Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 30 and 41

[Docket No. 04–13]

RIN 1557–AC84

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 211, 222, and 225

[Docket No. R–1199]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 334 and 364

RIN 3064–AC77

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 568, 570, and 571

[No. 2004–26]

RIN 1550–AB87

Proper Disposal of Consumer Information Under the Fair and Accurate Credit Transactions Act of 2003

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision, Treasury (OTS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The OCC, Board, FDIC, and OTS (the Agencies) are requesting comment on a proposal to implement section 216 of the Fair and Accurate Credit Transactions Act of 2003 by amending the Interagency Guidelines Establishing Standards for Safeguarding Customer Information. The proposal would require each financial institution to develop, implement, and maintain appropriate measures to properly dispose of consumer information derived from consumer reports to address the risks associated with identity theft. Each institution would be required to implement these measures as part of its information security program.

DATES: Comments must be submitted on or before July 23, 2004.

ADDRESSES: Because the Agencies will jointly review all of the comments submitted, you may comment to any of the Agencies and you need not send comments (or copies) to all of the Agencies. Because paper mail in the Washington area and at the Agencies is subject to delay, please submit your comments by e-mail whenever possible.[1] Commenters are encouraged to use the title ''FACT Act Disposal Rule'' in addition to the docket or RIN number to facilitate the organization and distribution of comments among the Agencies. Interested parties are invited to submit comments in accordance with the following instructions:

OCC: You should designate OCC in your comment and include Docket Number 04–13. You may submit comments by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- OCC Web site: *http://www.occ.treas.gov.* Click on ''Contact the OCC,'' scroll down and click on ''Comments on Proposed Regulations.''
- E-mail address: *regs.comments@occ.treas.gov.*
- Fax: (202) 874–4448.
- Mail: Office of the Comptroller of the Currency, 250 E Street, SW., Public Reference Room, Mail Stop 1–5, Washington, DC 20219.
- Hand Delivery/Courier: 250 E Street, SW., Attn: Public Reference Room, Mail Stop 1–5, Washington, DC 20219.

Instructions: All submissions received must include the agency name (OCC) and docket number or Regulatory Information Number (RIN) for this notice of proposed rulemaking. In general, the OCC will enter all comments received into the docket without change, including any business or personal information that you provide. You may review the comments received by the OCC and other related materials by any of the following methods:

- Viewing Comments Personally: You may personally inspect and photocopy comments received at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC. You can make an appointment to inspect comments by calling (202) 874–5043.
- Viewing Comments Electronically: You may request e-mail or CD–ROM copies of comments that the OCC has received by contacting the OCC's Public Reference Room at *regs.comments@occ.treas.gov.*
- Docket: You may also request available background documents using the methods described earlier.

Board: You may submit comments, identified by Docket No. R–1199, by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- FAX: 202/452–3819 or 202/452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, identified by RIN number by any of the following methods:

- Agency Web site: *http://www.fdic.gov/regulations/laws/federal/propose.html.*

[1] The Agencies do not edit personal, identifying information such as names or e-mail addresses from electronic submissions. Submit only information you wish to make publicly available.

Follow instructions for submitting comments on the Agency Web site.

• E-mail: *Comments@FDIC.gov.* Include the RIN number in the subject line of the message.

• Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• Hand Delivery/Courier: Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

• Instructions: All submissions received must include the agency name and RIN for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided.

Office of Thrift Supervision: You may submit comments, identified by No. 2004–26, by any of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

• E-mail: *regs.comments@ots.treas.gov.* Please include No. 2004–26 in the subject line of the message and include your name and telephone number in the message.

• Fax: (202) 906–6518.

• Mail: Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: No. 2004–26.

• Hand Delivery/Courier: Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: No. 2004–26.

Instructions: All submissions received must include the agency name and number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT:

OCC: Aida Plaza Carter, Director, Bank Information Technology, (202) 874–4740; Amy Friend, Assistant Chief Counsel, (202) 874–5200; or Deborah Katz, Senior Counsel, Legislative and Regulatory Activities Division, (202) 874–5090.

Board: Donna L. Parker, Supervisory Financial Analyst, Division of Supervision & Regulation, (202) 452–2614; Thomas E. Scanlon, Counsel, Legal Division, (202) 452–3594; Minh-Duc T. Le or Ky Tran-Trong, Senior Attorneys, Division of Consumer and Community Affairs, (202) 452–3667.

FDIC: Jeffrey M. Kopchik, Senior Policy Analyst, Division of Supervision and Consumer Protection, (202) 898–3872; Kathryn M. Weatherby, Examination Specialist, Division of Supervision and Consumer Protection, (202) 898–6793; Robert A. Patrick, Counsel, Legal Division, (202) 898–3757; Janet V. Norcom, Counsel, Legal Division, (202) 898–8886.

OTS: Lewis C. Angel, Senior Project Manager, Technology Risk Management, (202) 906–5645; Richard Bennett, Counsel (Banking and Finance), Regulations and Legislation Division, (202) 906–7409; Paul Robin, Special Counsel, Regulations and Legislation Division, (202) 906–6648.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 216 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act or the Act) adds a new section 628 to the Fair Credit Reporting Act (FCRA), at 15 U.S.C. 1681w, that, in general, is designed to protect a consumer against the risks associated with unauthorized access to information about the consumer contained in a consumer report, such as fraud and related crimes including identity theft. Section 216 of the Act requires each of the Agencies to adopt a regulation with respect to the entities that are subject to its enforcement authority ''requiring any person that maintains or otherwise possesses consumer information, or any compilation of consumer information, derived from consumer reports for a business purpose to properly dispose of any such information or compilation.'' Public Law 108–159, 117 Stat. 1985–86. The FACT Act mandates that the Agencies ensure that their respective regulations are consistent with the requirements issued pursuant to the Gramm-Leach-Bliley Act (GLB Act) (Pub. L. 106–102), as well as other provisions of Federal law.

