

Overview of Selected Regulations and Supervisory Guidance

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

Subject	Summary
<p>Amended Regulations Reflecting Merger of the Bank Insurance Fund and Savings Association Insurance Fund (FIL-36-2006, April 27, 2006; and Federal Register, Vol. 71, No. 77, p. 20524, April 21, 2006)</p>	<p>The Federal Deposit Insurance Corporation (FDIC) merged the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF) to form the Deposit Insurance Fund (DIF), effective March 31, 2006. This action was pursuant to the provisions in the Federal Deposit Insurance Reform Act of 2005. The FDIC has amended its regulations to reflect the merger.</p>
<p>Updated Compliance (FIL-34-2006, April 19, 2006) and Community Reinvestment Act (FIL-33-2006, April 10, 2006) Examination Procedures</p>	<p>The FDIC issued revised compliance examination procedures that incorporate banker feedback and results of internal reviews. Additionally, the FDIC, the Board of Governors of the Federal Reserve System (Federal Reserve Board), and the Office of the Comptroller of the Currency (OCC) issued new interagency Community Reinvestment Act (CRA) examination procedures for intermediate small banks and revised the existing CRA examination procedures for small institutions, large institutions, wholesale and limited purpose institutions, and institutions under a strategic plan. The CRA examination procedures reflect the significant changes to the CRA regulations that took effect on September 1, 2005.</p>
<p>Comments Requested on Ways to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies (PR 32-2006, March 22, 2006; FIL-31-2006, April 7, 2006; and Federal Register, Vol. 71, No. 55, p. 14419, March 22, 2006)</p>	<p>The FDIC, the Federal Reserve Board, the OCC, the Office of Thrift Supervision (OTS), the National Credit Union Administration (NCUA) (collectively, the Federal financial institution regulatory agencies), and the Federal Trade Commission jointly published an Advance Notice of Proposed Rulemaking (ANPR). The ANPR invites comment for the purpose of developing guidelines and rules to enhance the accuracy and integrity of information furnished to consumer reporting agencies, pursuant to Section 312 of the Fair and Accurate Credit Transactions (FACT) Act. Comments were due by May 22, 2006.</p>
<p>Interagency Advisory on Influenza Pandemic Preparedness (FIL-25-2006, March 15, 2006)</p>	<p>The FDIC, the Federal Reserve Board, the OCC, and the OTS (collectively, the Federal banking agencies) issued an advisory to financial institutions and their technology service providers. The advisory is intended to raise awareness of the threat of a pandemic influenza outbreak and its potential impact on the delivery of critical financial services. It also advises recipients to consider this and similar threats in their event response and contingency strategies.</p>
<p>Final Rules on Changes in Deposit Insurance Coverage (PR-29-2006, March 14, 2006; FIL-27-2006, March 28, 2006; and Federal Register, Vol. 71, No. 56, p. 14629, March 23, 2006)</p>	<p>The FDIC adopted interim final rules to implement provisions of the Federal Deposit Insurance Reform Act of 2005 pertaining to deposit insurance coverage. The rules raise the deposit insurance coverage on certain retirement accounts to \$250,000 from \$100,000. The basic insurance coverage for other deposit accounts remains at \$100,000. The rules took effect on April 1, 2006.</p>
<p>Interagency Guidance on the Community Reinvestment Act (PR-23-2006, March 2, 2006; FIL-23-2006, March 10, 2006; and Federal Register, Vol. 71, No. 47, p. 12424, March 10, 2006)</p>	<p>The FDIC, the Federal Reserve Board, and the OCC published informal staff guidance on community reinvestment in the form of questions and answers. The agencies developed these interagency questions and answers to address several significant revisions to the CRA regulations that took effect on September 1, 2005.</p>
<p>Revised Fair Credit Reporting Act Examination Procedures (FIL-18-2006, February 22, 2006)</p>	<p>The Federal Financial Institution Examinations Council (FFIEC) Task Force on Consumer Compliance approved Fair Credit Reporting Act (FCRA) examination procedures for use in risk-focused compliance examinations. The procedures, which became effective on February 22, 2006, incorporate the new requirements created by the FACT Act.</p>

