

REVIEW OF THE ETHICS PROGRAM  
THE FEDERAL DEPOSIT INSURANCE CORPORATION

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Abbreviations

DAEO	Designated Agency Ethics Official
DEC	Deputy Ethics Counselor
FDIC	Federal Deposit Insurance Corporation
FRPU	Financial Reports Processing Unit
OGE	Office of Government Ethics
OIG	Office of the Inspector General

## CHAPTER 1

### BACKGROUND

The Federal Deposit Insurance Corporation (FDIC) promotes and preserves public confidence in banks and protects the money supply by providing insurance coverage for bank deposits and conducting periodic examinations of insured State-chartered banks that are not members of the Federal Reserve System. Management of FDIC resides with a Board of Directors consisting of five members, including: the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and three others who are appointed by the President, with the advice and consent of the Senate. One member is designated as Chairman.

FDIC does not operate on funds appropriated by Congress; rather it derives income from assessments on deposits held by insured banks and from interest on the required investment of its surplus funds in Government securities.

FDIC consists of offices within the Washington, DC area (Washington offices) and regional offices and service centers located throughout the United States. Combined, these offices and service centers employ approximately 14,200 individuals nationwide.

#### Administration Of The Ethics Program

The administration of FDIC's ethics program is organized within the Office of the Executive Secretary in Washington, DC. The Acting Executive Secretary is the Designated Agency Ethics Official (DAEO) and the Assistant Executive Secretary (Ethics) is the Alternate DAEO. They are assisted by 10 full-time ethics officials who comprise the Washington Office Ethics Section (Ethics Section) within the Office of the Executive Secretary.

The primary ethics officials within the Ethics Section are the Ethics Program Manager and the Supervisory Ethics Program Specialist. Two secretaries within the Ethics Section also assist in the day-to-day administration of the ethics program. The Ethics Section is further divided into two separate units: the Training and Monitoring Unit and the Financial Reports Processing Unit (FRPU).

The Training and Monitoring Unit, which is managed by the Supervisory Ethics Program Specialist, consists of three additional Ethics Program Specialists who are responsible for, among other things, reviewing financial disclosure reports, conducting ethics education and training, and providing ethics counseling and advice.

FRPU consists of a Senior Program Assistant who manages the Unit and two Program Assistants. This unit is responsible for

distributing, collecting, and monitoring the status of the financial disclosure reports.

In addition to the ethics officials within the Ethics Section, over 200 Deputy Ethics Counselors (DEC) at the individual Washington offices, regional offices, and service centers assist in administering the ethics program at their particular locations. The DECs' responsibilities include: reviewing confidential financial disclosure reports, conducting ethics education and training, and providing ethics counseling and advice.

#### Standards Of Conduct

FDIC's standards of conduct were previously found at 12 C.F.R. part 336. These regulations were superseded by the new executive branch standards of conduct at 5 C.F.R. part 2635, with the exception of subpart C (of 12 C.F.R. part 336), entitled "Financial Interests and Obligations; Outside Employment." This subpart remains in effect in accordance with the notes found at 5 C.F.R. §§ 2635.403 and 2635.803 which granted agencies a grace period extension until February 3, 1994 for certain existing agency standards of conduct. This grace period was extended an additional year by OGE in 59 FR 4779-4780.

On July 12, 1994, FDIC, with the concurrence of the Office of Government Ethics (OGE), published a proposed supplemental standards-of-conduct regulation in the Federal Register to address the specialized functions and operations of FDIC in compliance with 5 C.F.R. § 2635.105. Upon finalization of the supplemental regulation, FDIC will delete the remaining portions of 12 C.F.R. part 336 that are superseded by the executive branch standards of conduct and the supplemental regulations and add a new 12 C.F.R. § 336.1 to provide a cross-reference to the executive branch standards of conduct, FDIC's supplemental standards of conduct, the executive branch financial disclosure regulation, and FDIC's supplemental financial disclosure regulation (FDIC's supplemental financial disclosure regulation is discussed in further detail in Chapter 3 dealing with the confidential system).

