September 2, 2014

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
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Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) Review: OCC Docket ID FFIEC-20-0001: FRB Docket No. OP-1491: FDIC 12 CFR Chapter III

Dear Sir or Madam:

The Financial Services Roundtable[1] ("FSR") and the Securities Industry and Financial Markets Association[2] ("SIFMA") appreciate the opportunity to provide these comments to the Office of the Comptroller of the Currency (the "OCC"), the Board of Governors of the Federal Reserve System (the "Federal Reserve Board" or the "Board"), and

[1] FSR represents 100 integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine, accounting directly for $98.4 trillion in managed assets, $1.1 trillion in revenue, and 2.4 million jobs.

[2] SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

the Federal Deposit Insurance Corporation (the "FDIC," and collectively the "Agencies") in connection with the Agencies' decennial review of existing regulations.

Our comments are divided into two parts. In Part I, General Comments, we recommend that the scope of this review be expanded to include regulations issued by the Consumer Financial Protection Bureau ("CFPB") as well as new regulations issued by the Agencies. We also propose some "guiding principles" for the Agencies to apply in conducting this review. Those principles are intended to be a "lens" through which the Agencies could evaluate the relevance, burdens, flexibility and continued merits of each regulation. In Part II, Comments on Category One Regulations, we address the specific regulations currently under review by the Agencies: Applications and Reporting, Powers and Activities, and International Operations.

I. General Comments

The Scope of the EGRPRA Review Should Be Expanded

This regulatory review process is required by section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA").[3] That section of EGRPRA directs the Federal Financial Institutions Examination Council (the "Council") and "each appropriate Federal banking agency" represented on the Council to conduct a review of all regulations prescribed by the Council or by "any such appropriate Federal banking agency" no less frequently than once every 10 years.

This statutory directive has been interpreted to apply only to the three Agencies, despite the fact that the CFPB and the National Credit Union Administration ("NCUA") are members of the Council.[4] This is not an unreasonable interpretation of the statute. While the term "appropriate Federal banking agency" is not defined for purposes of the directive, the term typically refers only to the Agencies.[5] Nonetheless, the NCUA has voluntarily elected to participate in this and the previous EGRPRA review. We believe that the CFPB also should elect to participate in this process.

We recognize that the CFPB is a relatively new agency. However, most of the regulations within the jurisdiction of the CFPB have been in effect for years, and the CFPB has merely republished them without any review or update. To exclude this large body of federal regulations from the scope of this review deprives the members of FSR, SIFMA, and other stakeholders an opportunity to address key regulations, such as the regulations implementing the Truth-in-Lending Act and the Electronic Funds Transfer Act. Market developments and technological changes have an increasing impact on the relevance and

[3] Pub. L. No. 104-208; 12 U.S.C. § 3311.
[4] Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 79 Fed. Reg. 32173, 32173 n.3. (June 4, 2014).
[5] *See, e.g.*, 12 U.S.C. § 1813(q).

impact of these and other regulations within the jurisdiction of the CFPB and should be part of this review process.

Additionally, we recommend that the Agencies, CFPB and NCUA, jointly, endorse an amendment to section 2222 to *require* each of the federal agencies that sit on the Council to participate in the EGRPRA. There are clear public policy benefits to this review, and the fact that CFPB and NCUA are not expressly subject to this process is an oversight by Congress. We also recommend that Treasury's Financial Crimes Enforcement Network ("FinCEN") be *required* to participate in the EGRPRA review process. FinCEN issues anti-money laundering regulations that apply to insured depository institutions. Anti-money laundering compliance is another area that is impacted by technological changes and a periodic review of the regulations issued by FinCEN would help to ensure that those regulations are not outdated or unnecessarily burdensome.

Finally, we ask that the Agencies reconsider the exclusion of recently issued regulations and regulations that have not been fully implemented. The Agencies have justified this exclusion on the assumption that it is too soon to judge the burden imposed by new regulations.[6] However, members of FSR and SIFMA already are experiencing unanticipated burdens and unintended consequences with recently issued regulations.

