Specialized Legal Research

Leah F. Chanin, Ed.

IMPORTANT NOTICE
This Package Contains
1993 Replacement Chapter 10

Important: This package contains replacement Chapter 10 — Banking Law for your copy of Specialized Legal Research.

Instructions: Remove existing Chapter 10 and discard. Insert replacement Chapter 10 after existing Chapter 9 (ending page 9-35) in the main volume. To insert pages into binder, lift ring and pull straight up.

Please note: Page numbering on new and replacement chapters has been changed: pages are now numbered by chapter, i.e., 10-1-10-104. Also, Chapter 10 index entries can be found in the new Master Index found in the 1993 Replacement Frontmatter and Master Index.
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Release 8 — July 1993
CHAPTER 10

Banking Law

Penny A. Hazelton

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§10.1 INTRODUCTION

Research in the banking law field suffers from complexity, which is fueled by the imprecision of the scope and definition of banking law as a subject and the multiplicity of sources the researcher must consult.

As our banking system developed, the term bank normally referred to commercial banks — that is, depository institutions with investment and broad lending powers for short- or inter-
mediate-term purposes. Savings banks and savings and loan institutions, which existed early in our history but were small in number until after World War II, were not considered banks by the above definition. The primary function of these thrift institutions was to collect passive deposits (savings) and invest in long-term real estate mortgages. The thrift industry is still closely tied (despite its broadened role) to housing and real estate interests. Thus, the field of banking law, in its most limited sense, would only include cases, laws, regulations, and secondary publications for and about commercial banks. Recent changes in definition and scope of banking institutions and the emergence of new types of institutions performing bank-like functions have muddled the definition problems even further.1

For the purposes of this chapter, banking law includes resources about the law regulating commercial banks and thrift institutions (savings and loan associations and savings banks). Collectively, thrifts and commercial banks will be referred to as banking institutions. Some sources refer to both types as depository institutions. Credit unions and other types of financial institutions (i.e., those performing bank-like functions) are not included in this chapter.

Another definitional problem arises in the context of the multiplicity-of-resources syndrome.

United States banking history is dominated by federalism. National and state chartered banks struggled for ascendancy from the beginning. It took until 1913 (or nearly 125 years) for a relatively weak Federal Reserve System to be enacted. And only the Great Depression and New Deal reforms led to a stronger system of national supervision, federal deposit insurance, and more systematic federal regulation of banking and financial markets.2

There is no express reference in the Constitution of the United States that gives the federal government authority over

banking institutions. Establishment of the First Bank of the United States in 1791 went unchallenged, but the Second Bank of the United States (chartered in 1816) is well known in legal history. The validity of the bank's charter and the constitutionality of the government's authority to create a national bank were challenged in McCulloch v. Maryland. The U.S. Supreme Court upheld the establishment of a national bank as a valid exercise of the government's authority.

During this same period, other banking institutions developed. The first state bank was chartered in 1784, and by 1809 there were about 75 state banks. Thus, from our beginnings both state and federal (or national) banks were in existence. As of 1990, 6,922 state-chartered and 31,279 national-chartered commercial bank offices had been established.

Our dual banking system was thus established early in our history, and the multiplicity of sources it creates remains an important factor for all researchers in banking law to consider. To determine which laws and regulations apply, a researcher must know the type of financial institution involved (commercial bank or thrift) and must also know whether that banking institution was chartered by state or federal authority. However, even this information is not determinative. Banking institutions chartered under federal law are still subject to the general commercial, corporate, and other laws of the state in which they do business. Conversely, state-chartered banking institutions are subject to many federal laws (e.g., consumer protection, bankruptcy, etc.). In addition, if a state-chartered institution chooses to become a member of the Federal Reserve System (FRS), or the Federal Home Loan Bank System (FHLBS), or to be insured through the Federal Deposit Insurance Corporation (FDIC), the institution is subject to federal regulatory supervision.

Section 10.4 infra discusses the federal regulatory scheme in more detail.

4Supra note 1 at 82-83(a).
51992 Statistical Abstract of the United States, No. 773.
Typically, a collection of materials on banking law should include federal and state primary authority, as well as secondary sources in commercial law (UCC), consumer protection, securities, bankruptcy, and tax. As a corollary, a good researcher should have some knowledge of these fields of law and where they interact with the law of banking institutions.

Many interesting issues involving the financial services industry are being hotly debated, including international banking, interstate banking, so-called deregulation of the banking industry, geographical expansion, expansion of services provided, and the coordination of federal regulatory examination and supervision.

The aim of this chapter is simple — to provide an in-depth look at the resources needed to answer legal questions related to banking institutions. Special attention has been paid to isolating the documents of legal import issued by the various federal regulatory agencies (See §§10.4 to 10.11 infra). A list of abbreviations and acronyms used throughout this chapter can be found in Appendix 10-1.

§10.2 FEDERAL LAW

§10.2.1 Major Federal Legislation Affecting Financial Institutions

Federal legislation has had a major impact on the financial industry. The most significant federal laws are listed below, with a short statement of purpose and impact.

**National Bank Act of 1864**

1. repealed and replaced National Bank Act of 1863 (12 Stat. 665)

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2. created the Office of the Comptroller of the Currency (OCC)
3. established chartering procedures, which encouraged state banks to recharter as national banks
4. provided federal coordination of banking system, including examination of banks
5. strengthened the U.S. banking system
6. prohibited national banks from branching

Federal Reserve Act of 1913

1. established a regional bank system under the Federal Reserve Board (FRB)
2. further centralized banking
3. examined state chartered banks that chose to become Federal Reserve System (FRS) members

McFadden Act of 1927

1. permitted national banks to branch, but only in same town or city
2. attempted liberalization of geographical expansion restraints faced by national chartered banks

Federal Home Loan Bank Act of 1932

1. established Federal Home Loan Bank System (FHLBS), including the Federal Home Loan Bank Board (FHLBB)

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3. insurance guarantee through Federal Savings and Loan Insurance Corporation (FSLIC), established by Title IV of the National Housing Act of 1934 (48 Stat. 1235) (codified at 12 U.S.C. §1724 et seq.)


provided for the federal chartering and supervision of savings and loans by the FHLBB.

Banking Act of 1933 (Glass-Steagall) (48 Stat. 162) (codified as amended at Title 12 U.S.C., distributed throughout chapters 2, 3, and 6)

1. broad purpose was to reduce risk for commercial banks and to allow regulators more power to prevent another depression
2. prohibited commercial banks from engaging in investment banking (commonly known as the Glass-Steagall Wall)
3. created the Federal Deposit Insurance Corporation (FDIC), a federal insurance guarantee system for bank deposits (required if member of FRS, available to others)
4. provided much greater supervisory leverage for bank examination purposes


1. authorized the Federal Reserve Board to regulate BHC
2. concerned with protecting and encouraging adequate competition in financial markets

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Bank Merger Act of 1960
(74 Stat. 129) (Substantially amended and codified in 1966 at
12 U.S.C. §1828 (c))

1. mandates preapproval of bank mergers by the appro-
priate federal agency
2. does not preempt the Department of Justice in anti-
trust matters but provides a “convenience and needs”
defense to banks facing antitrust review

Consumer Credit Protection Act of 1968
(82 Stat. 146) (codified as amended and dispersed throughout
15 U.S.C.)

included Truth-in-Lending Act (implemented by FRB
Regulation Z), which allowed consumers to shop for
credit intelligently

Equal Credit Opportunity Act of 1974 (ECOA)
§§1691-1691f)

1. all consumers and businesses must be given equal op-
portunity to obtain credit
2. administered by the FRB, managed by the Federal
Home Loan Bank Board (FHLBB), and implemented
by Regulation B.

Community Reinvestment Act of 1977 (CRA)

1. increase viability of urban communities
2. counter practice of red-lining
3. administered by FRB (Regulation BB), the OCC, and
the FDIC

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International Banking Act of 1978 (IBA)
FRB had power to impose regulations on foreign banks operating in the United States

Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRAct) (Bert Lance bill)
1. created Federal Financial Institutions Examination Council (FFIEC) to mandate consistency in federal examinations of banks
2. began process of deregulation
3. granted additional powers of supervision to appropriate regulatory agencies, such as power to impose civil money penalties and cease-and-desist orders

Electronic Fund Transfer Act of 1978 (EFTA)
1. established rights and responsibilities of participants in all electronic funds transfer systems (i.e., automated teller, wire transfers, etc.)
2. administered by FRB and implemented by Regulation E

1. strengthened Federal Reserve's authority to regulate and supervise growth of monetary aggregates
2. established uniform reserve requirements

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§10.2.1

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3. gradually eliminated limits on interest rates (Regulation Q) supervises by Depository Institutions Deregulation Committee (DIDC) (DIDC terminated April 1, 1986; see 51 Fed. Reg. 9767 (March 21, 1986))

4. blurred distinctions between thrifts and commercial banks

Garn-St. Germain Depository Institutions Act of 1982
(1982 Banking Act)

1. further eroded boundaries between banks and thrifts
2. provided relief to troubled financial institutions by facilitating mergers and reorganizations
3. expanded powers of FDIC and FSLIC
4. liberalized depository abilities for all banking institutions

Competitive Equality Banking Act of 1987 (CEBA)

1. amended the Bank Holding Act to eliminate the “non-bank bank” problem
2. created federal rules for availability of funds in the check collection process
3. significantly amended the authority of federal regulators of the thrifts industry

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)

1. abolished the Federal Home Loan Bank Board and established new regulatory body, Office of Thrift Supervision (OTS)
2. transferred insurance for deposits of thrifts to FDIC from FSLIC (abolished)
3. completely amends HOLA

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4. Federal Housing Finance Board (FHFB) established to oversee and supervise activities of Federal Home Loan Banks
5. Resolution Trust Corporation (RTC) established to manage all thrifts with conservators
6. more stringent capital standards and qualified thrift lender tests

Comprehensive Thrift and Bank Fraud and Tax Fayer Recovery Act of 1990 (CTBFTRPA) (Title XXV of the Crime Control Act of 1990 (CCCA))
1. established several new bank-related crimes, such as "continuing financial crime enterprise"
2. enhanced criminal penalties for several bank-related crimes
3. created National Commission on Financial Institution Reform, Recovery, and Enforcement (NCFIRRE)

Resolution Trust Corporation Funding Act of 1991 (RTCFA)
1. provided $30 billion dollars of interim financing to RTC
2. clarified liability and indemnification issues pertaining to RTC directors, officers, and employees
3. required RTC management reform

Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTCRRIA)
1. increased funding to RTC
2. RTC is receiver for failed thrifts through 9/30/93

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3. RTC structure has been realigned with a chief executive officer managing RTC rather than being managed by FDIC.

Federal Deposit Insurance Corporation Improvements
Act of 1991 (FDICIA)

1. recapitalized Bank Insurance Fund (BIF)
2. reduced scope of federal deposit insurance
3. established firm link between regulatory supervision and bank capital
4. limited state-chartered banks' insurance underwriting
5. Title II, subtitle F contained the Truth in Savings Act, which required "clear and uniform disclosure" of interest rates and incorporated civil liability provisions authorizing class action suits and statutory damages

§10.2.2 Sources

Most federal laws affecting banking institutions can be found in Title 12 in the usual statutory sources — U.S.C., U.S.C.A., and U.S.C.S. Compilations of these federal banking laws can also be found in these sources:

- Banking Law (M-B)
- Comptroller's Manual for National Banks (OCC)
- J. Douglas and S. Parker, Federal Banking Laws, 4th ed. (WG&L)
- Federal Banking Law Reporter (CCH)
- Federal Deposit Insurance Corporation: Law Regulations, Related Acts (FDIC)
- Federal Guide (SCBA)
§10.3 STATE LAW

Banks and savings institutions chartered under state law are obviously subject to the various laws of their states, as well as subject to the state bank or savings institution's regulatory body. Whether state or nationally chartered, however, financial institutions are subject to many state laws, primarily in the commercial law area. State law will generally govern such matters as contract and property rights and general commercial and corporate matters, even if the financial institution is nationally chartered. Regulation of nationally chartered banks by state law will occur as long as the state law has not been preempted by federal law or caused an undue burden on interstate commerce.¹

The state variations of the Uniform Commercial Code become significant in banking law. Of special interest are:

- Article 3 Commercial Paper
- Article 4 Bank Deposits and Collections
- Article 5 Letters of Credit
- Article 8 Investment Securities
- Article 9 Secured Transactions

For access to the UCC and its legal sources, see Chapter 2, The Uniform Commercial Code, by Igor Kavass.

