

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Chap. I**

**Docket No. [##]**

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

**12 CFR Chap. II**

**Docket No. OP-1232**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Chap. III**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**12 CFR Chap. V**

**No. [2005-26]**

**Request for Burden Reduction Recommendations; Rules Relating to Banking Operations;  
Directors, Officers and Employees; and Rules of Procedure; 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**SUMMARY:** The OCC, Board, FDIC, and OTS (“we” or “the Agencies”) are reviewing our regulations to identify outdated, unnecessary, or unduly burdensome regulatory requirements pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).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 in rules we have categorized as Banking Operations; Directors, Officers and Employees; and Rules of Procedure. 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.

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 November 9, 2005.

**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 may submit comments, identified by [docket ##], by any of the following methods:

- E-mail: [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). Include [docket ##] in the subject line of the message. Please include your name and address.
- Fax: (202) 874-4448.
- Mail: Public Information Room  
Office of the Comptroller of the Currency  
250 E Street, SW, Mailstop 1-5  
Washington, DC 20219  
Attention: Docket ##

Public Inspection: You may inspect and photocopy comments at the Public Information Room. You can make an appointment to inspect the comments by calling (202) 874-5043.

**Board:** You may submit comments, identified by Docket Number OP-1232, 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, except as necessary 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:**

- Claude A. Rollin, Special Assistant to the Vice Chairman, (202) 898-8741.
- 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>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 us identify which regulatory requirements in three categories -- Banking Operations; Directors, Officers and Employees; and Rules of Procedure -- are outdated, unnecessary, or unduly burdensome. We list the rules in these 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 fifth notice in our multi-year review of regulations for burden reduction required by section 2222 of EGRPRA.<sup>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.

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

<sup>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; and our fourth notice on February 3, 2005, at 70 FR 5571. You may view the notices at our web site, <http://www.EGRPRA.gov>.

- Publish the regulations by category to request comments 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 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: 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>.

We previously requested public comment about possible burden reduction in eight 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 about three categories: Money Laundering, Safety and Soundness, and Securities. Today, we request

comment on rules related to Banking Operations; Directors, Officers and Employees; and Rules of Procedure.

In addition to soliciting written comments, we held banker outreach meetings in Orlando, St. Louis, Denver, San Francisco, New York City, Nashville, Seattle, Chicago, Phoenix, and New Orleans to hear directly from the industry about ways the Agencies could reduce regulatory burden. More than 450 representatives from the industry have attended the outreach meetings. The Agencies also have held three outreach meetings with over 100 participants for representatives of consumer and community groups to obtain their input on regulatory burden reduction. The consumer meetings were held in Arlington, Virginia, San Francisco, and Chicago. Another consumer meeting is scheduled for September, 2005 in Boston. These meetings have helped focus our regulatory burden reduction efforts. We anticipate holding additional outreach events this year. 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, and 123 to the fourth notice. The Agencies appreciate the response to our notices and outreach meetings. The written comments and remarks at the meetings came from individuals, banks, savings associations, holding companies, industry trade groups, and consumer and community groups. 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 Rules Related to: Banking Operations; Directors, Officers and Employees; and Rules of Procedure.**

Today, we are asking the public to identify ways in which the rules related to Banking Operations; Directors, Officers and Employees; and Rules of Procedure may be outdated, unnecessary, or unduly burdensome. As shown on the chart at the end of this notice, there are 28 regulations in these categories.

**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.

**Rules for which we are requesting comment now:  
Banking Operations; Directors, Officers and Employees; and Rules of Procedure**

Subject	National Banks	State Member Banks	State Non-Member Banks	Thriffs	Holding Companies  Bank <sup>3</sup> ----- Thrift
<b>1. Banking Operations</b>					
<b>Interagency Regulations</b>					
Prohibition of Payment of Interest on Demand Deposits	12 CFR Part 217 [Reg. Q]	12 CFR Part 217 [Reg. Q]	12 CFR Part 329	12 CFR 561.16	
<b>OCC Regulations</b>					
Assessment of Fees	12 CFR Part 8				
Bank Operations	12 CFR Part 7, Subpart C				
<b>Board Regulations</b>					
Availability of Funds and Collection of Checks	12 CFR Part 229 [Reg. CC]	12 CFR Part 229 [Reg. CC]	12 CFR Part 229 [Reg. CC]	12 CFR Part 229 [Reg. CC]	
Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire	12 CFR Part 210 [Reg. J]	12 CFR Part 210 [Reg. J]	12 CFR Part 210 [Reg. J]	12 CFR Part 210 [Reg. J]	
Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records	12 CFR Part 219 [Reg. S]	12 CFR Part 219 [Reg. S]	12 CFR Part 219 [Reg. S]	12 CFR Part 219 [Reg. S]	
Reserve Requirements of Depository Institutions	12 CFR Part 204 [Reg. D]	12 CFR Part 204 [Reg. D]	12 CFR Part 204 [Reg. D]	12 CFR Part 204 [Reg. D]	
The Payment System Risk Reduction Policy	Federal Reserve Regulatory Service 9-1000	Federal Reserve Regulatory Service 9-1000	Federal Reserve Regulatory Service 9-1000	Federal Reserve Regulatory Service 9-1000	

<sup>3</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.

