

Appendix D-2 to Part 208—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

By Order of the Board of Governors of the Federal Reserve System.

Dated: October 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

Authority and Issuance

For the reasons set forth in the common preamble, part 364 of chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

1. The authority citation for 12 CFR part 364 continues to read as follows:

Authority: 12 U.S.C. 1819 (Tenth), 1831p-1.

2. Appendix B to part 364 is revised to read as set forth at the end of the common preamble:

Appendix B to Part 364—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

By Order of the Board of Directors.

Dated at Washington, DC, this 8th Day of November, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

Authority and Issuance

For the reasons set forth in the common preamble, part 570 of chapter V of title 12 of the Code of Federal Regulations is amended as follows:

PART 570—SUBMISSION AND REVIEW OF SAFETY AND SOUNDNESS COMPLIANCE PLANS AND ISSUANCE OF ORDERS TO CORRECT SAFETY AND SOUNDNESS DEFICIENCIES

1. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p-1.

2. Appendix B to part 570 is revised to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

Dated: October 15, 1999.

Ellen Seidman,

Director.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 30

[Docket No. 99-17]

RIN 1557-AB67

FEDERAL RESERVE SYSTEM

12 CFR Part 263

[Docket No. R-1018]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 364

RIN 3064-AC18

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 570

[Docket No. 99-50]

RIN 1550-AB27

Safety and Soundness Standards

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Joint final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) are issuing this joint final rule to update their procedural rules pertaining to safety and soundness standards issued under section 39 of the Federal Deposit Insurance Act (FDI Act). This joint final rule adopts, with only one technical change, the Agencies' interim rules. This final rule is intended only to incorporate appropriate references to the Interagency Guidelines Establishing Year 2000 Standards for Safety and

Soundness published elsewhere in this issue of the **Federal Register**.

EFFECTIVE DATE: This joint final rule is effective on November 29, 1999.

FOR FURTHER INFORMATION CONTACT:

OCC: Karl Betz, Attorney, Legislative and Regulatory Activities (202) 874-5090; or Brian McCormally, Assistant Director, Enforcement and Compliance (202) 874-4800, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Stephanie Martin, Managing Senior Counsel, Legal Division (202) 452-3198. For the hearing impaired only, Telecommunication Device for Deaf (TDD), Diane Jenkins (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Sandy Comenetz, Year 2000 Project Manager, Legal Division (202) 898-3582; Richard Bogue, Counsel, Legal Division (202) 898-3726; or Nancy Chase Burton, Counsel, Legal Division (202) 898-6533, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Dorothy Van Cleave, National Year 2000 Coordinator (202) 906-7380; Stephen E. Hart, Assistant Chief Counsel, Office of Enforcement, Office of Chief Counsel (202) 906-7204; or Timothy P. Leary, Counsel (Banking & Finance), Regulations and Legislation Division, Office of Chief Counsel (202) 906-7170, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background and Discussion of Final Rule

In 1995, the Agencies jointly adopted Guidelines Establishing Standards for Safety and Soundness pursuant to section 39 of the FDI Act. 12 U.S.C. 1831p-1. At the same time, each Agency adopted rules establishing procedures for requiring submission of a compliance plan and issuing an enforceable order for violation of safety and soundness standards pursuant to section 39. The Guidelines Establishing Standards for Safety and Soundness are set forth in an appendix to each Agency's procedural rules. 60 FR 35674 (July 10, 1995).

On October 15, 1998, the Agencies adopted interim Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness (Year 2000 Guidelines) under section 39 of the FDI Act. 63 FR 55480. Elsewhere in this issue of the **Federal Register**, the Agencies are publishing final Year 2000 Guidelines. These Year 2000 Guidelines

will appear as a second appendix to the Agencies' respective procedural rules.

On October 15, 1998, the Agencies also published interim rules that made minor conforming amendments to their procedural rules to incorporate appropriate references to the Year 2000 Guidelines. 63 FR 55486. The Agencies received one comment on the interim rule. The commenter, a banking trade association, supported the interim rule.

The Agencies are now adopting the interim rule as published with two exceptions.

First, the OTS is making a minor, technical change to a reference in its rule.

Second, the OCC's current rules of procedure, set forth at §§ 30.1 through 30.6, differ slightly from those in the interim rule dated October 15, 1998 (63 FR 55486). On September 30, 1999, the OCC published its Guidelines Establishing Year 2000 Standards for Safety and Soundness for National Bank Transfer Agents and Broker-Dealers (64 FR 52638) (Supplemental Guidelines). The Supplemental Guidelines added a new appendix C to part 30 and made conforming changes to §§ 30.2 and 30.3(a) to incorporate appropriate references to appendix C to part 30. After adoption of this final rule, §§ 30.2 and 30.3(a) will continue to read as amended by the Supplemental Guidelines (that is, these sections will contain references to appendix C to part 30). Otherwise, the OCC adopts the interim rule as it was published.

