Announcements

Passing of Former Governor John P. LaWare

Former banking executive and Federal Reserve Governor John P. LaWare died on December 13, 2004, at Southeast Georgia Health System hospital in Brunswick, Georgia. LaWare, who was appointed to the Federal Reserve by President Ronald Reagan in 1988, retired to Sea Island, Georgia, after resigning in 1995.

Federal Reserve Board Chairman Alan Greenspan, in a statement released just before the Board's meeting on December 14, 2004, said of former Governor LaWare:

> "In his service to the Federal Reserve, my good friend John LaWare contributed keen judgment and a deep and practical knowledge of the American financial system, developed during a long career in banking. His insight was invaluable during the deliberations that led eventually to the Gramm–Leach–Bliley legislation that modernized the legal structure of banking and finance. Most of all, he was a gentleman. I extend my deepest sympathies to his family."

Federal Open Market Committee Statements

The Federal Open Market Committee decided on November 10, 2004, to raise its target for the federal funds rate 25 basis points, to 2 percent.

The Committee believes that, even after this action, the stance of monetary policy remains accommodative and, coupled with robust underlying growth in productivity, is providing ongoing support to economic activity. Output appears to be growing at a moderate pace despite the rise in energy prices, and labor market conditions have improved. Inflation and longer-term inflation expectations remain well contained.

The Committee perceives the upside and downside risks to the attainment of both sustainable growth and price stability for the next few quarters to be roughly equal. With underlying inflation expected to be relatively low, the Committee believes that policy accommodation can be removed at a pace that is likely to be measured. Nonetheless, the Committee will respond to changes in economic prospects as needed to fulfill its obligation to maintain price stability.

Voting for the FOMC monetary policy action were: Alan Greenspan, Chairman; Timothy F. Geithner, Vice Chairman; Ben S. Bernanke; Susan S. Bies; Roger W. Ferguson, Jr.; Edward M. Gramlich; Thomas M. Hoenig; Donald L. Kohn; Cathy E. Minehan; Mark W. Olson; Sandra Pianalto; and William Poole.

In a related action, the Board of Governors unanimously approved a 25 basis point increase in the discount rate, to 3 percent. In taking this action, the Board approved the requests submitted by the Boards of Directors of the Federal Reserve Banks of Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, St. Louis, Minneapolis, and Kansas City.

The Federal Open Market Committee decided on December 14, 2004, to raise its target for the federal funds rate 25 basis points, to 2¼ percent.

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In addition, the Committee unanimously decided to expedite the release of its minutes. Beginning with this meeting, the minutes of regularly scheduled meetings will be released three weeks after the date of the policy decision. The first set of expedited minutes will be released at 2:00 p.m. eastern standard time on January 4, 2005.

Request for Comments on Review of Open-End Credit Rules, Regulation Z

The Federal Reserve Board issued for public comment on December 3, 2004, an advance notice of proposed rulemaking (ANPR) announcing a review of the open-end (revolving) credit rules of the Board's Regulation Z (Truth in Lending), which implements the Truth in Lending Act.

The Board periodically reviews each of its regulations to update them, if necessary.

Open-end credit generally refers to a revolving line of credit (such as a credit card account) where repeated transactions are expected, the available credit is replenished as unpaid balances are repaid, and finance charges are assessed on unpaid balances. The ANPR seeks comment on a variety of specific issues relating to three broad categories: (1) the format of open-end credit disclosures; (2) the content of the disclosures; and (3) the substantive protections provided under the regulation. The ANPR solicits comments on the scope of the review, and also requests commenters to identify other issues that the Board should consider addressing in the review.

Comments must be received on or before March 28, 2005.

Fee Schedules for Federal Reserve Priced Services for 2005

The Federal Reserve Board approved fee schedules on November 4, 2004, for Federal Reserve Bank payment services for depository institutions (priced services), effective January 3, 2005.

The Reserve Banks project that they will recover 100.1 percent of all their priced services costs in 2005 and estimate that they will recover 94.6 percent of these costs in 2004.

From 1994 to 2003 the Reserve Banks recovered 97.8 percent of priced services costs, including operating costs, imputed costs, and targeted return on equity (ROE, or net income), which amounts to a ten-year total net income of slightly less than $500 million.

Since the mid-1990s there has been a national trend away from the use of checks and toward more efficient electronic payment alternatives. Although this trend has affected the entire payments industry and is consistent with the Federal Reserve's position of encouraging the use of more efficient electronic payment alternatives, it has adversely affected the ability of the Reserve Banks to fully recover their costs. In response to this national trend, the Reserve Banks have improved operational efficiencies and reduced costs with the aim of returning to full cost recovery in 2005.

As part of their check restructuring initiative, the Reserve Banks have reduced the number of Federal Reserve check-processing locations from forty-five to thirty-two and have announced plans to further reduce the number to twenty-three sites by early 2006. In 2005 the Reserve Banks are expected to realize full-year operational efficiencies and cost savings associated with the first round of restructurings in 2003 and 2004, and partial-year savings associated with the second round of restructurings. The Reserve Banks have also reduced costs in a variety of support and overhead areas.

Overall the price level for Federal Reserve priced services will increase about 7 percent in 2005 from 2004 levels. The increase reflects an approximately 8 percent rise in paper-check service fees combined with a 2.6 percent increase in fees for the Reserve Banks' electronic payment services. Fee schedules for all priced services are available on the Federal Reserve Banks' financial services web site at www.frbservices.org.

The Board also approved, effective January 6, 2005, changing the earnings credit rate on depository institutions' clearing balances at the Reserve Banks from 90 percent to 80 percent of the three-month Treasury bill rate.

