DEPARTMENT OF THE TREASURY (TREAS)

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

- To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.

- To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue functions, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency.

- To safeguard the U.S. and international financial systems from those who would use these systems for illegal purposes or to compromise U.S. national security interests, while keeping them free and open to legitimate users.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. It is the policy of the Department to comply with the requirement to issue a notice of proposed rulemaking and carefully consider public comments before adopting a final rule. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while a proposed rule is being developed.

In response to the events of September 11, 2001, the President signed the USA PATRIOT Act of 2001 into law on October 26, 2001. Since then, the Department has accorded the highest priority to developing and issuing regulations to implement the provisions in this historic legislation that target money laundering and terrorist financing. These efforts, which will continue during the coming year, are reflected in the regulatory priorities of the Financial Crimes Enforcement Network (FinCEN).

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Order 12866, and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Terrorism Risk Insurance Program Office

On November 26, 2002, the President signed into law the Terrorism Risk Insurance Act of 2002 (TRIA). The new law, which was enacted as a consequence of the events of September 11, 2001, established a temporary Federal reinsurance program under which the Federal Government shares the risk of losses associated with certain types of terrorist acts with commercial property and casualty insurers. The Act, originally scheduled to expire on December 31, 2005, was extended to December 31, 2007 by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA).

The Office of the Assistant Secretary for Financial Institutions is responsible for developing and promulgating regulations implementing TRIA, as extended and amended by TRIEA. The Terrorism Risk Insurance Program Office, which is part of the Office of the Assistant Secretary for Financial Institutions, is responsible for operational implementation of TRIA. The purposes of this legislation are to address

market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

Over the past year, the Office of the Assistant Secretary has continued the ongoing work of implementing TRIA. Congress, during 2007, has been deliberating the further extension of the Terrorism Risk Insurance Program. Should the Program be extended, Treasury will issue guidance and regulations implementing any changes authorized by legislation in 2008. Alternatively, should the Program not be extended, Treasury will issue guidance as appropriate to effect the cessation of operations.

Customs Revenue Functions

On November 25, 2002, the President signed the Homeland Security Act of 2002 (the Act), establishing the Department of Homeland Security (DHS). The Act transferred the United States Customs Service from the Department of the Treasury to the DHS, where it is was known as the Bureau of Customs and Border Protection (CBP). Effective March 31, 2007, DHS changed the name of the Bureau of Customs and Border Protection to the U.S. Customs and Border Protection (CBP) pursuant to section 872(a)(2) of the Act (6 USC 452(a)(2)) in a Federal Register notice (72 FR 20131) published on April 23, 2007. Notwithstanding the transfer of the Customs Service to DHS, the Act provides that the Secretary of the Treasury retains sole legal authority over the customs revenue functions. The Act also authorizes the Secretary of the Treasury to delegate any of the retained authority over customs revenue functions to the Secretary of Homeland Security. By Treasury Department Order No. 100-16, the Secretary of the Treasury delegated to the Secretary of Homeland Security authority to prescribe regulations pertaining to the customs revenue functions. This Order further provided that the Secretary of the Treasury retained the sole authority to approve any such regulations concerning import quotas or trade bans, user fees, marking, labeling, copyright and trademark enforcement, and the completion of entry or substance of entry summary including duty assessment and collection, classification, valuation, application of the U.S. Harmonized Schedules, eligibility or requirements for preferential trade programs and the establishment of recordkeeping requirements relating thereto.

During the past fiscal year, among the Treasury- approved CBP customs-revenue function regulations issued were a final rule adopting the interim regulations that implemented the preferential trade benefit provisions of the United States-Chile Free Trade Agreement Implementation Act and a final rule adopting the interim rule regarding procedures on the refund of excess customs duties paid on entries of textile or apparel goods entitled to retroactive application of preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement (also known as “CAFTA-DR”). CBP also published interim rules regarding the implementation of the preferential tariff treatment and other customs-related provisions of the United States-Singapore Free Trade Agreement Implementation Act, the United States-Jordan Free Trade Area Implementation Act, and the United States-Morocco Free Trade Implementation Act. In addition, CBP amended the regulations on an interim basis to implement the duty-free provisions of the Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2006 (the “HOPE Act”) which concerned the extension of certain trade benefits to Haiti in the Tax Relief and Health Care Act of 2006.

During this past year, CBP also amended its regulations on an interim basis to establish special entry requirements applicable to shipments of softwood lumber products from Canada for purposes of monitoring the 2006 Softwood Lumber Agreement between the Governments of Canada and the United States. In addition, in conjunction with the final regulations adopted by the Department of Commerce, CBP finalized its proposed rule on the entry of certain cement products from Mexico requiring a U.S. Commerce Department import license based on the “Agreement on Trade in Cement” between the

governments of the United States and Mexico.

Another important regulation CBP finalized this year is one which clarifies the responsibilities of importers of food, drugs, devices, and cosmetics under the basic CBP importation bond which provided a reasonable time period (30 days) to allow the Food and Drug Administration to perform its enforcement functions with respect to the merchandise which is conditionally released under bond for admissibility determinations on these covered articles.

During fiscal year 2008, Treasury and CBP plan to finalize several interim regulations involving the customs revenue functions not delegated to DHS. Among these are the following interim regulations that implement the trade benefit provisions of the Trade Act of 2002:

- The Caribbean Basin Economic Recovery Act
- The African Growth and Opportunity Act

CBP also plans to finalize interim regulations this fiscal year to implement the preferential trade benefit provisions of the United States-Singapore Free Trade Agreement Implementation Act, the United States-Jordan Free Trade Agreement, and the United States-Morocco Free Trade Agreement. CBP also expects to issue interim regulations implementing the United States-Bahrain Free Trade Agreement Implementation Act, the United States-Australia Free Trade Agreement Implementation Act and the United States-Central America- Free Trade Agreement Implementation Act.

CBP also plans to publish a final rule adopting an interim rule that was published on the Country of Origin of Textile and Apparel Products which implemented the changes brought about, in part, by the expiration of the Agreement on Textile and Clothing and the resulting elimination of quotas on the entry of textile and apparel products from World Trade Organizations (WTO) members.

In addition, Treasury and CBP plan to propose uniform rules governing the determination of the country of origin of imported merchandise. The uniform rules would extend the application of the North American Free Trade Agreement country of origin rules to all trade.

