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The Office of the Comptroller of the Currency (OCC) must make sure that its employees maintain the highest ethical standards when doing their work. An effective financial disclosure system can help provide such assurances. However, the Comptroller has not yet developed the disclosure system to that point. Findings/Conclusions: The OCC financial disclosure system needs: adequate criteria for identifying positions where incumbents should file disclosure statements; effective procedures with adequate criteria for reviewing statements and identifying conflicts of interest; adequate procedures for collecting statements; additional financial information reported on the statements to help enforce statutory prohibitions; and greater assurance that assistant national bank examiners, who are not required to file statements, do not hold interests that violate statutory and/or administrative prohibitions. Recommendations: The Comptroller of the Currency should: require national bank examiners to file annual financial disclosure statements; develop specific criteria for identifying positions and employees who should file statements and apply those criteria to all positions; develop consistent and comprehensive written regulations encompassing the various restrictions placed on employees' interests by Federal regulations; develop comprehensive guidelines for employees as to the types of interests that are prohibited; develop and maintain a listing of all employees required to file statements and obtain approval as needed from the Department of the Treasury and the Civil Service Commission; revise the disclosure statement to require disclosure of employee loans and bank credit cards; develop procedures to insure that statements are properly and promptly collected; require assistant national bank examiners to update annually financial information on indebtedness and ownership of national bank stock; and review the questionable interests and take appropriate corrective action. (Author/QM)

REPORT TO THE CONGRESS



*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

Financial Disclosure Systems In Banking Regulatory Agencies

The Office of the Comptroller of the Currency

Because of its supervisory involvement with the national banking industry, the Office of the Comptroller of the Currency must make sure that the financial disclosure system for its employees effectively identifies and resolves potential conflict-of-interest situations.

This report highlights several problems with the financial disclosure system and discusses the agency's plans for improving it.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-118535

To the President of the Senate and the
Speaker of the House of Representatives

Executive Order 11222 prescribes standards of ethical conduct for Government officials and directs the Civil Service Commission to establish guidelines for agency financial disclosure systems. This report discusses the financial disclosure system in the Office of the Comptroller of the Currency.

We made this review at the request of the Chairman, Subcommittee on Commerce, Consumer and Monetary Affairs, House Committee on Government Operations.

As instructed by the Chairman, we did not obtain formal agency comments. However, the report was discussed with the Chief Counsel and the Associate Deputy Comptroller who are responsible for the financial disclosure system. Their comments were included in the report.

We are sending copies of this report to the Secretary of the Treasury and the Acting Comptroller of the Currency.

A handwritten signature in black ink, reading "James A. Starks".

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

FINANCIAL DISCLOSURE SYSTEMS
IN BANKING REGULATORY AGENCIES
The Office of the Comptroller
of the Currency

D I G E S T

Having continuous and direct involvement with the organization, operation, regulation, and supervision of national banks, the Office of the Comptroller of the Currency must make sure that its employees maintain the highest ethical standards when doing their work. An effective financial disclosure system can help provide such assurances. However, the Comptroller has not yet developed the disclosure system to that point.

The financial disclosure system needs

- adequate criteria for identifying positions where incumbents should file financial disclosure statements;
- effective procedures with adequate criteria for reviewing statements and identifying conflicts of interest;
- adequate procedures for collecting statements;
- additional financial information reported on the statements to help enforce statutory prohibitions; and
- greater assurance that assistant national bank examiners, who are not required to file statements, do not hold interests that violate statutory and/or administrative prohibitions. (See p. 7.)

The Office of the Comptroller's regulations require employees at the Grade 13 level and above, who have decisionmaking responsibilities to submit confidential financial statements of employment and financial interests.

Because the Office's criteria was not specific enough, incumbents in 39 positions had jobs that affected the national banking industry, but were not required to file disclosure statements. Approximately 730 of the incumbents were national bank examiners in Grades 11 to 15 positions. Currently, only 84 of 2,700 employees must file statements. There may be many other employees who should be required to file. (See pp. 7 to 9.)

This report recommends a series of steps the Office of the Comptroller can take to improve its financial disclosure system. (See p.16.)

Although the Comptroller did not have an opportunity to submit formal comments on this report, the findings and recommendations were discussed with officials responsible for the financial disclosure system. The officials advised GAO that on February 14, 1977, the Comptroller submitted a revised list of positions to the Secretary of the Treasury for approval. This new list further expanded the prior list of positions required to file to include attorneys, assistant and national bank examiners, and assistant, associate and national trust examiners regardless of grade level. He also identified those employees at both the Washington and regional levels who are required to file. The revised list is currently awaiting Treasury approval. (See app. I.)

In addition, in providing updated information on the current status of implementing GAO's recommendations, the same officials advised that the Comptroller is taking steps, in some cases, that go beyond the scope of GAO's recommendations. (See pp. 17 to 19.) In response to each of GAO's recommendations, agency officials provided us with the following information.

