The attached interagency guidelines establishing Year 2000 standards for safety and soundness were published in the Federal Register on October 15, 1998. The guidelines were effective on publication. The comment period for the guidelines expires on December 14, 1998.

The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), and Office of Thrift Supervision (OTS) are issuing these guidelines together to establish minimum standards for safety and soundness under section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1). Under section 39, standards adopted as guidelines preserve the agency's discretion on whether to take action against violation of the guidelines. Through the Federal Financial Institutions Examination Council (FFIEC), the banking agencies have issued several guidance papers (FFIEC guidance) on important aspects of Year 2000 readiness. The guidelines do not replace the FFIEC guidance; instead, the guidelines are based on, and are intended to be consistent with, the FFIEC guidance.

The guidelines describe certain essential steps, taken from the FFIEC guidance, that each national bank must take to ensure its mission-critical systems are Year 2000 ready. For instance, the guidelines require a bank to ensure the involvement of the board of directors and management in the institution's Year 2000 efforts, adopt a project plan, update its mission-critical systems, complete tests of these updates by specific testing deadlines, plan for contingencies, and manage customer risk. If a bank has already developed and adopted plans and procedures to achieve Year 2000 readiness, it need not prepare new plans and procedures just to satisfy the guidelines. Plans and procedures already adopted will suffice if they have been reviewed and deemed acceptable by the OCC.

For further information, contact Mark O'Dell, director, Year 2000 Bank Supervision Policy (202) 874-2340; Brian McCormally, assistant director, Enforcement and Compliance (202) 874-4800; Stuart Feldstein, assistant director, or Ursula Pfeil, attorney, Legislative and Regulatory Activities Division (202) 874-5090.

Raymond Natter
Acting Chief Counsel

Related Links
- Interagency Guidelines 63 FR 55479

This rescission does not change the status of the transmitted document. To determine the current status of the transmitted document, refer to the Code of Federal Regulations, www.occ.gov, or the original issuer of the document.
Federal Reserve System

SUMMARY: The Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of Thrift Supervision, the Savings Association Insurance Fund, and the Board of Governors of the Federal Reserve System have issued joint interim guidelines with respect to the year 2000 readiness of insured depository institutions and credit unions.

ACTION: Joint interim guidelines with request for comment.


ADDRESSES: Comments should be directed to:
OCC: Office of the Comptroller of the Currency, Communications Division, 250 E Street, SW, Washington, DC 20229, Attention: Docket No. 98–14. Comments will be available for public inspection and photocopying at the same location. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274 or by Internet mail to reg.comments@occ.treas.gov.

Board: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, Docket No. R–1017, 20th and Constitution Avenue, NW, Washington, DC 20551. Comments addressed to Ms. Johnson may also be delivered to the Board’s mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW, Washington, DC. Comments may be inspected in room MP–500 between 9:00 a.m. and 5:00 p.m., except as provided in §261.14 of the Board’s Rules Regarding Availability of Information, 12 CFR 261.14.

FDIC: Robert E. Feit, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (Fax number: (202) 898–3838; Internet address: comments@fdic.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC, between 9:00 a.m. and 4:30 p.m. on business days.

OTS: Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention Docket No. 98–97. These submissions may be hand delivered to 1700 G Street, NW, Washington, DC, from 9:00 a.m. to 5:00 p.m. on business days; sent by facsimile transmission to FAX number (202) 906–7755, or may be sent by e-mail to public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW, Washington, DC, from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: OCC: Mark L. O’Dell, Director, Year 2000 Bank Supervision Policy (202) 874–2340; Brian McCormally, Assistant Director, Enforcement and Compliance (202) 874–4800; Ursula Pfefl, Attorney, Legislative and Regulatory Activities (202) 874–5090; or Stuart E. Feldstein, Assistant Director, Legislative and Regulatory Activities (202) 874–5090. Board: Angela Desmond, Special Counsel, Division of Banking Supervision and Regulation (202) 452–3497; or Nancy Oakes, Senior Attorney, Division of Banking Supervision and Regulation (202) 452–2743. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Diane Jenkins (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington DC 20551.

FDIC: Frank Hartigan, Year 2000 Project Manager, Division of Supervision (202) 898–6867; Sandy Comenetz, Year 2000 Project Manager, Legal Division (202) 898–3582; Richard Bogue, Counsel, Legal Division (202) 898–3726; or Nancy Chase Miller, Counsel, Legal Division (202) 898–6533. OTS: Dorothy Van Cleave, National 2000 Coordinator (202) 906–7380; or Robert D. DeCur, Senior Enforcement Attorney, Office of Enforcement; Office of Chief Counsel (202) 906–7132.

SUPPLEMENTARY INFORMATION:

Background

The potential inability of computers to recognize certain dates in 1999 and on and after January 1, 2000, presents significant and unprecedented enterprise-wide challenges for insured depository institutions. Timely management response is critical in order for insured depository institutions to identify problems and implement effective remediation programs in the relatively short time remaining until those dates occur. Under the auspices of the FFIEC, the agencies have issued eight guidance papers on important aspects of Year 2000 readiness. The agencies are issuing the Guidelines, which are distilled from the FFIEC guidance, to establish minimum safety and soundness standards for achieving Year 2000 readiness.