¹For an introduction to state law see J. Norton & S. Whiteley, Banking Law Manual §1.07 and §1.08(3) (1992). Detailed analysis of state law is found in M. Malloy, Corporate Law of Banks, §§1.3, 2.2, 2.3, 2.4, 4.5, 5.3, 6.3, 7.2, 8.2.4; and 9.4; as well as in the exhaustive charts in the appendices. Many of these charts contain surveys of the laws of all 50 states including requirements for state bank charters and holding company formation and mergers.

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§10.4 FEDERAL REGULATORY FRAMEWORK

§10.4.1 In General

The development of banking regulation has been a fragmented process, rooted more in reaction to specific events than in any coherent economic or legal theory. This is not to say that the present bank regulatory scheme is a result of historic coincidences; to the contrary, the present fragmentation is directly attributable to an historical fear of undue concentration of financial power in the hands of banking institutions and the ensuing belief that the statutory framework should separate the various classes of financial institutions. As a result, the present regulatory system is fragmented among various independent regulatory bodies.\(^1\)

Any banking institution in the United States could be regulated by as many as three of the four major federal agencies and/or by the appropriate state agency. Leaving aside the question of whether state or federal law applies in any particular situation, a banking institution will be regulated by the agency that charters the institution and by the agency that insures the institution’s deposits. The following table illustrates this regulatory scheme.

<table>
<thead>
<tr>
<th>Commercial Banks</th>
<th>Thrifts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td>Charter</td>
</tr>
<tr>
<td>OCC</td>
<td>R</td>
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<tr>
<td>FRB</td>
<td>R</td>
</tr>
<tr>
<td>FDIC</td>
<td>R</td>
</tr>
<tr>
<td>OTS</td>
<td>M</td>
</tr>
<tr>
<td>FHFB</td>
<td></td>
</tr>
</tbody>
</table>

See key on following page


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Each of the federal regulatory agencies listed in the table is discussed in greater detail in §§10.5 through 10.11 infra. In general, commercial banks are supervised by the combined efforts of the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB), and the Federal Deposit Insurance Corporation (FDIC). Thrift institutions, on the other hand, are generally regulated by the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), and the Federal Housing Finance Board (FHFB). Prior to the enactment of FIRREA in 1989, thrifts were regulated by the Federal Home Loan Bank Board (FHLBB) and the Federal Savings and Loan Insurance Corporation (FSLIC).

One federal committee affects the work of banking institutions. The Federal Financial Institution Examinations Council (FFIEC) was established in 1980 (94 Stat. 143) to coordinate and promote uniformity in the federal examination of banking institutions handled by the OCC, FRB, and FDIC.

Banking institutions have also been affected recently by one additional federal committee, which was terminated in 1986. The Depository Institutions Deregulation Committee (DIDC) was charged with the gradual elimination of interest rate ceilings. These ceilings were eliminated and the committee ceased to exist as of April 1, 1986.²

§10.5 OFFICE OF THE COMPTROLLER OF THE CURRENCY (OCC)

§10.5.1 Regulatory Powers

Established in 1864 by the National Banking (or Sherman) Act (12 Stat. 665) (codified as amended at 12 U.S.C. §§ 1 et seq.), this office is part of the U.S. Treasury Department. The Comptroller has chartering authority for all national commercial banks (so called because these banks are nationally chartered). Regulation and supervision of these banks are handled through national bank examiners, who are appointed by the Comptroller. A variety of administrative remedies can be employed by the OCC in order to enforce compliance, including civil money penalties, cease-and-desist orders, and formal investigations. Thrift institutions are not regulated by the OCC. See §§10.6, 10A, 10.9, and 10.11 infra. For historical regulation of thrift institutions see §10.11 covering the Federal Home Loan Bank System.
§10.5.2 Regulations — Sources

All proposed regulations and regulations promulgated by the OCC are first published in the Federal Register and then codified in 12 C.F.R. Pts. 1-199. Most of these regulations can also be found in the following publications and sources:

Banking Law (M-B)
Comptroller's Handbook for Consumer Examinations
(OCC)*
Comptroller's Manual for National Banks (OCC)*
Control of Banking (P-H)
(Wig & L.)
Federal Banking Law Reporter (CCH)

LEXIS — library: BANKNG; file: REGS
library: BANKNG; file: FEDREG (1980 +)

H. Pitt, The Law of Financial Services (P-H)

WESTLAW — database: FFIN-CFR

*Not always updated promptly — check for currency.

§10.5.3 Interpretations — Sources

The Comptroller and the Office's staff regularly interpret the laws and regulations they are charged to implement and enforce. Some interpretive rulings of permanent character are published in the Federal Register and gathered in 12 C.F.R. §7. Care should be exercised in using the terms interpretations, issuances, and rulings: Sometimes they are used generically and sometimes they refer to a specific kind of OCC document. Currently, there are several separate kinds of documents that represent the informal views of the Comptroller's staff concerning

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the application of banking law to contemplated banking activities or transactions. These interpretations or rulings are:

- Decisions of the Comptroller of the Currency
- Enforcement Decisions (also Enforcement Actions)
- Investment Securities Letters
- Merger Decisions (also Comptroller's Decisions)
- Securities and Corporate Practices Letters
- Staff Interpretations (also Staff or OCC Interpretive Letters or Legal Lending Letters)
- Staff No-Objection Letters (also No-Action Letters)
- Trust Interpretations (also Trust Interpretive Letters)

Sources listed below for each type of document may not have comprehensive coverage — many are selective.

Decisions of the Comptroller of the Currency

Unnumbered

Sources:


Enforcement Decisions (also Enforcement Actions)

OCC EA No. 89 (date)

Sources:

LEXIS — library: BANKNG; file: OCCED (1977+)

Investment Securities Letters

(prepared by the Investment Securities Division — informal)

No. 1 (May 1986) to date

Sources:

Federal Banking Law Reporter (CCH)

Interpretations and Actions (direct from OCC)

N.B. If these are in the various Comptroller's manuals, they are not identifiable as such.
Merger Decisions (also Comptroller's Decisions)

Identified by date and source

Sources:
- Federal Banking Law Reporter (CCH)
- Interpretations and Actions (direct from OCC)
- Quarterly Journal (OCC)

N.B. If these are in the various Comptroller's Manuals, they are not identifiable as such.

Securities and Corporate Practices Letters

No. 1 (March 1987) to date

Sources:
- Comptroller's Manual for Corporate Activities (OCC)
- Federal Banking Law Reporter (CCH)
- Interpretations and Actions (direct from OCC)

Staff Interpretations (or Staff or OCC Interpretive Letters or Legal Lending Letters)

(informal interpretations of federal banking laws and regulations at OCC instigation or by letter of inquiry; published and unpublished)

Unnumbered prior to 1977
No. 0 (Dec. 1977) to date

Sources (by access number and subject):
- Control of Banking (P-H)
- Federal Banking Law Reporter (CCH)
- Interpretations and Actions (direct from OCC)
- LEXIS — library: BANKNG; file: OCCIL (1977+)
- library: BANKNG; file: OCCBJ (1982+)
- Quarterly Journal (OCC)
- WESTLAW — database: FFIN-OCCIL (1985+)

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§10.5.3 Banking Law

Sources (access by subject or topic only):
Code of Federal Regulations (12 C.F.R. §7)
Comptroller’s Handbook for Consumer Examinations (OCC)
Comptroller’s Handbook for National Bank Examiners (OCC)
Comptroller’s Manual for Corporate Activities (OCC)
Comptroller’s Manual for National Banks (OCC)
Federal Register

Staff No-Objection Letters
(Informal advice prompted by letter of inquiry; see Banking Circular BC 205)

85-1 (July 1985) to date
Sources:
Control of Banking (PH)
Federal Banking Law Reporter (CCH)
Interpretations and Actions (direct from OCC)

N.B. If these are in the various Comptroller's manuals, they are not identifiable as such.

Trust Interpretations (or Trust Interpretive Letters)

1987 to date
Sources:
Federal Banking Law Reporter (CCH)
Interpretations and Actions (direct from OCC)

§10.5.4 Other Issuances — Sources

Several other types of issuances from the Comptroller are of interest:

Advisory Letters
Banking Bulletin

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Banking Circular
Examining Bulletin
Examining Circular
Trust Banking Bulletin
Trust Banking Circular
Trust Examining Circular

N.B. If these various issuances are included in the Comptroller's manuals, they are not identifiable as such.

Sources listed below for each type of document may not have comprehensive coverage — many are selective. The terms interpretations, issuances, and rulings should be used carefully. Sometimes they are used generically, and sometimes they refer to a specific kind of OCC document.

Advisory Letters
(part of OCC Banking Issuances series)
87-1 (1987) to date
Sources:
Banking Issuances (direct from OCC)
Federal Banking Law Reporter (CCH)
H. Pitt, The Law of Financial Services (P-H) (in Appendix I — Correspondence)

Banking Bulletin
(part of OCC Banking Issuances series) (an issuance of less permanent concern that will automatically expire after one year; used to inform banks of changes in laws and regulations or to request comment on a proposed ruling or regulation)

Numbering, for example, BB-80-17
Sources:
Banking Issuances (direct from OCC)
Federal Banking Law Reporter (CCH)

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Banking Circular
(part of OCC Banking Issuances series) (a permanent issuance that contains information of continuing concern, frequently including statements of policy or interpretation of banking laws or regulations)

Numbering, for example, BC-172
Sources:
  Banking Issuances (direct from OCC)
  Federal Banking Law Reporter (CCH)
  LEXIS — library: BANKNG; file: OCCB (1968+)
  WESTLAW — database: FIN-OCCBI (1968+)

Examining Bulletin
(part of OCC Examinings Issuances Series) (an issuance of less permanent concern)

Numbering, for example, EB-87-2
Sources:
  Examining Issuances (direct from OCC)
  Federal Banking Law Reporter (CCH)

Examining Circular
(part of OCC Examining Issuances Series) (an issuance of permanent and continuing character)

Numbering, for example, EC-241
Sources:
  Examining Issuances (direct from OCC)
  Federal Banking Law Reporter (CCH)

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§10.5.4

Rulings
(announcements, policy statements, some interpretation,
comments, news releases — a variety of types of OCC
issuances, excluding other issuances in this section and in
Section 10.5.3 supra)

Identifiable, if at all, by date
Sources:
Code of Federal Regulations (12 C.F.R. §7)
Federal Register
National Banking Review (OCC) 1964-1967
H. Pitt, The Law of Financial Services (P-H) (in Appen-
dix H — Policy Statements) (1976+)
Quarterly Journal (OCC) 1982+

N.B. If these are contained in the various Comptroller's manuals, they
are not identifiable as such.

Trust Banking Bulletin
(an issuance of a nonpermanent nature; announcements and
the like)

Numbering, for example, 82-1
Sources:
Direct from OCC (no charge)
Federal Banking Law Reporter (CCH)
H. Pitt, The Law of Financial Services (P-H) (in Appen-
dix H — Policy Statements)

Trust Banking Circular
(an issuance of permanent and continuing nature)

No. 1 (May 1974) to date
Sources:
Direct from OCC (no charge)
Federal Banking Law Reporter (CCH)
H. Pitt, The Law of Financial Services (P-H) (in
Appendix H — Policy Statements)

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§10.5.4 Banking Law

Trust Examining Circular
(an issuance of permanent and continuing character)

1 (Jan. 1974) to date
Sources:
Direct from OCC (no charge)
Federal Banking Law Reporter (CCH)

§10.5.5 Other OCC Publications with Legal Significance

All OCC publications can be obtained from:
Office of the Comptroller of the Currency
P.O. Box 70004
Chicago, IL 60673-0004
(However, call (202) 847-4700 at 250 E Street, SW, Washington, DC, 20219 for catalogs and general information about publications.)