1. They agreed that national bank examiners should be required to file annual financial disclosure statements and have requested their inclusion in the list of positions in the February 14 letter to Treasury. (See app. I.)

2. They have expanded the list of positions by applying criteria refined from Treasury regulations to the new organization and specific needs of the Office of the Comptroller of the Currency.
3. They are currently in the process of finalizing a revision to Administrative Circular 53 which will contain in addition to the Comptroller's expanded guidelines, a comprehensive compilation of the statutory and regulatory restrictions placed on employees' interests.
4. The revised Administrative Circular 53 will be supplemented periodically with lists of national bank affiliates and abstracts of internal rulings on individual cases.
5. They have developed a new list of employees required to file disclosure statements and are currently awaiting Treasury approval.
6. An expanded financial disclosure statement is currently being drafted. Upon completion, Treasury and Civil Service Commission approval will be requested.
7. Procedures have been developed at both the Washington and regional levels to process and review the financial disclosure statements.
8. They have requested Treasury approval to include assistant national bank examiners and assistant and associate national trust examiners in the list of expanded positions.
9. Most of the individual cases cited in the report have been resolved.

C o n t e n t s

		<u>Page</u>
DIGEST		i
CHAPTER		
1	INTRODUCTION	1
	Scope of review	2
2	FINANCIAL DISCLOSURE REQUIREMENTS AND AGENCY PROHIBITIONS	4
	Agency regulations	4
	Statutory prohibitions	5
3	IMPROVED POLICIES AND PROCEDURES WOULD INCREASE SYSTEM EFFECTIVENESS	7
	More employees should file	7
	Statement review criteria	9
	Procedures for collecting statements	11
	More information should be requested on statements	12
	Information needed from assistant national bank examiners	12
4	REVIEW OF FINANCIAL DISCLOSURE STATE- MENTS	14
5	CONCLUSIONS, RECOMMENDATIONS, AND AGENCY COMMENTS	16
	Conclusions	16
	Recommendations	16
	Agency comments	17
APPENDIX		
I	Letter dated February 14, 1977, from the Acting Comptroller, Office of the Comptroller of the Currency	20
II	Reports issued on agencies' financial disclosure systems	23
III	Principal officials of the Department of Treasury responsible for adminis- tering activities discussed in this report	26

ABBREVIATIONS

CSC	Civil Service Commission
GAO	General Accounting Office
OCC	Office of the Comptroller of the Currency

CHAPTER 1

INTRODUCTION

The Office of the Comptroller of the Currency (OCC) was created in 1863 to establish and regulate a national banking system. The national banking laws (12 U.S.C. 1 et seq.) give the Comptroller of the Currency the responsibility for execution of laws relating to organization, operation, regulation, and supervision of national banks. National banks are commercial banks chartered by the Federal Government.

As administrator of national banks, the Comptroller's primary responsibility is to make sure that each national bank is soundly operated and that the national system fills the public need for commercial banking services. Approval of the Comptroller is required for establishment of new national banks, conversion of State-chartered banks into national banks, consolidations or mergers of banks where the resulting bank is a national bank, and establishment of branches by national banks.

The Comptroller issues rules and regulations governing the corporate structure of national banks and their lending and investment practices. General banking laws are interpreted by the Comptroller, who is represented by OCC attorneys in court proceedings involving the official responsibilities of the office.

The Comptroller supervises national banks through a staff of examiners located in 14 regions throughout the country. Examiners visit each bank periodically to evaluate its financial condition and soundness of management. To achieve this, examiners evaluate a bank's investment and loan portfolios, appraise assets and management, and determine compliance with applicable banking laws and interpretive rulings of the OCC. Examiners consult with bank managers to review their findings and prepare a report of examination for each bank. When the Comptroller determines that a national bank is insolvent, he appoints the Federal Deposit Insurance Corporation (FDIC) as receiver.

OCC is a bureau of the Department of the Treasury. The Comptroller, who operates under the general direction of the Secretary of the Treasury, is appointed by the President and confirmed by the Senate for a term of 5 years.

The Comptroller and his employees have continuous direct and indirect involvement with bankers and the confidential information available in the national banking system.

SCOPE OF REVIEW

Our review was conducted at OCC headquarters, Washington, D.C., pursuant to a request from the Chairman, Subcommittee on Commerce, Consumer and Monetary Affairs, House Committee on Government Operations. We were asked to determine whether selected Federal agencies which regulate federally chartered or insured depository institutions have effective financial disclosure systems to identify and resolve conflict of interest situations. The Chairman's primary concerns were whether

- all required financial disclosure statements were promptly and properly filed;
- financial disclosure statements were adequately reviewed; and
- positions not currently required to file financial disclosure statements should be required to file them.

Our review was limited to the financial reporting system for full-time employees.

