included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 25th day of July, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–20045 Filed 7–29–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Revised Policy Statement on Securities Lending

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of revised policy statement.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), the FDIC is adopting revisions recently made by the Federal Financial Institutions Examination Council (FFIEC) to its policy statement on securities lending (policy statement). The policy statement provides guidance to insured depository institutions about conducting securities lending in a safe and sound manner. The FDIC is adopting certain minor changes to the policy statement which the FFIEC has made to update outdated and duplicative cross-references to other supervisory documents, but is otherwise retaining the policy statement in its present form.

EFFECTIVE DATE: July 30, 1997.

FOR FURTHER INFORMATION CONTACT: William A. Stark, Assistant Director, (202/898–6972), Kenton Fox, Senior Capital Markets Specialist, (202/898–7119), Division of Supervision; Jamey Basham, Counsel, (202/898–7265), Legal Division, FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI (12 U.S.C. 4803(a)) requires the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Office of Thrift Supervision (OTS) (collectively, the federal banking agencies) to each streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires each of the federal banking agencies to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

The FFIEC developed the Policy Statement to provide general supervisory guidance to insured depository institutions that lend their own securities or customers' securities to securities brokers, commercial banks, and others. The policy statement requires banks to establish written policies and procedures governing securities lending operations. Areas addressed in the policy statement include recordkeeping, administration, credit analysis, credit limits, collateral management, and the use of finders. The OCC, FRB, and FDIC adopted the policy statement, with the FDIC's adoption taking place on May 6, 1985. 2 FDIC, Law, Regulations, and Related Acts (FDIC) 5249.

On July 21, 1997, FFIEC published a notice making minor changes to the Policy Statement, in order to update certain outdated cross-references to other supervisory documents. 62 FR 38991. First, the extended discussion of how to report securities lending activities on the Consolidated Reports of Condition and Income (call report) has been replaced with a cross-reference to the call report instructions themselves, which have superseded the material in the Policy Statement. Second, footnote 3, which recited the types of collateral a broker/dealer was permitted to pledge under the FRB's Regulation T (12 CFR 220.16), has been removed because it no longer accurately reflected all types of collateral permitted under Regulation T. These two changes will also eliminate unnecessary duplication and reduce the possibility of error in the event of future changes to the call report instructions or Regulation T. Third, two citations to Prohibited Transaction Exemptions issued by the Department of Labor concerning securities lending programs for employee benefit plans covered by the Employee Retirement Income Security Act have been corrected.

Consistent with the goals of the CDRI review, the FDIC is adopting FFIEC's modifications to the Policy Statement, thereby eliminating certain outdated and duplicative material contained therein. The modified Policy Statement reads as follows.

Federal Financial Institutions Examination Council Supervisory Policy

Securities Lending

Purpose

Financial institutions are lending securities with increasing frequency. In some instances a financial institution may lend its own investment or trading account securities. More and more often, however, financial institutions lend customers' securities held in custody, safekeeping, trust or pension accounts. Not all institutions that lend securities or plan to do so have relevant experience. Because the securities available for lending often greatly exceed the demand for them, inexperienced lenders may be tempted to ignore commonly recognized safeguards. Bankruptcies of broker-dealers have heightened regulatory sensitivity to the potential for problems in this area. Accordingly, we are providing the following discussion of guidelines and regulatory concerns.

Securities Lending Market

Securities brokers and commercial banks are the primary borrowers of securities. They borrow securities to cover securities fails (securities sold but not available for delivery), short sales, and option and arbitrage positions. Securities lending, which used to involve principally corporate equities and debt obligations, increasingly involves loans of large blocks of U.S. government and federal agency securities.

Securities lending is conducted through open-ended ''loan'' agreements, which may be terminated on short notice by the lender or borrower.[1] The objective of such lending is to receive a safe return in addition to the normal interest or dividends. Securities loans are generally collateralized by U.S. government or federal agency securities,

[1] Repurchase agreements, generally used by owners of securities as financing vehicles are, in certain respects, closely analogous to securities lending. Repurchase agreements however, are not the direct focus of these guidelines. A typical repurchase agreement has the following distinguishing characteristics:

—The sale and repurchase (loan) of U.S. government or federal agency securities.

