

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.

ACRONYMS and DEFINITIONS

FDIC	Federal Deposit Insurance Corporation
FRB	Federal Reserve Board
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision
NCUA	National Credit Union Administration
Banking agencies	FDIC, FRB, and OCC
Federal bank and thrift regulatory agencies	FDIC, FRB, OCC, and OTS
Federal financial institution regulatory agencies	FDIC, FRB, OCC, OTS, and NCUA

Subject	Summary
Deposit Insurance Assessments—Notice of Proposed Rulemaking on Dividends (FIL-24-2008, March 26, 2008; Federal Register, Vol. 73, No. 57, p. 15459, March 24, 2008)	The FDIC sought comments on regulations to implement dividend requirements in the Federal Deposit Reform Act of 2005 and the Federal Deposit Insurance Conforming Amendments Act of 2005. The final rule will replace the existing FDIC regulations on dividends, which will expire on December 31, 2008. Comments were due by May 23, 2008. See http://www.fdic.gov/news/news/financial/2008/fil08024.html .
Proposed Revisions to Interagency Questions and Answers Regarding Flood Insurance (PR-26-2008, March 21, 2008, FIL-23-2008, March 21, 2008; Federal Register, Vol. 73, No. 56, p. 15259, March 21, 2008)	The federal financial institution regulatory agencies and the Farm Credit System requested public comment on proposed revisions to the Interagency Questions and Answers regarding flood insurance. New questions and answers, as well as substantive and technical revisions to the existing guidance, address several topics, including construction loans, residential condominium loans, loan syndications and participations, gap insurance policies, and mandatory civil money penalties. Comments were due by May 20, 2008. See http://www.fdic.gov/news/news/financial/2008/fil08023.html .
Managing Commercial Real Estate (CRE) Concentrations in a Challenging Environment (PR-24-2008, March 17, 2008, FIL-22-2008, March 17, 2008)	The FDIC re-emphasized the importance of strong capital and loan loss allowance levels and robust credit risk management practices for institutions with concentrated CRE exposures, consistent with the December 6, 2006, Interagency Guidance on CRE lending and the December 13, 2006, Interagency Policy Statement on the Allowance for Loan and Lease Losses. See http://www.fdic.gov/news/news/financial/2008/fil08022.html .
Agencies Release Annual Community Reinvestment Act (CRA) Asset-Size Threshold Adjustments for Small and Intermediate Small Institutions (PR-107-2007, December 19, 2007, FIL-18-2008, March 10, 2008; Federal Register, Vol. 72, No. 245, p. 72571, December 21, 2007)	The federal bank and thrift regulatory agencies announced the annual adjustment to the asset-size thresholds: “small bank” or “small savings association” refers to an institution that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.061 billion; “intermediate small bank” or “intermediate small savings association” refers to an institution with assets of at least \$265 million as of December 31 for both of the prior two calendar years and less than \$1.061 billion as of December 31 of either of the prior two calendar years. See http://www.fdic.gov/news/news/financial/2008/fil08018.html .