Year 2000 readiness. The Guidelines do not replace or supplant the FFIEC guidance, which will continue to apply to all entities regulated or examined by the Agencies. Insured depository institutions also should refer to the FFIEC guidance.

The Agencies are issuing the Guidelines pursuant to section 39 of the FDI Act. Section 39 requires the Agencies to establish operational and managerial standards for insured depository institutions relating to, among other things, internal controls, information systems, and internal audit systems. Section 39 also authorizes the Agencies to prescribe operational and managerial standards as they determine to be appropriate, and to require institutions that fail to meet such standards to submit corrective action plans.

Standards issued under section 39 may take the form of regulations or guidelines. If an agency determines that an insured depository institution fails to meet any standard established by regulation, then, by the terms of the statute, the agency must require the institution to submit an acceptable plan to achieve compliance with the standard. If an agency determines that an insured depository institution fails to meet any standard established by guideline, the agency may require the institution to submit an acceptable compliance plan.

In 1995, the Agencies promulgated Interagency Guidelines Establishing Standards for Safety and Soundness. 60 FR 35674 (July 10, 1995). Among other things, the 1995 guidelines provided generally that an insured depository institution should have internal controls and information systems that are appropriate to the size of the institution and the nature, scope, and risk of its activities.

As the Agencies noted in adopting the 1995 safety and soundness guidelines, their purpose in issuing standards as guidelines rather than regulations is to retain the flexibility to determine whether to require an insured depository institution to submit an acceptable compliance plan or to pursue another course of supervisory action, depending on the circumstances and severity of an institution’s noncompliance with one or more of the standards and the significance of the particular standard at issue. See 60 FR at 35675.

The Guidelines adopted today establish standards for management and boards of directors in developing and managing Year 2000 project plans, validating remediation efforts, and planning for contingencies. In appropriate circumstances, an agency will require an insured depository institution that fails to comply with the Guidelines to prepare and submit an acceptable compliance plan. The Agencies will use the rules already in place under the 1995 safety and soundness guidelines to require submission of compliance plans.

Under those rules, an insured depository institution must file a compliance plan within 30 days of a request to do so from an appropriate Federal banking agency, unless a different date is prescribed by the agency. Within 30 days of the plan’s receipt, the agency must provide written notice to the insured depository institution of whether the plan has been approved or if additional information is required. An insured depository institution that fails to submit an acceptable compliance plan within the time allowed or fails in any material respect to implement an accepted compliance plan will be subject to an agency order directing the institution to correct the deficiency. The agency order is directly enforceable in Federal district court; there is no requirement for a prior administrative adjudication. See 12 U.S.C. 1818(i)(1). A violation of such an order can serve as the basis for assessing civil money penalties. See 12 U.S.C. 1818(i)(2). Section 39 also describes certain supervisory actions that an agency may take, and in certain cases must take, until the deficiency is corrected.

Description of the Guidelines

The Guidelines describe certain essential steps that insured depository institutions must take at the awareness, assessment, renovation, validation (testing), and implementation phases of their efforts to achieve Year 2000 readiness. The standards contained in the Guidelines are based on—and are intended to be consistent with—key principles contained in the FFIEC guidance.

The Guidelines define certain key terms to help clarify the types of actions insured depository institutions are expected to undertake. For example, the term “mission-critical system” is defined as “an application or system that is vital to the successful continuance of a core business activity.” An application that interfaces with a designated mission-critical system and software products also may be deemed a mission-critical system. The Guidelines also set forth definitions for “external system,” “internal system,” “external third party supplier,” “other material third party,” “renovation,” “business resumption contingency plan,” “remediation contingency plan,” and “Year 2000 ready or readiness.” The Agencies invite comment on whether these terms are defined appropriately and whether the Guidelines should include additional definitions.

The Guidelines specify that an insured depository institution’s initial review of mission-critical systems for Year 2000 readiness should provide the basis for establishing priorities and deadlines and for identifying and allocating available resources. The development and implementation of a written due diligence process to monitor and evaluate Year 2000 efforts by third party service providers and software vendors is a critical component of an institution’s initial assessment. The Guidelines also require each insured depository institution to develop and adopt a written project plan that addresses each phase of the planning process. However, an insured depository institution that has already developed and adopted an adequate project plan, or other plans and procedures for achieving Year 2000 readiness, need not prepare a new, separate project plan, or other plans and procedures, just to satisfy the Guidelines. Plans and procedures already adopted will suffice if they have been reviewed and deemed acceptable by the appropriate Agency.