Annual Report (OCC)
1963-1980

Banking Issuances (OCC)
Beginning date unknown. $100/yr.
Periodic releases of Banking Bulletins (of nonpermanent nature), Banking Circulars (of permanent and continuing interest) and Advisory Letters.

WESTLAW — database: FFIN-OCCBI (BB 1981+; BC 1968+)
LEXIS — library: BANKNG; file: OCCBI (BB 1981+; BC 1968+)

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All procedures needed for compliance exams. Good supervisory tool. Do not rely on contents without checking currency.

Comptroller's Handbook for Consumer Examinations (OCC)
Prepared for bank examiners and includes all examination policies and procedures. Also includes relevant laws, regulations, interpretations, and rulings applicable to consumer protection. OCC directs compliance with applicable laws, regulation and rulings promulgated by the Federal Reserve Board. Do not rely on contents without checking currency.

Comptroller's Handbook for Fiduciary Activities (OCC)
Prepared for trust examiners of national banks; includes all examination policies and procedures. Limited laws and regulations included. Do not rely on contents without checking currency.

Comptroller's Handbook for National Bank Examiners (OCC)
1990. 1 vol. looseleaf $90.

Comptroller's Manual for Corporate Activities (OCC)
1992. 3 tols. $90. (Previously a looseleaf)
Prepared for OCC, bank examiners, and banking industry, this volume includes the policies and procedures, from the formation of a new national bank, entry into the national bank.

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ing system, and corporate expansion and structural changes by existing national banks. Limited laws, regulations, and rulings are included. Do not rely on contents without checking currency.


Published as a guide for national bank officials, counsel, examiners, and OCC staff, this volume includes all laws and regulations that apply to national banks. Includes summaries of interpretive rulings arranged by topic. The rulings section of the manual does not have access by type of interpretation and seems to be only those interpretations codified in 12 C.F.R. §7. Does not contain all OCC interpretations or issuances. Do not use without checking currency.


Examining Issuances (OCC)
Beginning date unknown. $100/yr.

Periodic releases of Examining Bulletins (nonpermanent nature) and Examining Circulars (permanent and continuing nature).

Interpretations and Actions (OCC)
Nov. 1989 to date. $125/yr. (Continues Interpretations (1/88-10/89))

Newly combined monthly release of Interpretations from the OCC. Regulatedly included in full are Staff Interpretations, Staff

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No-Objections Letters, Investment Securities Letters, Trust Interpretations, Securities and Corporate Practices Letters, and Merger Decisions. The staff interpretations parts of this series are both on-line.

WESTLAW — database: FFIN-OCCIL (1977 +)
LEXIS — library: BANKNG; file: OCCIL (1977 +)

Vol. 1 (Sept. 1963)—Vol. 4 (June 1967)
Published four times a year, includes articles, current legal and regulatory developments, and book reviews. "Our aim is to afford a medium of expression to those who are concerned with public policies in the field of money and banking, and with the problems and practices of banking institutions." Summaries of OCC rulings (interpretations) included. No longer published.

Quarterly Journal (OCC)
Vol. 1 (1982) to date $60/yr. (Available in paper, microfiche, and on-line)
Published four times per year and includes "policy statements, decisions on banking structure, selected speeches and testimony, material released in the interpretive letter series, summaries of enforcement actions, statistical data and other information of interest to the administration of national banks." Includes index to enforcement actions in each issue. Staff Interpretive letters are included on a selective basis and are indexed by the U.S.C. or C.F.R. section interpreted in the letter and seem to be full text. No other OCC issuances are published in the Journal. Publication is quite delayed, with the microfiche at least one year less current than paper copy.


Release 6 — July 1993
§10.6 OFFICE OF THRIFT SUPERVISION (OTS)

§10.6.1 Office of Thrift Supervision (OTS)

Established in 1989 by the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) (103 Stat. 183), the Office of Thrift Supervision (OTS) replaces the former FHLBB. Both the FHLBB and the FSLIC were abolished by the FIRREA. OTS organizes, incorporates, examines, and regulates all federal savings associations, while the newly created Federal Housing Finance Board (FHFB) supervises the twelve Federal Home Loan Banks. OTS is an office under the Department of the Treasury, and the FHFB is an independent agency in the executive branch. Thus, OTS and FHFB have succeeded to most of the responsibilities of the former FHLBB.

All savings associations formerly insured by the FSLIC are now insured by the Federal Deposit Insurance Corporation (FDIC). Insolvent savings institutions are managed by the Resolution Trust Corporation (RTC). See §10.9.1 supra.

§10.6.2 Regulations — Sources

All regulations of the OTS as well as transferred regulations from the old FHLBB will be found in 12 C.F.R. Pts. 500-599. These regulations can also be found in the following publications and sources:

J. Douglas and S. Parker, Federal Banking Laws, 4th ed. (WG&L)
Federal Banking Law Reporter (CCH)
Federal Guide (SCBA)
LEXIS — library: BANKING, file: REGS
H. Pitt, The Law of Financial Services (P-H)
Supervisory Service (SCBA)

10-28 Release 8 — July 1993
§10.6.3 Interpretations and Rulings — Sources

The Office of Thrift Supervision (OTS) often interprets the laws and regulations it is empowered to implement. The more permanent and important of these issuances may be found in the Federal Register. Some policy statements of a permanent character have been published in the C.F.R., notably in 12 C.F.R. §§566 and 571. Other interpretive documents that have been identified as having legal content are:

Chief Counsel Opinions
General Counsel Opinions
   General Counsel
   Corporate and Securities Division
   Regulations and Legislation Division
News Releases
Regulatory Bulletin
Thrift Bulletin

Sources listed below for each type of document may not have comprehensive coverage — many are selective.

Chief Counsel Opinions
Numbered, for example, 92/CC-6
Sources:
   Federal Banking Law Reporter (CCH)
   Federal Guide (SCBA)
   Supervisory Service (SCBA)
WESTLAW — database: FFIN-OTS

Release 8 — July 1993 10.29
General Counsel Opinions (also Opinions of the 
General Counsel)

General Counsel: numbered, for example, GC-7
Corporate and Securities Division: numbered, for example, CS-2
Regulations and Legislation Division: numbered, for example, RL-10

Sources for all opinions:
Federal Banking Law Reporter (CCH)
Federal Guide (SCBA)
LEXIS — library: BANKNG, file: THRI TF
Supervisory Service (SCBA)
WESTLAW — database: FFIN-OTS

News Releases

Sources:

Regulatory Bulletin
(gives guidance to regulatory staff on matters related to examination and supervision of the thrift industry)

July 1988 to date
Numbered, for example, RB 29
Sources:
Direct from OTS

Thrift Bulletin
(bulletins alert regulated institutions to practices or developments concerning thrift industry)

July 1988 to date
Numbered, for example, TB 48-9
Sources:
Direct from OTS

Release 8 — July 1995
§10.6.4 Other Publications of Interest to the OTS

Office of Thrift Supervision
1700 G Street NW
Washington, DC 20552
(202) 906-5900

Publications of the Savings and Community Bankers of America (SCBA) can be obtained from:

Savings and Community Bankers of America
900 19th Street NW
Washington, DC 20006
(202) 857-3100

Federal Guide (Savings and Community Bankers of America)
1990. vols. 1-4. looseleaf. $650 (non-member); $815/yr.

Original edition 1951. Comprehensive four-volume service that compiles federal laws, regulations, rulings, and interpretations directly affecting the operation of thrift institutions. Includes all OTS and FHFB laws and regulations, and also Federal Reserve Board laws and regulations, especially in consumer protection and securities. Tax and employment, as they relate to the thrift industry, are also comprehensively treated. Limited access to issuances by type of document (i.e., General Counsel Opinions). Access by topic. Some finding lists. Updated monthly.

Legal Alert Memo


Managers Manual (SCBA)
1992?. 1 vol. looseleaf. $325; $430/yr. (non-member)

Release 8 — July 1993
A companion to the Federal Guide designed to "ease the regulatory burden." Updated monthly.

Office of Thrift Supervision Journal
Vol. 19 #11 (special ed. Nov. 1989) to date
FHLBS Publications Corporation
Suite 510
655 15th Street, NW
P.O. Box 28323
Washington, DC 20038
(202) 272-4600
Published quarterly. Replaces outlook of the Federal Home Loan Bank System. Contains articles and announcements.

Supervisory Service (SCBA)
1980. 2 vols. looseleaf. $425 (non-member); $525/yr.
Same contents as volumes 1 and 2 of the Federal Guide (SCBA). Contains major federal laws, regulations, rulings, and interpretations for OTS, FRB, FDIC, and Bank Holding Companies. Basic federal supervisory rules and regulations for savings institutions. Updated monthly.

Thrift and Regulatory Bulletins
1989. 1 binder. $175/year; $35 bulletin back issues
Published as subscription of Bulletins and Transmittals, these periodic publications provide guidance to regulated institutions and regulatory personnel on policies, procedures, and matters of concern to the thrift industry and inform subscribers of proposed legislation, final rulings, and other regulatory developments. Back issues of the transmittals are not sold separately.

Trustees and Directors Handbook (SCBA)
1992? 1 vol. looseleaf. $215; $225/yr. (non-member)
§10.7 BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM (FRB)

§10.7.1 Federal Reserve System

The Federal Reserve System (FRS) was established in 1913 by the Federal Reserve Act (38 Stat. 251) (codified as amended at 12 U.S.C. §§221 et seq.). The FRS consists of member banking institutions, 12 Federal Reserve banks and the Board of Governors of the Federal Reserve System. The Federal Reserve Board (FRB) is composed of seven members, who are appointed for 14-year terms. The board is entrusted with the overall responsibility for making and executing monetary policy. The FRB is aided in its monetary policy role by the Federal Open Market Committee (FOMC). In addition to supervising and examining the Federal Reserve Banks and state-chartered member banking institutions, the FRB also regulates and supervises bank holding companies. Nationally chartered commercial banks are automatically regulated by the FRB, but the OCC supervises and examines them.

The Federal Advisory Council (FAC) makes presentations to the FRB on general business conditions and other affairs within the purview of "The Fed." The Consumer Advisory Council (CAC) consults similarly on consumer-related matters, while the Thrift Institution Advisory Council (TIAC) advises the FRB on issues relating to the thrift industry.

The 12 regional Federal Reserve banks have three primary functions:

1. operating a payment system (clear and collect checks for depository institutions)
2. extending credit to depository institutions
3. acting as fiscal agents of the United States
§10.7.1
Banking Law

These banks publish newsletters and other reports, but the regulations, interpretations, and policy come from the Federal Reserve Board itself.

§10.7.2 Regulations — Sources

Since the Federal Reserve Board operates as the most general regulatory agency for banking, many federal laws have authorized the FRB to promulgate regulations. In particular, the Fed has developed regulations pertaining to mergers, bank holding companies, truth-in-lending, consumer credit protection, electronic funds transfer, and some aspects of interstate and multinational banking.

All proposed regulations and regulations promulgated by the Federal Reserve Board are first published in the Federal Register and then codified in 12 C.F.R. Pts. 200-299. Most of these regulations can be found in the following publications and sources:

Banking Law (M-B)
Comptroller's Handbook for Consumer Examinations (CCC)*
Control of Banking (P-H)
J. Douglas and S. Parker, Federal Banking Laws, 4th ed. (WG&L)
Federal Banking Law Reporter (CCH)
Federal Guide (SCBA)
Federal Reserve Regulatory Service (FRB)
LEXIS — library: BANKNG; file: REGS
library: BANKNG; file: FEDREG (1980+)
H. Pitt, The Law of Financial Services (P-H)
WESTLAW — database: FFIN-CFR

*Not always updated promptly — check for currency.