For example, immediately after the issuance of the final Volcker Rule, FSR, SIFMA and others raised serious questions about the application of the regulation to trust preferred securities. As a result, the Agencies and the Securities and Exchange Commission undertook a review of that part of the regulation.[7] Similarly, shortly after the CFPB issued a final regulation on remittances, FSR, SIFMA, and others raised questions about certain features of the final rule. Subsequently, the CFPB announced plans to modify the rule's provisions on: (1) errors resulting from incorrect account numbers provided by senders of remittance transfers; (2) the disclosure of certain foreign taxes and third-party fees; and (3) the disclosure of sub-national, foreign taxes.[8]

In the foregoing cases, the Agencies and the CFPB recognized a need to review unintended or overly burdensome consequences with recently issued regulations. Therefore, we urge the Agencies, and the CFPB, to add a fifth category of "new" regulations to this EGRPRA review process, and invite public comment on those regulations. If a category of "new" regulations is added at the end of the current review process, industry and the Agencies will have an even greater period of time to appreciate the impact of these regulations and address any unnecessary or undue burdens.

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[6] Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 79 Fed. Reg. at 32174, n.5. (June 4, 2014).

[7] Press Release, Agencies and the Securities and Exchange Commission, Agencies Reviewing Treatment of Collateralized Debt Obligations Backed by Trust Preferred Securities under Final Rules Implementing the "Volcker rule" (Dec. 27, 2013), *available at* http://www.federalreserve.gov/newsevents/press/bcreg/20131227a.htm.

[8] Remittance Rule Implementation (Subpart B of Regulation E), CFPB Bulletin 2012-08 (Nov. 27, 2012).

The Agencies Should Adhere to Certain "Guiding Principles" in Conducting this Review

FSR and SIFMA appreciate that the EGRPRA review process is a major undertaking by the Agencies. The number of regulations subject to review exceeds 100 and those regulations span a wide range of topics. While imposing, we believe that the review process could be materially enhanced if the Agencies systematically follow a set of "guiding principles" in the review. A set of guiding principles would serve as a "lens" through which the Agencies could evaluate the relevance, burdens, flexibility and continued merits of each regulation. Our proposed set of guiding principles follows.

Incentives – Regulations should reinforce positive action and behavior in addition to imposing penalties for improper behavior. Simplified notice and approval procedure for institutions in good supervisory standing are an example. The Agencies should look for other opportunities to incentivize good behavior, wherever possible.

Uniformity – Regulations implemented by multiple agencies should have uniform definitions and standards. When multiple agencies are responsible for implementing the same statute, the implementing regulations promulgated by the Agencies should be the same.

Clarity – To facilitate compliance all regulations should be written clearly. This is a standard that the Agencies have traditionally applied to consumer disclosures. The Q&A format that the Agencies have used in more recent regulations provides a model for ensuring greater clarity.

Cost-Effective – Regulations and financial reporting requirements should be cost-effective, with benefits to end-users and institutions outweighing costs.

Certainty – Regulations should be certain and predictable to ensure better regulatory outcomes.

Duplication – Regulations and reporting requirements implemented by multiple agencies should avoid duplication and overlap.

II. Comments on Category One Regulations

Bank Merger Act: 12 C.F.R. 5.33: 12 C.F.R. 262.3: 12 C.F.R. 225. Subpart B: 12 C.F.R. 303. Subpart D: 12 C.F.R. 163.22: 12 C.F.R. Part 390. Subpart E

Expedited Processing

These regulations include expedited processing procedures for institutions that are in good supervisory standing, which is a principle that we support. However, there are minor differences in the definitions of an institution eligible for expedited processing. We recommend that the Agencies adopt a uniform definition of institution's eligible for expedited processing.

We also recommend that, wherever there are asset thresholds associated with expedited treatment, those thresholds be increased and indexed. More specifically, we recommend that the $7.5 billion threshold in 12 C.F.R. 225.14 be increased to $10 billion and indexed.

Newspaper Notice

These regulations require that a public notice of a proposed transaction be posted in a local newspaper. We recognize that, in this case, the newspaper notice is a statutory requirement.[9] However, we recommend that the Agencies authorize additional forms of public notice, including notices on an institution's web site. Furthermore, given advances in technology and communications, we urge the Agencies to endorse an amendment to the Bank Merger Act that permits alternative forms of public notice.

Convenience and Needs and CRA

In assessing the convenience and needs and CRA factors as part of mergers, the Agencies have focused some attention on the effects of office closings (see 12 C.F.R. 5.33). As technologies change and consumers make greater use of alternative means to obtain products and services, including the use of mobile phones, we recommend that the Agencies balance consideration of office closings with consideration of an institution's utilization of alternative technologies to serve customers.