The Guidelines distinguish between renovation of systems controlled by the insured depository institution (internal mission-critical systems) and those controlled by a third party (external mission-critical systems). Renovation of the internal mission-critical systems must be done in sufficient time for testing to be substantially complete by December 31, 1998. Insured depository institutions relying on systems controlled and renovated by external third party suppliers must determine...
the ability of their service providers and software vendors to address Year 2000 readiness for external mission-critical systems that are not Year 2000 ready and to establish programs that allow testing and remediation to be substantially completed by March 31, 1999. Insured depository institutions must maintain written documentation of all their communications with external third party suppliers regarding their ability to renovate timely and effectively external mission-critical systems that are not Year 2000 ready.

The Agencies consider testing to be a critical process in achieving Year 2000 readiness. Failure of an insured depository institution to perform adequate testing of mission-critical systems poses a risk to the safe and sound operation of the institution. Failure to conduct thorough testing may mask serious remediation problems. Failure to properly identify or correct those problems could threaten the safety and soundness of the institution. The Guidelines reflect the Agencies’ expectations regarding the timing and scope of required testing.

Another essential component of achieving Year 2000 readiness addressed in the Guidelines is the development and implementation of contingency plans for Year 2000 technology failures. The Guidelines require an insured depository institution to design contingency plans appropriate for the institution’s technological systems and operating structure that describe how the institution will mitigate the risks associated with the failure of systems (the business resumption contingency plan) and, as applicable, the failure to complete renovation, testing, or implementation of its mission-critical systems (the remediation contingency plan).

The Guidelines require insured depository institutions to implement a due diligence process that identifies all customers posing material Year 2000 risks, evaluates their Year 2000 preparedness, assesses their Year 2000 risk, and implements appropriate risk controls. Finally, the Guidelines require that the board of directors and management must be involved in all stages of the institution’s efforts to achieve Year 2000 readiness. Management must provide to the board of directors written status reports at least quarterly or as otherwise required to keep the board of directors fully informed of the institution’s Year 2000 efforts.

The Guidelines enable the Agencies to use the streamlined compliance and enforcement mechanisms provided by section 39 to address, in appropriate circumstances, Year 2000 readiness-related safety and soundness concerns in insured depository institutions. Section 39 remedies for insured depository institutions allow the Agencies to move promptly in situations where immediate supervisory action is essential for safety and soundness reasons.

Nonetheless, issuance of a safety and soundness order pursuant to section 39 may not be the most appropriate remedy in every case where an insured depository institution fails to comply with the Guidelines. It is for this reason the Agencies have chosen to proceed by guideline, within the meaning of section 39, rather than by regulation. As is the case with respect to the Agencies’ 1995 safety and soundness guidelines, the Agencies also wish to preserve their discretion to require supervisory actions different from those prescribed by section 39 with respect to the Guidelines if a different action is warranted by the facts and circumstances of a particular situation.

The Guidelines do not limit the authority of an Agency to address unsafe or unsound practices or conditions, violations of law, or other practices, or to adopt appropriate remedies to achieve compliance with the Guidelines, including requiring actions by dates that are different from those set forth in the Guidelines. Actions under section 39 and the Guidelines may be taken independently of, in conjunction with, or in addition to, other appropriate enforcement actions.

The Agencies note that by law the Guidelines apply only to insured depository institutions, not to all financial institutions supervised by the Agencies, such as bank holding companies and U.S. offices of foreign banking organizations. The Agencies will continue to examine and inspect all financial institutions that they supervise for compliance with the FFIEC guidance and may use their authority under section 8 of the FDI Act if these institutions fail to comply with the FFIEC guidance.

**Request for Comment**

The Agencies invite comment on all aspects of the Guidelines.

**Effective Date**

The Agencies find good cause for issuing the Guidelines effective immediately, without prior notice and comment. Cf. 5 U.S.C. 553(b)(B) (Administrative Procedure Act (APA) provision permitting an agency to issue a rule without prior notice and comment when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest); 5 U.S.C. 553(d) (good cause exception to APA requirement for a 30 day delayed effective date for final rule); 12 U.S.C. 4802(b)(1) (good cause exception to the CDRIA requirement that the Federal banking agencies make rules effective on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form). Making the Guidelines effective immediately is essential for ensuring that the Agencies can properly and timely address the Year 2000 computer problem and that insured depository institutions can achieve Year 2000 readiness in the relatively short time remaining before Year 2000 problems may begin to occur. The Agencies note that Congress has recently underscored the importance and urgency of ensuring Year 2000 readiness in the financial services sector by passing the Examination Parity and Year 2000 Readiness for Financial Institutions Act, Pub. L. 105–164, sec. 2, 112 Stat. 32, 32 (1998). Congress expressly found that the Year 2000 computer problem poses a serious challenge to the American economy, including the Nation’s banking and financial services industries, and that Federal financial regulatory agencies must have sufficient examination authority to ensure that the safety and soundness of the Nation’s financial institutions will not be at risk. Under these circumstances, the Agencies conclude that prior notice and comment procedure is impracticable and contrary to the public interest.

