



Offices of Inspector General

Department of the Treasury
Federal Deposit Insurance Corporation
Board of Governors of the Federal Reserve System
and Consumer Financial Protection Bureau

Status of the Transfer of Office of Thrift Supervision Functions

OIG-13-035
AUD-13-005
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March 27, 2013

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Abbreviations

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|------|--------------------------------------------------|
| FDIC | Federal Deposit Insurance Corporation |
| FRB | Board of Governors of the Federal Reserve System |
| FTR | Federal Thrift Regulator |
| NBE | National Bank Examiner |
| OCC | Office of the Comptroller of the Currency |
| OIG | Office of Inspector General |
| OTS | Office of Thrift Supervision |
| Plan | Joint Implementation Plan |
| UCE | Uniform Commission Examination |

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Offices of Inspector General

March 27, 2013

Ben S. Bernanke, Chairman
Board of Governors of the Federal Reserve System

Martin J. Gruenberg, Chairman
Federal Deposit Insurance Corporation

Thomas J. Curry, Comptroller of the Currency
Office of the Comptroller of the Currency

This report presents the results of our offices' fifth joint review of the transfer, pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or the Act), of the functions, employees, funds, and property of the former Office of Thrift Supervision (OTS) to the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC). In accordance with Title III of the Act, the transfer occurred in July 2011.

As discussed below under the background section, our joint reviews are mandated by Section 327 of Title III of the Act. Our first joint review determined whether the Joint Implementation Plan (Plan) for the transfer prepared by FRB, FDIC, OCC, and OTS conformed to relevant Title III provisions. After the initial joint review of the Plan, Section 327 requires that every 6 months we jointly provide a written report on the status of the implementation of the Plan to FRB, FDIC, and OCC, with a copy to the Congress. This is our fourth joint status report issued under this requirement.

The objective of our current review was to determine and report on the status of the implementation of the Plan. To accomplish our

objective, we reviewed the actions FRB and OCC¹ have taken to implement the Plan since our last report, issued on September 26, 2012, through January 31, 2013. Our work focused on the items related to the Plan that were ongoing or were not yet required to be completed as identified in our last report. As part of our work, we interviewed officials from FRB and OCC and reviewed relevant documentation. We conducted our fieldwork from October 2012 through January 2013. Appendix 1 contains a detailed description of our objective, scope, and methodology. A list of our prior joint reports issued pursuant to Section 327 is provided as appendix 2.

In brief, we concluded that for the period reviewed (September 26, 2012, through January 31, 2013) procedures and safeguards were maintained as outlined in the Plan to ensure that transferred employees are not unfairly disadvantaged.

Background

Title III of the Dodd-Frank Act sets forth provisions to address problems and concerns in the multiple agency financial regulatory system by transferring OTS's powers and authorities to FRB, FDIC, and OCC on July 21, 2011 (the "transfer date") and abolishing OTS. All OTS functions related to federal savings associations, all OTS rulemaking authority for federal and state savings associations,² and the majority of OTS employees transferred to OCC; OTS's supervisory responsibility for state-chartered savings associations and OTS employees to support these responsibilities transferred to FDIC;³ and OTS's authority for consolidated supervision of savings and loan holding companies and their non-depository subsidiaries transferred to FRB. No OTS employees were required to be transferred to FRB.

¹ In our last report, issued on September 26, 2012, we identified no ongoing issues related to FDIC's implementation of the Plan. Therefore, no additional review of the actions FDIC had taken to implement the Plan was deemed necessary for this 6-month reporting period.

² In some instances, FDIC, as the federal banking agency for state savings associations, is authorized by statute to issue regulations pertaining to state savings associations.

³ FDIC accepted the transfer of other OTS employees to fill actual and, to a limited extent, other anticipated vacancies.

Section 327(a) of Title III required FRB, FDIC, OCC, and OTS to jointly submit a plan within 180 days of enactment to Congress and the Inspectors General of FRB, FDIC, and Treasury detailing the steps necessary to implement the provisions of Sections 301 through 326. The Inspectors General and Congress received the Plan fulfilling this requirement on January 25, 2011.