<u>Change in Bank Control Act: 12 C.F.R. 5.50; 12 C.F.R. Part 225. Subpart E: 12 C.F.R. Part 303. Subpart E: 12 C.F.R. Part 308. Subparts D and E: 12 C.F.R. Part 174; 12 C.F.R. Part 391. Subpart E: 12 C.F.R. Part 225. Subpart E: 12 C.F.R. Part 238. Subpart D</u>

Definitions

In these regulations the Agencies use different definitions of "acting in concert" and "immediate family." We recommend the adoption of uniform definitions.

<u>Notice of Additions or Change in Directors: 12 C.F.R. 5.51; 12 C.F.R. Part 225. Subpart H: 12 C.F.R. Part 303. Subpart F: 12 C.F.R. Part 163. Subpart H 12 C.F.R. 390.360-368 12 C.F.R. Part 225. Subpart H: 12 C.F.R. Part 238. Subpart H</u>

Definitions

These regulations have inconsistent definitions of "director and senior officers." We recommend a uniform definition.

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[9] 12 U.S.C. § 1828(c)(3)(D).

Prior notice period

These regulations have differing time periods for the required notice. We recommend a uniform 30-day prior notice.

Appeals

Some of the regulations provide a procedure for appealing a notice, and other regulations do not. Each of the Agencies should include a provision for appealing the denial of a notice.

Format

The regulation applicable to federal savings associations (12 C.F.R. Part 163, Subpart H) uses a Q&A format. We recommend that each of the Agencies adopt this format for this regulation.

National Bank Rules, Policies and Procedures for Corporate Activities; 12 C.F.R. Part 5

Branches

To avoid confusion, we recommend that this regulation clarify that mobile phones and similar devices are not branches.

Operating Subsidiaries

Under the current rule, in order to qualify as an operating subsidiary and for the expedited notice process, a national bank must have the ability to control the management and operations of the subsidiary.[10] As part of its effort to integrate the licensing rules for national banks and federal savings associations, the OCC has proposed to add to this requirement that "no other person or entity has the ability to control the management or operations of the subsidiary."[11] The preamble to the proposal states that this "reflects the OCC's practice regarding national bank operating subsidiaries" and is based on a provision in the regulations inherited from the Office of Thrift Supervision.[12]

FSR and SIFMA are concerned that the language, as drafted, could be read to suggest that a national bank must own 100 percent of the voting stock of an entity for that entity to

[10] 12 C.F.R. §§ 5.34(e)(2)(i) and (e)(5)(ii).

[11] Integration of National Bank and Federal Savings Association Regulations: Licensing Rules; Proposed Rule (to be codified at 12 C.F.R. pts. 4, 5, 7, et al., 79 Fed. Reg. 33260, 33356 (June 10, 2014). While this proposal is not part of the EGRPRA review, the OCC has stated they will consider comments received on both the proposed rule and the first EGRPRA notice when finalizing its licensing integration rule (Integration of National Bank and Federal Savings Association Regulations: Licensing Rules; Proposed Rule, 79 Fed. Reg. 33260, 33261).

[12] Integration of National Bank and Federal Savings Association Regulations: Licensing Rules; Proposed Rule, 79 Fed. Reg. at 33287.

qualify as an operating subsidiary or for expedited notice. Under this interpretation, a national bank would no longer be permitted to acquire a controlling interest in a joint venture as an operating subsidiary if another person or entity owned and controlled a minority interest of the voting shares of the entity. Instead, a national bank would need to limit its investments in a joint venture to a minority non-controlling investment subject to relevant OCC application procedures.

The language as proposed is not a clarifying change but represents a significant departure from prior OCC precedent.[13] The OCC has long recognized that authorizing investments in joint ventures and partnerships as operating subsidiaries increases the flexibility of national banks to structure their operations. Moreover, the preamble to the proposal does not provide any additional information or support on why investments in joint ventures or partnerships should not be structured as operating subsidiaries going forward.

We kindly ask the OCC to clarify that a national bank may continue to invest in a joint venture or partnership that qualifies as an operating subsidiary under 12 C.F.R. § 5.34(e)(2), provided that the bank has the ability to control the management and operations of the subsidiary and no other party controls more than 50 percent of the voting (or similar type of controlling) interest in the subsidiary. Moreover, we ask that the OCC make the corresponding change to the proposed expedited notice procedures (12 C.F.R. § 5.34(e)(5)(ii) so that an investment in an operating subsidiary that is a joint venture or partnership may continue to be eligible for expedited notice treatment.