The Agencies propose amendments to the Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Guidelines)[2] to require financial institutions to implement controls designed to ensure the proper disposal of ''consumer information'' within the meaning of section 216. In accordance with section 216 of the Act, the Agencies have consulted with the Federal Trade Commission, the National Credit Union Administration, and the Securities and Exchange Commission to ensure that, to the extent possible, the rules proposed by the respective agencies are consistent and comparable.

II. Background

On February 1, 2001, the Agencies issued the Guidelines pursuant to sections 501 and 505 of the GLB Act (15 U.S.C. 6801 and 6805). The Guidelines establish standards relating to the development and implementation of administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information. The Guidelines apply to the financial institutions subject to the Agencies' respective jurisdictions. As mandated by section 501(b) of the GLB Act, the Guidelines require each financial institution to develop a written information security program that is designed to: (1) Ensure the security and confidentiality of customer information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.[3] The Guidelines direct financial institutions to assess the risks to their customer information and customer information systems and, in turn, implement appropriate security measures to control those risks.[4] For example, under the risk-assessment framework currently imposed by the Guidelines, each financial institution must evaluate whether the controls the institution has developed sufficiently protect its customer information from unauthorized access, misuse, or

[2] 12 CFR Parts 30, app. B (OCC); 208, app. D–2 and 225, app. F (Board); 364, app. B (FDIC); 570, app. B (OTS). *See* 66 FR 8616 Feb. 1, 2001. Citations to the Guidelines omit references to titles and publications and give only the appropriate paragraph or section number.

[3] Guidelines, II.B.

[4] *See generally* III.B and III.C.

alteration when the institution disposes of the information.[5]

III. Proper Disposal of Consumer Information and Customer Information

The Agencies are proposing to amend the Guidelines to require each financial institution to develop and maintain, as part of its information security program, appropriate controls designed to ensure that the institution properly disposes of ''consumer information.'' The proposed amendments to the Guidelines generally would require a financial institution to dispose of ''consumer information'' derived from a consumer report in a manner consistent with the existing requirements that apply to the disposal of ''customer information.'' The Agencies propose to incorporate this new requirement into the Guidelines by: (1) Adding a definition of ''consumer information''; (2) adding an objective (in paragraph II) regarding the proper disposal of consumer information; and (3) adding a provision (in paragraph III) that would require a financial institution to implement appropriate measures to properly dispose of consumer information in a manner consistent with the disposal of customer information.

The Agencies propose to require each financial institution to implement the appropriate measures to properly dispose of ''consumer information'' within three months after the final regulations are published in the **Federal Register**. The Agencies believe that any changes to an institution's existing information security program to properly dispose of ''consumer information'' likely will be minimal. Accordingly, the Agencies consider a three-month period sufficient to enable financial institutions to adjust their systems and controls.

The Agencies invite comment on all aspects of the proposal. A discussion of each proposed amendment to the Guidelines and to the addition of cross-references to the Guidelines in the Agencies' FCRA regulations follows.

Consumer Information

The proposal defines ''consumer information'' to mean ''any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by or on behalf of the [institution] for a business purpose.'' ''Consumer information'' also is defined to mean ''a compilation of such records.''

The scope of information covered by the terms ''consumer information,'' and ''customer information'' as defined under the Guidelines, will sometimes overlap, but will not always coincide. The Agencies note that the proposed definition of ''consumer information'' is drawn from the term ''consumer'' in section 603(c) of the FCRA, which defines a ''consumer'' as an individual. 15 U.S.C. 1681a(c). By contrast, ''customer information'' under the Guidelines, only covers nonpublic personal information about a ''customer,'' namely, an individual who obtains a financial product or service to be used primarily for personal, family, or household purposes and who has a continuing relationship with the financial institution.[6] The relationship between ''consumer information'' and ''customer information'' can be illustrated through the following examples. Payment history information from a consumer report about an individual, who is a financial institution's customer, will be *both* ''consumer information'' because it comes from a consumer report and ''customer information'' because it is nonpublic personal information about a customer. In some circumstances, ''customer information'' will be broader than ''consumer information.'' For instance, information about a financial institution's transactions with its customer would be only ''customer information'' because it does not come from a consumer report. In other circumstances, ''consumer information'' will be broader than ''customer information.'' ''Consumer information'' would include information from a consumer report that an institution obtains about an individual who applies for but does not receive a loan, an individual who guarantees a loan for a business entity, an employee or a prospective employee, or an individual in connection with a loan to the individual's sole proprietorship. In each of these instances, the consumer reports would not be ''customer information'' because the information would not be about a ''customer'' within the meaning of the Guidelines.

The Agencies propose to define ''consumer information'' as ''any record *about an individual* * * * that is a consumer report or is derived from a consumer report.'' Under this definition, information that may be ''derived from consumer reports'' but does not identify a particular consumer would *not* be covered under the proposal. For example, a financial institution must implement measures to properly dispose of ''consumer information'' that identifies a consumer, such as the consumer's name and the credit score derived from a consumer report. However, this requirement would not apply to the mean credit score that is derived from a group of consumer reports. The Agencies believe that limiting ''consumer information'' to information that identifies a consumer is consistent with the current law relating to the scope of the term ''consumer report'' under the FCRA and the purposes of section 216 of the FACT Act.