We reviewed all financial interests listed by OCC employees who had filed a 1976 financial disclosure statement by October 28, 1976, at OCC headquarters. We also reviewed the financial disclosure statements of the former Comptroller of the Currency who was required to file a statement directly with the Civil Service Commission (CSC). We did not contact employees to discuss their interests listed on the statements or actual duties and responsibilities.

The confidentiality of these statements was maintained at all times. Our working papers do not associate employees' names with financial interests listed on the statements but show only codes which are traceable to the names of employees and their interests. Lists of the employees and our codes were returned to OCC at the completion of our audit.

We also reviewed 57 descriptions of positions whose incumbents were not required to file financial disclosure statements to determine whether they should be required to file because of their duties and responsibilities. The descriptions had been drafted in accordance with organizational changes resulting from a recent management study of OCC.

Although they had not been formally approved, we were advised that they described actual duties better than the official descriptions.

This is the first in a series of three reports concerning the financial disclosure systems of the Federal banking regulatory agencies. We are also reviewing, and will report on, the financial disclosure systems of the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System.

CHAPTER 2

FINANCIAL DISCLOSURE REQUIREMENTS

AND AGENCY PROHIBITIONS

Executive Order 11222, dated May 8, 1965, prescribed standards of ethical conduct for Government officers and employees. The CSC was directed by the order to establish implementing regulations. In November 1965, CSC issued instructions requiring each agency to prepare employee conduct standards and establish a system for reviewing employee financial disclosure statements. Standards of conduct regulations established by each agency must be approved by CSC.

CSC requires each top agency official to obtain statements of outside employment and financial interests from:

- Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.
- Employees classified at Grade-13 or above, who are in decisionmaking positions or have duties which could involve conflict-of-interest situations. Included are positions involving decisions or actions which have an economic impact on any non-Federal enterprise.
- Employees classified below Grade-13 who occupy positions otherwise meeting the above criteria. An agency must obtain CSC approval to require such employees to file.

Interests of a spouse, minor child, or other member (blood relation) of an employee's immediate household are considered the employee's interests.

AGENCY REGULATIONS

In April 1966 the Department of the Treasury issued regulations 31 Code of Federal Regulations part 0. These regulations described minimum standards of conduct for its employees and established the financial disclosure system for all Department employees. The regulations require JCC employees in certain designated positions to file on forms

prescribed by the Department, statements of employment and financial interests. The General Counsel was designated as the Treasury Counselor on standards of conduct, responsible for coordination of the counseling service within the Department and for interpretations on conflict-of-interest questions. The Chief Counsel or legal advisor for each Bureau was designated as the Deputy Counselor for the Bureau, responsible for providing advice and guidance on conflicts of interest and other matters pertaining to standards of conduct.

At OCC, an associate deputy comptroller is responsible for collecting and reviewing financial disclosure statements, except from some senior attorney positions. Attorneys in Grade-15 and above are required to file statements with OCC's Chief Counsel who is responsible for reviewing the statements. The statements of the senior attorneys are then filed with the General Counsel of the Treasury Department.

Statements are required from persons in covered positions within 30 days after entrance on duty, and must be updated annually. If no changes occur, a negative report must be filed.

When conflict-of-interest matters can not be resolved at OCC, the matter is referred to Treasury's General Counsel. If the financial interests conflict or appear to conflict with the employee's official responsibilities, remedial action, including changes in assigned duties, disqualification for particular assignments, divestiture of the conflicting interest, or disciplinary action, may be taken.

Newly appointed bank examiners are required initially to complete statements different from the annual statements described above, disclosing outstanding indebtedness to a national bank or affiliate, ownership in national bank stock or in a holding company affiliate, and listing all assets, liabilities, and other financial interests he or his family holds. Unless an examiner achieves a position requiring the filing of annual financial disclosure statements, periodic followup statements are not required.

STATUTORY PROHIBITIONS

It is unlawful for an officer, director, or employee of any bank that is a member of the Federal Reserve System or that has deposits insured by the Federal Deposit Insurance Corporation, which includes national banks, to make a loan to

any Government examiner "who examines or has authority to examine such a bank" (18 U.S.C. 212).

A national bank examiner or an assistant national bank examiner is prohibited by 18 U.S.C. 213 from accepting a loan or gratuity from any bank, corporation, association, or organization examined by him, or from any person connected therewith.

OCC's administrative circular 53, amended April 22, 1974, adopted these statutory restrictions as policy restrictions and made them applicable to all personnel, including regional administrators, deputy regional administrators, and regional counsels involved in any decisionmaking or policy-setting process. The guidelines provide that neither national bank examiners nor policy-setting personnel may seek or obtain a loan or any extension of credit from a national bank, and that they may use only bank credit cards issued by State banks or where the credit involved is extended by a State bank. Provisions for liquidation of employee loans are made in accordance with the original payment schedule when (1) a State bank converts to a national bank and (2) a newly appointed employee has a loan from a national bank.

