



# Offices of Inspector General

Department of the Treasury  
Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation

## Review of the Joint Implementation Plan for the Transfer of Office of Thrift Supervision Functions

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March 28, 2011



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## Abbreviations

CFO	Chief Financial Officer
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
FDIC	Federal Deposit Insurance Corporation
FIRF	Financial Institutions Retirement Fund
FRB	Board of Governors of the Federal Reserve System
OCC	Office of the Comptroller of the Currency
OIG	Office of Inspector General
OTS	Office of Thrift Supervision
Plan	Joint Implementation Plan
Title III	Transfer of Powers to the Comptroller of the Currency, the Corporation, and the Board of Governors
Treasury	Department of the Treasury



## Offices of Inspector General

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March 28, 2011

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Board of Governors of the Federal Reserve System

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This report presents the results of our offices' review of the Joint Implementation Plan (Plan) prepared by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). The Plan details the steps the agencies will take to implement the provisions of Title III, *Transfer of Powers to the Comptroller of the Currency, the Corporation, and the Board of Governors*, of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 327 of Title III mandated the preparation of the Plan and our offices' review.

The objective of our review, as defined by section 327, was to determine whether the Plan conforms to the provisions of sections 301 through 326 of Title III, to include determining whether the Plan (1) sufficiently takes into consideration the orderly transfer of personnel, (2) describes procedures and safeguards to ensure that

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OTS employees are not unfairly disadvantaged relative to employees of OCC and FDIC, (3) sufficiently takes into consideration the orderly transfer of authority and responsibilities, (4) sufficiently takes into consideration the effective transfer of funds, and (5) sufficiently takes into consideration the orderly transfer of property. As appropriate, we are also to provide any additional recommendations for an orderly and effective process.

To accomplish our objective, we analyzed the extent to which the Plan addressed the requirements of Title III, and the actions FRB, FDIC, OCC, and OTS have taken or are planning to take to support the implementation of Title III. As part of our work, we interviewed officials from FRB, FDIC, OCC, and OTS, and representatives from the American Federation of Government Employees and the National Treasury Employees Union. We conducted our fieldwork from January 2011 to March 2011. Appendix 1 contains a detailed description of our objective, scope, and methodology.

In brief, we concluded that the Plan generally conforms to the provisions of sections 301 through 326 of Title III. However, we did note an omission in the Plan. Specifically, the Plan does not address the prohibition against involuntary separation or relocation of transferred OTS employees for 30 months (except under certain circumstances). We are recommending that the Plan be amended to address this requirement.

We also found that, while not impacting our overall conclusion on the Plan, certain details need to be worked out to ensure that OTS employees are not unfairly disadvantaged and an orderly transfer of OTS powers, authority, and employees can be effectively accomplished. For example, neither the number of employees to be transferred to OCC nor the assignment of functions for those employees has been finalized. In addition, OTS officials expressed concerns relating to (1) OCC's assignment of individual employees and (2) additional OCC certification requirements and a newly created pay band for certain transferring OTS examiners. We also noted that OCC is creating new senior-level positions to manage transferred functions. Those positions are being announced as competitive between current OCC employees and former OTS employees. It is important that OCC ensure the selection of personnel for these positions is done in compliance with

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5 U.S.C. §3503, *Transfer of Functions*. Finally, we are reporting on several other matters associated with the transfer of OTS functions, including an OTS pension fund, savings association assessments, and financial reporting by OTS.

In accordance with section 327, we will be (1) monitoring the issues raised above as well as the implementation of the Plan and (2) reporting on the progress to transfer the OTS functions every 6 months. Appendix 2 presents a section by section summary of the Title III requirements, the corresponding sections of the Plan, and our offices' analyses. The Plan is provided as Appendix 4.

## Background

The Dodd-Frank Act was enacted on July 21, 2010. Title III of the act sets forth provisions to address problems and concerns in the multiple agency financial regulatory system by abolishing OTS and transferring its powers and authorities to FRB, FDIC, and OCC 1 year after enactment (July 21, 2011), deemed the transfer date.<sup>1</sup> All OTS functions relating to federal savings associations, all OTS rulemaking authority for federal and state savings associations, and the majority of OTS employees are to be transferred to OCC. OTS's supervisory responsibility for state-chartered savings associations and OTS employees to support these responsibilities are to be transferred to FDIC; and OTS's authority for consolidated supervision of savings and loan holding companies and their non-depository subsidiaries is to be transferred to FRB. No OTS employees are required to be transferred to FRB.