The Agencies request suggestions for clarifying the scope of information covered under the term ''consumer information.'' Among other issues, the Agencies believe that the phrase ''derived from consumer reports'' covers all of the information about a consumer that is taken from a consumer report, including information that results in whole or in part from manipulation of information from a consumer report or information from a consumer report that has been combined with other types of information. Consequently, a financial institution that possesses any of this information must properly dispose of it.

For example, any record about a consumer derived from a consumer report, such as the consumer's name and credit score, that is shared among affiliates must be disposed of properly by each affiliate that possesses that information. Similarly, a consumer report that is shared among affiliated companies after the consumer has been given a notice and has elected not to opt out of that sharing, and therefore is no longer a ''consumer report'' under the FCRA,[7] would still be ''consumer information'' under this proposal. Accordingly, a financial institution that receives ''consumer information'' under these circumstances must properly dispose of the information. The Agencies seek comment on whether the definition of ''consumer information'' should be revised to further clarify this interpretation of the statutory phrase ''derived from consumer reports,'' such as by example or otherwise.

The Agencies note that the proposed definition of ''consumer information'' includes the qualification ''for a business purpose,'' as set forth in section 216 of the Act. The Agencies believe that the phrase ''for a business purpose'' encompasses any commercial purpose for which a financial institution might maintain or possess ''consumer

[5] *See* 66 FR 8618 (''Under the final Guidelines, a financial institution's responsibility to safeguard customer information continues through the disposal process.'').

[6] I.C.2.b.

[7] 15 U.S.C. 1681a(d)(2)(A)(iii).

information'' and request comment on that interpretation.

New Objective for an Information Security Program

The Agencies are proposing to add a new objective regarding the proper disposal of consumer information in paragraph II.B. of the Guidelines. The proposal would require a financial institution to design its information security program to ''[e]nsure the proper disposal of consumer information in a manner consistent with the disposal of customer information.''

The Agencies believe that imposing this additional objective in paragraph II.B is important to ensure that the requirement to properly dispose of ''consumer information'' applies to a financial institution's service providers. The Guidelines require, in part, that a financial institution ''[r]equire its service providers by contract to implement appropriate measures designed to meet the objectives of these Guidelines.'' [8]

By expressly incorporating a provision in paragraph II.B., the Agencies' proposal requires each financial institution to contractually require its service providers to develop appropriate measures for the proper disposal of consumer information and, where warranted, to monitor its service providers to confirm that they have satisfied their contractual obligations.

The Agencies also propose to amend paragraph III.G.2. to allow a financial institution a reasonable period of time, after the final regulations are issued, to amend its contracts with its service providers to incorporate the necessary requirements in connection with the proper disposal of consumer information. The Agencies propose allowing one year after publication of the final regulations for financial institutions to modify the contracts that will be affected by the Guidelines.

The Agencies seek comment on whether a one-year period for modification of agreements with service providers is appropriate.

New Provision To Implement Measures To Properly Dispose of Consumer Information

The Agencies propose to amend paragraph III.C. (*Manage and Control Risk*) by adding a new provision to require a financial institution to develop, implement, and maintain, as part of its information security program, appropriate measures to properly dispose of consumer information. This new provision requires an institution to implement these measures ''in a manner consistent with the disposal of customer information'' and ''in accordance with each of the requirements in this paragraph III.'' of the Guidelines.

Paragraph III. of the Guidelines presently requires a financial institution to undertake measures to design, implement, and maintain its information security program to protect customer information and customer information systems, including the methods it uses to dispose of customer information. Under the proposal, an institution must adopt a comparable set of procedures and controls to properly dispose of ''consumer information.'' For example, a financial institution must broaden the scope of its risk assessment to include an assessment of the reasonably foreseeable internal and external threats associated with the methods it uses to dispose of ''consumer information,'' and adjust its risk assessment in light of the relevant changes relating to such threats. The Agencies, by expressly adding this new provision, are requiring a financial institution to integrate into its information security program each of those risk-based measures in connection with the disposal of ''consumer information,'' as set forth in paragraph III. of the Guidelines.

The Agencies believe that it is not necessary to propose a prescriptive rule describing proper methods of disposal. Nonetheless, consistent with interagency guidance previously issued through the Federal Financial Institutions Examination Council (FFIEC),[9] the Agencies expect institutions to have appropriate disposal procedures for records maintained in paper-based or electronic form. The Agencies note that an institution's information security program should ensure that paper records containing either customer or consumer information should be rendered unreadable as indicated by the institution's risk assessment, such as by shredding or any other means. Institutions also should recognize that computer-based records present unique disposal problems. Residual data frequently remains on media after erasure. Since that data can be recovered, additional disposal techniques should be applied to sensitive electronic data.[10]

The Agencies seek comment on whether the proposed amendment to paragraph III.C. of the Guidelines sufficiently explains the nature and scope of the obligations on each financial institution to modify its information security program to include measures that must be implemented and adjusted, as appropriate, to properly dispose of ''consumer information.''

The Agencies request comment on whether the use in the Guidelines of the statutory phrase ''proper disposal'' is sufficiently clear. Would a more specific standard provide better guidance to financial institutions, better protect consumers, or both?

Proposed Amendments to the Agencies' FCRA Regulations

The Agencies propose to amend their respective regulations that implement the FCRA [11] by adding a new provision setting forth the duties of users of consumer reports regarding identity theft. As proposed, the new provision requires a financial institution to properly dispose of consumer information in accordance with the standards set forth in the Guidelines. The proposed provision also incorporates a rule of construction that closely tracks the terms of section 628(b) of the FCRA, as added by section 216 of the FACT Act.

