

MEMORANDUM TO: The Board of Directors

FROM: Christopher J. Spoth
Acting Director
Division of Supervision & Consumer Protection

William F. Kroener, III
General Counsel

SUBJECT: Notice and Request for Public Comment Pursuant to the
Economic Growth and Regulatory Paperwork Reduction Act of
1996 (EGRPRA)

PROPOSAL

The Division of Supervision and Consumer Protection and the Legal Division propose that the Board approve publication of the attached Federal Register notice pursuant to section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). The notice summarizes the EGRPRA process to date and requests public comment on two regulations: Disclosure and Reporting of CRA-Related Agreements and Prompt Corrective Action. These regulations are in the Capital and Community Reinvestment Act categories. This is the last in a series of six notices for public comment regarding the reduction of regulatory burden on insured institutions. If approved by the Board and the other agencies, this notice and request for public comment will be issued jointly with the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB) and the Office of Thrift Supervision (OTS).

RECOMMENDATION

This memorandum recommends that the FDIC Board of Directors approve the attached notice and authorize it to be published in the Federal Register for a 90-day comment period. It is anticipated that this release, if approved, will be published in January 2006.

For further information, contact:
Steven D. Fritts, ext. 83723
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**Request for Burden Reduction Comments Pursuant to EGRPRA:
Rules Relating to Prompt Corrective Action and
the Disclosure and Reporting of CRA-Related Agreements.**

BACKGROUND

The purpose of the EGRPRA review is to identify outdated, unnecessary, or unduly burdensome regulatory requirements imposed on insured depository institutions. Section 2222 of EGRPRA, requires the OCC, FRB, FDIC and OTS (the Agencies) to:

- categorize their regulations by type and publish categories at regular intervals in the Federal Register, seeking public comment on whether the regulations contain outdated, unnecessary or unduly burdensome requirements;
- conduct the review at least once every 10 years (the first 10-year cycle will end in September 2006);
- publish in the Federal Register a summary of the comments received, identifying and discussing the significant issues raised;
- report to Congress, within 30 days of publishing the summary of comments, on any significant issues raised by the public comments, the relative merits of such issues, and whether the Agencies have the ability to address regulatory burdens through regulation or if legislation would be required to address the burdens; and
- eliminate unnecessary regulations to the extent that such action is appropriate.

EGRPRA affords the FDIC and the other Agencies a significant opportunity to receive input from the industry as to more streamlined and less burdensome ways to regulate.

Today's notice is the last in a series of six Federal Register notices requesting the public to recommend ways to reduce regulatory burden imposed on insured institutions. The first notice, published on June 16, 2003, described the Agencies' plan to review our regulatory requirements pursuant to EGRPRA. The notice identified the proposed categorization of our regulations. It also requested public comment on the first three categories of regulations (Applications and Reporting, Powers and Activities, and International) as well as on the Agencies' categorization of and schedule for publishing the regulations. In response to the first request for comment, the Agencies received 19 written responses.

On January 21, 2004, the Agencies published a second Federal Register notice that modified our original plan in response to public comment and requested burden reduction recommendations on Consumer Protection: Lending Related Rules. In response to that notice, the Agencies received about 560 comments. On July 20, 2004, the Agencies published a third notice that requested comment on Consumer Protection: Account/Deposit Relationships and Miscellaneous Consumer Rules to which the Agencies received over 100 comments. On February 3, 2005, we requested comment about three categories of rules: Money Laundering; Safety and Soundness; and Securities. In response to that notice, the Agencies received 120 comments. On July 19, 2005, we requested comments on 28 rules relating to Banking Operations; Directors, Officers

and Employees; and Rules of Procedure. The Agencies received 34 comments in response to that notice.

Additionally, an EGRPRA request for comment was included in the October 20, 2005 joint advance notice of proposed rulemaking regarding Risk-Based Capital Guidelines; Capital Adequacy Guidelines; and Capital Maintenance: Domestic Capital Modifications. As a result, those regulations are not included in this final notice and request for comment. In addition, the Community Reinvestment Act substantive regulations are not included in this notice and request for comment because, during the past two years, the Agencies solicited comment on burden reduction measures for the CRA regulations and have adopted final rules regarding those regulations. Today, we request comment on rules regarding Disclosure and Reporting of CRA-Related Agreements and Prompt Corrective Action, which are in the Capital and the Community Reinvestment Act categories.