#### Prior Ethics Program Reviews

OGE previously conducted two reviews of FDIC's ethics program. In our 1984 report, we recognized the FDIC ethics officials for displaying a thorough knowledge of the conflict-of-interest laws and standards-of-conduct regulations. We also commended FDIC on the excellent ethics training provided for commissioned bank examiners. Additionally, we were pleased with FDIC's efforts to tailor its standards of conduct to address unique agency ethics matters and suggested only minor revisions to the regulation.

To improve FDIC's ethics program, we recommended that they expand the coverage of the ethics training currently being

conducted, periodically include ethics-related items in the FDIC employee newsletter, and develop a "plain English" standards-of-conduct booklet to be distributed to all employees. We also recommended that post-employment information be provided to all departing employees. Finally, we made several recommendations to improve the administration of the public and confidential financial disclosure systems.

Our 1989 review revealed that both the confidential and public financial disclosure systems were effectively administered by a knowledgeable and dedicated staff and that the ethics education and training program appeared to be exceptionally comprehensive and effective in addressing the particular needs of FDIC employees.

To improve the program, we recommended that written audit guidelines be developed to assist the ethics staff when performing their technical audits of regional ethics activities for purposes of monitoring the program. We also recommended that the FDIC standards of conduct be revised to require that advance written approval be obtained by certain employees before engaging in outside activities.

#### Objectives, Scope, And Methodology

We performed our review pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objectives were to measure the ethics program's effectiveness and compliance with applicable ethics statutes and regulations. We addressed issues applicable to the overall administration of FDIC's ethics program. To achieve our objectives, we focused on the following program elements:

- financial disclosure reporting;
- ethics education and training;
- ethics counseling and advice;
- relationship with the Office of the Inspector General;  
and
- acceptance of travel expense payments from non-Federal sources.

We performed the fieldwork at the Office of the Executive Secretary in Washington, DC during July and August 1994.

## CHAPTER 2

### PUBLIC FINANCIAL DISCLOSURE SYSTEM

FDIC has effective procedures in place to ensure that public financial disclosure reports (SF 278) are filed and reviewed according to applicable statutes and regulations. The centralized public financial disclosure system is administered by the Ethics Section, which is responsible for distributing, collecting, reviewing, maintaining, and making publicly available the public reports.

#### Procedures For Collecting Annual Public Reports Are Effective

In early January 1994, FRPU distributed an annual public report package to incumbent filers and requested them to return their completed reports to the Ethics Section no later than May 15. Public filers were also requested to return the attached Acknowledgement of Receipt of Public Financial Disclosure Report Form no later than 10 days from the date of receipt to ensure that they had received the package. The public package also included SF 278 filing instructions to aid filers in accurately completing the public reports.

In April, FRPU sent memorandums via electronic mail (e-mail) to all incumbent filers who had yet to return their reports to ensure that they had received their public report package and to remind them of the May 15 filing deadline. This e-mail also directed filers to contact the Ethics Program Manager with any questions or concerns.

#### New Entrant And Termination Filers Are Identified By The Ethics Transaction Journal

Through the use of the computer-generated biweekly Ethics Transaction Journal, which lists all personnel changes (i.e., name changes, promotions, resignations, relocations, etc.), FRPU notifies new entrant and termination filers of the public filing requirements and provides them with a public financial disclosure package in a timely manner. FRPU uses the acknowledgement of receipt form to record the date the public report was received by the filer and to notify the filer when the report is due.

#### Public Reports Were Filed And Reviewed In A Timely Manner

We reviewed 50 of the 235 public financial disclosure reports required to be filed thus far in 1994, including 44 incumbent, 3 new entrant, and 3 termination reports, and found that all were filed by the appropriate filing deadlines in accordance with 5 C.F.R. § 2634.201.

The public reports were reviewed by the Ethics Section within the required 60-day time frame in accordance with 5 C.F.R. § 2634.605(a), or shortly thereafter.

The review of the public reports by the Ethics Section appeared to be very thorough. We found no substantive deficiencies and very few technical deficiencies during our review of these reports. The thorough review of these reports by the Ethics Section was evidenced by the reviewers' hand-written notes on reports documenting conversations with filers to clarify and correct certain entries. We also found several printed copies of e-mail correspondence in the filers' ethics files in which the reviewing officials requested clarification from the filers on certain entries, such as requesting the filer to provide the specific name of a mutual fund in lieu of the fund family name.