In addition the Board approved the 2005 private-sector adjustment factor (PSAF) for Reserve Bank priced services of $161 million. The PSAF is an allowance for taxes and other imputed expenses that would have to be paid and profits that would have to be earned if the Federal Reserve's priced services were provided by a private business. The Monetary Control Act of 1980 requires the Federal Reserve to recover the costs of providing priced services, including the PSAF, over the long run, to promote competition between the Reserve Banks and private-sector service providers.

Revised Payments System Risk Policy

The Federal Reserve Board announced on November 26, 2004, the approval of proposed revisions to its Policy on Payments System Risk (PSR Policy) addressing risk management in payments and securities settlement systems.

The revisions update the policy in light of current industry and supervisory risk-management approaches as well as new international risk-management standards for payments and securities settlement systems. In addition they provide further clarification regarding the policy's objectives, scope, and application.

The key revisions include an expansion of the policy's scope to include those Federal Reserve Bank payments and securities settlement systems that meet the policy's application criteria, revised general risk-management expectations for systems subject to the policy, and the incorporation of both the *Core Principles for Systemically Important Payment Systems* (Core Principles) and the *Recommendations for Securities Settlement Systems* (Recommendations).

Under the revised policy, public- and private-sector payments and securities settlement systems that expect to settle a daily aggregate gross value of U.S. dollar-denominated transactions exceeding $5 billion on any day during the next twelve months are expected to implement a sound risk-management framework. A sound risk-management framework should: (1) clearly identify risks and set sound risk-management objectives, (2) establish sound governance arrangements, (3) establish clear and appropriate rules and procedures, and (4) employ the resources necessary to achieve the system's risk-management objectives and implement effectively its rules and procedures. Systems deemed by the Board to be systemically important are also required to meet the Core Principles or Recommendations.

The Core Principles were developed by the Committee on Payment and Settlement Systems (CPSS) of the central banks of the Group of Ten countries. The Recommendations were developed by the CPSS and the Technical Committee of the International Organization of Securities Commissions. Both sets of standards are part of the Financial Stability Forum's Compendium of Standards that have been widely recognized and endorsed by U.S. authorities as integral to strengthening global financial stability.

Revised Bank Holding Company Rating System

The Federal Reserve issued on December 1, 2004, a revised bank holding company (BHC) rating system. The revised system more closely aligns the Federal Reserve's rating process with the focus of its current supervisory practices by placing an increased emphasis on risk management, providing a more flexible and comprehensive framework for evaluating financial condition, and requiring an explicit determination of the likelihood that the nondepository entities of a BHC will have a significant negative effect on the depository subsidiaries. The revised rating system became effective January 1, 2005.

Under the revised rating system, each BHC is assigned a composite rating (C) based on an evaluation and rating of three essential components of an institution's financial condition and operations. These three components are: Risk Management (R); Financial Condition (F); and potential Impact (I) of the parent company and nondepository subsidiaries on the subsidiary depository institutions. A fourth rating, Depository Institution (D), mirrors the primary regulator's assessment of the subsidiary depository institutions. A simplified version of the rating system that includes only the R and C components will be applied to noncomplex bank holding companies with assets less than $1 billion.

To provide a consistent framework for assessing risk management, the R component is supported by four subcomponents that reflect the effectiveness of the banking organization's risk management and controls. The F component is supported by four subcomponents reflecting an assessment of the quality of the banking organization's Capital; Asset Quality; Earnings; and Liquidity.

The policy also contains guidance on implementation of the revised rating system based on BHC size and complexity.

Changes to Public Disclosure Tables to Adjust for Revisions in Regulation C

The Federal Reserve Board announced on December 10, 2004, changes to the tables used to publicly release data collected by lenders under the Home Mortgage Disclosure Act (HMDA), which is implemented by the Board's Regulation C (Home Mortgage Disclosure).

The formats for some of the existing disclosure tables have been revised, one set of existing tables has been deleted, and new tables have been added.

The changes reflect revisions to Regulation C, adopted by the Board in 2002, that require lenders to collect new data beginning January 1, 2004.

These revisions to the public disclosure tables do not affect the data collection and reporting requirements applicable to lenders subject to Regulation C; the revised disclosure tables merely show the format that will be used by the federal financial regulatory agencies for public disclosure of the data collected and reported by lenders.

The 2002 revisions to Regulation C require lenders to collect and report data including loan pricing information (the rate spread between the annual percentage rate on the loan and the yield on Treasury securities of comparable maturity); whether the loan is subject to the Home Ownership and Equity Protection Act; whether manufactured housing is involved; whether the loan is secured by a first or subordinate lien on the property; and certain information about requests for preapproval. In addition, the race and ethnicity categories were changed to conform to standards established by the Office of Management and Budget.

The first year for which the new data will be reported is 2004. Data from lenders must be submitted to the federal financial regulatory agencies no later than March 1, 2005, and will be reflected in the public disclosures scheduled to be released later in 2005.

Annual Notice of Asset-Size Exemption Threshold

The Federal Reserve Board published on December 21, 2004, its annual notice of the asset-size exemption threshold for depository institutions under Regulation C (Home Mortgage Disclosure), which implements the Home Mortgage Disclosure Act (HMDA).

The asset-size exemption for depository institutions will increase $1 million to a level of $34 million based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the twelve-month period ending in November 2004. As a result, depository institutions with assets of $34 million or less as of December 31, 2004, are exempt from data collection in 2005. An institution's exemption from collecting data in 2005 does not affect its responsibility to report the data it was required to collect in 2004.

The adjustment became effective January 1, 2005.

HMDA and the Board's Regulation C require most depository institutions and certain for-profit, nondepository institutions to collect, report, and disclose data about applications for, and originations and purchases of, home mortgage loans, home improvement loans, and refinancings. Data reported include the type, purpose, and amount of the loan; the race, ethnicity, sex, and income of the loan applicant; and the location of the property. The purposes of HMDA include helping to determine whether financial institutions are serving the housing needs of their communities and assisting in fair lending enforcement.