<u>Federal Savings Association Application Processing Procedures: 12 C.F.R. Part 116. 12 C.F.R. Part 150: and 12 C.F.R. Part 159</u>

To provide a more streamlined process for federal savings associations seeking to exercise fiduciary duties, we recommend that 12 C.F.R. Section 150.70(b) be revised so that once the OCC has granted an institution permission to exercise *some* fiduciary powers, that institution may exercise *all* fiduciary powers without obtaining further approvals.

<u>Federal Savings Association Capital Distribution: 12 C.F.R. Part 163. Subpart E</u>

References to the Office of Thrift Supervision

We recommend that references to the Office of Thrift Supervision be eliminated, as that agency no longer exists.

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[13] *See, e.g.*, OCC Corporate Decision 2003-6 (authorizing bank to organize a joint venture in which bank owns and controls more than 50% of the voting shares and equity, and two other investors own and control 33% and 13%, respectively).

Federal Mutual Savings Associations; Incorporation, Organization and Conversion; Merger, Dissolution, Reorganization, and Conversion: 12 C.F.R. Part 143 and 12 C.F.R. Part 146

Application for Permission to Organize

We recommend that the OCC cease considering "whether a necessity exists for" a federal mutual savings association "in the community to be served" when deciding whether to approve an application for permission to organize under 12 C.F.R. Section 143.2. That "necessity" factor is largely duplicative of the other factors the OCC considers, such as "whether there is a reasonable probability of the association's usefulness and success.[14]"

"Representative" Board Requirement

We recommend that the OCC eliminate the requirement, under 12 C.F.R. Section 143.3(d) that a majority of a *de novo* association's board of directors be "representative" of the state in which the savings association is to be located. Given the ease of communication facilitated by new technologies and an increasingly interdependent and integrated national finance market, this requirement is outdated.

The "representative" requirement for directors of national banks also should be updated.[15] We recognize this is a statutory change, but given the evolution of the market and the need for qualified directors, it would be appropriate to eliminate this requirement.

Federal Stock Savings Associations – Incorporation, Organization and Conversion: 12 C.F.R. Part 152

We recommend that the OCC cease considering "whether a necessity exists for" a federal stock association "in the community to be served" when deciding whether to approve an application for permission to organize under 12 C.F.R. Section 152.1. That "necessity" factor is largely duplicative of other factors the OCC considers, such as "whether there is a reasonable probability of the association's usefulness and success.[16]"

Holding Companies – Formations, Acquisitions and Nonbanking Activities: 12 C.F.R. Part 225, Subparts A, B, C, D, and Appendix C; 12 C.F.R. Part 238, Subparts A, B, C, E and F; 12 C.F.R. Part 239; 12 C.F.R. 262.3

The regulations should enable institutions to meet the public notice requirements through mediums other than newspapers.

[14] 12 C.F.R. § 143.2(g)(iii).
[15] 12 U.S.C. § 72.
[16] 12 C.F.R. § 152.1(b)(ii).

State Member Banks: 12 C.F.R. Part 208. Subparts A. B. C and G: 12 C.F.R. Part 209: 12 C.F.R. 262.3

Newspaper Notice

The regulations should enable institutions to meet the public notice requirements through mediums other than newspapers; for example, the regulations could provide for an electronic form of notice, such as an easily accessible public website.

Securities Recordkeeping Exemption

We suggest that the "*de minimis* transaction" exemption allowing state member banks to forgo certain recordkeeping obligations be expanded, given the increasingly rapid pace of transactions in the financial markets. Currently, state member banks are exempt if they have "an average of less than 200 securities transactions per year for customers over the prior three calendar year period.[17]" We suggest state member banks be exempt if they have up to 600 such transactions. For similar reasons, we suggest that the "government securities" exemption be expanded, allowing banks that effect up to 1500 government securities brokerage transactions per year to avail themselves of the exemption (currently, the exemption is available only to banks "effecting fewer than 500 government securities brokerage transactions per year[18]").

Call Reports and Other Forms. Instructions and Reports: 12 C.F.R. Part 304

While we understand that at this time EGRPRA is requesting comment specifically on the forms and reports discussed in 12 C.F.R. Part 304, we ask that the Agencies attempt to harmonize reports, where possible, so as to reduce the burdens associated with duplicative reporting requirements.

Signature Requirements

Given the electronic filing of call reports, we suggest that the requirement that three directors of the bank sign the call report should be reviewed. Banks also experience logistical issues when trying to obtain three electronic signatures of directors who are often in different locations.

Furthermore, since the FRY-8 incorporates all banks under a common bank holding company, but requires an officer signature for each bank, a consolidated sign-off by one officer of the bank holding company should suffice.

