

eliminated. For example, it may be possible to combine certain types of applications to eliminate duplication.

The EGRPRA review will complement the review to reduce burden and to increase uniformity of regulations among the Agencies, pursuant to section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103-325, Sept. 23, 1994, 12 U.S.C. 4803) (CDRI). The Agencies' section 2222 review will continue to try to eliminate inconsistencies among their regulations, although complete uniformity is not possible in light of differences in the types of regulated entities and the statutes that apply to them.

The EGRPRA review can also significantly contribute to the Agencies' ongoing efforts to reduce regulatory burden. For example, since 1979, a formally adopted Federal Reserve policy has required the Board to review each of its regulations at least once every five years with a view toward eliminating, simplifying, or otherwise easing the burden of each regulation.³ The FDIC has a similar requirement, described in its policy "Development and Review of FDIC Regulations and Policies."⁴ See also: FDIC Chairman Powell's initiative "Reducing Regulatory Burden" at <http://www.fdic.gov>. Under OCC policy in effect since the OCC undertook a comprehensive review of all of its regulations to reduce regulatory burden in the mid-1990s, the agency's regulation-writing process has sought to eliminate "regulatory requirements that are not necessary to ensure the safety and soundness of national banks, to support consumers' access to financial services, or to accomplish other aspects of the OCC's regulatory mission."⁵ See also, "Remarks by John D. Hawke, Jr., Comptroller of the Currency, Before the Independent Community Bankers of America, Orlando, Florida, March 4, 2003" at <http://www.occ.treas.gov/ftp/release/2003-17a.pdf>. Since the early 1990s OTS has worked to reduce regulatory burden through various regulatory review projects as well as Thrift Financial Report changes and revisions to Applications forms. OTS strives to produce risk-focused, efficient, and proactive regulations. OTS also, whenever possible, tailors its

regulations to risks posed by particular institutions and writes its regulations and guidance in plain language.

Further, the Agencies address the issue of regulatory burden every time they propose and adopt a rule. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and internal agency policies, the Agencies examine each rulemaking to minimize the burdens it might impose on the industry and consider various alternatives.⁶

The Agencies also will use both the EGRPRA review and the individual reviews to identify and reduce burdens on small institutions. More than half of insured depository institutions are small—having \$150 million in assets or less—as defined by the Small Business Administration. We are particularly concerned about burden on small institutions. When a new regulation is created or an old regulation is changed, small institutions must devote a large percentage of their staffs' time to review the regulation to determine if and how it will affect them. Compliance with a regulation also can take large amounts of time that cannot be devoted to serving customers or business planning. In a large institution, ensuring regulatory compliance can take many more hours; however, those hours make up a much smaller percentage of the institution's resources. In situations where a regulation is aimed at an activity engaged in primarily by large institutions, the compliance burden on small institutions can outweigh its benefit.

Section 610 of the Regulatory Flexibility Act imposes a continuing requirement on agencies to review regulations that may have a significant economic impact on a substantial number of small entities, within 10 years after a final rulemaking is published. Although not all of the Agencies' rules must be reviewed pursuant to section 610, the Agencies are undertaking to review rules to the extent possible under the section 610 review criteria because of the importance of burden reduction to the many small institutions we regulate.

III. The Agencies' Proposed Plan

The Agencies must categorize their regulations by type. Section 2222 gives us authority to determine categories, and suggests two possible categories: "consumer regulations" and "safety and

soundness." The Agencies have regulations on more than 100 subjects covering a wide variety of topics from capital maintenance to the privacy of consumer financial information. Some of these regulations have been issued jointly and are as uniform as possible. Others were issued separately by the Agencies but implement common statutes or policies. These rules are listed as interagency rules to facilitate comparisons. Some regulations are issued by a single agency but are applicable to all types of insured institutions, such as the Board's Equal Credit Opportunity regulation or the FDIC's Deposit Insurance regulation. Other regulations are issued by a single agency and have more limited applicability. These rules are listed under the name of the issuing agency.

The Agencies propose to seek public comment on 12 categories of their regulations that impose burden on insured institutions between now and 2006.⁷ The categories, in alphabetical order, are: Applications and Reporting; Banking Operations; Capital; Community Reinvestment Act; Consumer Protection; Directors, Officers and Employees; International Operations; Money Laundering; Powers and Activities; Rules of Procedure; Safety and Soundness; and Securities. We believe that these categories are logical groupings that are not so broad that the number of regulations presented in any one category would overwhelm potential commenters. The categories also reflect recognized areas of industry interest and specialization, or are particularly critical to the health of the banking system. We recognize that our regulations could be categorized in other ways and welcome recommendations about the categories and the regulations placed within them.

Although joint publication is not required by section 2222, the Agencies believe that joint publication of the regulation categories for public comment will be the most effective method for achieving EGRPRA's burden reduction goals. Joint publication and review also will help maintain the uniformity of regulations among the Agencies where possible. We are publishing three categories of rules for burden reduction comment today and plan to publish the remaining nine categories in roughly semiannual intervals, with 90-day comment periods for categories under review, throughout

³ Board Statement of Policy Regarding Expanded Rulemaking Procedures, 44 FR 3957, Jan. 19, 1979.

⁴ FDIC Law, Regulations and Related Acts, pp. 5057-5058.

⁵ OCC Bulletin 97-8 (January 7, 1997). Moreover, the OCC recognizes that a "one-size-fits-all" approach to regulation can be ineffective and burdensome, and tailors its regulations accordingly, taking into account factors such as the size of an institution. *Id.*

⁶ The OCC and OTS also review regulations pursuant to Executive Order 12866 and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

⁷ Consistent with section 2222's focus on reducing burden on insured institutions, the Agencies' EGRPRA review will not involve their internal organizational or operational regulations to the extent that those regulations impose no, or minimal, burden on insured institutions.