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<p>FDIC Statement on Reporting of Securitized Subprime Adjustable Rate Residential Mortgages (PR-19-2008, March 3, 2008, FIL-17-2008, March 3, 2008)</p>	<p>The FDIC strongly encourages state nonmember institution mortgage servicers to use the HOPE NOW alliance’s loan modification and loss mitigation reporting standards for securitized adjustable-rate subprime residential mortgage loans to streamline refinancing, loan modification, and loss avoidance. The FDIC also encourages state nonmember institution mortgage servicers to be responsive to other ongoing data and information requests designed to track loss mitigation efforts, including the State Foreclosure Prevention Working Group. See http://www.fdic.gov/news/news/financial/2008/fil08017.html.</p>
<p>Publication on Calculating Deposit Insurance Coverage for Revocable and Irrevocable Trusts (PR-17-2008, February 29, 2008, FIL-16-2008, February 29, 2008)</p>	<p>A new FDIC publication, <i>FDIC Guide to Calculating Deposit Insurance Coverage for Revocable and Irrevocable Trusts</i>, provides detailed information and guidance on how to calculate FDIC coverage for deposits held by such trusts. See http://www.fdic.gov/news/news/financial/2008/fil08016.html.</p>
<p>Revisions to the Consolidated Reports of Condition and Income for 2008 (FIL-13-2008, February 20, 2008)</p>	<p>The Federal Financial Institutions Examination Council (FFIEC) approved revisions to the reporting requirements. These revisions were implemented as of March 31, 2008, with certain items optional until the June 30, 2008, report date. The agencies are making a number of reporting changes related to one- to four-family residential mortgage loans, such as reporting interest and fee income on, and the quarterly average for, such mortgages separately from the income on, and the quarterly average for, all other real estate loans. The agencies also are adding new items for restructured troubled mortgages and mortgage loans in process of foreclosure. See http://www.fdic.gov/news/news/financial/2008/fil08013.html.</p>
<p>Interagency Statement on Pandemic Planning (FIL-6-2008, February 6, 2008)</p>	<p>The FFIEC issued this Interagency Statement identifying actions that financial institutions should take to minimize the potential adverse effects of a pandemic. An institution’s business continuity plan should address pandemics and provide a preventive program, a documented strategy scaled to the stages of a pandemic outbreak, a comprehensive framework to ensure the continuance of critical operations, a testing program, and an oversight program to ensure the plan is reviewed and updated. See http://www.fdic.gov/news/news/financial/2008/fil08006.html.</p>
<p>Guidance issued on the Internal Control Attestation Standards to Comply with FDIC’s Part 363 Audit and Reporting Requirements (FIL-5-2008, February 1, 2008)</p>	<p>The FDIC provided guidance on the internal control attestation standards that auditors of insured institutions with \$1 billion or more in total assets should follow to comply with Part 363 of the FDIC’s regulations. See http://www.fdic.gov/news/news/financial/2008/fil08005.html.</p>
<p>Proposed Rulemaking Notice for Processing Deposit Accounts in a Bank Failure and Modernizing Large-Bank Insurance Determination (PR-106-2007, December 19, 2007, FIL-2-2008, January 14, 2008; Federal Register, Vol. 73, No. 9, p. 2364, January 14, 2008)</p>	<p>The FDIC issued a two-part proposed rule related to the potential failure of an FDIC-insured depository institution. The first part of the proposal would govern how and at what point deposit account balances would be determined in the event of a failure, and applies to all FDIC-insured depository institutions. The second part proposes requirements to facilitate the process for determining the insurance status of depositors of large insured depository institutions in the event of failure. Comments were due by April 14, 2008. See http://www.fdic.gov/news/news/financial/2008/fil08002.html.</p>

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Subject	Summary
Comments Sought on Proposed Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies. (PR-98-2007, November 29, 2007, FIL-115-2007, December 21, 2007; <i>Federal Register</i> , Vol. 72, No. 239, p. 70944, December 13, 2007)	The federal financial institution regulatory agencies and the Federal Trade Commission (FTC) propose regulations and guidelines implementing Section 312 of the Fair and Accurate Credit Transactions Act (FACT Act), which amended Section 623 of the Fair Credit Reporting Act. The proposed accuracy and integrity regulations require entities that furnish information about consumers to a consumer reporting agency to establish reasonable policies and procedures for implementing the proposed guidelines. The proposed rules would allow consumers to dispute inaccuracies about certain information reflected on their consumer reports directly with the furnishers of that information. Comments were due by February 11, 2008. See http://www.fdic.gov/news/news/financial/2007/fil07115.html .
Managing Risks Associated with Lapses in Flood Insurance Coverage (FIL-114-2007, December 21, 2007)	The FDIC issued guidance to emphasize the importance of ensuring adequate internal controls are in place to maintain appropriate levels of flood insurance coverage for the term of a loan when that loan is secured by improved real estate located, or to be located, in a special flood hazard area of a community participating in the National Flood Insurance Program. Such controls include monitoring renewal notices, commencing force placement procedures when the institution determines required flood insurance coverage is deficient or lapsed, and checking flood insurance policies to confirm coverage. See http://www.fdic.gov/news/news/financial/2007/fil07114.html .
Final Regulation Implementing Section 312 of the USA PATRIOT ACT – Special Due Diligence Programs for Certain Foreign Accounts (FIL-113-2007, December 21, 2007; <i>Federal Register</i> , Vol. 72, No. 153, p. 44768, August 9, 2007)	The Financial Crimes Enforcement Network issued a final rule to implement enhanced due diligence requirements for correspondent accounts for certain foreign banks. The rule applies to any correspondent account maintained for a foreign bank that operates under an offshore banking license, a banking license issued by a country designated as noncooperative with international anti-money laundering principles, or a banking license issued by a country designated by the Secretary of the Treasury as warranting special measures. The rule applies to correspondent accounts for certain foreign banks established after February 5, 2008, and then applies to all applicable correspondent accounts on May 5, 2008, regardless of when the account was established. See http://www.fdic.gov/news/news/financial/2007/fil07113.html .
Final Rule on Advanced Capital Adequacy Framework for Basel II Risk-Based Capital (PR-91-2007, November 5, 2007, FIL-107-2007, December 7, 2007; <i>Federal Register</i> , Vol. 72, No. 235, p. 69288, December 7, 2007)	The federal bank and thrift regulatory agencies issued the final rule concerning the domestic application of selected elements of the Basel II capital framework. The final rule requires some banks and permits other banks to use an internal ratings-based approach to calculate regulatory capital requirements for credit risk and an advanced measurement approach to calculate regulatory capital requirements for operational risk. The rule is effective April 1, 2008. See http://www.fdic.gov/news/news/financial/2007/fil07107.html .
Revisions to the FDIC Information Technology (IT) Officer's Questionnaire (FIL-105-2007, December 4, 2007)	The FDIC has updated its risk-focused IT examination procedures for FDIC-supervised financial institutions. As part of the revision, the IT Officer's Questionnaire was enhanced to provide greater coverage of vendor management and outsourcing topics, credit card and automated clearing house payment system risks, and an institution's overall information security program. See http://www.fdic.gov/news/news/financial/2007/fil07105.html .

