

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Chap. I**

**Docket No. [05-22]**

**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

**12 CFR Chap. II**

**Docket No. R-1243**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Chap. III**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**12 CFR Chap. V**

**No. [2005-53]**

**Request for Burden Reduction Recommendations; Rules Relating to Prompt Corrective  
Action and the Disclosure and Reporting of CRA-Related Agreements; Economic Growth  
and Regulatory Paperwork Reduction Act of 1996 Review**

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Notice of regulatory review; request for comments.

**SUMMARY:** The OCC, Board, FDIC and OTS (“we” or “the Agencies”) are reviewing our regulations to identify outdated, unnecessary, or unduly burdensome regulatory requirements pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). Today, we request your comments and suggestions on ways to reduce burden with respect to rules regarding Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements, which are in the Capital and Community Reinvestment Act categories of regulations. All comments are welcome. We specifically invite comment on the following issues: whether statutory changes are needed; whether the regulations contain requirements that are not needed to serve the purposes of the statutes they implement; the extent to which the regulations may adversely affect competition; whether the cost of compliance associated with reporting, recordkeeping, and disclosure requirements, particularly on small institutions, is justified; whether any regulatory requirements are inconsistent or redundant; and whether any regulations are unclear.

This is our last request for comment on categories of regulations in the first 10-year cycle of regulatory review under EGRPRA. We will analyze the comments received and propose burden-reducing changes to our regulations where appropriate. Some of your suggestions for

burden reduction might require legislative changes. Where legislative changes would be required, we will consider your suggestions in recommending appropriate changes to Congress.

**DATES:** Written comments must be received no later than April 4, 2006.

**ADDRESSES:** You may submit comments by any of the following methods:

**EGRPRA web site:** <http://www.EGRPRA.gov>

- Comments submitted at the Agencies' joint web site will automatically be distributed to all the Agencies. Comments received at the EGRPRA web site and by other means will be posted on the web site to the extent possible.

**Individual agency addresses:** You are also welcome to submit comments to the Agencies at the following contact points (due to delays in paper mail delivery in the Washington area, commenters may prefer to submit their comments by alternative means):

**OCC:** You should include OCC and Docket Number \_\_\_-\_\_\_ in your comment. You may submit comments by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- OCC Web Site: <http://www.occ.treas.gov>. Click on "Contact the OCC," scroll down and click on "Comments on Proposed Regulations."
- E-mail address: [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).

- Fax: (202) 874-4448.
- Mail: Office of the Comptroller of the Currency, 250 E Street, S.W., Mail Stop 1-5, Washington, DC 20219.
- Hand Delivery/Courier: 250 E Street, SW, Attn: Public Information Room, Mail Stop 1-5, Washington, DC 20219.

Instructions: All submissions must include the agency name (OCC) and docket number or Regulatory Information Number (RIN) for this notice of proposed rulemaking. In general, OCC will enter all comments received into the docket without change, including any business or personal information that you provide. You may review comments and other related materials by any of the following methods:

- Viewing Comments Personally: You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW, Washington, DC. You can make an appointment to inspect comments by calling (202) 874-5043.
- Viewing Comments Electronically: You may request e-mail or CD-ROM copies of comments that the OCC has received by contacting the OCC's Public Information Room at [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).
- Docket: You may also request available background documents and project summaries using the methods described above.

**Board**: You may submit comments, identified by Docket Number R-1243, by any of the following methods:

- Agency Web site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket number in the subject line of the message.
- Fax: (202) 452-3819 or (202) 452-3102.
- Mail: Jennifer J. Johnson, Secretary

Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington, DC 20551

All public comments are available from the Board's web site at [www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm](http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm), as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20<sup>th</sup> and C Streets, NW) between 9:00 a.m. and 5:00 p.m. on weekdays.

**FDIC:** You may submit comments, identified as EGRPRA burden reduction comments, by any of the following methods:

- Agency web site: <http://www.fdic.gov/regulations/laws/federal/propose.html>
- E-mail: [comments@fdic.gov](mailto:comments@fdic.gov). Include "EGRPRA burden reduction comment" in the subject line of the message.