## CHAPTER 3

### CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

FDIC has effective procedures in place to ensure that confidential financial disclosure reports are filed and reviewed according to applicable statutes and regulations. The Ethics Section administers FDIC's decentralized confidential financial disclosure system in conjunction with the DECs.

#### Annual Confidential Financial Disclosure Procedures Are Effective

To initiate the 1993 annual filing cycle, in June 1993, FRPU prepared a list identifying all employees that had been required to file a confidential financial disclosure report during the 1992 filing cycle. This list was forwarded, along with OGE's regulatory criteria, found at 5 C.F.R. §§ 2634.904 and 2634.905, to all Division Directors and Office Heads. The Ethics Section also provided them with FDIC Circular 2410.2 which specifically describes 11 categories of positions, the incumbents of which are required to file a confidential financial disclosure report (SF 450). The Division Directors and Office Heads reviewed their respective office listing for accuracy and made all necessary corrections (e.g., identifying new employees, resignations, reassignments, or promotions). They then returned their amended lists to the Ethics Section for final review. The Ethics Program Manager reviewed each list to determine the adequacy of coverage. FDIC's strict adherence to and application of the criteria, particularly the exclusion criteria at 5 C.F.R. § 2634.905(b)(1), appropriately reduced the number of confidential filers from the 1992 annual filing cycle by almost 45 percent.

Once the list was approved by the Ethics Program Manager, FRPU used the final list to update the Ethics Computer System, which is used to provide overall monitoring of FDIC's ethics program. This system contains information on each employee's job title and location, whether all required financial disclosure forms have been filed (including those required by the supplemental financial disclosure regulation), and whether training has been received. The lists generated by this system provide ethics officials with periodic progress updates and allow them to contact employees who have not fulfilled the regulatory and agency ethics requirements.

In early September 1993, FRPU provided each DEC with confidential reporting packets for their covered employees, which included a cover letter, an SF 450, and FDIC's instructions for completing the report. The DECs distributed the reporting packets to covered employees by the end of September and filers were directed to return their completed SF 450s to their respective DEC for review by October 31, 1993.

The DECs reviewed the completed reports for conflicts of interest and accuracy, and then forwarded copies of the certified reports to the Ethics Section for filing in the employee's individual ethics file.

On January 10, the Ethics Section prepared a 30-day delinquency list of filers whose reports had not been received by the Ethics Section. This list was sent to the appropriate DECs to follow up on these filers.

#### New Entrants Are Identified By The Ethics Transaction Journal

As with the public filers, new entrants are identified through the biweekly report of personnel changes generated by the Ethics Transaction Journal. FRPU utilizes this report to update the Ethics Computer System to reflect when an employee is in a covered position. FRPU is then responsible for distributing the reporting packet to the newly covered employee.

#### Vacancy Announcements Contain Confidential Reporting Requirements

To alleviate the problems of hiring individuals whose financial interests may make them unable to perform their duties or who may be disqualified from participating in important elements of their positions due to pending resolution of conflicts of interest, FDIC has established a screening system for prospective employees. Non-FDIC job applicants must now complete an SF 450 prior to receiving an official offer from FDIC's Office of Personnel Management. The SF 450 is provided to those candidates tentatively selected for the position. The Ethics Section then reviews completed reports to determine if the prospective employee's financial interests would cause real or apparent conflicts of interest with the duties and responsibilities of the position being filled.

#### FDIC Has Issued A Supplemental Financial Disclosure Regulation

FDIC has issued a supplemental financial disclosure regulation which is codified at 5 C.F.R. part 3202. This regulation establishes financial disclosure requirements in addition to the public and confidential financial disclosure reports required pursuant to 5 C.F.R. part 2634.

#### Additional Confidential Reports Are Required

FDIC's supplemental financial disclosure regulation requires employees to file additional confidential reports. These reports are essential to ensuring that employees do not hold or acquire

financial interests which would be in conflict with the duties and responsibilities which are unique to their positions at FDIC.