The Agencies request comment on the proposed amendments to their respective FCRA rules.

IV. Regulatory Analysis

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 appendix A.1), the Agencies have reviewed the proposed rules. (The Board has done so under authority delegated to the Board by the Office of Management and Budget.) The proposed rules contain no collections of information pursuant to the Paperwork Reduction Act.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, each agency must publish an initial regulatory flexibility analysis with its proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. (5 U.S.C. 601–612). Each of the Agencies hereby certifies that its rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities.

The proposed rules require a financial institution subject to the jurisdiction of the appropriate agency to implement

[8] III.D.2. This requirement applies to both domestic and foreign-based service providers.

[9] *See* FFIEC Information Security Booklet, page 63 at: *http://www.ffiec.gov/ffiecinfobase.html_pages/it_01.html#infosec.*

[10] *See* footnote 9, *supra.*

[11] 12 CFR part 41 (OCC); 12 CFR part 222 (Board); 12 CFR part 334 (FDIC); and 12 CFR part 571 (OTS).

appropriate controls designed to ensure the proper disposal of ''consumer information.'' A financial institution must develop and maintain these controls as part of implementing its existing information security program for ''customer information,'' as required under the Guidelines.[12]

Any modifications to a financial institution's information security program needed to address the proper disposal of ''consumer information'' could be incorporated through the process the institution presently uses to adjust its program under paragraph III.E. of the Guidelines, particularly because of the similarities between the consumer and customer information and the measures commonly used to properly dispose of both types of information. To the extent that these proposed rules impose new requirements for certain types of ''consumer information,'' developing appropriate measures to properly dispose of that information likely would require only a minor modification of an institution's existing information security program.

Because some ''consumer information'' will be ''customer information'' and because segregating particular records for special treatment may entail considerable costs, the Agencies believe that many banks and savings associations, including small institutions, already are likely to have implemented measures to properly dispose of both ''customer'' and ''consumer'' information. In addition, the Agencies, through the Federal Financial Institutions Examination Council (FFIEC), already have issued guidance regarding their expectations concerning the proper disposal of *all* of an institution's paper and electronic records. *See* FFIEC Information Security Booklet, December 2002, p. 63.[13] Therefore, the proposed rules do not require any significant changes for institutions that currently have procedures and systems designed to comply with this guidance.

The Agencies anticipate that, in light of current practices relating to the disposal of information in accordance with the Guidelines and the guidance issued by the FFIEC, the proposed rules would not impose undue costs on financial institutions. Therefore, the Agencies believe that the controls that small financial institutions would develop and implement, if any, to comply with the proposed rules likely pose a minimal economic impact on those entities. Nonetheless, the Agencies specifically request comment on the burden the proposed rules would have on small financial institutions, and how the Agencies' proposed rules might minimize this burden, to the extent consistent with the requirements of the FACT Act.

Solicitation of Comments on Use of Plain Language

Section 722(a) of the GLB Act requires the Federal banking agencies to use plain language in all proposed and final rules.[14] In light of this requirement, the Agencies have sought to present the proposed rules in a simple and straightforward manner. The Agencies invite your comments on how to make the rules easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulations easier to understand? If so, what changes to the format would make the regulations easier to understand?
- What else could we do to make the regulations easier to understand?

OCC and OTS Executive Order 12866 Determination

The OCC and OTS each have determined that this proposal is not a ''significant regulatory action'' under Executive Order 12866.

OCC and OTS Unfunded Mandates Reform Act of 1995 Determination

Under section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), the OCC and OTS must prepare budgetary impact statements before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, under section 205 of the Unfunded Mandates Act, the OCC and OTS must identify and consider a reasonable number of regulatory alternatives before promulgating a rule.

For the reasons outlined earlier, the OCC and OTS have determined that this proposal will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more, in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995 and this rulemaking requires no further analysis under the Unfunded Mandates Act.

OCC Community Bank Comment Request

The OCC invites your comments on the impact of this proposal on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comments on the impact of this proposal on community banks' current resources and available personnel with the requisite expertise, and whether the goals of the proposed regulations could be achieved, for community banks, through an alternative approach.

List of Subjects

12 CFR Part 30

Banks, banking, Consumer protection, National banks, Privacy, Reporting and recordkeeping requirements.

12 CFR Part 41

Banks, banking, Consumer protection, National banks, Reporting and recordkeeping requirements.

12 CFR Part 208

Banks, banking, Consumer protection, Information, Privacy, Reporting and recordkeeping requirements.

12 CFR Part 211

Exports, Foreign banking, Holding companies, Reporting and recordkeeping requirements.

12 CFR Part 222

Banks, banking, Holding companies, State member banks.

12 CFR Part 225

Banks, banking, Holding companies, Reporting and recordkeeping requirements.

12 CFR Part 334

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Safety and soundness.

[12] In 2001, the Agencies issued final Guidelines requiring financial institutions to develop and maintain an information security program, including procedures to dispose of customer information, and each agency provided a final regulatory flexibility analysis at that time. *See* 66 FR 8625–32 Feb. 1, 2001.

[13] *See* FFIEC Information Security Booklet, page 63 at: *http://www.ffiec.gov/ffiecinfobase/html_pages/it_01.html#infosec.*

[14] Pub. L. 106–102, 113 Stat. 1338 (1999), codified at 12 U.S.C. 4809.

12 CFR Part 364

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 568

Consumer protection, Privacy, Reporting and recordkeeping requirements, Savings associations, Security measures.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Consumer protection, Holding companies, Privacy, Reporting and recordkeeping requirements, Safety and soundness, Savings associations.