Section 327(a) of Title III required FRB, FDIC, OCC, and OTS to jointly submit a plan within 180 days to the Congress and the Inspectors General of FRB, FDIC, and the Department of the Treasury (Treasury), detailing the steps they will take to implement the provisions of sections 301 through 326 of Title III. We and the

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<sup>1</sup> There is a provision in Title III for the Secretary of the Treasury to extend the transfer date up to 18 months after the enactment of the Dodd-Frank Act upon certain conditions. An extended transfer date must be published in the Federal Register not later than 270 days (April 17, 2011) after the enactment of the Dodd-Frank Act. We were told by officials of the affected federal banking agencies that a transfer date later than July 21, 2011, was not being contemplated at the time of our report.

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Congress received the Plan fulfilling this requirement on January 25, 2011.

Section 327(b) of Title III requires that within 60 days of receiving the Plan, the Inspectors General of FRB, FDIC, and Treasury jointly provide a written report to FRB, FDIC, OCC, and OTS, with copies to the Congress, that details whether the Plan conforms to the provisions of sections 301 through 326 and includes any additional recommendations for an orderly and effective process. As also required by section 327(b), the Inspectors General of FRB, FDIC, and Treasury are to provide a written report on the status of the implementation of the Plan every 6 months until all aspects of the Plan are implemented.

## **Results of the Joint Review**

### **The Plan Generally Takes Into Consideration the Orderly Transfer of Employees**

We concluded that the Plan generally takes into consideration the orderly transfer of OTS employees. However, we noted an omission in the Plan. Specifically, the Plan does not address the prohibition in Title III pertaining to the involuntary separation, or involuntary relocation, of transferred OTS employees for 30 months (except under certain circumstances).<sup>2</sup> OCC officials told us that while decisions have not been made, they expect there will be circumstances where it will be necessary to involuntarily reassign an employee outside of his or her geographic location for the efficient operation of the agency. FDIC officials stated that they could not think of any circumstances that would cause FDIC to take an involuntary action other than a matter related to performance or employee conduct.

In addition, certain details need to be worked out before the transfer of individual OTS employees can be effectively

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<sup>2</sup> As provided in section 322(g), this prohibition does not limit the right of OCC or FDIC to separate an employee for cause or for unacceptable performance; terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or reassign an employee outside such employee's locality pay area when OCC or FDIC determines that the reassignment is necessary for the efficient operation of the agency.



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accomplished. For example, as of March 17, 2011, OCC had not finalized the number of employees to be transferred to OCC or the assignment of functions for these employees.

In interviews, OTS officials expressed their concerns relating to the following matters:

- There will not be enough positions with the same functions for all OTS transferred employees, including support staff, at OCC. For example, with regard to management positions, the current number of proposed management positions available to OTS transferred employees are fewer than the current number of OTS authorized management positions. Accordingly, there is concern that OTS managers will be assigned to positions at least one level lower than what they currently hold. OTS conveyed these concerns to OCC through correspondence and meetings. OCC has taken the position that the Dodd-Frank Act does not require OCC to redesign or reorganize OCC's structure so that OTS managers are guaranteed particular positions. Rather, the act provides that transferred employees will be placed in positions at OCC and FDIC responsible for the same functions and duties, *to the extent practicable* (emphasis added).<sup>3</sup>
- OCC plans to require additional certification for certain transferred OTS examiners<sup>4</sup> prior to them being able to supervise national bank examinations. Conversely, FDIC is not requiring additional certification for transferred OTS examiners before they are able to supervise FDIC-regulated bank

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<sup>3</sup> OCC's position was communicated to the OTS Deputy Director in a letter dated October 25, 2010, from the OCC First Senior Deputy Comptroller and Chief Counsel. The applicable language from Title III, section 322(e)(2), states that to the extent practicable, each transferred employee shall be placed in a position at OCC or FDIC, as applicable, responsible for the same functions and duties as the transferred employee had on the day before the date on which the employee was transferred, in accordance with the expertise and preferences of the transferred employee.