Report Creep

We note that the call report has gotten longer over time, with the Agencies requiring institutions report more and more information.

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[17] 12 C.F.R. § 208.34(a)(1)(i).
[18] 12 C.F.R. § 208.34(a)(1)(ii).

A 2014 Community Bank Call Report Burden Survey indicates that current call reporting requirements for community banks are creating a constantly increasing burden on the ability for these institutions to survive in today's business environment. Nearly three-quarters of respondents said the number of hours to complete call reports has increased over the past decade.

This increase, coupled with the additional regulatory capital requirements, will make it challenging for community banks to thrive and will increase regulatory burdens for larger banks at a time when they are also facing increased regulatory challenges on a variety of fronts. For example, as larger banks transition from the Basel I to the Basel III framework, reconciling informational requests from call reports becomes particularly confusing. As many larger banks work to comply with the U.S. Basel III final rule, they must also consider the effect of higher leverage capital requirements that have now been imposed by U.S. banking agencies.

Furthermore, the high level of detail required in the loans, securities, and deposits schedules on call reports as well as the reporting of insurance revenue could be reduced without compromising the ability of the federal agencies to monitor financial condition.

Some of this information does not go to the heart of safety and soundness. For instance, the Agencies require institutions to report trade names and web page URLs. In the interest of reducing the burden on institutions and facilitating the reporting of information *key* to the Agencies' assessment of safety and soundness, we suggest the Agencies allow institutions to submit information that does not go to the core of safety and soundness (such as the web page URL) at a later date than they are required to submit more important information (such as financial data).

Inconsistencies in Definitions

One area where there is significant opportunity to reduce unnecessary regulatory burden is the lack of global definitions in applications and other regulatory reports.

Inconsistencies between reports, either in formats or definitions, continue to cause unnecessary burden, because the same financial data must be formatted and/or calculated in different ways for different reports. For example there are also inconsistencies between the call report and FR Y-9C with regard to the Income Statement, Interest Sensitivity data on various schedules (e.g., including loans, securities, deposits), past due and nonaccruals, and various memoranda items.

Deposit Insurance Filing Procedures 12 C.F.R. Part 303, Subpart B; 12 C.F.R. Part 390. Subpart F

Interim Institutions

We recommend that the Agencies reconsider the need for deposit insurance applications for state chartered interim institutions in which the interim is not the surviving entity.

Newspaper Notices

The regulations should enable institutions to meet the public notice requirements through mediums other than local newspapers.

Filing Procedures and Delegations of Authority: 12 C.F.R. Part 303 and 12 C.F.R. Part 390. Subpart F

Electronic Filing

Each of the Agencies has procedures for secure, electronic filing of applications. Accordingly, we recommend that regulations related to filing procedures be updated to either explain how institutions may access such instructions or provide institutions with a link to the relevant web page for relevant filing instructions.

National Bank Debt Cancellation Contracts and Debt Suspension Agreements: 12 C.F.R. Part 37

Debt protection contracts and debt suspension agreements

When originally adopted the OCC's regulation on debt cancellation contracts and debt suspension agreements was viewed as the "gold standard" in the industry. It requires the disclosure of key terms and conditions to consumers, and it prohibits practices. The regulation was a model for other federal and state financial regulators. Recently, however, the CFPB has issued a number of enforcement orders related to the marketing of these products in which the agency has imposed a variety of conditions that do not appear in the OCC regulation. Additionally, the CFPB has issued a bulletin related to "add-on" products, which advises institutions to follow certain practices when offering these products. These actions by the CFPB have created a significant amount of compliance uncertainty in the industry, and caused some institutions to cease the marketing of these products. Therefore, we recommend that that OCC update its current regulation and provide clear guidance to the industry on these products.

Federal Savings Association Electronic Operations: 12 C.F.R. Part 155

We recommend that the requirement in Section 155.310 that the federal savings association notify the OCC prior to establishing a transactional web site be replaced with a requirement that the association notifies the OCC *after* establishing the website, so as to reduce delays in launching websites.