The Comptroller and the Deputy Comptrollers of the Currency are prohibited by 12 U.S.C. 11 from having any interest in any association issuing national currency under the laws of the United States. According to an OCC official, administrative circular 53 extends these provisions to employees in policymaking or decisionmaking positions. The circular's provisions prohibit an examiner or policysetting employee from holding title to any security of a national bank or a one-bank holding company, if a national bank is the principal business of that holding company.

The Comptroller's Handbook of Examination Procedure also contains certain restrictions on employee loans and ownership of stock.

CHAPTER 3

IMPROVED POLICIES AND PROCEDURES WOULD

INCREASE SYSTEM EFFECTIVENESS

OCC's financial disclosure system generally complies with CSC and Department of the Treasury regulations. However, we found that the design and operation of the system could be improved to make it more effective. These improvements include

- identifying positions whose incumbents should file financial disclosure statements,
- reviewing statements and identifying conflicts of interest,
- improving procedures for collecting statements,
- obtaining financial information on the disclosure forms necessary to enforce statutory prohibitions, and
- insuring that assistant national bank examiners who are not required to file statements do not hold interests that violate statutory and/or administrative prohibitions.

Such initiatives by OCC could aid in the overall management of the system and increase its effectiveness.

MORE EMPLOYEES SHOULD FILE

Treasury regulations provide that persons required to file financial disclosure statements include those classified at Grade-13 or above, in specifically identified positions, who are responsible for making decisions or taking actions on the part of the Government concerning

- contracting or procurement,
- administering or monitoring grants or subsidies,
- regulating or auditing non-Federal enterprises, and
- participating in other activities where the decision has an economic impact on the interests of any non-Federal enterprise.

The regulations require statements to be filed by employees below the Grade-13 level, if their duties are such that filing a statement is necessary to avoid a possible conflict-of-interest situation. Each bureau has the responsibility for determining the positions required to file statements based on the above regulations.

Currently, OCC requires 84 employees out of 2,700 to file annual financial disclosure statements. To determine the adequacy of OCC's criteria for identifying positions whose incumbents should file financial disclosure statements, we reviewed 57 position descriptions whose incumbents were both above and below the Grade-13 level that currently do not file statements. These positions were in the offices of the Comptroller, the deputy comptrollers, and in other headquarters and field offices. In our opinion, incumbents in 39 of the 57 positions should have been required to file as they perform duties which influence OCC policy and regulatory activities, and have access to privileged information. These 39 positions included

- national bank examiners,
- attorneys,
- economists and statisticians,
- regional corporate directors,
- financial analysts,
- directors responsible for bank organization and structure, and
- assistants to the Comptroller.

The position descriptions indicated that these employees assist in bank supervision, resolve complex legal questions, identify financial trends and changing business conditions that have an impact on national banks, analyze the condition and performance of national banks and advise on bank mergers and charters.

National bank examiners

There are approximately 730 national bank examiners in Grades-11 to -15 positions who are not required to file. Depending on grade level and experience, a national bank examiner may be responsible for managing examinations of

small and medium-sized banks, or serving as examiner-in-charge for reviews of the most sophisticated and complex national banks and their affiliates.

A national bank examiner's responsibilities may include:

- Planning and organizing an examination; supervising subordinates; and evaluating the adequacy of operations, financial condition, management, earnings, and future prospects of a bank.
- Supervising and conducting highly sensitive and complex field investigations pertaining to charter and merger activities of new and existing national banks, and recommending action to be taken on specific applications.
- Advising bankers on OCC laws, regulations, and rulings.
- Investigating sensitive criminal or consumer complaints.

Much of the information collected or reviewed during the examinations is highly confidential to both the bank under examination and its customers.

On the basis of our review of the 57 position descriptions, we believe OCC should develop more specific criteria for identifying positions whose incumbents should file statements, and use this criteria in evaluating all OCC positions. On the basis of their duties and responsibilities, and their access to highly confidential information, we believe all national bank examiners should be required to file annual financial disclosure statements.

STATEMENT REVIEW CRITERIA

OCC had not developed adequate review guidelines or a list of prohibited securities for its reviewing officers to follow. The review guidelines centered only on identifying bank-associated interests and did not relate the employees' assigned responsibilities to financial holdings.

In addition, OCC's guidelines do not describe what potential conflicts, if any, may exist when employees have interests in

- mutual funds, trusts, or pension plans;

- nonbank companies which may be major suppliers of the banking industry;
- businesses, owned wholly or in part by OCC employees, which may borrow from national banks; and/or
- competing organizations such as State banks.

We found several of these types of interests in our review of employees' holdings. (See ch. 4.)

OCC's law department has ruled on individual cases concerning these matters. However, OCC has not circulated abstracts of these rulings or any resulting general policy to its employees. Lacking such guidelines, OCC employees could inadvertently hold interests or be involved in situations that conflict or appear to conflict with their duties and responsibilities.