Section 327(b) of Title III required that within 60 days of receiving the Plan, the Inspectors General of FRB, FDIC, and Treasury jointly provide a written report to FRB, FDIC, OCC, and OTS, with copies to Congress, that detailed whether the Plan conformed to the requisite provisions and include any additional recommendations for an orderly and effective process. The Inspectors General jointly issued that report, *Review of the Joint Implementation Plan for the Transfer of Office of Thrift Supervision Functions*, on March 28, 2011, fulfilling this requirement. Based on that review, we concluded that the Plan generally conformed to the relevant provisions of Title III. We noted, however, that the Plan did not address the prohibition in Title III against the involuntary separation or the involuntary reassignment of a transferred OTS employee outside the employee's locality pay area for 30 months (except under certain circumstances). In response, the agencies amended the Plan in April 2011.

Section 327(c) of Title III requires that, within 6 months of Congress receiving the report, the Inspectors General of FRB, FDIC, and Treasury must jointly provide a written report on the status of the implementation of the Plan to FRB, FDIC, and OCC, with a copy to Congress. Further, the Inspectors General of FRB, FDIC, and Treasury must jointly provide such a written report every 6 months thereafter until all aspects of the Plan have been implemented. The Inspectors General issued three reports on September 28, 2011, March 21, 2012, and September 26, 2012, respectively, under this requirement.

In the September 2011 report, we concluded that FRB, FDIC, OCC, and OTS had substantially implemented the actions in the Plan that were necessary to transfer OTS functions, employees, funds, and property to FRB, FDIC, and OCC, as required. However, we identified certain aspects of the Plan that were ongoing or were not yet required to be completed as provided in Title III of the Act. In

the March 2012 report, we concluded that FRB, FDIC, OCC, and OTS implemented the actions in the Plan that were necessary to transfer OTS functions, employees, and funds to FRB, FDIC, and OCC, as appropriate. In this regard, all OTS property was transferred to FRB, FDIC, and OCC; and procedures and safeguards were in place at FDIC and OCC as outlined in the Plan to ensure that transferred employees are not unfairly disadvantaged. However, we identified certain items that were ongoing or were not yet required to be completed as provided in Title III of the Act related to (1) the procedures and safeguards in place to ensure that transferred employees are not unfairly disadvantaged, (2) the transfer of property, and (3) the collection of supervisory assessments by FRB. In the September 2012 report, we concluded that procedures and safeguards were in place as outlined in the Plan to ensure that transferred employees are not unfairly disadvantaged; and that the actions in the Plan that were necessary to transfer OTS property to OCC were implemented. However, as discussed below, we identified certain items related to additional certification for certain transferred OTS examiners and collection of supervisory assessments by FRB were still ongoing.

Results of the Joint Review

We concluded that procedures and safeguards as outlined in the Plan to ensure that transferred OTS employees are not unfairly disadvantaged were in place and maintained during this 6-month reporting period. Following is an update to certain open items discussed in our September 2012 report.

Additional OCC Certification for Certain Transferred OTS Examiners

In our prior reports, we identified that former OTS officials and employees had expressed concerns related to OCC plans for requiring additional certification for certain transferred OTS examiners before they would be able to supervise national bank examinations.⁴ We reported that OCC had contracted with a consultant who identified differences between the OTS examiner

⁴ FDIC did not require additional certification for transferred OTS examiners before they were able to supervise FDIC-regulated bank examinations.

accreditation process and the OCC Uniform Commission Examination (UCE) process. We also reported that the consultant was validating the UCE. In this regard, the consultant was analyzing the duties of OCC's recently revised National Bank Examiner (NBE) position⁵ to determine whether necessary changes were incorporated in the UCE. The consultant, in collaboration with OCC, validated the revised UCE on April 12, 2012.

As an open item, we previously reported that OCC contracted with the same consultant in October 2011 to assist in developing an alternative qualification process for certain OTS examiners to acquire the NBE commission without taking the full UCE; one that would take the examiner's experience into consideration. This alternative process was to also include a process to certify existing NBEs as qualified to lead examinations of federal savings associations. As an update, we found that the consultant has completed its study and that OCC implemented the alternative qualification process and the revised UCE on January 14, 2013, and January 28, 2013, respectively.