Effective Date

The Agencies find good cause for issuing this final rule to be effective immediately. *Cf.* 5 U.S.C. 553(d) (good cause exception to the requirement in the Administrative Procedure Act for a 30 day delayed effective date for a final rule); 12 U.S.C. 4802(b)(1) (good cause exception to the requirement in the Riegle Community Development and Regulatory Improvement Act that the Federal banking agencies make rules effective on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form). The Agencies are finalizing, with one technical change, already effective interim rules. The interim rule made only conforming amendments to the Agencies' current rules of procedure to refer to the Year 2000 Guidelines. This final rule imposes no new substantive requirements on insured depository institutions. Therefore, each of the Agencies finds good cause to dispense with the delayed effective date requirements.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking. 5 U.S.C. 603. In issuing the interim rule, the Agencies concluded, for good cause, that they are not required to publish a notice of proposed rulemaking. Accordingly, they issued the interim rule without prior notice and comment to be effective immediately. Since the RFA does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking, the Agencies also conclude that the RFA does not require a regulatory flexibility analysis of this final rule.

Nevertheless, since the final rule imposes no new requirements on insured depository institutions and makes only conforming amendments to the Agencies' current rules of procedure, the Agencies find that the final rule does not have a significant effect on a substantial number of small entities or create any additional burden on small entities under the RFA.

Paperwork Reduction Act

The Agencies have determined that the final rule does not involve a collection of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12866

The OCC and OTS have determined that the final rule is not a significant regulatory action under Executive Order 12866.

OCC and OTS: Unfunded Mandates Reform Act Analysis

The Unfunded Mandates Reform Act of 1995 (UMA), Public Law 104-4, does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking. 2 U.S.C. 1532. In issuing the interim rule, the Agencies concluded, for good cause, that they are not required to publish a notice of proposed rulemaking. Accordingly, the OCC and OTS conclude that the UMA does not require an unfunded mandates analysis of this final rule.

Nevertheless, since this final rule imposes no new requirements on insured depository institutions and makes only conforming amendments to the Agencies' current rules of procedure, the OCC and OTS find that this final rule will not result in expenditure by State, local, and tribal governments, or by the private sector, of more than \$100 million in any one year. Accordingly, neither the OCC nor the OTS has prepared a budgetary impact

statement or specifically addressed the regulatory alternatives considered.

List of Subjects

12 CFR Part 30

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 263

Administrative practice and procedure, Claims, Crime, Equal access to justice, Federal Reserve System, Lawyers, Penalties.

12 CFR Part 364

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

Authority and Issuance

For the reasons set out in the joint preamble, the OCC amends part 30 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 30—SAFETY AND SOUNDNESS STANDARDS

Accordingly, the interim rule amending 12 CFR part 30, which was published at 63 FR 55486 on October 15, 1998, was superseded by an interim rule published at 64 FR 52638 on September 30, 1999.

Dated: October 12, 1999.

John D. Hawke, Jr.,
Comptroller of the Currency.

Federal Reserve System

12 CFR CHAPTER II

For the reasons set out in the joint preamble, the Board amends part 263 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 263—RULES OF PRACTICE FOR HEARINGS

Accordingly, the interim rule amending 12 CFR part 263, which was published at 63 FR 55486 on October 15, 1998, is adopted as a final rule without change.

By Order of the Board of Governors of the Federal Reserve System.

Dated: October 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

For the reasons set out in the joint preamble, the FDIC amends part 364 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

Accordingly, the interim rule amending 12 CFR part 364, which was published at 63 FR 55486 on October 15, 1998, is adopted as a final rule without change.

By Order of the Board of Directors.

Dated at Washington, DC, this 8th Day of November, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

Authority and Issuance

For the reasons set out in the joint preamble, the interim rule amending 12 CFR part 570, which was published at 63 FR 55486 on October 15, 1998, is adopted as a final rule with the following change:

PART 570—SUBMISSION AND REVIEW OF SAFETY AND SOUNDNESS COMPLIANCE PLANS AND ISSUANCE OF ORDERS TO CORRECT SAFETY AND SOUNDNESS DEFICIENCIES

1. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p-1.

2. Section 570.1(c) is revised to read as follows:

§ 570.1 Authority, purpose, scope and preservation of existing authority.

* * * * *

(c) *Scope.* This part and the Interagency Guidelines Establishing Safety and Soundness Standards as set forth at Appendix A to this part and the Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness as set forth at Appendix B to this part implement the provisions of section 39 of the FDI Act as they apply to savings associations.

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Dated: October 15, 1999.

Ellen Seidman,

Director.

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