

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Chap. I**

**Docket No. [04-05]**

**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

**12 CFR Chap. II**

**Docket No. R-1180**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Chap. III**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**12 CFR Chap. V**

**No. 2003-67**

**Request for burden reduction recommendations; Consumer Protection: Lending-Related Rules; Economic Growth and Regulatory Paperwork Reduction Act of 1996 review**

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Notice of regulatory review; request for comments

**SUMMARY:** The OCC, Board, FDIC, and OTS (“we” or “the Agencies”) are reviewing our regulations to identify outdated, unnecessary, or unduly burdensome regulatory requirements pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). Today, we request your comments and suggestions on ways to reduce burden in rules we have categorized as Consumer Protection: Lending-Related Rules, consistent with our statutory obligations. All comments are welcome. We specifically invite comment on the following issues: whether statutory changes are needed; whether the regulations contain requirements that are not needed to serve the purposes of the statutes they implement; the extent to which the regulations may adversely affect competition; the cost of compliance associated with reporting, recordkeeping, and disclosure requirements, particularly on small institutions; whether any regulatory requirements are inconsistent or redundant; and whether any regulations are unclear.

We will analyze the comments received and propose burden reducing changes to our regulations where appropriate. Some of your suggestions for burden reduction might require legislative changes. Where legislative changes would be required, we will consider your suggestions in recommending appropriate changes to the Congress.

**DATES:** Written comments must be received no later than APRIL 20, 2004.

**ADDRESSES:** You may submit comments by any of the following methods:

**EGRPRA website:** <http://www.EGRPRA.gov>

- Comments submitted at the Agencies’ joint website will automatically be distributed to all the Agencies upon receipt. Comments received at the EGRPRA website and by other means will be posted on the website to the extent possible.

**Individual agency addresses:** You are also welcome to submit comments to the Agencies at the following contact points (due to delays in paper mail delivery in the Washington area, commenters may prefer to submit their comments by alternative means):

**OCC:** You may submit comments, identified by Docket Number 04-05, by any of the following methods:

- E-mail: regs.comments@occ.treas.gov. Include Docket Number 04-05 in the subject line of the message.
- Fax: (202) 874-4448.
- Mail: Public Information Room  
Office of the Comptroller of the Currency  
250 E Street, SW, Mailstop 1-5  
Washington, DC 20219

Public Inspection: You may inspect and photocopy comments at the Public Information Room.

You can make an appointment to inspect the comments by calling (202) 874-5043.

**Board:** You may submit comments, identified by Docket Number R-1180, by any of the following methods:

- E-mail: regs.comments@federalreserve.gov. Include Docket Number R-1180, in the subject line of the message.
- Mail: Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington, DC 20551
- Fax: (202) 452-3819 or (202) 452-3102.

Public Inspection: You may inspect and photocopy comments in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. on weekdays in accordance with the Board's Rules Regarding Availability of Information, 12 CFR Part 261.

**FDIC:** You may submit comments, identified as EGRPRA burden reduction comments, by any of the following methods:

- <http://www.fdic.gov/regulations/law/federal/propose.html>
- E-mail: comments@fdic.gov. Include “EGRPRA burden reduction comment” in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary  
Federal Deposit Insurance Corporation  
550 17th Street, NW  
Washington, DC 20429
- Hand Delivery: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: You may inspect comments at the FDIC Public Information Center, Room 100, 801 17th Street, NW, between 9:00 a.m. and 4:30 p.m. on business days.

**OTS**: You may submit comments, identified by “No. 2003-67,” by any of the following methods:

- E-Mail: regs.comments@ots.treas.gov. Include “No. 2003-67” in the subject line of the message, and provide your name and telephone number.
- Fax: (202) 906- 6518.
- Mail: Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552
- Hand Delivery: Comments may be hand delivered to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW, from 9:00 a.m. to 4:00 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office.

Public Inspection: OTS will post comments and the related index on the OTS Internet Site at <http://www.ots.treas.gov>. In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW, by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to public.info@ots.treas.gov, or send a fax to (202) 906-7755. (Please identify the material you would like to inspect to assist us in serving you.)