Treasury and CBP also plan to continue moving forward with amendments to improve its regulatory procedures begun under the authority granted by the Customs Modernization provisions of the North American Free Trade Implementation Act (Customs Mod Act). These efforts, in accordance with the principles of Executive Order 12866, have involved and will continue to involve significant input from the importing public. CBP will also continue to test new programs to see if they work before proceeding with proposed rulemaking to permanently establish the programs. Consistent with this practice, we expect to finalize a proposal to permanently establish the remote location filing program, which has been a test program under the Customs Mod Act. This rule would allow remote location filing of electronic entries of merchandise from a location other than where the merchandise will arrive.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq*.). The primary purpose of the Fund is to promote economic revitalization and community development through the following programs: the Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, the Native American CDFI Assistance (NACA) Program, and the New Markets Tax Credit (NMTC) Program.

In fiscal year 2008, subject to funding availability, the Fund will provide

financial assistance awards and technical assistance grants through the CDFI Program. Through the NACA Program, subject to funding availability, the Fund will provide technical assistance grants and financial assistance awards to promote the development of CDFIs that serve Native American, Alaska Native, and Native Hawaiian communities.

Subject to funding availability for the BEA Program, the Fund will provide financial incentives to encourage insured depository institutions to engage in eligible development activities and to make equity investments in CDFIs.

Through the NMTC Program, the CDFI Fund will provide allocations of tax credits to qualified community development entities (CDEs). The CDEs in turn provide tax credits to private sector investors in exchange for their investment dollars; investment proceeds received by the CDEs are be used to make loans and equity investments in low-income communities. The Fund administers the NMTC Program in coordination with the Office of Tax Policy and the Internal Revenue Service.

Financial Crimes Enforcement Network

As chief administrator of the Bank Secrecy Act (BSA), FinCEN's regulations constitute the core of the Department's anti-money laundering and counter terrorism financing programmatic efforts. FinCEN's responsibilities and objectives are linked to, and flow from, that role. In fulfilling this role, FinCEN seeks to enhance U.S. national security by making the financial system increasingly resistant to abuse by money launderers, terrorists and their financial supporters, and other perpetrators of crime.

The Secretary of the Treasury, through FinCEN, is authorized by the BSA to issue regulations requiring financial institutions to file reports and keep records that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism. Those regulations also require designated financial institutions to establish anti-money laundering programs and compliance procedures. To implement and realize its mission, FinCEN has established regulatory objectives and priorities to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. These objectives and priorities include: (1) issuing, interpreting, and enforcing compliance with regulations implementing the BSA; (2) supporting, working with, and, as appropriate, overseeing compliance examination functions delegated to other Federal regulators; (3) managing the collection, processing, storage, and dissemination of data related to the BSA; (4) maintaining a Government-wide access service to that same data, and for network users with overlapping interests; (5) conducting analysis in support of policymakers, law enforcement, regulatory and intelligence agencies, and the financial sector; and (6) coordinating with and collaborating on anti-terrorism and anti-money laundering initiatives with domestic law enforcement and intelligence agencies, as well as foreign financial intelligence units.

During fiscal year 2007, FinCEN issued the following final rules: a final rule on enhanced due diligence for correspondent accounts maintained for certain foreign banks; a final rule that exempts casinos from the requirement to file currency transaction reports on jackpots from slot machines and video lottery terminals and that also exempts, under certain conditions, reportable transactions in currency involving certain money plays and bills inserted into electronic gaming devices; and one final rule and a renewal of a rule without change imposing special measures against a foreign financial institution deemed to be of primary money laundering concern pursuant to section 311 of the USA PATRIOT Act.

FinCEN's regulatory priorities for fiscal year 2008 include the following projects:

- *Anti-Money Laundering Programs*. Pursuant to section 352 of the USA PATRIOT Act, certain financial institutions are required to establish anti-money laundering programs. FinCEN expects to finalize the anti-money laundering program rule for dealers in precious metals, precious stones, or jewels. FinCEN will continue to research and analyze issues regarding potential regulation of the loan and finance industry (including pawnbrokers). Finally, FinCEN also will continue to consider regulatory options regarding certain corporate and trust service providers.
- *Money Services Businesses*. FinCEN will continue to implement and refine its strategy with regard to money services businesses, including: using analytical tools and establishing partnerships with law enforcement to identify unregistered money services businesses; continuing to revise, simplify, clarify and, where possible, narrow the regulatory framework for money services businesses; and developing and delivering internal and external education, outreach, and training on relevant regulatory topics regarding the money services business industry for both the money services business and banking industries, law enforcement, and other regulatory agencies.
- *SAR Confidentiality.* FinCEN will coordinate with regulatory authorities on an amendment with respect to existing regulations pertaining to the confidentiality of Suspicious Activity Reports.

Other Requirements. FinCEN will consider the need for regulatory action in conjunction with the feasibility study prepared pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 concerning the issue of obtaining information about certain cross-border funds transfers and transmittals of funds. FinCEN also will continue to issue proposed and final rules pursuant to Section 311 of the USA PATRIOT Act, as appropriate. Finally, FinCEN expects to propose various technical and other regulatory amendments in conjunction with its ongoing, comprehensive review of existing regulations to enhance regulatory efficiency.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of the Assistant Secretary (Tax Policy), promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most Internal Revenue Service regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 2008 the Internal Revenue Service will accord priority to the following regulatory projects:

● *Unified Rule for Loss on Subsidiary Stock*. Prior to the opinion in Rite Aid Corp. v. United States, 255 F.3d 1357 (2001), Treas. Reg. § 1.1502-20 (the loss disallowance rule or LDR) addressed both noneconomic and duplicated loss on subsidiary stock by members of consolidated groups. In Rite Aid,

the Federal Circuit rejected the validity of the duplicated loss component of the LDR. Following Rite Aid, the IRS and Treasury issued temporary regulations, Treas. Reg. §§ 1.337(d)-2T (to address noneconomic loss on subsidiary stock) and 1.1502-35T (to address loss duplication within consolidated groups). The regulations were promulgated as an interim measure to address both concerns while a broader study of the issues was conducted. Both regulations were finalized, but the preamble to each regulation alerted taxpayers of the ongoing nature of the study and the intent to propose a new approach to both issues. In January 2007, the IRS and Treasury proposed regulations that addressed noneconomic and duplicated stock loss, as well as certain related issues presented by the investment adjustment system. During fiscal year 2008, the IRS and Treasury intend to finalize those regulations.