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<p>Final Rule and Guidelines Implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003 on Identity Theft “Red Flags” and Address Discrepancies (FIL-100-2007, November 15, 2007; <i>Federal Register</i>, Vol. 72, No. 217, p. 63718, November 9, 2007)</p>	<p>The federal financial institution regulatory agencies and the FTC issued this final rule, which requires financial institutions and creditors to implement a written identity theft prevention program; card issuers to assess the validity of change of address requests; and users of consumer reports to reasonably verify the identity of the subject of a consumer report in the event of a notice of address discrepancy. The guidelines also contain a list of 26 “red flags” that financial institutions and creditors may consider incorporating into their identity theft prevention programs. The regulation and guidelines were effective January 1, 2008, with compliance required by November 1, 2008. See http://www.fdic.gov/news/news/financial/2007/fil07100.html.</p>
<p>The Final Rule Amending Section 344.9(a)(3) of Part 344, the FDIC’s Recordkeeping and Confirmation Requirements for Securities Transactions (FIL-99-2007, November 15, 2007; <i>Federal Register</i>, Vol. 72, No. 206, p. 60546, October 25, 2007)</p>	<p>The FDIC amended its regulation governing the reporting of personal securities transactions by bank officers and certain employees. The amendment extends the deadline for providing quarterly reports of personal securities transactions from ten business days to 30 calendar days after the end of the calendar quarter. The final rule was effective November 26, 2007. See http://www.fdic.gov/news/news/financial/2007/fil07099.html.</p>
<p>Final Rule to Implement the Affiliate Marketing Provisions of the Fair Credit Reporting Act (FCRA) as amended by the Fair and Accurate Credit Transactions Act (FACT Act) (FIL-98-2007, November 7, 2007; <i>Federal Register</i>, Vol. 72, No. 215, p. 62910, November 7, 2007)</p>	<p>The federal financial institution regulatory agencies, the Securities and Exchange Commission, and the FTC jointly published a final rule that implements Section 214 of the FACT Act, which generally prohibits a person from using information received from an affiliate to make a solicitation for marketing purposes to a consumer unless the consumer is given notice and a reasonable opportunity and a reasonable and simple method to opt out of making such solicitations. The final rule was effective January 1, 2008, and compliance is required by October 1, 2008. See http://www.fdic.gov/news/news/financial/2007/fil07098.html.</p>
<p>Volunteer Income Tax Assistance (VITA) – Potential CRA and Business Opportunities (FIL-97-2007, November 6, 2007)</p>	<p>Recent amendments to the Internal Revenue Service rules created more opportunities for financial institutions to help consumers save a portion of their refund. Financial institutions involved with VITA programs may be eligible for favorable considerations under Community Reinvestment Act rules, and may develop opportunities to facilitate education, open accounts, and provide other financial services to underserved individuals. See http://www.fdic.gov/news/news/financial/2007/fil07097.html.</p>
<p>Comments Sought on Proposed Amendments to Part 363 of FDIC Rules and Regulations – Annual Auditing and Reporting Requirements (FIL-96-2007, November 2, 2007; <i>Federal Register</i>, Vol. 72, No. 212, p. 62310, November 2, 2007)</p>	<p>The FDIC requested comments on proposed amendments to Part 363 in light of changes in the industry; certain sound audit, reporting, and audit committee practices incorporated in the Sarbanes-Oxley Act of 2002; and the FDIC’s experience in administering Part 363. The amendments are also intended to provide clearer and more complete guidance for compliance. Comments were due by January 31, 2008. See http://www.fdic.gov/news/news/financial/2007/fil07096.html.</p>