**FOR FURTHER INFORMATION CONTACT:**

**OCC:**

- Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874-5090
- Lee Walzer, Counsel, Legislative and Regulatory Activities Division, (202) 874-5090

**Board:**

- Patricia A. Robinson, Managing Senior Counsel, Legal Division, (202) 452-3005
- Michael J. O'Rourke, Counsel, Legal Division, (202) 452-3288
- John C. Wood, Counsel, Division of Consumer and Community Affairs, (202) 452-2412
- Arleen Lustig, Supervisory Financial Analyst, Division of Banking Supervision and Regulation, (202) 452-5259
- For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**FDIC:**

- Claude A. Rollin, Special Assistant to the Vice Chairman, (202) 898-8741
- Steven D. Fritts, Associate Director, Division of Supervision and Consumer Protection, (202) 898-3723
- Ruth R. Amberg, Senior Counsel, Legal Division, (202) 898-3736
- Thomas Nixon, Counsel, Legal Division, (202) 898-8766

**OTS:**

- Robyn Dennis, Manager, Thrift Policy, Supervision Policy, (202) 906-5751
- Karen Osterloh, Special Counsel, Regulations and Legislation Division, Chief Counsel's Office, (202) 906-6639

**Supplementary Information**

**I. Introduction**

The Agencies are asking for your comments and suggestions on ways in which the Agencies can reduce regulatory burdens consistent with our statutory obligations. Today, we request your input to help us identify which Consumer Protection Lending-Related rules are outdated, unnecessary, or unduly burdensome. The rules in this category are listed in a chart at the end of this notice. Please send us your recommendations at our website, <http://www.EGRPRA.gov>, or to one of the listed addresses.

The rest of this notice will discuss the essential elements of our EGRPRA review project, some suggestions we received on carrying it out, and today's request for comment.

## **II. A. The EGRPRA review requirements and the Agencies'<sup>1</sup> proposed plan**

This current request for comment is part of the review required by section 2222 of EGRPRA.<sup>2</sup> We described the EGRPRA review's requirements in our initial notice of the EGRPRA project published in the June 16, 2003, Federal Register.<sup>3</sup> As part of our review, we ask for comments not only on burden imposed by individual regulatory requirements, but also on the cumulative effect of the rules.

The EGRPRA review required us to categorize our rules by type. Our June 16, 2003 Federal Register publication placed our rules into 12 categories. The categories are:

1. Applications and Reporting;
2. Banking Operations;
3. Capital;
4. Community Reinvestment Act;
5. Consumer Protection;
6. Directors, Officers and Employees;
7. International Operations;
8. Money Laundering;
9. Powers and Activities;
10. Rules of Procedure;

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<sup>1</sup> The National Credit Union Administration has participated in planning the EGRPRA review but has issued, and will issue, requests for comment separately.

<sup>2</sup> Public Law 104-208, Sept. 30, 1996, 12 U.S.C. 3311.

11. Safety and Soundness;
12. Securities.

To spread the work of commenting on and reviewing the categories of rules over a reasonable period of time, we proposed to publish one or more categories of rules approximately every six months between 2003 and 2006 and provide a 90-day comment period for each publication. We asked for comment on all aspects of our plan, including: the categories, the rules in each category, and the order in which we should review the categories. Because the Agencies were eager to begin reducing unnecessary burden where appropriate, our initial notice also published three categories of rules for comment (Applications and Reporting, Powers and Activities, and International Operations). All our covered categories of rules must be published for comment and reviewed by the end of September, 2006.

The EGRPRA review then requires the Agencies to: (1) publish a summary of the comments we received, identifying and discussing the significant issues raised in them; and (2) eliminate unnecessary regulatory requirements. Within 30 days after the Agencies publish the comment summary and discussion, the Federal Financial Institutions Examination Council (FFIEC), which is the formal interagency body to which the Agencies belong, must submit a report to the Congress. This report will summarize significant issues raised by the public comments and the relative merits of those issues. It will also analyze whether the appropriate Federal banking agency can address the burdens by regulation, or whether they must be addressed by legislation.