Also, there are no agency guidelines other than administrative circular 53 and Treasury regulations designating what constitutes a conflict; therefore, the OCC Associate Deputy Comptroller has little basis for questioning reported financial interests and relationships. OCC should develop a written policy by which these interests can be fully reported and examined. The Associate Deputy Comptroller advised us that these matters were being considered by those formulating new policy.

Restrictions on stock ownership

Restrictions on stock relationships which appear in the Comptroller's Handbook of Examination Procedure are inconsistent with the restrictions in administrative circular 53. The Comptroller's Handbook prohibits OCC examiners from owning stock in a national bank, a corporation holding the control of a national bank, or a national bank affiliate (for example, a bank's subsidiary or a business entity under the bank's holding company).

On the other hand, the administrative circular 53 and the instructions concerning the disclosure of information initially filed by new employees in bank examiner positions prohibit owning stock in a national bank, or a one-bank holding company, only if a national bank is the principal business of that holding company.

The associate deputy comptroller advised us that the restrictions in administrative circular 53 are the ones in effect. However, we believe the criteria should be made consistent. OCC officials told us that the Handbook was currently the subject of a substantial revision. The final version, which will be issued in March 1977, will not contain any references to conflict-of-interest restrictions or guidelines. All such information will be centralized in the Comptroller's Administrative Circular Series.

Restrictions concerning loans

OCC's administrative circular 53 extended the statutory loan restrictions of 18 U.S.C. 212 and 213 as policy restrictions applicable to all OCC personnel involved in any decisionmaking or policy-setting process. OCC employees are informed of the loan restrictions through administrative circular 53 and the Comptroller's Handbook of Examination Procedure. However, the instructions are minimal. The Handbook mentions only that loans are permitted from State banks not affiliated with national banks. The circular gives no guidance regarding employee business loans from national banks, or what loans, if any, are permitted from State banks affiliated with a national bank. OCC has prepared draft memorandums formulating more complete and consistent guidelines concerning loans, but these have not been finalized.

PROCEDURES FOR COLLECTING STATEMENTS

OCC positions that are required to file annual disclosure statements are supposed to be included in appendix A of the Department of the Treasury "Minimum Standards of Conduct" published in the Federal Register. Currently, there are 12 OCC positions listed in appendix A, requiring statements from 62 employees. OCC, in determining who should file disclosure statements in 1976, required 84 employees to file.

In August 1976 the Department of the Treasury issued Legal Division Directive No. 7 setting forth the manner in which legal division attorneys located in all Bureaus throughout Treasury would be required to file. Under the directive all OCC attorneys Grade 15 and above were required to file disclosure statements with OCC's Chief Counsel. Some of these attorneys had already been required to file statements with the Associate Deputy Comptroller. These attorneys, and 11 other attorneys not previously required to file, submitted their statements to the Chief Counsel. We did not review the statements of the 11 attorneys as the filing and review of these statements was completed after our audit.

OCC did not adequately enforce regulations requiring individuals hired or promoted into filing positions to submit a statement within 30 days of entering the position. One employee entered into a position in 1970, but did not file his first statement until 1976. Twelve other employees filing in 1976 for the first time, did not file within 30 days of appointment. The average time for filing of the 12 statements was 8 months after appointment.

Some of the confusion concerning OCC's statement collection procedures can be traced to a recent reorganization within OCC, including the changing and revision of positions, titles, and responsibilities. However, the lack of effective controls and procedures to insure proper and timely submission of statements could result in employees holding conflicting interests for extended periods of time.

MORE INFORMATION SHOULD BE REQUESTED ON STATEMENTS

OCC needs information concerning employee loans and bank credit cards in order to enforce its statutory prohibitions and agency regulations. The disclosure statement prescribed by Treasury Department regulations specifically exempts the employee from reporting loans for home mortgages and for ordinary household and living expenses. Also, information is not requested concerning employee use of credit cards issued by national banks.

According to the Associate Deputy Comptroller, OCC is considering revising its disclosure statement to cover the Agency's particular needs, including personal borrowing and credit cards. Revisions such as these, which add to the disclosure requirements, must be approved by CSC.

INFORMATION NEEDED FROM ASSISTANT NATIONAL BANK EXAMINERS

18 U.S.C. 213 prohibits a national bank examiner or an assistant national bank examiner from accepting a loan or gratuity from any bank, corporation, or association examined by him, or from any person connected therewith. To enforce this prohibition and other OCC regulations, OCC requires employees hired into examiner positions, at the time of their appointment, to disclose information concerning those relationships they may have with national banks. However, this information is not updated periodically.

Procedures have not been established for examiners to report subsequent acquisitions of national bank stock or

other financial relationships which may represent a conflict of interest or the appearance of a conflict. We were told that such information is expected to be reported by examiners as the need arises.