12 CFR Part 571

Consumer protection, Credit, Fair Credit Reporting Act, Privacy, Reporting and recordkeeping requirements, Savings associations.

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons discussed in the joint preamble, 12 CFR part 30 and 12 CFR part 41 (as proposed to be added at 69 FR 23394, April 28, 2004), are proposed to be amended as follows:

PART 30—SAFETY AND SOUNDNESS STANDARDS

1. The authority citation for part 30 is revised to read as follows:

Authority: 12 U.S.C. 93a, 1818, 1831–p and 3102(b); 15 U.S.C. 1681s, 1681w, 6801, and 6805(b)(1).

2. Appendix B to Part 30 is amended by:

a. Amending paragraph I. INTRODUCTION by adding a new sentence at the end of the paragraph;

b. Amending paragraph I.A. by adding a new sentence at the end of the paragraph;

c. Redesignating paragraphs I.C.2.b. through e. as paragraphs I.C.2.d. through g., respectively;

d. Adding new paragraphs I.C.2.b. and c.;

e. Adding a new paragraph II.B.4.;

f. Adding a new paragraph III.C.4.; and

g. Adding new paragraphs III.G.3. and 4. to read as follows:

Appendix B to Part 30—Interagency Guidelines Establishing Standards for Safeguarding Customer Information

* * * * *

I. * * *

* * * These Guidelines also address standards with respect to the proper disposal of consumer information, pursuant to sections 621(b) and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s(b) and 1681w).

A. *Scope.* * * * The Guidelines also apply to the proper disposal of consumer information by such entities.

* * * * *

C. * * *

2. * * *

b. *Consumer information* means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by or on behalf of the bank for a business purpose. Consumer information also means a compilation of such records.

c. *Consumer report* has the same meaning as set forth in 15 U.S.C. 1681a(d).

* * * * *

II. * * *

B. * * *

4. Ensure the proper disposal of consumer information in a manner consistent with the disposal of customer information.

III. * * *

C. * * *

4. Develop, implement, and maintain, as part of its information security program, appropriate measures to properly dispose of consumer information in a manner consistent with the disposal of customer information, in accordance with each of the requirements of this paragraph III.

* * * * *

G. *Implement the Standards.* * * *

3. *Effective date for measures relating to the disposal of consumer information.* Each bank must satisfy these Guidelines with respect to the proper disposal of consumer information by [This date will be 90 days after the date of publication in the **Federal Register** of a final rule].

4. *Exception for existing agreements with service providers relating to the disposal of consumer information.* Notwithstanding the requirement in paragraph III.G.3., a bank's existing contracts with its service providers with regard to any service involving the disposal of consumer information must comply with these Guidelines by [This date will be one year after the date of publication in the **Federal Register** of a final rule].

PART 41—FAIR CREDIT REPORTING

3. The authority citation for part 41 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24 (Seventh), 93a, 481, 484, and 1818; 15 U.S.C. 1681a, 1681b, 1681s, 1681w, 6801 and 6805.

4. Subparts E through H are added and reserved.

5. A new subpart I, consisting of § 41.83, is added to read as follows:

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

§ 41.83 Disposal of consumer information.

(a) *In general.* Each bank must properly dispose of any consumer information that it maintains or otherwise possesses in accordance with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, as set forth in appendix B to 12 CFR part 30.

(b) *Rule of construction.* Nothing in this section shall be construed to:

(1) Require a bank to maintain or destroy any record pertaining to a consumer that is not imposed under any other law; or

(2) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

Dated: May 14, 2004.

John D. Hawke, Jr.,

Comptroller of the Currency.

Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the joint preamble, parts 208, 211, 222, and 225 of chapter II of title 12 of the Code of Federal regulations are proposed to be amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for 12 CFR Part 208 is revised to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1820(d)(9), 1823(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1831x, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909, 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, 78w, 1681s, 1681w, 6801 and 6805; 31 U.S.C. 5318, 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. In § 208.3 revise paragraph (d)(1) to read as follows:

§ 208.3 Application and conditions for membership in the Federal Reserve System.

* * * * *

(d) *Conditions of membership.* (1) *Safety and soundness.* Each member bank shall at all times conduct its business and exercise its powers with due regard to safety and soundness. Each member bank shall comply with the Interagency Guidelines Establishing

Standards for Safety and Soundness prescribed pursuant to section 39 of the FDI Act (12 U.S.C. 1831p–1), set forth in appendix D–1 to this part, and the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805) and, with respect to the proper disposal of consumer information, section 216 of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681w), set forth in appendix D–2 to this part.

* * * * *

3. Amend Appendix D–2 to part 208, as follows:

a. In section I., Introduction, a new sentence is added at the end of the introductory paragraph.

b. In section I.A., Scope, a new sentence is added at the end of the paragraph.

c. In section I.C.2, paragraphs b. through f. are redesignated as paragraphs d. through h., respectively, and new paragraphs b. and c. are added.

d. In section II.B., Objectives, a new paragraph 4 is added.

e. In section III.C., Manage and Control Risk, a new paragraph 4 is added.

f. In section III.G., Implement the Standards, new paragraphs 3 and 4 are added.

Appendix D–2 to Part 208—Interagency Guidelines Establishing Standards for Safeguarding Customer Information

* * * * *

I. * * *

* * * These Guidelines also address standards with respect to the proper disposal of consumer information, pursuant to sections 621(b) and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s(b) and 1681w).

A. *Scope.* * * * These Guidelines also apply to the proper disposal of consumer information by such entities.

* * * * *

C. * * *

2. * * *

b. *Consumer information* means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by or on behalf of the bank for a business purpose. Consumer information also means a compilation of such records.

c. *Consumer report* has the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681a(d), and as defined in subpart A of part 222 (Regulation V) of this chapter.