Appointment of Richard W. Fisher as President, Federal Reserve Bank of Dallas

Richard W. Fisher will become president of the Federal Reserve Bank of Dallas, effective April 4, 2005. The appointment of Mr. Fisher was announced on December 21, 2004, by Ray L. Hunt, chairman of the Bank's Board of Directors. Mr. Fisher will succeed Robert D. McTeer, Jr., who resigned November 4, 2004, to become chancellor of the Texas A&M University System.

Mr. Fisher, 55, is currently vice chairman of Kissinger McLarty Associates, a strategic advisory firm chaired by Henry Kissinger, the former Secretary of State of the United States of America.

As president of the Federal Reserve Bank of Dallas, Mr. Fisher will head one of the twelve regional Reserve Banks, which with the Board of Governors in Washington, D.C., make up the Federal Reserve System, the nation's central bank. He will participate in meetings of the Federal Open Market Committee, a principal policymaking body in the Federal Reserve System, and during 2005, and every third year following, will be a voting member of the Committee.

The Dallas Reserve Bank serves the Eleventh Federal Reserve District, which includes all of Texas, as well as portions of Louisiana and New Mexico. The Federal Reserve is responsible for managing the country's money supply, supervising banks and depository institutions, and serving as fiscal agent for the federal government. The Federal Reserve also provides services to depository institutions.

Ray Hunt, chairman of the Board of Directors of the Federal Reserve Bank of Dallas, said the following.

> "We are extremely pleased with the fact that Richard Fisher will soon be joining us as our new president. Richard possesses a superb knowledge of the nation's economic and monetary system and his direct per-

> sonal involvement in a number of very important international economic treaties and activities make him uniquely qualified to provide the very forward-looking leadership for which the Federal Reserve Bank of Dallas has become known."

Mr. Fisher graduated with honors from Harvard University in economics, earned an MBA from Stanford University, and studied engineering at the U.S. Naval Academy and Latin American politics at Oxford University. He began his career as a banker at the private bank of Brown Brothers Harriman and Company. At Brown Brothers, Mr. Fisher was assistant to Robert Roosa, a former senior official of the Federal Reserve and Under Secretary of the Treasury, who had trained several leading financial officials, among them Paul Volcker, who became Federal Reserve Board Chairman before Mr. Greenspan.

In 1977 Mr. Fisher was "loaned out" by Brown Brothers to serve as Assistant to the Secretary of the Treasury during the Carter Administration, where he worked on issues related to the dollar crisis of 1978 and 1979, then returned to Brown Brothers to found their Texas operations in Dallas. In 1987 he created Fisher Capital Management, an investment advisory firm, and a separate funds management firm, Fisher Ewing Partners, which focused heavily on investing in distressed banks, savings and loans, and thrift institutions. He sold his controlling interests in both firms when he again joined the government in 1997.

From 1997 to 2001 Mr. Fisher served as Deputy United States Trade Representative with the rank of Ambassador. Ambassador Fisher oversaw the implementation of NAFTA, negotiations for the Free Trade Area of the Americas, and the initiation of the U.S.–Chile Free Trade Agreement negotiations. He negotiated several major agreements on behalf of the United States in Asia, including the Bilateral Trade Agreement with Vietnam signed by President Bush, the U.S.–Korea Auto Agreement of 1998, and the initiation of the Free Trade Agreement with Singapore, and was a senior member of the team that negotiated the bilateral accords for China and Taiwan's accession to the World Trade Organization (WTO). Under an agreement struck between President Clinton and Japanese Prime Minister Hashimoto, Ambassador Fisher co-chaired the U.S.–Japan Enhanced Initiative on Competition and Deregulation, which led to significant changes in the financial, telecommunications, commercial, and legal sectors of the Japanese economy.

Mr. Fisher stated the following:

> "I am excited at the prospect of working for the brilliant staff at the Dallas Fed. This is a homecoming in more than one way. I started my career at Brown Brothers as the assistant to Robert Roosa, a legendary figure in both the Federal Reserve System and the U.S. Treasury. He and the partners there taught me the bond, stock, and foreign exchange markets and the investment trade. It was Mr. Roosa's ardent wish that someday I would 'pay it back' by joining the Federal Reserve, which he considered the 'purest form of public service, above and beyond the reach of partisan politics.' He is probably grinning up in heaven right now."

A biographical summary is available on the Federal Reserve Bank of Dallas's web site, www.dallasfed.org/news/releases/2004/nr041221.htm.

Figures on Income of the Federal Reserve Banks

The Federal Reserve Board released figures on January 7, 2005, that indicate the Federal Reserve Banks distributed approximately $18.086 billion of their $23.541 billion total income to the U.S. Treasury during 2004.

Federal Reserve System income is derived primarily from interest earned on U.S. government securities that the Federal Reserve has acquired through open market operations. This income amounted to $22.344 billion in 2004. Additionally, income from fees for the provision of priced services to depository institutions totaled $867 million. The remaining income of $330 million includes earnings on foreign currencies, earnings from loans, and other income.

The operating expenses of the twelve Reserve Banks totaled $2.116 billion in 2004, including the System's net pension credit. In addition, the cost of earnings credits granted to depository institutions amounted to $116 million. Assessments against Reserve Banks for Board expenditures totaled $272 million and the cost of currency amounted to $504 million.

Net additions to income amounted to $919 million, primarily representing unrealized gains on assets denominated in foreign currencies that are revalued to reflect current market exchange rates. These gains were partially offset by interest expense on reverse repurchase agreements.

Total net income for the Federal Reserve Banks in 2004 amounted to $21.452 billion. Under the Board's policy, each Reserve Bank's net income after the statutory dividend to member banks and the amount necessary to equate surplus to paid-in capital is transferred to the U.S. Treasury. The statutory dividends to member banks in 2004 were $582 million.