Subject	National Banks	State Member Banks	State Non-Member Banks	Thriffs	Holding Companies Bank <sup>3</sup> ----- Thrift
<b>1. Banking Operations (continued)</b>					
<b>FDIC Regulations</b>					
Assessments	12 CFR Part 327	12 CFR Part 327	12 CFR Part 327	12 CFR Part 327	
Assessment of Fees upon Entrance to or Exit from the Bank Insurance Fund or the Savings Association Insurance Fund	12 CFR Part 312	12 CFR Part 312	12 CFR Part 312	12 CFR Part 312	
Determination of Economically Depressed Regions				12 CFR Part 357	
<b>OTS Regulations</b>					
Assessments and Fees				12 CFR Part 502	----- 12 CFR Part 502
<b>2. Directors, Officers and Employees</b>					
<b>Interagency Regulations</b>					
Disclosure of Financial Information	12 CFR Part 18		12 CFR Part 350		
Golden Parachute and Indemnification Programs	12 CFR Part 359	12 CFR Part 359	12 CFR Part 359	12 CFR Part 359; See also: 12 CFR 545.121	12 CFR Part 359 ----- 12 CFR Part 359
Limits on Extensions of Credit to Executive Officers, Directors and Principal Shareholders; Related Disclosure Requirements	12 CFR Part 31	12 CFR Part 215 [Reg. O]	12 CFR 337.3; 12 CFR Part 349	12 CFR 563.43	

Subject	National Banks	State Member Banks	State Non-Member Banks	Thrifts	Holding Companies  Bank <sup>3</sup> ----- Thrift
<b>2. Directors, Officers and Employees (continued)</b>					
<b>Interagency Regulations (continued)</b>					
Management Official Interlocks	12 CFR Part 26	12 CFR Part 212 [Reg. L]	12 CFR Part 348	12 CFR Part 563f	12 CFR Part 212 [Reg. L]  ----- 12 CFR Part 563f
<b>OCC Regulations</b>					
Bank Activities and Operations – Corporate Practices	12 CFR Part 7, Subpart B				
<b>OTS Regulations</b>					
Board of Directors Composition				12 CFR 563.33	
Bond Coverage				12 CFR 563.190-.191	
Employment Contracts, Compensation, Pension Plans				12 CFR 563.39; 12 CFR 563.47; 12 CFR 563.161	
Restrictions on Transactions with Officers, Directors, and Others				12 CFR 560.130; 12 CFR 563.200-.201	----- 12 CFR 563.200-.201
<b>3. Rules of Procedure</b>					
<b>Interagency Regulations</b>					
Uniform Rules of Practice and Procedure	12 CFR Part 19	12 CFR Part 263	12 CFR Part 308	12 CFR Part 509	12 CFR Part 263  ----- 12 CFR Part 509
<b>OCC Regulations</b>					
Voluntary Liquidation	12 CFR 5.48				
<b>FDIC Regulations</b>					
Resolution and Receivership Rules	12 CFR Part 360	12 CFR Part 360	12 CFR Part 360	12 CFR Part 360	

Subject	National Banks	State Member Banks	State Non-Member Banks	Thriffs	Holding Companies Bank <sup>3</sup> ----- Thrift
<b>3. Rules of Procedure (continued)</b>					
<b>FDIC Regulations (continued)</b>					
Restrictions on Sale of Assets by the Federal Deposit Insurance Corporation	12 CFR Part 340	12 CFR Part 340	12 CFR Part 340	12 CFR Part 340	
<b>OTS Regulations</b>					
Investigative Proceedings and Formal Examinations				12 CFR Part 512	----- 12 CFR Part 512
Possession by Conservators and Receivers for Federal and State Savings Associations				12 CFR Part 558	
Removals, Suspensions and Prohibitions Where a Crime is Charged or Proven				12 CFR Part 508	----- 12 CFR Part 508

[THIS SIGNATURE PAGE PERTAINS TO THE NOTICE TITLED “REQUEST FOR BURDEN REDUCTION RECOMMENDATIONS; RULES RELATING TO BANKING OPERATIONS; DIRECTORS, OFFICERS AND EMPLOYEES; AND RULES OF PROCEDURE; ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT OF 1996 REVIEW.”]

Dated: \_\_\_\_\_.

\_\_\_\_\_  
Julie L. Williams  
Acting Comptroller of the Currency

By order of the Board of Governors of the Federal Reserve System on August 1, 2005.

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



[THIS SIGNATURE PAGE PERTAINS TO THE NOTICE TITLED “REQUEST FOR BURDEN REDUCTION RECOMMENDATIONS; RULES RELATING TO BANKING OPERATIONS; DIRECTORS, OFFICERS AND EMPLOYEES; AND RULES OF PROCEDURE; ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT OF 1996 REVIEW.”]

By order of the Board of Directors.

Federal Deposit Insurance Corporation

Dated at Washington, DC, this \_\_\_\_ day of \_\_\_\_\_ 2005.

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Robert E. Feldman,  
Executive Secretary

Dated: \_\_\_\_\_.

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Richard M. Riccobono  
Acting Director, Office of Thrift Supervision