The alternative qualification process addresses the gaps between the testing processes used to award the OCC NBE and OTS Federal Thrift Regulator (FTR) credentials. Specifically, it addresses the differences between national banks and federal savings associations for examination purposes. To address these gaps, OCC designed two cross-certification tests, one for NBEs to demonstrate competency with federal savings associations examinations and one for FTRs to demonstrate competency with national bank examinations. As an additional requirement for the NBE credentials, FTRs are required to complete a loan exercise that was part of the legacy UCE but not part of the legacy FTR testing program. The cross-certification tests were developed by a team that included both OCC and former OTS examiners.

FRB Supervisory Assessments

As previously reported, for savings and loan holding companies and bank holding companies with consolidated assets of \$50 billion or

⁵ National Bank Examiners certified under the new UCE are qualified to supervise both national banks and federal savings associations.

more, and nonbank financial companies that FRB is required to supervise pursuant to the Dodd-Frank Act, FRB is to collect assessments, fees, or other charges equal to the expenses FRB estimates are necessary or appropriate to carry out its supervisory and regulatory responsibilities. To address this requirement, we reported in September 2012 that a notice of proposed rulemaking for the assessments, fees, and other charges was under review and expected to be available for public comment in the fourth quarter of 2012. As an update, the notice of proposed rulemaking is still under review and is expected to be published in the first quarter of 2013. The collection of assessments, fees, and other charges is anticipated to begin in 2013.

Management Response

We provided a draft of this report to FRB, FDIC, and OCC. We received written responses from FRB and OCC and informal comments from FDIC.

FRB stated in its written response that it is working diligently to complete the proposed rulemaking and expects the proposal will be issued by the end of the first quarter or the beginning of the second quarter. FDIC agreed with the conclusions contained in the report that FDIC has implemented the actions required to date in the Plan. OCC stated in its written response that it agrees with the conclusions in our report.

FRB's and OCC's written responses are included in this report as appendices 3 and 4, respectively.

* * * * *

We appreciate the courtesies and cooperation provided to our staffs during the audit. If you wish to discuss the report, you may contact Marla A. Freedman, Assistant Inspector General for Audit, Treasury OIG, at (202) 927-5400; E. Marshall Gentry, Assistant Inspector General for Evaluations, FDIC OIG, at (703) 562-6378; or Timothy P. Rogers, Acting Associate Inspector General for

Inspections and Evaluations, FRB OIG, at (202) 973-5042. Major contributors to this report are listed in appendix 5.

/s/

Eric M. Thorson
Inspector General
Department of the
Treasury

/s/

Jon T. Rymer
Inspector General
Federal Deposit Insurance
Corporation

/s/

Mark Bialek
Inspector General
Board of Governors of the
Federal Reserve System
and Consumer Financial
Protection Bureau

As required by Title III, *Transfer of Powers to the Comptroller of the Currency, the Corporation, and the Board of Governors*, of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) prepared a Joint Implementation Plan (Plan) to accomplish the transfer of functions, employees, property, and funds of OTS as well as implement other provisions of Title III. We conducted this joint review to fulfill our requirement under Section 327(c) of Title III. This section requires the Inspectors General of FRB, FDIC, and the Department of the Treasury (Treasury) to provide a written report on the status of the implementation of the Plan every 6 months until all aspects of the Plan are implemented. The period covered by our audit is September 26, 2012, to January 31, 2013.

For the most part, as we jointly reported previously under the above requirement, the Plan has been implemented in that the functions, people, and property of OTS have transferred in accordance with Title III and the Plan. However, there remain certain open items and time-limited provisions impacting former OTS employees that we continue to monitor. For this reporting period, we reviewed

- certain items related to the collection of supervisory assessments by FRB, and
- additional certification requirements for certain transferred OTS examiners.

For FRB

- We interviewed senior supervisory financial analysts from the Division of Banking Supervision and Regulation and an Assistant Director from the Division of Financial Management.
- We reviewed relevant FRB documentation pertaining to supervisory assessments.

For OCC

- We interviewed the Senior Advisor for Examiner Workforce Planning for Midsize Community Bank Supervision.
- We reviewed the final report of the consultant hired by OCC to assist in developing an alternative qualification process for certain OTS examiners to acquire the National Bank Examiner commission without taking the full Uniform Commission Examination.

In our last report, issued on September 26, 2012, we identified no ongoing issues related to FDIC's implementation of the Plan. In addition, FDIC has not been advised of any new issues regarding the Plan. Therefore, FDIC OIG did not perform field work for this 6-month reporting period.