● *LIBOR Swaps Used to Hedge a Tax-exempt Bond Issue*. Issuers of tax-exempt bonds have historically hedged their variable-rate bonds with swaps that are based on a tax-exempt market index. Recently, hedges have evolved to where the floating rate is now frequently determined based on a taxable interest rate or taxable interest rate index, such as the London Interbank Offered Rate (LIBOR). Issuers assert that a taxable-index hedge is better than a hedge based on tax-exempt rates because the taxable market is more liquid, producing more transparent pricing. Moreover, a taxable-index hedge produces substantial cost savings to issuers. The industry, however, is uncertain about how the arbitrage rules under section 148 apply to taxable-index hedges. This question is particularly troubling for an issuer that issues variable-rate, advance refunding bonds because the issuer needs to know the yield on its bond issue to know its permitted investment yield for the defeasance escrow. During fiscal year 2008, the IRS and Treasury intend to issue proposed regulations that will clarify how the arbitrage rules apply to taxable-index hedges and provide other corrections to the arbitrage regulations under section 148.

● *Stripped Interests in Bond and Preferred Stock Funds*. Sections 1286(f) and 305(e)(7) were added to the Internal Revenue Code by the American Jobs Creation Act of 2004 (AJCA) to address the treatment of stripped interests in bond and preferred stock funds. Section 1286(f) provides for the IRS and Treasury to prescribe regulations applying rules, similar to the rules of sections 1286 and 305(e), to account for stripped interests in an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof. There are no specific statutory rules directly addressing stripping transactions with respect to common stock or other equity interests (other than preferred stock). In addition, section 305(e) does not address the proper treatment of dividend coupons separated from stripped preferred stock. Specific rules are needed to prevent the generation of artificial losses upon the disposition of stripped interests and to prevent the deferral of the recognition of taxable income associated with these types of stripped interests. During fiscal year 2008, the IRS and Treasury intend to issue proposed regulations under section 1286(f) providing rules to account for these stripped interests that are similar to those of sections 1286 and 305(e) and which will prevent the generation of artificial losses and require the current accrual of taxable income on the stripped interests.

● *Deduction and Capitalization of Costs for Tangible Assets*. Section 162 of the Internal Revenue Code allows a current deduction for ordinary and necessary expenses paid or incurred in carrying on any trade or business. Under section 263(a) of the Code, no immediate deduction is allowed for amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. Those expenditures are capital expenditures that generally may be recovered only in future taxable years, as the property is used in the taxpayer's trade or business. It often is not clear whether an amount paid to acquire, produce, or improve property is a deductible expense or a capital expenditure. Although existing regulations provide that a deductible repair expense is an expenditure that does not materially add to the value of the property or appreciably prolong its life, the IRS and Treasury believe that additional clarification is needed to reduce uncertainty and controversy in this area. In August 2006, the IRS and Treasury issued proposed regulations in this area and received numerous comments. During fiscal year 2008, the IRS and Treasury intend to repropose regulations in this area in

light of those comments.

● *Intangible Property and Transfer Pricing Initiatives*. On August 22, 2005, the IRS and Treasury issued proposed regulations providing guidance on "cost sharing arrangements," where related parties agree to share the costs and risks of intangible development in proportion to their reasonable expectations of their share of anticipated benefits from their separate exploitation of the developed intangibles. The proposed regulations are designed to prevent abuses possible under the existing rules, and to ensure that Congressional intent underlying section 482 of the Internal Revenue Code is fulfilled by requiring that cost sharing arrangements between controlled taxpayers produce results consistent with the arm's length standard. In August 2006, the IRS and Treasury issued temporary regulations that provide guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangibles, in particular with respect to contributions by a controlled party to the value of an intangible owned by another controlled party. The regulations provide much-needed guidance on the transfer pricing methods to determine the arm's length price in a services transaction, including a new method that allows routine back-office services to be charged at cost with no markup. As part of a continuing effort to modernize the transfer pricing rules to keep them current with changing business practices, the IRS and Treasury intend to finalize both the cost-sharing and services regulations during fiscal year 2008. Additionally, proposed regulations will be issued under section 367(d) of the Code, which provides that a transfer by a U.S. person of an intangible to a foreign corporation in certain nonrecognition transactions will be treated as a sale of that property for a series of payments contingent on the property's productivity, use, or disposition. The IRS and Treasury will coordinate the provisions to prevent intangible value going to offshore affiliates without arm's length consideration, whether intangibles are transferred directly, embedded in the performance of services, contributed via incorporation or reorganization, or conveyed in the course of a cost sharing arrangement. The IRS and Treasury also intend to issue proposed regulations addressing the source and allocation of income and expense related to the operation of a global dealing operation.

● *Foreign Tax Credit Guidance Initiatives*. The IRS and Treasury intend to issue final regulations under section 901 of the Internal Revenue Code and guidance under other provisions of the Code during fiscal year 2008 to address the foreign tax credit and related issues. On August 3, 2006, the IRS and Treasury issued proposed regulations to address the operation of the foreign tax credit rules in the context of foreign consolidated regimes and with respect to so-called hybrid entities, entities that are treated as separate taxable entities under either U.S. or foreign law but as transparent entities under the other country's tax law. During fiscal year 2008, the IRS and Treasury intend to issue final regulations in this area. On March 29, 2007, the IRS and Treasury issued proposed regulations that address the inappropriate creation or transfer of foreign tax liability in order to obtain foreign tax credits. The IRS and Treasury intend to issue final regulations in this area during fiscal year 2008 as well. The IRS and Treasury also expect to issue additional guidance that will provide rules relating to the reduction in the number of foreign tax credit categories and other provisions added by the AJCA. The guidance will provide for tax treatment that is consistent with the policies of the foreign tax credit provisions and applicable law.

● *Subpart F Anti-deferral Regime Initiatives*. The IRS and Treasury intend to issue guidance during fiscal year 2008 to address the use of contract manufacturing arrangements to produce property sold by controlled foreign corporations. The guidance will include rules that address the manufacturing exception to foreign base company sales income under section 954(d)(1) of the Internal Revenue Code. The rules will also provide related guidance under the branch rule of section 954(d)(2). On January 24, 2007, the IRS and Treasury issued Notice 2007-13, which announced that the IRS and Treasury will amend the foreign base company services rules to limit the definition of substantial assistance. During fiscal year 2008, the IRS and Treasury intend to issue proposed regulations that will limit the definition of substantial

assistance, and therefore limit the instances in which foreign base company services income may result.