While we have seen a need for all national bank examiners to file annual financial disclosure statements, we believe that assistant national bank examiners (Grades-5 to -10) should be required, at a minimum, to update annually information on indebtedness and ownership of national bank stocks. This would provide greater assurance to OCC that statutory provisions and regulations were being followed. There are approximately 1,000 assistant national bank examiners who aid in all phases of the bank examination process.

CHAPTER 4

REVIEW OF FINANCIAL DISCLOSURE STATEMENTS

We reviewed the financial disclosure statements of the 84 employees OCC required to file in 1976. OCC reviewed their financial disclosure statements twice in 1976. The first review, by OCC's former personnel director, occurred shortly after the statements were filed, starting in April 1976. In October 1976 during an OCC reorganization, the Associate Deputy Comptroller performed a second review of the statements. During the latter review the financial interests of three employees were questioned. These interests had been reported for many years.

- The first employee reported in 1971 that his minor son held stock in a national bank. His 1976 statement reported no change from previous statements. When OCC questioned the employee concerning his son's interest, the employee stated that the stockholder was no longer a minor, or a member of the employee's household.
- An OCC division director had a business loan from a national bank at the same time that his duties required him to (1) explain and interpret OCC financial reporting regulations to bank officials, (2) supervise the collection, review and compilation of data from national bank financial statements, and (3) implement disclosure procedures for bank reports under the Freedom of Information Act. OCC's law department has recommended divestiture of the loan.
- A high-level OCC official has accumulated during the past 15 to 20 years more than 1,000 shares of stock in a family-operated State bank, representing 6.5 percent of the total shares outstanding. His duties include (1) regulating conversions of State banks into national banks and supervising mergers, charters, and branch applications and (2) monitoring bank examinations. He can have a great impact on the national banking industry.

OCC's law department has considered this case and ruled that the employee may retain his stock but must not participate in any matter concerning any national bank or State bank located within 100 to 200 miles of the State bank in which the employee has a stock interest.

During our review of the 84 statements, we noted that five OCC employees reported financial interests which may be questionable.

- An OCC official whose duties include dealing with OCC policies on electronic banking, owns stock in a company which, as a major part of its business, produces electronic storage and information retrieval equipment and leases it to the banking industry. The official has agreed to dispose of the stock.
- An OCC official has for 6 years reported stockholdings by his wife in a financial corporation which she inherited from her father's estate in 1968. At the time of the inheritance, the corporation did not own a national bank. Subsequently, the corporation acquired 100 percent of a national bank. As part of his official duties, he informs the banking community of OCC policies and actions, responds to press and public inquiries, and advises the Comptroller concerning the effect of OCC actions. He has requested a ruling from the OCC law department on the propriety of the holdings.
- Three other employees had loans from State banks affiliated with national banks in the regions in which they were employed. The State banks and national banks were under common holding companies. OCC is currently revising administrative circular 53 to prohibit employees from having loans with banks affiliated with national banks.

Our review of the former Comptroller of the Currency's financial disclosure statement showed no interests which, in our opinion, raised possible conflict of interest problems. The statement of the current Acting Comptroller of the Currency was filed with the OCC Associate Deputy Comptroller and likewise contained no interests which raise possible conflict-of-interest problems.

CHAPTER 5

CONCLUSIONS, RECOMMENDATIONS, AND AGENCY COMMENTS

CONCLUSIONS

As the regulator of the national banking industry, OCC must insure that its financial disclosure system effectively identifies and resolves employee conflicts of interest. Because of its close working relationship with the banking industry, OCC must protect itself and its employees from possible conflicts of interest resulting from the financial interests held by employees.

OCC has not developed its disclosure system to the point where it is fully effective. Review guidelines and criteria for determining employee conflicts of interest are insufficient, and collection procedures need strengthening. Many employees in important positions were not required to file disclosure statements, but their duties and responsibilities indicated that they should be required to file. Certain information necessary to enforce statutory prohibitions and agency regulations was not being requested on the disclosure form, and persons hired into bank examiner positions, who are not required to file statements annually, were not being required to keep this information current.

OCC has shown initiative to improve the effectiveness of its system. However, the system must be completed and formalized into one cohesive set of regulations and guidelines. Of primary importance is the need for OCC to identify fully all positions that should file statements and request Department of the Treasury and CSC approval. Until this is done, we believe that OCC cannot satisfactorily assure itself that all potential conflict-of-interest situations within its agency are being identified and resolved.

RECOMMENDATIONS

We recommend that, to improve the effectiveness of the OCC financial disclosure system, the Comptroller of the Currency:

- Require employees in national bank examiner positions to file annual financial disclosure statements.