**Regulatory Flexibility Act Analysis**

An initial regulatory flexibility analysis under the Regulatory Flexibility Act (RFA) is required when an agency is required to publish a general notice of proposed rulemaking. 5 U.S.C. 603. As noted above, the Agencies have concluded, for good cause, that these Guidelines should take immediate effect and, therefore, that a notice of proposed rulemaking is not required. Accordingly, the Agencies have concluded that the RFA does not require an initial regulatory flexibility analysis of these Interim Guidelines. Nonetheless, the Agencies have considered the likely impact of the Guidelines on small entities and believe that the Guidelines do not have a significant impact on a substantial number of small entities. The potential inability to correctly recognize certain dates in 1999 and on and after January 1, 2000, compels all
institutions, including small institutions, to formulate appropriate and timely management responses. The Guidelines provide a procedural framework for formulating that response and reiterate the Agencies’ expectations, distilled from existing FFIEC guidance, regarding appropriate business practices for achieving Year 2000 readiness. For example, as indicated earlier in this preamble, plans and procedures that institutions have already developed to achieve Year 2000 readiness can satisfy the Guidelines if they have been reviewed and deemed acceptable by the appropriate Agency.

The Agencies invite interested persons to submit comments on the impact of the Guidelines on small entities for consideration in the development of final Guidelines.

Paperwork Reduction Act

The Agencies invite comment on:

(1) Whether the collections of information contained in the Guidelines are necessary for the proper performance of each Agency’s functions, including whether the information has practical utility;

(2) The accuracy of each Agency’s estimate of the burden of the information collections;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collections on respondents, including the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, minutes, and purchase of services to provide information.

Respondents and Recordkeepers are not required to respond to this collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

OCC: The collection of information requirements contained in the Guidelines have been submitted to and approved by the OMB under its emergency procedures and in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. Since OMB clearance is for a 6-month period, OCC will use any comments received to develop its renewed request. Comments on the collections of information should be sent to Steven F. Hanft, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429, with a copy to the Office of Management and Budget, Paperwork Reduction Project (3064-0128 Year 2000), Washington, DC 20503.

In essence, the Guidelines incorporate the important elements of the outstanding FFIEC guidance. In addition to the paperwork usually maintained by an insured depository institution in the regular course of business, the FFIEC guidance and the Guidelines impose some additional paperwork burden.

FDIC: The collections of information contained in the Guidelines have been submitted to and approved by the OMB under its emergency procedures and in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. Since OMB clearance is for a 6-month period, the FDIC will use any comments received to develop its renewed request. Comments on the collections of information should be sent to Mary M. McLaughlin, Chief, Financial Reports Section, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551, with a copy to the Office of Management and Budget, Paperwork Reduction Project (7100-0290), Washington, DC 20503.

In essence, the Guidelines incorporate the important elements of the outstanding FFIEC guidance. In addition to the paperwork usually maintained by an insured depository institution in the regular course of business, the FFIEC guidance and the Guidelines impose some additional paperwork burden. This burden is found in appendix B to part 30. The OCC needs this information to assess an insured depository institution’s compliance with the Guidelines set forth in appendix B. The likely respondents are national banks.

Estimated number of respondents: 650.

Estimated average annual burden hours per respondent: 60 hours.

Estimated total annual recordkeeping burden: 39,255 hours.

Board: In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320, appendix A-1), the Board reviewed the Guidelines under the authority delegated to the Board by the OMB. Comments on the collections of information should be sent to Mary M. McLaughlin, Chief, Financial Reports Section, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551, with a copy to the Office of Management and Budget, Paperwork Reduction Project (7100-0290), Washington, DC 20503.

In essence, the Guidelines incorporate the important elements of the outstanding FFIEC guidance. In addition to the paperwork usually maintained by an insured depository institution in the regular course of business, the FFIEC guidance and the Guidelines impose some additional paperwork burden.

This burden is found in appendix B to part 30. The OCC needs this information to assess an insured depository institution’s compliance with the Guidelines set forth in appendix B. The likely respondents are national banks.

Estimated number of respondents: 341.

Estimated average annual burden hours per respondent: 68 hours.

Estimated total annual recordkeeping burden: 23,188 hours.

OTS: The collection of information requirements contained in the Guidelines have been submitted to and approved by the OMB under its emergency procedures and in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. Since OMB clearance is for a 6-month period, the OTS will use any comments received to develop its renewed request. Comments on the collections of information should be submitted to the Regulations and Legislation Division (1550-0051), Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1550-0051), Washington, DC 20503.

In essence, the Guidelines incorporate the important elements of the outstanding FFIEC guidance. In addition to the paperwork usually maintained by an insured depository institution in the regular course of business, the FFIEC guidance and the Guidelines impose some additional paperwork burden.

This burden is found in appendix B to part 570. The OTS needs this information to assess an insured depository institution’s compliance with the Guidelines set forth in appendix B. The likely respondents are savings associations.

Estimated number of respondents: 275.

Estimated average annual burden hours per respondent: 57 hours.

Estimated total annual recordkeeping burden: 15,675 hours.
Executive Order 12866

The OCC and OTS have determined that the Guidelines are not “a significant regulatory action” under Executive Order 12866.