- Mail: Robert E. Feldman, Executive Secretary  
Federal Deposit Insurance Corporation  
550 17th Street, NW  
Washington, DC 20429
- Hand Delivery: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: You may inspect comments at the FDIC Public Information Center, Room 100, 801 17th Street, NW, between 9:00 a.m. and 4:30 p.m. on business days.

**OTS**: You may submit comments, identified by “No. ##.” by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-Mail: [regs.comments@ots.treas.gov](mailto:regs.comments@ots.treas.gov). Include “No. ##” in the subject line of the message, and provide your name and telephone number.
- Fax: (202) 906- 6518.
- Mail: Regulation Comments  
Chief Counsel’s Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552

- Hand Delivery: Comments may be hand delivered to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW, from 9:00 a.m. to 4:00 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office.

Public Inspection: OTS will post comments and the related index on the OTS Internet Site at <http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1>. In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW, by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to [public.info@ots.treas.gov](mailto:public.info@ots.treas.gov), or send a fax to (202) 906-7755. (Please identify the material you would like to inspect to assist us in serving you.) OTS schedules appointments on business days between 10:00 a.m. and 4:00 p.m. In most cases, appointments will be available the next business day following the date OTS receives a request.

#### **FOR FURTHER INFORMATION CONTACT:**

##### **OCC:**

- Heidi Thomas, Special Counsel, Legislative and Regulatory Activities Division, (202) 874-5090.
- Lee Walzer, Counsel, Legislative and Regulatory Activities Division, (202) 874-5090.

##### **Board:**

- Patricia A. Robinson, Assistant General Counsel, Legal Division, (202) 452-3005.
- Michael J. O'Rourke, Counsel, Legal Division, (202) 452-3288.
- John C. Wood, Counsel, Division of Consumer and Community Affairs, (202) 452-2412.

- Kevin H. Wilson, Supervisory Financial Analyst, Division of Banking Supervision and Regulation, (202) 452-2362.
- For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**FDIC:**

- Steven D. Fritts, Associate Director, Division of Supervision and Consumer Protection, (202) 898-3723.
- Ruth R. Amberg, Senior Counsel, Legal Division, (202) 898-3736.
- Susan van den Toorn, Counsel, Legal Division, (202) 898-8707.

**OTS:**

- Glenn Gimble, Senior Project Manager, Thrift Policy, Supervision Policy, (202) 906-7158.
- Josephine Battle, Program Analyst, Thrift Policy, Supervision Policy, (202) 906-6870.
- Karen Osterloh, Special Counsel, Regulations and Legislation Division, Chief Counsel's Office, (202) 906-6639.

**Supplementary Information**

**I. Overview of the EGRPRA Review and the Steps Taken So Far**

The Agencies <sup>footnote 1</sup> are asking for your comments and suggestions on ways in which we can reduce regulatory burden consistent with our statutory obligations. Today, we request your input to help

<sup>Footnote 1</sup> The National Credit Union Administration has participated in planning the EGRPRA review but has issued, and will issue, requests for comment separately.



us identify which regulatory requirements involving Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements are outdated, unnecessary, or unduly burdensome. We list these rules, which are in the Capital and Community Reinvestment Act categories, in a chart at the end of this notice. Please send us your recommendations at our web site, <http://www.EGRPRA.gov>, or to one of the listed addresses.

Today's request for comment is the sixth and final notice in our multi-year review of regulations for burden reduction required by section 2222 of EGRPRA<sup>Footnote 2</sup>. We described the EGRPRA review's requirements in our first EGRPRA notice. In summary, EGRPRA requires us to:

- Categorize our regulations by type.
- Publish the regulations by category to request comment on which regulations contain requirements that are outdated, unnecessary, or unduly burdensome.
- Publish a summary of those comments.
- Eliminate unnecessary regulations to the extent appropriate.
- Report to Congress: summarizing the significant issues raised and their relative merits and analyzing whether legislative change is required to reduce burden.

The first publication and review cycle under EGRPRA must be completed by September 2006.

The regulatory response and report to Congress will occur after the publication cycle is finished.

