Description of document:	Nineteen (19) Office of the Comptroller of the Currency (OCC) Policies & Procedures Manual (PPM) items, 1977-2016
Requested date:	15-February-2017
Released date:	09-March-2017
Posted date:	03-September-2018
Source of document:	FOIA Request Chief FOIA Officer Communications Division Office of the Comptroller of the Currency 400 7th Street SW Washington, DC 20219 OCC's FOIA Web portal

Office of the Comptroller of the Currency

Washington, DC 20219

March 9, 2017

This is in response to your Freedom of Information Act request dated February 15, 2017, received in my office on March 3, 2017.

You requested the following OCC PPMs: 1000-2, 1000-3, 1000-3-1; 1000-9; 1000-10; 1000-11, 1000-14, 1000-15, 1000-16, 1000-17, 1000-18, 1000-20, 2100-15, 5000-8, 5000-34, 5000-41, 6000-3, and 6000-5.

Your request has been granted. Materials relevant to your request are enclosed.

Sincerely yours,

Carl Laurie

Carl Laurie
Freedom of Information Act Specialist
Disclosure Services
Communications Division

#2017-00214-F

PPM 1000-10

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller of the Currency Subject: Policy Review and Approval Procedures

TO: All OCC Employees

POLICY

All policymaking at the OCC must be directed by the executive committee. To accomplish this:

- All new initiatives must be sponsored by a senior deputy comptroller.
- All senior deputy comptrollers must be kept informed as policymaking proceeds.

To implement this policy, OCC staff will be expected to follow the procedures outlined in this issuance. Those procedures outline a uniform process for soliciting approvals for OCC rulemaking and policy development projects and documents. The procedures:

- Establish formal timetables and deadlines for completion of policy initiatives, including interpretations and rulemakings.
- Require simultaneous planning, development, and review of all related materials, including, as appropriate, examiner guidance, press releases, and questions and answers.

BACKGROUND

For almost a year the OCC has been using a regulatory review process for all rulemakings. The procedures outlined in this issuance grew out of experience with that process. This new process:

- **Streamlines policy development** by establishing a structured process that involves simultaneous review of all aspects of a policy initiative.
- **Conserves resources** by ensuring that senior management support an initiative before much staff time is spent.
- **Ensures new initiatives reflect agency philosophy** by giving senior management the opportunity to offer direction at the inception of a project.
- **Involves all affected parties** by creating a project team for each initiative that includes staff from affected areas of the organization and is endorsed by the executive committee.
- **Keeps senior management informed** by establishing documents they will receive at each stage that identify major policy issues and how they have been resolved.

REFERENCES

This issuance rescinds PPM 2100-8 (REV.), "Policy and Procedures for Materials to be Published in the *Federal Register*," July 15, 1989.

The following PPMs provide information on seeking approval for items not covered by this issuance. Employees with questions about other approval processes should contact their management and/or the Communications Division.

- PPM 2100-1, "Processing of all Communications with Wide Distribution," is a master guide to processing materials for large audiences.
- PPM 2100-2, "Publications," covers formal documents produced for distribution to employees and the public and outlines government-mandated publications planning.

SCOPE

The procedures outlined in this issuance apply to any rulemaking or policy development project that will result in a rule or decision affecting an external audience (e.g., all national banks or bank customers) or that will be widely used and disseminated. Policies made and implemented by a manager assigned responsibility for an area generally are not covered if they follow existing guidance from senior management and do not significantly change the way the OCC interacts with an external audience.

Employees with questions about whether a proposed project is covered by these procedures should consult the executive assistant to the executive committee. The executive committee is the final authority on the applicability of these procedures. The executive assistant to the executive committee can provide samples of the documents prepared for other projects upon request.

Rulemaking and policy development projects covered by these procedures include:

- Proposed and final rulemakings, both interagency and OCC-only.
- Guidance for examiners that presents new policies or procedures or significantly alters current interpretations of rules, policies, or procedures.

- Correspondence that is likely to be distributed as a precedent of the agency, such as interpretive or bank accounting letters.
- Policy statements, both interagency and OCC-only.
- Advice or warnings on emerging issues, addressed to either banks or examiners.
- Materials prepared for external audiences such as consumer pamphlets, booklets, and handouts.
- Proposals for new agency programs or activities.

Items not covered by these procedures include:

- Announcements of an administrative nature to OCC staff only (i.e., blood drives, Combined Federal Campaign, special events, and financial disclosure filings).
- Guidance to examiners or banks that reiterates — without expanding — existing, already approved, policies or procedures.
- Reports or announcements about legal issues, bank frauds, etc., prepared by personnel with specific delegated authority.
- Internal training materials and user documentation that in no way alters existing policies and procedures.
- Correspondence to an individual that will not be distributed widely.

This issuance does not outline procedures for obtaining public comment or external reviews and approvals from organizations such as the Department of Treasury, interagency working groups, or the Office of Management and Budget. It does, however, explain how those approvals relate to the internal OCC process.

PROCESS

The steps in preparing a covered rulemaking or policy development project ("project") are:

- Identifying the need for the project and setting priorities.
- Planning.
- Initiating the project as an agency effort.
- Considering the issues.
- Drafting the materials.
- Completing the documents.
- Implementing the decision.

The steps from initiating the project through completion are mapped on the next page to assist readers in following the discussion of those steps.

Identifying Projects
Although any OCC employee may identify a need for a rule or policy, only a senior deputy comptroller can sponsor a rulemaking or policy development project. The **sponsor** initiates the project and guides the project throughout its development, and his or her name appears on all project materials circulated.

Department and division management should let employees know how to bring possible projects to their attention and request that they be sponsored. This should occur before anyone spends resources on a project. Management of the affected unit must determine if the proposed project is covered by these procedures and, if it is, should refer it to their senior deputy comptroller. The senior deputy comptroller then will decide whether to sponsor the project, and will determine its relative priority for his or her unit and the OCC as a whole.

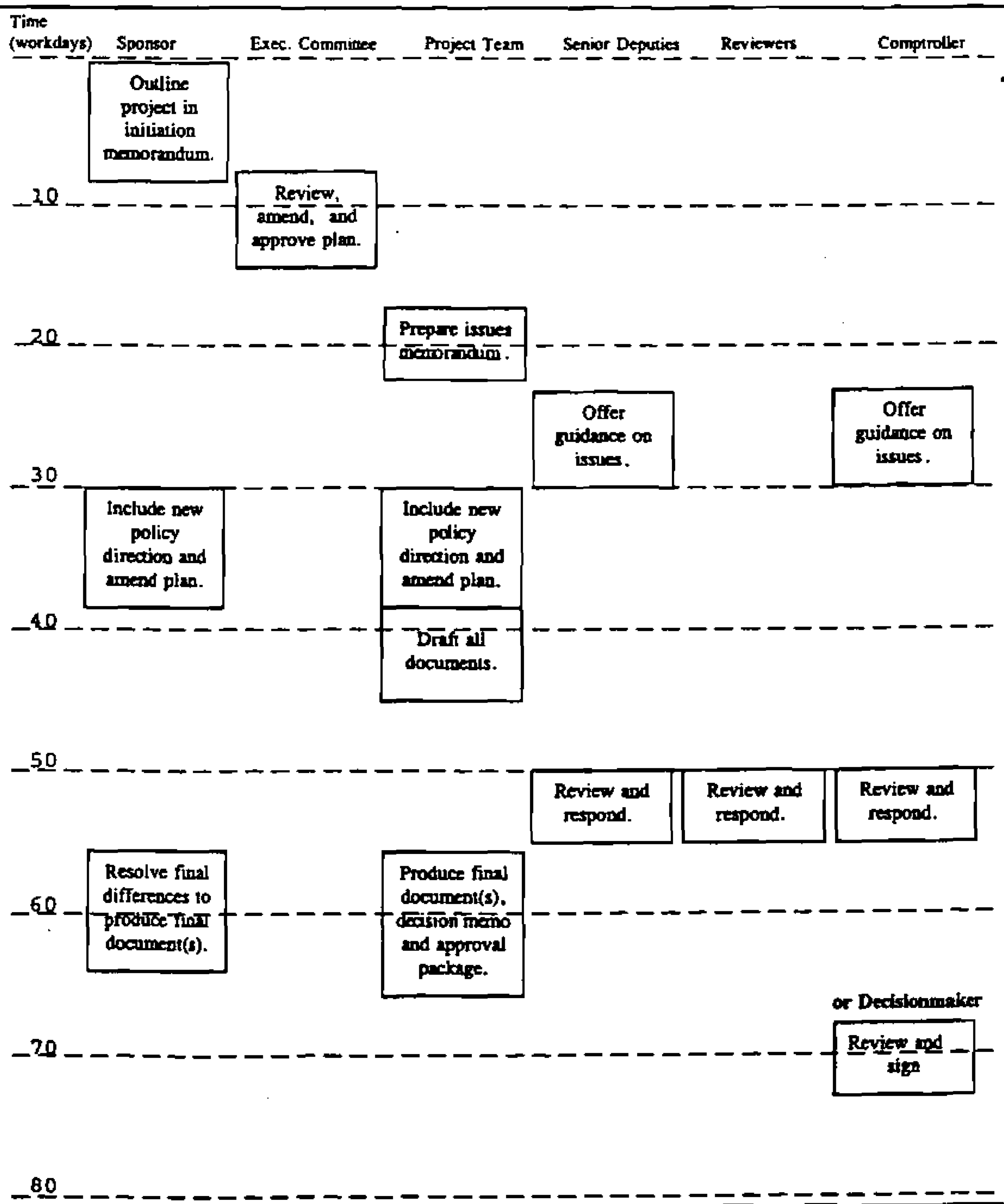
Occasionally, a sponsor or project team may identify the need to expand a policy or prepare additional materials on a topic after a covered project concludes. If such materials were planned as part of the original project they may be produced without following the procedures in this issuance. However, if materials were not planned as part of the original project and otherwise meet the definition of covered projects, the procedures must be followed. In that situation, with the concurrence of the original sponsor, the project team may begin the process at the drafting phase.

Planning
Once a senior deputy comptroller has decided to sponsor a project, he or she (or an assigned project manager) should plan and consider the project as a whole. If the project involves several elements — for example, a speech, rulemaking, issuance, handbook section, training program, and press release — the plan should cover all planned elements and outline proposed implementation. The plan should be prepared with the goal of having all planned documents presented for approval in the final approval package.

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller of the Currency Subject: Policy Review and Approval Procedures



If, as a practical matter, a detailed final document, such as a handbook section or training course, cannot be completed with the rest of the package, the plan for such a document should be included in the final approval package. Documents planned and approved in this manner can then be prepared as approved, without detailed review under this process.

Initiating the Project

The sponsor prepares an **initiation memorandum** which outlines the plan for the project. The initiation memorandum is from the sponsor to the executive committee. The committee then requests adjustments to the project — its scope, staffing, timing, etc. — before the agency commits its resources.

The initiation memorandum is concise, generally no longer than three single-spaced pages, and sets out:

- Goals of the project.
- The suggested plan for meeting those goals (type of product, decisionmaker, etc.) and the reasons that approach is appropriate.
- The major issues anticipated.
- The staff that will comprise the project team.
- A timetable for significant steps toward completion of the project and a delivery date for the final product.
- Anticipated industry and interest group reactions.

Generally a project has only one initiation memorandum. In rare instances, however, passage of a significant period of time or a change in the scope and objectives of the project may, in effect, create a new project, and a second initiation memorandum may be appropriate.

For a rulemaking, the initiation memorandum announces the beginning of a rulemaking project, and generally the sponsor does not issue a new initiation memorandum when a rulemaking moves from one status to another. ***For a project required by statute,*** the initiation memorandum can be a simple notice of the project's initiation. Similarly, ***an individual component of a larger project,*** such as a specific regulation in the context of the overall regulation review program, which the Comptroller and/or the executive committee has already approved, generally requires no individual initiation memorandum.

The executive committee uses the information in the initiation memorandum and any additional materials they request from the sponsor to approve:

- Continuation of the project.
- The project team.
- The project delivery date.
- The proposed decisionmaker.

Only the executive committee can decide a project requires final review and signature by the Comptroller. If the executive committee approves the project to continue, the sponsor uses their comments and suggestions to adjust the project plan.

Considering the Issues

When the executive committee approves a project to proceed, the sponsor convenes the **project team** outlined in the initiation memorandum and adjusted in response to the comments of the executive committee. The project team, comprised of staff from affected units, is responsible for managing the project and preparing required documents. Proposed in the initiation memorandum, project team members come from affected units. The same project team generally carries a project through each stage.

The sponsor and project team research the issues presented by the project and summarize their findings in an **issues memorandum** from the sponsor to the Comptroller and all senior deputy comptrollers. The issues memorandum summarizes the background of the project, identifies major issues on which the project team needs guidance from senior management, and solicits suggestions for reviewers to be involved in the next stage. This memorandum should be comprehensive, but generally no longer than five to ten single-spaced pages. It presents:

- Any relevant background on the issue.
- The major issues presented by the project and recommendations on how they should be handled.
- A discussion of any significant issues and findings arising from public comments (if the agency published the proposal for comment).
- The expected impact of the proposed course of action.
- Anticipated industry and interest group reactions.
- The updated timetable for completion of the project.

This document helps senior management identify and resolve policy issues earlier and review completed policy documents more quickly. ***For interagency projects,*** the project team must prepare the issues memorandum early enough to allow the Comptroller and senior management to provide meaningful guidance on its direction and objectives.

The Comptroller or any senior deputy comptroller may request a briefing on the project. Such briefings or meetings are generally most helpful if they occur after senior management have the issues memorandum, but before they must respond. This ensures thorough and comprehensive discussion and best informed written comments. The sponsor leads such briefings and is responsible for referring significant discussion and issues raised at briefings to the project team for their use in drafting the document.

The sponsor uses all of the policy direction gathered during this stage to adjust the project plan and guide the project team in preparing draft documents. The sponsor also must resolve any differences disclosed in the responses before proceeding.

Occasionally, a project may remain in this stage for a long period of time, often because it is very complicated or involves significant differences between parties. In such cases, the project team may prepare a second issues memorandum from the sponsor to the Comptroller and all senior deputy comptrollers, outlining developments after the first issues memorandum. This occurs most often with interagency efforts because other agencies may make changes the project team should highlight for senior management. The project team should inform the executive assistant to the executive committee if a project is going to be delayed and should consult with the executive assistant to the executive committee before issuing a second issues memorandum.

Drafting the Materials

The project team, in consultation with the sponsor, uses all responses received to date to draft the planned documents. In drafting documents, the project team consults with responsible units, such as Press Relations for press releases and the Chief National Bank Examiner's Office for handbook sections. If a planned document, such as a handbook section or training course, cannot be prepared at this stage, an outline or similar plan should be prepared.

When the draft documents are completed, the project team identifies additional reviewers who should review materials. **Reviewers** represent affected units and interested parties and are chosen by the project team and from senior management recommendations.

The project team provides a package composed of a gold border, reviewers' memorandum, and draft documents to the Comptroller, each reviewer, senior deputy comptrollers, and the deputy comptroller for Public Affairs. ***For a rulemaking,*** the reviewers also must include Treasury Department officials assigned to review OCC rulemakings and the Legislative and Regulatory Activities Division.

When an interagency group prepares policies or rules, the OCC project team should circulate this package *as soon as a draft is available*, before other agencies act. The Comptroller and senior management must see drafts of interagency materials early enough to be able to provide meaningful input into the interagency process.

The **gold border** routes documents from the sponsor to reviewers for simultaneous review. After a reviewer completes his or her review, he or she must sign the gold border sheet and return it to the sponsor or project team. Reviewers may send comments on the draft document(s) to the project team separately from the signed gold border. The sponsor (or a designated member of the project team) must maintain copies of signed gold borders to document appropriate approvals.

The gold border:

- Identifies the sponsor.
- Provides background on the project and outlines important issues.
- Requests input on the proposed document.
- Provides any special instructions on who should receive comments.
- Sets a deadline for response.
- Requires the reviewer to sign and return the sheet.

The **reviewers' memorandum**, prepared by the project team for the signature of the sponsor, accompanies the gold border and draft documents. It summarizes the policy and identifies issues, decisions, and reasoning behind decisions already made. It provides the background reviewers need to be able to comment on the specifics of the proposal and its effects on OCC operations The reviewers' memorandum may largely repeat the issues memorandum, but should highlight new matters or changes since the initiation memorandum. Specifically, it:

- Briefly summarizes the highlights of the proposal.
- Identifies any issues or actions that the project team wishes to bring to the attention of reviewers.

As explained earlier, occasionally a document continuing an already completed project may begin circulating at this stage. The reviewers' memorandum accompanying such documents must be expanded to explain:

- How the proposed document relates to existing guidance.
- Why the clarification, expansion, or change of policy should go forward without a new project being started by an initiation memorandum.
- Who, if anyone, the project team or sponsor consulted or asked to participate in developing this approach.
- Why the proposed approach is appropriate.

Completing the Documents

The sponsor and project team consider all responses from reviewers and work with commenters to resolve any difficulties that arise. After all comments are incorporated or otherwise addressed, the sponsor and project team create final document(s) incorporating reviewers' concerns. ***For interagency rulemakings***, by this time interagency groups should have resolved final issues that arose in negotiations.

Any reviewer who wants to personally bring issues to the attention of the final decisionmaker may prepare a memorandum to accompany the final documents. The project team prepares a final approval package - any memorandum submitted by a reviewer for inclusion, the final document(s), and the decision memorandum - addressed to the decisionmaker approved by the executive committee at the beginning of the project. When the Comptroller is the final decisionmaker, the approval package must include a red border routing sheet addressed to the Comptroller through the chief of staff.

Preparation of the approval package indicates completion of the earlier simultaneous review. The project team provides copies of the approval package to each senior deputy comptroller, any gold border reviewer who requests one, and the executive assistant to the Comptroller.

The **decision memorandum**, from the sponsor to the decisionmaker, outlines major policy issues, significant reviewers' comments, and any remaining disputes. The project team prepares the decision memorandum after gathering all responses to the gold border circulation of the draft, when the document is ready for release. This document must be prepared even when the decisionmaker and the sponsor are the same person. ***For rulemakings***, this memorandum should not be prepared until the document is ready for publication in the *Federal Register*.

The decision memorandum should be brief, generally no more than five single-spaced pages, and should summarize:

- Major policy issues raised by the proposal.
- Significant comments raised by gold border reviewers.
- Any major issues that are still in dispute.

The decisionmaker reviews the approval package and submits any final changes to the sponsor, who is responsible for reconciling any conflicts between those changes and decisions made earlier. When the decisionmaker is satisfied with the final package, he or she indicates approval by annotating the document or signing it, if appropriate. The decisionmaker returns the package to the sponsor for implementation. When the final decisionmaker is the Comptroller, he or she approves the package by signing the red border.

Implementing the Policy

The sponsor is responsible for releasing the document(s) and tracking the implementation of policies. Final documents may be released in several ways, for example:

- Correspondence should be delivered to the addressee and included in precedent systems.
- Publications and issuances should be delivered to Communications (with a copy of the signed red border) for production and distribution.
- Rulemakings should be delivered to the Legislative and Regulatory Activities Division (with a copy of the signed red border) for processing and publication in the *Federal Register.*
- Press releases and other items for publication in the media should be delivered (with a copy of the signed red border) to the Press Relations Division.

GENERAL RULES

Responses

Any reviewer may respond during any phase of the process by memorandum or e-mail to the sponsor or an assigned project team member. Reviewers also may respond to the gold border package by marking edits on the draft document.

Time frames

Reviewers must have sufficient time to respond. The executive committee approves a delivery date for completion of the project after reviewing the initiation memorandum. The project team, in consultation with the sponsor, sets deadlines for submission of comments at each stage of a project based on the overall delivery date approved by the executive committee. All deadlines must take into account any external constraints on the project (e.g., statutory deadlines) as well as the project's complexity. As a general rule, deadlines should allow at least two weeks of review time before responses are due.

For a gold border review, after all comments have been received, the project team will share all input with any reviewer who expresses an interest. They may do so by providing copies of the actual incoming materials or by preparing and distributing a summary. Reviewers also may request a copy of the approval package from the project team.

Changes to final documents

Anyone who must adjust a final document must clear the changes through the decisionmaker's office. No one may substantively change a document after the Comptroller signs the red border.

Recordkeeping

The process outlined in this issuance creates a record of policy making deliberations. The sponsor or a designated member of the project team must maintain official files of these deliberations, based on recordkeeping guidance developed by the Law Department and Records Management. After a rulemaking document appears in the *Federal Register*, the deliberation files go to the Legislative and Regulatory Activities Division of the Law Department for inclusion in the appropriate agency system of records.

Tracking

The executive assistant to the executive committee tracks all projects and gold borders circulating under this process. The executive assistant will prepare and distribute to the Comptroller and all senior deputy comptrollers, a weekly report showing the current status of all OCC policy initiatives in progress. That report will be based on information provided by:

- The sponsor or project team, when a project is started in either the initiation or of drafting phase.
- The project team, when a project is in process.
- Any staff member assigned by a senior deputy comptroller to track items in his or her department.

Those people should keep the executive assistant to the executive committee informed as the project moves forward, and respond to any requests for periodic progress reports.

For a rulemaking, the Legislative and Regulatory Activities Division of the Law Department receives copies of all initiation memorandums on rulemakings and monitors and tracks project teams' progress on approved rulemaking projects. Project teams notify that division as they complete each subsequent phase of this process. That division prepares a periodic status report in coordination with the executive assistant to the senior deputy comptroller for Bank Supervision Policy.

RESPONSIBLE OFFICE

The executive committee and its executive assistant are responsible for determining when to use this approval process and how to interpret the procedures. Address questions or concerns to that office.

Eugene A. Ludwig
Comptroller of the Currency

PPM 1000-11

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller

Subject: Communications with Banks in the Examination Process

TO: All OCC Employees

PURPOSE

This issuance establishes a policy on avoiding communications with national banks that could be perceived as influenced by political considerations.

SCOPE

This directive applies to all OCC employees.

POLICY

The integrity and effectiveness of the examination process depends upon its being kept completely free from any appearance of being influenced by political considerations. Contacts that occur with national banks through the examination process concerning legislative or political issues run the risk of being misperceived as implying that a bank should take a particular position on such issues.

Thus, OCC employees should have no communications with national banks that could be perceived as suggesting that the examination process is in any way influenced by political issues or considerations.

RESPONSIBILITIES

OCC employees should bring to the attention of their managers, or to the attention of their ethics counselor, any situation in which they feel the above policy might be compromised.

John D. Hawke, Jr.
Comptroller of the Currency

PPM 1000-14 (REV)

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller | Subject: OCC Reserves

TO: All OCC Employees

PURPOSE

This issuance revises PPM 1000-14, Special and Contingency Reserves, dated March 30, 2001. Revisions to that issuance are incorporated here to address changes in the OCC's organization and structure, and clarifies the nature and use of the OCC's reserves in the original issuance.