All employees must file the FDIC Confidential Report of Interest in FDIC-Insured Depository Institution Securities within 30 days of the date of entrance on duty. Thereafter, an updated report must be filed when, under certain circumstances, an interest in an FDIC-insured depository institution is acquired subsequent to the commencement of employment. An employee must also file an additional report upon divestiture of a previously reported interest in an FDIC-insured depository institution.

The FDIC Confidential Report of Indebtedness must be filed by certain employees within 30 days of entering on duty and annually thereafter. Filers are required to report any indebtedness which is evidenced by a credit card issued by an FDIC-insured depository institution and any other indebtedness to a Federally insured financial institution or affiliates thereof, which is not otherwise required to be reported on the SF 450.

FDIC also requires certain employees to file the FDIC Confidential Statement of Credit Card Obligation in Insured State Nonmember Bank and Acknowledgement of Conditions for Retention - Notice of Disqualification within 30 days of acquiring a credit card obligation from an FDIC-insured nonmember bank headquartered outside of the employee's region of assignment.

#### SF 450s Were Filed And Generally Reviewed In A Timely Manner

We reviewed 200 of the 6,428 SF 450s required to be filed during the 1993 filing cycle; all were incumbent reports.<sup>1</sup> We found that 186 (93 percent) were filed by the October 31 annual filing deadline in accordance with 5 C.F.R. § 2634.903(a); the remainder of the reports were generally filed shortly thereafter.

The SF 450s were generally reviewed in a timely manner. Of the 200 reports we reviewed, 164 (82 percent) were reviewed within

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<sup>1</sup>Four filers in our sample also completed new entrant reports in 1993 prior to filing their annual reports; however, we only included the filers' most recent report in our count. We did make note of the filers' entrance on duty and the date of filing their new entrant report. Three of the reports were filed within the 30-day requirement. The fourth filer's appointment date was February 8, 1993; however, the SF 450 was not submitted until April 4, 1993.

60 days.<sup>2</sup> The majority of the remaining reports were reviewed soon after the 60-day time frame.

Thorough Reviews Of The  
SF 450s Were Conducted

The review of the SF 450s by the DEC's and the Ethics Section appeared to be very thorough. We found no substantive and few technical deficiencies in our review of the reports. As with the public reports, we saw evidence of careful review in the form of hand-written reviewer notes documenting discussions with filers and e-mail correspondence between filers and reviewers.

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<sup>2</sup>The review timeliness of two reports was undeterminable because the reviewer did not date the report.

## CHAPTER 4

### EDUCATION AND TRAINING

FDIC has established an excellent ethics education and training program that far exceeds basic compliance with applicable ethics statutes and regulations.

#### Initial Ethics Training Requirements Have Been Satisfied

FDIC has complied with the initial ethics orientation requirements for all employees in accordance with 5 C.F.R. § 2638.703. In January 1993, all employees were provided with a copy of Executive Order 12674, as amended; 5 C.F.R. part 2635; subpart C of 12 C.F.R. part 336; and the name, phone number, and location of the DEC(s) within their particular office.

#### New Employee Ethics Training Requirements Are Being Met

In compliance with 5 C.F.R. § 2638.703, FDIC provides initial ethics orientations for new employees within 90 days of entrance on duty. The Office of Training and Education Services provides new employees in the Washington offices with the initial ethics orientation materials. At the regional offices and service centers, the DECs, in cooperation with Administrative Officers, provide new employees with the orientation materials.

New employees must also complete and return the FDIC Employee Certification and Acknowledgement of Standards of Conduct Regulations and Presidential Executive Orders, within 60 days of entrance on duty. One copy of this three-part form is retained by the employee, another is kept in the employee's ethics file in the office to which the employee is assigned, and the remaining copy is forwarded to the Ethics Section.

#### 1993 Annual Ethics Training Exceeded Annual Training Requirements

FDIC conducted annual ethics training for approximately 8,500 employees in 1993, almost 3,000 more than were initially identified as required to receive annual training. According to the Ethics Program Manager, the training courses were generally open to any employee who wanted to attend, which accounted for many of the additional attendees. In addition, some offices required all employees to attend the annual training.

The annual ethics training was conducted by both the Ethics Section and the DECs. Approximately 62 percent of the annual training for the Washington offices was conducted by the Ethics Section. The remaining annual training for the Washington offices

was conducted by the DECs for the Division of Resolutions, Office of the Inspector General (OIG), and the Legal Division. The annual ethics training at the regional offices and service centers was shared by the Ethics Section and the DECs.