OCC and OTS: Unfunded Mandates Reform Act Analysis

The Unfunded Mandates Reform Act of 1995 (UMA), Pub. L. 104–4, applies only when an agency is required to promulgate a general notice of proposed rulemaking or a final rule for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. As noted above, the Agencies have concluded, for good cause, that a notice of proposed rulemaking is not required. Accordingly, the Agencies have concluded that the UMA does not require an unfunded mandates analysis of the Guidelines.

Moreover, the Agencies believe that the Guidelines will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, neither the OCC nor the OTS has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Text of Uniform Interim Guidelines (All Agencies)

The text of the agencies’ uniform interim guidelines appears below:

Appendix to Part 39 Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

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I. Introduction
A. Preservation of existing authority
B. Definitions
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A. Review of mission-critical systems for Year 2000 readiness
B. Renovation of internal mission-critical systems
C. Renovation of external mission-critical systems
D. Testing of mission-critical systems
E. Business resumption contingency planning
F. Remediation contingency planning
G. Customer risk
H. Involvement of the board of directors and management

I. Introduction

The Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness (Guidelines) set forth safety and soundness standards pursuant to section 39 of the Federal Deposit Insurance Act (section 39) (12 U.S.C. 1831p-1) that are applicable to an insured depository institution’s efforts to achieve Year 2000 readiness. The Guidelines, which also interpret the general standards in the Interagency Guidelines Establishing Standards for Safety and Soundness adopted in 1995, apply to all insured depository institutions.

A. Preservation of Existing Authority

Neither section 39 nor the Guidelines in any way limits the authority of the Federal banking agencies to address unsafe or unsound practices, violations of law, unsafe or unsound conditions, or other practices. The Federal banking agencies, in their sole discretion, may take appropriate actions so that insured depository institutions will be able to successfully continue business operations after January 1, 2000, including on a case-by-case basis requiring actions by dates that are later than the key dates set forth in the Guidelines. Action under section 39 and the Guidelines may be taken independently of, in conjunction with, or in addition to any other action, including enforcement action, available to the Federal banking agencies.

B. Definitions

1. In general. For purposes of the Guidelines the following definitions apply:
   a. Business contingency plan means a plan that describes how mission-critical systems of the insured depository institution will continue to operate in the event there are system failures in processing, calculating, comparing, or sequencing date or time data from, into, or between the 20th and 21st centuries; or the years 1999 and 2000; or with regard to leap year calculations.
   b. External system means a system the renovation of which is not controlled by the insured depository institution, including systems provided by service providers and any interfaces with external third party suppliers and other material third parties.
   c. External third party supplier means a service provider or software vendor that supplies services or products to insured depository institutions.
   d. Internal system means a system the renovation of which is controlled by the insured depository institution, including software, operating systems, mainframe computers, personal computers, readers/sorters, and proof machines.
   e. Mission-critical system means an application or system that is vital to the successful continuation of a core business activity. An application or system may be mission-critical if it interfaces with a designated mission-critical system. Software products also may be mission-critical.
   f. Other material third party means a third party, other than an external third party supplier, to whom an insured depository institution provides data or from whom an insured depository institution receives data, including business partners (e.g., credit bureaus), other insured depository institutions, payment system providers, clearinghouses, customers, and utilities.
   g. Remediation contingency plan means a plan that describes how the insured depository institution will mitigate the risks associated with the failure to successfully complete renovation, testing, or implementation of its mission-critical systems.
   h. Renovation means code enhancements, hardware and software upgrades, system replacements, and other associated changes that ensure that the insured depository institution’s mission-critical systems and applications are Year 2000 ready.
   i. Successful continuance of a core business means code enhancements, hardware and software upgrades, system replacements, and other associated changes that ensure that the insured depository institution’s mission-critical systems and applications are Year 2000 ready.

II. Year 2000 Standards for Safety and Soundness

A. Review of Mission-Critical Systems For Year 2000 Readiness

Each insured depository institution shall in writing:
1. Identify all internal and external mission-critical systems that are not Year 2000 ready;
2. Establish priorities for accomplishing work and allocating resources to renovating internal mission-critical systems;
3. Identify the resource requirements and individuals assigned to the Year 2000 project on internal mission-critical systems;
4. Establish reasonable deadlines for commencing and completing the renovation of such internal mission-critical systems;
5. Develop and adopt a project plan that addresses the insured depository institution’s Year 2000 renovation, testing, contingency planning, and management oversight process; and
6. Develop a due diligence process to monitor and evaluate the efforts of external third party suppliers to achieve Year 2000 readiness.

B. Renovation of Internal Mission-Critical Systems

Each insured depository institution shall commence renovation of all internal mission-critical systems that are not Year 2000 ready in sufficient time such that the testing of the renovation can be substantially completed by December 31, 1998.