Basel II Survey Documents Finalized

The U.S. banking agencies have made available on November 3, 2004, survey materials for the fourth Quantitative Impact Study (QIS-4) and a related Loss Data Collection Exercise (LDCE) in preparation for the U.S. implementation of the Basel II Capital Framework.

The Basel Committee on Banking Supervision proposed new international capital standards for banking organizations in June 2004, and the proposal is being evaluated by bank supervisory authorities worldwide. QIS-4 is intended to provide the agencies with a better understanding of ways that the implementation of a more risk-sensitive approach for regulatory capital standards might affect minimum required capital at the industry, institution, and portfolio levels. The LDCE is intended to provide insight, based on detailed loss event data, into the implications of the proposed Basel II standards regarding the Advanced Measurement Approaches for evaluating operational risk.

Materials for the U.S. survey are available on the Federal Financial Institutions Examination Council's web site at www.ffiec.gov/qis4 and www.ffiec.gov/ldce. Interested parties may review and use these materials to gain a better understanding of the possible implications of such new capital standards for their own institutions.

Approximately thirty U.S. banking organizations have indicated an interest in participating in the U.S. version of QIS-4, though fewer are expected to participate in the LDCE. The agencies requested responses for the LDCE by late November 2004 and for the QIS-4 by late January 2005. The information received should help them prepare, by midyear 2005, a joint Notice of Proposed Rulemaking for implementing Basel II in the United States.

Federal Reserve Studies Confirm Electronic Payments Exceed Check Payments

The Financial Services Policy Committee announced on December 6, 2004, that surveys conducted by the Federal Reserve confirm that electronic payment transactions in the United States have exceeded check payments for the first time. The number of electronic payment transactions totaled 44.5 billion in 2003, while the number of checks paid totaled 36.7 billion, according to recent surveys of U.S. depository financial institutions and electronic payments organizations.

Previous research by the Federal Reserve found that the number of checks paid in 2000 was 41.9 billion transactions, compared with 30.6 billion electronic payments. Electronic payments consist of such payment methods as credit cards, debit cards, and automated clearinghouse (ACH) transactions, for example, direct debit.

The decline in the number of checks paid from 41.9 billion to 36.7 billion transactions reflects an annual average rate decline of 4.3 percent from 2000 to 2003. Electronic forms of payment increased from 30.6 billion to 44.5 billion, reflecting an average annual rate of increase of 13.2 percent for the same period. "The balance has shifted from check writing to electronic payments, and we expect this trend to continue," said Richard Oliver, senior vice president of the Federal Reserve Bank of Atlanta and the Federal Reserve Banks' product manager for retail payments.

> "Indeed, at current growth rates, credit cards and debit cards will both surpass checks in terms of total annual transactions in 2007. Such rapid change presents opportunities and challenges for an industry traditionally geared toward paper-based payments. The value of these surveys is that they quantify this shift and provide important insight for all industry participants."

The *2004 Federal Reserve Payments Study* consists of two research efforts commissioned to estimate the annual number, dollar value, and makeup of payments in the United States, and to estimate the annual volume of electronic payments. The first survey, the *Depository Institutions Payments Survey*, included responses from more than 1,500 depository financial institutions (commercial banks, savings institutions, and credit unions). The second research effort, the *Electronic Payment Instruments Study*, included responses from sixty-eight organizations involved in originating, switching, or processing electronic payments.

"The Fed's 2004 *Payments Study* is part of an ongoing effort by the Federal Reserve System to measure trends in noncash payments in the United States," Oliver said.

> "This year's studies repeat critical aspects of the studies we conducted three years ago to provide a second series of point-in-time estimates from which inferences can be drawn about the rate and nature of change of the U.S. payments system."

According to the *Depository Institutions Payments Study*, the 36.7 billion checks paid in 2003 had a total value of about $39.3 trillion. These estimates do not include checks that are written and subsequently converted to electronic transactions for clearing. Also, the study found that approximately 77 percent of checks are interbank checks, which are cleared between financial institutions, and the remaining 23 percent are so-called on-us checks, or those for which the financial institution of first deposit is also the paying institution.

The second survey, the *Electronic Payment Instruments Study*, revealed that the 44.5 billion electronic payments had a dollar value of $27.4 trillion. These payments include consumer, business, and government-initiated electronic payments. Debit card transactions, with an estimated annual growth rate of 23.5 percent, are the fastest growing type of electronic payment. ACH transactions increased 13.4 percent on an annual basis and credit cards grew at a 6.7 percent rate. The relatively slow growth of credit card transactions is likely owing to its mature status as a payment option, according to Oliver.

Findings of the *Electronic Payment Instruments Study*

Type of payment	Number (billions of dollars)	Value (trillions of dollars)	Annual rate of decline or growth 2000–2003 (percent)
Check	36.7	39.3	−4.3
Electronic	44.5	27.4	13.2
Debit card	15.6	.6	23.5
ACH	9.1	25.1	13.4
Credit card	19.0	1.7	6.7

NOTE. Annual estimates based on survey data.

Complete reports on the 2004 *Federal Reserve Payments Study* can be found on the Federal Reserve Financial Services's web site at www.frbservices.org.

Fact Sheet Background

The *2004 Federal Reserve Payments Study* includes two research efforts to estimate the annual number, dollar value, and makeup of noncash payments in the United States. The study estimated the number and value of payments by check, automated clearinghouse (ACH), credit card, debit card, and electronic benefits transfer (EBT).

The *Depository Institutions Payments Study* is based on a national survey of approximately 1,500 financial institutions, and estimates the annual number and value of check and other noncash transactions in the United States. It was conducted as a joint effort of the Federal Reserve System, Global Concepts, and its subcontractor International Communications Research.