Many of the FBIs regulations on the above subjects have been carefully codified in the first parts of 12 C.F.R. §200 et
seq. However, the literature and practitioners refer to these regulations by letter, e.g., Regulation Z (which implements provisions of the Truth-in-Lending Act and the Fair Credit Billing Act). Title 12 of C.F.R. does not quickly identify its various parts with the popular name of the regulation, so in Appendices 10-2, 10-3, and 10-4 please find tables that should simplify the neophyte's approach to these federal banking regulations. The first table is organized by the letter of the regulation with the corresponding C.F.R. part. The second table is organized first by C.F.R. part with the corresponding regulation letter. The third table represents an attempt to classify the regulations by subject, an effort that parallels the topical arrangement of these regulations in the Federal Reserve Regulatory Service (FRB).

§10.7.3 Interpretations and Rulings — Sources

The Federal Reserve Board regularly interprets the laws and regulations it is empowered to implement. Some interpretive rulings of permanent character are published in the Federal Register and gathered in 12 C.F.R. §250. Care should be exercised in using the terms interpretations, rulings, and issuances: Sometimes they refer to a specific kind of FRB document, and sometimes they are used generically. Several types of issuances have been identified:

- Board Interpretations
- Board Rulings
- Federal Reserve Board Letter (FRB Letter)
- Federal Reserve Board Decisions and Orders — Bank Holding Company
- Federal Reserve Board Decisions and Orders — Bank Mergers
- News Releases
- Staff Opinions

Sources listed below for each type of document may not have comprehensive coverage — many are only selective. Interpre-
tive material is generally found arranged by topic, not by type of issuance. Individual issuances are most often identified by source rather than by some independent numbering or lettering scheme. Therefore, your request to the FOIA office may be met with frustration unless you can specifically identify the document you want. A general request for an FRB ruling or interpretation is likely to yield nothing. Use of an information broker, document delivery service, or checking current awareness tools may be your best choice.

**Board Interpretations**
(Interpretation of issues of significant policy implication; also includes policy statements and letters of instruction regarding policy and administration)

Identified by date or source

Sources:
- Code of Federal Regulations (12 C.F.R. 250)
- Federal Banking Law Reporter (CCH)
- Federal Register
- Federal Reserve Bulletin (FRB)
- Federal Reserve Regulatory Service (FRB)
- WESTLAW — database: FFIN-FRRS

**Board Rulings**
(Issued in response to individual questions of more limited applicability)

Identified by date or source

Sources:
- Code of Federal Regulations (12 C.F.R. 250)
- Control of Banking (P-H)
- Federal Banking Law Reporter (CCH)
- Federal Register

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Federal Reserve Bulletin (FRB)
Federal Reserve Regulatory Service (FRB)
H. Pitt, The Law of Financial Services (P-H) (in Appendix N — FRB — Correspondence & Staff Opinions)
LEXIS — library: BANKNG; file: FEDRB (1970+)
library: BANKNG; file: FRRS (1981+)
database: FFIN-FRRS

Federal Reserve Board Letter (FRB Letter)
(written by the Division of Banking Supervision and Regulation)

Numbered, for example, SR 82-17 (STR)
Number followed by:
(FIS) — Domestic financial institution supervision
(STR) — Regulation of banking structure and expansion
(8) — Supervision of international banking
(FA) — Supervision and regulation of specialized banking activities

Sources:
Direct from FRB (FOIA Office) (no mailing list)
Federal Banking Law Reporter (CCH)
Federal Reserve Regulatory Service (FRB)
LEXIS — library: BANKNG; file: FRRS (1980+)
WESTLAW — database: FFIN-FRRS

Federal Reserve Board Decisions and Orders — Bank Holding Company
(orders issued under the Bank Holding Company Act)

Identified by company, date, and source
Sources:
Federal Banking Law Reporter (CCH)
Federal Reserve Bulletin (FRB)

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Federal Reserve Regulatory Service (FRB) (index only)
LEXIS — library: BANKNG; file: FEDRB (1970+)
library: BANKNG; file: FRRS (1981+)
database: FFIN-FRSS

Federal Reserve Board Decisions and Orders —
Bank Mergers
(orders issued under the Bank Merger Act)

Identified by company, date and source
Sources:
Federal Banking Law Reporter (CCH)
Federal Reserve Bulletin (FRB)
Federal Reserve Regulatory Service (FRB) (index only)
LEXIS — library: BANKNG; file: FEDRB (1970+)
library: BANKNG; file: FRRS (1981+)
database: FFIN-FRSS

New Releases
Sources:
WESTLAW — database: FFIN-NR (1992+)

Staff Opinions
(issued in response to individual question of more limited applicability)

Identified by date or source
Sources:
Direct from FRB (FOIA Office) (no mailing list)
Federal Banking Law Reporter (CCH)
Federal Reserve Regulatory Service (FRB)

10-38 Release 8 — July 1993
H. Pitt, The Law of Financial Services (P-H) (in Appendix N — FRB — Correspondence & Staff Opinions) (1958+);
LEINS library: BANKNG; file: FRRS (1981+)

§10.7.4 Other FRB Publications

The following publications can be obtained from:
Board of Governors of the Federal Reserve System
Publications Services
20th and C Streets, NW
Washington, DC 20551
(202) 452-2445

Annual Report (FRB)
1st (1914) to date

Annual Statistical Digest


Comptroller's Handbook for Consumer Examinations (OCC)
1989. 1 vol. looseleaf. $90. See entry in §10.5.5.

Included here because, although the examination is handled by OCC, the FRB promulgates the regulations and interprets them.

Digest of Rulings (FRB)
1937. 1 vol.

Digest of all FRB interpretations published in the Federal Reserve Bulletin between 1914 and 1937.

Release 8 — July 1970

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Federal Reserve Bulletin (FRB)
Vol. 1 (1915 to date). $25/yr. (Available in paper, microfilm, microfiche, and online.)
Published monthly; contains articles and statistics of interest to banking and financial industries. Legal developments section includes full text of most FRB orders involving Bank Holding Companies and the Bank Merger Act. These orders are indexed in the annual bulletin index, under the BHCA or BMA, and then by company. The Federal Reserve Regulatory Service also indexes these orders. The Federal Reserve Bulletin is available in microfiche from the Law Library Microform Consortium (LLMC) and University Microfilm on microfilm and microfiche. The Bulletin is also online:


Federal Reserve Regulatory Service (FRRS)
1981 vols. 1-3 looseleaf; updated monthly. $200/yr. (Replaces Published Interpretations of the Board of Governors of the Federal Reserve System.)
This comprehensive publication contains all FRB regulations and statutes and permanent interpretations, policy statements, rulings, and staff opinions. This service is "designed to promote public understanding of the regulatory functions of the Federal Reserve System." Within each of its major subdivisions, all interpretations and other issuances will be found integrated with appropriate regulations. This set does key individual interpretations to the previous publication, Published Interpretations. Otherwise, interpretations are not accessible by number or type (e.g., staff opinions). No finding lists exist to isolate each kind of issuance and cite to its location within this service. Thus, there is no equivalent to the finding aid in the Federal Banking Law Reporter (CCH), which lists, for example, Regulation B Official Staff Interpretations. Presumably, these
interpretations would be found in this service following Regulation B. FRRS can be found on:

WESTLAW — database: FFIN-FRRS

Published Interpretations of the Board of Governors of the Federal Reserve System

No longer published. Replaced by Federal Reserve Regulatory Service in 1981. Included in full-text only those interpretations currently in effect (at the date of publication) and that appear to have present-day significance. Most of these interpretations were published initially in the Federal Reserve Bulletin. Organized by topic. Detailed table of contents, but no index. Interpretations in FRRS keyed to paragraph number of this set. Prior to 1962, see Digest of Rulings (1937).

§10.8 FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

§10.8.1 Regulatory Powers

The Glass-Steagall Act of 1933 (48 Stat. 162) created the Federal Deposit Insurance Corporation as an insurance guarantee system for bank deposits. All nationally chartered banks must belong, and state chartered banks and thrifts may belong if they meet FDIC requirements. The FDIC is managed by a five-member board. It supervises (and examines) state chartered banks that are not members of the Federal Reserve System. The FDIC reviews examinations of national commercial banks conducted by the OCC and of state FRS member banks conducted by the FRB. The FDIC also acts as receiver for any

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insured depository institution declared insolvent by the OCC
or the OTS.

The FDIC was given significant new duties by the Financial
Institution Reform, Recovery and Enforcement Act of 1989
(FIRREA), including insuring the deposits of savings associ-
ations, examining savings institutions, issuing regulations bar-
ing savings associations from engaging in certain activities,
and taking enforcement actions against savings associations. 3

Since all former FSLIC-insured institutions continue to be
insured by FDIC, two separate insurance funds have been
created under the FDIC. The Bank Insurance Fund (BIF) and
Savings Association Insurance Fund (SAIF) cannot be com-
mingled. The FDIC's Permanent Insurance Fund (PIF) was dis-
solved by FIRREA and all assets and liabilities were transfer-
red to BIF.

The Resolution Trust Corporation (RTC) is a corporate in-
strumentality of the U.S. government originally under the ex-
clusive management of the FDIC. The RTC is charged with the
resolution of all cases where FSLIC-insured depository institu-
tions failed and entered conservatorship or receivership be-
 tween January 1, 1989 and September 30, 1993. Financing for
this rescue operation will be through the newly established
Resolution Funding Corporation (REFCO). Accountability of
the RTC is vested in the five-member Oversight Board estab-
lished by FIRREA.

Federal legislation passed since the 1989 FIRREA has
somewhat modified the relationship between the FDIC and the
RTC. The Resolution Trust Corporation Funding Act of 1991
and the Resolution Trust Corporation Refinancing, Restructur-
ing, and Improvement Act of 1991 both made changes in the
organizational and reporting structure of the RTC. Though the
RTC is now managed by a chief executive officer appointed by

3 For excellent treatment of FIRREA's impact on banking regula-
tion, see L. Norton and S. Wesley, Banking Law Manual E1A and E3.07
(1992). See also CCH Federal Banking Law Reporter (Vol. 3 Consumer, Sav-
ings and Loan Associations, and Vol. 4 Consumer, Insurance of Deposits).

4 The Federal Savings and Loan Insurance Corporation (FSLIC) was abol-
ished by FIRREA, title IV, §401(a).

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the President with the consent of the Senate, all RTC employees are actually FDC employees.

§10.8.2 Regulations — Sources

All proposed regulations and regulations promulgated by the FDIC are first published in the Federal Register and then codified in 12 C.F.R. Parts 300-399. Because of the transfer of new duties to the FDIC by FIRREA, some regulations formerly codified in different parts of 12 C.F.R. have been moved to 12 C.F.R. 300-399. Most of these regulations can be found in the following publications and sources:

Banking Law (M-B)
Control of Banking (P-H)
J. Douglas and S. Parker, Federal Banking Laws, 4th ed. (WW&L)
Federal Banking Law Reporter (CCH)
Federal Deposit Insurance Corporation: Laws, Regulations, Related Acts (FDIC)*
Federal Guide (SCBA)
LEXIS — library: BANKING; file: REGS
library: BANKING; file: FEDREG (1980+)
H. Fitt, The Law of Financial Services (P-H)
WESTLAW — database: FFIN-CFR

*Not always updated promptly — check for currency.

§10.8.3 Interpretations and Rulings — Sources

The FDIC often interprets the laws and regulations it is empowered to implement. The more permanent and important of these issuances may be found in the Federal Register. All issuances not published there and not available through the FDIC Corporate Communications Office are indexed by the Office of the Executive Secretary in an FOIA Index (see 12

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§ 10.8.3  Banking Law

C.F.R. 309.4(b)(3) (1992)). New issuances may be issued as the FDIC begins to implement and enforce its new responsibilities under FIRREA. The major identifiable issuances are:

Bank Letter (also known as FDIC Letter)
Enforcement Decisions
Financial Institutions Letter
General Counsel Opinions
Interpretive Letters (also Advisory Opinions or Legal Advisory Opinions)
Press Releases (also Numbered Releases or News Releases)
Rulings

Sources listed below for each type of document may not have comprehensive coverage — many are only selective.