—Cash is received by the seller (lender) and the party supplying the funds receives the collateral margin.

—The agreement is for a fixed period of time.

—A fee is negotiated and established for the transaction at the outset and no rebate is given to the borrower from interest earned on the investment of cash collateral.

—The confirmation received by the financial institution from a borrower broker/dealer classifies the transaction as a repurchase agreement.

cash, or letters of credit.[2] At the outset, each loan is collateralized at a predetermined margin. If the market value of the collateral falls below an acceptable level during the time a loan is outstanding, a margin call is made by the lender institution. If a loan becomes over-collateralized because of appreciation of collateral or market depreciation of a loaned security, the borrower usually has the opportunity to request the return of any excessive margin.

When a securities loan is terminated, the securities are returned to the lender and the collateral to the borrower. Fees received on securities loans are divided between the lender institution and the customer account that owns the securities. In situations involving cash collateral, part of interest earned on the temporary investment of cash is returned to the borrower and the remainder is divided between the lender institution and the customer account that owns the securities.

Definitions of Capacity

Securities lending may be done in various capacities and with differing associated liabilities. It is important that all parties involved understand in what capacity the lender institution is acting. For the purposes of these guidelines, the relevant capacities are:

Principal: A lender institution offering securities from its own account is acting as principal. A lender institution offering customers' securities on an undisclosed basis is also considered to be acting as principal.

Agent: A lender institution offering securities on behalf of a customer-owner is acting as an agent. For the lender institution to be considered a bona fide or ''fully disclosed'' agent, it must disclose the names of the borrowers to the customer-owners (or give notice that names are available upon request), and must disclose the names of the customer-owner to borrowers (or give notice that names are available upon request). In all cases the agent's compensation for handling the transaction should be disclosed to the customer-owner. Undisclosed agency transactions, i.e., ''blind brokerage'' transactions in which participants cannot determine the identity of the counterparty, are treated as if the lender institution were the principal. (See definition above.)

[2] Brokers and dealers registered with the Securities and Exchange Commission are generally subject to the restrictions of the Federal Reserve Board's Regulation T (12 CFR part 220) when they borrow or lend securities. Regulation T specifies acceptable borrowing purposes and any applicable collateral requirements for these transactions.

Directed Agent: A lender institution which lends securities at the direction of the customer-owner is acting as a directed agent. The customer directs the lender institution in all aspects of the transaction, including to whom the securities are loaned, the terms of the transaction (rebate rate and maturity/call provisions on the loan), acceptable collateral, investment of any cash collateral, and collateral delivery.

Fiduciary: A lender institution which exercises discretion in offering securities on behalf of and for the benefit of customer-owners is acting as a fiduciary. For purposes of these guidelines, the underlying relationship may be as agent, trustee, or custodian.

Finder: A finder brings together a borrower and a lender of securities for a fee. Finders do not take possession of the securities or collateral. Securities and collateral are delivered directly by the borrower and the lender without the involvement of the finder. The finder is simply a fully disclosed intermediary.

Guidelines

All financial institutions that participate in securities lending should establish written policies and procedures governing these activities. At a minimum, policies and procedures should cover each of the topics in these guidelines.

Recordkeeping

Before establishing a securities lending program, a financial institution must establish an adequate recordkeeping system. At a minimum, the system should produce daily reports showing which securities are available for lending, and which are currently lent, outstanding loans by borrower, outstanding loans by account, new loans, returns of loaned securities, and transactions by account. These records should be updated as often as necessary to ensure that the lender institution fully accounts for all outstanding loans, that adequate collateral is required and maintained, and that policies and concentration limits are being followed.

Administrative Procedures

All securities lent and all securities standing as collateral must be marked to market daily. Procedures must ensure that any necessary calls for additional margin are made on a timely basis.

In addition, written procedures should outline how to choose the customer account that will be the source of lent securities when they are held in more than one account. Possible methods include: loan volume analysis, automated queue, a lottery, or some combination of these methods. Securities loans should be fairly allocated among all accounts participating in a securities lending program.