- Develop specific criteria for identifying positions and employees who should file statements and apply that criteria to all positions.
- Develop consistent and comprehensive written regulations encompassing the various restrictions placed on employees' interests by statutory regulations, Executive Order 11222, and Department of the Treasury and OCC regulations and policies.
- Develop comprehensive guidelines for employees as to the types of interests that are prohibited, including interests in mutual funds, trusts, pension plans, stock in bank-related companies, business loans, and bank competitors. Such guidelines might also contain lists of prohibited securities.
- Develop and maintain a listing of all employees required to file disclosure statements and obtain approval as needed from the Department of the Treasury and CSC.
- Revise the financial disclosure statement to require disclosure of employee loans and bank credit cards.
- Develop procedures to insure that statements are properly and promptly collected.
- Require employees in assistant national bank examiner positions to update annually financial information on indebtedness and ownership of national bank stock.
- Review the questionable interests identified in this report and take appropriate corrective action.

AGENCY COMMENTS

We discussed our findings and recommendations with OCC officials in the Offices of the Chief Counsel and the Associate Deputy Director who are responsible for the financial disclosure system. They concurred with our findings but found it necessary in several instances to suggest certain clarifications and to correct some minor inaccuracies.

They also thought it beneficial to provide us with updated information as to the current status of plans for improving the financial disclosure system. As a result, we revised our report where warranted to reflect these facts more accurately.

OCC officials agreed that full identification of all employees required to file disclosure statements is of primary importance. For this reason, OCC by letter of February 14, 1977, requested approval of a fully expanded list of positions and informed Treasury of its intention to request Treasury and Civil Service Commission approval of an expanded statement of employment and financial interests for OCC employees. (See app. I.)

In response to each of our recommendations, OCC officials provided us with the following information.

1. They agreed that national bank examiners should be required to file annual financial disclosure statements and have requested their inclusion in the list of positions in the February 14 letter to Treasury.
2. They expanded the list of positions by applying criteria refined from Treasury regulations to OCC's new organization and specific needs.
3. They are currently in the process of finalizing a revision to Administrative Circular 53 which will contain, in addition to the Comptroller's expanded guidelines, a comprehensive compilation of the statutory and regulatory restrictions placed on employees' interests.
4. The revised Administrative Circular 53 will be supplemented periodically with lists of national bank affiliates and abstracts of internal rulings on individual cases.
5. They developed a new list of employees required to file disclosure statements and are currently awaiting Treasury approval.
6. An expanded financial disclosure statement is currently being drafted. Upon completion, Treasury and Civil Service Commission approval will be requested.

7. Procedures have been developed at both the Washington and regional levels to process and review the financial disclosure statements.
8. They requested Treasury approval to include assistant national bank examiners and assistant and associate national trust examiners in the list of expanded positions.
9. Most of the individual cases cited in the report have been resolved.



Comptroller of the Currency
Administrator of National Banks

Washington, D. C. 20219

February 14, 1977

Mr. Warren F. Brecht
Assistant Secretary
for Administration
Department of the Treasury
Washington, D.C. 20020

Dear Mr. Brecht:

Pursuant to 31 C.F.R. §0.735-70 (e), I hereby request that the list of positions in Appendix A to 31 C.F.R. Part 0 included under the heading "Office of the Comptroller of the Currency" be revised to read as follows:

- First Deputy Comptrollers.
- Deputy Comptrollers.
- Associate Deputy Comptrollers.
- Assistants to the Comptroller.
- Chief Counsel.
- Deputy Chief Counsel.
- Attorneys.
- Division Directors and Deputy Directors (regardless of specific title).
- Procurement Officer.
- Regional Administrators.
- Deputy Regional Administrators.
- Assistants to Regional Administrators.
- Regional Counsels.
- Regional Division Directors and Deputy Directors (regardless of specific title).
- Regional Economists.
- National Bank Examiners.
- Assistant National Bank Examiners.
- National Trust Examiners.
- Associate National Trust Examiners.
- Assistant National Trust Examiners.

-2-

The revision of the list of positions in Appendix A is part of an ongoing internal reevaluation of our standards of conduct and conflicts of interest policies. The primary purpose in revising the list of positions is to expand the list to include additional employees who previously had not been covered. The revision also identifies with greater specificity those employees at both the Washington and Regional levels who are required to file and conforms the list of positions to recent organizational changes within the Office.

Because the amended list extends to employees who are classified below a Grade 13, Treasury regulations require that such inclusion be "specifically justified by the Secretary of the Treasury in writing to the Civil Service Commission as an exception that is essential to protect the integrity of the Government and avoid employee involvement in a possible conflicts of interest situation." 31 C.F.R. §0.735-70(d). The positions which include employees below a Grade 13 are as follows:

- Attorneys.
- National Bank Examiners.
- Assistant National Bank Examiners.
- National Trust Examiners.
- Associate National Trust Examiners.
- Assistant National Trust Examiners.