**Bank Letter (also FDIC Letter)**
(no longer published; continued by Financial Institutions Letter (1989 +))

Numbering, for example, BL-40-87
Sources:
- Direct from FDIC (no charge)
- Federal Banking Law Reporter (CCH)
- Federal Deposit Insurance Corporation:
  - Laws, Regulations, Related Acts (FDIC)*
  *Not always updated promptly — check for currency.

**Enforcement Decisions**
(includes adjudicated (substantive) and interlocutory (procedural) decisions as well as consent decrees)

Numbering, for example, FDIC Docket No. FDIC-83-218e
(all numbers are followed by lowercase letter)
Sources:
- FDIC Enforcement Decisions and Orders (P-H) (1975 +)
- Federal Banking Law Reporter (CCH)
Financial Institutions Letter

Letter
1989 to date
Numbering, for example, FIN-40-91
Sources:
Direct from FDIC (no charge)
Federal Banking Law Reporter (CCH)
Federal Deposit Insurance Corporation: Laws, Regulations, Related Acts (FDIC)

General Counsel Opinions
(responses to individual inquiries interpreting specific code sections or regulations concerning policy issues of general applicability)

No. 1 (Oct. 1973) to date
Sources:
Federal Banking Law Reporter (CCH)
Federal Deposit Insurance Corporation:
Laws, Regulations, Related Acts (FDIC)*
*Not always updated promptly — check for currency.

Interpretive Letters (also Advisory Opinions or Legal Advisory Opinions)
(responses to inquiries concerning specific policy issues with general applicability)

Numbering, for example, FDIC-89-7
Sources:
Federal Banking Law Reporter (CCH) (1979 +)
LEXIS — library: BANKING; file: FDIC (1979 +)
H. Pitt, The Law of Financial Services (P-H) (in Appendix R)
WESTLAW — database: FFIN-FDIC (1979 +)

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§10.8.3 Banking Law

Press Releases (also Numbered Releases or News Releases)

Sources:
Direct from FDIC (no charge)
Federal Banking Law Reporter (CCH)
Federal Deposit Insurance Corporation:
Laws, Regulations, Related Acts (FDIC)*
LEXIS — library: BANKNG; file: FEDREG (1980+)

*Not always updated promptly — check for currency.

§10.8.4 Other FDIC Publications

Corporate Communications Office
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
(202) 898-6996

Publications available from this office are:

Annual Report (previously known as FDIC Report of Operations)
1st (1934) to date

Financial Institutions Letter
1989 to date (replaces the Bank Letter)

Press Releases (also Numbered Releases or News Releases)

Office of the Executive Secretary
Federal Deposit Insurance Corporation

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Release 8 — July 1993
Federal Deposit Insurance Corporation: Law, Regulations, Related Acts

A looseleaf service for banks designed to be used as "an operating manual — a quick, accurate reference on daily operational problems and financial practices." Includes laws, rules and regulations, policy statements, selected FDIC General Counsel Opinions, and interpretations. Also includes major Federal Reserve Board regulations and interpretations and some RTC regulations.

FOIA Index
(referred to in 12 C.F.R. §309.40(b)(3) (1992))

Monthly index compiled by the FDIC Office of the Executive Secretary. This index lists all actions of the FDIC Board, as well as those under delegated authority. No mailing list maintained, but copies of the Index are available from the FOIA Office. Some documents may be available without a FOIA request. Check first!

§10.9 RESOLUTION TRUST CORPORATION (RTC)

§10.9.1 Resolution Trust Corporation

The Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA) created the Resolution Trust Corporation

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to manage and resolve the affairs of the failed depository institutions that were insured by the FSLIC and moved into receivership or conservatorship between January 1, 1989 and August 9, 1992. A 1991 law, the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act (105 Stat. 1761), extended the time frame to September 30, 1993.

The RTC is strongly tied to the FDIC but is really a mixed ownership/government corporation whose job it is to liquidate the failed depository institutions. In short, the RTC must shut down the failed thrifts, reimburse depositors, and sell the assets.

The board charged with oversight of the RTC is the seven-member Thrift Depositor Protection Oversight Board. This group does not formulate policy but is simply in place to monitor the work of the RTC.

Funding the rescue operation has been Resolution Funding Corporation (REFCO), a corporation created by FIRREA to raise funds for the bailout. Appropriations from Congress have also been added to these funds as the cost of the bailout has escalated.

The original plan under FIRREA was to have the RTC exclusively managed by the FDIC. Because of contradictory policies, a worsening failure rate, and other administrative problems, two public laws were passed in 1991 to tinker with the structure of the RTC, especially as it relates to the FDIC. See the Resolution Trust Corporation Funding Act (105 Stat. 58) and the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act (105 Stat. 1761).

§10.92 Regulations — Sources

Regulations of the Resolution Trust Corporation are published in the Federal Register and are codified in 12 C.F.R. Pts. 1605-

§10.9 For excellent treatment and explanation of the RTC, see M. Putnam, "Resolution Trust Corporation Basics," 11 Legal Information Alert 14 (no. 9, Oct. 1992).
§10.9.3

1680. Regulations of the Oversight Board will be found codified in 12 C.F.R., Pts. 1505-1511. Most of these regulations can be found in the following publications and sources:

Banking Law (M-9)
Control of Banking (P-H)
J. Douglas and S. Parker, Federal Banking Laws, 4th ed. (WG&L)
Federal Banking Law Reporter (CCH)
LEXIS — library: BANKNG; file: REGS
library: BANKNG; file: FEDREG (1980+)
WESTLAW — database: FFIR-CFR

§10.9.3 Publications — Sources

Most of the publications of the RTC merely keep the interested researcher aware of the activities of the RTC. Publications may be obtained from:

Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434
(202) 416-7566

Publications of interest to the legal community may include:

Annual Report (RTC)
1st (1989) to date

News Releases
As issued


Release 8 — July 1993 10-49
Real Estate Asset Inventory (GPO)
1989 to date. 4 vols.
This four-volume work keeps track of the disposal of assets owned by the failed thrifts. The inventory is divided into commercial properties, residential properties, land, and affordable housing properties.

ETC Review

§10.10 FEDERAL HOUSING FINANCE BOARD (FHFB)

§10.10.1 Federal Housing Finance Board

The Federal Housing Finance Board is an independent agency that was set up under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 183). Once the Federal Home Loan Bank Board was abolished, oversight and supervision of the Federal Home Loan Banks was still needed, and the FHFB was created for this purpose.

The Federal Home Loan Bank System was left in place after FIREAA, with the Office of Thrift Supervision taking over the supervision of thrift institutions and the FDIC insuring their deposits. The division of former FHLBB responsibilities then leaves the management of the still-existing Federal Home Loan Banks to the new Federal Housing Finance Board.

§10.10.2 Regulations — Sources

This independent agency has promulgated rules and regulations in order to carry out its charge. Originally published in the Federal Register, the rules of the Federal Housing Finance Board...
Board are codified in 12 C.F.R. Pts. 900-990. Most of these regulations can be found in the following sources:

Banking Law (M-B)
(WG&L)
Control of Banking (F-H)
Federal Banking Law Reporter (CCH)
Lexis — library: BANKING; file: REGS
library: BANKING; file: FEDREG (1980+)
WESTLAW — database: FFN-CFR
database: FFN-RR (1980+)

§10.10.3 Publications — Sources

Publications of the FHFB can be obtained from:

Federal Housing Finance Board
1777 F Street, NW
Washington, DC 20006
(202) 408-2500

§10.11 FEDERAL HOME LOAN BANK SYSTEM (FHLBS)

§10.11.1 Federal Home Loan Bank System (FHLBS)

Established in 1932 by the Federal Home Loan Bank Act (47 Stat. 725) and subsequent legislation, the FHLBS included member thrift institutions, 12 Federal Home Loan banks and the Federal Home Loan Bank Board. The system paralleled the Federal Reserve System, which regulates commercial banks. The FHLBB chartered and supervised federal (nationwide chartered) thrift institutions. In addition, the Board operated a cen-
ternal bank system (through the 12 regional banks) for the thrift industry, insured savings deposits through the Federal Savings and Loan Insurance Corporation (FSLIC), and governed the Federal Home Loan Mortgage Corporation (FHLMC). Because FSLIC and FHLMC are part of and governed by the Federal Home Loan Bank Board, they are not separately treated.

In 1989, the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) was passed by Congress (103 Stat. 183) to promote a stable system of housing finance, to improve supervision of savings associations, to strengthen enforcement powers of federal regulators, to provide funds for failed depository institutions, and to put federal deposit insurance funds on a sound financial footing.

To accomplish these purposes, three new regulatory entities were established and two existing agencies were abolished. The Federal Home Loan Bank Board (FHLBB) and the Federal Savings and Loan Insurance Corporation (FSLIC) were both abolished by Title IV, Section 401(a) of FIRREA. In their stead, the Office of Thrift Supervision (OTS), the Federal Housing Finance Board (FHFB), and the Resolution Trust Corporation (RTC) were created. Essentially, the supervision of the thrift industry was transferred from an independent agency (the FHLBB) to a new department under OCC in the Treasury Department (OTS).

Insurance of savings association deposits is now handled by the FDIC. The OTS charters federal savings associations and is responsible for the examination, regulation, and enforcement activities of these federal savings associations and state savings institutions insured by the FDIC. The Federal Home Loan Bank System continues to exist even without the FHLBB and is supervised by the new Federal Housing Finance Board (FHFB). The new RTC has been created to resolve all cases involving FSLIC-insured institutions and is under the management of the FDIC.

The Office of Thrift Supervision (OTS) is covered in §10.6, the Resolution Trust Corporation in §10.9, and the Federal Housing Finance Board (FHFB) in §10.10. This section on the FHLBB has been left in this chapter because, though the
FHLBB has been abolished; the responsibilities of the FHLBB have in vast part simply been transferred to the OTS (chartering and supervision of nationally chartered thrifts), to the FDIC (insuring), and to the FHFB (supervision and regulation of the Federal Home Loan Banks). Historical research may make the following information useful.

§10.11.2 Regulations — Sources

All proposed regulations and regulations promulgated by the Federal Home Loan Bank were first published in the Federal Register and then codified in 12 C.F.R. Pts. 500-599. Regulations of the Federal Savings and Loan Insurance Corporation were codified in 12 C.F.R. Pts. 561-574. In the 1990 C.F.R., the FHLBB and FSLIC regulations were no longer included. The new OTS regulations and the transferred regulations of the FHLBB can now be found in 12 C.F.R. Pts. 500-599; and the transferred FSLIC regulations have been relocated to the FDIC sections, 12 C.F.R. Pts. 300-399. Most of the old FHLBB and FSLIC regulations can also be found in the following publications and sources:

LEXIS — library: BANKNG; file: REGS
library: BANKNG; file: FEDREG (1980+)
H. Pitt, The Law of Financial Services (F-14)
WESTLAW — database: FFIN-CFR

§10.11.3 Memoranda, Rulings, and Opinions — Sources

The FHLBB issued a variety of documents that interpreted the rules and regulations they were empowered to implement. Some interpretive rulings of permanent character were published in the Federal Register and gathered in 12 C.F.R. §§531, 532, 555, 556, 570, 571 and 588. The last publication of these

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rulings will be found in the 1989 edition of C.F.R. Other interpretive documents have been identified as follows:

Alert Bulletins (also FHLLB Bulletins)
Board Rulings
General Counsel Opinions
General Counsel
Corporate & Securities Division
Regulations and Legislation Division
Memoranda (also FHLLB Memoranda)
R Series
T Series
IA Series
PA Series
SP Series
No-Action Memoranda
Resolutions (also FHLLB Resolutions)
Statements of Policy

Sources listed below for each type of document may not have comprehensive coverage — many are selective.