C. Renovation of External Mission-Critical Systems

Each insured depository institution shall:
1. Determine the ability of external third party suppliers to renovate external mission-critical systems that are not Year 2000 ready and to complete the renovation in sufficient time to substantially complete testing by March 31, 1999;
2. Maintain written documentation of all its communications with external third party suppliers regarding their ability to renovate timely and effectively external mission-critical systems that are not Year 2000 ready;
3. Develop in writing an ongoing due diligence process to monitor and evaluate the efforts of external third party suppliers to achieve Year 2000 readiness, including:
   a. Monitoring the efforts of external third party suppliers to achieve Year 2000 readiness on an at least quarterly basis and documenting communications with these suppliers; and
b. reviewing the insured depository institution’s contractual arrangements with external third party suppliers to determine the parties’ rights and obligations to achieve Year 2000 readiness.

D. Testing of Mission-Critical Systems. Each insured depository institution shall:
1. Develop and implement an effective written testing plan for both internal and external systems. Such a plan shall include the testing environment, testing methodology, testing schedules, budget projections, participants to be involved in testing, and the critical dates to be tested to achieve Year 2000 readiness;
2. Verify the adequacy of the testing process and validate the results of the tests with the assistance of the project manager responsible for Year 2000 readiness, the owner of the system tested, and an objective independent party (such as an auditor, a consultant, or a qualified individual from within or outside of the insured depository institution who is independent of the process under review);
3. Substantially complete testing of internal mission-critical systems by December 31, 1998;
4. Commence testing of external mission-critical systems by January 1, 1999;
5. Substantially complete testing of external mission-critical systems by March 31, 1999;
6. Commence testing with other material third parties by March 31, 1999; and

E. Business Resumption Contingency Planning. Each insured depository institution shall develop and implement an effective written business resumption contingency plan that, at a minimum:
1. Defines scenarios for mission-critical systems failing to achieve Year 2000 readiness;
2. Evaluates options and selects a reasonable contingency strategy for those systems;
3. Provides for the periodic testing of the business resumption contingency plan; and
4. Provides for independent testing of the business resumption contingency plan by an objective independent party, such as an auditor, consultant, or qualified individual from another area of the insured depository institution who was not involved in the formulation of the business resumption contingency plan.

F. Remediation Contingency Planning. Each insured depository institution that has failed to successfully complete remediation, testing, and implementation of a mission-critical system, or is in the process of remediation and is not on schedule with the key dates in section II.D. shall develop and implement an effective written remediation contingency plan that, at a minimum:
1. Outlines the alternatives available if remediation efforts are not successful, including the availability of alternative external third party suppliers, and selects a reasonable contingency strategy; and
2. Establishes trigger dates for activating the remediation contingency plan, taking into account the time necessary to convert to alternative external third party suppliers or to complete any other selected strategy.

G. Customer Risk. Each insured depository institution shall develop and implement a written due diligence process that:
1. Identifies customers, including fund providers, fund takers, and capital market/asset management counterparties, that represent material risk exposure to the institution;
2. Evaluates their Year 2000 preparedness;
3. Assesses their existing and potential Year 2000 risk to the institution; and
4. Implements appropriate risk controls, including controls for underwriting risk, to manage and mitigate their Year 2000 risk to the institution.

H. Involvement of the Board of Directors and Management. 1. During all stages of the renovation, testing, and contingency planning process, the board of directors and management of each insured depository institution shall:
   a. be actively involved in managing efforts to plan, allocate resources, and monitor progress towards attaining Year 2000 readiness;
   b. oversee the efforts of the insured depository institution to achieve Year 2000 readiness and allocate sufficient resources to resolve problems relating to the institution’s Year 2000 readiness; and
   c. evaluate the Year 2000 risk associated with any strategic business initiatives contemplated by the insured depository institution, including mergers and acquisitions, major systems development, corporate alliances, and system interdependencies.
2. In addition, the board of directors, at a minimum, shall require from management, and management shall provide to the board of directors, written status reports at least quarterly and as otherwise appropriate to keep the directorate fully informed of the insured depository institution’s efforts in achieving Year 2000 readiness. Such written status reports shall, at a minimum, include:
   a. The overall progress of the insured depository institution’s efforts in achieving Year 2000 readiness;
   b. The insured depository institution’s interim progress in renovating, validating, and contingency planning measured against the insured depository institution’s Year 2000 project plan as adopted under section II.A.5 of appendix B; and
   c. The status of efforts by key external third party suppliers and other material third parties in achieving Year 2000 readiness;
   d. The results of the testing process;
   e. The status of contingency planning efforts; and
   f. The status of the ongoing assessment of customer risk.

[End text of Uniform Interim Guidelines]

List of Subjects
12 CFR Part 30
Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Safety and soundness.
12 CFR Part 208
Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Safety and soundness, Securities.
12 CFR Part 364
Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Safety and soundness.
12 CFR Part 570
Accounting, Administrative practice and procedures, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

Adoption of Uniform Interagency Guidelines. The agency specific adoptions of the uniform interagency guidelines, which appear at the end of the common preamble, are set forth below.