This issuance documents the Office of the Comptroller of the Currency's (OCC) governing policies and procedures, and discusses the principles for managing the Asset Replacement Reserve and the Contingency Reserve, which are two separate components of Net Position (see Definitions, page 2).

BACKGROUND

The OCC does not receive congressional appropriations to fund its operations. By federal statute at 12 USC 481 and 482, the OCC's primary funding source for operations is the collection of assessments from national banks. In accordance with 12 USC 482, these funds are available to meet the Comptroller's expenses in carrying out the authorized activities of the agency. The OCC is responsible for ensuring that the uses of such funds are both appropriate and effective. The establishment of appropriate governing policies and procedures to manage the reserves is integral to the effective stewardship of OCC resources.

REFERENCE

- 12 USC 481, 482.
- PPM 1000-14, Special and Contingency Reserves, dated March 30, 2001.
- PPM 3130-20 (REV), OCC Planning, Budget, and Evaluation Process, dated November 1, 2004.
- OCC Business Continuity Plans maintained by each OCC department.

SCOPE

This issuance governs the accumulation, maintenance, use, and adjustment of the Asset Replacement Reserve and Contingency Reserve components of the OCC's balance sheet Net Position.

POLICY

It is the OCC's policy that the Comptroller will

- Establish an Asset Replacement Reserve and a Contingency Reserve as components of the OCC's Net Position;
- Establish targets for the reserves;
- Set the annual amounts to be accumulated and maintained in these reserves; and
- Authorize the amounts that will be made available from the Contingency Reserve to cover identified funding shortfalls.

DEFINITIONS

Net Position – The cumulative net excess of the OCC's revenues over its cost of operations. Funds in Net Position are further allocated among its components, including the Asset Replacement Reserve, Contingency Reserve, and funds earmarked for ongoing operations, as defined in PPM 3130-20 (REV), OCC Planning, Budget, and Evaluation Process.

Asset Replacement Reserve – The portion of Net Position that is set aside to fund replacement of information technology equipment, leasehold improvements, and furniture for future years. The target level in the replacement reserve is established annually, based on the gross value of existing property and equipment, a growth rate factor, and other market cost adjustments.

Contingency Reserve – The portion of Net Position that a) may be used, at the discretion of the Comptroller, to supplement the revenue from assessments and other sources that were made available to fund the OCC's annual budget authority; and b) may be set aside to fund generally foreseeable, but rare events that may interfere with the OCC's ability to accomplish its mission. Examples of events that may call for a Budget and Finance subcommittee recommendation to the Comptroller to use the Contingency Reserve could be a major change in the national banking system or a disaster such as a fire, flood, or loss of the OCC's information technology network.

AREAS OF RESPONSIBILITY

The Comptroller

The Comptroller, upon appropriate consultation with the Executive Committee

- Sets targets for reserves;

- Authorizes the annual budget authority, including the amount to be contributed to the Asset Replacement Reserve and amounts to accumulate and maintain in the Contingency Reserve;
- Authorizes withdrawals from the Asset Replacement Reserve in the event that estimated available revenues do not fully cover requested budget authority; and
- Authorizes the amounts that will be made available to fund the annual operations from the Contingency Reserve.

The Budget and Finance Subcommittee

The Budget and Finance subcommittee advises the Comptroller on the financial status of the OCC with regard to reserves and makes recommendations

- Annually, on the amount to be contributed to the Asset Replacement Reserve;
- Annually, on the amounts to be accumulated and maintained in the Contingency Reserve; and
- When necessary, on the amounts to be withdrawn from the Asset Replacement Reserve and the amounts made available to fund operations from the Contingency Reserve.

The Chief Financial Officer (CFO)

- Chairs the Budget and Finance subcommittee;
- As part of the annual budget formulation process, provides an assessment of the OCC's current financial status and resource requirements with regard to reserve accounts;
- Notifies the Comptroller and the Budget and Finance subcommittee when unforecasted revenue shortfalls or unbudgeted and unanticipated requirements or opportunities are identified during the current year; and
- Advises the Comptroller and Budget and Finance subcommittee on options for funding identified shortfalls in the annual budget authority in accordance with this issuance.

The Deputy Chief Financial Officer (DCFO)

- Maintains financial records and manages financial policies and procedures relating to the reserves; and
- Provides analysis and recommendations to the CFO regarding maintenance and use of the reserves during the annual plan and budget formulation process and throughout the fiscal year.

PROCEDURES

Annual Recalculation of Reserve Balances

As part of the planning and budget formulation process, the Financial Management department (FM), under the guidance of the DCFO, will analyze the current balances in the Asset Replacement Reserve and the Contingency Reserve components of Net Position, and propose to the CFO and Budget and Finance subcommittee

- The amount to contribute to the Asset Replacement Reserve and the amounts to accumulate in the Contingency Reserve, and
- The resulting adjustments to existing amounts maintained in reserves.

In developing its proposals, FM will solicit the appropriate OCC program areas' assessments of economic conditions and industry trends, including any potential impact on the national banking system and the OCC's resource requirements.

The Budget and Finance subcommittee will recommend to the Comptroller the targeted levels of funding for the Asset Replacement Reserve and the Contingency Reserve and any necessary adjustments. The Comptroller is the approving authority for all such adjustments.

OCC Assets and Uses of the Asset Replacement Reserve

Withdrawals from the Asset Replacement Reserve may be made if estimated available revenues for the fiscal year do not fully cover requested budget authority or otherwise at the discretion of the Comptroller.

Uses of the Contingency Reserve

<u>Revenue Shortfalls and New Requirements/Opportunities</u>

The Contingency Reserve may be used, at the discretion of the Comptroller, to supplement the revenue from assessments and other sources that are made available to fund the OCC's annual budget authority. The Contingency Reserve serves to reduce the impact on the OCC's operations of revenue shortfalls or new requirements/opportunities. Determining whether or not to use the Contingency Reserve varies depending on the timing for identifying the funding needs, and will be implemented by the CFO, as needed.

<u>Foreseeable, but Rare Events</u>

In fulfilling its regulatory role, the OCC constantly monitors developments in the national banking system, analyzes trends, and assesses systemic risk to identify events that could affect the soundness of the system and, potentially, the OCC's ability to accomplish its mission effectively. The OCC's financial capacity to accomplish its mission effectively could be hampered significantly at any time during the budget cycle by foreseeable, but rare events, such as a natural or man-made disaster, a terrorist incident, or a catastrophic event such as a fire, flood, or significant impairment of the OCC's information technology systems.

When such an event has occurred, or is anticipated with some significant level of likelihood, senior-level staff in appropriate program areas will notify the CFO immediately. Under the guidance of the DCFO, FM will prepare a detailed projection of the expected financial impact of this event on the OCC's revenue (reduction) or cost (increase) accounts. The projection will cover, at a minimum, two annual planning and budget cycles, and will include a description of the methodology used for the projection, a recommendation for the source of funds to be used to compensate for the lost revenue or additional costs, and a funding plan showing the annual projected spending rate. FM will obtain the assistance of representatives and subject-matter experts from the relevant OCC program areas to formulate financial projections and will recommend sources of funding, consistent with the OCC's Emergency Management Procedure and Business Continuity Plans. FM also will assess the need to modify the OCC's program plan and budget in accordance with PPM 3130-20 (REV), OCC Planning, Budget, and Evaluation Process. Relevant accounting policy/guidance will determine the recognition of any contingent liability or required financial disclosures arising from the event.

The CFO will chair a discussion of the financial impact projections by the Budget and Finance subcommittee. The probability, magnitude, and nature of the event and the OCC's financial condition should be considered when deciding whether the funds should be made available from the Contingency Reserve, other sources, or a combination of the available sources. The Budget and Finance subcommittee will recommend, for the Comptroller's approval, the amount, the sources, and the annual spending rate of the funds.

ASSISTANCE

For more information or guidance, please contact the Financial Management Policy office at (202) 874-5140.

/signed/
John C. Dugan
Comptroller of the Currency

PPM 1000-15

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller's Office

Subject: Publication of Significant OCC Interpretive Opinions and Corporate Decisions in *Interpretations and Actions*

TO: All Department and Division Heads

BACKGROUND and PURPOSE

The OCC routinely issues interpretive opinions and corporate decisions that apply the standards that govern national banks to particular facts and circumstances presented by a national bank or other requester. The sources of the governing standards include the statutes that the OCC administers, applicable judicial precedents, and the OCC's regulations, guidelines, and policies. Our opinions and corporate decisions explain these standards and describe how they should be applied. Making these documents widely available promotes fairness and accountability and permits public scrutiny of the reasons for our decisions. Moreover, the availability of a published body of opinions and corporate decisions helps to ensure consistency and predictability in the OCC's decision making. National banks' ability to consult that material in turn facilitates their decision-making and strategic planning.

In addition to complying with applicable statutory requirements to make certain documents available in our public reading room,[1] the OCC, in its discretion, also publishes its significant interpretive opinions and corporate decisions in *Interpretations and Actions*. Publication in *Interpretations and Actions* is another way to promote the objectives of fairness, accountability, consistency, and predictability by ensuring that our significant precedents are widely available. The purpose of this PPM is to describe the OCC's policy with respect to the publication of significant interpretive opinions and corporate decisions in *Interpretations and Actions* and the procedures that implement this publication policy. This PPM is not intended to serve as a complete catalog of all of the types of material that we publish in *Interpretations and Actions*.[2]

[1] *See* 5 USC 552(a)(2) (Freedom of Information Act (FOIA) provision describing documents required to be made available for inspection and copying in an agency's public reading room). Materials are not required to be made available for inspection and copying in the reading room if they are "promptly published and offered for sale." *Id.* The OCC offers an annual subscription to *Interpretations and Actions* in paper form. An electronic version of *Interpretations and Actions* also appears on the OCC's Internet Web site. The Web site address is www.occ.treas.gov/interp/monthly.htm.

[2] For example, letters imposing conditions enforceable pursuant to 12 USC 1818 are published in *Interpretations and Actions* without regard to whether they are "significant" as that term is used in this PPM.

POLICY

It is the OCC's policy to make significant interpretive opinions and corporate decisions available to national banks and to the public by publishing them in *Interpretations and Actions*. Publication in *Interpretations and Actions* of the documents covered by this PPM is in addition to making them available for inspection and copying in the OCC's public reading room.

PUBLICATION STANDARD

An interpretive opinion or corporate decision is considered significant for purposes of publication in *Interpretations and Actions* if:

- It expresses an opinion about a new issue, develops or applies a new theory or a new analysis of an existing law or regulatory requirement, or applies an established theory or analysis to a set of facts that differs materially from facts that the agency has previously considered;

- It contains a new interpretation of 12 USC 24(Seventh); or

- The issue, the analysis employed, or the factual context is believed to be of general interest to national banks or the public.

The purpose of this standard is to identify for publication those interpretations that are likely to be considered important by most national banks and other interested observers and to avoid the need for repetitive publication of documents that reiterate previously published analyses or views. This standard does not preclude the OCC from publishing other opinions or decisions.

SCOPE

The OCC publishes in *Interpretations and Actions* a significant opinion or decision of any of the following types:

- Legal opinions;
- Accounting opinions;
- Corporate decisions;
- Regulatory interpretations, such as letters interpreting the OCC's risk-based capital regulations or the regulations governing the fiduciary activities of national banks;
- Letters approving investments made pursuant to 12 USC 24 (Eleventh) and part 12 of the OCC's regulations (Community Development Corporations, Community Development Projects, and Other Public Welfare Investments) if the investment is of a type not previously approved under 12 USC 24 (Eleventh) and part 12; and
- No-objection letters.

Nothing in this PPM requires the OCC to publish information that is protected from disclosure under the standards established by the FOIA, such as institution-specific supervisory or enforcement information.

PROCEDURES

- ***Identifying documents for publication***. Each senior deputy comptroller who supervises units that prepare interpretive opinions or corporate decisions is responsible for ensuring that documents covered by this PPM are published in accordance with the publication standard established by it. A senior deputy comptroller may designate the managers within his or her department who will determine which documents prepared by that department should be published in *Interpretations and Actions*. The designated managers are responsible for identifying documents to be published, in accordance with this PPM.

- ***Transmitting documents for publication***.

  - *In the Law, Licensing, and Community Affairs departments:* The designated managers in the Law, Licensing, and Community Affairs departments are responsible for transmitting any document to be published to the Law Department's Administrative and Internal Law Division (AIL). Documents should be sent to Barry Aldemeyer, senior counsel at (202) 874-4460. AIL is responsible for transmitting documents to the Communications Division for publication in *Interpretations and Actions*.

  - *In all other departments:* The designated managers are responsible for transmitting any document to be published to the Communications Division.

- ***Redacting and publishing documents***. The Communications Division is responsible for redacting and publishing in *Interpretations and Actions* the documents transmitted to it by the designated managers.

FOR FURTHER INFORMATION

Further information about the publication standards and procedures required by this PPM is available from Jerry Hansen, assistant director, AIL at (202) 874-4460.

John D. Hawke, Jr.
Comptroller of the Currency

PPM 1000-16

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller's Office Subject: OIG Audits and Investigations

TO: All Employees

PURPOSE

The purpose of this issuance is to establish standards and procedures for providing information and comments to the Department of the Treasury Office of Inspector General (OIG) and for taking actions on referrals and responding to OIG reports.

POLICY

It is OCC policy to comply with applicable law and Department of the Treasury (Treasury) orders and directives. The OCC will provide information and comments when requested by the OIG and take necessary action to respond to draft and final OIG reports. The OCC will refer matters to the OIG for investigation and dispose of allegations referred to the OCC.

REFERENCES

- Public Law 100-504, "The Inspector General Act Amendments of 1988."
- Treasury Order 114-01, " Office of Inspector General," dated May 16, 1989.
- Treasury Directive 27-12, "Organization and Functions of the Office of Inspector General," dated May 26, 1992.
- Treasury Directive 40-01, "Responsibilities of and to the Inspector General," dated September 21, 1992.
- Treasury Directive 40-03, "Treasury Audit Resolution, Follow-Up, and Closure," dated February 2, 2001.
- PPM 1000-12, "Management Accountability," dated October 31, 2000.
- PPM 1000-18, "Audit Resolution, Follow-up and Closure," dated April 8, 2002.

SCOPE

This issuance applies to audits, evaluations, investigations, and referrals initiated by the OIG. The Comptroller and chief of staff have program responsibility. The responsible staff unit is the Program and Management Accountability Division.

DEFINITIONS

Audit– The activity of examining and evaluating a function or financial statements and the preparation of a resultant written product.

Evaluation– The activity of examining and evaluating a function and the preparation of a resultant written product. The steps are the same as an audit, but the activity does not conform strictly to audit standards. The findings usually result in suggestions for consideration rather than formal recommendations.

Investigation–A fact-finding inquiry into allegations of wrongdoing on the part of an individual or a firm.

Referral–An allegation that the OIG has received, reviewed, and determined to be best addressed by the OCC as a management issue.

PROCEDURES

An outline of the audit process is contained in Attachment 1.
An outline of the investigation process, including referrals, is contained in Attachment 2.

ROLES AND RESPONSIBILITIES

Comptroller

- Sets priorities.
- Holds program officials responsible.
- Provides assurance to stakeholders.
- Responds to audit and investigation reports.

Chief of Staff

Ensures that management establishes and maintains a comprehensive audit and control program.

Chief Counsel, Chief Information Officer, Chief National Bank Examiner, Chief of Staff and Senior Deputy Comptrollers

- Provide input to OIG audit plans.
- Review, discuss, and comment on reports and responses to them.
- Decide the nature of corrective actions.
- Implement audit recommendations.
- Ensure the effectiveness of corrective actions.
- Limit discussion of investigative matters to those who need to know.
- Ensure that disciplinary actions are appropriate and consistent with personnel policy and law.

Director for Program and Management Accountability

- Monitors the audit, investigation, and referral proces to ensure compliance with the provisions of statutes and Treasury directives cited above.
- Responds to referrals within requested time frames.

- Ensures resolution of disagreements with audit findings and recommendations, including coordinating with the Department of the Treasury's Assistant Secretary for Management and Chief Financial Officer.
- Provides quarterly reports to the Executive Committee that:
  - Flag high-priority audits and recommend a briefing from the appropriate senior management official.
  - Identify new, high-priority or problem audits.
  - Display the status of corrective actions.
  - Analyze trends in audit recommendations indicative of broader problems.
- Reviews and comments on OIG audit plans and semi-annual reports in consultation with senior management officials, as appropriate.
- Upon request, provides adequate and appropriate office space, equipment, and other services for auditors and investigators.

Senior Advisor (OIG/GAO Liaison)

- Serves as official liaison with the OIG.
- Makes referrals to the OIG for investigation on behalf of the OCC.
- Provides technical guidance and advice to OCC managers and employees. Ensures that OCC managers and staff understand their roles and responsibilities.
- Receives, distributes, and sends correspondence and documents. Maintains the documentation in the official audit and investigation files, including notification letters, draft reports, final reports, responses, and evidence of corrective action.
- Initiates audit-related Executive Committee documents (pink sheets and gold borders) on behalf of the chief of staff.
- Prepares responses to draft reports.
- Assigns investigations and referrals from the OIG to the appropriate management official for action and prepares reports of the results for transmittal to the OIG.
- Schedules entrance and exit meetings.
- Coordinates fieldwork.
- Oversees audit follow-up and monitors the taking of remedial action.
- Maintains the OCC portion of the Treasury tracking system.
- Provides monthly status reports to OCC management.
- Ensures that recoveries and restitution are achieved.
- Provides interim responses on investigations and referrals when cases cannot be closed within the requested time frame.

Employees

- Seek technical advice and guidance from the senior advisor.
- Advise and coordinate with their managers audit-related contacts from the OIG.
- Respond to requests for information, records, etc.
- May make allegations to the OIG by calling the OIG hotline at 1-800-359-3898.
- May not discuss investigations or investigator contacts with anyone.

Additional information is available from the director for Program and Management Accountability at (202) 874-4540.

John D. Hawke, Jr.
Comptroller of the Currency

Attachments

PPM 1000-16

Attachment 1

OIG AUDIT PROCESS

Survey

Auditors collect background information to determine the scope of the audit.

Notification Letter

Auditors send a brief letter to the Comptroller or the senior advisor to announce the start of a new audit. If not included in the letter, the senior advisor will contact the auditors to learn the scope and objectives.

Initiation Memorandum

The senior advisor prepares an initiation memorandum (pink sheet) for the Comptroller and Executive Committee. It provides information about the audit and requests participation in the entrance meeting and review of subsequent audit deliverables.

Entrance Meeting

The initial meeting with auditors, typically between one and two hours long, is a forum for answering questions (provided in advance) and for outlining the scope of the audit as it is envisioned.

Fieldwork

The auditors collect and analyze data at one or more locations.

Exit Meeting

At the conclusion of fieldwork, the auditors present their preliminary findings and recommendations in a meeting with employees in the program area and others. A written discussion draft may be provided in advance.

Draft Report/Gold Border

The auditors provide a written draft report to the Comptroller for formal review and comment within 30 days. The senior advisor distributes the report as an attachment to a simultaneous review document (gold border) for review and comment within two weeks.

Comments/Gold Border

The senior advisor formulates a response to the draft audit report based on substantive comments received. He or she attaches the letter response to a second gold border for review and comment by the Comptroller and Executive Committee. The Comptroller signs the finalized letter, after which the senior advisor sends it to the auditors. The letter will include a statement of agreement or disagreement with the findings and recommendations and will state the corrective actions to be implemented.

Final Audit Report

The auditors issue the final report. They enter any report recommendations into the Treasury tracking system.

Implement Audit Recommendations (Audit Follow-up)

The senior advisor requests a statement of corrective action and implementation date and follows up until the action is implemented. See also PPM 1000-18, Audit Resolution, Follow-up, and Closure.

OIG INVESTIGATION PROCESS

Issues for Investigation

The possible existence of criminal or other misconduct by an employee, former employee, contractor, subcontractor, or potential contractor is a matter for investigation by the OIG. Such activity could:

- Constitute a violation of law, rules, or regulations, including the Standards of Conduct;
- Include a prohibited personnel practice or violation of merit systems principles;
- Be a cause for suspension or debarment; or
- Constitute mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety.

Examples of employee criminal and/or conduct violations are:

- False statements
- Bribery
- Government theft
- Misuse of public funds
- Misuse of a government vehicle or property
- Abuse of authority
- Conflict of interest

Referring Allegations

By arrangement with the OIG, the senior advisor refers allegations on behalf of the OCC to the assigned desk officer in the OIG's office. This does not preclude anyone from making or referring an allegation by calling the OIG's hotline at 1-800-359-3898.

Allegations should include as much of the following information as possible:

- The nature of the information or complaint.
- Names and addresses or office locations of all individuals and companies involved.
- When and how the person making the referral became aware of the problem.
- Documentation or proof that will support the complaint.
- Names, addresses or office locations, and telephone numbers of other persons who know about the problem.

OIG Decision Whether or Not to Investigate

Upon receipt of an allegation, the OIG evaluates the case to make a determination whether or not to investigate. Some of the considerations include the grade level and position of the person, the type of violation, the seriousness or dollar amount involved, and the prognosis for prosecution. The OIG may conduct a preliminary inquiry to assist in making the determination. If the OIG decides to investigate, the OCC will receive a written notice. See ***Investigation*** below. If the OIG decides not to investigate the matter, it may be referred back to the OCC to be handled administratively. See ***Referral to the OCC*** below.

Investigation

The OIG assigns cases for investigation to an agent in its office with jurisdiction in the geographic location where the alleged wrongdoing took place. The OIG reviews documentation and conducts interviews for the purpose of substantiating or refuting the allegations. The OIG may work with other law enforcement bureaus and seek prosecution at the local or federal level.

Upon completion of the investigation and any related legal action, the OIG issues a report of investigation to the Comptroller. The report may not be copied by anyone other than the senior advisor and it remains the property of the OIG. It may be read by authorities with a need to know for purposes of taking action on the report, but anyone else must make a request to the OIG under the Freedom of Information Act to gain access. The OIG requests a response within 30 days as to what action the OCC took as a result of the report of investigation.

The senior advisor forwards the report of investigation to the senior management official who has authority over the target or subject of the investigation with a request to be informed of any action being taken as a result of the investigation. Action may include discipline, reimbursement, reminders to all employees, or changes in policy and procedure.

The senior advisor prepares a response to the report of investigation to indicate what action, if any, is taken. The response is reviewed by senior program officials through a red border (routing) document prior to signature by the Comptroller. The report of investigation is returned to the OIG with the response.

Referral to the OCC

The OIG refers allegations and complaints to the OCC for administrative handling. The allegations may result from an allegation the OCC made to the OIG that the OIG decided not to investigate. Or, it may be a matter received by the OIG's hotline or a letter of complaint about a national bank received by the OCC from a consumer, personally or through his or her congressman.

The OCC is expected to conduct its own review of the referral and to take appropriate action. In addition, the OCC is expected to notify the OIG immediately if the inquiry uncovers a criminal violation. The senior advisor facilitates the inquiry with senior management. In the case of consumer complaints about national banks or the OCC's handling of a complaint previously filed with it, the senior advisor forwards the complaint to the Customer Assistance Group for processing and then follows up.