* * * * *

II. * * *

B. * * *

4. Ensure the proper disposal of consumer information in a manner consistent with the disposal of customer information.

* * * * *

III. * * *

C. * * *

4. Develop, implement, and maintain, as part of its information security program, appropriate measures to properly dispose of consumer information in a manner consistent with the disposal of customer information, in accordance with each of the requirements in this paragraph III.

* * * * *

G. * * *

3. *Effective date for measures relating to the disposal of consumer information.* Each bank must satisfy these Guidelines with respect to the proper disposal of consumer information by [This date will be 90 days after the date of publication in the **Federal Register** of a final rule].

4. *Exception for existing agreements with service providers relating to the disposal of consumer information.* Notwithstanding the requirement in paragraph III.G.3., a bank's existing contracts with its service providers with regard to any service involving the disposal of consumer information must comply with these Guidelines by [This date will be one year after the date of publication in the **Federal Register** of a final rule].

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

4. The authority citation for part 211 is revised to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1835a, 1841 *et seq.*, 3101 *et seq.*, and 3901 *et seq.*; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

5. In § 211.5, revise paragraph (l) to read as follows:

§ 211.5 Edge and agreement corporations.

* * * * *

(l) *Protection of customer information and consumer information.* An Edge or agreement corporation shall comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805) and, with respect to the proper disposal of consumer information, section 216 of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681w), set forth in appendix D–2 to part 208 of this chapter.

* * * * *

6. In § 211.24, revise paragraph (i) to read as follows:

§ 211.24 Approval of offices of foreign banks; procedures for applications; standards for approval; representative-office activities and standards for approval; preservation of existing authority.

* * * * *

(i) *Protection of customer and consumer information.* An uninsured state-licensed branch or agency of a foreign bank shall comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805) and, with respect to the proper disposal of consumer information, section 216 of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681w), set forth in appendix D–2 to part 208 of this chapter.

* * * * *

PART 222—FAIR CREDIT REPORTING (REGULATION V)

7. The authority citation for part 222 is revised to read as follows:

Authority: 15 U.S.C. 1681b, 1681s, and 1681w; Secs. 3 and 217, Pub. L. 108–159, 117 Stat. 1952.

8. Add a new subpart I to read as follows:

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

Sec.

222.80–222.82 [Reserved]

222.83 Disposal of consumer information.

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

§ 222.80–222.82 [Reserved]

§ 222.83 Disposal of consumer information.

(a) *In general.* You must properly dispose of any consumer information that you maintain or otherwise possess in accordance with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, as required under §§ 208.3(d) (Regulation H), 211.5(l) and 211.24(i) (Regulation K), or 225.4(h) (Regulation Y) of this chapter, as applicable.

(b) *Rule of construction.* Nothing in this section shall be construed to:

(1) Require you to maintain or destroy any record pertaining to a consumer that is not imposed under any other law; or

(2) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (Regulation Y)

9. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3310, 3331–3351, 3906, and 3909; 15 U.S.C. 1681(b)(1), 1681s, 1681w, 6801 and 6805.

10. In § 225.4, revise paragraph (h) to read as follows:

§ 225.4 Corporate practices.

* * * * *

(h) *Protection of customer information and consumer information.* A bank holding company, including a bank holding company that is a financial holding company, shall comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, as set forth in appendix F of this part, prescribed pursuant to sections 501 and 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805) and, with respect to the proper disposal of consumer information, section 216 of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681w).

11. In Appendix F to part 225, the following amendments are made:

a. In section I., Introduction, a new sentence is added at the end of the introductory paragraph.

b. In section I.A., Scope, a new sentence is added at the end of the paragraph.

c. In section I.C.2., paragraphs 2.b. through 2.f. are redesignated as paragraphs 2.d. through 2.h., respectively, and new paragraphs 2.b and 2.c are added.

d. In section II.B., Objectives, a new paragraph 4 is added.

e. In section III.C., Manage and Control Risk, a new paragraph 4 is added.

f. In section III.G., Implement the Standards, new paragraphs 3 and 4 are added.

Appendix F To Part 225—Interagency Guidelines Establishing Standards For Safeguarding Customer Information

* * * * *

I. * * *

* * * These Guidelines also address standards with respect to the proper disposal of consumer information, pursuant to sections 621(b) and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s(b) and 1681w).

A. *Scope.* * * * These Guidelines also apply to the proper disposal of consumer information by such entities.

* * * * *

C. *Definitions.* * * *

2. * * *

b. *Consumer information* means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by you or on your behalf for a business purpose. Consumer information also means a compilation of such records.

c. *Consumer report* has the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681a(d), and as defined in subpart A of part 222 (Regulation V) of this chapter.

* * * * *

II. * * *

B. *Objectives.* * * *

* * * * *

4. Ensure the proper disposal of consumer information in a manner consistent with the disposal of customer information.

III. * * *

C. *Manage and Control Risk.* * * *

4. Develop, implement, and maintain, as part of your information security program, appropriate measures to properly dispose of consumer information in a manner consistent with the disposal of customer information, in accordance with each of the requirements in this paragraph III.

* * * * *

G. *Implement the Standards.* * * *

3. *Effective date for measures relating to the disposal of consumer information.* You must satisfy these Guidelines with respect to the proper disposal of consumer information by [This date will be 90 days after the date of publication in the **Federal Register** of a final rule].

4. *Exception for existing agreements with service providers relating to the disposal of consumer information.* Notwithstanding the requirement in paragraph III.G.3., your existing contracts with your service providers with regard to any service involving the disposal of consumer information must comply with these Guidelines by [This date will be one year after the date of publication in the **Federal Register** of a final rule].

