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SUPPLEMENTARY INFORMATION:

Background

Section 12(i) of the Securities Exchange Act (15 U.S.C. 78l(i)) (Exchange Act) vests the Board with the authority to administer and enforce the disclosure and reporting requirements of sections 12, 13, 14(a), 14(c), 14(d), 14(f) and 16 of the Exchange Act with respect to state member banks that have a class of securities registered under section 12(b) or 12(g) of the Exchange Act (registered banks).¹ Section 208.36 of the Board's Regulation H (12 CFR part 208.36) implements the reporting and disclosure provisions of sections 12, 13, 14(a), 14(c), 14(d), 14(f) and 16 of the Exchange Act for registered banks. As a general matter, Regulation H requires registered banks to comply with the rules, regulations and forms adopted by the Securities and Exchange Commission (SEC) under sections 12, 13, 14(a), 14(c), 14(d), 14(f) and 16 of the Exchange Act, but requires registered banks to file any reports or forms required by such regulations with the Board (rather than the SEC) and substitutes the "Board" for the "SEC" each place that term appears in the SEC's rules and forms.

On July 30, 2002, President Bush signed into law the Sarbanes-Oxley Act of 2002.² Titles III and IV of the Sarbanes-Oxley Act include a number of provisions that are designed to improve the corporate governance and financial disclosures of issuers that have a class of securities registered under sections 12(b) or 12(g) of the Exchange Act, or that are required to file periodic reports with the SEC under section 15(d) of the Exchange Act (public companies). The Sarbanes-Oxley Act also amended section 12(i) of the Exchange Act to vest the Board with the authority to administer and enforce sections 302, 303, 304, 306(a), 401(b), 404, 406 and 407 of the Sarbanes-Oxley Act, as well as section 10A(m) of the Exchange Act (as added by section 301 of the Sarbanes-Oxley Act), with respect to registered banks.³

Summary of Interim Rule

In September 2002, the Board adopted on an interim basis, and requested public comment on, an amendment to section 208.36 of Regulation H to implement the revisions made by the Sarbanes-Oxley Act to section 12(i) of the Exchange Act.⁴ The interim rule provided that the Board will administer and enforce the sections of the Sarbanes-Oxley Act incorporated into section 12(i) of the Exchange Act with respect to registered banks. Consistent

with the existing provisions of Regulation H, the interim rule also required registered banks to comply with any rules, regulations and forms issued by the SEC under the sections of the Sarbanes-Oxley Act incorporated into section 12(i) of the Exchange Act.

Explanation of Final Rule

The Board received two comments on the interim rule, both of which were filed by trade associations representing banking organizations. After carefully considering these comments, which are discussed below, the Board has adopted a final rule that is identical to the interim rule.

As required by section 12(i) of the Exchange Act, the final rule provides that the Board will administer and enforce the sections of the Sarbanes-Oxley Act described in Table 1 with respect to registered banks. The final rule also generally requires registered banks to comply with any rules, regulations and forms adopted by the SEC to implement the sections of the Sarbanes-Oxley Act listed in Table 1 ("New SEC Rules"), unless such rules, regulations or forms are modified by the Board. If the New SEC Rules require the filing of any documents with the SEC, registered banks must file such documents with the Board (rather than the SEC) in accordance with section 208.36 of Regulation H.

TABLE 1

Section of Sarbanes-Oxley Act	Description	Implementing SEC rules
Section 301 as (codified section 10A(m) of Exchange Act, 15 U.S.C. 78f(m)).	Establishes certain oversight, independence, funding and other requirements for the audit committees of public companies listed on a the national securities exchange, and requires the SEC to issue prohibit any national securities exchange or national securities association from listing the securities of an issuer that fails to comply with these audit committee requirements.	Proposed rules issued for comment. See 68 rules that FR 2638, Jan. 17, 2003. The SEC must adopt final rules by April 26, 2003.
Section 302	Mandates that the SEC adopt rules that require the principal executive officer(s) and principal financial officer(s) of public companies to include certain certifications in the issuer's annual and quarterly reports filed under the Exchange Act.	Final rules became effective August 29, 2002. See 67 FR 57275, Sep. 9, 2002. ⁵
Section 303	Requires the SEC to issue rules prohibiting the officers and directors of public companies, and persons acting under their direction, from fraudulently influencing, coercing, manipulating, or misleading the issuer's independent auditor for purposes of rendering the issuer's financial statements materially misleading.	Proposed rules issued for comment. See 67 FR 65325, Oct. 24, 2002. The SEC must issue final rules by April 26, 2003.
Section 304	Requires the chief executive officer and chief financial officer of public companies to reimburse the issuer for certain compensation and profits received if the issuer is required to restate its financial reports due to material noncompliance, as a result of misconduct, with the Federal securities laws.	Section 304 became effective on July 30, 2002. No implementing rules are required.
Section 306(a)	Prohibits the directors and executive officers of any public company of equity securities from purchasing, selling or transferring any equity security acquired by the director or executive officer during any "blackout period" with respect to the security.	The SEC adopted final rules on January 8, 2003. See SEC Press Release 2003-6 Proposed rules were issued for comment in November 2002. See 67 FR 69249, Nov. 15, 2002.

¹ As of December 10, 2002, seventeen state member banks had a class of securities registered

under section 12(b) or 12(g) of the Exchange Act and, thus, are considered registered banks.

² Pub. L. 102-204, 116 Stat. 745 (2002).

³ See Sarbanes-Oxley Act at section 3(b)(4) (amending 15 U.S.C. 78l(i)).

⁴ See 67 FR 57938, Sept. 13, 2002.