The senior advisor prepares a response to the OIG to communicate the status of allegations and action taken, if any. Appropriate supporting documentation is attached to the response.

PPM 1000-17

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Comptroller's Office Subject: GAO Audits

TO: All Employees

PURPOSE

The purpose of this issuance is to establish standards and procedures for providing information and comments to the United States General Accounting Office (GAO) and for taking necessary actions to respond to GAO reports.

POLICY

It is OCC policy to comply with applicable law and Department of the Treasury (Treasury) orders and directives. The OCC will provide information and comments when requested by the GAO and will take necessary actions to respond to draft and final GAO reports.

REFERENCES

- Public Law 95-320, Federal Banking Agency Audit Act, dated July 21, 1978.
- Treasury Directive 40-02, "Corresponding with the General Accounting Office," dated February 14, 2000.
- Treasury Directive 40-03, "Treasury Audit Resolution, Follow-Up, and Closure," dated February 2, 2001.
- PPM 1000-12, "Management Accountability," dated October 31, 2000.
- PPM 1000-18, "Audit Resolution, Follow-up, and Closure, dated April 8, 2002."

SCOPE

This issuance applies to audits initiated by the GAO at the OCC or the Department of the Treasury. The Comptroller and chief of staff have program responsibility. The responsible staff unit is the Program and Management Accountability Division.

PROCEDURES

An outline of audit procedures is contained in the attached.

ROLES AND RESPONSIBILITIES

Comptroller

- Sets priorities.
- Holds program officials responsible.
- Provides assurance to stakeholders.
- Responds to audit reports.

Chief of Staff

Ensures that management establishes and maintains a comprehensive audit and control program.

Chief Counsel, Chief Information Officer, Chief National Bank Examiner, Chief of Staff and Senior Deputy Comptrollers

- Review, discuss, and comment on reports and responses to them.
- Decide the nature of corrective actions.
- Implement audit recommendations.
- Assure the effectiveness of corrective actions.

Director for Program and Management Accountability

- Monitors the audit process to assure compliance with the provisions of statutes and Treasury directives cited above.
- Provides quarterly reports to the Executive Committee that:
  - Flag high-priority audits and recommend a briefing from the appropriate senior management official.
  - Identify new, high-priority or problem audits.
  - Display the status of corrective actions.
  - Analyze trends in audit recommendations indicative of broader problems.
- Upon request, provides adequate and appropriate office space, equipment, and other services for auditors.

Senior Advisor (OIG/GAO Liaison)

- Serves as official liaison with the GAO.
- Provides technical guidance and advice to OCC managers and employees. Ensures that OCC managers and staff understand their roles and responsibilities.
- Receives, distributes, and sends correspondence and documents. Maintains the documentation in the official audit files, including notification letters, draft reports, final reports, responses, and evidence of corrective action.
- Initiates audit-related Executive Committee documents (pink sheets and gold borders) on behalf of the chief of staff.
- Prepares responses to draft reports and responses to Congress on final reports.
- Schedules entrance and exit meetings.
- Coordinates fieldwork.
- Oversees audit follow-up.

- Maintains the OCC portion of the Treasury tracking system.
- Provides monthly status reports to OCC management.

Employees

- Seek technical advice and guidance from the senior advisor.
- Advise and coordinate with their managers audit-related contacts from the GAO.
- Respond to requests for information, records, etc.

Additional information is available from the director for Program and Management Accountability at (202) 874-4540.

John D. Hawke, Jr.
Comptroller of the Currency

Attachment

GAO AUDIT PROCESS

Survey–Auditors collect background information to determine the scope of the audit.

Notification Letter–Auditors send a brief letter to the Comptroller or the senior advisor to announce the start of a new audit. If not included in the letter, the senior advisor will contact the auditors to learn the scope and objectives.

Initiation Memorandum–The senior advisor prepares an initiation memorandum (pink sheet) for the Comptroller and Executive Committee. It provides information about the audit and requests participation in the entrance meeting and review of subsequent audit deliverables.

Entrance Meeting–The initial meeting with auditors, typically between one and two hours long, is a forum for answering questions (provided in advance) and for outlining the scope of the audit as it is envisioned.

Fieldwork–The auditors collect and analyze data at one or more locations.

Exit Meeting–At the conclusion of fieldwork, the auditors present their preliminary findings and recommendations in a meeting with employees in the program area and others. A written discussion draft may be provided in advance.

Draft Report/Gold Border–The auditors provide a written draft report to the Comptroller for formal review and comment within 30 days. The senior advisor distributes the report as an attachment to a simultaneous review document (gold border) for review and comment within two weeks.

Comments/Gold Border–The senior advisor formulates a response to the draft audit report based on substantive comments received. He or she attaches the letter response to a second gold border for review and comment by the Comptroller and Executive Committee. The Comptroller signs the finalized letter, after which the senior advisor sends it to the auditors with a copy to Treasury. The letter will include a statement of agreement or disagreement with the findings and recommendations and will state the corrective actions to be implemented.

Final Audit Report–The auditors issue the final report. The senior advisor enters any report recommendations into the Treasury tracking system.

Response to Congress (GAO)/Gold Border–A final audit report that contains recommendations from the GAO requires a response to the Congress within 60 days with respect to corrective action being taken. The senior advisor prepares the response and attaches it to a third gold border for Comptroller and Executive Committee review. The Comptroller signs the finalized letter and the senior advisor arranges with the Congressional Liaison Division to have it sent to Congress. The senior advisor sends copies of the letter to GAO, Treasury, and the Office of Management and Budget.

Implement Audit Recommendations (Audit Follow-up)–The senior advisor requests a statement of corrective action and an implementation date and follows up until the action is implemented. See also PPM 1000-18, Audit Resolution, Follow-up, and Closure, dated April 8, 2002.

PPM 1000-18

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section:	Comptroller's Office	Subject:	Audit Resolution, Follow-up, and Closure

TO: All Employees

PURPOSE AND SCOPE

The purpose of this issuance is to establish standards and procedures for taking and reporting action in response to final audit reports issued by the Department of the Treasury (Treasury) Office of Inspector General (OIG) and the United States General Accounting Office (GAO).

POLICY

It is the OCC's policy to:

- Resolve and implement audit recommendations made by the OIG and GAO.
- Monitor, document, and report corrective actions to the Treasury follow-up system.

The director for Program and Management Accountability (P&MA) serves as the audit follow-up officer. Senior deputy comptrollers, chief of staff, chief counsel, chief national bank examiner, and chief information officer serve as action officials.

REFERENCE

PPM 1000-12, "Management Accountability," dated October 31, 2000.
PPM 1000-16, "OIG Audits and Investigations," dated April 8, 2002.
PPM 1000-17, "GAO Audits," dated April 8, 2002.
OMB Circular A-50, "Audit Followup," dated September 29, 1982.
Treasury Directive 40-03, "Treasury Audit Resolution, Follow-Up, and Closure," dated February 2, 2001.

RESPONSIBILITIES

Comptroller

- Ensures that recommendations are implemented and corrective actions are taken in a timely fashion, through independent verification, and that validation occurs.
- Designates a bureau audit follow-up officer.

Audit Follow-up Officer

- Oversees and reviews audit follow-up policies and performance.
- Reports results of all audits to senior management.
- Submits periodic reports to senior officials as part of the Federal Managers Financial Integrity Act of 1982 (FMFIA) and Federal Financial Management Improvement Act of 1996 (FFMIA) processes on the status of audit follow-up activity and significant problems that surfaced through audit follow-up.
- Ensures resolution of disagreements with audit findings and recommendations, including coordinating with Treasury.
- Ensures that recommendations are implemented and corrective actions are taken in a timely fashion.
- Maintains and tracks audit recommendations and corrective actions through the use of Treasury's tracking system.
- Provides timely responses to Treasury on requests for information.
- Evaluates audit follow-up performance OCC-wide and ensures that these evaluations are an integral part of the OCC's FMFIA and FFMIA programs.
- Ensures that audit follow-up procedures are consistent with TD 40-04 "Treasury Internal (Management) Control Program" and TD 40-02, "Corresponding with the General Accounting Office (GAO)."

Action Officials

- Decide how to implement audit recommendations, develop action plans, and set target dates.
- Validate the implementation of corrective actions.

Senior Advisor (OIG/GAO Liaison)

- Manages and/or facilitates the procedures.

PROCEDURES

Within 7 days of receipt of audit recommendations in P&MA, the senior advisor designates and requests action officials to provide, within 30 days, statements of corrective action, action plans and due dates. For any recommendations that are in dispute (i.e., disagreement was stated in response to the draft audit report and the action official continues to disagree), the senior advisor will notify the audit follow-up officer of the need to consult with the Deputy Secretary of the Treasury to achieve resolution within 6 months of the date of the audit report.

Upon receipt of the statements, the senior advisor obtains concurrence from the auditor that the planned corrective actions satisfy the intent of the recommendations.

The audit follow-up officer approves the management statements for reporting into the Treasury tracking system and the senior advisor enters the data.

Thirty days before an action is due to be implemented, the senior advisor sends notice to the action official and requests that a status statement be provided within 1 business day following the planned implementation date.

If the action has been implemented, the action official so states and provides the implementation date. Action officials validate that recommendations have been implemented by providing documentary evidence along with their statements that actions have been implemented. The senior advisor then requests the auditor to concur that the action has been implemented. Upon obtaining auditor concurrence, the senior advisor requests approval from the audit follow-up officer to report to the Treasury system that action has been implemented.

If the action has not been implemented, the action official provides a revised due date and written justification. The audit follow-up officer approves the revision for entry into Treasury's tracking system. The senior advisor enters the data upon receipt of the required approvals.

ORIGINATING OFFICE

Questions may be directed to the Program and Management Accountability Division at (202) 874-4540. Additional information may also be obtained by visiting the Program and Management Accountability Web site on OCCnet.

John D. Hawke, Jr.
Comptroller of the Currency

PPM 1000-2

Comptroller of the Currency
Administrator of National Banks

October 14, 1977

Administrative Circular No. 92

TO ALL OCC EMPLOYEES

As you know there has been some confusion in the Office over the past years concerning the propriety of flying on airplanes owned by national banks. To end this confusion, employees of the OCC will not fly on airplanes owned or leased by the institutions regulated by this Office. The only exceptions will be in extraordinary circumstances in which the employee has contacted the Comptroller and received his prior approval.

John G. Heimann
Comptroller of the Currency

Office of the
Comptroller of the Currency

Policies and Procedures Manual

PPM 1000-20

Section: **Comptroller** Subject: **Executive Committee Charter**

Purpose

This *Policies and Procedures Manual* (PPM) issuance establishes the charter for the Executive Committee (EC). This PPM replaces the "OCC Executive Committee Standing Rules," dated April 5, 2012. The EC functions as a forum for the consideration of matters and issues affecting the Office of the Comptroller of the Currency (OCC). The EC provides counsel and recommendations to the Comptroller on a variety of subjects including, but not limited to, strategic planning and priorities, the OCC's internal and external environment, the OCC's performance, enterprise governance, internal and external audits, policy-making initiatives, operating plans and budget expenditures, and any other matters that, because of the supervisory impact, public profile, or effect on OCC employees, would benefit from EC deliberation.

Authority

Members of the EC are authorized to approve, approve with conditions, or disapprove

- proposed rule making and policy development projects.
- budget reprogramming requests that do not increase the OCC-wide fiscal year budget, in accordance with outstanding guidance.
- amendments to plan documents for the OCC 401(k) plan and the Office of Thrift Supervision 401(k) plan.[1]

In addition to these specific authorities, the EC's role is to provide consensus and individual recommendations to the Comptroller on matters considered by the EC or its members. The EC's actions, other than those specific authorities set forth above, are advisory or consultative, with decision-making authority residing with the Comptroller or such other OCC officials whom the Comptroller has designated or may designate. Consistent with the Comptroller's "Delegation of Authority" memorandum dated May 10, 2012, the EC is responsible and accountable for promptly assuring that matters considered by the EC that would establish significant precedent, change significant policies of the OCC, attract unusual attention or publicity, have a significant effect on external parties, or be of significant interest to other parts of the U.S. government are brought to the attention of the Comptroller such that the Comptroller may consider, and, if the Comptroller so elects, decide the matter. Notwithstanding this provision, individual EC

[1] Section 8.1 of the OCC 401(k) plan requires that amendments to the plan be approved at an EC meeting at which a quorum is present or by written consent of EC members.

members also remain accountable for elevating such matters to the Comptroller for issues within their respective units.

References

- Memorandum to the Executive Committee from Thomas J. Curry, May 10, 2012, "Delegation of Authority"
- Memorandum to the Executive Committee from Thomas J. Curry, November 17, 2016, "Authority of the Members of the Executive Committee," which replaces the Memorandum to the Executive Committee Members from John D. Hawke Jr., May 6, 2002, "Authority of Executive Committee and Its Members"

Scope and Responsibilities

In general, the duties of the EC are to

- assist the Comptroller in performing strategic planning and make recommendations to the Comptroller regarding the content and execution of the OCC's strategic plan and strategic priorities.
- assess the OCC's internal and external environment and recommend appropriate agency responses.
- review periodically the OCC's performance.
- review the results of internal and external audits and recommend appropriate agency responses.
- approve policy-making initiatives, including composition of project teams, delivery dates, and proposed decision makers, subject to direction by the Comptroller.
- provide recommendations on the implementation of major policy initiatives to sponsors and designated decision makers.
- provide recommendations on other matters that due to their supervisory impact, public profile, or effect on employees are appropriate for EC deliberation.
- provide recommendations to the Comptroller on operating plans and budgets.
- direct the work of EC subcommittees and report back to the Comptroller regarding the work.
- perform other functions as required by the Comptroller.

Membership

The Executive Committee is chaired by the Comptroller. Other members are the following:

- Senior Deputy Comptroller and Chief of Staff
- Senior Deputy Comptroller and Chief Counsel
- Senior Deputy Comptroller for Bank Supervision Policy and Chief National Bank Examiner
- Senior Deputy Comptroller for Compliance and Community Affairs
- Senior Deputy Comptroller for Economics
- Senior Deputy Comptroller for Enterprise Governance and Ombudsman

- Senior Deputy Comptroller for Large Bank Supervision
- Senior Deputy Comptroller for Management and Chief Financial Officer
- Senior Deputy Comptroller for Midsize and Community Bank Supervision.

Procedures, Deliberations, and Decisions of the Committee

The EC meets weekly. The Comptroller chairs the meetings. Special meetings, as needed, may be called by the chairperson or requested by members with the concurrence of the chairperson. A simple majority of EC members constitutes a quorum.

Any EC member may propose an agenda item. Agenda items must be proposed to the Senior Deputy Comptroller and Chief of Staff, who works with office staff members to schedule EC agenda items.

Substitutes and persons serving in an acting role for a member of the EC may not attend meetings of the EC unless designated or agreed to by the Senior Deputy Comptroller and Chief of Staff with the Comptroller's concurrence. EC members may meet in the absence of a quorum for information or discussion purposes.

The Executive Assistant to the Comptroller takes minutes at each EC meeting. These minutes, after approval by the EC, are posted to an electronic bulletin board accessible to all employees. The Senior Deputy Comptroller and Chief of Staff tracks action items from EC meetings.

Committee Packages

The presenting EC member or guest shall prepare a presentation package that considers the OCC decision-making and execution framework, which includes a clear statement of the objective for the presentation, background information, criteria to evaluate alternatives, robust data and/or information analyzed, alternatives, recommendations, and the owner. Presenters should include the Executive IDEA (Identify, Decide, Execute, Assess) form as part of their materials. The IDEA form complements the OCC decision-making and execution framework and documents key proposals and their relationship to the OCC's risk appetite. Copies of presentation packages must be submitted to the Comptroller's office by close of business one calendar week before the meeting, unless the chair approves a later date. Meeting agendas and any background materials requiring a decision shall generally be distributed to members one calendar week before the scheduled meeting, and for discussion or informational presentations, at least three business days before the meeting.

Because of the sensitivity of the material included in EC packages, the information should not be distributed beyond the member's front office staff members and designated alternate without prior approval of the Senior Deputy Comptroller and Chief of Staff and with the Comptroller's concurrence.

Thomas J. Curry
Comptroller of the Currency

PPM - 1000-3

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

December 20, 1977

Administrative Circular No. 94

TO: Deputy Comptrollers
Regional Administrators
Deputy Regional Administrators
Department and Division Heads

SUBJECT: Access to nonpublic information possessed by the FDIC

The Federal Deposit Insurance Corporation has recently adopted new regulations (12 C.F.R. Part 309) defining the circumstances under which the Corporation will disclose information in its possession. Since the official duties of various OCC personnel occasionally require access to nonpublic information in the hands of the FDIC, I call your attention to the following provisions of the Corporation's regulations:

Disclosure

The FDIC's Director, Division of Bank Supervision or his designee may "disclose" to any authorized OCC employee reports of examination or other nonpublic information. "Disclosure" is defined as giving access to a record, whether by producing the record or by verbal discussion of its contents, but excludes the making of copies or verbatim transcriptions of the record.

Copies

The FDIC's Director, Division of Bank Supervision or his designee may provide copies of reports of examination or other nonpublic records only in response to a written request from the Comptroller or anyone whom the Comptroller authorizes in writing to make such a request. Written requests for copies of such documents must:

(1) identify the record (s) sought; and
(2) give the reason (s) for the request.

PPM - 1000-3

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

In every case in which the FDIC provides OCC personnel with copies of confidential records, the copies remain the property of the FDIC and disclosure of the information they contain is prohibited.

Authorization

In accordance with the requirements of the regulations outlined above, present and future incumbents of the following positions are hereby authorized to make official written requests for copies of nonpublic records belonging to the FDIC:

First Deputy Comptroller
First Deputy Comptroller for Operations
Deputy Comptroller for Special Surveillance
Deputy Comptroller for Banking Operations
Chief Counsel
Deputy Chief Counsel
Regional Administrator
Director, Special Projects Division
Director, Enforcement and Compliance Division

Further, present and future incumbents of the following positions, in addition to those enumerated above, are hereby authorized to receive disclosure of information contained in nonpublic FDIC documents:

Deputy Regional Administrator
Department or Division Head

All authorized employees are again reminded of our obligation to maintain the confidentiality of any information or documents obtained from the FDIC.

John G. Heimann
Comptroller of the Currency

PPM - 1000-3

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

PPM - 1000-3 (Amendment)

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

April 11, 1978

Administrative Circular No. 94 A M E N D E D

TO: Deputy Comptrollers
Regional Administrators
Deputy Regional Administrators
Department and Division Heads

SUBJECT: Access to nonpublic information possessed by the FDIC

Due to recent organizational changes, it has become necessary to amend the above captioned Administrative Circular as follows:

* * *

Authorization

In accordance with the requirements of 12 C.F.R. Part 309, present and future incumbents of the following positions are hereby authorized to make official written requests for copies of nonpublic records belonging to the FDIC:

First Deputy Comptroller
Deputy Comptroller for Bank Supervision
Deputy Comptroller for Operations
Deputy Comptroller for Policy Planning
Chief National Bank Examiner
Chief Counsel
Deputy Chief Counsel
Regional Administrator
Director, Special Projects Division
Director, Enforcement and Compliance Division

Associate Deputy Comptroller, Bank Organization and Structure

Further, present and future incumbents of the following positions, in addition to those above enumerated, are hereby authorized to receive disclosure of information contained in nonpublic FDIC documents:

Deputy Regional Administrator
Department or Division Head

All authorized employees are again reminded of our obligation to maintain the confidentiality of any information or documents obtained from the FDIC

* * *

The foregoing provisions shall supersede the segment entitled "Authorization" in Administrative Circular No. 94, dated December 20, 1977.

John G. Heimann
Comptroller of the Currency

Office of the
Comptroller of the Currency

Policies and Procedures Manual

PPM 1000-9 (REV)

Section: Comptroller Subject: Administering Bank Appeals

TO: Department and Division Heads and All Examining Personnel

PURPOSE

This issuance updates guidelines for responding to bank appeals and procedures for administering appeals. This appeals process applies to national banks, federal savings associations, and federal branches and agencies (collectively, banks). It supplements OCC Bulletin 2013-15, which describes the bank appeals process and procedures for banks seeking to file an appeal.

SCOPE

This issuance outlines procedures for tracking and reporting formal and informal appeal activity. Formal appeals are appeals to a Deputy Comptroller or appeals filed directly with the OCC Ombudsman. Appeals filed with an Assistant Deputy Comptroller or any OCC official defined in appendix A of this document or OCC Bulletin 2013-15 are considered informal.

POLICY

If a dispute arises during the supervisory process, it is OCC policy to resolve the dispute fairly and expeditiously in an informal, amicable manner. If disagreements cannot be resolved through informal discussions, banks are encouraged to seek a further review of the OCC decisions or actions that are in dispute through the bank appeals process. The procedures established in this issuance are designed to ensure that formal and informal appeals are responded to fairly and expeditiously. An important objective of the bank appeals process is to ensure that no one—neither banker nor OCC employee—is disadvantaged by filing an appeal.

DEFINITIONS

Appendix A defines inquiries, formal discussion, informal and formal appeal activities and identifies parties responsible for tracking these items.

An inquiry is usually verbal information gathering about a specific topic and related standards or the appeals process; it occurs any time during the examination cycle.

A formal discussion represents communication between the supervisory office and a bank after the supervisory office receives written communication from the bank informing the supervisory office of its disagreement with preliminary supervisory conclusions based on a draft report of examination, matters requiring attention, loan classifications, etc.

An informal appeal represents written communication to the bank's supervisory office or signatory on the agency decision expressing disagreement with final, written conclusions; the appeal occurs after receipt of a report of examination or other written decision.

A formal appeal represents written communication to a Deputy Comptroller or the Ombudsman expressing disagreement with the final supervisory conclusions. A formal appeal must have board approval. A bank may appeal to the Ombudsman after filing an appeal with a Deputy Comptroller or the shared national credit appeal panel if applicable; the appeal is referred to as a second-tier appeal.

Any communication between a Deputy Comptroller or the Ombudsman and the bank regarding a supervisory issue in dispute prior to filing a formal appeal is considered a formal discussion.

PROCEDURES

Appeals Coordinators

Each district, Midsize Community Bank Supervision (MCBS), Large Bank Supervision (LBS), Licensing, and the Headquarters Special Supervision Department shall appoint an appeals coordinator, who is responsible for tracking all formal and informal appeals activity under his or her jurisdiction.

Formal Appeals

Formal appeals must be addressed to one of the responsible officials specified in OCC Bulletin 2013-15, "Bank Appeals Process," such as the applicable Deputy Comptroller (MCBS/LBS/Licensing) or the OCC Ombudsman.

