



## NEWS RELEASE

FOR IMMEDIATE RELEASE

PR-45-91

3-26-91

### FDIC SEEKS COMMENTS ON POSSIBLE SAFEGUARDS AGAINST ADVERSE CONTRACTS

The FDIC Board of Directors today agreed to ask for public comment on ways to prevent depository institutions from entering into contracts that pose serious risks to the insurance funds. The agency issued a proposed rule to address abusive contracts in general and asked for specific suggestions on how to prevent particular abuses involving holding companies and other affiliates.

The actions taken by the Board today would implement a provision of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 that prohibits an insured institution from entering into a contract that would adversely affect the safety and soundness of the institution.

One abuse cited by the FDIC involves contracts for data processing and other services carrying inflated terms that misrepresent an insured institution's financial condition. The proposed rule would prohibit any insured bank or savings association from entering into any contract determined to be adverse. Under this plan, the agency would provide examples of terms that could indicate an adverse arrangement. The appropriate federal regulatory agency would evaluate individual contracts on a case-by-case basis, giving institutions an opportunity to prove a contract is not adverse.

In the related action today, the FDIC Board issued a notice of its intention to propose a rule that would prevent special problems involving contracts between an insured institution and its parent company or a non-depository affiliate. Examples of detrimental relationships include holding companies that take assets from their insured subsidiaries without paying a fair value, or that provide vital services to the subsidiary at excessive terms.

-more-

The Board agreed to formally seek comments and suggestions before issuing a specific proposal that would affect holding companies or affiliates because some institutions and service firms have expressed concerns about a rule that could be too broad or disruptive. However, the agency noted that one staff recommendation is under serious consideration. It would specify a list of contracts between insured institutions and their affiliates that would be presumed to be adverse and therefore impermissible, although contract terms that protect the insurance fund from losses could reverse the presumption of harm.

FDIC Chairman L. William Seidman said: "The FDIC has encountered, and Congress has recognized, serious abuses involving contracts that have a very real effect on the insurance funds. In our judgment, the best approach is a preventive approach -- one that identifies problems and stops them before they do damage to the insurance funds. Our job now is to develop safeguards that adequately protect the insurance funds without undue disruptions to the financial services community."

The FDIC estimates that a few recent cases of abuses involving banks that later failed or received FDIC assistance may have cost the Bank Insurance Fund more than \$500 million.

Comments on both approaches will be accepted for 60 days after they appear in the Federal Register.

# # #