● *Nuclear Power Tax Incentives*. Section 468A of the Internal Revenue Code provides a current deduction for amounts contributed to a qualified nuclear decommissioning reserve fund relating to existing nuclear power plants. The Energy Policy Act of 2005 (the Act) made several changes to section 468A. Specifically, the Act eliminated certain limitations that prior law had placed on the amount that a taxpayer may deduct for the taxable year. Further, the Act allows a "pour-over payment," or "special transfer" into the qualified fund of amounts that prior law had prevented from being contributed to the qualified fund in prior taxable years, and new section 468A(f)(2) permits taxpayers to claim ratably over the remaining useful life of the nuclear plant a deduction for the amounts contributed to the qualified fund in the special transfer. A separate schedule of ruling amounts (a "schedule of deduction amounts") must be obtained from the Secretary before these deductions may be claimed. In addition, the Act requires taxpayers to obtain a new schedule of ruling amounts when the Nuclear Regulatory Commission (NRC) extends the operating license of the plant. Congress also provided a tax incentive for the construction of advanced nuclear power plants. In particular, the Act added section 45J to the Code, which permits a taxpayer producing electricity at a qualified advanced nuclear power facility to claim a credit for each kilowatt-hour of electricity produced for the eight-year period beginning when the facility is placed in service. A taxpayer may only claim the credit for production of electricity equal to the ratio of the allocated capacity that the taxpayer receives from the Secretary to the rated nameplate capacity of the taxpayer's facility. Section 45J(b)(3) provides that the Secretary shall allocate the national megawatt capacity limitation in such manner as the Secretary may prescribe. The IRS and Treasury, after consultation with the Department of Energy, published Notice 2006-40 providing guidance with respect to procedures for applying for an allocation of the national megawatt capacity limitation and other issues arising under section 45J. As a result of these statutory changes, during fiscal year 2008, the IRS and Treasury intend to (1) issue temporary regulations providing guidance to taxpayers regarding the new substantive provisions under section 468A, including how to obtain the new schedules, as well as update the existing regulations under section 468A to reflect statutory changes; and (2) issue temporary regulations to incorporate the rules set forth in Notice 2006-40, as well as to provide other necessary guidance under section 45J.

● *Understatement of Taxpayer's Liability by Tax Return Preparer*. The Small Business and Work Opportunity Tax Act of 2007 amended the tax return preparer penalty under section 6694 of the Internal Revenue Code to include preparers of estate and gift tax returns, employment tax returns, excise tax returns and returns of exempt organizations. The standard of conduct under section 6694(a) for underpayments due to unreasonable positions taken on tax returns was also amended in two ways. First, for undisclosed positions, the realistic possibility standard was replaced with a requirement that there be a reasonable belief that the tax treatment of a position taken on a tax return would more likely than not be sustained on its merits. Second, for disclosed positions, the not frivolous standard was replaced with a requirement that there be a reasonable basis for the tax treatment of a position taken on a tax return. Finally, the penalty amounts under both section 6694(a) and 6694(b), relating to understatements due to willful or reckless conduct, were increased. The amendments to section 6694 were effective for tax returns prepared after May 25, 2007. In June 2007, the IRS and Treasury issued Notice 2007-54, which provided transitional relief relating to the standard of conduct under section 6694(a). During fiscal year 2008, the IRS and Treasury intend to issue regulations providing guidance relating to the tax return preparer penalty, as amended. The IRS and Treasury also intend to issue guidance regarding the administration of this penalty.

● *Rules under the Pension Protection Act of 2006*. Significant new rules regarding the funding of qualified defined benefit pension plans were enacted as part of the Pension Protection Act of 2006 (PPA). The IRS and Treasury have prioritized the various pieces of guidance required to comply with those rules

and will be issuing guidance in the form of proposed regulations during fiscal year 2008. Specifically, these proposed regulations will include rules related to the measurement of assets and liabilities and the determination of the minimum required contributions under new section 430 of the Internal Revenue Code. The IRS and Treasury also intend to issue guidance on the provisions of the PPA related to automatic enrollment in salary deferral plans.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving in the best possible manner the banking needs of their customers.

The OCC seeks to assure a banking system in which national banks soundly manage their risks, maintain the ability to compete effectively with other providers of financial services, meet the needs of their communities for credit and financial services, comply with laws and regulations, and provide fair access to financial services and fair treatment of their customers.

The OCC's regulatory program furthers these goals. For example, pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the OCC, together with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration (the agencies), has conducted a review of its regulations to identify opportunities to streamline our regulations and reduce unnecessary regulatory burden. The agencies' review included: (1) issuing six notices, published in the Federal Register, that solicit comment from the industries we regulate and the public on ways to reduce regulatory burden with respect to specific categories of regulations; and (2) conducting outreach meetings with bankers and consumer groups in cities across the country for the same purpose. The agencies have fulfilled the statutory requirement to publish all categories of their regulations for public comment. We also have completed the summary of the comments and recommendations received, as the statute requires, together with a draft report to Congress on our conclusions. The final report is expected to be submitted to Congress before the end of fiscal year 2007.

Significant final rules issued during fiscal year 2007 include:

- *Management Official Interlocks* (12 CFR Part 26). The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (banking agencies) issued a joint interim rule with request for comment on January 11, 2007 (72 FR 1274) and joint final rule on July 16, 2007 (72 FR 38753) to implement section 610 of the Financial Services Regulatory Relief Act of 2006, Pub. L. 109-351, § 610, 120 Stat. __, (Oct. 13, 2006). The rule modifies the relevant metropolitan statistical area prohibition under the Depository Institution Management Interlocks Act (12 U.S.C. 3201 *et seq*.) to allow a management official of one depository organization to serve as a management official of an unaffiliated depository organization if the depository organizations (or a depository institution affiliate thereof) have offices in the same relevant metropolitan statistical area and one of the depository organizations in question has total assets of least $50 million.
- *Expanded Examination Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks* (12 CFR Part 4). The banking agencies issued an interim rule with request for comment on April 10, 2007 (72 FR 17798) and a joint final rule on September 25, 2007 (72 FR 54347) to implement the Financial Services Regulatory Relief Act of 2006 and

related legislation (the Examination Amendments). The Examination Amendments permit insured depository institutions that have up to $500 million in total assets, and that meet certain other criteria, to qualify for an 18-month, rather than 12-month on-site examination cycle.

- *Special Lending Limits for Residential Real Estate Loans, Small Business Loans, and Small Farm Loans* (12 CFR Part 32). The OCC issued an interim rule with request for comment on June 7, 2007 (72 FR 31441) to permanently incorporate special lending limits for 1-4 family residential real estate loans, small business loans, and small farm loans or extensions of credit. The OCC will issue a final rule based on comments received.