We have identified 13 categories of rules to implement our EGRPRA review. The categories are: Applications and Reporting; Banking Operations; Capital; Community Reinvestment Act; Consumer Protection: Lending Related Rules; Consumer Protection:

<sup>Footnote 2</sup> Public Law 104-208, Sept. 30, 1996, 12 U.S.C. 3311. We published our first notice in the Federal Register on June 16, 2003, at 68 FR 35589; our second notice on January 21, 2004, at 69 FR 2852; our third notice on July 20, 2004, at 69 FR 43347; our fourth notice on February 3, 2005, at 70 FR 5571; and our fifth notice on August 11, 2005, at 70 FR 46779. You may view the notices at our web site, <http://www.EGRPRA.gov>.

Account/Deposit Relationships and Miscellaneous Consumer Rules; Directors, Officers and Employees; International Operations; Money Laundering; Powers and Activities; Rules of Procedure; Safety and Soundness; and Securities. You may see the categories and the rules placed within them at our web site, <http://www.EGRPRA.gov>.

With this notice, we have requested public comment regarding possible burden reduction in all categories of rules. Our June 16, 2003, notice requested comment on three categories: Applications and Reporting; Powers and Activities; and International Operations. Our January 21, 2004, notice requested comment on Consumer Protection: Lending Related Rules. Our July 20, 2004, notice requested comment on Consumer Protection: Account/Deposit Relationships and Miscellaneous Consumer Rules. Our February 3, 2005 notice requested comment on three categories: Money Laundering, Safety and Soundness, and Securities. Our August 11, 2005 notice requested comment on three categories: Banking Operations; Directors, Officers and Employees; and Rules of Procedure.

Additionally, an EGRPRA request for comment was included in the recent joint advance notice of proposed rulemaking regarding Risk-Based Capital Guidelines; Capital Adequacy Guidelines; and Capital Maintenance: Domestic Capital Modifications<sup>Footnote3</sup> As a result, a request for comment on those regulations is not duplicated here. In addition, the regulations implementing the Community Reinvestment Act are not included in this notice and request for comment because, during the past two years, the Agencies solicited comment on burden

<sup>Footnote3</sup> 70 FR 61068, 61071 (Oct. 20, 2005).

reduction measures for the CRA regulations and received voluminous comments in response.<sup>Footnote4</sup>

The Agencies have adopted final rules revising the CRA regulations, mindful of the comments related to burden reduction.<sup>Footnote5</sup> Today, we request comment on rules regarding Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements, which are in the Capital and Community Reinvestment Act categories, respectively—the regulations on which burden reduction comments have not yet been sought.

In addition to soliciting written comments, we held banker outreach meetings 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 held joint outreach meetings including bankers as well as consumer and community groups in Washington, DC, Los Angeles and Kansas City. You may learn more about the meetings and related recommendations at our EGRPRA web site, <http://www.EGRPRA.gov>.

We received 19 comments in response to the first notice, about 560 to the second notice, over 100 to the third notice, 123 to the fourth notice and 29 to the fifth notice. The Agencies appreciate the response to our notices and outreach meetings. The written comments and

<sup>Footnote4</sup> See 66 FR 37602 (July 19, 2001) (Joint Advance Notice of Proposed Rulemaking); 69 FR 5729 (Feb. 6, 2004) (Joint Notice of Proposed Rulemaking); 69 FR 51611 (Aug. 20, 2004) (FDIC Notice of Proposed Rulemaking); 69 FR 56175 (Sept. 20, 2004) (FDIC extension of comment period for proposed rule); 69 FR 68257 (Nov. 24, 2004) (OTS Notice of Proposed Rulemaking); and 70 FR 12148 (Mar. 11, 2005) (OCC, FRB and FDIC Notice of Proposed Rulemaking).

<sup>Footnote5</sup> See 69 FR 51155 (Aug. 18, 2004) (OTS Final Rule); 70 FR 10023 (Mar. 2, 2005) (OTS Final Rule); and 70 FR 44256 (Aug. 2, 2005) (OCC, FRB and FDIC Final Rule).

remarks at the meetings came from individuals, banks, savings associations, holding companies, industry trade groups, and consumer and community groups. Many comments contained multiple suggestions for regulatory reform. You may view the comments at our EGRPRA web site, <http://www.EGRPRA.gov>. We are actively reviewing the feedback received about specific ways to reduce regulatory burden, as well as conducting our own analyses.