Federal Savings Association: Fiduciary Powers of Federal Savings Associations: 12 C.F.R. Part 150

Fiduciary Activities

The OCC's regulations pertaining to federal savings banks should be updated to make clear that ancillary activities in and of themselves are not "fiduciary activities" that would trigger heightened supervisory review, more frequent and comprehensive audit expectations, *etc.* For example, some trust departments serve exclusively as a directed trustee or custodian of pension plans. The courts have held that such activities are non-fiduciary to the extent they lack discretionary authority or control of plan assets. *See, e.g. Beddal v. State Street Bank and Trust Company*, 137 F3d 12 (1st Cir. 1998). If a trust department is not engaged in fiduciary activities, it should not be subject to an audit on "fiduciary activities" as required in Section 150.440. OCC examiners should not be documenting that an institution is performing fiduciary activities if it is not since doing so could create fiduciary liability exposure (*e.g.* under ERISA). The following is a proposed modification to 12 C.F.R. 150.60 to address this issue, with proposed changes underlined:

§150.60 What other definitions apply to this part?

Activities ancillary to your fiduciary business are non-fiduciary activities and include advertising, marketing, or soliciting fiduciary business, contacting existing or potential customers, answering questions and providing information to customers related to their accounts, acting as liaison between you and your customer (for example, forwarding requests for distribution, changes in investment objectives, forms, or funds received from the customer), and inspecting or maintaining custody of fiduciary assets or holding title to real property. This list is illustrative and not comprehensive. Other activities may also be "ancillary activities" for purposes of this definition including nondiscretionary activities with respect to trust or custodial assets.

Affiliate has the same meaning as in 12 U.S.C. 221a(b). For purposes of this part, substitute the term "Federal savings association" for the term "member bank" whenever it appears in 12 U.S.C. 221a(b).

Applicable law means the law of a state or other jurisdiction governing your fiduciary relationships, any Federal law governing those relationships, the terms of the instrument governing a fiduciary relationship, and any court order pertaining to the relationship.

Fiduciary activities include accepting a fiduciary appointment, executing fiduciary-related documents, providing investment advice for a fee regarding fiduciary assets, or making discretionary decisions regarding investment or distribution of assets. They exclude ancillary activities.

Fiduciary officers and employees means the officers and employees of a Federal savings association to whom the board of directors or its designee has assigned functions involving the exercise of the association's fiduciary powers.

Preemption Generally: 12 C.F.R. Part 7. Subpart D: 12 C.F.R. 7.4010

The scope of preemption in the National Bank Act was thoroughly debated and voted upon by Congress during consideration of the Dodd-Frank Act. The current versions of the OCC's preemption regulations were adopted subsequent to the passage of that Act and are an accurate statement of the conditions imposed by that Act. Given this recent rewrite of the preemption regulations, we see no need for any review or change in this area at this time.

International Operations of U.S. Banking Organizations: 12 C.F.R. Part 211, Subpart A

Newspaper Notice

The regulations should enable institutions to meet the public notice requirements through mediums other than newspapers.

Monetary Limits

We suggest that the monetary limits throughout the regulation should generally be raised to keep pace with inflation. For instance, the "general consent" limit of 12 C.F.R. 211.8(4)(i) has been $25 million for almost thirteen years, when the regulation was last amended.[19]

Export Trading Companies: International Lending Supervision: 12 C.F.R. Part 211, Subparts C and D

We suggest that the limits on investments in export trading companies be raised from the current 5%[20] of the investor's consolidated capital to 10% of the investor's consolidated capital. The Federal Reserve Board's Regulation YY mitigates many of the risks posed by the United States financial system's exposure to foreign entities and foreign financial markets, so, as a general matter, tight capital-based restrictions on foreign investments are less needed than they once were.

[19] International Banking Operations: Rules Regarding Delegation of Authority, 66 Fed. Reg. 58655 (Nov. 23, 2001).
[20] 12 C.F.R. § 211.33(a).

Foreign Banking and Investment by Insured State Nonmember Banks; 12 C.F.R. Part 347. Subpart A: 12 C.F.R. Part 303. Subpart J

We suggest that the capital-based limits on investments in foreign organizations[21] generally be raised. Given the extensive capital requirements and stringent capital calculations imposed on banks by the rules implemented after the Third Basel Accord, there is less of a need for tight restrictions on capital outflows in the investment context.

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FSR and SIFMA appreciate the opportunity to submit comments on the Agencies' EGRPRA process. If it would be helpful to discuss specific comments or general views on this issue, please contact us at Richard.Foster@FSRoundtable.org and KBentsen@sifma.org.

Sincerely yours,

Rich Foster

Richard Foster
Vice President & Senior Counsel
For Legal and Regulatory Affairs
Financial Services Roundtable

Kenneth E. Bentsen, Jr.
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[21] *See, e.g.*, 12 C.F.R. 347.109(a)(1) (restricting the amount a bank may invest in equity interests in foreign organizations not exceed 15 percent of the bank's Tier 1 capital).