Initial Review of Formal Appeals

Upon receipt, the applicable Deputy Comptroller or the Ombudsman (reviewing official) shall determine whether the issues in dispute are appealable and have been properly submitted in accordance with the requirements in OCC Bulletin 2013-15. The reviewing official shall determine whether an appeal has been brought by an institution or by an individual on his or her own behalf. If an individual bank employee brought the appeal, the reviewing official shall determine whether the appeal is supported by the bank's board of directors. If the appeal alleges, or potentially involves, criminal or unethical behavior, it shall be referred to the U.S. Department of the Treasury Inspector General or the U.S. Department of Justice. The supervisory office shall seek the assistance of district legal staff or the Chief Counsel's office as warranted when making a referral.

Each appeal shall be reviewed for all required information. Formal appeals must be in writing and fully describe the matter(s) in dispute. They shall be as specific as possible and include the following information:

- Name and status of the party filing the appeal,
- Description of matter(s) in dispute, and
- Supervisory standards (i.e., law citation or supervisory guidance) thought to be applied inaccurately.

If an appeal is incomplete, the reviewing official shall request additional information as necessary. Within seven calendar days of receipt of a complete package, the reviewing official shall notify the bank in writing whether the appeal is accepted. Within seven calendar days of acceptance of a formal appeal, the appeals coordinator shall inform the Ombudsman of the appeal, including the information described in the "Recordkeeping and Reporting" section of this issuance. If the reviewing official determines that the supervisory office will not be able to comply with the time frames set forth in OCC Bulletin 2013-15, he or she shall send an e-mail message to the Ombudsman briefly describing the reason for the exception. The appropriate Deputy Comptroller and the Ombudsman must approve all exceptions to the stipulated time frames.

Processing of Formal Appeals

Upon acceptance, the supervisory office (i.e., Assistant Deputy Comptroller, Director for Special Supervision, Large Bank Examiner-in-Charge, district Director for Licensing, etc.) shall be notified by the reviewing official that the appeal has been filed and accepted. A written response from this supervisory office is required within 10 calendar days of receipt of notification. The reviewing official shall ensure that the supervisory office has enough information to fully understand the matters involved in the appeal and respond adequately. After reviewing the appeal and the supervisory office response, the reviewing official shall seek advice from technical experts within the OCC as warranted to help evaluate the appeal.

After reviewing all case material from the appellant, the applicable supervisory office, and any technical experts within the OCC, the reviewing official will issue a written summary of conclusions to the bank and supervisory office. If the appeal was sent to a Deputy Comptroller, the conclusion letter shall notify the appellant of the right to make a second-tier appeal directly to the Ombudsman. Appeals to the Ombudsman will be handled in accordance with the procedures described in OCC Bulletin 2013-15 and this document.

Recordkeeping and Reporting

The appeals coordinator shall immediately report all formal appeals to the Office of the Ombudsman. This report can be delivered by e-mail and shall include the following information:

- Date the appeal was filed
- Date the appeal was accepted for review
- Name, charter number, address, and telephone number of the institution filing the appeal
- Name and position of a contact person at the institution filing the appeal

- Concise description of the matter appealed
- Name, position, and telephone number of the OCC official responsible for processing the appeal
- Case document file number composed of the following elements:
  1. FA (formal appeal).
  2. Abbreviation of the supervisory office where the appeal was filed: NE, S, WE, C, MS, LB, SS, or OMBD.
  3. The last two digits of the year that the appeal was filed.
  4. A sequence number, starting with "1" each year, reflecting the order in which cases were accepted for review at the applicable office during the year.

For example, FA-NE-13-1 would indicate the first formal appeal filed in the Northeastern District in 2013.

Case File

Each appeals coordinator shall develop a case file for each appeal filed under his or her jurisdiction. The file shall include all documents submitted to the agency or generated during the course of the appeal, including documentation of telephone calls and meetings to gather additional information. After the reviewing official has made a final determination and issued a conclusion letter, the complete case file shall be submitted to the Ombudsman with a copy retained by the appeals coordinator.

The Ombudsman's office will develop a case file for each appeal filed directly with the Ombudsman and will also administer the case files submitted by the appeals coordinators.

Case files shall be retained on site for three years after the final decision and then sent to the Federal Records Center, where they will be destroyed seven years after the final decision.

Appeal Summaries

The Ombudsman will submit a quarterly report to the Comptroller summarizing all appeals activity. In addition, the OCC's Web site includes material on the bank appeals process and summarizes each formal appeal. Upon completion of each formal appeal, the applicable appeals coordinator is responsible for writing and submitting the summary to the Ombudsman's office.

The summary shall be submitted to the Ombudsman with the completed case file. Preparers of summaries shall keep in mind that all appeals are confidential. Stringent efforts must be made to protect banks and OCC employee confidential information. The name and location of the financial institution and the identities of bank and regulatory agency officials involved in the appeal may not be divulged in the published summaries.

Each appeal summary shall consist of three parts: background, discussion, and conclusion. The background shall begin with a concise statement of the specific issues raised in the appeal. The discussion section shall detail the matter(s) in dispute and the basis for the disagreement. The conclusion section shall identify the supervisory standards used to analyze each issue in dispute and clearly present each finding and conclusion.

Informal Activity

The establishment of a formal bank appeals process does not change the core policy of the OCC with regard to dispute resolution. The agency remains committed to making every effort to resolve disputes that arise during the supervisory process fairly and expeditiously, in an informal, amicable manner.

All appeals of agency actions or examination decisions filed in writing within 10 calendar days of receipt of the agency's final written decision with any person other than the Deputy Comptroller or the Ombudsman are considered informal appeals. An informal appeal does not need to be reported to the Ombudsman when it is received. The supervisory office shall respond in writing with a conclusion to the appeal within 10 calendar days. The conclusion letter must inform the bank of the availability of the formal appeals process.

Appeals coordinators are also responsible for tracking all formal discussions and informal appeals within their jurisdiction and reporting this information to the Ombudsman within 30 calendar days after the end of each quarter. A tracking system for informal appeals similar to that used for formal appeals shall be maintained. The quarterly summary report of informal appeals shall include the following information:

- Quarter covered by the report
- Name of the unit reporting
- Date each informal appeal was received by the processing unit
- Name, address, telephone number, and charter number of the institution filing the appeal
- Level of appeals review: for example, Assistant Deputy Comptroller, large bank Examiner-in-Charge, etc.
- Status of each appeal, with date of resolution or anticipated date of resolution, if possible
- Concise explanation of each appealed issue and the basis for any conclusions and decisions reached

Thomas J. Curry
Comptroller of the Currency

Appendix A

Appeal Definitions and Tracking Responsibilities

Action type	Verbal contact	Bank/fact specific	Information gathering	Preliminary supervisory conclusions	Written contact	Final supervisory conclusions	Board approval	Tracking responsibility
Inquiry	✓		✓	✓		✓		Ombudsman
Formal discussion		✓	✓	✓	✓			Assistant Deputy Comptroller, Shared National Credit Team Lead, Deputy Comptroller (DC), Ombudsman
Informal appeal		✓			✓	✓		Assistant Deputy Comptroller, Examiner-in Charge, Large Banks, Director for Special Supervision
Formal appeal		✓			✓	✓	✓	District DC, DC–Large Banks (includes Shared National Credit), DC–Midsize and Community Bank Supervision, DC–Special Supervision, DC–International Bank Supervision, DC–Licensing, Ombudsman

Inquiry: Usually verbal information gathering about a specific topic and related standards or the appeals process; occurs any time during the examination cycle. Any request by the caller for confidentiality shall be respected.

Formal discussion: Disagreements submitted in writing to the supervisory office based on preliminary supervisory conclusions; occurs after the bank has received a draft of the decision or action in dispute, such as a summary of loan classifications, matters requiring attention, and examination conclusions. For the Deputy Comptroller and the Ombudsman, formal discussions represent all verbal discussions with the bank before receiving a formal appeal.

Informal appeal: Written communication to the bank's supervisory office or signatory on the agency decision expressing disagreement with final, written conclusions; occurs after receipt of a report of examination or other written decision.

Formal appeal: Written communication to a Deputy Comptroller or the Ombudsman expressing disagreement with the final supervisory conclusions. Appeal must have board approval. Bank may appeal to the Ombudsman after filing an appeal with a Deputy Comptroller or the shared national credit appeals panel; referred to as second-tier appeal.

Office of the
Comptroller of the Currency

Policies and Procedures Manual

PPM 2100-15 (REV)

Section: **Communications** Subject: **Processing Requests Under the Freedom of Information Act**

TO: All OCC Employees

PURPOSE

This PPM revises the Freedom of Information Act (FOIA) policies and procedures of the Office of the Comptroller of the Currency (OCC) and the responsibilities of the agency's employees in administering FOIA requests. This issuance revises PPM 2100-15 (REV), "Processing Requests Under the Freedom of Information Act," dated January 13, 2006. This PPM implements a key change that streamlines the OCC's FOIA procedures.

This PPM requires each Senior Deputy Comptroller (SDC) to assign an employee to serve as the primary point of contact (POC) for the OCC's FOIA Officer and Disclosure Services, which is part of OCC Public Affairs. The POC must work with the FOIA Officer and Disclosure Services staff members to ensure that FOIA requests are processed within 20 working days, as required by law. Additionally, the primary POC must identify a secondary POC to serve in the absence of the primary POC and to notify the FOIA Officer and Disclosure Services staff members of the absence.

The POC serves as the liaison between Disclosure Services and the assigned office(s) within the SDC business unit whose responsibility it is to forward document requests received from Disclosure Services to the appropriate office. The POC ensures that the appropriate attention is given to the document request and coordinates the delivery of the responsive records to the FOIA Officer and Disclosure Services by the due date established in the document request. For a current list of POCs, see the appendix, "FOIA Points of Contact by SDC Business Unit," and the Disclosure Services intranet site at http://occnet.occ/workplace-services/public-affairs-services/disclosure-services/foia-bu-pocs.html.

SCOPE

This PPM applies to all OCC employees. Employees must immediately forward to the FOIA Officer and Disclosure Services (1) any FOIA requests that they receive, and (2) all records requested by Disclosure Services staff members. The FOIA Officer, working with Disclosure Services staff members, is responsible for reviewing all records requested under FOIA and providing the requester with an initial determination regarding disclosure within 20 working days of receipt of the FOIA request.

BACKGROUND

FOIA gives the public the right of access to federal agency records, unless the records fall under the protection of one or more of nine FOIA exemptions. These exemptions are described in the Freedom of Information Act, 5 USC 552(b)(1)-(9), and the OCC's FOIA regulations found in 12 CFR 4, subpart B, "Availability of Information Under the Freedom of Information Act." FOIA also requires federal agencies to make a determination regarding each FOIA request within 20 working days from receipt by the office of record.[1]

The OCC's FOIA Officer, acting under delegated authority, is authorized to decide whether a record is exempt or must be released. To make this determination, the FOIA Officer must have access to all requested OCC records.

OCC employees are required to give the FOIA Officer and Disclosure Services staff members prompt access to all OCC records responsive to FOIA requests. Disclosure Services staff members will not disclose information to the public before consulting with the appropriate OCC business unit. All OCC employees, including Disclosure Services staff members, are subject to the same prohibitions regarding unauthorized disclosures of nonpublic OCC information.

REFERENCES

- 5 USC 552, Freedom of Information Act
- 12 CFR 4, subpart B, "Availability of Information Under the Freedom of Information Act"
- 31 CFR 1, subpart A, "Disclosure of Records," Freedom of Information Act
- "The OCC Comprehensive Records Retention Schedule"
- "National Archives and Records Administration General Records Schedules"

[1] Per the OCC's regulations, the OCC's office of record is Disclosure Services, which is a unit of the OCC's Communications Division (see 12 CFR 4.15(g)).

POLICY AND PROCEDURES

This PPM explains the OCC's process for handling requests from persons[2] seeking access to records under the agency's control.[3]

Under the OCC's process, FOIA requests

- do not have to specifically reference FOIA to be processed under FOIA.
- cannot be used to gain answers to open-ended questions or general queries.
- cannot require the OCC to create records in response to the request.

Persons seeking access to OCC records are encouraged to file FOIA requests electronically through the OCC's FOIA Web site at https://foia-pal.occ.gov/palMain.aspx.

Additionally, FOIA requests may be submitted by mail or personal delivery to:

Freedom of Information Act Officer
Disclosure Services, Communications Division
Office of the Comptroller of the Currency
400 7th St. SW
Suite 3E-218, Mail Stop 6W-11
Washington, DC 20219

Any OCC business unit or office that receives FOIA requests should immediately forward the requests to Disclosure Services at Mail Stop 6W-11.

Certain requests for records are handled by other business units and should be forwarded accordingly as follows:

- Requests made pursuant to 12 CFR 4, subpart C, "Release of Non-Public OCC Information," which are handled by the OCC's Director for Litigation, the Director for Enforcement and Compliance, or the appropriate District Counsel, as provided in 12 CFR 4.34.
- Requests from Congress, which are handled by the OCC's Director for Congressional Liaison.

---

[2] Under FOIA, "persons" comprises individuals, partnerships, corporations, associations, and public or private organizations, but not federal agencies.

[3] A "record" is defined more broadly under FOIA than under the Federal Records Act (44 USC 3301). FOIA defines a record as any information that would be an agency record subject to FOIA requirements when maintained by an agency in any format, including an electronic format and information maintained for an agency under a government contract (5 USC 552(f)(2)). An agency record is a record if it is (1) created or obtained by an agency, and (2) under agency control at the time of the FOIA request. See *Department of Justice v. Tax Analysts*, 492 US 136, 144-45 (1989).

- Requests made pursuant to information-sharing agreements between the OCC and other federal or state regulatory or law enforcement agencies, which are handled by the appropriate supervisory office.
- Requests for information contained in the public file (as defined in 12 CFR 5.9, "Public Availability") maintained by OCC licensing offices and related to corporate applications (as defined in 12 CFR 5, "Rules, Policies, and Procedures for Corporate Activities"), which are handled by the appropriate OCC licensing office.

OCC licensing offices are responsible for disclosing public files for corporate applications or filings in their possession. Disclosure Services handles these requests only when (1) district office staff members believe deciding officials should make determinations on the release of certain information contained in the public portion of applications, or (2) the requests seek access to a broader range of documents beyond the public file.

OCC licensing offices that receive requests for records not contained in the public files must forward the requests, along with any responsive OCC records in the licensing office's files, to the FOIA Officer for review and response to requesters.

AUTHORITY

By law, decisions to allow public access to OCC records under FOIA rest with the Comptroller of the Currency. The Comptroller delegated this authority to the SDC and Chief of Staff. This authority was redelegated to the FOIA Officer.

The Comptroller delegated the authority for deciding appeals of initial FOIA determinations to the SDC and Chief Counsel or the SDC and Chief Counsel's designee.

RESPONSIBILITIES

OCC employees. OCC employees are required to provide Disclosure Services staff members with prompt access to all OCC records that are responsive to FOIA requests. OCC employees must direct all FOIA requests for OCC records, corporate documents, and requests for information to Disclosure Services.

All OCC employees, including Disclosure Services staff members, are subject to the same prohibitions regarding the release of nonpublic information. In addition, Disclosure Services staff members can face substantial personal penalties for *not* providing all responsive and nonexempt records that a FOIA requester is entitled to receive under the law.

OCC employees are responsible for

- maintaining files and records, including electronic systems, to properly document the OCC's business, consistent with the policies and procedures established and maintained by OCC Records Management, the Federal Records Act of 1950 (as amended), "The OCC

Comprehensive Records Retention Schedule," and the "National Archives and Records Administration General Records Schedules."

- responding promptly to requests from Disclosure Services and for records responsive to FOIA requests so that a determination on whether to release the records can be made within 20 working days from the date the FOIA request is received, as required by law, unless an alternative release schedule is arranged.
- providing Disclosure Services with timely access to, or copies of, all records believed to be responsive to FOIA requests, whether or not the requested records are privileged or may be subject to a FOIA exemption. If the responsive records are voluminous (estimated to be more than 1,000 pages) and appear to be exempt from disclosure under FOIA, employees must work with Disclosure Services to determine the best method for compiling and searching the records so that Disclosure Services can review the records according to legal requirements.
- providing the Administrative and Internal Law Division (AIL) with timely access to all records that AIL staff members believe may be relevant to an appeal of an initial determination made pursuant to FOIA.

Business unit POC. The POC serves as the liaison between Disclosure Services and the assigned office(s) within the SDC business unit. The POC is not required to personally perform FOIA searches; the POC, however, is required to forward document requests from Disclosure Services to the assigned office(s). The POC ensures that appropriate attention is given to requests and coordinates the provision of responsive records to Disclosure Services by the due date stated in the document request from Disclosure Services. The POC also identifies an alternate individual within the business unit to serve as the secondary POC and to handle FOIA-related matters in the absence of the primary POC or when otherwise appropriate.

The primary and secondary POCs for business units are responsible for

- processing document requests from Disclosure Services.
- working with business unit staff members to arrange for the performance of reasonable searches[4] to identify, locate, assemble, and provide to Disclosure Services copies of or access to all responsive records, regardless of format, by the due date stated in Disclosure Services' document request.
- requesting assistance from Disclosure Services in compiling and submitting voluminous quantities of electronic documents.
- advising Disclosure Services of the need for an extended completion time frame due to volume of documents, difficulty of search, or temporary staff absences. Designated POCs and other employees, however, should understand that the agency is required by law to issue a determination on the FOIA request within 20 working days.
- ensuring that responsive records that were withheld and not turned over to Disclosure Services are maintained for the duration of the FOIA retention period or the retention per the records retention schedule, whichever is longer.

[4] The application of the "reasonable search" standard will vary from case to case. The reasonableness of a search, however, can be determined by considering whether the agency searched all files, systems, and locations where responsive records were likely to be found.

- notifying Disclosure Services when the role of designated POC has been transferred to another individual in the business unit.

FOIA Officer. The FOIA Officer supervises Disclosure Services staff members and oversees the processing of all FOIA requests.

The OCC FOIA Officer is responsible for

- reviewing all responsive records and consulting with the proper business units to make initial determinations on whether the requested records may be released to the public.
- reviewing case law, FOIA's statutory exemptions, and OCC disclosure precedents and procedures to determine whether any exemptions apply to the requested records and whether there are any segregable portions of otherwise exempt records that should be released. The FOIA Officer consults with the AIL staff as necessary.
- reviewing all responsive records, regardless of whether the records are ultimately released or withheld by the FOIA Officer.
- asserting all appropriate exemptions, consistent with FOIA, to protect records deemed nonpublic.
- providing procedures (e.g., required file format) and a repository for voluminous compilations of electronic documents.
- providing written responses to FOIA requests.
- prior to the release of documents, ensuring that POCs know whether documents they provide are released or withheld under FOIA.

Disclosure Services. Disclosure Services staff members are responsible for

- receiving and analyzing all FOIA requests, including
  - reviewing requests to determine whether they are overly broad or vague and consulting with the appropriate POC (see the appendix, "FOIA Points of Contact by SDC Business Unit"), as necessary, to gain a sufficient understanding of the requests and the scope of the requests.
  - communicating with requesters to clarify and narrow requests when requests are overly broad or vague.
  - reviewing requests in a timely manner to determine when it is appropriate to assess fees for the processing of the requests and, when fees are appropriate, communicating with the appropriate POC to obtain information sufficient to provide fee estimates to requesters. Such reviews should occur as a matter of course and should occur in a timely fashion to avoid inadvertent fee waivers.
  - conducting searches that are reasonably calculated to uncover all responsive records.
  - reviewing responsive records to determine whether
    - records are subject to any FOIA exemptions.
    - there are reasonably segregable portions of otherwise exempt materials that may be disclosed.

  - there are any exempt records that should be disclosed on a discretionary basis, pursuant to President Obama's FOIA Memorandum and Attorney General Eric Holder's FOIA guidelines.[5]
  - records are not exempt and should be disclosed.
- submitting document requests to the appropriate POC (see the appendix, "FOIA Points of Contact by SDC Business Unit") for the functional area(s) believed to possess or control access to records and files deemed responsive to the FOIA request within five working days of receiving the request from the requester.
- establishing reasonable time frames for business units to locate and turn over responsive records to Disclosure Services so that the OCC can comply with statutory time frames.
- establishing and maintaining files and records of requests made under FOIA that meet statutory requirements and support subsequent reviews and appropriate records retention requirements. These files include initial requests, any additional communications with requesters, all responsive records, notes pertaining to searches conducted, and copies of the OCC's final responses.
- ensuring that responsive records are retained, in case of litigation, for six years from the end of the year in which the FOIA requests are closed.
- providing timely and accurate status reports to business unit POCs and others on pending requests for documents submitted to business units.
- preparing the OCC's fiscal year statistical summaries for all FOIA requests, appeals, and litigation for inclusion in the *U.S. Department of the Treasury Freedom of Information Act Annual Report to the Attorney General.*
- compiling and submitting to the Treasury Department the OCC's monthly statistical summaries for all FOIA requests, appeals, and litigation.
- maintaining a current list of FOIA Points of Contact by SDC Business Unit on the Disclosure Services intranet site at http://occnet.occ/workplace-services/public-affairs-services/disclosure-services/foia-bu-pocs.html.

Administrative and Internal Law Division. FOIA requesters who (1) believe they have been improperly denied access to records responsive to requests, (2) believe they have been improperly denied fee waivers, or (3) have not received responses to FOIA requests within the statutory time frame of 20 working days may file administrative appeals of initial determinations. FOIA requires the agency to decide an appeal within 20 working days from the date the appeal was received. When an appeal is filed, Disclosure Services provides AIL with a copy of the complete administrative file on the case. AIL reviews all related materials, contacts appropriate business units, and makes a recommendation for the SDC and Chief Counsel or a designee's signature.

AIL staff members are responsible for

- reviewing initial determinations that are appealed under FOIA.

[5] Presidential Memorandum on the Freedom of Information Act, 74 Fed. Reg. 4683, January 26, 2009; and Office of the Attorney General's "Memorandum for Heads of Executive Departments and Agencies" on the Freedom of Information Act, March 19, 2009.

- recommending the final determination on the appeal to the SDC and Chief Counsel (or a designee).
- issuing the final decision on the appeal to the appellant.

FURTHER INFORMATION

To learn more, see the "Freedom of Information Act Request Quick Tips" at http://occnet.occ/workplace-services/public-affairs-services/disclosure-services/FOIAQuickTips.pdf.

Direct questions concerning the policy and procedures to the FOIA Officer or Disclosure Services staff members at (202) 649-6700. Direct questions about the FOIA appeals process to AIL at (202) 649-5560.