The inclusion of employees classified below a Grade 13 was necessary in order to disclose any possible conflicts of interest by those individuals who are most directly involved in the examination and supervision of national banks and national bank affiliates. It is our opinion that the inclusion of those employees who have direct contact with national banks is essential in maintaining the high standard of integrity and impartiality that this Office requires in meeting its statutory responsibilities. Accordingly, we request that the appropriate communication be forwarded by Treasury to the Civil Service Commission.

We would appreciate approval by Treasury of the revised list of positions, in accordance with 31 C.F.R. § 0.735-70(e), as promptly as possible. Upon being advised of such approval, actual notification will be given to those employees who are required to file under the revised list.


You should also be aware that we are presently in the process of revising the statement of employment and financial interests currently being used by our Office. The present statement, Treasury Department Form No. 3087, has been found to be inadequate in certain respects in meeting the specific needs of our

-3-

conflicts of interest policy. The purpose of the revision will be to expand the current statement to include questions regarding loans from national banks and national bank affiliates as well as questions concerning stock held in national and state banks and their affiliates. Because the revised statement will include questions that go beyond, or are in greater detail than, those included in the Civil Service Commission's format, Treasury regulations require the prior approval of the Commission. 31 C.F.R. § 0.735-73. The revised statement will be submitted to you upon completion along with a request that the Commission's approval be obtained.

If you have any question concerning this Office's policies or practices in regard to standards of conduct or conflicts of interest, please contact Mr. John E. Shockey, Chief Counsel.

Very truly yours,



Robert Bloom
Acting Comptroller of the Currency

REPORTS ISSUED ON AGENCIES'FINANCIAL DISCLOSURE SYSTEMS

<u>Agency</u>	<u>Report title, number, and issue date</u>
Federal Power Commission	Need for Improving the Regulation of the Natural Gas Industry and Management of Internal Operations, B-180228, 9/13/74.
U.S. Geological Survey	Effectiveness of the Financial Disclosure System for Employees of the U.S. Geological Survey, FPCD-75-131, 3/3/75.
Civil Aeronautics Board	Effectiveness of the Financial Disclosure System for Civil Aeronautics Board Employees Needs Improvements, FPCD-76-6, 9/16/75.
Federal Maritime Commission	Improvements Needed in the Federal Maritime Commission's Financial Disclosure System for Employees, FPCD-76-16, 10/22/75.
U.S. Railway Association	Improvements Needed in Procurement and Financial Disclosure Activities of the U.S. Railway Association, RED-76-41, 11/5/75.
Department of the Interior	Department of the Interior Improves Its Financial Disclosure System for Employees, FPCD-75-167, 12/2/75.
Food and Drug Administration	Financial Disclosure System for Employees of the Food and Drug Administration Needs Tightening, FPCD-76-21, 1/19/76.
U.S. Geological Survey	Letter report to Congressman John Moss on U.S. Geological Survey Employees' Divestiture, FPCD-76-37, 2/2/76.

<u>Agency</u>	<u>Report title, number and issue date</u>
Inter-American Foundation	Inter-American Foundation's Financial Disclosure System for Employees and Its Procurement Practices, ID-76-69, 6/30/76.
Federal Aviation Administration	Problems with the Financial Disclosure System, Federal Aviation Administration, FPCD-76-50, 8/4/76.
Department of Commerce	Problems Found in the Financial Disclosure System for Department of Commerce Employees, FPCD-76-55, 8/10/76.
Small Business Administration	Management Control Functions of the Small Business Administration--Improvements are Needed, GGD-76-74, 8/23/76.
Export-Import Bank	Export-Import Bank's Financial Disclosure System for Employees and Its Procurement Practice, ID-76-81, 10/4/76.
Federal Communications Commission	Actions Needed to Improve the Federal Communications Commission Financial Disclosure System, FPCD-76-51, 12/21/76.
Tennessee Valley Authority	Tennessee Valley Authority: Information on Certain Contracting and Personnel Management Activities, CED-77-4, 12/29/76.
Food and Drug Administration	The Food and Drug Administration's Financial Disclosure System for Special Government Employees: Progress and Problems, FPCD-76-99, 1/24/77.
Energy Research and Development Administration	An Improved Financial Disclosure System, FPCD-77-14, 1/26/77.
Department of Agriculture	Financial Disclosure System for Department of Agriculture Employees Needs Strengthening, FPCD-77-17, 1/31/77.

Agency

Report title, number
and issue date

The White House

Action Needed to Make the Executive
Branch Financial Disclosure System
Effective, FPCD-77-23, 2/28/77.

PRINCIPAL OFFICIALS
OF THE DEPARTMENT OF THE TREASURY
RESPONSIBLE FOR ADMINISTERING ACTIVITIES
DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
SECRETARY OF THE TREASURY:		
W. Michael Blumenthal	Jan. 1977	Present
William E. Simon	Apr. 1974	Jan. 1977
COMPTROLLER OF THE CURRENCY:		
Robert Bloom (acting)	Aug. 1976	Present
James E. Smith	July 1973	July 1976