In addition to the annual ethics training conducted in 1993, the Ethics Section conducted ethics training for 279 new assistant examiners. This training was conducted as part of the two-week "Examiner Training School" that all new examiners are required to complete.

#### New DECs Receive Extensive Training

Newly appointed DECs were provided with a three-day ethics training course to aid them in performing their ethics duties. Seven DEC training courses were conducted by the Ethics Section in 1993.

DECs were also provided with a copy of the DEC Manual produced by the Ethics Section to aid them in carrying out their ethics-related duties. This three-part manual contains: statutory and regulatory authorities for administering FDIC's ethics program; uniform operating guidelines for administering the ethics program at the DEC level; and a reference section containing, among other things, FDIC and OGE ethics opinions and ethics-related guidelines or memorandums impacting the DECs' particular offices. Additionally, the Ethics Section routinely provides the DECs with ethics-related memorandums which can be filed in the reference section of the manual.

The Ethics Section also prepared an 83-page guide, entitled FDIC Training Session on the Standards of Ethical Conduct -- Session Guide, to be used by DECs and other training staff when conducting annual ethics training. This guide outlines the format to be followed when conducting the annual ethics training courses and contains all the necessary materials needed to effectively present the training.

#### Additional Ethics Information Is Provided Through A Variety Of Sources

The Ethics Section periodically includes ethics information in the FDIC NEWS, FDIC's monthly employee newsletter. Recent articles have addressed topics such as OGE's standards-of-conduct regulations, conflicting financial interests, disqualifications and recusals, impartiality in performing official duties, and maintaining an ethical FDIC.

In addition to the FDIC NEWS, an electronic bulletin board system containing a board dealing solely with ethics is available to all FDIC employees. This board contains DEC names, addresses, and phone numbers; instructions on how to complete the SF 450; FDIC

Circular 2410.2 dealing with financial disclosure and other ethics reports and Circular 2410.3 regarding acceptance of travel from prospective employers; information on seeking employment in the private sector; guidelines governing post-employment activities and participation in professional associations; and FDIC's proposed supplemental standards-of-conduct regulation.

The Ethics Section has also recently developed a pamphlet on seeking employment and post employment which is often distributed during the annual ethics training. In addition to providing an overview of the seeking-employment and post-employment rules, this pamphlet encourages employees to discuss any issues or questions relating to these topics with their appropriate DEC or the Ethics Section.

#### 1994 Annual Ethics Training Is Under Way

At the time of our review, FDIC had already conducted ethics training for approximately 3,900 employees. According to the Ethics Program Manager, the 1994 annual training will also be made available to any employee who wants to attend, not just to financial disclosure filers and other employees who are required to receive annual ethics training. In addition, DEC ethics training for newly appointed DECs was conducted on September 27-29, 1994.

## CHAPTER 5

### COUNSELING AND ADVICE SERVICES

In accordance with 5 C.F.R. § 2638.203(b)(7), which requires the DAEO to develop and maintain an ethics counseling program, FDIC ethics officials provide ethics counseling and advice to employees on a variety of issues.

#### Counseling And Advice Services Are Consistent With Ethics Laws And Regulations

Ethics counseling and advice are provided to employees by both the Ethics Section and the DECs. According to the Ethics Program Manager, DECs generally forward copies of written advice they have rendered to employees, to the Ethics Section to be maintained in the employees' individual ethics files. Additionally, DECs often contact the Ethics Section for advice regarding ethics-related questions posed to them by employees.

We examined the written determinations rendered during 1993 and thus far in 1994 and found them to be consistent with applicable ethics laws and regulations. Our examination consisted of reviewing written determinations and e-mail correspondence between employees and ethics officials. Advice was provided on a variety of issues including: gift acceptance, potentially conflicting financial interests, post-employment restrictions, outside employment, and fund-raising.

In addition to advice provided to individual FDIC employees, periodic memorandums regarding FDIC and OGE policy on certain ethics-related issues were disseminated to all DECs. These policy memorandums addressed such topics as acceptance of gifts, professional associations, and fund-raising activities. The DECs subsequently disseminated these memorandums to all employees.

