10 days. If the differences remain unresolved, the FDIC will so notify the OTS of the differences and that corrective action authorization will be sought from the FDIC Board.

- o The OTS examination report will be prepared using thrift GAAP as the appropriate accounting treatment for financial accounting information. OTS regulations, policies and directives will be used in reaching examination conclusions. However, for supervisory purposes OTS and FDIC will use valuation techniques in the review and classification of other real estate assets and real estate loans consistent with the practices of the other federal banking agencies. (This will be implemented after an OTS assessment of the impact of this change on the thrift industry, which is currently under study.)
- o OTS and FDIC will jointly participate in examination related meetings with management and directors during and at the conclusion of joint examinations.
- o All actions taken by the FDIC Board will be directly communicated to the institution by the FDIC.
- o OTS and FDIC will routinely copy one another on institution-related correspondence. OTS will ensure that FDIC is provided copies of examination-related correspondence.
- o Specialty examinations will be the responsibility of OTS.
- o Examination workpapers, loan line sheets, report pages and findings will be shared, but retained by OTS following completion of the examination, with interim examination access provided the FDIC upon request.
- o Nothing in this agreement will alter the normal examination and supervisory cooperation with state authorities.

#### **SUPERVISORY ENFORCEMENT ACTIONS**

- o OTS Regional Director will advise FDIC Regional Director of, and solicit written input on, all proposed OTS supervisory enforcement actions.

The FDIC will have ten days within which to respond. The OTS Regional Director will provide the FDIC Regional Director with a copy of the final enforcement document within five days of execution, together with a written explanation of the reasons why any FDIC recommended actions were not taken.

- o FDIC Regional Director will advise OTS Regional Director of, and solicit written input on, all proposed FDIC enforcement actions. The OTS will have ten days within which to respond. The FDIC Regional Director will provide the OTS Regional Director with a copy of the final recommendation to Washington, together with a written explanation of the reasons why any OTS recommended actions were not taken.
- o Regional staff will resolve significant differences in the type and content of corrective and enforcement actions. If significant issues cannot be resolved, the issues will be submitted to the FDIC Director of Supervision and the OTS Deputy Director for Regional Operations. It is expected that such difference will be resolved within 15 days. If the differences cannot be resolved, the FDIC will recommend backup action to the FDIC Board. FDIC will not direct corrective action until such action has been authorized.

#### **DIVESTITURE PLANS/BROKERED DEPOSIT WAIVERS**

- o The FDIC Regional Director will advise the OTS Regional Director of its intent to approve or deny, or otherwise exercise its independent authority with respect to a divestiture plan or brokered deposit waiver, prior to communication with the thrift institution.
- o FDIC will coordinate its efforts with the OTS to ensure that such actions are consistent with approved capital plans, as long as conditions at the savings association have not changed (in the opinion of FDIC) to any material extent since the capital plans were approved.

#### **CAPITAL PLANS**

OTS addresses inadequate capital in savings associations through the capital plan process, as required by FIRREA, or through the imposition of an individual minimum capital requirement, or through other enforcement action.

- o The OTS Regional Director will provide copies of capital plans, revisions, and modifications, requests for additional information, and proposed actions to the FDIC Regional Director for review and comment. Unless the FDIC Regional Director submits to the OTS

**Regional Director a written objection to the capital plan within 30 days, the FDIC will normally not take backup enforcement action or action on divestiture plans which are contrary to the action taken by OTS in approving a capital plan.**

- o Differences between the FDIC Regional Director and OTS Regional Director with respect to capital plans shall be resolved at the Regional Office level. Significant issues which cannot be resolved by the Regional Directors shall be referred to the OTS Deputy Director for Regional Operations and the FDIC Director of Supervision. If such issues remain unresolved, OTS may then approve the capital plan, but FDIC may pursue backup enforcement action to resolve its concerns.**
- o If an institution fails to comply with its capital plan for two consecutive quarters (failure as defined in the conditions to the capital plan) the OTS agrees to initiate a capital directive or other enforcement action unless good cause is shown for not doing so.**