The OCC's regulatory priorities for fiscal year 2008 principally include the issuance of a final rule based on our proposed package of regulatory burden reducing amendments, completion of rulemakings required by the FACT Act, and the implementation of new regulatory capital standards. The OCC plans to issue the following:

- *Identity Theft Detection, Prevention, and Mitigation Program for Financial Institutions and Creditors* (12 CFR Parts 30 and 41). The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, and Federal Trade Commission (the agencies) are planning to issue a final rule to establish guidelines and regulations to implement sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act). Section 114 requires the agencies to issue jointly guidelines for financial institutions and creditors identifying patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. In addition, the agencies must issue regulations requiring each financial institution and creditor to establish reasonable policies and procedures to implement the guidelines. The regulations must contain a provision requiring a card issuer to notify the cardholder if the card issuer receives a notice of change of address for an existing account and a short time later receives a request for an additional or replacement card. Section 315 requires the agencies to jointly issue regulations providing guidance regarding reasonable policies and procedures that a user of consumer reports should employ when the user receives a notice of address discrepancy from a consumer reporting agency informing the user of a substantial discrepancy between the address for the consumer that the user provided to request the consumer report and the address(es) in the file for the consumer. The agencies issued a notice of proposed rulemaking on July 18, 2006. 71 FR 40786.
- *Fair Credit Reporting; Affiliate Marketing Regulations* (12 CFR Part 41). The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration (the agencies) are planning to issue a final rule to implement the affiliate sharing provisions of section 214 of the FACT Act. The final rule would implement the consumer notice and opt-out provisions of the FACT Act regarding the sharing of consumer information among affiliates for making solicitations to a consumer for marketing purposes. The agencies issued a notice of proposed rulemaking on July 15, 2004. 69 FR 42502.
- *Fair Credit Reporting, Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies* (12 CFR Part 41). The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, and Federal Trade Commission (the agencies) are planning to issue a joint notice of proposed rulemaking to implement section 312 of the FACT Act. Section 312 requires the agencies to issue guidelines regarding the accuracy and integrity of information entities furnish to a consumer reporting agency. Section 312 also requires the agencies to

consult and coordinate with each other in order to issue consistent and comparable regulations requiring entities that furnish information to a consumer reporting agency to establish reasonable policies and procedures for the implementation of the guidelines. In addition, Section 312 requires the agencies to jointly prescribe regulations that identify the circumstances under which a furnisher of information to a consumer reporting agency shall be required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on the consumer based on the consumer's direct request to the furnisher. The agencies issued an advance notice of proposed rulemaking on March 22, 2006. 71 FR 14419.

- *Risk-Based Capital Guidelines: Implementation of New Basel Capital Accord (Basel II)* (12 CFR Part 3). The banking agencies plan to issue a final rule based on the International Convergence of Capital Measurement and Capital Standards: A Revised Framework, the new capital adequacy standards, commonly known as Basel II. The Federal banking agencies published the notice of proposed rulemaking (NPRM) on September 25, 2006 at 71 FR 55830 soliciting industry comments on a proposal for implementing Basel II in the United States. In particular, the NPRM described significant elements of the Advanced Internal Ratings-Based approach for credit risk and the Advanced Measurement Approaches for operational risk (together, the advanced approaches). The NPRM specified criteria that a banking organization must meet to use the advanced approaches. Under the advanced approaches, a banking organization would use internal estimates of certain risk components as key inputs in the determination of their regulatory capital requirements. The OCC has included this rulemaking project in Part II of the Regulatory Plan.
- *Risk-Based Capital Standards: Market Risk* (12 CFR Part 3). The banking agencies plan to issue a final rule to amend the current market risk capital requirements for national banks. The banking agencies issued a notice of proposed rulemaking on September 25, 2006 at 71 FR 55958. The rule would make the current market risk capital requirements generally more risk sensitive with respect to the capital treatment of trading activities in banks and bank holding companies. Specifically, the banking agencies propose to require banks to hold additional capital for the risk of default of trading positions beyond the 10-day horizon required by the current market risk capital requirement.
- *Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Basel II Standardized Approach.* As part of the OCC's ongoing efforts to develop and refine the capital standards to enhance their risk sensitivity and ensure the safety and soundness of the national banking system, the OCC plans to issue a notice of proposed rulemaking to amend various provisions of the capital rules. The changes involve amending the current capital rules for those banks that will not be subject to the advanced internal ratings-based approaches.
- *Interagency Proposal for Model Privacy Form under Gramm-Leach-Bliley Act* (12 CFR Part 40). The banking agencies, along with the National Credit Union Administration, the Federal Trade Commission, the Commodity Futures Trading Commission, and the Securities and Exchange Commission (the agencies) issued a joint notice of proposed rulemaking pursuant to section 728 of the Financial Services Regulatory Relief Act of 2006 (Pub. L. 109-351) on March 29, 2007 (72 FR 14940). Specifically, the agencies proposed a safe harbor model privacy form that financial institutions may use to provide the disclosures under the privacy rules. The agencies are now working on a final rule.
- *Regulatory Burden Reduction and Technical Amendments.* The OCC plans to issue a final rule to further the goal of reducing regulatory burden for national banks. The OCC issued a notice of proposed rulemaking on July 3, 2007 (72 FR 36550). The proposed changes would relieve burden by eliminating or streamlining existing requirements or procedures, enhancing national banks' flexibility in conducting authorized activities, eliminating uncertainty by harmonizing a rule with other OCC regulations or with the rules of another agency, or by making technical revisions to update OCC rules to reflect changes in the law or in other regulations. In a few cases,

proposed revisions also would be made to add or enhance requirements for safety and soundness reasons.

Office of Thrift Supervision

As the primary Federal regulator of the thrift industry, the Office of Thrift Supervision (OTS) has established regulatory objectives and priorities to supervise thrift institutions effectively and efficiently. These objectives include maintaining and enhancing the safety and soundness of the thrift industry; a flexible, responsive regulatory structure that enables savings associations to provide credit and other financial services to their communities, particularly housing mortgage credit; and a risk-focused, timely approach to supervision.

OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the banking agencies) continue to work together on regulations where they share the responsibility to implement statutory requirements. For example, the banking agencies are working jointly on several rules to update capital standards to maintain and improve consistency in agency rules. These rules implement revisions to the *International Convergence of Capital Management and Capital Standards: A Revised Framework (Basel II Framework)* and include:

- *Risk-Based Capital Guidelines: Implementation of Revised Basel Capital Accord.* On September 25, 2006, the Agencies published a joint NPRM prescribing a new risk-based capital adequacy framework that would require some, and permit other, qualifying banks, savings associations, and bank holding companies (banking organizations) to apply certain approaches contained in the Basel II Framework. Specifically, the NPRM would prescribe an internal ratings-based approach (IRB) to calculate regulatory credit risk capital requirements, and to use advanced measurement approaches to calculate regulatory operational risk capital requirements. The NPRM specified the criteria that a banking organization must meet to use these advanced approaches. 71 FR 55830 (Sept 25, 2006). The banking agencies issued related proposed guidance on credit risk and operation risk (72 FR 9084; Feb. 2, 2007). The banking agencies will issue final rules and guidance in fiscal year (FY) 2008.
- *Risk-Based Capital Standards; Market Risk.* On September 25, 2006, the Agencies issued an NPRM on Market Risk. In this rule, OTS proposed to require savings associations to measure and hold capital to cover their exposure to market risk. The other banking agencies proposed to revise their existing market risk capital rules to implement changes to the market risk treatment contained in Basel II Framework. These changes would enhance risk sensitivity of the existing market risk capital rules and introduce requirements for public disclosure of certain information about market risk (71 FR 55958; Sept. 25, 2006). The banking agencies will issue final market risk rules in FY 2008.
- *Risk-Based Capital Standards; Standardized Approach.* The banking agencies also plan to issue an NPRM implementing the Standardized Approach to credit risk and approaches to operational risk that are contained in the Basel II Framework. Banking organizations would be able to elect to adopt these proposed revisions or remain subject to the agencies' existing risk-based capital rules, unless the banking organization uses the Advanced Capital Adequacy Framework described above. This NPRM will also be issued in FY 2008 and would replace the NPRM on Domestic Capital Modifications, which was published at 71 FR 77446 on Dec. 26, 2006.

Significant final rules issued during fiscal year 2007 include:

- *Subordinated Debt Securities and Mandatorily Redeemable Preferred Stock.* OTS issued a final rule updating existing rules governing the inclusion of subordinated debt and mandatorily redeemable stock in supplementary capital. The final rule deleted unnecessary and outdated requirements and conformed OTS rules more closely to the other banking agencies (72 FR 27862; Feb. 28, 2007).
- *Prohibited Service at Savings and Loan Holding Companies.* This interim final rule implemented new section 19(e) of the Federal Deposit Insurance Act, which prohibits any person who has been convicted of a criminal offense involving dishonesty, breach of trust, or money laundering (or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense) from holding certain positions with respect to a savings and loan holding company. The interim final rule incorporated the statutory restrictions, prescribed procedures for applying for an OTS order granting case-by-case exemptions from the restrictions, and included two regulatory exemptions from the restrictions (72 FR 29548; May 8, 2007). OTS will finalize the interim rule in FY 2008.
- *Community Reinvestment Act--Interagency Uniformity*. OTS issued a final rule revising its CRA regulations in four areas to reestablish uniformity between its regulations and those of the other federal banking agencies. The final rule was published on March 22, 2007, at 72 FR 13429.
- *Stock Benefit Plans in Mutual-to-Stock Conversions and Mutual Holding Company Structures.* OTS issued final regulations regarding stock benefit plans established after mutual-to-stock conversions or in mutual holding company structures. OTS also made several other minor changes to the regulations governing mutual-to-stock conversions and minority stock issuances (72 FR 35145; June 27, 2007).

OTS anticipates implementing sections of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) as follows:

- *Fair Credit Reporting - Affiliate Marketing Regulations.* The banking agencies and the National Credit Union Administration (NCUA) plan to issue a final rule implementing section 214 of the FACT Act. The rule would implement the consumer notice and opt-out provisions of the FACT Act regarding the sharing of consumer information among affiliates for marketing purposes. The agencies published a proposed rule on July 15, 2004, at 69 FR 42502.
- *Fair Credit Reporting - Accuracy & Integrity of Information Furnished to Consumer Reporting Agencies*. The banking agencies, NCUA, and Federal Trade Commission (FTC) plan to issue a joint proposed rule and joint final rule to implement section 312 of the FACT Act. Section 312 requires the agencies to consult and coordinate with each other in order to issue consistent and comparable regulations requiring persons that furnish information to a consumer reporting agency to establish reasonable policies and procedures for the implementation of the agencies' guidelines regarding the accuracy and integrity of information relating to consumers. In addition, the agencies are to jointly prescribe regulations that identify the circumstances under which a furnisher of information to a consumer reporting agency shall be required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report based on the consumer's direct request to the furnisher. The agencies published an Advance Notice of Proposed Rulemaking (ANPR) on March 22, 2006, at 71 FR 14419.
- *Fair Credit Reporting - Identity Theft Red Flags and Address Discrepancies.* The banking agencies, NCUA, and FTC plan to issue a final rule implementing section 114 and 315 of the FACT Act. Section 114 requires the agencies to develop guidelines for use in identifying patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. It also requires the agencies to issue regulations requiring each financial institution and creditor to establish reasonable policies and procedures to implement such guidelines. The regulations must contain a provision requiring a card issuer to notify the cardholder if the card

issuer receives a notice of change of address for an existing account, and a short time later receives a request for an additional or replacement card. Section 315 requires the agencies to jointly issue regulations providing guidance regarding reasonable policies and procedures that a user of consumer reports should employ when such user receives a notice of address discrepancy from a consumer reporting agency informing the user of a substantial discrepancy between the address for the consumer that the user provided to request the consumer report and the address in the file for the consumer. The agencies published a proposed rule on July 18, 2006, at 71 FR 40786.

OTS anticipates implementing section 728 of the Financial Services Regulatory Relief Act by amending its privacy rules under the Gramm-Leach-Bliley Act to include a safe harbor model privacy form. The banking agencies, NCUA, FTC, Commodity Futures Trading Commission (FTC), and SEC published a proposed rule on March 29, 2007.

OTS will decide during fiscal year 2008 whether and, if so, to what extent, additional regulation is needed to implement the prohibition against unfair or deceptive acts or practices in section 5 of the Federal Trade Commission Act. This would be in furtherance of the Advance Notice of Proposed Rulemaking OTS published on August 8, 2007, at 72 FR 43570.

Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to carry out the Federal laws relating to the manufacture and commerce of, and collection of Federal taxes on, alcohol and tobacco products, and the collection of Federal excise tax on firearms and ammunition. TTB's mission and regulations are designed to:

- Regulate the alcohol and tobacco industries, including systems for licenses and permits;
- Assure the collection of all alcohol, tobacco, and firearms and ammunition taxes, and obtain a high level of voluntary compliance with all laws governing those industries;
- Suppress commercial bribery, consumer deception, and other prohibited practices in the alcohol beverage industry; and
- Assist the States and other Federal agencies in their efforts to eliminate interstate trafficking in, and the sale and distribution of, cigarettes in avoidance of State taxes.

In 2008, TTB will continue to pursue its multi-year program of modernizing its regulations in title 27 of the Code of Federal Regulations. This program involves updating and revising the regulations to be more clear, current, and concise, with an emphasis on the application of plain language principles. TTB laid the groundwork for this program in 2002 when it started to recodify its regulations in order to present them in a more logical sequence. In FY 2005, TTB evaluated all of the 36 CFR parts in title 27 and prioritized them as "high," "medium," or "low" in terms of the need for complete revision or regulation modernization. TTB determined importance based on industry member numbers, revenue collected, and enforcement and compliance issues identified through field audits and permit qualifications, statutory changes, significant industry innovations, and other factors. The 10 CFR parts that TTB ranked as "high" include the five parts directing operation of the major taxpayers under the Internal Revenue Code of 1986: Part 19 - Distilled Spirits Plants; Part 24 - Wine; Part 25 - Beer; Part 40 - Manufacture of Tobacco Products and Cigarette Papers and Tubes; and Part 53 - Manufacturers Excise Taxes - Firearms and

Ammunition. These five CFR parts represent nearly all the tax revenue that TTB collects, amounting to $14.8 billion in FY 2006. The remaining five parts rated "high" consist of regulations covering imports and exports (Part 27 - Importation of Distilled Spirits, Wine and Beer; Part 28 - Exportation of Alcohol; and Part 41 - Exportation of Tobacco Products and Cigarette Papers and Tubes), the American Viticultural Area program (Part 9), and TTB procedure and administration (Part 70).

In early FY 2008, the bureau plans to put forward for Department of the Treasury publication notices of proposed rulemaking on parts 19 and 9 and an advance notice of proposed rulemaking on part 25. Additional regulations modernization work will begin later in the year on part 28. In addition to TTB's modernization updates, in FY 2008 the Bureau will pursue final regulatory action regarding allergens, serving facts for alcohol beverage labels and advertisements, and the classification distinctions between cigars and cigarettes for excise tax purposes.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) administers the following regulations:

- Governing transactions in Government securities by Government securities brokers and dealers under the Government Securities Act of 1986 (GSA), as amended.
- Implementing Treasury's borrowing authority, including rules governing the sale and issue of savings bonds, marketable Treasury securities, and State and local Government securities.
- Setting out the terms and conditions by which Treasury may redeem (buy back) outstanding, unmatured marketable Treasury securities through debt buyback operations.
- Governing securities held in Treasury's retail systems.
- Governing the acceptability and valuation of all collateral pledged to secure deposits of public monies and other financial interests of the Federal Government.

Treasury's GSA rules govern financial responsibility, the protection of customer funds and securities, record keeping, reporting, audit, and large position reporting for all government securities brokers and dealers, including financial institutions.

Treasury maintains regulations governing two retail systems for purchasing and holding Treasury securities: Legacy Treasury Direct, in which investors can purchase, manage and hold marketable Treasury securities in book-entry form, and TreasuryDirect, in which investors may purchase, manage and hold savings bonds, marketable Treasury securities, and certificates of indebtedness in an Internet-based system.

The rules setting out the terms and conditions for the sale and issue of marketable book-entry Treasury bills, notes, and bonds are known as the Uniform Offering Circular**.** Treasury is considering lowering the minimum purchase amount for all Treasury marketable securities from $1,000 to $100. If this policy change is approved, during fiscal year 2008, BPD plans to issue rules to lower the par amount and multiple of Treasury notes, bonds, and TIPS that may be stripped from $1,000 to $100. The lower purchase amount will enable smaller investors to participate in Treasury marketable securities auctions

and encourage Americans to save more.

In fiscal year 2008, BPD plans to issue a rule to lower the annual purchase limitation for Series EE and Series I savings bonds. Currently, investors can purchase $30,000 each of definitive and book-entry Series EE savings bonds and $30,000 each of definitive and book-entry Series I savings bond per person, per calendar year. The new rule will permit an investor to purchase a principal amount of $5,000 each of definitive and book-entry Series EE savings bonds and $5,000 each of definitive and book-entry Series I savings bonds per person, per calendar year. As a result of the change in the annual purchase limitation, we are withdrawing the $10,000 Series I definitive savings bond denomination on original issue. The change will permit Treasury to continue to offer savings options for investors with limited means, while encouraging those with greater financial resources to participate in marketable securities auctions.

BPD intends to issue regulations, in fiscal year 2008, clarifying matters related to deceased bond owners. In addition, BPD will take the opportunity to make non-substantive technical corrections to the regulations.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management and to administer its payments, collections, debt collection, and Government-wide accounting programs. For fiscal year 2008, FMS's regulatory plan includes the following priorities:

- *Management of Federal Agency Disbursements:* FMS is amending 31 CFR part 208 to increase the use of agency electronic payments. In fiscal year 2008, a proposed rule will provide that electronic payments are required for any individual who becomes eligible to receive Federal payments, unless the individual certifies that he or she does not have a bank account. This amendment to 31 CFR part 208 is in addition to a final rule, issued by FMS in the summer of 2007, facilitating the delivery of Federal payments to victims of disasters and emergencies.

- *Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Securities*: FMS will amend 31 CFR part 225 to incorporate changes required by the Financial Services Regulatory Relief Act of 2006. The Act makes changes to 31 U.S.C. § 9301 and § 9303 to allow the Secretary of the Treasury to determine the types of securities that may be pledged in lieu of surety bonds, and requires that the securities be valued at current market rates.

- *Payment of Federal Taxes and the Treasury Tax and Loan Program:* FMS will amend 31 CFR part 203 to support operational changes resulting from the implementation of new computer systems and to eliminate provisions that are obsolete, duplicative, or more appropriately located in the Treasury Financial Manual.