#### Post-Employment Counseling Is Provided

Post-employment counseling is provided to employees by both the Ethics Section and the DECs. Employees in the Washington offices are generally provided with post-employment counseling by the Ethics Section or a Washington office DEC. In the regional offices and service centers, DECs provide post-employment counseling for departing employees. According to the Supervisory Ethics Program Specialist, there is no formal requirement for departing employees to obtain post-employment counseling. However, because most DECs hold supervisory positions, they are generally aware of departing employees and ensure that these employees receive post-employment counseling as appropriate.

In order to make all employees aware of the availability of post-employment counseling, all post-employment materials that are

distributed, either during annual ethics training or individually to interested employees, encourage employees to contact the Ethics Section or their appropriate DEC with any post-employment questions they may have.

As part of the FDIC outplacement training conducted for employees in offices that are closing or downsizing, post-employment and seeking-employment information is also provided. In addition, these employees view FDIC's videotape entitled "Post Employment and Seeking Employment."

## CHAPTER 6

### OTHER ETHICS PROGRAM ISSUES

FDIC is fully in compliance with the regulations governing the acceptance of travel payments from non-Federal sources and the coordination efforts between ethics officials and the OIG.

#### FDIC Does Not Accept Travel Expense Payments From Non-Federal Sources

FDIC does not accept payments of travel and related expenses from non-Federal sources. FDIC's proposed supplemental standards-of-conduct regulation, specifically 5 C.F.R. § 3201.109(c), states that the provisions of 31 U.S.C. § 1353 and the implementing regulations at 41 C.F.R. part 304-1, under which Federal agencies can accept travel, subsistence, and related expenses from non-Federal sources in connection with employees' attendance at certain meetings and similar functions related to their official duties, are not applicable to FDIC employees.

#### Effective Working Relationship Exists Between Ethics Section And The OIG

FDIC's ethics officials are fully meeting the requirements of 5 C.F.R. § 2638.203(b)(12) relating to coordinating with the agency's OIG on ethics-related matters and employee misconduct cases as appropriate. According to both the Counsel to the Inspector General and the Ethics Program Manager, a very good working relationship exists between their offices. The Ethics Section and the OIG cooperate as appropriate and investigation reports dealing with ethics-related issues are generally reviewed by the Ethics Section for comment.

FDIC Circular 1150.1, dated December 12, 1991, sets forth the responsibilities of all employees with regard to investigations and audits conducted by the OIG. The Directive requires employees to report any instances of actual or suspected fraud, waste, abuse, or other wrongdoing to the OIG. A copy of this Directive is provided to all DECs along with a cover memorandum from the Ethics Section which directs the DECs to refer any allegations regarding conflicts of interest or appearances thereof to the Ethics Program Manager and/or the OIG. This cover memorandum also reinforces to the DECs that they are to take no unilateral action to investigate these allegations since the investigations must be conducted within the prescribed legal framework.

In 1993, the OIG referred three cases involving alleged violations of the conflict-of-interest statutes to the Department of Justice (Justice). Justice declined prosecution on all three cases. Administrative action was subsequently taken by FDIC in two

of the cases. The third case is still pending administrative action by FDIC.

FDIC complied with the requirement for agencies to concurrently notify the Director of OGE of any referrals to Justice of alleged violations of the criminal conflict-of-interest statutes, pursuant to 5 C.F.R. § 2638.603.

## CHAPTER 7

### CONCLUSIONS

FDIC's ethics program contains all the elements which are essential for an exemplary program. The ethics officials' proactive approach to administering the program demonstrates their commitment to ensuring that violations of ethics statutes and regulations do not occur.

FDIC's financial disclosure systems are effectively administered and ensure that the public and confidential reports are filed and reviewed according to applicable rules and regulations.

The ethics education and training program far exceeds the regulatory requirements and provides further evidence of FDIC's commitment to its ethics program as a whole. Additionally, the ethics counseling and advice services provide necessary assistance and information to employees on a variety of ethics-related issues.

In view of FDIC's model ethics program which is fully in compliance with applicable ethics laws and regulations, no recommendations to improve the program are necessary.