Internal controls should include operating procedures designed to segregate duties and timely management reporting systems. Periodic internal audits should assess the accuracy of accounting records, the timeliness of management reports, and the lender institution's overall compliance with established policies and procedures.

Credit Analysis and Approval of Borrowers

In spite of strict standards of collateralization, securities lending activities involve risk of loss. Such risks may arise from malfeasance or failure of the borrowing firm or institution. Therefore, a duly established management or supervisory committee of the lender institution should formally approve, in advance, transactions with any borrower.

Credit and limit approvals should be based upon a credit analysis of the borrower. A review should be performed before establishing such a relationship and reviews should be conducted at regular intervals thereafter. Credit reviews should include an analysis of the borrower's financial statement, and should consider capitalization, management, earnings, business reputation, and any other factors that appear relevant. Analyses should be performed in an independent department of the lender institution, by persons who routinely perform credit analyses. Analyses performed solely by the person(s) managing the securities lending program are not sufficient.

Credit and Concentration Limits

After the initial credit analysis, management of the lender institution should establish an individual credit limit for the borrower. That limit should be based on the market value of the securities to be borrowed, and should take into account possible temporary (overnight) exposures resulting from a decline in collateral values or from occasional inadvertent delays in transferring collateral. Credit and concentration limits should take into account other extensions of credit by the lender institution to the same borrower or related interests. Such information, if provided to an institution's trust department conducting a securities lending program, would not be considered material inside information and therefore, not violate ''Chinese Wall'' policies designed to protect against the misuse of material inside information. Violation of securities laws would arise only if material inside information were used in connection with the purchase or sale of securities.

Procedures should be established to ensure that credit and concentration limits are not exceeded without proper authorization from management.

When a lender institution is lending its own securities as principal, statutory lending limits may apply. For national banks and federal savings associations, the limitations in 12 U.S.C. 84 apply. For state-chartered institutions, state law and applicable federal law must be considered. Certain exceptions may exist for loans that are fully secured by obligations of the United States government and federal agencies.

Collateral Management

Securities borrowers pledge and maintain collateral at least 100 percent of the value of the securities borrowed.[3] The minimum amount of excess collateral, or ''margin'', acceptable to the lender institution should relate to price volatility of the loaned securities and the collateral (if other than cash).[4] Generally, the minimum initial collateral on securities loans is at least 102 percent of the market value of the lent securities plus, for debt securities, any accrued interest.

Collateral must be maintained at the agreed margin. A daily ''mark-to-market'' or valuation procedure must be in place to ensure that calls for additional collateral are made on a timely basis. The valuation procedures should take into account the value of accrued interest on debt securities.

Securities should not be lent unless collateral has been received or will be received simultaneously with the loan. As a minimum step toward perfecting the lender's interest, collateral should be delivered directly to the lender institution or an independent third party trustee.

Cash as Collateral

When cash is used as collateral, the lender institution is responsible for making it income productive. Lenders should establish written guidelines for selecting investments for cash collateral. Generally, a lender institution will invest cash collateral in repurchase agreements, master notes, a short-term investment fund, U.S. or Eurodollar certificates of deposits, commercial paper or some other type of money market instrument. If the lender institution is acting in any capacity other than as principal, the written agreement authorizing the lending relationship should specify how cash collateral is to be invested.

Investing cash collateral in liabilities of the lender institution or its holding company would be an improper conflict of interest unless that strategy was specifically authorized in writing by the owner of the lent securities. Written authorizations for participating accounts are further discussed later in these guidelines.

Letters of Credit as Collateral

Since May 1982, letters of credit have been permitted as collateral in certain securities lending transactions outlined in Federal Reserve Regulation T. If a lender institution plans to accept letters of credit as collateral, it should establish guidelines for their use. Those guidelines should require a credit analysis of the financial institution issuing the letter of credit before securities are lent against that collateral. Analyses must be periodically updated and reevaluated. The lender institution should also establish concentration limits for the institutions issuing letters of credit and procedures should ensure that they are not exceeded. In establishing concentration limits on letters of credit accepted as collateral, the lender institution's total outstanding credit exposures from the issuing institution should be considered.