- *Payment of Federal Taxes and the Treasury Tax and Loan Program*: FMS may amend 31 CFR part 203 or such other part to support proposed legislation that, if enacted, would broaden Treasury's authority to invest the operating cash of the Treasury in repurchase obligations.

Committee on Foreign Investment in the United States and Implementation of the Foreign Investment and National Security Act of 2007

On July 26, 2007, the President signed into law the Foreign Investment and National Security Act of 2007 (FINSA), which becomes effective on October 24, 2007. Under the law, the President is to direct, subject to notice and comment, the issuance of regulations to carry out Section 721 of the Defense Production Act, which FINSA amended. Since its enactment in 1988, Section 721 has been implemented by the Committee on Foreign Investment in the United States (CFIUS). The Secretary of the Treasury has served as the chairperson of CFIUS since its creation by Executive order in 1975 and, under FINSA, will continue as chairperson. We anticipate that the Department of the Treasury will play an important role, with other CFIUS agencies, in the issuance of these regulations.

The 2 Actions Described in the Regulatory Plan

Title	Regulation Identifier Number	Rulemaking Stage
Implementation of a Revised Basel Capital Accord (Basel II)	1550-AB56	Final Rule Stage
Implementation of a Revised Basel Capital Accord (Basel II)	1557-AC91	Final Rule Stage

TREAS
Office of Thrift Supervision (OTS) **RIN:** 1550-AB56

Title: Implementation of a Revised Basel Capital Accord (Basel II)

Abstract: In 2003, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (collectively, the "Federal Banking Agencies") sought industry comment on a proposed framework for implementing the New Basel Capital Accord in the United States. The advance notice of proposed rulemaking (ANPRM) described significant elements of the Advanced Internal Ratings-Based approach for credit risk and the Advanced Measurement Approaches for operational risk (together, the advanced approaches). In the fourth quarter of 2004, the Federal Banking Agencies began a quantitative impact study to help determine the potential impact of implementing the capital framework set forth in the "International Convergence of Capital Measurement and Capital Standards: A Revised Framework," which updates and makes some significant revisions to the preliminary New Basel Capital Accord document from 2003, upon which the above ANPRM was based. After review of the results of the quantitative impact study and after further review and full consideration of public comments received on the ANPRM, the Federal Banking Agencies published a notice of proposed rulemaking for implementation of this capital framework. The NPRM specified criteria that would be used to determine banking organizations that would be required to use the advanced approaches, subject to meeting certain qualifying criteria, supervisory standards, and disclosure requirements. Other banking organizations that would meet the criteria, standards, and requirements also would be eligible to use the advanced approaches. Under the advanced approaches, banking organizations would use internal estimates of certain risk components as key inputs in the determination of their regulatory capital requirements.

Priority: Economically Significant **Agenda Stage of Rulemaking:** Final Rule

Major: Yes **Unfunded Mandates:** No

CFR Citation: 12 CFR 567 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1828 (note)

Legal Deadline: None

Regulatory Plan:

Statement of Need: This rulemaking is necessary to implement an international initiative regarding the capital adequacy regulation of certain domestic financial institutions. Specifically, this rulemaking implements the "International Convergence of Capital Measurement and Capital Standards" (Basel II), which comprehensively revised the 1988 "International Convergence of Capital Measurement and Capital Standards" into the standards and requirements that will govern the largest savings associations in the United States.

Legal Basis: OTS is implementing the Basel II capital framework for certain domestic financial institutions. This initiative is based on the OTS' general rulemaking authority under the Home Owners' Loan Act, and its authority under 12 USC 1464(t). 12 USC 1464(t)(1) specifically authorizes OTS to establish minimum capital levels for savings associations, including risk-based capital standards.

Alternatives: Not yet determined.

Costs and Benefits: See Economic Data.

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/2003	68 FR 45900
ANPRM Comment Period End	11/03/2003	
NPRM	09/25/2006	71 FR 55830
NPRM Comment Period Extended	12/26/2006	71 FR 77518
NPRM Comment Period End	01/23/2007	
NPRM Comment Period End	03/26/2007	
Final Rule	12/00/2007	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Energy Affected: No

Related RINs: Related to 1550-AB11

Related Agencies: Joint: OCC; Joint: FRS; Joint: FDIC

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TREAS
Comptroller of the Currency (OCC) **RIN:** 1557-AC91

Title: Implementation of a Revised Basel Capital Accord (Basel II)

Abstract: As part of OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, OCC is amending various provisions of the capital rules for national banks. This change involves the implementation of the new framework for the Basel Capital Accord (Basel II). OCC is conducting this rulemaking jointly with the other Federal Banking Agencies. In addition, the Federal Banking Agencies also have published for comment additional proposed Basel II Guidance. See 72 FR 9084 (February 28, 2007).

Priority: Economically Significant **Agenda Stage of Rulemaking:** Final Rule
Major: Yes **Unfunded Mandates:** Private Sector

CFR Citation: 12 CFR 3 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 12 USC 93a; 12 USC 3907; 12 USC 3909

Legal Deadline: None

Regulatory Plan:

Statement of Need: This rulemaking is necessary to implement an international initiative regarding the capital adequacy regulation of certain domestic financial institutions. Specifically, this rulemaking implements the "International Convergence of Capital Measurement and Capital Standards" (Basel II), which comprehensively revises the 1988 "International Convergence of Capital Measurement and Capital Standards" into the standards and requirements that will govern the largest banks in the United States.

Legal Basis: OCC is implementing the Basel II capital framework for certain domestic financial institutions. This initiative is based on the OCC's general rulemaking authority in 12 U.S.C. 93a and its specific authority under 12 U.S.C. 3907 and 3909. 12 U.S.C. 3907(a)(2) specifically authorizes OCC to establish minimum capital levels for financial institutions that OCC, in its discretion, deems necessary or appropriate.

Alternatives: Please see the OCC's regulatory impact analysis, which can be found in its entirety at http://www.occ.treas.gov/law/basel.htm under the link of "Regulatory Impact Analysis for Risk-Based Capital Standards: Revised Capital Adequacy Guidelines (Basel II), Office of the Comptroller of the Currency, International and Economic Affairs (2006)."

Costs and Benefits: Not yet determined.

Risks: Not yet determined.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/2003	68 FR 45900
NPRM	09/25/2006	71 FR 55830
NPRM Comment Period Extended	12/26/2006	71 FR 77518
NPRM Comment Period End	01/23/2007	
Final Action	12/00/2007	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Small Entities Affected: No
Federalism: No
Energy Affected: No
Related RINs: Split From 1557-AB14
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