Office of the Comptroller of the Currency
12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the common preamble, part 30 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 30—SAFETY AND SOUNDNESS STANDARDS

1. The authority citation for part 30 continues to read as follows:
2. A new appendix B is added to part 30 to read as set forth at the end of the common preamble:

Appendix B to Part 30—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness


Julie L. Williams,
Acting Comptroller of the Currency.
Federal Reserve System
12 CFR Part 208

Authority and Issuance

For the reasons set forth in the common preamble, part 208 of chapter II of title 12 of the Code of Federal Regulations is amended as follows:

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

1. The authority citation for 12 CFR Part 208 continues to read as follows:
   Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486,
continues to read as follows:

AND SOUNDNESS DEFICIENCIES
OF ORDERS TO CORRECT SAFETY
COMPLIANCE PLANS AND ISSUANCE
OF SAFETY AND SOUNDNESS
PART 570—SUBMISSION AND REVIEW
OF SAFETY AND SOUNDNESS
COMPLIANCE PLANS AND ISSUANCE
OF ORDERS TO CORRECT SAFETY
AND SOUNDNESS DEFICIENCIES

1. The authority citation for part 570 continues to read as follows:


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


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Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


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Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


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Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


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Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


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Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness


2. A new Appendix B is added to part 570 to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency
Guidelines Establishing Year 2000
Standards for Safety and Soundness

public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW, Washington, DC, from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:
OCC: Ursula Pfefl, Attorney, Legislative and Regulatory Activities (202) 874–5090; or Brian McCormally, Assistant Director, Enforcement and Compliance (202) 874–4800.
Board: Stephanie Martin, Senior Counsel, Legal Division (202) 452–3198. For the hearing impaired only, Telecommunication Device for Deaf (TDD), Diane Jenkins (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.
FDIC: Sandy Comenetz, Year 2000 Project Manager, Legal Division (202) 898–3582; Richard Bogue, Counsel, Legal Division (202) 898–3726; or Nancy Chase Miller, Counsel, Legal Division (202) 898–6533.
OTS: Dorothy Van Cleave, National Year 2000 Coordinator (202) 906–7380; or Robert D. DeCuir, Senior Enforcement Counsel, Legal Division (202) 898–3582; Richard Bogue, Counsel, Legal Division (202) 898–3726; or Nancy Chase Miller, Counsel, Legal Division (202) 898–6533.

SUPPLEMENTARY INFORMATION:

Background and Discussion of Interim Rule
In 1995, the Agencies jointly adopted Guidelines Establishing Standards for Safety and Soundness pursuant to section 39 of the FDI Act. At the same time, each of the Agencies adopted rules establishing procedures for requiring submission of a compliance plan and issuing an enforceable order for violation of safety and soundness standards pursuant to section 39. The general standards for safety and soundness are set forth in an appendix to each Agency’s procedural rules. 60 FR 35674 (July 10, 1995).

Elsewhere in this issue of the Federal Register, the Agencies are publishing Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness (Year 2000 Guidelines) under section 39 of the FDI Act. 12 U.S.C. 1831p–1. The Year 2000 Guidelines published today will appear as a second appendix to the Agencies’ respective procedural rules. This interim rule makes minor conforming amendments to the Agencies’ procedural rules to incorporate appropriate references to the Agencies’ Year 2000 Guidelines. This interim rule makes no substantive changes to the Agencies’ rules of procedure.

Notice and Comment, Effective Date, and Request for Comment
Section 553 of the Administrative Procedure Act (APA) permits an agency to issue rules without prior notice and comment if the Agency, for good cause, finds that notice and comment are impracticable, unnecessary, or contrary to the public interest and explains its finding when it publishes the rule. 5 U.S.C. 553(b)(B). This interim rule makes only conforming amendments to the Agencies’ current rules of procedure to refer to the Year 2000 Guidelines. This interim rule makes no other changes to the Agencies’ procedural rules, and it imposes no new substantive requirements on insured depository institutions. Therefore, each of the Agencies finds that prior notice and comment are unnecessary and, accordingly, is issuing this interim rule without prior notice and comment.

Section 302 of the Riegle Community Development and Regulatory Improvement Act (CDRIA) of 1994, Pub. L. 103–325, requires that new regulations and amendments to existing regulations prescribed by a Federal banking agency that impose reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of the calendar quarter that begins on or after the date on which the regulation is published in final form. 12 U.S.C. 4802(b)(1). Additionally, section 553(d) of the APA states that publication of a rule shall be made not less than 30 days before its effective date. 5 U.S.C. 553(d). Both the CDRIA and APA permit an agency to select an earlier effective date for good cause published with the regulation. As noted earlier, since this interim rule makes only conforming amendments to the Agencies’ rules, each Agency finds good cause to dispense with the delayed effective date requirements.

The Agencies invite comments on this interim rule during the 60-day period that runs concurrently with their request for comment on the Year 2000 Guidelines.

Regulatory Flexibility Act Analysis
An initial regulatory flexibility analysis under the Regulatory Flexibility Act is required only when an agency must publish a general notice of proposed rulemaking for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. As noted previously, the Agencies have determined, for good cause, that this interim rule should take immediate effect and, therefore, that a notice of proposed rulemaking is not required. Accordingly, the Agencies have concluded that the UMA does not require an unfunded mandates analysis of this interim rule.