Consistent with our objective, we did not assess FRB's or OCC's overall internal control or management control structure; obtain data from their information systems; or assess the effectiveness of their information system controls. We conducted our fieldwork at FRB and OCC in Washington, DC, from October 2012 to January 2013.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Review of the Joint Implementation Plan for the Transfer of Office of Thrift Supervision Functions; OIG-11-064, Department of the Treasury (Treasury) Office of Inspector General (Treasury OIG); FRB OIG 2011-02, Board of Governors of the Federal Reserve System and Consumer Financial Protection Bureau OIG (FRB OIG); EVAL-11-002, Federal Deposit Insurance Corporation OIG (FDIC OIG) (Mar. 28, 2011)

Status of the Transfer of Office of Thrift Supervision Functions, OIG-11-109, Treasury OIG; FRB OIG 2011-04, FRB OIG; EVAL-11-005, FDIC OIG (Sep. 28, 2011)

Treasury OIG, FRB OIG, and FDIC OIG, *Status of the Transfer of Office of Thrift Supervision Functions*: OIG-12-046, Treasury OIG; FRB OIG 2012-01, FRB OIG; EVAL-12-004, FDIC OIG (Mar. 21, 2012)

Treasury OIG, FRB OIG, and FDIC OIG, *Status of the Transfer of Office of Thrift Supervision Functions*; OIG-12-075, Treasury OIG; FRB OIG 2012-09, FRB OIG; AUD-12-015, FDIC OIG (Sep. 26, 2012)



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

SCOTT G. ALVAREZ
GENERAL COUNSEL

March 18, 2013

Mr. Mark Bialek
Inspector General
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Dear Mr. Bialek:

Thank you for the opportunity to comment on your draft report about the status of the Federal Reserve Board's ("Board") implementation of Title III the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank"). We appreciate the report's recognition that, as of September 2011, the Board had substantially implemented the actions in the Joint Implementation Plan that are necessary to transfer the functions, employees, funds, and property of the Office of Thrift Supervision to the Board, as applicable.

The report states that the Board will issue a notice of proposed rulemaking in the first quarter of 2013 under section 318(c) of the Dodd-Frank Act to collect assessments from bank holding companies and savings and loan holding companies with consolidated assets of \$50 billion or more and nonbank financial companies supervised by the Board for the estimated cost of supervising and regulating those companies. We are working diligently to complete the proposed rulemaking and expect the proposal will be issued shortly, either by the end of the first quarter or in the beginning of the second quarter.

We are happy to discuss any questions you may have.

Sincerely,

/s/

Scott G. Alvarez
General Counsel

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MEMORANDUM

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

To: Eric M. Thorson, Inspector General, Department of the Treasury
Jon T. Rymer, Inspector General, Federal Deposit Insurance Corporation
Mark Bialek, Inspector General, Board of Governors of the Federal Reserve System

From: Thomas J. Curry, Comptroller of the Currency /s/

Date: March 25, 2013

Subject: Comments on Draft Report on Joint Implementation Plan

We have received and reviewed your draft report titled “Status of the Transfer of Office of Thrift Supervision Functions.” Your overall objective, as defined by section 327 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), was to determine and report on the status of the implementation of the Joint Implementation Plan (Plan). The Plan was developed by the agencies to carry out the provisions of Title III of the Dodd-Frank Act, transferring the powers of the Office of Thrift Supervision (OTS) to the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Board of Governors of the Federal Reserve System (FRB).

You concluded for the period reviewed (September 26, 2012 through January 31, 2013) that procedures and safeguards were maintained as outlined in the Plan to ensure that transferred OTS employees are not unfairly disadvantaged.

We agree with your conclusion. Thank you for the opportunity to review and comment on the draft report. If you need additional information, please contact Thomas R. Bloom, Senior Deputy Comptroller for Management and Chief Financial Officer, at 202-649-5480.

**Board of Governors of the Federal Reserve System and Consumer
Financial Protection Bureau Office of Inspector General (OIG)**

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United States Senate

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Committee on Banking, Housing, and Urban Affairs

U.S. House of Representatives

Chairman and Ranking Member
Committee on Financial Services