Paul M. Nash
Senior Deputy Comptroller and Chief of Staff

FOIA Points of Contact by SDC Business Unit

Primary POC	Secondary POC
Chief National Bank Examiner Christina Benson	Deborah Merkle
Chief of Staff William Rowe	Susan Chew
Economics Inga Swanner	Laura St. Claire
Large Bank Supervision Jennifer Eccles	Lori Bittner
Midsize and Community Bank Supervision Beverly Cole	Quade Whitmire
Office of Management Tamara Wiseman	Mavis Pratt-Davis
Office of the Comptroller Susan Chew	William Rowe
Ombudsman Teresa Spain	Joseph Meinhardt
Senior Deputy Comptroller and Chief Counsel Diane Page	Alexis Reese

PPM 5000-34 (REV)

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Bank Supervision Subject: Canary Early Warning System

TO: Department and Division Heads and All Examining Personnel

PURPOSE AND SCOPE

This issuance revises PPM 5000-34, Canary Early Warning System, dated August 8, 2000. The Canary early warning system is the OCC's core set of risk tools. These tools are designed to enhance the OCC's identification of and supervisory responses to emerging risks. Reporting requirements outlined in the revised PPM also will allow district and senior management to focus on system-wide risk trends and identify individual national banks with increasing risk profiles as well as those with stable and low risk profiles. This revised guidance is effective immediately.

CONTENTS

BACKGROUND AND REFERENCE

The "Canary Project" began in 1999 in response to the Comptroller's request that the OCC's diverse early warning *tools* be inventoried, enhanced, and organized into a productive early warning *system* that could be consistently applied nationwide.[1] Specific goals include more anticipatory supervision and more efficient use of resources. The rapid pace of change in banks, their increased complexity and associated risks, as well as the desire to increase the efficiency and effectiveness of the OCC's early warning process prompted the need for such a system.

Canary was designed and built by an interdisciplinary team, including examiners, economists, and information technology specialists. The team consulted regularly with the National Risk Committee, which will maintain formal and informal communications with system users and other experts for feedback that will help refine and improve these early warning tools over time.

Examiners should immediately integrate Canary into their supervisory activities, in addition to or in lieu of other analytical tools that are currently used to assess risk in national banks.[2] Canary's tools are used to draw conclusions about the amount of financial risk at an individual institution: low, moderate, or high. It should be kept in mind, however, that neither Canary nor other forms of off-site analysis replace the critical roles of examiner experience and judgment — gained through direct supervisory activities — in forming overall conclusions about a bank's risk profile.

[1] The project was dubbed "Canary" in reference to the canaries that once served as early warning for dangerous gasses in mineshafts.

[2] Current Canary measures focus on community banks and are intended for institutions rated CAMELS composite 1, 2, or 3. Large bank and midsized bank measures and information for various peer groups (e.g., credit card banks, trust companies, de novo institutions) are being developed and will be distributed at a later date. The banks that are currently measured by Canary are referred to as banks within the **Canary Population**.

The original Canary PPM introduced the static financial risk measures and benchmarks as well as other components of Canary. Since then, Canary has been enhanced and upgraded, with the introduction of Rate of Change measures and benchmarks, and classification of banks as low, moderate, or high risk.

OVERVIEW OF CANARY COMPONENTS

Canary organizes the OCC's early warning tools into five components: (1) Financial Risk Measures and Benchmarks, (2) Internal Models, (3) External Models, (4) Market Barometers, and (5) Research Tools. This document primarily focuses on how examiners and OCC management will use the Financial Risk Measures and Benchmarks and related reports. Detailed descriptions of the other components appear in the appendixes.

(1) Financial Risk Measures and Benchmarks have been established for credit risk, interest rate risk, and liquidity risk.[3] The financial measures are leading indicators of risk taking that are designed to be concise and intuitive. These measures are referred to as **"Static" measures** because they refer to a bank's financial risk position at a given point in time. Static benchmarks identify banks with potentially high financial risk positions. Canary assumes an increased risk profile when a bank exceeds three or more static benchmarks within a risk category.

For each financial risk measure, a **Rate of Change (ROC) measure** has also been calculated. ROC measures focus attention on rapid movement off of a material starting point, rather than focus solely on a static position. This measure helps to identify those banks moving rapidly toward a financial risk position, but is calculated only for those banks already at a meaningful starting point. ROC ratios are only calculated for those banks that exceeded the median for a particular static measure four quarters ago. Therefore, the ROC is calculated as either the 4-quarter percentage change or four-quarter difference in the static measure, depending on the ratio.[4]

Rate of change benchmarks focus attention on *two particular groups* of banks:

- *those that already exceed the static benchmark and are moving at an increasing rate:* for example, a bank with a current Adjusted ALLL/Loans ratio of -0.08 percent against a benchmark of 0 percent, a 4-quarter previous ratio of 0.70 percent while the median was 0.75 percent, and a rate of change of -78 basis points against a benchmark of -50 basis points; and

- *those that do not yet exceed a static benchmark but are approaching it rapidly:* for example, a bank with a current loans to assets ratio of 69 percent against a benchmark

[3] The measures are calculated from call report data.

[4] For static measures in which a greater financial risk position is assumed with growth, a 4-quarter percentage change is used. For static measures in which a greater financial risk position is assumed with a decline, a 4-quarter difference, measured in basis points, is used. See Appendix A for more detail.

of 70 percent, a 4-quarter previous ratio of 56 percent, while the median was 55 percent, and a rate of change of 23 percent against the benchmark of 15 percent.

Because rapid change is often a strong indicator of higher risk, the ROC measures should receive a higher level of focus and analysis than the static measures.

Bank managers, bank directors, and OCC examiners can use ROC and static measures to look for high levels of financial risk and determine if risk management practices and/or mitigants are appropriate for the given level of risk. Evaluating bank financial positions relative to the static and ROC benchmarks facilitates early warning analysis by highlighting banks that may need additional supervisory analysis or attention due to potentially high credit, interest rate, and/or liquidity risk positions, or rapid movement in that direction. ***The OCC has determined that these benchmarks collectively represent the minimum set of analytical measures that examiners should use during on-site and off-site supervisory activities.***

The measures and benchmarks serve important OCC supervisory needs by:

- Providing a useful, consistent tool for identifying potential risk areas and performing comparative analysis. This will enable examiners and managers to better allocate resources through more focused examinations and off-site reviews.

- Identifying banks with potentially high or complex risk exposures, as well as banks with stable and low risk exposures. Portfolio managers, other managers, and Special Supervision can use this information in planning examinations, allocating resources, and targeting key risks.

- Providing supervisory offices with an oversight tool. Supervisory offices can compare benchmark reports to current risk assessments and supervisory plans, so that inconsistencies can be identified and resolved.

- Providing headquarters with quantitative measures for assessing and tracking systemic risk. This information will be used in formulating National Risk Committee and District Risk Committee initiatives.

- Promoting enhanced communications regarding risks in the national banking system throughout the OCC. The information generated and shared through Canary and subsequent discussions regarding its findings will enable the OCC to operate more efficiently and effectively.

(2) Internal Models are models that were created within the OCC and assist examiners in assessing the future effects of changing economic or other conditions on a bank. The Peer Group Risk Models are a series of econometric models designed to project the potential impact of different economic scenarios on future earnings for similar asset-based bank peer groups. The models forecast the return on assets (ROAs) that banks can be expected to experience over the next three years and provide the probability that the individual bank will report a negative ROA. The Bank Risk Calculator is another analytical tool that uses call report data and economic data for bank market areas to classify the overall risk in individual banks and groups of small banks. The purpose of this tool is to provide supervisory staffs with an indication of rising risk external to the bank before its effects are evident on the bank's books and the bank becomes distressed.[5]

(3) External Models are non-OCC created models. KMV is a predictive tool that provides information about the level of credit risk within the universe of publicly traded companies. Early warning credit risk information includes links to KMV analyses, as well as individual bank Expected Default Frequencies (EDFs). The objective of the Federal Deposit Insurance Corporation's (FDIC's) SCOR (Statistical CAMELS Off-site Ratings) is to determine which banks are likely to experience a CAMELS downgrade at their next on-site examination, and estimates the probability of a downgrade. SCOR predicts a bank's composite CAMELS rating at the next examination using 12 financial ratios calculated from call report data.[6]

(4) Market Barometers are indicators that provide a general view of public confidence, perceptions on credit risk, and a broad sense of liquidity in the capital markets. Specifically, examiners can follow trends in U.S. corporate debt spreads, emerging market debt spreads, equity market trends, interest rate swap spreads, and short-term money market spreads. Income and consumption data are also available. New barometers will be added and others removed over time as the environment changes. Examiners will find Market Barometers helpful in preparing for discussions with bank management.[7]

(5) Research tools serve as complements to the financial risk measures and benchmarks to assist examiners in assessing credit risk. The Loan Concentration Tool is used to produce a list of all the loan concentrations in a bank as of its last examination, or alternatively, to produce a list of banks concentrated in a selected industry code.[8] The Commercial Real Estate Web site contains analysis, data and forecasts on national and local commercial real estate markets and analyses on Real Estate Investment Trusts. Market Spillover (Spillover) enables examiners to investigate the direct and indirect linkages between an individual bank and the markets in which it operates. These markets can be local, regional, national, global, or electronic.[9]

CANARY EARLY WARNING BENCHMARK REPORTS

Canary Benchmark Reports are designed primarily to assist field examiners in their supervisory activities; however, they also enable other OCC staff to monitor systemic trends and OCC supervisory activities in banks based on financial risk characteristics. Although some reports are based solely on the objective benchmark data and model results, others blend objective data with examiner's qualitative knowledge and judgment. This combination of analytical techniques will improve the overall quality of the OCC's risk identification process. The following reports are generated from the Canary measures and benchmarks, and are available on the Canary Web site:

[5] Additional information on OCC internal models is in Appendix B.
[6] Additional information on external models is in Appendix C.
[7] Additional information about Market Barometers is in Appendix D.
[8] At the time of issuance, concentrations were reported by SIC code. However, a transition to NAIC code is forthcoming.
[9] Additional information about Research Tools is in Appendix E.

ROC and Static Measures Top Exceeders Reports identify *all banks within the Canary Population* that exceed a predetermined number of ROC or static benchmarks, combined across the three risks. These reports replace the previously available **Multiple Risk Report.** A bank appearing on a ROC or Static Top Exceeders Report may be assuming a high quantity of several types of financial risk. Examiners should understand the bank's tactics and strategies that generated these positions, evaluate the merits of any mitigating factors, and ensure that the risks are appropriately managed.

The other **Benchmark Reports** are viewed on either a district or ADC basis, but not national. Each report can include all banks in a district/supervisory office, or can be segmented to analyze only the Low Risk Banks or Watch List Banks in a district/supervisory office.

For each district/supervisory office, a **Summary Risk Report** provides a summary assessment of the primary Canary tools for each bank, and then designates the bank as low, moderate, or high risk (the latter denoted Watch List). Banks are ranked in order of current status by the greatest magnitude of overall financial risk (highest risk to least risk). The report can be sorted by each variable on the report.

The **Rate of Change Benchmark Risk Report** notes the number of ROC benchmarks exceeded for each bank by type of risk. This report denotes which banks exceed the ROC benchmark only (i.e., under the static benchmark but approaching it quickly), and those that exceed both the ROC and the static benchmarks.

The **Static Benchmark Risk Report** shows, for each bank, the total number of static benchmarks exceeded by risk type. Additional information including CAMELS ratings and RAS ratings are also available on this report.

The **Credit Risk Report, Liquidity Risk Report, and Interest Rate Risk Report** are collectively referred to as **Risk Focus Reports.** Each report lists the measures for each bank and denotes whether the bank exceeds the ROC or static benchmarks. The higher the number of benchmarks exceeded and the greater the magnitude over the benchmark, the stronger the indication of risk exposure. Institutions that exceed multiple benchmarks are more likely to be high risk and warrant more advanced risk management systems and controls, including greater expertise, and potentially higher capital levels.

The **Finalized Watch List Report** provides a list of those banks on the District Watch List, as well as the reasons for having been added to the list. These are banks with composite ratings of one, two, or three that have high-risk levels, exhibit increasing risk, or the supervisory office deems the bank to warrant watch list status. The reports, developed by the district deputy comptrollers, use benchmark information and judgments made by district supervisory examiners.

The **Peer Group Probability of Loss Report** provides a summary of results of the Peer Group Models for each district/supervisory office. More information about these models is available in Appendix B.

Individual Bank Reports are available by clicking on a specific bank charter number. This report lists each of the bank's ROC and static measures. Also reported are the bank's CAMELS and RAS ratings as of the end of the last quarter, SCOR's estimate of the probability of CAMELS composite and component downgrades by the next examination, KMV EDFs (if available for that institution), and results from the Peer Group and Bank Calculator models. Finally, there are state economic indicators and a link to the Loan Concentration Tool.

National graphs for each of the fifteen financial measures, **market barometers**, and **help information** are also accessible from the Canary Benchmark Reports section of the Canary Web site.

USE OF CANARY BENCHMARK REPORTS IN THE SUPERVISORY PROCESS

As described below, Canary is meant to be an integral part of the supervisory cycle.

Field Supervision

On-site Examinations:

1. **Examination Planning**. Examiners will review the Canary Benchmark Reports with other appropriate information to determine if changes in the scope of the examination are warranted.

2. **Specific Risk Areas**. Examiners will use Canary Benchmark Reports in analyzing the quantity and direction of risks associated with Asset Quality (credit risk), Liquidity, and Sensitivity to Market Risk (interest rate risk).

3. **Risk Assessment System** (RAS).

   Quantity of Risk. Risk Focus Reports identify banks with potentially high quantities of risk. Institutions with financial ratios exceeding any of the early warning benchmarks may have high or increasing risk, and/or may have more complex asset, liability, and off balance sheet structures. Examiners must determine the underlying level and source(s) of risk exposure. **Examiners should not adjust or mitigate the assessment of quantity of risk by the quality of risk management**. Neither bankers nor examiners should conclude that "high" risk levels are "bad" and "low" risk levels are "good" — the quantity of risk simply demonstrates the bank's risk appetite, reflective of its strategy to generate income.

   Quality of Risk Management. The bank's quality of risk management should be commensurate with the quantity of risk being assumed. Use of the Canary Benchmark Reports will help examiners focus on risk areas where the bank will presumably need stronger risk management systems to properly control high and/or increased risk taking.

   Aggregate Risk. Use of the Canary Benchmark Reports in assessing the quantity of financial risk and quality of risk management in place to govern that risk will help examiners make more consistent judgments about the level of overall supervisory concern, decide appropriate direct follow-up activities, and determine appropriate resources needed in achieving the supervisory strategy.

Direction of Risk. Analysis of the ROC measures, which are the changes in financial risk positions in relation to the early warning benchmarks over time, provides an indication of the direction of risk. However, as in the assessment of the quantity of risk, early warning benchmarks should not be the sole determinants of the direction of risk. Other information collected during the supervisory process should supplement this assessment.

4. **Documentation Requirements**. If the bank exceeds more than 3 benchmarks in a given risk area as reported on a Risk Focus Report or appears on the ROC or Static Measure Top Exceeders Report, examiners must summarize in Examiner View or other official data base the benchmarks exceeded, the Risk Assessment System (RAS) ratings, any supervisory follow-up, and any recommended changes to the supervisory strategy.

   If there are any changes in CAMELS component or composite ratings or in the assessments of quantity of risk, quality of risk management, aggregate risk, or direction of risk, the changes should be communicated to bank management.

Community Bank Off-Site Monitoring:

1. **Off-site Analysis**. When a bank exceeds more than 3 benchmarks in a given risk area as reported on a Risk Focus Report or appears on the ROC or Static Measure Top Exceeders Report for the first time, examiners should discuss the information as well as appropriate risk management controls with bank management. Based on the discussion and any supplemental information used, examiners will update their risk assessments.

   If the bank exceeds more than 3 benchmarks in a given risk area as reported on a Risk Focus Report or appears on the ROC or Static Measure Top Exceeders Report for more than the first time, the examiner will determine whether the bank's risk profile has materially changed and adjust the supervisory strategy accordingly.

   Examiners will review Individual Bank Reports to supplement the analysis of each risk area.

2. **Risk Assessment System** (RAS). Given the results of the off-site analysis, examiners should update the quantity of risk, quality of risk management, aggregate risk, or direction of risk assessment ratings as appropriate.

3. **Documentation Requirements**. For banks that exceed more than 3 benchmarks in a given risk area as reported on a Risk Focus Report or appear on the ROC or Static Measure Top Exceeders Report, examiners must summarize in EV or other official data base the risk analysis performed and the current assessment of risk. This record should indicate the benchmarks exceeded and the quality of risk management systems, identify any supervisory follow-up, and recommended changes to the supervisory strategy, if necessary.

If supervisory concerns were identified at the previous on-site examinations, EV or other official data base comments must reflect any corrective action taken.

If the analysis produces changes in CAMELS component or composite ratings or in the assessments of quantity of risk, quality of risk management, aggregate risk or direction of risk, the examiner will communicate the changes to bank management and make appropriate revisions to the supervisory strategy.

District Watch Reports

District management will generate and maintain, through the electronic Canary data base, District Watch Reports identifying banks that have a high or increasing risk profile, and warrant more than normal supervision, by combining the Canary Benchmark Reports results with the district's knowledge and supervisory insights about specific institutions. The following process is to be used to develop the District Watch Reports:

1. Each quarter, the Risk Evaluation unit will produce a preliminary District Watch Report identifying institutions that:

   (a) exceed 10 or more static benchmarks;
   (b) exceed 8 or more ROC only benchmarks (i.e., exceed the ROC benchmark but are under the static benchmark);
   (c) exceed 6 or more both ROC AND static benchmarks; or
   (d) exceed five or more static benchmarks in any one risk category.

   In addition, the preliminary list will include:
   (e) banks that exceed four or more individual credit static benchmarks that are in the top 30 of all banks for the loan to equity ratio;
   (f) banks that exceed four or more individual liquidity risk static benchmarks that are in the top 40 of all banks for the non-core funding dependence ratio; or
   (g) banks that exceed four or more individual interest rate risk static benchmarks that are in the top 50 banks for the depreciation to tier-one capital ratio.

   Risk Evaluation will send the preliminary District Watch Reports (by electronic file) to respective district deputy comptrollers.

2. The district deputy comptrollers will revise the preliminary District Watch Report as necessary to identify other 1, 2, or 3-rated banks that have high or increasing risk profiles and warrant more than normal supervision but were not included on the preliminary District Watch Report. Additions and deletions to the preliminary list will be identified on the report, with a brief explanation of the change. Finalized District Watch Reports will be sent to the Risk Evaluation Division for systemic analysis and Special Supervision/Fraud Division for review of supervisory follow-up.

Each month, the Special Supervision Division will prepare a problem bank report. Each quarter, the final District Watch Report will be included as an addendum to the problem bank report.

The Risk Evaluation Division will review the District Watch Reports and report to the National Risk Committee on any identified systemic risk concerns and emerging supervisory issues. The division will also evaluate changes to the preliminary District Watch Reports to refine the benchmarks and better identify institutions that warrant more than normal supervisory attention. Special Supervision/Fraud will review the District's Watch Reports to ensure appropriate supervisory follow-up.

District Low Risk Banks

District management will generate and maintain, through the electronic Canary data base, a list of banks designated as Low Risk, identifying banks that have a low financial risk profile and warrant streamlined supervision, by combining the benchmark results with the district's knowledge and supervisory insights about specific institutions. The following process is to be used to develop the list of Low Risk Banks:

1. In the first quarter of each year, the Risk Evaluation unit will produce a preliminary list of Low Risk Banks. Financial and supervisory data used to generate this list will be as of the previous year-end. The initial population will include banks with a composite CAMELS rating of "1" for at least two years. The list is then narrowed by running a series of filters to exclude banks, using the following rules:

   (a) Exclude banks that have an IT component rating of 3 or higher;
   (b) Using the ROC measures, exclude banks that exceed both the ROC and static benchmarks for 2 or more ratios, and banks that exceed 3 ROC benchmarks only;
   (c) Using the static benchmarks, exclude banks that exceed 5 static benchmarks total as well as those exceeding more than 2 static benchmarks in any risk category;
   (d) The surviving group is then stress tested using the OCC Peer Group, or other risk-adjusted, Models. At the time of this issuance, 2 peer groups have been modeled -- agricultural and business lending banks. Banks in these peer groups are stress tested under "pessimistic" and "most likely" economic scenarios. These scenarios will be based on current economic data and not year-end data. For those banks belonging to peer groups whose models have not yet been developed, a similar risk-adjusted ROA approach is applied. Banks must show less than a 1 percent probability of loss in either scenario to remain on the list.
   (e) Finally, all banks are tested with the Bank Calculator model and must show less than a 1 percent probability of becoming distressed in either scenario to remain on the list.

2. The Executive Committee will be apprised of the preliminary list of Low Risk Banks, which will then be sent to district management for their review, in conjunction with the first quarter review process. District deputy comptrollers and supervisory offices will make deletions and additions to the list, based on their subjective knowledge of banks in their portfolios. This process will be completed each May, to coincide with district planning and budgeting processes. Banks on the final list will be examined using the minimum core assessment procedures.

3. Through the year, the Low Risk Banks will be monitored for indications of changes in financial risk. Adjustments to the list may be made each quarter with district deputy approval. Because a significant characteristic of Low Risk Banks is that they are stable in performance and risk profile over sustained periods of time, we do not expect to see significant migration associated with this population. Accordingly, changes to the list should be biased towards removals. Interim additions to the list should be infrequent, as banks need time to demonstrate low risk status.

   If the Canary filters change a low risk bank's designation to moderate or high risk during a subsequent quarter, the bank's ADC must determine what caused the change in status. If analysis suggests that the bank should remain on the Low Risk Bank list, the deputy comptroller must approve the designation.

4. Supervisory strategies for banks that are removed from the low risk list should be adjusted as appropriate to the factors or circumstances that caused the change in their status.

The "Reverse Canary" process establishes joint accountability when an unanticipated change in a bank's risk profile is experienced. Executive management will assume accountability when a low-risk bank's condition deteriorates unexpectedly, as long as the bank's EIC and ADC have followed the procedures for identifying and monitoring low-risk banks outlined in this PPM and in the Community Bank Supervision handbook.

The Risk Evaluation Division will review the list of Low Risk Banks and report to the National Risk Committee and Executive Committee on any identified systemic risk concerns and emerging supervisory issues. The division will also regularly evaluate changes to the preliminary list of Low Risk Banks and refine the measures and processes used to ensure effective identification of low risk banks.

Executive Committee

The deputy comptroller for Risk Evaluation, in consultation with the district deputy comptrollers as well as other managers from Bank Supervision and International and Economic Affairs will report to the Executive Committee on aggregate trends, systemic risk concerns and emerging supervisory issues identified from the analysis of the District Watch reports and Low Risk Bank Lists. This presentation will be a part of the National Risk Committee's quarterly Executive Committee presentation. The entire reporting process, from development of preliminary District Watch Reports through presentations to the Executive Committee, normally will be completed within 30 days of receiving final quarterly Uniform Bank Performance Report data.

CANARY MAINTENANCE

The deputy comptroller for Risk Evaluation is responsible for the overall direction of Canary activities, including developing measures and benchmarks and maintaining the Canary Web site. Each quarter, deputy comptrollers from Bank Supervision and International and Economic

Affairs will review the effectiveness of the Canary process in general, and the measures and benchmarks specifically, with an emphasis on continually improving this system.