By order of the Board of Governors of the Federal Reserve System, May 25, 2004.

Jennifer J. Johnson,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the joint preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 334 (as proposed to be added at 69 FR 2339, April 28, 2004), and 12 CFR part 364 as follows:

PART 334—FAIR CREDIT REPORTING

1. The authority citation for part 334 is revised to read as follows:

Authority: 12 U.S.C. 1818 and 1819 (Tenth); 15 U.S.C. 1681b, 1681s, and 1681w.

2. Add a new subpart I to read as follows:

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

Sec.

334.80–334.82 [Reserved]

334.83 Disposal of consumer information.

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

§ 334.80–334.82 [Reserved]

§ 334.83 Disposal of consumer information.

(a) *In general.* You must properly dispose of any consumer information that you maintain or otherwise possess in accordance with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, as set forth in appendix B to part 364 of this chapter, prescribed pursuant to section 216 of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681w).

(b) *Rule of construction.* Nothing in this section shall be construed to:

(1) Require you to maintain or destroy any record pertaining to a consumer that is not imposed under any other law; or

(2) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

3. The authority citation for part 364 is revised to read as follows:

Authority: 12 U.S.C. 1819 (Tenth), 1831p–1; 15 U.S.C. 1681s, 1681w, 6801(b), 6805(b)(1).

4. Revise § 364.101(b) to read as follows:

§ 364.101 Standards for safety and soundness.

* * * * *

(b) *Interagency Guidelines Establishing Standards for Safeguarding Customer Information.* The Interagency Guidelines Establishing Standards for Safeguarding Customer Information prescribed pursuant to section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1), and sections 501 and 505(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801, 6805(b)), and with respect to the proper disposal of consumer information, requirements pursuant to sections 621(b) and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s(b) and 1681w), as set forth in appendix B to this part, apply to all insured state nonmember banks, insured state licensed branches of foreign banks, and any subsidiaries of such entities

(except brokers, dealers, persons providing insurance, investment companies, and investment advisers).

5. In Appendix B to part 364, the following amendments are made:

a. In the Introduction, a new sentence is added at the end of the introductory paragraph.

b. In section I.A., Scope, the first sentence is revised.

c. In section I.C.2., Definitions, paragraphs 2.b. through 2.e. are redesignated as paragraphs 2.d. through 2.g., respectively, and new paragraphs 2.b. and 2.c. are added.

d. In section II.B., Objectives, a new paragraph 4. is added.

e. In section III.C., Manage and Control Risk, a new paragraph 4. is added.

f. In section III.G, new paragraphs 3. and 4. are added.

Appendix B to Part 364—Interagency Guidelines Establishing Standards for Safeguarding Customer Information

* * * * *

I. Introduction

* * * These Guidelines also address standards with respect to the proper disposal of consumer information pursuant to section 621(b) and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s(b) and 1681w).

A. *Scope.* The Guidelines apply to customer information maintained by or on behalf of, and to the disposal of consumer information by, entities over which the Federal Deposit Insurance Corporation (FDIC) has authority. * * *

* * * * *

C. * * *

2. * * *

b. *Consumer information* means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by or on behalf of the bank for a business purpose. Consumer information also means a compilation of such records.

c. *Consumer report* has the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681a(d).

* * * * *

II. * * *

B. * * *

4. Ensure the proper disposal of consumer information in a manner consistent with the disposal of customer information.

III. * * *

C. * * *

4. Develop, implement, and maintain, as part of its information security program, appropriate measures to properly dispose of consumer information in a manner consistent with the disposal of customer information, in accordance with each of the requirements in this paragraph III.

* * * * *

G. * * *

3. *Effective date.* Each bank must satisfy these Guidelines with respect to the proper disposal of consumer information by [This date will be 90 days after the publication in the **Federal Register** of a final rule.]

4. *Exception for existing agreements with service providers relating to the disposal of consumer information.* Notwithstanding the requirement in paragraph III.G.3., a bank's existing contracts with its service providers with regard to any service involving the disposal of consumer information must comply with these Guidelines by [This date will be one year after the date of publication in the **Federal Register** of a final rule.]

Dated at Washington, DC, this 21st day of May, 2004.

By order of the Board of Directors.
Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Office of Thrift Supervision

12 CFR Chapter V

Authority and Issuance

For the reasons set forth in the joint preamble, the Office of Thrift Supervision proposes to amend chapter V of title 12 of the Code of Federal Regulations by amending parts 568 and 570, and amending part 571 (as proposed to be added at 69 FR 23402, April 28, 2004), as follows:

PART 568—SECURITY PROCEDURES

1. The authority citation for part 568 is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1828, 1831p–1, 1881–1884; 15 U.S.C. 1681s and 1681w; 15 U.S.C. 6801 and 6805(b)(1).

2. Revise the part heading for part 568 to read as shown above.

3. Revise the first sentence of § 568.1(a) to read as follows:

§ 568.1 Authority, purpose, and scope.

(a) This part is issued by the Office of Thrift Supervision (OTS) under section 3 of the Bank Protection Act of 1968 (12 U.S.C 1882), sections 501 and 505(b)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805(b)(1)), and sections 621 and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s and 1681w). * * *

* * * * *

4. Revise § 568.5 to read as follows:

§ 568.5 Protection of customer information.

Savings associations and their subsidiaries (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) must comply with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information set forth in appendix B to part 570 of this chapter.

