

FEDERAL RESERVE SYSTEM

[Docket No. R-1128]

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency**

[Docket No. 03-05]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47638; File No. S7-32-02]

Interagency Paper on Sound Practices To Strengthen the Resilience of the U.S. Financial System

AGENCIES: Board of Governors of the Federal Reserve System; Office of the Comptroller of the Currency; and Securities and Exchange Commission.

ACTION: Issuance of interagency paper.

SUMMARY: The Federal Reserve Board (Board), the Office of the Comptroller of the Currency (OCC) and the Securities and Exchange Commission (SEC) are publishing an Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System. The Federal Reserve Bank of New York also participated in drafting the paper. The paper identifies three new business continuity objectives that have special importance in the post-September 11 risk environment for all financial firms. The paper also identifies four sound practices to ensure the resilience of the U.S. financial system, which focus on minimizing the immediate systemic effects of a wide-scale disruption on critical financial markets. The agencies expect organizations that fall within the scope of this paper to adopt the sound practices within the specified implementation timeframes, as described in more detail in the paper.

FOR FURTHER INFORMATION CONTACT:

Board: Jeffrey Marquardt, Associate Director, Division of Reserve Bank Operations and Payment Systems (202) 452-2360; or Angela Desmond, Assistant Director, Division of Banking Supervision and Regulation (202) 452-3497.

OCC: Ralph Sharpe, Deputy Comptroller for Bank Technology (202) 874-4572; or Aida Plaza Carter, Director, Bank Information Technology Operations (202) 874-4740.

SEC: Robert Colby, Deputy Director, Division of Market Regulation (202) 942-0094; David Shillman, Counsel to the Director, Division of Market Regulation (202) 942-0072; or Peter Chepucavage, Attorney Fellow, Division of Market Regulation (202) 942-0163.

SUPPLEMENTARY INFORMATION: On September 5, 2002, the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and the Securities and Exchange Commission published for comment a Draft Interagency White Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System.¹ The draft white paper emphasized the criticality of protecting the financial system from serious new risks posed in the post-September 11 environment and described a series of sound practices that were identified by industry participants during a series of interviews and meetings with the agencies. Approximately 90 comment letters were submitted to one or more of the agencies by clearing and settlement system operators; banking organizations; investment banking firms; industry associations; technology companies; Federal, State and local officials; and other interested parties and are summarized below. After reviewing the comments and continuing their dialogue with interested persons, the agencies are issuing this revised final interagency paper.

The sound practices identified in the paper are intended to supplement the agencies' respective policies and other guidance on business continuity planning by financial institutions. The sound practices focus on establishing robust back-up facilities for those back-office activities necessary to recover clearance and settlement activities for the wholesale financial system in times of serious disruption and therefore do not address issues relating to trading operations or to retail financial services. The agencies are not recommending that firms move their primary offices, primary operating sites, or primary data centers out of metropolitan locations. The agencies expect organizations that fall within the scope of this paper to adopt the sound practices within the specified implementation timeframes, as described in more detail in the paper.

Summary of Comments

The commenters generally support the agencies' efforts to improve the resilience of the financial markets and agree with the goals outlined in the draft white paper. Most commenters agree with the sound practices in principle, but propose a number of modifications and clarifying changes to the document. In general, the commenters prefer that the agencies retain a "sound practices paper format" rather than adopt a regulatory approach that could be susceptible to a "one size fits all"

application. They also ask that the agencies coordinate supervisory expectations with each other and with other regulatory authorities as necessary to assure a consistent approach.

There was broad consensus with the goal of ensuring that key organizations in critical financial markets are able to recover clearing and settlement activities in the event of a wide-scale disruption as rapidly as possible. Commenters agree with the definitions of critical financial markets and critical activities, but ask that the agencies make clear that the sound practices apply to back-office operations and not to trading activities or retail products. They also believe that the description of core clearing and settlement organizations is sufficient. Commenters ask for additional guidance to assist in identifying firms that play significant roles in critical financial markets and generally agree that a market share benchmark should be established; a few commenters recommend adopting a dollar volume benchmark. A few commenters suggest that benchmarks should vary by market based on the amount of concentration of key participants in the critical financial markets. Some commenters note the importance of firms being able to self-determine whether they fall into a particular category for a critical financial market, while others ask that the agencies contact organizations that appear to meet the definition for core clearing and settlement organizations or firms that play significant roles in critical markets. Several commenters acknowledge that the sound practices would effectively raise market expectations with respect to the resilience of all financial firms.

A number of commenters state that the description of a wide-scale, regional disruption should include parameters for a range of probable events (e.g., power disruption, natural disaster) and include the expected duration of the outage (e.g., 5, 10, or 30 days). Other commenters note that such specification is unnecessary.

The commenters agree that a within-the-business-day recovery and resumption objective for core clearing and settlement organizations is appropriate and acknowledge that a two-hour recovery time objective is an achievable goal, although somewhat aggressive for some because of the volume and complexity of transaction data involved. There is general consensus that the end-of-business-day recovery objective is achievable for firms that play significant roles in critical markets, although many state that this is possible only if firms are able

¹ 67 FR 56835, September 5, 2002.