Moreover, the Agencies find that this interim rule will not result in expenditure by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, neither the OCC nor the OTS has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects
12 CFR Part 30
Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Safety and soundness.
12 CFR Part 263
12 CFR Part 364
Administrative practice and procedure, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Safety and soundness.

Paperwork Reduction Act
The Agencies have determined that this interim rule does not involve a collection of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Executive Order 12866
The OCC and OTS have determined that this interim rule is not a significant regulatory action under Executive Order 12866.

OCC and OTS: Unfunded Mandates Reform Act Analysis
The Unfunded Mandates Reform Act of 1995 (UMA), Pub. L. 104–4, applies only when an agency is required to issue a general notice of proposed rulemaking or a final rule for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. As noted previously, the Agencies have determined, for good cause, that this interim rule should take immediate effect and, therefore, that a notice of proposed rulemaking is not required. Accordingly, the Agencies have concluded that the UMA does not require an unfunded mandates analysis of this interim rule.

Moreover, the Agencies find that this interim rule will not result in expenditure by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, neither the OCC nor the OTS has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.
12 CFR Part 570

Accounting, Administrative practice and procedures, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

Office of the Comptroller of the Currency
12 CFR Chapter I
Authority and Issuance

For the reasons set out in the joint preamble, the OCC is amending part 30 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 30—SAFETY AND SOUNDNESS STANDARDS

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

2. In § 30.2, the last sentence is revised to read as follows:
   § 30.2 Purpose.
   * * * * * The Interagency Guidelines Establishing Standards for Safety and Soundness are set forth in appendix A to this part and the Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness are set forth in appendix B to this part.

3. In § 30.3, paragraph (a) is revised to read as follows:
   § 30.3 Determination and notification of failure to meet safety and soundness standard and request for compliance plan.
   (a) Determination. The OCC may, based upon an examination, inspection, or any other information that becomes available to the OCC, determine that a bank has failed to satisfy the safety and soundness standards contained in the Interagency Guidelines Establishing Standards for Safety and Soundness set out in appendix D–1 to part 208 of this chapter or the Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness set out in appendix D–2 to part 208 of this chapter.
   * * * * * By Order of the Board of Governors of the Federal Reserve System, September 30, 1998.
   Jennifer J. Johnson,
   Secretary of the Board.

Federal Deposit Insurance Corporation
12 CFR Chapter III

For the reasons set out in the joint preamble, the FDIC is amending part 364 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

1. The authority citation for part 364 continues to read as follows:

2. Section 364.101 is revised to read as follows:
   § 364.101 Standards for safety and soundness.
   (a) General standards. The Interagency Guidelines Establishing Standards for Safety and Soundness prescribed pursuant to section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1), as set forth in appendix A to this part, apply to all insured state nonmember banks and to state-licensed insured branches of foreign banks, that are subject to the provisions of section 39 of the Federal Deposit Insurance Act.
   (b) Year 2000 standards. The Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness prescribed pursuant to section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1), as set forth as appendix B to this part, apply to all insured state nonmember banks and to state-licensed insured branches of foreign banks, that are subject to the provisions of section 39 of the Federal Deposit Insurance Act.

Of the Board of Directors.
Dated at Washington, D.C., this 8th day of October, 1998.
Federal Deposit Insurance Corporation.
James D. LaPierre,
Deputy Executive Secretary.

Office of Thrift Supervision
12 CFR Chapter V

Authority and Issuance

For the reasons set out in the joint preamble, the OTS is amending part 570 of chapter V of title 12 of the Code of Federal Regulations as follows:

PART 570—SUBMISSION AND REVIEW OF SAFETY AND SOUNDNESS COMPLIANCE PLANS AND ISSUANCE OF ORDERS TO CORRECT SAFETY AND SOUNDNESS DEFICIENCIES

1. The authority citation for part 570 continues to read as follows:

2. In § 570.1, paragraph (a), the last sentence of paragraph (b), and paragraph (c) are revised to read as follows:
   § 570.1 Authority, purpose, scope and preservation of existing authority.
   (b) * * * Interagency Guidelines Establishing Standards for Safety and Soundness pursuant to section 39 of the FDI Act are set forth in Appendix A to
this part. The Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness are set forth in Appendix B to this part.

(c) Scope. This part and the Interagency Guidelines at Appendices A and B to this part implement the provisions of section 39 of the FDI Act as they apply to savings associations.

3. In § 570.2, paragraph (a) is revised to read as follows:

§ 570.2 Determination and notification of failure to meet safety and soundness standards and request for compliance plan.

(a) Determination. The OTS may, based upon an examination, inspection, or any other information that becomes available to the OTS, determine that a savings association has failed to satisfy the safety and soundness standards contained in the Interagency Guidelines Establishing Standards for Safety and Soundness as set forth in Appendix A to this part or the Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness as set forth in Appendix B to this part.


Ellen Seidman,
Director.

[FR Doc. 98–27671 Filed 10–14–98; 8:45 am]