The *Electronic Payment Instruments Study*, conducted by Dove Consulting, included statistics for 2003 from sixty-eight payments organizations that were used to estimate the annual number and value of electronic payments. Those organizations are involved in originating, switching, or processing electronic payments.

Proposed Changes to Collection of Data for Shared National Credit Reviews

The federal bank and thrift institution regulatory agencies requested public comment on December 16, 2004, on proposed changes to the data collection process that supports the Shared National Credit review of large syndicated loans.

The program, which has been in place since 1977, is an interagency examination and supervision effort designed to evaluate loan commitments aggregating $20 million or more that are shared by three or more supervised institutions. The program provides a process for assigning uniform credit ratings for shared national credits in addition to collecting and analyzing data that regulators use to monitor credit conditions and trends at the nation's largest banks.

The proposed data collection changes would enable the agencies to improve the efficiency and effectiveness of credit reviews, support continued risk-focusing efforts in the program, and provide comparative credit risk information to banks and regulatory supervisors. Under the proposal, the data collection changes would be implemented with the 2007 review, employing data as of December 31, 2006.

Comments were requested by February 15, 2005.

Final Rules Regarding Disposal of Consumer Information

The federal bank and thrift institution regulatory agencies announced on December 21, 2004, interagency final rules to require financial institutions to adopt measures for properly disposing consumer information derived from credit reports.

Current law requires financial institutions to protect customer information by implementing information security programs. The final rules require institutions to make modest adjustments to their information security programs to include measures for the proper disposal of consumer information. They also add a new definition of consumer information.

The agencies' final rules implement section 216 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) and include this new statutory requirement in the *Interagency Guidelines Establishing Standards for Safeguarding Customer Information* (retitled the *Interagency Guidelines Establishing Standards for Information Security*), which were adopted in 2001.

The final rules will take effect on July 1, 2005.

PUBLICATION DATE FOR INDUSTRIAL PRODUCTION REVISION

The Federal Reserve Board announced on November 19, 2004, that it would publish the annual revision to the G.17 statistical release, Industrial Production and Capacity Utilization, on Wednesday, December 22, 2004, at 10:00 a.m. eastern standard time.

The revision is available on the Board's web site at www.federalreserve.gov/releases/G17.

NOVEMBER 2004 UPDATE TO THE *COMMERCIAL BANK EXAMINATION MANUAL*

The November 2004 update to the *Commercial Bank Examination Manual* has been published (supplement no. 22). The new supplement includes supervisory and examination guidance on the following subjects:

1. *The May 2004 Recommended Practices Document for the Seamless Supervision of State-Chartered Banks.* The "Examination Strategy and Risk-Focused Examinations" section incorporates this recommended-practices document, which was promulgated by the interagency State–Federal Working Group. The working group consists of state bank commissioners and senior officials from the Federal Reserve Board and the Federal Deposit Insurance Corporation. The recommended practices highlight the importance of communication and coordination between state and federal banking agencies in the planning and execution of supervisory activities over state-chartered banking organizations. The recommended practices are the common courtesies and practices that examination and supervisory staff should follow in the implementation and execution of their agencies' supervisory activities. The practices apply to institutions that operate in a single state or in more than one state. See SR letters 04–12 and 96–33.

2. *Uniform Agreement on the Classification of Assets and Appraisal of Securities Held by Banks and Thrift Institutions.* The "Investment Securities and End-User Activities" section incorporates this June 15, 2004, revised Uniform Agreement (the uniform agreement) that was jointly issued by the federal banking and thrift institution agencies. The uniform agreement sets forth the definitions of the classification categories and the specific examination procedures and information for classifying bank assets, including securities. The June 2004 revision did not change the classification of loans in the uniform agreement. The uniform agreement addresses, among other items, the treatment of rating differences, multiple security ratings, and split or partially rated securities. It also eliminates the automatic classification for sub-investment-grade debt securities. See SR letter 04–9. The examination procedures incorporate the supervisory guidance provided in the uniform agreement.

3. *Tying Arrangements.* The "Loan Portfolio Management" section has been revised to incorporate a detailed discussion on tying arrangements. Section 106 of the Bank Holding Company Act Amendments of 1970 generally prohibits a bank from conditioning the availability or price of one product or service (the *tying product* or the *desired product*) on a requirement that a customer obtain another product or service (the *tied product*) from the bank or an affiliate of the bank. Section 106 contains several exceptions to its general prohibitions, and it authorizes the Board to grant, by regulation or order, additional exceptions from the prohibitions when the Board determines an exception "will not be contrary to the purposes" of the statute.

The "Loan Portfolio Management" section also includes the Board or Board staff interpretations on tying arrangements, including those issued on August 18, 2003, and February 2, 2004. These two interpretations state that bank customers that receive securities-based credit can be required to hold their pledged securities as collateral at an account of a bank holding company's or bank's broker–dealer affiliate. The section's examination objectives and examination procedures also have been revised to further address tying arrangements.

4. *Guidance on Accepting Accounts from Foreign Governments, Foreign Embassies, and Foreign Political Figures.* The "Deposit Accounts" section has been revised to incorporate this June 15, 2004, interagency advisory that was issued in response to inquiries the agencies received on whether financial institutions should do business and establish account relationships with those foreign customers cited in the advisory. Banking organizations are advised that the decision to accept or reject such foreign-account relationships is theirs alone to make. Financial institutions should be aware that there are varying degrees of risk associated with these accounts, depending on the customer and the nature of the services provided. Institutions should take appropriate steps to manage these risks, consistent with sound practices and applicable anti-money-laundering laws and regulations. See SR letter 04–10. The examination objectives, examination procedures, and internal control questionnaire were also revised to incorporate the advisory's supervisory guidance.