## **B. Public response and the Agencies' current plan**

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<sup>3</sup> The citation for our first Federal Register notice is 68 FR 35589. You can view it at our website: <http://www.EGRPRA.gov> by clicking on 'Federal Register Notices.'

We received 19 comments in response to the first notice. You can view the comments at our EGRPRA website by clicking on ‘Comments.’ In addition to soliciting written comments in 2003, we held banker outreach meetings in Orlando, St. Louis, Denver, San Francisco, and New York City in order to hear directly from the industry about ways the Agencies could reduce regulatory burden. More than 250 representatives from the industry attended the outreach meetings. These meetings have given us valuable insights and have helped focus our regulatory burden reduction efforts. We anticipate holding additional outreach events in 2004. We also will be taking into account the important views of consumer and community organizations when we meet with them. You can view descriptions of the meetings and related recommendations at our EGRPRA website by clicking on ‘Events’ and then choosing a meeting by its location.

The Agencies appreciate the response to our notice and the outreach meetings. The written comments and remarks at the meetings came from individuals, banks, savings associations, holding companies, and industry trade groups. We are actively reviewing the feedback received about specific ways to reduce regulatory burden, as well as conducting our own analyses. Because the main purpose of this notice is to request comment on the next category of regulations, we will not discuss specific recommendations about the first set of regulation categories here. However, as we develop initiatives to reduce burden in the future – whether through regulatory, legislative, or other channels – we will discuss the public’s recommendations that relate to our proposed actions.

We requested comment about our proposed categories and placement of the rules within each category. Industry trade groups and others observed that commenting on all consumer protection regulations at one time would be burdensome in itself and suggested that we might receive more useful feedback if the category was divided. As a result, we divided the consumer



protection regulations into two categories: (1) Lending-Related Rules, and (2) Account – Deposit Relationships and Miscellaneous Consumer Rules. The regulations in the Lending-Related Rules category are listed in the chart below. The Account – Deposit Relationships and Miscellaneous Consumer Rules category will contain the remaining rules previously identified in the Consumer Protection category. We plan to request comment on the Account – Deposit Relationships and Miscellaneous Consumer Rules in the next notice.

We also requested comment about the order in which we should review the categories. According to some industry representatives, the requirements imposed by the Consumer Protection regulations are among the most burdensome. Given this response, we will focus on those rules first.

### **III. Request for comment on Consumer Protection: Lending – Related Rules category**

Today, we are asking the public to identify the ways in which the Consumer Protection: Lending-Related Rules may be outdated, unnecessary, or unduly burdensome. As noted, the rules in this category are listed in the chart below.

We encourage comments that address not only individual rules or requirements but also pertain to certain product lines. For example, in the case of a particular loan, are any disclosure requirements under one regulation inconsistent with or duplicative of requirements under another regulation? Are there unnecessary records that must be kept? A product line approach is consistent with EGRPRA's focus on how rules interact, and may be especially helpful in exposing redundant or potentially inconsistent regulatory requirements. We recognize that commenters using a product line approach may want to make recommendations about rules that

are not in our current request for comment. They should do so since the EGRPRA categories are designed to stimulate creative approaches rather than limiting them.

**Specific issues to consider.** While all comments are welcome, we specifically invite comment on the following issues:

- A. Need for statutory change.** (1) Do any statutory requirements underlying the rules impose unnecessary, redundant, conflicting or unduly burdensome requirements? (2) Are there less burdensome alternatives?
- B. Need and purpose of the regulations.** (1) Are the regulations consistent with the purposes of the statutes that they implement? (2) Have circumstances changed so that a rule is no longer necessary? (3) Do changes in the financial products and services offered to consumers suggest a need to revise certain regulations (or statutes)? (4) Do any of the regulations impose compliance burdens not required by the statutes they implement?
- C. General approach / flexibility.** (1) Would a different general approach to regulating achieve statutory goals with less burden? (2) Do any of these rules impose unnecessarily inflexible requirements?
- D. Effect of the regulations on competition.** Do any of the regulations or statutes create competitive disadvantages for insured depository institutions compared to the rest of the financial services industry or competitive disadvantages for one type of insured depository institution over another?
- E. Reporting, recordkeeping and disclosure requirements.** (1) Which reporting, recordkeeping, or disclosure requirements impose the most compliance burdens? (2) Are any of the reporting or recordkeeping requirements unnecessary to demonstrate compliance with the law?