Emory W. Rushton
Senior Deputy Comptroller
Bank Supervision Policy

Leann G. Britton
Senior Deputy Comptroller
Bank Supervision Operations

Appendix A

Financial Risk Measure and Benchmark Descriptions

I. Introduction

Financial Risk Measures and Benchmarks have been established for credit risk, interest rate risk, and liquidity risk.[10] The financial measures are leading indicators of risk taking that are designed to be concise and intuitive. These measures are referred to as **"Static" measures** because they refer to a bank's financial risk position at a given point in time. Static benchmarks identify banks with potentially high financial risk positions. Canary assumes an increased risk profile when a bank exceeds three or more static benchmarks within a risk category.

For each financial risk measure, a **Rate of Change (ROC) measure** has also been calculated. ROC measures focus attention on rapid movement off of a material starting point, rather than focus solely on a static position. This measure helps to identify those banks moving rapidly toward a financial risk position, but is only calculated for those banks already at a meaningful starting point. ROC ratios are only calculated for those banks that exceeded the median for a particular static measure four quarters ago. Therefore, the ROC is calculated as either the 4-quarter percentage change or four-quarter difference in the static measure, depending on the ratio.[11]

Rate of change benchmarks focus attention on *two particular groups* of banks:

- *Those that already exceed the static benchmark and are moving at an increasing rate:* for example, a bank with a current Adjusted ALLL/Loans ratio of -0.08 percent against a benchmark of 0 percent, a 4-quarter previous ratio of 0.70 percent while the median was 0.75 percent, and a rate of change of -78 basis points against a benchmark of -50 basis points; and

- *Those that do not yet exceed a static benchmark but are approaching it rapidly:* for example, a bank with a current loans to assets ratio of 69 percent against a benchmark of 70 percent, a 4-quarter previous ratio of 56 percent while the median was 55 percent, and a rate of change of 23 percent against the benchmark of 15 percent.

Because rapid change is often a strong indicator of higher risk, the ROC measures should receive a higher level of focus and analysis than the static measures.

As the OCC gains experience with this system, quantitative measures and benchmarks will be updated and calibrated to improve screening efficiency.

Canary Benchmark Reports are used in three ways — to help determine appropriate examiner strategies and staffing needs, to quickly highlight banks that may require further investigation

[10] The measures are calculated from call report data.

[11] For static measures in which a greater financial risk position is assumed with growth, a 4-quarter percentage change is used. For static measures in which a greater financial risk position is assumed with a decline, a 4-quarter difference, measured in basis points, is used. See Appendix A for more detail.

and action, and to indicate trends in the types and growth of systemic risk to the national banking system. Additional tools are used as appropriate to complement more in depth supervisory activities. Some of these tools are included in the Canary Benchmark Reports (e.g., Peer Group Models), while others are considered Research Tools (e.g., Spillover). All are described in the appendices that follow.

II. Canary Financial Risk Measures

The following quantitative measures and static benchmark ratios are currently included in the Canary system. ROC measures are derived from four-quarter changes in the static measures.[12]

A. Summary of Financial Risk Measures and Benchmarks

CREDIT RISK				
Financial Risk Measure	**Static Benchmark**	**ROC Ratio Formula**	**ROC Benchmark**	**Median Indicator**
Adjusted Reserve to Adjusted Loans	< 0 %	Current Ratio – Prior Year Ratio	Difference < -50 bp	Prior Year Ratio < Prior Year Median
Change in Portfolio Mix	> 7 %	Annual Change in Portfolio Mix	Percentage change > 7%	Prior Year Ratio > Prior Year Median of Loans to Assets
Loan Growth	> 20 %	Annual Loan Growth	Percentage change > 15%	Prior Year Ratio > Prior Year Median of Loans to Assets
Loans to Assets	> 70 %	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median
Loans to Equity	> 8 X	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median
Loan Yield	> 75th percentile, previous qtr	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median

[12] ROC ratios are only calculated for those banks that exceeded the median for a particular static measure four quarters ago. Note that the ROC ratios for Loan Growth and Change in Portfolio mix are calculated for those banks that exceeded the Loans to Assets Median 4 quarters previous.

INTEREST RATE RISK				
Financial Risk Measure	**Static Benchmark**	**ROC Ratio Formula**	**ROC Benchmark**	**Median Indicator**
Asset Depreciation to Tier 1 Capital	< -15 %	Current Ratio – Prior Year Ratio	Difference < -1000 bp	Prior Year Ratio < Prior Year Median
Long-Term Assets to Total Assets	> 25 %	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median
Non-maturity Deposits to Long-Term Assets	< 140 %	Current Ratio – Prior Year Ratio	Difference < -2000 bp	Prior Year Ratio < Prior Year Median
Residential Real Estate to Total Assets	> 25 %	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median
LIQUIDITY RISK				
Financial Risk Measure	**Static Benchmark**	**ROC Ratio Formula**	**ROC Benchmark**	**Median Indicator**
Loan to Deposit Ratio	> 80 %	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median
Net Non-Core Funding Dependence	> 20 %	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median
On Hand Liquidity to Total Liabilities	< 8 %	Current Ratio – Prior Year Ratio	Difference < -1000 bp	Prior Year Ratio < Prior Year Median
Reliance on Wholesale Funding	> 15 %	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median
Net Short-term Liabilities to Total Assets	> 20 %	(Current Ratio – Prior Year Ratio) / Prior Year Ratio	Percentage change > 15%	Prior Year Ratio > Prior Year Median

B. Definition of Financial Risk Measures

1. Credit Risk

Adjusted Reserve to Adjusted Loans

IN GENERAL:

$$\frac{\textbf{ALLL - (4*QCARD) - (.0025*REM) - PD}}{\textbf{GROSS LOANS - CARDS - REM - PD}}$$

Where:

4*QCARD = Annualized net losses on credit cards
.0025*REM = Losses estimated on all 1-4 family residential real estate loans, using a .0025 historical loss factor
CARDS = Credit Card Loans
REM = 1-4 family residential loans
PD = Non-current loans

This ratio measures ALLL coverage of loans, after deducting annualized credit card losses, a standardized estimate of loss exposure on real estate loans, and past due loans. The ratio is an estimate of the amount of remaining or adjusted ALLL available to cover losses in the bank's commercial and other loan book. Because credit card losses are annualized from the current quarter, sharp trends in losses will influence the measure; also, a bank's actual loss experience on mortgage loans may differ from the standardized figure used.

Levels and trends in allowance coverage ratios (relative to historical levels and/or to peer banks), such as ALLL to total loans and leases and the adjusted reserve ratio can provide an indication of whether disproportionate relationships exist or are building between risk levels and loss protection. Declining or adverse trends in these ratios can signal that a bank is not providing appropriate protection for the level of risk being booked. Examiners should investigate the reasons for such trends. Perhaps the bank is building a portfolio of higher quality credits (for example, 1 to 4 family residential conforming mortgages) that do not require the same level of reserves as other loans. On the other hand, the bank may be under provisioning for risk in an effort to maintain or increase earnings levels, or may not be adequately measuring the inherent risk of loss in individual credits or in the portfolio.

Change in Portfolio Mix

In General:

Com_LNSD + C&I_LNSD + Cons_LNSD + OTHERD

Where:

COM_LNSD = 1-year Change in Percentage of Total Loans* for Commercial Real Estate Loans
C&I_LNSD = 1-year Change in Percentage of Total Loans* for Commercial Loans
CONS_LNSD = 1-year Change in Percentage of Total Loans* for Consumer Loans
OTHERD = 1-year Change in Percentage of Total Loans* for Other Loans

Other Loans = (Gross Loans - (CommRE+C&I+CONS))
* *If Positive, else Zero*

The loan portfolio is divided into four categories: commercial real estate, commercial, consumer, and other. Each category is expressed as a percentage of total loans. The Change in Portfolio Mix ratio uses a two-step calculation. The first step measures the change for each category of loans from a year ago. For example, if the Commercial RE were 46 percent of total loans in 1999Q4, and 38 percent in 1998Q4, the change would be a +8. The second step sums only the positive changes because growth in one category of loans is offset by a decline in another.

	1999	1998	Change
Commercial RE	46%	38%	+8
Commercial	19%	22%	-3
Consumer	25%	32%	-7
Other	10%	8%	+2
	100%	100%	+10

The ratio takes into consideration that change is a component of risk, so the larger the number the greater the potential for risk, all else held equal. Examiners need to understand the reason behind the shift in management strategy, and if management's existing credit risk management expertise is sufficient to manage the changing risk profile. In addition, examiners should analyze the precise composition of the change in portfolio mix. For example, growth in 1 - 4 family residential loans at the expense of commercial loans might be assumed to be inherently less risky; however, the examiner must further consider the composition of the growth in the 1 - 4 family residential portfolio. If it represents high LTV subprime home equity loans, it may well be riskier than growth in commercial loans.

Loan Growth

$$\boxed{\frac{\textbf{TL - 4QLAG}}{\textbf{4QLAG}}}$$

Where

TL = Current Quarter Total Loans & Leases
4QLAG = Loans & leases from same quarter one year previous

This percentage is commonly used as a prospective measure of credit risk. It measures the rate of growth in total loans and leases. Rapid growth, particularly as measured against local, regional, and national economic indicators (GDP, demographic trends, consumer spending, and financing trends, etc.) has long been associated with subsequent credit quality problems. Holding constant the effect of competitive factors, growth can strain bank underwriting and risk selection standards as well as the capacity of management, risk management, and administration processes. With other factors held equal, credit risk will increase as loan growth rates increase. Taken in conjunction with several other benchmarks such as loans to assets and equity, yield and

ALLL coverage ratios, rapid growth can further amplify risk. This percentage can signal changes in underwriting and pricing standards, customer/product risk tolerances, anxiety for income, unbalanced compensation programs, changes in lending area or sources of loans, and other areas requiring investigation.

Loans to Assets

$$\frac{\mathbf{TL}}{\mathbf{TA}}$$

Where

TL = Total Loans & Leases
TA = Total Assets

This ratio measures the percentage of the bank's total assets that are invested in loans. It is commonly used as a measure of prospective credit risk. The ratio does not capture the loan portfolio's credit quality nor does it measure credit risk diversification from customer/product risk selection or mix. These factors need to be considered using other Canary ratios and analytical tools. When this percentage is high, a bank's earnings and/or capital may be disproportionately affected by events that have an adverse impact on credit quality (industry conditions or global, national, and local economic weaknesses). Therefore, examiners need to understand the bank's credit quality, diversification, and management's capabilities. This measure can be viewed on a stand-alone basis, but becomes increasingly more powerful when viewed in conjunction with other measures of credit risk, such as portfolio composition, and when compared to RAS analysis of quality of risk management.

Loans to Equity

$$\frac{\mathbf{TL}}{\mathbf{EQ}}$$

Where

TL = Total Loans & Leases
EQ = Total Equity

This ratio measures the multiple of bank equity capital invested in loans and is a measure of the proportion of credit risk to bank capital. The ratio does not capture the loan portfolio's credit quality nor does it measure credit risk diversification from customer/product risk selection or mix. An increasing trend may indicate asset growth that is not generating proportional increases in capital due to inadequate risk pricing or credit losses. These factors need to be considered using other canary ratios and analytical tools. When this multiple is high, a bank's earnings and/or capital may be disproportionately affected by events that have an adverse impact on credit quality (industry conditions or global, national, and local economic weaknesses). This measure can be viewed on a stand-alone basis, but becomes increasingly more powerful when viewed in conjunction with other measures of credit risk, such as portfolio composition, and when compared to RAS analysis of quality of risk management.

Yield on Loans and Leases

$$\frac{\textbf{ILL+ T}}{\textbf{ATL}}$$

Where

ILL = Income on Loans and Leases
T = Tax Effect of Exempt Income
ATL = Average Total Loans

This ratio measures the yield on the loan portfolio. Ideally, in a market economy, the yield a bank receives on its loans should reflect the level of expected risk of default and loss in the underlying loans. Compared to peer banks, banks with high yielding loan portfolios may be exposed to higher credit risk. This may reflect a different loan mix such as a high proportion of consumer loans. Also, the ratio does not reveal if the bank is pricing its loans properly to reflect the risk of expected losses plus a reasonable earnings spread. Another factor to consider is that banks significantly underpricing risks may not exceed the benchmark, but may have excessive risk. Similarly, due to lack of competition in the trade area, some banks can overprice their loans relative to risk. Examiners should use this ratio as one of several prospective measures of risk and analyze and understand the reasons for the ratio's variance from the benchmark.

2. Interest Rate Risk

Asset Depreciation to Tier 1 Capital

$$\frac{(\text{FVSec} + \text{FVFixMtg} + \text{FVVarMtg}) - (\text{BVSec} + \text{BVFixMtg} + \text{BVVarMtg})}{\text{Tier 1 Capital}}$$

Where:

FVSec	Fair Value of Securities
FVFixMtg	Fair Value of Fixed-rate Mortgages*
FVVarMtg	Fair Value of Variable-Rate Mortgages*
BVSec	Book Value of Securities
BVFixMtg	Book Value of Fixed-rate Mortgages
BVVarMtg	Book Value of Variable-Rate Mortgages

For Fair value of Mortgages: FV = BV * Bloomberg deflator

This ratio is a lagging indicator that measures the proportion of capital offset by estimated depreciation in the available for sale and held to maturity investment portfolios, plus an estimate of potential depreciation in the residential loan portfolio. We estimate depreciation on fixed and variable rate residential mortgage portfolios using the "Bloomberg Deflator." Analysts select proxy mortgage-backed securities and use current market prices from Bloomberg as a proxy for depreciation in whole loan portfolios. Depreciation in all these asset classes is usually the result of yields that are below current market rates. This ratio does not reflect mitigating factors such as off-balance-sheet hedges or the benefits from low-cost funding sources, nor does it reflect depreciation in other bank assets such as the fixed-rate commercial loan portfolio. Examiners should be alert for these factors when analyzing performance against this benchmark. High levels of depreciation that are not otherwise mitigated foreshadow compressed earnings because the depreciated assets are generating lower yields than prevailing market rates. Rapid increases in this ratio may signal high levels of optionality, as from structured notes or high risk MBS/CLO tranches purchased in anxiety for income. Even if management has a below-market cost funding mix, liquidity management flexibility may be hampered, as sales of depreciated investments will result in recognition of loss for risk-based capital purposes. If the depreciation is large enough, and market rates don't subsequently decline, market perception can be adverse, and solvency can be threatened.

Long-Term Assets to Total Assets

$$\boxed{\frac{(\mathbf{TL} > \mathbf{5y}) + (\mathbf{CMO} > \mathbf{3y})}{\mathbf{TA}}}$$

Where

TL > 5Y = loans and securities maturing or repricing in over 5 years
CMO > 3y = CMOs with remaining maturity over 3 years
TA = total assets

This ratio is commonly used as an indicator of repricing risk. A higher ratio generally suggests that a bank has a sizeable amount of assets that can't be repriced for a long period of time. Thus, if interest rates rise, such assets will lose value and depreciate, as they will be paying lower yields relative to prevailing market rates. Conversely, banks with high volumes of long term fixed rate assets tend to benefit from flat or falling rate environments. Examiners should be aware that inconsistencies can occur because not all assets are reported by their actual maturity. For some assets, banks may report the estimated maturity, which for mortgage products can vary with market conditions. Also, this ratio does not include the effect of hedging programs, nor consider the duration of funding sources. Examiners should be alert to these factors when analyzing performance against this benchmark.

Non-maturity Deposits to Long-term Assets

$$\frac{\textbf{NMD}}{\textbf{(TL > 5y) + (CMO > 3y)}}$$

Where

NMD = non-maturity deposits
TL > 5Y = loans and securities maturing or repricing in over 5 years
CMO > 3y = CMOs with remaining maturity over 3 years

This ratio estimates the degree that non-maturity funding sources cover long term assets on the balance sheet. Non-maturity deposits are MMDA, all other savings accounts, demand deposit transaction accounts, and NOW accounts considered transaction accounts for call reports. Banks with high ratios should be less vulnerable to increases in interest rates. Non-maturity deposits provide some protection against rising interest rates because the yields on these accounts are generally low and tend not to reprice as quickly as other funding sources. Low ratios convey a reliance on more rate sensitive non-core funding sources, which are more likely to be sensitive to increases in interest rates. The protection afforded by non-maturity deposits will vary from bank to bank because customers can move funds to another account type or to a competitor if they become sensitive to rising interest rates.

Residential Real Estate to Total Assets

$$\frac{\textbf{MBS + REM + SN}}{\textbf{TA}}$$

Where

MBS = Mortgage-backed securities
REM = Residential Mortgages
SN = Structured notes
TA = Total assets

This ratio is a proxy for the amount of negative convexity in the balance sheet due to embedded short options positions in mortgages, mortgage-backed securities, and structured notes. These short options positions amplify a bank's interest rate risk by compressing margins in both rising and falling rate environments. Residential mortgages contain embedded prepayment options that reduce duration of the portfolio when rates fall (as high-yielding loans prepay) and increase duration when rates rise. This prepayment option has the same effect on mortgage-backed securities, resulting in lower appreciation as rates fall and an increasing amount of depreciation as rates rise. Structured notes can have a wide variety of scenarios, including leverage effects from the structure. However, they are usually sold at an above-market initial yield that includes the implied premium from selling, or shorting, the embedded option position against prevailing interest rate forecasts. This can produce unpredictable and volatile changes in price and yield as interest rates move. For banks that exceed this benchmark, examiners need to understand the source and characteristics of these embedded options and evaluate any hedging positions. Examiners should also evaluate the impact of negative convexity in assets and liabilities that are not captured in this ratio. These can include other loan types, residual assets, servicing assets, and callable advances from the FHLBs.

3. Liquidity Risk

Loan to Deposit Ratio

$$\frac{\mathbf{NL}}{\mathbf{TD}}$$

Where
NL = net loans and leases
TD = total deposits

This ratio indicates the extent to which a bank's deposit structure funds the loan portfolio. The higher the ratio the more reliance that a bank has on non-deposit sources of funding to fund the loan portfolio. A high ratio suggests potential vulnerability to credit-sensitive funds providers at less favorable points in the credit and economic cycles. Over the past several years, this ratio has risen at most banks as consumer deposits have steadily declined as a percentage of bank assets while loan growth has been strong. At the same time, increasingly educated retail depositors have shown greater sensitivity to market interest rates. This makes it likely that banks will need to manage with higher ratios than examiners have historically become accustomed. The importance of diversified funding sources, tight controls over the volume of short-term funding, and up-to-date contingency funding plans has never been more important.

Net Non-Core Funding Dependence

$$\frac{\mathbf{NCL - STI}}{\mathbf{LTA}}$$

Where
NCL = non-core liabilities
STI = short term investments
LTA = long term assets

The net non-core funding dependence ratio indicates the degree of reliance on funds from the professional money markets. This calculation uses call report categories of fixed rate CDs and time open accounts over $100M, federal funds and other borrowings and fully insured brokered deposits of less than $100M. The professional markets are both credit and price sensitive. These providers will move their funds out of the bank in the event of real or perceived asset quality or other fundamental problems. Banks that significantly rely on wholesale funding need to use diverse sources, minimize their vulnerability to roll over risk by spreading out maturities, and have up-to-date contingency funding plans.

On Hand Liquidity to Total Liabilities

$$\frac{\textbf{NLA}}{\textbf{TL}}$$

Where

NLA = net liquid assets = interest bearing bank balances + fed funds sold + reverse repos + fair value of assets held for sale securities + book value of held to maturity securities - Fed funds purchased - repos - pledged securities.
TL = total liabilities

This ratio measures a bank's ability to meet liquidity needs from on-hand liquid assets. The lower the ratio the greater the likelihood that the bank will need to sell less liquid assets or use market funding sources to meet incremental liquidity needs. Also, the lower the ratio the more vulnerable a bank is to credit sensitive funds providers. Over the last few years, the amount of on-hand liquidity held by commercial banks has steadily and significantly contracted. This trend is in response to earnings pressures and subsequent efforts to minimize the volume of low yielding assets being carried as well as the need to fund strong loan demand. Concurrently, the majority of banks have increasingly used the professional funding markets (notably the Federal Home Loan Banks) for incremental liquidity needs while others have increasingly used more pure intermediation strategies such as loan sales, participations, and securitization. Banks with low on-hand liquidity positions need to carefully diversify wholesale funding sources, have tight controls over the volume of short term funding, and maintain up-to-date contingency funding plans.

Reliance on Wholesale Funding

$$\frac{\textbf{Total Borrowings + Brokered Deposits}}{\textbf{Total Borrowings + Total Deposits}}$$

Where

Total Borrowings = Federal Funds Purchased, Deposits in Foreign Offices, and all "Other Borrowed Money" reported, which includes Demand Notes issued to US Treasury (TTL) and Federal Home Loan Bank Advances. Beginning in 1Q01, FHLB borrowings are broken down by maturity.
Brokered deposits = all types reported by bank.

This ratio depicts the portion of a bank's total funds that are from wholesale sources. Banks use wholesale funding sources to make up for the absence of local deposit funding, to provide greater flexibility in managing their asset/liability position, and to avoid the expenses associated with extensive branch networks. Wholesale sources, however, tend to be "credit sensitive" — that is, they have historically pulled out of banks that have real or perceived credit problems. As long as asset quality is good, earnings and the bank's management team are stable, these sources can be the core of an effective funding strategy (i.e., this may be a higher risk profile but not a supervisory concern). However, because of the inherent credit sensitivity, banks that have high volumes of wholesale funding are vulnerable to liquidity problems in less than good times (i.e., CAMELS rating of a 3 or worse). Banks with a high volume of wholesale funding should take careful steps to establish proactive relationships with professional market providers, diversify sources, minimize their vulnerability to roll over risk by spreading out maturities, and have up-to-date contingency funding plans. Banks lacking these risk management attributes will be unusually vulnerable to liquidity problems in the event of an institution-specific or systemic loss of confidence.

Net Short-Term Liabilities to Total Assets

$$\boxed{\frac{\textbf{STL-STA}}{\textbf{TA}}}$$

Where
STL = short-term liabilities, 1-year or less maturity
STA = short-term assets, 1-year or less maturity
TA = total assets

The ratio indicates the degree of exposure assumed by funding assets with short-term liabilities. This is also referred to as roll over risk. Generally, the higher the number, the more vulnerable a bank is to funding sources rolling out — and thus needing to come up with new funding for the existing assets. Roll over risk is most dangerous for banks that have real or perceived asset quality problems. Banks that significantly rely on short-term funding need to use diverse sources, have up-to-date contingency funding plans, and have a high degree of certainty that asset quality and other fundamental bank risk factors will remain strong over the long run.

Technical Supplement

CANARY QUANTITATIVE MEASURE CALCULATIONS

All data are from call reports. Specific mapping information is available on the Canary Web site. When analyzing banks over time, especially when mergers have occurred, minor differences will be noted in calculation of similar variable between NBSVDS and Canary. This is due to methods used to handle merger adjustments and time series information. Canary uses the IBIS data set, because it is also used in our economic modeling and for all of the OCC's official reporting of bank performance. Also, the calculation of certain Canary quantitative measures such as non-core funding dependence may vary slightly from NBSVDS due to internal calculation and rounding methods in NBSVDS. These differences are not analytically significant.