5. *Risk-Based Capital Requirements for Asset-Backed Commercial Paper Programs.* The "Assessment of Capital Adequacy" and the "Asset Securitization" sections have been updated to discuss the Board's July 17, 2004, approval (effective September 30, 2004) of its revisions to the risk-based capital requirements for asset-backed commercial paper (ABCP) programs. See appendix A of Regulation H (12 CFR 208, appendix A). Under the Board's revised risk-based capital rule, a bank that qualifies as a primary beneficiary and must consolidate an ABCP pro-

gram that is defined as a variable interest entity under generally accepted accounting principles (See FIN 46–R) may exclude the consolidated ABCP program's assets from risk-weighted assets provided that the bank is the sponsor of the ABCP program. Banks must also hold risk-based capital against eligible ABCP liquidity facilities with an original maturity of one year or less that provide liquidity support to ABCP by applying a new 10 percent credit-conversion factor to such facilities. Eligible ABCP liquidity facilities with an original maturity exceeding one year remain subject to the rule's current 50 percent credit-conversion factor. Ineligible liquidity facilities are treated as direct-credit substitutes or recourse obligations, which are subject to a 100 percent credit-conversion factor. When calculating the bank's tier 1 and total capital, any associated minority interests must also be excluded from tier 1 capital. The examination procedures also were revised to incorporate the revised risk-based capital requirements.

6. *Policy on Payments System Risk.* The "Payment System Risk and Electronic Funds Transfer Activities" section incorporates the Board's changes to its Policy on Payments System Risk (the PSR policy). See 69 *Federal Register* 57917, September 28, 2004, and 69 *Federal Register* 69926, December 1, 2004. Effective July 20, 2006, the PSR policy requires Reserve Banks (1) to release interest and redemption payments on securities issued by government-sponsored enterprises (GSEs) and certain international organizations (institutions for which the Reserve Banks act as fiscal agents but whose securities are not obligations of, or fully guaranteed as to principal and interest by, the United States) only if the issuer's Federal Reserve account contains sufficient funds to cover them and (2) to align the treatment of the general corporate account activity of GSEs and certain international organizations with the treatment of the activity of other account holders that do not have regular access to the discount window and those account holders not eligible for intraday credit. The examination procedures have been updated to incorporate these revisions.

A more detailed summary of changes is included with the update package. Copies of the new supplement were shipped directly by the publisher to the Reserve Banks for distribution to examiners and other System staff members. The public may obtain the *Manual* and the updates (including pricing information) from Publications Fulfillment, Mail Stop 127, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; telephone (202) 452-3244; or send facsimile to (202) 728-5886). The *Manual* is also available on the Board's public web site at www.federalreserve.gov/boarddocs/supmanual/.

Change in Release Date of FOMC Minutes

The Federal Reserve Board announced on November 3, 2004, that it would release the minutes of the September 21, 2004, Federal Open Market Committee meeting at 2:00 p.m. eastern standard time on Friday, November 12, 2004, because of the Veteran's Day holiday. The minutes from the September meeting were previously scheduled for release on Thursday, November 11, 2004.

Approvals of Increase in Discount Rate

The Federal Reserve Board approved on November 10, 2004, an action by the Board of Directors of the Federal Reserve Bank of San Francisco increasing the discount rate at the Bank from 2¾ percent to 3 percent, effective immediately.

The Federal Reserve Board approved on November 12, 2004, an action by the Board of Directors of the Federal Reserve Bank of Dallas increasing the discount rate at the Bank from 2¾ percent to 3 percent, effective immediately.

Release of Minutes of the Board's Discount Rate Meetings

The Federal Reserve Board released on November 18, 2004, the minutes of its discount rate meetings from August 23, 2004, through September 21, 2004.

On December 21, 2004, the Board released the minutes of its discount rate meetings from October 12, 2004, through November 10, 2004.

On January 11, 2005, the Board released the minutes of its discount rate meetings from November 22, 2004, through December 14, 2004.

Appointments of New Members and Designation of the Chair and Vice Chair of the Thrift Institutions Advisory Council

The Federal Reserve Board announced on November 18, 2004, the names of six new members of its Thrift Institutions Advisory Council (TIAC) and designated a new president and vice president of the council for 2005.

The council is an advisory group made up of twelve representatives from thrift institutions. The panel was established by the Board in 1980 and includes members from savings and loans, savings banks, and credit unions. The council meets three times each year with the Board of Governors to discuss developments relating to thrift institutions, the housing industry, mortgage finance, and certain regulatory issues.

The new council president for 2005 is Curtis L. Hage, chairman and chief executive officer, Home Federal Bank, Sioux Falls, South Dakota. The new vice president is Roy M. Whitehead, president and chief executive officer, Washington Federal Savings, Seattle, Washington.

These six new members were named for two-year terms that began on January 1, 2005:

Craig G. Blunden, chairman, president, and CEO, Provident Savings Bank, FSB, Riverside, California

Alexander R.M. Boyle, vice chairman, Chevy Chase Bank, Bethesda, Maryland

Robert M. Couch, president and CEO, New South Federal Savings Bank, Birmingham, Alabama

Jeffrey H. Farver, president and CEO, San Antonio Federal Credit Union, San Antonio, Texas

George Jeffrey Records, Jr., chairman and CEO, MidFirst Bank, Oklahoma City, Oklahoma

David Russell Taylor, president and CEO, Rahway Savings Institution, Rahway, New Jersey

Other TIAC members whose terms continue through 2005 are the following:

Eldon R. Arnold, president and CEO, Citizens Equity First Credit Union (CEFCU), Peoria, Illinois

H. Brent Beesley, chairman and CEO, Heritage Bank, St. George, Utah

Douglas K. Freeman, chairman and CEO, NetBank, Alpharetta, Georgia

David H. Hancock, chief executive officer, North American Savings Bank, Grandview, Missouri

Appointments of New Members and Designation of the Chair and Vice Chair of the Consumer Advisory Council

The Federal Reserve Board named on January 7, 2005, eleven new members to its Consumer Advisory Council for three-year terms and designated a new chair and vice chair of the council for 2005.