**F. Consistency and redundancy.** (1) Are any of the requirements under one regulation inconsistent with or duplicative of requirements under another regulation? (2) If so, are the inconsistencies not warranted by the purposes of the regulations?

**G. Clarity.** Are any of the regulations drafted unclearly?

**H. Burden on small insured institutions.** We have particular interest in minimizing burden on small insured institutions (those with assets of \$150 million or less). How could these rules be amended to minimize adverse economic impact on small insured institutions?

The Agencies appreciate the efforts of all interested parties to help us eliminate outdated, unnecessary, or unduly burdensome regulatory requirements.

**Rules for which comment is requested now**  
**Consumer Protection: Lending-Related Rules category**

Subject	National Banks	State Member Banks	State Non-Member Banks	Thrifts	Holding Companies Bank <sup>4</sup> ----- Thrift
<b>Consumer Protection: Lending-Related Rules</b>					
<b>Interagency Regulations</b>					
Fair Housing	12 CFR Part 27		12 CFR Part 338	12 CFR Part 528 (including other nondiscrimination requirements)	
Loans in Identified Flood Hazard Areas	12 CFR Part 22	12 CFR 208.25 [Reg. H]	12 CFR Part 339	12 CFR Part 572	
<b>Board Regulations</b>					
Consumer Leasing	12 CFR Part 213 [Reg. M]	12 CFR Part 213 [Reg. M]	12 CFR Part 213 [Reg. M]	12 CFR Part 213 [Reg. M]	12 CFR Part 213 [Reg. M] ----- 12 CFR Part 213 [Reg. M]
Equal Credit Opportunity	12 CFR Part 202 [Reg. B]	12 CFR Part 202 [Reg. B]	12 CFR Part 202 [Reg. B]	12 CFR Part 202 [Reg. B]	12 CFR Part 202 [Reg. B] ----- 12 CFR Part 202 [Reg. B]
Home Mortgage Disclosure Act	12 CFR Part 203 [Reg. C]	12 CFR Part 203 [Reg. C]	12 CFR Part 203 [Reg. C]	12 CFR Part 203 [Reg. C]	12 CFR Part 203 [Reg. C] ----- 12 CFR Part 203 [Reg. C]
Truth in Lending	12 CFR Part 226 [Reg. Z]	12 CFR Part 226 [Reg. Z]	12 CFR Part 226 [Reg. Z]	12 CFR Part 226 [Reg. Z]	12 CFR Part 226 [Reg. Z] ----- 12 CFR Part 226 [Reg. Z]
Unfair or Deceptive Acts or Practices	12 CFR 227.11-16 [Reg. AA, Subpart B]	12 CFR 227.11-16 [Reg. AA, Subpart B]	12 CFR 227.11-16 [Reg. AA, Subpart B]		
<b>OTS Regulations</b>					
Unfair or Deceptive Acts or Practices				12 CFR Part 535	

<sup>4</sup> Foreign banking organizations that conduct banking operations in the U.S., either directly through branches and agencies or indirectly through U.S. bank subsidiaries or commercial lending company subsidiaries, generally are subject to the same regulatory regime as domestic bank holding companies.

Dated: \_\_\_\_\_

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

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By order of the Board of Governors of the Federal Reserve System on January 7, 2004.

\_\_\_\_\_  
/signed/  
Jennifer J. Johnson,  
Secretary of the Board

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By order of the Board of Directors.  
Federal Deposit Insurance Corporation  
Dated at Washington, DC, this \_\_\_ day of \_\_\_\_\_ 200\_.

\_\_\_\_\_  
Robert E. Feldman,  
Executive Secretary

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Dated: \_\_\_\_\_

\_\_\_\_\_  
James E. Gilleran  
Director, Office of Thrift Supervision