Alert Bulletin (also FHLLB Bulletin)
Numbered, for example, AB 58
Source: Federal Guide (USLSI)

Board Rulings
Identified by date and source
Sources:
Code of Federal Regulations (12 C.F.R. §§532, 555, and 570)
Federal Banking Law Reporter (CCH)
Federal Guide (USLSI)
Federal Register
LEXIS — library: BANKNG; file: REGS
library: BANKNG; file: FEDREG (1980+)
Supervisory Service (USLSI)

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WESTLAW — database: FFN-CFR

General Counsel Opinions
(also Opinions of the General Counsel)

General Counsel
1981-1 to 1981-10
Unnumbered Dec. 1981 to June 1988
88/GC-7 (June 1988) to date

Corporate & Securities Division
Unnumbered Dec. 1981 to April 1988
88/CS-52 (April 1988) to date

Regulations and Legislation Division
Unnumbered to May 1988
88/RL-1 (May 1988) to date

Sources for all opinions:
Federal Banking Law Reporter (CCH)
Federal Guide (USLSI)
LEXIS — library: BANKNG, file: THRIFT (1964+)
H. Pitt, The Law of Financial Services (P-H) (in
Appendix Y)
Supervisory Service (USLSI)
WESTLAW — database: FFN-OTS (1964+)

Memoranda (also FHFB Memoranda)

R Series
(R-1 (July 1969) to date)
(instructions to staff and supervisory agents relating to rules
and regulations, interpretations and opinions, etc.)

T Series
(T-1 (Jan. 1969) to date)
(technical memoranda with more limited application)

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Sources for R Series and T Series:
Federal Banking Law Reporter (CCH)
Federal Guide (USLSI)
Journal of the FHLBB
Supervisory Service (USLSI)

IA Series
(Numbered, for example, IA-5)
(Independent Audit Series)

PA Series
(Numbered, for example, PA-7a-1)
(Public Accounting Series)

SP Series
(Numbered, for example, SP-52)
(Supervisory Procedure Series)

Sources for IA Series, PA Series, SP Series:
Federal Guide (USLSI)

No-Action Memoranda

(letters that assure enquirer that General Counsel will not recommend enforcement action if institution undertakes specific activity discussed; do not constitute precedent)

NA 1 (Nov. 1986) to date
Sources:
Federal Guide (USLSI) (summary only)

Resolutions (also FHLBB Resolutions)

Numbered, for example, 84-717
Sources:
Federal Banking Law Reporter (CCH)
Federal Guide (USLSI)
H. Pitt, The Law of Financial Services (P-I) (in Appendix U — FHLBB Resolutions)

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Statements of Policy

Identified by date and source
Sources:
- Code of Federal Regulations (12 C.F.R. §§531, 556, 571, 586)
- Federal Banking Law Reporter (CCH)
- Federal Guide (USLSI)
- Federal Register
  - LEXIS — library: BANKNG; file: REGS
  - library: BANKNG; file: FEDREG (1980+)
- Supervisory Service (USLSI)
- WESTLAW — database: FFIN-CFR

§10.11.4 Other Publications of Interest to the FHLBB

Annotated Manual of Statutes and Regulations


Federal Guide (U.S. League of Savings Institutions)

Original edition 1951. No longer published by USLSI. See §10.6 (OTS), supra. Comprehensive four-volume service that compiles federal laws, regulations, rulings, and interpretations directly affecting the operation of thrift institutions. Includes all FHLBB laws and regulations, but also Federal Reserve Board laws and regulations, especially in consumer protection and securities. Tax and employment, as they relate to the thrift industry, are also comprehensively treated. Limited access to issuances by type of document (i.e., by statement of policy). Access by topic. Some finding lists. Was updated monthly. Release 8 — July 1993
Journal of the Federal Home Loan Bank Board
Vol. 1 (June 1968)—vol. 17, #4 (May 1984) (FHLBB)
No longer published. Monthly publication consisting of articles and statistical series covering current information on savings and the home financing industry (mortgages, housing, etc.). News of regulations, rulings, and opinions. Summaries of selected FHLBB Memoranda. Indexed in Legal Resource Index. Replaced by Outlook. Full text in DIALOG file 648 Trade & Industry ASAP 1983/84+.

Legal Bulletin
Vol. 1 (1934)—vol. 55, #4 (July 1989) (USLSI)
No longer published. Contains one or two articles written by practitioners and an excellent review (in each issue) of current decisions of interest to thrift industries. Good summary of current state legislation affecting savings institutions. Each volume contains an index. Indexed in Legal Resources Index and Current Law Index.

Outlook of the Federal Home Loan Bank System
No longer published. Replaces Journal of the FHLBB. Contains articles and announcements but no statistical series or legal developments.

Report of the FHLBB
1st (1947)—(1989) (no longer published)

Supervisory Service (USLSI)
1984. 1 vol. looseleaf.
No longer published by USLSI. See §10.6 (OTS), supra. Same contents as volume 1 of the Federal Guide (USLSI). Contains major federal laws, regulations, rulings, and interpretations for OTS, FHLBB, FRB, FSLIC, FDIC, and Bank Holding Companies. Basic federal supervisory rules and regulations for savings institutions. Was updated monthly.
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N.B. The United States League of Savings Institutions published two very important works that gave access to many of the legal issuances of the Federal Home Loan Bank Board: the Federal Guide and the Supervisory Service. Not only was the FHLBB abolished in 1989, but the USLSI merged with another association to become the Savings and Community Bankers of America (SCBA). Fortunately, the publications of the Federal Guide and the Supervisory Service continue to be published by the SCBA and are covered in depth in §10.6, supra.

§10.12 STATE REGULATORY FRAMEWORK

Established early in the history of most states, individual state regulatory bodies charted the so-called state banks and state savings institutions. These state regulatory agencies are also responsible for the supervision and examination of these state banking institutions. Even though a bank or savings institution is state-chartered, the institution can apply for FRB, FDIC, or FHFB membership. Membership brings with it federal regulation. The state regulatory agency does not regulate a nationally chartered financial institution, but other state laws (commercial, consumer, corporations) may well apply. See §10.3 supra.

Further discussion of the state regulatory apparatus is outside the scope of this chapter. However, lists of state banking and state savings and loan departments may be found in Appendix 10-6 and Appendix 10-7 infra. Statewide bankers' associations and savings and loan leagues could be very helpful if questions of state regulation must be resolved.

§10.13 ADDITIONAL RESEARCH SOURCES

To solve any single problem of banking law may require the use of a great many sources. Many books and services are
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published for and about the financial industry. Subject access to these works through library card or on-line catalogs is quite good. Major Library of Congress subject headings are Banking Law (legal developments) and Banks and Banking (economics, policy). Other specific headings exist as well if the user has a narrower focus (e.g., Chain Banks, Federal Home Loan Banks, etc.).

As already mentioned in the Introduction to this chapter, most questions are asked in the context of a specific type of financial institution, either a commercial bank or a thrift institution. Therefore, where possible, the titles in the following section have been assigned a "B" if the work covers only commercial banks or a "T" if the work includes coverage of thrift institutions. None of the following lists claims to be comprehensive.

§10.13.1 Reference Books

There are many titles that would comprise a good working collection of directories and handbooks needed to answer questions about the banking industry. A comprehensive list is outside the scope of this chapter. However, a modest collection should include the following works.

BT American Bank Directory (McFadden Business Publications, Norcross, GA). Issued two times per year. Includes an alphabetical list of all banks and thrifts in the U.S., arranged by state, showing names of officers and directors.

B Bank Performance Manual (WG&L). Includes major financial events, articles, industry and economic statistics, and a directory.


BT Commercial Loan and Constant Tables (Financial Publishing Co., Boston, MA). Includes charts and tables.

BT Depository Institutions Performance Directory (WG&L).
This three-volume set lists all financial institutions, with comprehensive performance data and rankings. Updated quarterly. New edition annually.

BT Dictionary of Banking (Wiley)

BT KPMG International Handbook of Financial Instruments and Transactions (Butterworth). A comprehensive reference work offering easy access to the proliferating terminology related to financial markets.

BT Rand McNally Bankers Directory (Rand McNally). Also known as the Bankers’ Blue Book. A list of all financial industry institutions with basic directory and financial information. Volumes 1 and 2 are for the United States and are arranged by state, town, and then alphabetically. Volume 3 contains international institutions. Looks like the financial industry’s answer to Martindale-Hubbell.


BT Thormike Encyclopedia of Banking and Financial Tables (WG&L). Statistical and financial tables in this work include loan payment and amortization tables, compound interest and annuity tables, interest and investment tables, for example.

T U.S. Savings Institutions Directory (Rand McNally)

Law libraries with financial institutions as clients and special libraries located in financial institutions or in financial service associations may assist in “completing” the above list.

§10.13.2 Texts, Treatises, and Looseleaf Services — Described

Legal Looseleaves in Print, which is updated regularly, contains a comprehensive listing of looseleaves and banking treatises and texts. The following titles represent the banking law books
most commonly referred to in preparation of this chapter. Other important works are listed under subject in §10.13.3.

F  Banking Law, 1992 (M-B). Vols. 1-10 in 14 volumes. Looseleaf. Primarily written about the law of commercial banking, including organization, operation, examination, regulation, and liquidation. Related areas of law discussed in detail are federal income tax laws, federal securities laws, consumer credit, and consumer protection. Not included is any comprehensive coverage of thrift or other bank-like institutions. Index volume contains a detailed subject index, table of cases, and table of statutes and rules. Good book and article bibliographies at the end of each chapter.


BT  Federal Banking Law Reporter (CCH) vols. 1-5 in six volumes. Looseleaf. (Decision volumes cover 1945 to 1991 and are in transfer binders.) A comprehensive treatment of the whole of banking law. All relevant federal laws and
regulations are included. Many federal agency issuances are regularly found in this important service. Worthy of special note is the Finding List section, which identifies many separate kinds of documents issued by the various federal agencies. Coverage is not limited to just the OCC, FRB, FDIC, and FHLBB. Regulations and rulings from HUD, IRS, FTC, SEC, and others are included as they relate to banking law. Does not include state law.


BT Lovett, William A. Banking and Financial Institutions Law in a Nutshell, 3d ed. 1992 (West). Excellent history and overview of the development of banking in the U.S. Covers commercial banking, thrifts, and credit unions.


BT Michie on Banks and Banking, permanent edition. Vols. 1-9 in 11 volumes with pocket parts. This classic text on banks and banking law purports to serve as a “guide to every reported case pertaining to banking law.” In fact, this treatise is arranged just like the West key number digest system for Banks and Banking. The section numbers are not the same, but the organizational principles are. For example, Chapter III (Officers and Agents) in Michie corresponds to West’s key number, Banks and Banking 50-62; cases on incorporation of banks are found in Michie in Chapter II, 3-14, while the key number in West is Banks and Banking 23. Essentially, this means that this treatise

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analyzes cases only. A regulations volume is included with the set, but generally the regulatory scheme is not discussed in the main text. This work does not add to an overall understanding of banking law, unless the issue was resolved by case law. Of limited usefulness.


BT Pitt, Harvey L., et al. The Law of Financial Services, 1992 (P-H) vols. 1-7 in 8 books. A one-volume treatise on the law of financial services is followed by six volumes of primary legal material. All federal administrative agencies' legal decisions, opinions, regulations, releases, and interpretations are covered, many selectively. Does not include court cases or many statutes set out in full. Good bibliographies of books, articles, and documents are set out at the end of each chapter in Volume 1.


BT Pulles, Gregory, et al. FDICIA: A Legislative History and Section-By-Section Analysis, 1992 (Shepard's/McGraw-Hill), 2 vols. Looseleaf. This helpful looseleaf service analyzes the Federal Deposit Insurance Corporation Improvement Act section by section, breaking down the important parts of the legislative history (reports and congressional debate).

BT Pulles, Gregory et al. FIRREA: A Legislative History and Section-By-Section Analysis, 1991 (Shepard's/McGraw-Hill), 2 vols. Looseleaf. A value-added legislative history

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that picks apart the various legislative history documents and arranges them by the sections of the new law. Some analysis. Cases cited as decided by the courts.