The council advises the Board on the exercise of its responsibilities under the Consumer Credit Protection Act and on other matters in the area of consumer financial services. The council meets three times a year in Washington, D.C.

Mark Pinsky was designated chair; his term runs through December 2005. Mr. Pinsky is president and chief executive officer for the National Community Capital Association.

Lori Swanson was designated vice chair; her term on the council ends in December 2006. Lori Swanson is solicitor general for the Office of the Minnesota Attorney General.

The eleven new members are the following:

Stella Adams
Durham, North Carolina
Ms. Adams is the executive director of the North Carolina Fair Housing Center, a nonprofit organization dedicated to equal housing opportunity and equal access. Her focus has been on elimination of predatory lending, support for community reinvestment, and education of communities about fair housing and fair lending issues. Ms. Adams's activism gave impetus to the passage of the North Carolina anti-predatory lending bill.

Faith Anderson
Fort Worth, Texas
Ms. Anderson is vice president of legal compliance and general counsel for American Airlines Federal Credit Union. The credit union's offerings include savings and checking accounts, consumer and real estate loans, overdraft protection, and ATM, debit, and credit cards. Ms. Anderson is responsible for compliance and implementation of federal and state laws and regulations.

Carolyn Carter
Boston, Massachusetts
Ms. Carter is a consultant for the National Consumer Law Center. She has experience with the Truth in Lending Act, particularly with respect to coverage issues, rescission, and remedies and defenses. Ms. Carter represents low-income consumers involving foreclosures, repossession, credit and usury, bankruptcy, debt collection, and the application of consumer protection laws to landlord-tenant matters.

Michael Cook
Bentonville, Arkansas
Mr. Cook is vice president and assistant treasurer for Wal-Mart Stores, Inc., and has responsibility for domestic payment services and financial operations. His work supports global strategies for electronic payments and financial services. Mr. Cook has been instrumental in the formation of Wal-Mart's Financial Services Division.

Donald S. Currie
Brownsville, Texas
Mr. Currie is the executive director of the Community Development Corporation of Brownsville, a nonprofit affordable housing provider. The organization's programs include single-family new construction, housing rehabilitation and reconstruction, affordable housing subdivisions, and the Colonia Self Help Center. Mr. Currie helped organize the Rio Grande Valley Multibank Corporation,

a stockholder-held Community Development Financial Institution.

Kurt Eggert
Orange, California
Professor Eggert is an associate professor of law, director of Clinical Legal Education, and the director of the Alona Cortese Elder Law Center at Chapman University School of Law. His specialties are consumer law and elder law, and he has particular expertise in predatory lending, abusive servicing, home equity fraud prevention, elder abuse, and consumer fraud.

Deborah Hickok
Ooltewah, Tennessee
Ms. Hickok is the president and chief executive officer of ACH Commerce, LLC. She is founder of the organization, which specializes in providing ACH processing services, software solutions, and consulting to financial institutions. She trains state banking examiners and consults on issues affecting ACH processing.

Lisa Sodeika
Prospect Heights, Illinois
Ms. Sodeika is senior vice president of Corporate Affairs for HSBC North America Holdings, Inc. Her responsibilities include directing community development, the Center for Consumer Advocacy, public relations, philanthropic services, and employee communications. She has experience in subprime lending and servicing, quality assurance and compliance, and community relations.

Anselmo Villarreal
Waukesha, Wisconsin
Mr. Villarreal is the executive director of La Casa de Esperanza, Inc. He advocates for fair lending, works against predatory lending, encourages the use of banking services among immigrants, and promotes privacy and security. Mr. Villarreal is the Wisconsin representative of the Institute of Mexicans Abroad, which addresses issues related to community reinvestment, consumer protection regulations, consumer credit, privacy, and electronic banking.

Kelly K. Walsh
Honolulu, Hawaii
Ms. Walsh is corporate compliance and Community Reinvestment Act officer for the Bank of Hawaii. Her responsibilities include oversight of the bank's compliance with all consumer laws and regulations. Ms. Walsh coordinates community development programs for the bank's service area, including the state of Hawaii, Guam, American Samoa, and Saipan. Ms. Walsh speaks before banking groups, such as the Consumer Bankers Association, and has authored several articles for the ABA's Bank Compliance Magazine.

Marva Williams
Chicago, Illinois
Ms. Williams is senior vice president of the Woodstock Institute, a community lending research and consulting organization engaged in applied research, policy development, and technical assistance to promote community economic development. She advocates for the needs of lower-income individuals and communities and for financial products and services to meet their needs.

Council members whose terms continue through 2005 are the following:

Susan Bredehoft, senior vice president, compliance risk management, Commerce Bank, N.A., Cherry Hill, New Jersey

Dan Dixon, group senior vice president, World Savings Bank, FSB, Washington, District of Columbia

James Garner, senior vice president and general counsel, North American Consumer Finance, Citigroup, Baltimore, Maryland

R. Charles Gatson, vice president and chief operating officer, Swope Community Builders, Kansas City, Missouri

W. James King, president and chief executive officer, Community Redevelopment Group, Cincinnati, Ohio

Elsie Meeks, executive director, First Nations Oweesta Corporation, Kyle, South Dakota

Benjamin Robinson III, president and chief executive officer, Innovative Risk Solutions, LLC, Charlotte, North Carolina

Diane Thompson, supervising attorney, Land of Lincoln Legal Assistance Foundation, Inc., East St. Louis, Illinois

Clint Walker, general counsel and chief administrative officer, Juniper Bank, Wilmington, Delaware