In addition, Congress has considered various legislative proposals to reduce burden on the financial services industry. In 2004 and 2005, representatives of the Agencies and industry leaders testified before congressional committees about these legislative reform proposals and other ideas for reducing burden on the financial services industry. We will continue to post information about legislative and regulatory reform efforts on our web site.

## **II. Request for Comment on Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements.**

Today we are asking the public to identify ways in which the rules pertaining to Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements (which are part of the Capital and Community Reinvestment Act categories) may be outdated, unnecessary, or unduly burdensome. The chart at the end of this notice sets forth the regulations about which we seek comment.

**Specific issues to consider.** While all comments are welcome, we specifically invite comment on the following issues:

**A. Need for statutory change.** (1) Do any statutory requirements underlying the rules impose unnecessary, redundant, conflicting or unduly burdensome requirements? (2) Are there less burdensome alternatives?

**B. Need and purpose of the regulations.** (1) Are the regulations consistent with the purposes of the statutes that they implement? (2) Have circumstances changed so that a rule is no longer necessary or needs revision? (3) Do changes in the financial products and services offered to consumers and businesses suggest a need to revise certain regulations (or statutes)? (4) Do any of the regulations impose compliance burdens not required by the statutes they implement?

**C. General approach / flexibility.** (1) Would a different general approach to regulating achieve statutory goals with less burden? (2) Do any of these rules impose unnecessarily inflexible requirements?

**D. Effect of the regulations on competition.** Do any of the regulations or statutes create competitive disadvantages for insured depository institutions compared to the rest of the financial services industry or competitive disadvantages for one type of insured depository institution over another?

**E. Reporting, recordkeeping, and disclosure requirements.** (1) Which reporting, recordkeeping, or disclosure requirements impose the most compliance burdens? (2) Are any of

the reporting or recordkeeping requirements unnecessary to demonstrate compliance with the law?

**F. Consistency and redundancy.** (1) Are any of the requirements under one regulation inconsistent with or duplicative of requirements under another regulation? (2) If so, are the inconsistencies not warranted by the purposes of the regulations?

**G. Clarity.** Are any of the regulations drafted unclearly?

**H. Burden on small insured institutions.** We have particular interest in minimizing burden on small insured institutions (those with assets of \$150 million or less). Are there appropriate ways to amend these rules to minimize adverse economic impact on small insured institutions?

The Agencies appreciate the efforts of all interested parties to help us eliminate outdated, unnecessary, or unduly burdensome regulatory requirements.

**Table showing the Rules for which we are requesting comment now:  
Capital and the Community Reinvestment Act.**

Subject	National Banks	State Member Banks	State Non-Member Banks	Thrifts	Holding Companies  Bank <sup>Footnote6</sup>  Thrift
<b>1. Capital</b>					
<b><u>Interagency Regulations</u></b>					
Prompt Corrective Action	12 CFR Part 6	12 CFR Part 208, Subpart D [Reg. H]; 12 CFR 263.201-.205	12 CFR Part 325, Subpart B	12 CFR Part 565	12 CFR 208.44(i); 12 CFR 263.201-.202, .205
					12 CFR 565.5(i); 12 CFR 565.7; 12 CFR 565.10
<b>2. Community Reinvestment Act</b>					
<b><u>Interagency Regulations</u></b>					
Disclosure and Reporting of CRA-Related Agreements	12 CFR Part 35	12 CFR Part 207 [Reg. G]	12 CFR Part 346	12 CFR Part 533	12 CFR Part 207 [Reg. G]  12 CFR 533

<sup>Footnote6</sup> Foreign banking organizations that conduct banking operations in the U.S., either directly through branches and agencies or indirectly through U.S. bank subsidiaries or commercial lending company subsidiaries, generally are subject to the same regulatory regime as domestic bank holding companies.

Dated:December 23, 2005

\_\_\_\_\_  
(signed)  
John C. Dugan  
Comptroller of the Currency

By order of the Board of Governors of the Federal Reserve System on December 8, 2005.

\_\_\_\_\_  
(signed)  
Jennifer J. Johnson,  
Secretary of the Board

\_\_\_\_\_  
(signed)  
Robert E. Feldman  
Executive Secretary

Dated:December 6, 2005