



---

Comptroller of the Currency  
Administrator of National Banks

---

Washington, DC 20219

August 25, 2003

**Office of The Comptroller of The Currency**  
**Statement Regarding**  
**The Federal Reserve Board's**  
**Proposed Interpretation of the Anti-Tying Restrictions**  
**Of Section 106 of the Bank Holding Company Act Amendments Of 1970**  
**And Related Supervisory Guidance**

The Board of Governors of the Federal Reserve System today issued for comment a proposed interpretation of the anti-tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 and related supervisory guidance. The interpretation describes the scope and purposes of section 106, the elements of a tying arrangement prohibited by section 106, and the statutory and regulatory exceptions to the prohibitions of section 106. The interpretation also includes examples of the types of conduct, actions and arrangements by banks that would be prohibited and permissible under section 106. The related supervisory guidance discusses the types of internal controls that should help banks comply with section 106.

The Federal banking agencies have long required that banking organizations establish and maintain appropriate policies and procedures to ensure compliance with the anti-tying restrictions of section 106, and the agencies monitor these policies and procedures through the supervisory process. In addition, examiners may conduct more targeted reviews of the marketing programs, anti-tying training materials, internal reports and internal tying investigations of a banking organization. Our supervisory experience indicates that there are a variety of areas where additional guidance and clarification of the application of section 106 would be desirable, and the OCC shares the views of the Board that adoption of the interpretation will assist banks and their customers in understanding the scope of the anti-tying restrictions of the statute.

The Board consulted extensively with the OCC in developing the interpretation and supervisory guidance and the OCC concurs with the principles expressed in the guidance. Once finalized, the OCC will apply those principles in enforcing section 106 and will apply the guidance in assessing the anti-tying policies, procedures and systems of national banks during the supervisory process.

The OCC encourages comment on all aspects of the proposed interpretation and supervisory guidance, and urges commenters to identify and discuss any interpretive or compliance issues that are not addressed in the interpretation or guidance, that commenters believe need to be addressed.

# # #