For precise data definitions, including the exact item number on the Report of Condition (RCON) or Report of Income and Dividends (RIAD), examiners can now access a technical supplement on the Canary Web site Help Page, or the IBIS Data Dictionary *on OCCNet at* http://economics.occ/ibis/Data_Dict/frame.htm . *Simply enter the IBIS variable and you will be able to see the NBSVDS variable (if there is an equivalent), a detailed description of the variable, detailed calculations, and MDRM number. This makes the calculations transparent for NBSVDS users or bankers with access to call report forms.*

Appendix B

Internal Models

The Canary Web site includes two internally derived models that assist the examiner in assessing the future effects of existing risk positions on bank performance. Whereas the Financial Risk Measures and Benchmarks enable a quick assessment of a bank's financial risk position, these tools can be used when more in-depth analysis is needed. Collectively, the Canary Benchmark Reports along with additional analysis tools should be used to facilitate and complement discussions with bank management regarding the bank's portfolio and operating environment.

1. Bank Risk Calculator

The *Bank Risk Calculator* synthesizes information about the bank's structure, financial condition, supervisory status, and economic environment into a single probability of distress. The probability of distress is calculated by comparing the characteristics and conditions of banks that have failed historically to those that have remained healthy. This probability is classified as low, moderate, or high risk and it permits examiners to compare bank performance under alternative economic scenarios over the next 12 quarters. The purpose of this tool is to look for indications of rising risk external to the bank before it affects the bank's books. These comparisons are useful in planning examinations and in allocating resources given expectations about an uncertain future.

To assist examiners with interpreting model results, probabilities of distress are classified as low, moderate, or high risk.

- A **low-risk** bank has a likelihood of bank distress of less than 1 percent over the 3 year forecast period. This implies that less than 1 out of 100 banks with these characteristics during the historical period (1984-2000) failed during an average 3-year period. Given this experience, we expect banks with these characteristics to remain low risk during the next 3 years.
- A **moderate-risk** bank has a likelihood of bank distress between 1 and 10 percent. This implies that the risk in this bank requires additional attention due usually to a single, elevated risk factor. However, less than 10 out of 100 banks with these characteristics during the historical period (1984-2000) failed during an average 3-year period. Given this experience, we expect banks with these characteristics to remain moderate risk during the next 3 years.
- A **high-risk** bank has a likelihood of bank distress of more than 10 percent. The risk in this bank requires priority attention due usually to multiple, elevated risk factors. More than 10 out of 100 banks with these characteristics during the historical period (1984-2000) failed during an average 3-year period. Given this experience, we expect banks with these characteristics to remain high risk during the next 3 years. Under normal circumstances, however, the majority of banks in this risk class will still not fail because of successful supervision, improved circumstances, or structural change

Current probabilities are calculated along with 2 economic scenarios: most-likely, and pessimistic scenarios. The projections are consistent with those used for Peer Group Risk Models. [13]

- The current quarter's data are used to calculate the **current probability** of distress over the next 12 quarters.
- The **most-likely scenario** uses consensus assumptions about economic changes. At the time of this issuance, this scenario includes slower but positive growth of about 1.5 percent per year for gross domestic product (GDP) until the fourth quarter of 2001. At that point, growth rebounds and stays strong through the third quarter of 2002. After this, it returns to a long-run growth of 3.5 percent per year. Meanwhile, the unemployment rate, which generally lags GDP growth, increases through the third quarter of 2002 when it peaks at 4.8 percent. It then declines steadily to 4.3 percent by the final quarter of 2003. Throughout this scenario, corporate bond rates decline modestly from current levels. By the fourth quarter of 2003, they are about 90 basis points below current levels.
- The **pessimistic scenario** uses recession assumptions about economic changes. At the time of this issuance, this scenario projects a one-year recession beginning in the second quarter of 2001 and running through the first quarter of 2002. The economy rebounds at that time but the growth path of GDP reaches only 3 percent per year, which is below the long-run growth path of the *most likely scenario.* The unemployment rate increases until the first quarter of 2003 when it peaks at 6.2 percent and then declines to 5.5 percent by the final quarter of 2003. That peak is 1.2 percentage points higher than the current rate of 4.3 percent. Corporate bond rates decline substantially until the fourth quarter of 2001, after which they rise until the first quarter of 2003 and then decline modestly again. By the end of 2003 they are 200 basis points below current levels.

Comparing these 2 scenarios with the current probability, banks that are sensitive to economic changes -- economically sensitive banks -- can be identified. To qualify for the District Low Risk List exemption, banks must remain low risk per the Bank Calculator and satisfy the other criteria.

Model Inputs:

Financial Indicators: Financial indicators include income, capital, credit quality, and liquidity ratios. Income is measured using quarterly rates of return on assets. Capital is measured as the ratio of total equity capital to total assets. Credit quality is measured with a non-performing assets ratio (90 day past due loans plus non-accrual loans plus other real estate owned divided by total assets). Liquidity is measured by the ratio of brokered deposits plus large denomination certificates of deposit divided by total assets. Liquidity is flagged for banks in which this ratio exceeds 15 percent.

Bank Structure Variables: The bank structural variables include bank size, charter age, and holding company status. A large bank has more than $1 billion in balance sheet assets. A new

[13] Changes in assumptions will be posted on the Canary Web site.

bank charter is less than 5 years old. A holding company is flagged when it has multiple, chartered commercial banks.
Economic Variables: Economic variables include quarterly unemployment rates and gross domestic product. County employment rates are applied using the bank's headquarter location for banks under $1 billion in assets. State unemployment rates are used for larger banks. National gross domestic product growth rates are used for all banks.

Supervisory Variables: Supervisory variables include the CAMELS rating and amount of time since the last examination. The composite CAMELS ratings in effect for the quarter are used for each bank. The amount of time since the last examination is measured in quarters since the most recent full-scope examination.

2. Peer Group Risk Models (PGRM)

The Peer Group Risk Models provides examiners with forecasts of return on assets (ROAs) that banks can be expected to experience over the next 3 years under different economic scenarios. They also provide the probability that the individual bank will report a negative ROA. That probability is termed *probability of loss*.

How Banks are Assigned to Peer Groups*:* There are eleven peer groups, one of which is for de novo banks, or banks that have been in existence for 3 or fewer years. The assignment to 1 of the 10 (non-de novo) peer groups for an established bank is based on the specialization of its loan portfolio corresponding to the type of lending of the peer group. Thus a bank specializing in residential mortgage loans is assigned to the Residential RE bank peer group. Generally, for assignment to a peer group, a bank's primary credit category must be greater than 25 percent of assets at a point in time and at least 10 percent greater than the bank's next largest credit category. The 10 business line peer groups include agriculture, business, business and real estate, credit card, household, household and business, international, no specialty, non-lender, and residential real estate.

At the time of the issuance of this PPM, 2 peer groups have been modeled. Other models are underway. The following characteristics determine a bank's assignment to either of the two peer groups:
- *Agricultural Lenders:* Banks with a primary specialization in agricultural loans (agricultural production loans + farmland loans).
- *Business Lenders:* Banks with a primary specialization in C&I loans, and with wholesale loans greater than 25 percent of assets and retail credit less than 25 percent of assets.

The Peer Group Risk Analysis Tool for Forecasting ROA: For each peer group, we use the macro economic indicators and the bank data that have a statistically significant effect on each peer group's ROA. The macro economic indicators range from interest rates and prices and wages to unemployment rates, capacity utilization, industrial production and bankruptcy. The bank data that are significant in forecasting the ROA include non-performing loans, provision for loan losses, and the capital-asset ratio. Additionally, a peer group model may include data that uniquely affect a bank's ROA. For example, the agricultural peer group tool includes forecasts for farm income and of a price index for farm output.

For those banks in a peer group not yet modeled, estimates of the ROA of each bank in the peer is based on a 4-quarter moving average of the bank's ROA. The measure used for estimating the probability of loss is based on the extent to which the peer's median ROA varies over time.

Following development of the ROA projections for the 2 scenarios outlined below, each bank is assigned to 1 of 3 risk categories termed *low*, *moderate*, and *high*. The assignment is based on the *probability* that the bank's ROA will be *negative* even if its ROA is projected to be positive.

- A **low-risk** bank has a probability of less than 1 percent that its ROA will be negative over the 3-year forecast period.
- A **moderate-risk** bank has a probability of between 1 and 10 percent that its ROA will be negative.
- A **high-risk** bank has a probability of more than 10 percent that its ROA will be negative.

Bank Specific Forecasts: The forecasts for the modeled peers are a conditional future view based on projections for both a most likely scenario and a pessimistic scenario.[14] The projections are consistent with those used for the Bank Risk Calculator.

- For the most likely scenario, projections are based on the most likely forecast of the growth of macro economic indicators. At the time of this issuance, the most likely scenario projects slower but positive growth of about 1.5 percent per year for gross domestic product (GDP) until the fourth quarter of 2001. At that point, growth rebounds and stays strong through the third quarter of 2002. After that, it returns to a long-run growth path of 3.5 percent per year. Meanwhile, the unemployment rate, which generally lags GDP growth, increases through the third quarter of 2002 when it peaks at 4.8 percent. It then declines steadily to 4.3 percent by the final quarter of 2003. Throughout this scenario, corporate bond rates decline modestly from current levels. By the fourth quarter of 2003, they are about 90 basis points below current levels.
- For the pessimistic scenario, projections are derived for economic indicators that assume slower economic growth compared to the most likely forecast. At the time of this issuance, the pessimistic scenario projects a one-year recession beginning in the second quarter of 2001 and running through the first quarter of 2002. The economy rebounds at that time but the growth path of GDP reaches only 3 percent per year, which is below the long-run growth path of the *most likely scenario*. The unemployment rate increases until the first quarter of 2003 when it peaks at 6.2 percent and then declines to 5.5 percent by the final quarter of 2003. That peak is 1.2 percentage points higher than the current rate of 4.3 percent. Corporate bond rates decline substantially until the fourth quarter of 2001, after which they rise until the first quarter of 2003 and then decline modestly again. By the end of 2003 they are 200 basis points below current levels.
- The specific terms of each pessimistic scenario can vary from peer to peer depending on indicators specific to a peer. For example, for the agricultural peer, the pessimistic scenario envisions an agricultural crisis characterized by falling commodity prices and a decrease in

[14] Changes in assumptions will be posted on the Canary Web site.

government support payments. For the business lenders peer, the pessimistic scenario includes effects of business bankruptcies that are absent from the agricultural peer.

Appendix C

External Models

1. KMV Credit Monitor

KMV Credit Monitor proprietary software provides information about the level of risk within the universe of publicly traded companies. The output of KMV's Credit Monitor software is the Expected Default Frequency (EDF). EDF is calculated by applying sophisticated statistical techniques to data derived from a company's stock price and financial statements, and is a quantitative measure of credit quality expressed as a percentage between 0 percent and 20 percent. The theory behind the software is that a company will default when the market value of its assets declines to a point equal to its liabilities. The probability of such a decline, or EDF, depends on the amount by which the market value of assets is greater than book liabilities (i.e., the "distance to default") and the volatility of the asset value. In addition to a company's EDF, the user can view the underlying data from which it is derived. These include the absolute amount and volatility of the market value of a company's assets, and the book value of its liabilities.

KMV Credit Monitor provides EDF information on over 25,000 publicly traded companies in more than 40 countries and, for each company in the database, up to 60 months of EDF history is available. KMV Credit Monitor also facilitates analysis of the aggregate risk within portfolio segments such as industries, SIC groups, geographic regions within the United States, countries, S&P rating categories, or other portfolios defined by the user. Median, quartile and decile values are calculated automatically by the program. Further, for a given EDF, an equivalent S&P rating can be determined.

2. Statistical CAMELS Off-site Rating (SCOR)

SCOR was developed by the FDIC to detect banks likely to experience a CAMELS composite downgrade at the next on-site examination. SCOR uses statistical techniques to estimate the relationship between call report data and examination results, and is calculated based on statistical analysis of 12 financial ratios. SCOR calculates and displays an institution's probability of downgrade to a 3, 4, or 5 for both composite and component CAMELS ratings. It does not differentiate between 1 and 2-rated banks. For 1-rated banks, the probability of a downgrade is to a 3, 4, or 5. The downgrade probability for 3-rated bank is to a 4 or 5. SCOR also estimates CAMELS ratings for banks.

SCOR is a complementary tool focused on historical performance in contrast with Canary's ROC and anticipatory stress test-based analysis. Examiners need to realize that the FDIC uses SCOR to identify emerging supervisory concerns in much the same way as the OCC uses Canary. FDIC generates a list of banks that require enhanced off-site review from quarterly SCOR analysis. Any bank whose last on-site composite rating is 1 or 2 and shows a probability of downgrade to 3, 4, or 5 of 30 percent or more will be flagged. Banks flagged will require an off-site analysis that involves contact with the OCC supervisory office. SCOR results can highlight questions for the OCC quarterly review process. It is important to be aware of significant changes in financial performance, and be responsive to FDIC concerns.

Appendix D

Market Barometers

The Canary Web site provides the examiner with easy access to current and widely used economic indicators and market barometers, including current commentary. These indicators, presented in graph format, provide a broad view of perceived credit risk and overall liquidity in the financial markets, as well as consumer confidence and wealth. Where possible, links are also provided to the most recently available related information on the Internet. Although use is not mandatory, examiners will find Market Barometers helpful in preparing for discussions with bank management by providing insights into how capital market participants perceive credit and liquidity risk.

The barometers currently included in Canary are:
- Consumption versus Income
- Credit Spreads
- Swap Spreads
- TED Spread
- Emerging Market Spreads
- S&P 500 and NASDAQ Composite

When feasible, we have provided a benchmark line to provide perspective.

1. Consumption vs. Income

Description: When growth in consumption outpaces growth in disposable income, consumers are funding their consumption through borrowing or by tapping into their available savings. This is a measure of consumer confidence.

Computation: This graph compares the year-over-year percentage change in personal consumption versus the comparable change in disposable personal income.

2. Credit Spreads

Description: When the spread widens, investors are concerned about U.S. corporate credit quality and will provide funds to lower quality borrowers only at higher rates. Conversely, tightening spreads indicate that investors are bullish on corporate creditworthiness and the economies in which they operate.

Computation: This graph shows the spread between Moody's Aaa and Baa-rated corporate bonds.

3. Swap Spreads

Description: The 3, 5, and 10-year swap spreads convey the sentiment in the markets about moderate and longer term credit risk and their expectation regarding the direction of interest rates. Widening spreads generally convey increasing concern about credit risk, but this can also reflect a market perception that interest rates will rise. Conversely, tightening spreads generally indicate a bullish outlook regarding credit risk and may reflect a market expectation of falling interest rates.

Computation: The graph illustrates the trend in spreads on 3, 5, and 10-year interest rate swap contracts.

4. TED Spread

Description: This graph depicts the market's short-term perception about the creditworthiness of U.S. commercial banks. It compares yields on dollars deposited in Europe (LIBOR) versus T-bills, and is a good barometer of how the market perceives event risk. Wider spreads usually indicate a decline in confidence as investors shift their short-term investments away from bank liabilities towards high quality government obligations. Tightening spreads convey the opposite.

Computation: This graph shows the spread between 3-month LIBOR and 3-month Treasury bill yields.

5. Emerging Markets Spreads

Description: This graph provides a broad overview of how professional investors perceive credit risk among select emerging-market countries. It also provides a sense of the perceived credit risk and overall liquidity in the broader financial markets. Narrow spreads indicate that professional investors are bullish on credit risk and that the capital markets are liquid. Conversely, wider spreads suggest a bearish outlook on credit risk and less liquidity outside of the major government debt markets.

Computation: JP Morgan's Emerging Markets Bond Index Plus (EMBI+) is one of the most widely tracked emerging market bond indexes. The EMBI+ sovereign spread tracks the index's spread over the theoretical U.S. zero coupon curve. The index consists of U.S. dollar-denominated debt instruments of the emerging markets. To be included, debt instruments must be liquid, with outstandings over $500 million. Although the index is not specifically weighted equal to that of the total market of emerging market debt instruments, the EMBI+ is heavily weighted to Latin America, as is the total market for emerging market debt.

6. S&P 500 Index and NASDAQ Composite

Description: This graph shows the performance of two broad U.S. equity market indices. The indices are a direct barometer of confidence and wealth. As confidence rises, so does the market, and, in turn wealth increases. Vice versa, when confidence declines, the market is likely to retreat.

Computation: This graph shows the year-over-year percentage changes in the Standard & Poor's 500 Composite Index and the NASDAQ Composite Index.

Appendix E

Research Tools

The Canary Web site provides several tools to help examiners assess risk in individual banks or to broadly evaluate economic conditions affecting a bank's trade area. These tools include the Loan Concentration Tool, Commercial Real Estate Web site, and Market Spillover Web site.

1. Loan Concentration Tool

Understanding bank loan concentrations is an important part of credit risk analysis. The Loan Concentration Tool is based on EV concentration data, and offers a choice of U.S. level or district level aggregation. This choice produces a screen containing industry codes[15] and the number of banks that have a concentration in each code for the selected geographic area. Selecting an industry code from this list produces a list of banks concentrated in the selected industry code. Selecting a bank from this list produces a report of all the industry code concentrations as of its last examination.

2. Commercial Real Estate Web site

The Commercial Real Estate (CRE) Web site was designed to help examiners assess conditions in national and local commercial real estate markets. It is divided into 4 primary sections: 1) National Perspectives; 2) Metropolitan Area Information; 3) Institutional Investors Survey & REIT Trends; 4) Web Links.

The *National Perspectives section* of the CRE Web site contains four sets of reports that provide analysis on current trends, conditions, and forecasts for the nation as a whole. These reports are useful for examiners needing a broad perspective on trends for a given product type or who are in need of a quick overview of the key issues and risks in a specific marketplace. Periodically, a member of the Global Banking and Financial Analysis Division writes an overview of current conditions in U.S. Commercial Real Estate markets. Twice a year, Torto Wheaton Research (TWR) provides detailed national forecasts covering four property types. The site also contains a weekly real estate report from TWR.

Metropolitan Area Information includes forecasts of demand and supply for office, industrial, retail, and multi-family housing product types, and vacancy rates, and covers 54 metropolitan areas. The site also contains a quarterly database of price, rent, and cap rate data for four property types for 60 metropolitan areas, which can be charted or downloaded directly into an Excel spreadsheet. The information on this site is proprietary and intended for internal use only. *An examiner can only quote Web site data and forecasts with bankers and cannot provide hard copies of the reports.*

The *Institutional Investor Survey and REITS trends section* includes:

[15] At the time of issuance, concentrations were reported by SIC code. However, a transition to NAIC code is forthcoming.

- The Korpacz Institutional Investor Survey, with cap, discount rates and cash flow forecasts assumptions of active participants in retail, office, industrial, multi-family, and hotel markets.
- Moody's Profiles of 283 publicly traded Real Estate Investment Trusts, which include company background, income statements and balance sheets, company news, and an Internet link for further information about each REIT. The reports are updated monthly.
- The 1999 Robert Morris Associates (RMA) Statement Study for Real Estate Investment Trusts, with financial data through year end 1998. Each year, RMA publishes aggregated financial data on companies with less than $250 million in assets.

Finally, there are *Web links* to commercial real estate Internet sites, most of which are devoted to national and regional real estate news.

Torto Wheaton Research (TWR) is one of the three main vendors for information on the CRE Web page. Information about how TWR's models were developed and how to interpret their output is included on the Web site. Quarterly time series data on prices, rents, and cap rates comes from National Real Estate Index (NREI). Other sources of information include the Korpacz Institutional Investor Survey, Moody's (company profiles of REITS), and RMA.

4. Market Spillover Web site

In a global economy, banks and their customers are no longer local. Markets are too closely linked. "Local" banks actually operate in many markets at once. These markets can be local, regional, national, global, or electronic. Understanding the markets in which banks and their customers operate has become an essential part of sound risk management. Events and conditions in the interconnected markets of the world quickly move (i.e., "spillover") from one market to another and ripple around the world. Seemingly distant risks can have a profound impact on local banks and businesses.

The Market spillover Web site is a tool that enables examiners and bankers to investigate the direct or indirect linkages between an individual bank and the markets in which it operates. A community bank must consider whether its "community" includes markets outside its immediate geography. All banks and examiners must understand these linkages in order to identify and manage risks that may affect the bank's condition or profitability. Although many bankers are knowledgeable about such linkages, a lack of understanding may prevent a proactive response and development of enhanced risk management tools, thereby exposing the bank to otherwise foreseeable or increased market spillover risk.

Market spillover enables examiners and bankers to investigate the direct or indirect linkages between an individual bank and the markets in which it operates. Information provided at the site includes:

- ***Issue Overview*** explains what market spillovers are and how they may affect a bank.

- ***Economic "profiles" of selected regions (county, state, or entire U.S.)*** provides economic information by two major sectors — Manufacturing and Commodities -- and by industries within a particular sector.

- ***Import/export sensitivity of each industry in a region's profile*** summarizes the percentage of a given sector that is imported or exported, to what countries, and the condition of such countries.

- ***Credit evaluation tools on industries in the selected region*** integrate industry studies and company reports as well as KMV industry credit quality trend information.

- ***Talking Points*** provide guidance to examiners on how to discuss market spillovers with bankers.

The Market spillover tool provides information and analysis through which risk is identified, and can be used to enhance preplanning and management discussions. Its predictive value is in bringing management awareness to factors in the bank's environment where there are potential risks that may not be readily identifiable (indirect risks). Through these discussions the connection, if any, of the bank's balance sheet and ban k's environment can be explored to ensure that risks are identified and managed.

Use of Spillover Information and Tables

Community bank examiners & EICs

1. **Examination Planning**. Spillover is a tool that helps examiners prepare for discussions with bank management by providing an economic profile of the bank's region, credit quality evaluation tools that can identify possible significant trends or changes in business conditions, trade and country condition data suggesting links with other markets, and talking points. This information can help examiners prepare for their discussion of risks with bank management related to the bank's customers and the markets in which it operates.

Examiners can develop an economic profile of the county(s) where the bank operates. This profile can identify the largest employers and producers in the area. Spillover helps examiners assess the credit quality of these industries by directly incorporating such tools as KMV, industry studies, and company reports.

KMV provides information on the expected default frequencies (EDFs) of specific industries. It is a predictive tool that can help identify industries with potentially deteriorating trends in a bank's market area. Spillover also equates KMV ratings to S&P bond equivalency ratings to help examiners better understand the credit quality information provided by KMV on specific industries. There are also links to industry Web sites that provide specific write-ups on industries and company reports. This information allows examiners to get an independent check on a company that can be either a bank customer, or relevant to the bank as a key employer/producer in the bank's market.