In addition to receiving written comments, the Agencies recognized the importance of having face-to-face meetings with bankers and consumer group representatives in order to obtain a variety of views on burden reduction directly. To accomplish that, the Agencies sponsored ten banker outreach meetings in different cities around the country to heighten industry awareness of the EGRPRA project, listen to regulatory burden concerns, comments and suggestions, and to identify possible solutions. Outreach meetings were held in Orlando, St. Louis, Denver, San Francisco, New York, Nashville, Seattle, Chicago, Phoenix and New Orleans. Approximately 450 bankers attended these meetings. The Agencies have also held outreach meetings with over 100 participants from consumer and community groups to obtain their input on regulatory burden reduction. These meetings were held in San Francisco, Chicago, Washington, DC and Arlington, Virginia. In addition, the Agencies have held joint outreach meetings including bankers as well as consumer and community groups in Washington, DC, Los Angeles and Kansas City.

The Agencies are actively discussing the recommendations we have received from all sources. As contemplated by EGRPRA, the Agencies have been considering regulatory changes, as well as changes in agency procedures, to reduce burden.

In 2004 and 2005, representatives of the Agencies and industry leaders testified before congressional committees about legislative reform and other ideas for reducing burden on the financial services industry.

DISCUSSION

Today, the Agencies are asking the public to provide burden reduction recommendations on the two remaining regulations in the Capital and Community Reinvestment Act categories that are applicable to state nonmember banks:

- Disclosure and Reporting of CRA-Related Agreements; and
- Prompt Corrective Action.

As in the previous notices, the proposed Federal Register notice requests public comment on the:

- possible need for statutory change;
- continuing relevance of the regulations and their relationship to their authorizing statutes;
- possibility of a better method to approach regulating, including the use of flexible regulatory standards;
- effect of the regulations on competitive positioning;
- reporting, recordkeeping and disclosure requirements;
- consistency or redundancy of regulatory requirements;
- clarity of regulatory language; and
- burden on small institutions.

At the conclusion of this final EGRPRA comment period, as in the previous five, the Agencies will review the comments received and decide whether further action is appropriate with respect to the categories of regulations included in that notice. Any rulemaking deemed appropriate from the review will be undertaken jointly for interagency regulations or by the appropriate agency for agency-specific regulations.

CONCLUSION

We recommend that the Board authorize publication of the attached notice and request for public comment in the Federal Register. We also recommend that the Board authorize the Executive Secretary and General Counsel to make technical, nonsubstantive, or conforming changes to the attached notice and request for comment to ensure that the FDIC and the other Agencies can issue this document jointly in the Federal Register and to take such other actions and issue such other documents related to the notice as they deem necessary or appropriate to fulfill the Board's objective in connection with this matter.

Attachments

RESOLUTION

WHEREAS, section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (“EGRPRA”) (Pub. L. 104-208) requires the Federal Financial Institutions Examination Council and its constituent agencies, the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation (“FDIC”), Office of Thrift Supervision, and National Credit Union Administration (the “Agencies”) to conduct a review of their regulations once every 10 years to identify outdated, unnecessary, or unduly burdensome regulatory requirements; and

WHEREAS, section 2222 of EGRPRA requires the Agencies to categorize their regulations by type and to publish categories at regular intervals in the Federal Register, seeking public comment on whether the regulations contain outdated, unnecessary, or unduly burdensome requirements; and

WHEREAS, the FDIC and the other Agencies previously published five Federal Register notices that categorized their regulations, described the Agencies’ plan to publish categories of regulations seeking public burden reduction comment on a semiannual basis through 2006, and requested comment on the various categories of regulations; and

WHEREAS, the Board has determined that it is appropriate to issue the attached Federal Register notice requesting comment on two sets of regulations in the Capital and Community Reinvestment Act categories.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby authorizes publication in the Federal Register, jointly with the other Agencies, of the attached Federal Register notice document, in a form and manner satisfactory to the Executive Secretary (or his designee) and the General Counsel (or his designee).

BE IT FURTHER RESOLVED, that the Board hereby delegates authority to the Executive Secretary (or his designee) and the General Counsel (or his designee) to make technical, nonsubstantive, or conforming changes to the attached notice to ensure that the Corporation and the other Agencies can issue this document jointly in the Federal Register and to take such other actions and issue such other documents related to the notice as they deem necessary or appropriate to fulfill the Board's objective in connection with this matter.