Council members whose terms continue through 2006 are the following:

Dennis L. Algiere, senior vice president, Compliance and Community Affairs, The Washington Trust Company, Westerly, Rhode Island

Sheila Canavan, consumer attorney, Law Office of Sheila Canavan, Moab, Utah

Anne Diedrick, senior vice president, JPMorgan Chase Bank, New York, New York

Hattie B. Dorsey, president and chief executive officer, Atlanta Neighborhood Development Partnership, Atlanta, Georgia

Bruce B. Morgan, chairman, president, and chief executive officer, Valley State Bank, Roeland Park, Kansas

Mary Jane Seebach, executive vice president and chief compliance officer, Countrywide Financial Corporation, Calabasas, California

Paul J. Springman, group executive, Predictive Sciences, Equifax, Atlanta, Georgia

Forrest F. Stanley, senior vice president and deputy general counsel, KeyBank National Association, Cleveland, Ohio

Enforcement Actions

The Federal Reserve Board announced on November 15, 2004, the issuance of a consent order of assessment of a civil money penalty against the Cumberland Bank, Franklin, Tennessee, a state member bank. Cumberland Bank, without admitting to any allegations, consented to the issuance of the order in connection with its alleged violations of the Board's Regulations implementing the National Flood Insurance Act.

The order requires Cumberland Bank to pay a civil money penalty of $3,250, which will be remitted to the Federal Emergency Management Agency for deposit into the National Flood Mitigation Fund.

The Federal Reserve Board announced on November 15, 2004, the issuance of a consent order of assessment of a civil money penalty against the Five Points Bank, Grand Island, Nebraska, a state member bank. Five Points Bank, without admitting to any allegations, consented to the issuance of the order in connection with its alleged violations of the Board's Regulations implementing the National Flood Insurance Act.

The order requires Five Points Bank to pay a civil money penalty of $10,000, which will be remitted to the Federal Emergency Management Agency for deposit into the National Flood Mitigation Fund.

The Federal Reserve Board announced on November 18, 2004, the issuance of a cease and desist order against Ameribanc Holdings, Inc., Durango, Colorado, a bank holding company, and its subsidiary bank, the Bank of Durango, Durango, Colorado.

The Federal Reserve Board announced on December 2, 2004, the issuance of a cease and desist order against Thomas C. Darden, a former institution-affiliated party of Kenco Bancshares, Inc., Jayton, Texas.

The Federal Reserve Board also announced the execution of two written agreements. One agreement is between William J. Collier and the Federal Reserve Bank of Dallas, and the other agreement is between Jesse L. Reese and the Federal Reserve Bank of Dallas. Both William J. Collier and Jesse L. Reese are institution-affiliated parties of Kenco Bancshares, Inc., Jayton, Texas.

The order and the written agreements address conduct relating to a commitment made in connection with an application involving Kenco Bancshares, Inc.

The Federal Reserve Board announced on January 5, 2005, the execution of a written agreement by and among Prineville Bancorporation, Prineville, Oregon; the Community First Bank, Prineville Oregon; the Oregon Division of Financial and Corporate Securities, Salem, Oregon; and the Federal Reserve Bank of San Francisco.

Changes in Board Staff

Normand Bernard, special assistant to the Board, retired on November 3, 2004, after more than forty-two years of service, including more than thirty years as a member of the Board's official staff.

The Board of Governors approved the following officer appointments in the Office of the Inspector General.

- Elizabeth A. Coleman appointed assistant inspector general for Communications and Quality Assurance.
- Laurence A. Froehlich appointed assistant inspector general for Legal Services.
- William L. Mitchell appointed assistant inspector general for Audits and Attestations.

Ms. Coleman has oversight responsibilities for the OIG's overall reporting and communications, including its legislatively mandated semiannual reports to the Congress; as well as the quality assurance of OIG products and processes. In addition she will be responsible for the OIG's major administrative functions and its information technology operations. Ms. Coleman joined the Board's OIG in 1989 as a senior auditor. She was promoted to program manager in 1999 and to senior program manager in 2001. Before joining the Board's staff, she worked on a variety of topics at the Government Accountability Office. Ms. Coleman has a BBA in accounting from James Madison University and is completing her third year at the Stonier Graduate School of Banking. She is also a certified information systems auditor.

Mr. Froehlich continues to serve as counsel to the inspector general, which requires coordinating interactions with the general counsels at the Board, the Reserve Banks, and other federal agencies, and will assume additional supervisory responsibilities. Mr. Froehlich joined the OIG's staff in 2001 as counsel to the inspector general. He brings to the Board more than twenty years of service in the OIG community, most recently as deputy inspector general counsel at the Federal Deposit Insurance Corporation. Mr. Froehlich holds a BA degree from Yale University, an MS degree from the London School of Economics, and a JD degree from George Washington University. He is a member of the D.C. bar.

Mr. Mitchell has oversight responsibility for the OIG's financial audits, legislatively mandated work under the Federal Information Security Management Act, procurement audits, performance audits, and attestations. Mr. Mitchell joined the OIG's staff in 1993 as an auditor, and was promoted to senior auditor in 1998 and to program manager in 1999. His most recent promotion to senior program manager was in 2001. Before joining the Board's staff, Mr. Mitchell served in the U.S. Army as an auditor and an instructor in the Army's finance school. He holds BBA and MPA degrees in accounting from the University of Texas and is a certified government financial manager. Mr. Mitchell is also a graduate of the Bank Administration Institute's Graduate School of Bank Operations and Technology at Vanderbilt University and has attended the System's Trailblazer program.

Howard Amer, deputy associate director in the Division of Banking Supervision and Regulation, retired from the Board on January 30, 2005, after thirty-two years of service at the Board and the Federal Reserve Bank of Boston. □