B Schroeder, Milton, and Frederick Beitel. Bank Officers Handbook of Commercial Banking Law, 6th ed. 1989 with supplement (WG&L). Designed to furnish information to commercial bankers on ordinary legal problems that arise in the regular course of their business. Well organized and simple, it does not provide exhaustive treatment of the subject. Good as an introduction to banking law. Watch for over-simplification.

BT Schott, Paul. Federal Regulation of Depository Institutions; Enforcement Powers and Procedures, 1988 with supplement (WG&L). An excellent one-volume work concentrated on the enforcement powers of all federal regulatory agencies that supervise and examine financial institutions. Brings together "the law, regulations, statements of policy and agency practices that bear upon the maintenance of safety and soundness."

T Williams, Julie L. Savings Institutions: Mergers, Acquisitions and Conversions, 1988 (NY Law Pub. Co.). Looseleaf. Written by an accomplished thrift lawyer, this volume gives guidance to savings institutions or their acquirors in this fast-paced area of law. Good coverage of all applicable regulations and interpretations.


§10.13.3 Other Secondary Sources by Subject

What follows is a selected list of banking law texts, treatises, and looseleaves arranged by subject. Other titles can be found in Legal Looseleaves in Print and Law Books in Print.

Bank Holding Companies


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Bankruptcy

Changes in the Industry

Commercial Law (UCC)
5. Clark, Barkley. Regulation CC: Funds Availability and Check Collection, 1989 (WG&L) with supplement.

Consumer Protection
2. Clontz, Ralph C. Equal Credit Opportunity Manual, (WG&L) with supplement
3. Clontz, Ralph C. Fair Credit Reporting Manual (WG&L) with supplement.

Criminal Law

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Electronic Fund Transfer Systems


Insurance Law


International Banking


Lender Liability

8. Weissman, Michael L. Lender Liability: How to Protect Yourself Against Unwarranted Suits, 1988 (Executive Enterprises Publishing Co.).

Management and Administration of Financial Institutions


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Mortgages


Securities

2. Securities Regulation of Banks and Thrifts in the 1990's, 1990 (FL)

Taxation


§10.13.4 Current Awareness Tools

Newsletters, daily and weekly publications, abound in Banking Law. The 1992 edition of Legal Newsletters in Print lists over 76 titles under Banks and Banking alone! In 1988 there were a mere 48! The short list that follows includes only those titles published more than 12 times per year that attempt to cover the entire banking industry.

B American Banker (Am. Banker, Inc.) 5x/wk; newspaper (also in fiche; on-line DIALOG and NEXIS).
BT Bank Bailout Litigation News (Bural). Biweekly. Summarizes and analyzes all cases resulting from failure of banks and thrifts.

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The Bank Digest (WSB). Daily newsletter. Summarizes all releases from all banking and thrift federal agencies. Similar to Capitol Banking Review.

Banking Expansion Reporter (P-H). Published twice a month. This bimonthly newsletter covers product expansion, mergers and acquisitions, geographic expansion, delivery innovations and tracks pending regulatory and legislative developments.

Bank Merger Law Report (BNA). Published twice a month. Specifically, this newsletter keeps a subscriber up-to-date on the legal aspects of bank, thrift, and holding company mergers and acquisitions.

BNA’s Banking Report (BNA). Weekly. (Was Washington Financial Reports.) Covers legal and regulatory developments in the financial services industry. Summarizes cases of interest — all courts, includes short new items called Legal Briefs, and summarizes official action of all kinds. Sources of information often not cited. (Also online — LEXIS, NEXIS, and WESTLAW.)

Capitol Banking Review (WDS). Weekly newsletter. Covers all banking regulatory agency and congressional activities in the nation’s capital, including all press, regulatory, interpretive, and statistical releases from every banking agency. Wow!

Control of Banking (P-H). Biweekly. Looseleaf. Reports cover significant cases, new laws and regulations, and new ideas and approaches that are changing the future of the banking industry.


Daily Banking Update Service (WDS). Daily. Service includes a copy of every federal regulatory and congressional banking document issued every day!


ceived with filing instructions each week) is an excellent source because it summarizes the contents of the new pages to be filed that week.

**T** FERC Report (Financial Enforcement Regulation and Compliance) (United Communications Group). Biweekly. Written to help those in financial institutions comply with the maze of regulatory law.

**T** Mealey's S & L Bailout Report. Biweekly. Tracks the federal government's effort to rescue failing thrift institutions and the litigation triggered by the failures. Coverage focuses on the Resolution Trust Corp. (RTC).


**T** RTC Report (Land Development Institute). Biweekly. RTC activities and other financial institutions and real estate developments.

**T** RTC Watch (Am. Banker-Bond Buyer). Weekly. Tracks developments at the RTC.


### §10.13.5 Periodicals

Activity in the banking law area is very visible when looking at the growth in specialized journals covering this subject. There are now five periodicals (excluding newsletters) that are exclusively devoted to legal issues in the banking industry. In addition, an anthology of the best articles from all legal periodicals on banking law is also published.

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2. Banking Law Journal, vol. 1 (1889) to date. (WG&L). Published six times per year; contains articles written by practicing attorneys; banking, and trust and estate and gift tax decisions are noted; includes bibliography of selected articles and books on banking law. A digest-index (with the same classification scheme as the banking Law Journal Digest) is found in the last issue of each volume. Indexed in CLM, ILP, LRI, and Banking L.J. Digest.

3. Banking Law Anthology, vol. 1 (1983) to date. International Library, Bethesda, Maryland. National Law Anthology Series. Published every two or three years. Includes reprints of the best articles written in the area of banking law. All reprinted articles are indexed by subject, case, and author. A good resource to have for law firms and other law libraries that do not have easy access to all legal periodicals.


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dom. Published quarterly. Regularly digests cases, recent legislation and regulatory developments in foreign countries, analyzes practical issues in banking and securities law and publishes commentaries on important cases and legislation. Of value to U.S. practitioners who need to know what is going on in banking law in the rest of the world.

Many other legal periodicals carry articles of interest to the banking and thrift industries. Those articles that are law-related will be indexed in CILP, CLI, ILP, LRI, and the Banking Law Journal Digest. The Federal Reserve Bulletin (FRB) and the Quarterly Journal (OCC) are fully described in §§10.7.4 and 10.5.5 supra.

§10.13.6 Computerized Sources

Both WESTLAW and LEXIS have special topical databases that contain documents of interest to researchers doing banking law research. Many of the individual searchable files have been listed in the appropriate sections of this chapter. The table below shows coverage in these files as of January 14, 1993. Be sure to update this list online to check new files added.

Although coverage of banking law resources on WESTLAW and LEXIS is very similar, the currentness of the information may be very different. For example, on May 11, 1990, the LEXIS files (BANKING-REGS) of the C.F.R. were only current through January 1, 1988 (Title 12), and July 1, 1987 (Title 31), while the WESTLAW (FFIN-CFR) files of C.F.R. were current through January 1, 1990. Quite a difference! WESTLAW and LEXIS do not generally have the same updating schedule. Always check the scope of a database on WESTLAW and the description of a library and file on LEXIS before selecting a CALR system.

In selecting a CALR system for banking research, one other point should be remembered. WESTLAW descriptions of the online files and databases are much more comprehensive and helpful than the LEXIS menu. Both include dates of cover-

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age, but WESTLAW describes the individual databases in depth. Especially if you are a novice in banking law research, you may find the WESTLAW scope notes very helpful in identifying elusive issuances and in assessing their authority.

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1 LEXIS OCC Interpretive Letters file is created by including only Interpretive Letters published in OCC Quarterly Journal.
2 LEXIS includes Comptroller General Decisions that involve the banking industry. Their inclusion in this LEXIS library is questionable because administrative agency decisions from other agencies on banking matters are not included (e.g., IRS, SEC, FTC).
3 The database identifier for this collection of periodical articles and tests is FFN, not FFN as in all prior listings.

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In addition to legal databases, a large number of files of interest to the banking law researcher exist, particularly on NEXIS (Read Data Central) and DIALOG. Many DIALOG databases are now available on WESTLAW. The following lists are limited to those databases or files most directly covering the financial institution industry. A thorough researcher should never limit his or her search to just these materials. New databases are being developed and marketed all the time. In addition, the particular question asked might suggest the need to access a whole variety of existing, related databases. What follows is a small sampling of nonlegal financial databases or files:

NEXIS

AABA Banking Journal 1980+
American Banker 1979+
Banking Expansion Reporter 1982+
BNA Banking Report 1982+
Financial Industry Information Service 1982+
Financial Times 1982+
Financial World 1983+
Issues in Banking Regulation 1981+
Magazine of Banking Administration 1981+
Reuter Financial Report 1987+
United States Banker 1983+
World Financial Markets 1982+

DIALOG

American Banker (full text) 1981+
File 625
American Banker News (selected articles full text)
Current day + up to five previous issues
File BANKNEWS
FINIS: Financial Industry Information Service
(abstracts of articles) 1982+
File 268

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§10.13.6
Financial Times Company Abstracts 1982 +
File 560
Financial Times (full text) 1986 +
File 622
Reuters (full text) 1987 +
File 611

§10.13.7 Finding Aids

In addition to the normal legal finding tools used to locate cases, statutes, and regulations, there are a few specific publications that can assist the researcher in identifying and locating cases, regulations, periodical literature, and treatise material on very specific topics of banking law.

1. ABA Banking Literature Index, 1982 to date. (American Bankers Association). This monthly index covers the banking field, including the law of depository institutions.

2. Banking Law Journal Digest, 8th ed. 1991 (WG&L), vols. 1-2 and cumulative supplements. The digest, re-published every few years, summarizes all court cases briefed in issues of the Banking Law Journal. These are organized by broad topic. In addition, periodical articles published in the Banking Law Journal are indexed here by subject.

3. Banks and Banking Code of Federal Regulations Research Guide, 1990 (Bowker). This comprehensive index to Title 12 of C.F.R. is taken from the Bowker CFR Index database. Far superior to the official index to C.F.R., its use may be unnecessary if the researcher has access to C.F.R. on WESTLAW or LEXIS or to a comprehensive looseleaf service containing banking regulations.

4. Bowker's Banks and Banking Legal Research Guides, 1990 (Bowker). Taken from Bowker's Index to Legal Books, this research guide has been created by merg-
ing the indexes of the most authoritative legal treatises together. Less useful than it sounds.

5. Shepard's Banking Law Citations, 1988. A typical Shepard's Citator, which permits the researcher to identify history and treatment of court cases, statutes, and regulations in the banking law field. Includes a comprehensive table of cases (with citations) of banking law decisions. Parallel citations to the CCH Federal Banking Law Reporter are in a separate table. Designed for the practitioner who does not own or have easy access to the other Shepard's Citators.
### Abbreviations and Acronyms

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ABA</td>
<td>American Banker's Association (herein)</td>
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<td>ACIR</td>
<td>Advisory Commission on Intergovernmental Relations</td>
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<td>AEI</td>
<td>American Enterprise Institute</td>
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<td>BHCA</td>
<td>Bank Holding Company Act</td>
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<td>BIF</td>
<td>Bank Insurance Fund</td>
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<td>BNA</td>
<td>Bureau of National Affairs</td>
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<td>CAC</td>
<td>Consumer Advisory Council</td>
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<td>CB</td>
<td>Clark Boardman</td>
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<td>CCA</td>
<td>Crime Control Act</td>
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<td>CCH</td>
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<td>Competitive Equality Banking Act</td>
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<td>C.F.R.</td>
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<td>CLI</td>
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<td>CTBFTRAPA</td>
<td>Comprehensive Thrift and Bank Fraud and Tax Payer Recovery Act</td>
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<td>DDC</td>
<td>Depository Institutions Deregulation Committee</td>
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<td>DIDMCA</td>
<td>Depository Institutions Deregulation &amp; Monetary Control Act</td>
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<td>Director of the Office of Thrift Supervision</td>
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<td>ECOA</td>
<td>Equal Credit Opportunity Act</td>
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<td>EFTA</td>
<td>Electronic Fund Transfer Act</td>
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<td>F&amp;G</td>
<td>Faulkner and Gray</td>
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<tr>
<td>SLHC</td>
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<td>Theft Institution Advisory Council</td>
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<td>USLSI</td>
<td>United States League of Savings Institutions</td>
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<td>WDS</td>
<td>Washington Document Service, Inc.</td>
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<td>WG&amp;L</td>
<td>Warren, Gorham &amp; Lamont</td>
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<td>WSB</td>
<td>Washington Service Bureau</td>
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## Federal Reserve Board Banking Regulations