Subject	Summary
<p>Joint Final Rule on Capital Standards for Securities Borrowing Transactions (FIL-17-2006, February 22, 2006; and Federal Register, Vol. 71, No. 35, p. 8932, February 22, 2006)</p>	<p>The FDIC, the Federal Reserve Board, and the OCC issued a joint final rule clarifying the capital treatment for securities borrowing transactions for banks and bank holding companies that are subject to the Market Risk Capital, Rule 12, CFR Part 325, Appendix C. The final rule took effect on February 22, 2006.</p>
<p>Guidance on Hurricane-Related Benefit Fraud (FIL-15-2006, February 14, 2006)</p>	<p>The FDIC provided guidance issued by the Financial Crimes and Enforcement Network (FinCEN) regarding benefit fraud related to the recent hurricanes. The guidance includes possible signs of fraudulent activity to assist financial institutions in identifying hurricane-related benefit fraud. FinCEN also requested that specific words be used in the narrative portion of all Suspicious Activity Reports (SARs) filed in connection with hurricane-related fraud.</p>
<p>Final Guidance Regarding Unsafe and Unsound Use of Limitation of Liability Provisions in External Audit Engagement Letters (PR-11-2006, February 3, 2006; FIL-13-2006, February 9, 2006; and Federal Register, Vol. 71, No. 27, p. 6847, February 9, 2006)</p>	<p>The Federal financial institution regulatory agencies issued the final interagency advisory on the unsafe and unsound use of limitation of liability provisions in external audit engagement letters. These provisions may weaken an external auditor's objectivity, impartiality, and performance, and thus reduce the regulatory agencies' ability to rely on the external audit. The final advisory applies to all audits of financial institutions, regardless of the size of the institution, whether the institution is public or not, and whether the audits are required or voluntary.</p>
<p>Interagency Examination Guidance for Institutions Affected by Hurricane Katrina (FIL-12-2006, February 3, 2006)</p>	<p>The Federal financial institution regulatory agencies and the state supervisory authorities in Alabama, Louisiana, and Mississippi jointly issued examiner guidance outlining the supervisory practices to be followed in assessing the financial condition of institutions affected by Hurricane Katrina. The guidance notes that when considering any supervisory response, examiners will give appropriate recognition to the extent to which weaknesses are caused by external problems related to the hurricane and its aftermath.</p>
<p>Guidance on Sharing Suspicious Activity Reports with Controlling Companies (FIL-5-2006, January 20, 2006)</p>	<p>The FinCEN and the Federal financial institution regulatory agencies issued guidance to notify institutions when a SAR can be shared with a holding company or other controlling company, or with the head office of a U.S. branch or agency of a foreign bank. Institutions may share a SAR to discharge their oversight responsibilities with respect to enterprise-wide risk management and compliance with applicable laws and regulations.</p>
<p>Comments Requested on Proposed Guidance on Commercial Real Estate Lending (FIL-4-2006, January 13, 2006; Federal Register, Vol. 71, No. 9, p. 2302, January 13, 2006; and PR-27-2006, March 9, 2006)</p>	<p>The Federal banking agencies sought comment on guidance relating to sound risk management practices for concentrations in commercial real estate (CRE) lending. The proposed guidance reinforces existing guidelines for real estate lending and provides criteria for identifying institutions with CRE loan concentrations that may warrant greater supervisory scrutiny. The comment period was extended to April 13, 2006.</p>
<p>Comments Requested on Reducing Regulatory Burden in Rules on Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements (FIL-3-2006, January 11, 2006; and Federal Register, Vol. 71, No. 2, p. 287, January 4, 2006)</p>	<p>The Federal banking agencies asked for recommendations on how to reduce regulatory burden on insured institutions in rules relating to Prompt Corrective Action and the Disclosure and Reporting of Community Reinvestment Act-Related Agreements. This request is part of the agencies' effort to identify and eliminate regulatory requirements that are outdated, unnecessary, or unduly burdensome pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996. Comments were due by April 4, 2006.</p>