Written Agreements

Securities should be lent only pursuant to a written agreement between the lender institution and the owner of the securities specifically authorizing the institution to offer the securities for loan. The agreement should outline the lender institution's authority to reinvest cash collateral (if any) and responsibilities with regard to custody and valuation of collateral. In addition, the agreement should detail the fee or compensation that will go to the owner of the securities in the form of a fee schedule or other specific provision. Other items which should be covered in the agreement have been discussed earlier in these guidelines.

A lender institution must also have written agreements with the parties who wish to borrow securities. These agreements should specify the duties and responsibilities of each party. A written agreement may detail: Acceptable types of collateral (including letters of credit); standards for collateral custody and control, collateral valuation and initial margin, accrued interest, marking to market, and margin calls; methods for transmitting coupon or dividend payments received if a security is on loan on a payment date; conditions which will trigger the termination of a loan (including events of default); and acceptable methods of delivery for loaned securities and collateral.

Use of Finders

Some lender institutions may use a finder to place securities, and some financial institutions may act as finders. A finder brings together a borrower and a lender for a fee. Finders should not take possession of securities or collateral. The delivery of securities loaned and collateral should be direct between the borrower and the lender. A finder should not be involved in the delivery process.

The finder should act only as a fully disclosed intermediary. The lender institution must always know the name and financial condition of the borrower of any securities it lends. If the lender institution does not have that information it and its customers are exposed to unnecessary risks.

Written policies should be in place concerning the use of finders in a securities lending program. These policies should cover the circumstances in which a finder will be used, which party pays the fee (borrower or lender), and which finders the lender institution will use.

Employee Benefit Plans

The Department of Labor has issued two class exemptions which deal with securities lending programs for employee benefit plans covered by the Employee Retirement Income Security Act (ERISA)—Prohibited Transaction Exemption 81–6 (46 FR 7527 (January 23, 1981), supplemented 52 FR 18754 (May 19, 1987)), and Prohibited Transaction Exemption 82–63 (47 FR 14804 (April 6, 1982) and correction published at 47 FR 16437 (April 16, 1982)). The exemptions authorize transactions which might otherwise constitute unintended ''prohibited transactions'' under ERISA. Any institution engaged in lending of securities for an employee benefit plan subject to ERISA should take all steps necessary to design and maintain its program to conform with these exemptions. Prohibited Transaction Exemption 81–6 permits the lending of securities owned by employee benefit

[3] Employee Benefit Plans subject to the Employee Retirement Income Security Act are specifically required to collateralize securities loans at a minimum of 100 percent of the market value of loaned securities (see section concerning Employee Benefit Plans).

[4] The level of margin should be dictated by level of risk being underwritten by the securities lender. Factors to be considered in determining whether to require margin above the recommended minimum include: the type of collateral, the maturity of collateral and lent securities, the term of the securities loan, and the costs which may be incurred when liquidating collateral and replacing loaned securities.

plans to persons who could be ''parties in interest'' with respect to such plans, provided certain conditions specified in the exemption are met. Under those conditions neither the borrower nor an affiliate of the borrower can have discretionary control over the investment of plan assets, or offer investment advice concerning the assets, and the loan must be made pursuant to a written agreement. The exemption also establishes a minimum acceptable level for collateral based on the market value of the loaned securities.

Prohibited Transaction Exemption 82–63 permits compensation of a fiduciary for services rendered in connection with loans of plan assets that are securities. The exemption details certain conditions which must be met.

Indemnification

Certain lender institutions offer participating accounts indemnification against losses in connection with securities lending programs. Such indemnifications may cover a variety of occurrences including all financial loss, losses from a borrower default, or losses from collateral default. Lender institutions that offer such indemnification should obtain a legal opinion from counsel concerning the legality of their specific form of indemnification under federal and/or state law.

A lender institution which offers an indemnity to its customers may, in light of other related factors, be assuming the benefits and, more importantly, the liabilities of a principal. Therefore, lender institutions offering indemnification should also obtain written opinions from their accountants concerning the proper financial statement disclosure of their actual or contingent liabilities.