*(By Regulation Letter)*

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<td>Extensions of Credit by Federal Reserve Banks</td>
<td>12 C.F.R. §202</td>
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<td>B</td>
<td>Equal Credit Opportunity</td>
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<td>C</td>
<td>Home Mortgage Disclosure</td>
<td>12 C.F.R. §203</td>
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<td>D</td>
<td>Reserve Requirements of Depository Institutions</td>
<td>12 C.F.R. §204</td>
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<td>E</td>
<td>Electronic Fund Transfers</td>
<td>12 C.F.R. §205</td>
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<td>G</td>
<td>Securities Credit by Persons Other Than Banks, Brokers or Dealers</td>
<td>12 C.F.R. §207</td>
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<td>H</td>
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<td>12 C.F.R. §208</td>
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<td>Issue and Cancellation of Capital Stock of Federal Reserve Banks</td>
<td>12 C.F.R. §209</td>
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<td>J</td>
<td>Collection of Checks and Other Items and Wire Transfer of Funds</td>
<td>12 C.F.R. §210</td>
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<td>International Banking Operations</td>
<td>12 C.F.R. §211</td>
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<td>L</td>
<td>Management Official Interlocks</td>
<td>12 C.F.R. §212</td>
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<td>Relations with Foreign Banks and Bankers</td>
<td>12 C.F.R. §214</td>
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<td>O</td>
<td>Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks</td>
<td>12 C.F.R. §215</td>
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<td>P</td>
<td>Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks</td>
<td>12 C.F.R. §216</td>
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Federal Reserve Board
Banking Regulations
(By C.F.R. Part)

12 C.F.R. §201  Regulation A  Extensions of Credit by Federal Reserve banks
12 C.F.R. §202  Regulation B  Equal Credit Opportunity
12 C.F.R. §203  Regulation C  Home Mortgage Disclosure
12 C.F.R. §204  Regulation D  Reserve Requirements of Depository Institutions
12 C.F.R. §205  Regulation E  Electronic Fund Transfers
12 C.F.R. §206  Regulation F  Securities of State Member Banks
12 C.F.R. §207  Regulation G  Securities Credit by Persons Other than Brokers or Dealers
12 C.F.R. §208  Regulation H  Membership of State Banking Institutions in the Federal Reserve System
12 C.F.R. §209  Regulation I  Issue and Cancellation of Capital Stock of Federal Reserve Banks

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| 12 C.F.R. §210 | Regulation J | Collection of Checks and Other Items and Wire Transfers of Funds |
| 12 C.F.R. §211 | Regulation K | International Banking Operations |
| 12 C.F.R. §212 | Regulation L | Management Official Interlocks |
| 12 C.F.R. §213 | Regulation M | Consumer Leasing Relations with Foreign Banks and Bankers |
| 12 C.F.R. §214 | Regulation N | Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks |
| 12 C.F.R. §215 | Regulation O | Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks |
| 12 C.F.R. §216 | Regulation P | Interest Deposits |
| 12 C.F.R. §217 | Regulation Q | Relationships with Dealers in Securities Under Section 32 of the Banking Act of 1933 |
| 12 C.F.R. §218 | Regulation R | Reimbursement to Financial Institutions for Assembling or Providing Financial Records |
| 12 C.F.R. §219 | Regulation S | Credit by Brokers and Dealers |
| 12 C.F.R. §220 | Regulation T | Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks |
| 12 C.F.R. §221 | Regulation U | |

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**APPENDIX 10-4**

**Federal Reserve Board**  
**Banking Regulations**  
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*10-91*
Regulation P 12 C.F.R. §216 Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks

Regulation R 12 C.F.R. §218 Relationships with Dealers in Securities Under Section 32 of the Banking Act of 1933

Regulation S 12 C.F.R. §219 Reimbursement to Financial Institutions for Assembling or Providing Financial Records

Consumer and Community Affairs
Regulation B 12 C.F.R. §202 Equal Credit Opportunity
Regulation C 12 C.F.R. §203 Home Mortgage Disclosure
Regulation E 12 C.F.R. §205 Electronic Funds Transfer
Regulation M 12 C.F.R. §213 Consumer Leasing
Regulation Z 12 C.F.R. §226 Truth in Lending
Regulation AA 12 C.F.R. §227 Unfair or Deceptive Acts or Practices
Regulation BB 12 C.F.R. §228 Community Reinvestment
Regulation CC 12 C.F.R. §229 Availability of Funds and Collection of Checks
Regulation DD 12 C.F.R. §230 Truth in Saving

Federal Reserve Bank Activities
Regulation J 12 C.F.R. §210 Collection of Checks and Other Items and Wire Transfer of Funds

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<td>§201</td>
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<tr>
<td>D</td>
<td>§204</td>
<td>Reserve Requirements of Depository Institutions</td>
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<td>§217</td>
<td>Interest on Deposits</td>
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<td>Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks</td>
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APPENDIX 10-5

Major Associations in the Banking Industry

American Bankers Association (ABA)
1120 Connecticut Avenue, NW
Washington, DC 20036
(202) 663-5000

Librarian: Joan Gervino (202) 663-5221

Members include most commercial banks and trust companies; organization serves the banking industry. Comprehensive publication scheme, including the ABA Banking Journal — most publications aimed to educate bankers. Sponsor of many educational programs, seminars, and schools. Has a law library of more than 60,000 volumes.

Electronic Funds Transfer Association (EFTA)
1421 Prince St., Suite 310
Alexandria, VA 22314
(703) 549-9880

Financial institutions, retailers, insurance companies, EFT networks are organized to provide a forum for those involved in EFT systems. Some publications.

Independent Bankers' Association of America (IBAA)
One Thomas Circle NW, Suite 950
Washington, DC 20005
(202) 659-8111
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Members are small and medium-sized community banks, interested in legislation and regulation and opposes "concentration of banking and credit powers." Some publications.

Mortgage Bankers Association of America (MBA)
1125 15th Street, NW
Washington, DC 20005
(202) 861-6500

Principal lending and investor interests in the mortgage finance field, including mortgage banking firms, commercial banks, life insurance companies, title companies, and savings and loan associations. Many publications and maintains School of Mortgage Banking.

National Council of Savings Institutions
1100 19th Street, NW, Suite 400
Washington, DC 20005
(202) 857-3100

Members are savings banks and savings and loan associations, as well as international savings and loans systems, leagues, or associations. Sponsors educational programs and several publications.

Savings and Community Bankers of America
900 19th St. NW
Washington, DC 20006
(202) 857-3100

New association created by the merger of United States League of Savings Institutions (USLSI) and National Council of Community Bankers (NCCB). Have continued the publication of two important publications, the Federal Guide and the Supervisory Service.

N.B. Most states have a statewide Bankers Association, as well as a statewide Savings & Loan organization or league.

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APPENDIX 10-6

State Regulatory Agencies — Banks


BANKING
(Administers laws regulating banking institutions.)

ALABAMA
Zack Thompson
Superintendent of Banks
Banking Dept.
106 Commerce St., 3rd Fl.
Montgomery, AL 36130
(205) 242-5452

ALASKA
Willie Kikpatrick
Director
Banking, Securities & Corporations
Commerce & Economic Development Dept.
P.O. Box D
Juneau, AK 99811
(907) 465-2321

ARKANSAS
Bill Ford
Commissioner
State Bank Dept.
325 Center, Ste. 500
Little Rock, AR 72201
(501) 324-9019

ARKANSAS
James E. Gilber
Superintendent
State Banking Dept.
111 Paseo St., Ste. 1100
San Francisco, CA 94111
(415) 397-3535

COLOMBIA
Barbara Walker
Commissioner
Div. of Banking
Dept. of Regulatory Agencies
303 W. Colfax Ave., Ste. 600
Denver, CO 80204
(303) 866-6440

CONNECTICUT
Ralph P. Shuman
Commissioner
Dept. of Banking
41 Capitol Ave.
Hartford, CT 06106
(203) 566-6560

DELAWARE
Keith H. Ellis
State Bank Commissioner
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10-97
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Off. of the Governor
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Kajil C. Pangelen
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Derek M. Hodge
Lt. Governor
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Kensington Cede
St. Thomas, VI 00802
(340) 776-2991

State Regulatory Agencies — Banks

Release 8 — July 1993
# APPENDIX 10-7

## State Regulatory Agencies — Savings & Loans

From *State Administrative Officials Classified by Function*, 1991-92 at 250-251

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**SAVINGS & LOAN**

(Administers laws regulating savings and loan associations.)

<table>
<thead>
<tr>
<th>State</th>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALABAMA</td>
<td>Zack Thompson</td>
<td>Superintendent of Banks</td>
<td>(334) 242-3462</td>
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<tr>
<td></td>
<td></td>
<td>Banking Dept.</td>
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<tr>
<td></td>
<td></td>
<td>164 Commerce St., 3rd Fl.</td>
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<td>Montgomery, AL 36100</td>
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<tr>
<td>ALASKA</td>
<td>Willy Kirkpatrick</td>
<td>Director</td>
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<td></td>
<td></td>
<td>Banking, Securities &amp; Corporations</td>
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<td></td>
<td></td>
<td>Commerce &amp; Economic Development Dept.</td>
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<td></td>
<td>P.O. Box D</td>
<td>(907) 485-2521</td>
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<td>Juneau, AK 99811</td>
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<tr>
<td>ARIZONA</td>
<td>(Vacancy)</td>
<td>Superintendent of Banks</td>
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<td></td>
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<td>Banking Dept.</td>
<td>(602) 255-4621</td>
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<td>3225 N. Central</td>
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<td>Phoenix, AZ 85012</td>
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<td>ARKANSAS</td>
<td>Joe Madison</td>
<td>Securities Commissioner</td>
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<td></td>
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<td>Securities Dept.</td>
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<td></td>
<td></td>
<td>201 E. Markham St., 3rd Fl.</td>
<td>(501) 682-3031</td>
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<td>Little Rock, AR 72201</td>
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<tr>
<td>CALIFORNIA</td>
<td>Wallace T. Summerton</td>
<td>Interim Commissioner</td>
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<td></td>
<td></td>
<td>Dept. of Savings &amp; Loan</td>
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<td></td>
<td></td>
<td>100 Sansome, 2nd Fl.</td>
<td>(415) 557-3666</td>
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<td>San Francisco, CA 94104</td>
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<tr>
<td>COLORADO</td>
<td>David L. Paul</td>
<td>Commissioner</td>
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<td>Div. of Financial Services</td>
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<td></td>
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<td>1560 Broadway, Rm. 1520</td>
<td>(303) 894-2256</td>
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<td>Denver, CO 80202</td>
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<td>CONNECTICUT</td>
<td>Ralph M. Shulandy</td>
<td>Commissioner</td>
<td>(203) 564-4560</td>
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<td></td>
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<td>Dept. of Banking</td>
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<td>44 Capitol Ave.</td>
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<td>Hartford, CT 06114</td>
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<td>DELAWARE</td>
<td>Keith H. Ellis</td>
<td>State Bank Commissioner</td>
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<td>Of the State Bank Commissioner</td>
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<td>Dept. of State</td>
<td>(302) 739-6278</td>
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<td>P.O. Box 1481</td>
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<td>Dover, DE 19903</td>
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<tr>
<td>FLORIDA</td>
<td>Terrance Straub</td>
<td>Financial Administration</td>
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<td>Div. of Banking</td>
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<td>Dept. of Banking &amp; Finance</td>
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<tr>
<td></td>
<td></td>
<td>The Capitol</td>
<td>(904) 484-9575</td>
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<td>Tallahassee, FL 32399</td>
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</tbody>
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Release 8 — July 1993

10-101
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10-104

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