PART 570—SAFETY AND SOUNDNESS GUIDELINES AND COMPLIANCE PROCEDURES

5. The authority citation for part 570 is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1828, 1831p–1, 1881–1884; 15 U.S.C. 1681s and 1681w; 15 U.S.C. 6801 and 6805(b)(1).

6. Amend Appendix B of part 570 by:

a. Revising the first sentence of the introductory paragraph of section I. *Introduction;*

b. Adding a new sentence to the end of paragraph I.A. *Scope;*

c. Redesignating paragraphs 2.a. through 2.d. of paragraph I.C.2. *Definitions* as paragraphs 2.c. through 2.f., respectively, and adding new paragraphs 2.a. and 2.b.;

d. Adding a new paragraph 4. to paragraph II.B. *Objectives;*

e. Adding a new paragraph 4. to paragraph III.C. *Manage and Control Risk;* and

f. Adding new paragraphs 3. and 4. to paragraph III.G. *Implement the Standards.*

Appendix B to Part 570—Interagency Guidelines Establishing Standards for Safeguarding Customer Information

* * * * *

I. Introduction

The Interagency Guidelines Establishing Standards for Safeguarding Customer Information (Guidelines) set forth standards pursuant to section 39(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1), and sections 501 and 505(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805(b)). These Guidelines also address standards with respect to the proper disposal of consumer information, pursuant to sections 621 and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s and 1681w). * * *

A. *Scope.* * * * These Guidelines also apply to the proper disposal of consumer information by such entities.

* * * * *

C. *Definitions.* * * *

2. * * *

a. *Consumer information* means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by you or on your behalf for a business purpose. Consumer information also means a compilation of such records.

b. *Consumer report* has the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681a(d), and as defined in part 571 of this chapter.

* * * * *

II. * * *

B. *Objectives.* * * *

4. Ensure the proper disposal of consumer information in a manner consistent with the disposal of customer information.

III. * * *

C. *Manage and Control Risk.* * * *

4. Develop, implement, and maintain, as part of your information security program, appropriate measures to properly dispose of consumer information in a manner consistent with the disposal of customer information, in accordance with each of the requirements in this paragraph III.

* * * * *

G. *Implement the Standards.* * * *

3. *Effective date for measures relating to the disposal of consumer information.* You must satisfy these Guidelines with respect to the proper disposal of consumer information by [This date will be 90 days after the date of publication in the **Federal Register** of a final rule].

4. *Exception for existing agreements with service providers relating to the disposal of consumer information.* Notwithstanding the requirement in paragraph III.G.3., your existing contracts with your service providers with regard to any service involving the disposal of consumer information must comply with these Guidelines by [This date will be one year after the date of publication in the **Federal Register** of a final rule].

PART 571—FAIR CREDIT REPORTING

7. The authority citation for part 571 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1828, 1831p–1, 1881–1884; 15 U.S.C. 1681s and 1681w; 15 U.S.C. 6801 and 6805(b)(1).

8. Add a new subpart I to read as follows:

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

Sec.

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

§ 571.80–571.82 [Reserved]

§ 571.83 Disposal of consumer information.

(a) *In general.* You must properly dispose of any consumer information that you maintain or otherwise possess in accordance with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, as set forth in appendix B to part 570 of this chapter.

(b) *Rule of construction.* Nothing in this section shall be construed to:

(i) Require you to maintain or destroy any record pertaining to a consumer that is not imposed under any other law; or

(ii) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

Dated: April 27, 2004.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 04–12317 Filed 6–7–04; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AC84

Deposit Insurance Assessments—Certified Statements

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking with request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) proposes to modernize and simplify its deposit insurance assessment regulations governing certified statements, to provide regulatory burden relief to insured depository institutions. Under the proposal, insured institutions would be required to obtain their certified statements on the Internet via the FDIC's transaction-based e-business website, FDIC*connect.* Correct certified statements would no longer be signed or returned to the FDIC. The semiannual certified statement process would be synchronized with the present quarterly invoice process. Two quarterly certified statement invoices would comprise the semiannual certified statement and reflect the semiannual assessment amount. If an insured institution agrees with its quarterly certified statement invoice, it would simply pay the assessed amount and retain the invoice in its own files. If it disagrees with the quarterly certified statement invoice, it would either amend its report of condition or similar report (to correct data errors) or amend its quarterly certified statement invoice (to correct calculation errors). The FDIC would automatically treat either as the insured institution's request for revision of its assessment computation, eliminating the requirement of a separate filing. These proposed changes, which would reduce the time and effort required to comply with the certified statement process, result from the FDIC's ongoing program under the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) to provide regulatory burden relief to insured depository institutions.

DATES: Comments must be submitted on or before August 9, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Agency Web site: *http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the FDIC Web site.
- E-mail: *comments@FDIC.gov.* Include ''Part 327—Certified Statements'' in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery/Courier: Comments may be hand-delivered to the guard station located at the rear of the FDIC's 17th Street building (accessible from F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name and use the title ''Part 327—Certified Statements.'' The FDIC may post comments on its Internet site at: *http://www.fdic.gov/regulations/laws/federal/propose.html.* Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Steve Wagoner, Senior Assessment Specialist, Division of Finance, (202) 416–7152; Linda A. Abood, Supervisory IT Specialist, Division of Information Resources Management, (703) 516–1202; or Christopher Bellotto, Counsel, (202) 898–3801, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

The FDIC is proposing to amend 12 CFR 327.2 to modernize and simplify the certified statement process and to reduce the regulatory burden on insured depository institutions under its ongoing EGRPRA program. At present, the FDIC issues to each insured depository institution two deposit insurance invoices each semiannual period. The second invoice received during the semiannual period is the certified statement. An insured