By reviewing spillover information on cross-border activity, examiners can determine whether appropriate risk management systems are in place for any significant bank exposures (direct or indirect) to overseas markets. Spillover provides national import and export information by industry from a county, state or national viewpoint. Moreover, it identifies the key countries where U.S. exports go to, and where imports come from. This information is important as an early warning tool because banks may be indirectly affected by the condition of a foreign country's economy.

For example, foreign countries that are experiencing difficulties may try to flood the U.S. with cheaper goods. Spillover can identify the major countries that import products into the U.S. in direct competition to industries in a bank's county or state. Another example is where an examiner is reviewing the condition of a local company/bank borrower. By reviewing the percentage of the industry that is exported, examiners can determine whether an industry has an export sensitivity and, if so, whether it is to a country experiencing economic shock or decline. Because demand for U.S. products in such countries will decline, examiners have an early warning that the borrower in question may be negatively affected by a general decline in the demand for its product. Understanding this market relationship enhances risk management.

2. **LPM**. Spillover provides qualitative and quantitative information to facilitate examiners' discussions with management on credit risk. The qualitative information includes talking points and examples of real life spillovers to guide examiners in their discussions with management.

By reviewing the quantitative information, examiners may find that their banks have significant exposure to specific industries or companies either through direct loans to companies in those industries or indirectly through loans to employees of those companies. This information can be used to facilitate a general discussion on credit risk management practices or during the asset quality sampling process of specific credits. Examiners can also use this information to determine whether industries in the bank's area have significant exposure (direct or indirect) to cross border activities and if management has appropriate risk management systems in place.

3. **Quarterly reviews**. Examiners can use this information to help assess any significant trends in the bank's financial condition or risk profile each quarter.

Large bank examiners and EICs can use Spillover to search for industry information by industry concentration code. Such searches will assist examiners in understanding credit quality and trends of a selected market segment through information from KMV, industry studies, company reports, as well as the sector's international trade orientation. Note: We will be converting the manufacturing data from SIC codes to NAIC codes to match new industry standards. The same search capabilities will be available by NAIC codes.

Examiners can use this information to help them assess de novo bank marketing and operating plans. The information can also be used in new-charter field investigations to determine the reasonableness of management's targeted market.

Information from Spillover can be used for outreach meetings and other meetings with bankers. Information can also be researched at the county/state levels and by SIC code. Assistant deputy comptrollers and deputy comptrollers can use such data to focus resources on areas presenting a higher potential risk profile.

Office of the
Comptroller of the Currency

Policies and Procedures Manual

PPM 5000-41

Section: **Comptroller of the Currency**	Subject: **Notification Requirements to the Treasury OIG for Examination Obstruction, Administrative Actions, SARs, and Contacts With Law Enforcement**

TO: All OCC Personnel

PURPOSE

This issuance sets forth the OCC's policies and procedures governing responsibilities when encountering possible obstruction of the OCC's supervisory and examination functions and for notifying the U.S. Department of the Treasury's Office of Inspector General (Treasury OIG) of such occurrences.[1] This PPM also identifies other circumstances that may require notification to the Treasury OIG.

POLICY

The following contains guidance and procedures for when the OCC should notify the Treasury OIG of specific events or actions.

Efforts to Obstruct or Hinder the OCC's Statutory Authority

All OCC employees should be aware of situations in which bank[2] personnel or bank agents may attempt to obstruct, hinder, or impede an examination or supervision of a bank. An unwillingness to allow or resistance in allowing access to bank information may indicate that bank personnel or bank agents are attempting to conceal evidence of violations of law, unsafe or unsound practices, or fraud, or to prevent examiners from discovering the bank's true financial condition. Such situations would include when an OCC employee has reason to believe, based on observation or other evidence, that bank personnel have, intentionally or knowingly, (1) provided or attempted to provide misleading information to the OCC; (2) failed to provide requested information in a prompt and complete manner; (3) concealed or falsified bank documents or other information; or

[1] In March 2011, the OCC and the Treasury OIG entered into a memorandum of understanding to establish procedures through which the OCC would communicate information to the Treasury OIG concerning possible examination obstruction. Subsequently, the OCC agreed to additional notification processes set forth herein.

[2] "Bank" refers to a federally chartered bank or trust company, a federally chartered U.S. branch or agency of foreign banks, or a federal savings association.

(4) attempted to intimidate OCC staff, unjustifiably delay, or otherwise hinder or impede the OCC's examination and supervision of the bank.

Examining personnel should refer specifically to PPM 5310-10, "Guidance to Examiners in Securing Access to Bank Books and Records" (January 7, 2000), for examples of red flags that may indicate attempts to hinder or obstruct the examination process, and should review the various remedies contained in the guidance. These situations may include attempting to delay or avoid turning over requested information; prescreening documents provided to examiners; hindering access to books and records created or maintained for the bank off-site by third parties, such as attorneys or other servicers; altering or removing records; and attacking examiners' credibility. OCC staff should be mindful of actions by bank personnel or the bank's agents that appear to be intended to hinder or delay examination or supervision or that appear to be unintentional or inadvertent but have the same effect. PPM 5310-10 also contains questions and answers on how to respond to specific situations in which bank personnel fail to provide prompt and complete access to requested information.

Notification Procedures

When an OCC employee encounters allegations of or situations involving possible obstruction of the OCC's examination or supervisory functions, the employee should immediately report the matter to his or her manager, who consults with the District Counsel or the Director of Enforcement and Compliance (E&C) (as appropriate) to determine the appropriate course of action, consistent with PPM 5310-10. If it appears that the bank is attempting to obstruct, hinder, or impede the examination process, the manager should notify the respective Deputy Comptroller (or designee). If the responsible Deputy Comptroller (or designee), in consultation with the Director of E&C and the Deputy Comptroller for Special Supervision, believes that bank personnel have attempted to obstruct, hinder, or impede examination or supervision of the bank, the Director of E&C informs the Senior Advisor (OIG/Government Accountability Office [GAO] Liaison) of the identity of the bank, the individuals involved in the alleged obstruction, and the OCC points of contacts, and provides a brief description of the circumstances. The Senior Advisor (OIG/GAO Liaison) notifies the Treasury OIG.

Suspicious Activity Report Filing

Consistent with the provisions of the March 2011 memorandum of understanding, the OCC notifies the Treasury OIG whenever (1) the OCC becomes aware that a bank has filed a Suspicious Activity Report (SAR) regarding fraudulent activity that indicates possible obstruction of examination or supervisory functions or fraud on the OCC; (2) the OCC directs a bank to file a specific SAR; or (3) the OCC files a SAR[3] itself.

OCC employees should immediately report the following matters to their managers, who notify the respective Deputy Comptroller: (1) when the employee becomes aware that a bank has filed a SAR regarding fraudulent activity that indicates possible obstruction of examination or supervisory functions or fraud on the OCC; or (2) when, after appropriate consultation with his

[3] See PPM 5000-40, "OCC Filings of Suspicious Activity Reports" (February 2014).

or her manager, the employee recommends that the OCC direct a bank to file a specific SAR or recommends that the OCC file a SAR, if there is a disagreement with the bank.

During the examination process, OCC examiners routinely review individual SAR decisions to test the effectiveness of the SAR monitoring, reporting, and decision-making process. As part of those reviews, OCC examiners may conclude that a bank should have filed a SAR and recommend that the bank do so. In turn, banks typically reevaluate the circumstances and file a SAR. SARs filed pursuant to these routine circumstances are not subject to these notification procedures.

On other occasions, however, a bank may disagree with an OCC examiner on whether it should have filed a SAR. When there is disagreement on whether to file a specific SAR and when the OCC examiner continues to believe that a SAR should have been filed, the examiner, after appropriate consultation with his or her manager and Deputy Comptroller, may recommend either that the OCC direct the bank to file a SAR or that the OCC file a SAR itself. A SAR filed pursuant to either of these situations is subject to these notification procedures.

Notification Procedures

The responsible Deputy Comptroller consults with the Director of E&C regarding SARs described above. The Director of E&C, or the Senior Counsel (Bank Secrecy Act/Anti-Money Laundering [BSA/AML]) in cases where the OCC files a SAR,[4] notifies the Senior Advisor (OIG/GAO Liaison) and provides a copy of the SAR and its BSA Identifier number. The Senior Advisor (OIG/GAO Liaison) notifies the Treasury OIG.

Initial Contact With Law Enforcement Personnel

The OCC notifies the Treasury OIG of initial contacts from federal, state, local, or foreign law enforcement entities reporting on activities of, or seeking information about, OCC-supervised institutions in connection with a criminal investigation. Law enforcement contacts include agents and representatives of entities such as the Federal Bureau of Investigation, the U.S. Secret Service, an Inspector General's office of investigations,[5] state police, and prosecutors, including the U.S. Department of Justice and U.S. Attorney's offices. This notification applies only to initial contact by law enforcement officials; it does not apply to follow-up requests for additional information or other follow-up discussions or contacts by or with law enforcement. Contacts concerning civil investigations[6] need not be reported to the Treasury OIG. OCC employees

[4] See OCC PPM 5000-40, "OCC Filings of Suspicious Activity Reports," which defines responsibilities for filing SARs.

[5] OIGs of other agencies (e.g., the Federal Deposit Insurance Corporation and the Office of the Special Inspector General for the Troubled Asset Relief Program) have investigative and audit authority. This notification only applies to matters raised by investigative staff of such OIGs.

[6] For example, for purposes of notifying the Treasury OIG, law enforcement personnel do not include contacts and requests for information to the OCC from government agencies engaged in civil investigations, inquiries, or examinations (e.g., the Consumer Financial Protection Bureau, the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Federal Trade Commission, and state banking agencies).

should not provide information to law enforcement personnel until they have received proper authorization. Responses to law enforcement officials should be coordinated and authorized in accordance with OCC policy and delegations of authority.

Notification Procedures

OCC employees must report initial contacts by law enforcement personnel to the appropriate manager, who in turn notifies his or her respective Deputy Comptroller. The Deputy Comptroller consults with the District Counsel or the Director of E&C (as appropriate) on whether to report the contact to the Treasury OIG, and, on determination that the contact should be reported, notification is provided to the Director of E&C. Initial contact information should similarly be provided to the Director of E&C when law enforcement personnel share information with the OCC but do not request information from the OCC.

The Director of E&C informs the Senior Advisor (OIG/GAO Liaison) of each instance in which law enforcement personnel initially contact the OCC with a request for information or to share information concerning a specific bank or individual associated with a bank. The Director of E&C will provide the Senior Advisor (OIG/GAO Liaison) with the name, phone number, and agency of the law enforcement representative requesting information and the name of the bank individual concerned. The Senior Advisor (OIG/GAO Liaison) notifies the Treasury OIG.

Notifying the Treasury OIG of Certain Investigations

The Deputy Comptroller for Special Supervision informs the Senior Advisor (OIG/GAO Liaison) when the appropriate Senior Deputy Comptroller, or other authorized official or committee, has approved a nondelegated order of investigation and provides a copy of the Washington Supervision Review Committee or Major Matters Supervision Review Committee memorandum. The Senior Advisor (OIG/GAO Liaison) notifies the Treasury OIG of these actions at the time that the enforcement action or the order of investigation is authorized.

FURTHER INFORMATION

Please call the Director of E&C at (202) 649-6200.

Larry L. Hattix
Senior Deputy Comptroller for Enterprise Governance and Ombudsman

PPM 5000-8 (REV)

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section:	Bank Supervision	Subject:	Procedures for Declaring a Legal Holiday for National Banks, Federal Savings Associations, and Any Federal Branch or Agency of a Foreign Bank

TO: Department and Division Heads and All Examining Personnel

PURPOSE AND REFERENCE

To establish procedures for declaring a legal holiday for national banks, federal savings associations, or any federal branch or agency of a foreign bank (collectively, banks) in the event of natural calamity, riot, insurrection, war, or other emergency conditions whether caused by acts of nature or man, pursuant to 12 USC 95(b)(1) and 12 CFR 7.3000(b) for national banks, 12 USC 1463(a)(1)(A) for federal savings associations, and 12 USC 3102(b) for federal branches or agencies of a foreign bank.

PROCEDURES

In the event or in anticipation of emergency conditions within any state, the Senior Deputy Comptroller for Midsize and Community Bank Supervision, after consulting with the Chief Counsel or that official's designee, and after providing notice to the Comptroller, may designate by written proclamation a legal holiday for banks or their affected offices. Banks, or their affected offices, may close or remain open on such a legal holiday unless the proclamation directs otherwise. In the event that the emergency conditions affect only part of a state, the legal holiday may be designated for only the part of the state affected. The Senior Deputy Comptroller for Midsize and Community Bank Supervision or that official's designee notifies the affected banks of the written proclamation through a news release.

In the event that a state or an authorized state official declares a legal holiday for either emergency or ceremonial reasons, for the state or any part thereof, that same day shall be a legal holiday for all banks with offices located in that state or the part of the state so affected. Banks, or their affected offices, may close or remain open on such a state-designated holiday, unless the Senior Deputy Comptroller for Midsize and Community Bank Supervision, after consulting with the Chief Counsel or that official's designee, and after providing notice to the Comptroller, by written proclamation directs otherwise. The Senior Deputy Comptroller for Midsize and Community Bank Supervision or that official's designee notifies the affected banks of the written proclamation through a news release.

If the Senior Deputy Comptroller for Midsize and Community Bank Supervision is absent or disabled, or a vacancy exists in that position, the authority provided herein may be exercised by the Senior Deputy Comptroller for Large Bank Supervision. If either Senior Deputy Comptroller because of absence, disability, or vacancy cannot exercise any authority, the Senior Deputy Comptroller and Chief National Bank Examiner may exercise such authority.

INITIATING A PROCLAMATION

A Large Bank, Midsize, or District Deputy Comptroller, or that official's designee, may initiate a request for a proclamation to the office of the Senior Deputy Comptroller for Midsize and Community Bank Supervision. Staff members will prepare a proclamation for consideration.

It is anticipated that only those banks or offices directly affected by the emergency condition will close, and those banks or offices that close will make every effort to reopen as quickly as possible to address the banking needs of their customers and communities.

NOTIFICATION

After a legal holiday for banks has been proclaimed (signed), the proclamation will be forwarded to the Press Relations Division. Press Relations prepares a news release to be published with the proclamation at www.occ.treas.gov. Additional notifications may be made as warranted by a specific proclamation.

DELEGATION

The Comptroller of the Currency has made a delegation of authority to enable the Senior Deputy Comptroller for Midsize and Community Bank Supervision to discharge the responsibilities under the procedures established by this issuance and for the Senior Deputy Comptroller for Large Bank Supervision and Senior Deputy Comptroller and Chief National Bank Examiner to exercise such authority because of absence, disability, or vacancy.

ORIGINATING OFFICE

Senior Deputy Comptroller for Midsize and Community Bank Supervision, (202) 874-5020.

Jennifer C. Kelly
Senior Deputy Comptroller for Midsize and Community Bank Supervision

Attachment: Sample Proclamation

PPM 6000-3

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Bank Supervision

Subject: Policy on Disclosure of Statutory Enforcement Actions

TO: Regional Administrators, Deputy Regional Administrators, Department and Division Heads, Regional Counsel, Special Projects and Enforcement and Compliance Staffs

PURPOSE

This directive establishes the policy of the OCC with regard to public disclosure of statutory enforcement actions.

SCOPE

The disclosure policy adopted by this directive affects statutory enforcement actions completed after January 1, 1980. Statutory enforcement actions include the following:

- Final Cease and Desist Orders
- Formal Written Agreements
- Civil Money Penalty Orders
- Deposit Insurance Terminations
- Suspension Orders
- Removal Orders

POLICY

The OCC will make public, on at least a semiannual basis, written summaries of the statutory enforcement actions completed during the period since the previous disclosure. Each summary will describe the facts and conditions leading to the action and detail the measures taken by the OCC in response to those conditions. However, facts which tend to identify the institution or individual against whom the action was taken should be deleted from the summary.

PROCEDURES

The Regions are responsible for summarizing those statutory enforcement actions delegated to the Regions in the Policies and Procedures for Formal and Informal Administrative Actions (PPM 6100-1, September 28, 1979). Summaries of non-delegated enforcement actions will be prepared by the Enforcement and

PPM 6000-3

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Bank Supervision

Subject: Policy on Disclosure of Statutory Enforcement Actions

Compliance and Special Projects Divisions. Summaries should be prepared and forwarded to the Director of Enforcement and Compliance immediately after completion of an affected action. Publication of summaries will be accomplished by the Washington Office. A proposed format for the enforcement action summaries is attached for your review and suggestions.

This policy is being jointly adopted by the five financial institution supervisory agencies represented on the Federal Financial Institutions Examination Council. A copy of the FFIEC's written position on disclosure of statutory enforcement actions is also attached for your information. I believe implementation of this policy will give guidance to the industry regarding the OCC's enforcement philosophy and will serve to deter practices that would lead to administrative sanctions.

Paul M. Homan
Senior Deputy Comptroller
for Bank Supervision

Attachments (2)

1 page each

NATURE OF ACTION	ASSET RANGE
Formal Agreement	$15MM - $25MM

CONDITIONS PRIOR TO ACTION

The growth rate of the Bank had been rapid, doubling in size in less than three years. Capital accounts had not kept pace with this asset growth. Liquidity was marginal at 10% and loans represented 83% of deposits. Classified assets were high at 81% of GCF, the greatest concern being the significant amounts shown in the doubtful and loss categories. Reserve for Possible Loan Losses was grossly inadequate which indicated the Bank would soon experience a substantial operating loss. Loans not supported by current and satisfactory credit information and overdue loans exceeded prudent banking standards. The bank lacked any formal collection system or policy. Four violations of 12 U.S.C. §84, twenty-six violations of 31 U.S.C. or 31 C.F.R., and two violations of 12 C.F.R. 23 were cited.

ACTION TAKEN

A formal Agreement required correction of the statutory violations and required procedures to be adopted to prevent future violations. The Bank agreed to formulate and implement written programs to (1) establish and maintain an adequate Reserve for Possible Loan Losses; (2) eliminate all assets from criticized status; and (3) improve collection efforts overall. The Agreement further provided that the Board of Directors undertake a thorough and complete review of the Bank's lending function and to delineate and report to the Regional Administrator the duties of each employee participating in the lending function. The Board was also required to develop and submit to the Regional Administrator written guidelines governing liquidity and asset/-liability management.

A comprehensive budget for the fiscal year was also required. The Bank was required to obtain current and satisfactory information on all loans lacking such information and was to refrain from granting any new loans until said information had been ascertained. The Bank agreed to establish a Committee of outside directors to ensure the compliance of the Bank with the Articles of the Agreement.

TOPICS COVERED

(1) 12 U.S.C. §84
(2) 31 U.S.C. or 31 C.F.R.
(3) 12 C.F.R. 23
(4) Reserve for Possible Loan Losses
(5) Classified Assets
(6) Collection Policy
(7) Liquidity and Assets/ Liquidity Management
(8) Credit Information
(9) Lending Function
(10) Compliance Committee

Recommendation of the

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

to the

Agencies Represented on the Council
For a Policy Statement on Disclosure of Statutory Enforcement Actions

The Policy Statement

This policy statement applies to proceedings commenced by written notice, to formal supervisory written agreements entered into pursuant to statute, and to proceedings which, though not commenced by a written notice, result in a final agency order.

The Agencies recognize it is in the public interest to make known the substantive standards used by the Agencies in taking statutory enforcement actions. At the same time, the Agencies are mindful of the need to preserve the confidentiality of information where disclosure might infringe upon the right of privacy, or impair the soundness of a financial institution or the ability of the Agencies to examine the institution efficiently and effectively. Both elements of the public interest have long been recognized and protected by Congress, the Agencies, and the courts.

In order to reconcile and implement those policies, the Agencies have determined that, effective January 1, 1980, each Agency will prepare, at least on a semi-annual basis, a written summary of every final cease and desist, suspension, removal, civil money penalty, and insurance termination order as well as every formal supervisory written agreement issued pursuant to statute after that date. Each summary will describe the essential facts pertinent to agency action in the case and will set forth in detail the action taken by the reporting Agency. Names of financial institutions, or other respondents, and of any other persons involved in the matter, and, to the extent feasible, consistent with the objective that a summary contain essential facts, any information that might lead to identification of any such persons or companies, shall not be disclosed in any summary. In addition, as soon as possible, each Agency shall cause all summaries to be indexed by subject matter for use by members of the public. All summaries prepared pursuant to this Joint Statement of Policy shall be made available by the Agencies to members of the public upon request.

This joint Statement of Policy does not govern disclosures made pursuant to subpoena, or disclosures made by regulated institutions in compliance with Federal statutes regulating the issue, sale, underwriting or distribution of securities, or the conduct of securities exchanges; nor does it authorize or require disclosure of information where such disclosure is prohibited by law.

PPM 6000-5

POLICIES & PROCEDURES MANUAL

Comptroller of the Currency
Administrator of National Banks

Section: Chief Counsel Subject: OCC Documents

To: Department and Division Heads and All Examiners

PURPOSE

This issuance alerts OCC personnel that virtually all OCC documents are subject to discovery in law suits and establishes policy for the drafting of such documents.

BACKGROUND

With increasing frequency, OCC documents are being sought in law suits, particularly through the pre-trial discovery process which permits litigants to compel information even from persons who are not parties to the suit. Virtually all OCC documents--including examination reports, reports of supervisory activity, supervisory memoranda, entries in SMS, and electronic mail--are subject to discovery in law suits against either the OCC or the national bank that is the subject of the document. For that reason, it is important that OCC personnel maintain a high degree of professionalism in their written products and avoid any informalities that might be misunderstood or misused.

Merely because OCC documents deal with confidential bank information does not protect them from compulsory disclosure in litigation. Generally, despite the confidential nature of OCC documents, the courts have required that OCC examination reports and other documents be provided to litigants if the documents contain relevant material. The courts have found that an order prohibiting litigants from making public disclosure of the documents provides adequate protection of confidentiality.

The privilege for intra-governmental communications and deliberative process materials may protect portions of OCC documents from discovery. However, this privilege is limited in several important respects.

- It is not absolute and, thus, can be overcome if the requesting party can show a sufficiently compelling need.
- It protects only material that is predecisional, not material that is produced after a decision has already been made.

- Most significantly, it applies only to opinions and recommendations, not facts.

Thus, this privilege may protect some examiner opinions and recommendations in OCC documents. However, the courts have tended to find that most examiner comments are factual, rather than opinions, even though expressing the examiner's application of expert standards.

POLICY

When writing OCC documents, OCC employees should keep in mind that they may be subject to discovery and exercise common sense in deciding how to write documents. All documents should be written with a professional tone and should omit any statements suggesting personal animosity towards bank management. Similarly, documents should avoid disparaging remarks that are made in an informal or casual manner.

It is emphasized, however, that the OCC's supervisory responsibilities will frequently require highly critical statements regarding banks and their management; the risk of discovery must not and should not deter such statements if made in a professional manner.

For further information, contact the Director or Assistant Director of the Litigation Division (Commercial: (202) 447-1893, FTS: 447-1893).

Robert J. Herrmann
Senior Deputy Comptroller
for Bank Supervision Policy