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Guidance to Help Financial Institutions Affected by Wildfires (FIL-130-2005, December 30, 2005)	The FDIC issued supervisory practices intended to facilitate the rebuilding process in areas in Oklahoma and Texas damaged by wildfires.
Comments Requested on Interagency Guidance on Nontraditional Mortgage Products (PR-128-2005, December 20, 2005; FIL-129-2005, December 29, 2005; and <i>Federal Register</i>, Vol. 70, No. 249, p. 77249, December 29, 2005)	The Federal financial institution regulatory agencies proposed guidance addressing the potential for heightened risk levels associated with nontraditional mortgage lending and the importance of carefully mitigating those risk exposures. The comment period was extended to March 29, 2006.
Final Rules on Section 312 of the USA Patriot Act (FIL-128-2005, December 28, 2005; and <i>Federal Register</i>, Vol. 71, No. 2, p. 496, January 4, 2006)	The FinCEN announced the final regulation implementing the due diligence requirements for the international correspondent banking and the private banking provisions of Section 312 of the USA PATRIOT Act. For new accounts opened by U.S. financial institutions, the final rules were extended to July 5, 2006, and for existing accounts, the rules will be effective October 2, 2006. (See FIL-35-2006, April 24, 2006.) Concurrently, FinCEN released a further notice of proposed rulemaking regarding due diligence procedures for correspondent accounts maintained for certain foreign banks.
Guidance on Filing Notices of Proposed Class Action Settlements (FIL-126-2005, December 21, 2005)	The FDIC issued guidance on new requirements for filing notices of proposed class action settlements involving financial institutions for which the FDIC is the primary Federal regulator.
Guide to Help Financial Institutions Comply with Information Security Guidelines (PR-127-2005, December 14, 2005)	The Federal banking agencies issued a compliance guide to accompany the <i>Interagency Guidelines Establishing Information Security Standards</i> (Security Guidelines). This guide summarizes the obligations of financial institutions to protect customer information and shows how certain provisions of the Security Guidelines apply to specific situations.
Final Rule on Medical Information (PR-114-2005, November 17, 2005; FIL-121-2005, December 8, 2005; <i>Federal Register</i>, Vol. 70, No. 224, p. 70663)	The Federal financial institution regulatory agencies issued final rules relating to the FACT Act. Section 411 of the FACT Act prohibits creditors from obtaining and using medical information in determining credit eligibility, except as permitted by the financial institution regulatory agencies. Through the final rules, the agencies developed exceptions that will allow creditors to obtain and use medical information in appropriate circumstances. The rules took effect on April 1, 2006.
Amendments to Annual Independent Audits and Reporting Requirements (FIL-119-2005, November 28, 2005; and <i>Federal Register</i>, Vol. 70, No. 227, p. 71226, November 28, 2005)	The FDIC amended Part 363 of its regulations by raising the asset-size threshold from \$500 million to \$1 billion for internal control assessments by management and external auditors. For institutions in this asset range, only a majority of the members of the audit committee (who must be outside directors) must be independent of management. The final rule was effective December 28, 2005.
Revised Trust Examination Manual Available (FIL-118-2005, November 23, 2005)	The FDIC made available its updated <i>Trust Examination Manual</i> at www.fdic.gov/regulations/examinations/trustmanual/index.html . The manual also may be purchased in a CD-ROM format.

Subject

Final Rules on Post-Employment Restrictions for Senior Examiners (PR-115-2005; and *Federal Register*, Vol. 70, No. 221, p. 69633, November 17, 2005)

Comments Requested on Proposal to Modernize Large-Bank Deposit Insurance Determinations (PR-122-2005, December 6, 2005; FIL-2-2006, January 10, 2006; and *Federal Register*, Vol. 70, No. 238, p. 73652, December 13, 2005)

Comments Requested on Proposed Revisions to Statement of Policy on the National Historic Preservation Act of 1966 (FIL-112-2005, November 15, 2005; and *Federal Register*, Vol. 70, No. 200, p. 60523, October 18, 2005)

Comments Requested on Proposed Rulemaking on Interstate Banking Federal Interest Rate Authority (FIL-109-2005, November 11, 2005)

Summary

The Federal banking agencies issued final rules to implement a special post-employment restriction on certain senior examiners. Under the final rules, if an examiner serves as the senior examiner for a depository institution or depository institution holding company for more than 2 months during the last 12 months of employment with an agency or Federal Reserve Bank, the examiner may not knowingly accept compensation as an employee, officer, director, or consultant from that institution. The restriction applies for one year after the examiner leaves the employment of the agency or Reserve Bank. The final rules were effective December 17, 2005.

The FDIC sought comment on whether the largest insured depository institutions should be required to modify their deposit systems so that the FDIC may calculate deposit insurance coverage quickly in the event of a failure of one of these institutions. For purposes of the Advance Notice of Proposed Rulemaking, a large institution is one that holds more than 250,000 deposit accounts and \$2 billion in domestic deposits. Comments were due by March 13, 2006.

The FDIC proposed to revise its Statement of Policy (SOP) on the National Historic Preservation Act of 1966 (NHPA) to reflect the FDIC's experience and practices in applying the current SOP and statutory changes to the NHPA and its implementing regulations. The proposed SOP would continue to be relevant to applications for deposit insurance for de novo institutions, applications to establish domestic branches, and applications to relocate domestic branches or main offices. Comments were due by December 19, 2005.

The FDIC published a proposed rulemaking to clarify which state laws apply to branches of out-of-state state-chartered banks, and the interest rates state-chartered banks may charge. Comments were due by December 13, 2005.