Regulatory Reporting

Securities borrowing and lending transactions should be reported by commercial banks according to the Instructions for the Consolidated Reports of Condition and Income and by thrifts according to Thrift Financial Report instructions.

By order of the Board of Directors.

Dated at Washington, D.C. this 22nd day of July, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–19964 Filed 7–29–97; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–121]

Notice of Availability of Administrative Reports of Health Effects Studies

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of administrative reports of 20 ATSDR health effects studies and associated publications.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Lybarger, M.D., MS, Director, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–31, Atlanta, Georgia 30333, telephone (404) 639–6200.

SUPPLEMENTARY INFORMATION: Sections 104(i) (1), (7), (8), and (9) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 U.S.C. 9604(i) (1), (7), (8), and (9), provide the Administrator of ATSDR with the authority to conduct pilot studies and epidemiologic and other health studies, and to initiate health surveillance programs to determine the relationship between human exposure to hazardous substances in the environment and adverse health outcomes.

On February 13, 1990, ATSDR published in the **Federal Register** (55 FR 5136) a final rule entitled, ''Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities.'' The primary purpose of that rule, which created a new regulation at 42 CFR part 90, was to set forth general procedures that ATSDR will follow relating to certain agency activities, including the conduct of health effects studies. Section 90.11 of the regulation concerns the reporting of results of health assessments and health effects studies, and provides that reports of health effects studies conducted under section 104(i) of CERCLA be available to the general public upon request.

Availability: The reports of the health effects studies and associated publications in the following list are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22151, telephone 1–800–553–6847 or 703–487–4650. There is a charge for these items as determined by NTIS.

Health effects study	NTIS document Number
Southbend Subdivision Health Outcomes Study, Harris County, Texas, ATSDR/HS–95–57	PB95–265518
Biologic Indicators of Exposure to Lead, RSR Smelter Site, Dallas, Texas, ATSDR/HS–95–59	PB95–265500
Fort Hall Air Emissions Study, Fort Hall Indian Reservation, Fort Hall, Idaho,	PB96–109046
A Population-Based Case-Control Study of Lung Cancer Mortality in Four Arizona Smelter Towns, ATSDR/HS–95–61	PB96–109038
McClellan Air Force Base Cross-Sectional Health Study, Sacramento, Sacramento County, California, ATSDR/HS–95–62	PB96–138144
Lead and Cadmium Exposure Study, Galena, Kansas, ATSDR/HS–95–63	PB96–138151
National Exposure Registry, Trichloroethylene (TCE) Subregistry, Followup 1 Technical Report, ATSDR/HS–96–64	PB96–157573
National Exposure Registry, Volatile Organic Compounds Registry, 1,1,1-Trichloroethane (TCA) Subregistry, Baseline and Followup 1 Technical Report, ATSDR/HS–96–65.	PB96–172101
Evaluating Individuals Reporting Sensitivities to Multiple Chemicals, California Department of Health Services, ATSDR/HS–96–66.	PB96–187646
The Occurrence of Neural Tube, Heart, and Oral Cleft Defects in Areas With National Priorities List Sites: A Case-Control Study, California Department of Health Services, California Birth Defects Monitoring Program, ATSDR/HS–96–67.	PB96–109632
National Exposure Registry, Dioxin Subregistry, Baseline and Followups 1 and 2 Technical Report, ATSDR/HS–96–70	PB96–196613
The Rocky Mountain Arsenal Pilot Exposure Study, Part II: Analysis of Exposure to Diisopropylmethylphosphate, Aldrin, Dieldrin, Endrin, Isodrin, and Chlorophenylmethsulfone, Colorado Department of Public Health and Environment Disease Control and Environmental Epidemiology Division, Denver, Colorado, ATSDR/HS–96–68.	PB96–162151
Reproductive, Neurobehavioral, and Other Disorders in Communities Surrounding the Rocky Mountain Arsenal, Colorado State University, Department of Environmental Health, Fort Collins, Colorado, ATSDR/HS–96–69.	PB96–178058