<sup>4</sup> The affected OTS examiners hold the title of Examiner III and they are at the OTS TG-18 grade level, with supervisory responsibilities and the authority to sign off on reports of savings association examinations. According to OCC, being a commissioned national bank examiner demonstrates that the individual has the requisite competence in not only the full range of safety and soundness issues, but also asset management, bank information systems, and compliance. TG-18 examiners have been accredited in either safety and soundness, compliance, trust (asset management) or bank information technology.

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examinations. Neither OCC nor FDIC changed their practice with respect to how each agency recognizes third-party conferred examiner certifications with enactment of the Dodd-Frank Act. OCC operates under a long-standing position that an examiner-in-charge for a national bank must be an OCC-commissioned national bank examiner. As a result, OTS is concerned that OCC plans to assign the TG-18 OTS examiners to a newly created pay band within OCC. This newly created pay band provides for the same pay as the current OTS pay band, but with a lower salary range than what would have been the case had OCC accepted the OTS accreditation. OTS examiners are to remain in that newly created pay band until additional certification is obtained or until they are selected through competition to a higher band (V or VI) position that does not require the NBE commission.<sup>5</sup> See Appendix 3 for a description of OCC's planned new pay band for certain transferred OTS employees. OCC has contracted with a consultant to study and identify any differences between the OTS examiner accreditation process and the OCC Uniform Commission Examination process and to provide recommendations. The consultant's final work product was not complete at the time of our report.

As part of our future work on the transfer of OTS functions, we will monitor these matters as the Plan is implemented.

### **The Plan Describes Procedures and Safeguards to Ensure that OTS Employees Are Not Unfairly Disadvantaged Relative to Employees of OCC and FDIC**

The Plan describes procedures and safeguards to ensure that OTS employees are not unfairly disadvantaged relative to employees of OCC and FDIC. We concluded that the procedures and safeguards described in the Plan are reasonable. However, until the transfer of OTS employees is accomplished, it is too soon to tell whether the procedures and safeguards are effective. As discussed above, OTS officials have expressed concerns relating to the (1) OCC's assignment of individual employees and (2) additional OCC certification requirements and a newly created pay band for certain

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<sup>5</sup> OTS examiners at the OTS TG-19 grade level hold certifications that are commensurate to OCC's national bank examiner certifications. These OTS examiners are to be transferred into OCC at the level consistent with the OCC examiner and will not be placed in the newly created pay band.

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examiners. In performing our assessment, we also noted that OCC is creating senior-level positions to manage those functions being transferred; the positions are being announced as competitive between current OCC employees and former OTS employees. It is important that OCC ensure the selection of personnel for these positions is done in compliance with 5 U.S.C. §3503, *Transfer of Functions*.<sup>6</sup>

Accordingly, we believe that certain details of the Plan need to be worked out before an orderly transfer of individual OTS employees can be effectively accomplished, and we will monitor this area going forward.

### **The Plan Sufficiently Takes Into Consideration the Orderly Transfer of Authority and Responsibilities**

We concluded that the Plan generally conforms to the provisions of the sections relating to the transfer of authority and responsibilities, and sufficiently takes into consideration the orderly transfer of authority and responsibilities. However, we were informed of a potential issue relating to the transfer of functions. Specifically, Title III transfers all rulemaking authority for savings associations, both federal and state, to OCC. FDIC officials expressed concern that not transferring the state-chartered savings associations rulemaking authority to FDIC could inhibit FDIC's ability to effectively regulate the 61 state-chartered savings associations being transferred to FDIC. FDIC is not seeking or currently planning to seek a legislative change; therefore, we do not view this issue as one impacting the orderly transfer of OTS functions. However, we will monitor this issue going forward.

### **The Plan Sufficiently Takes Into Consideration the Effective Transfer of Funds**

The Plan generally conforms to the provisions of the sections relating to funding and sufficiently takes into consideration the effective transfer of funds. The Plan provides that OTS funds will

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<sup>6</sup> 5 U.S.C. §3503 states that when a function is transferred from one agency to another, each competing employee in the function shall be transferred to the receiving agency for employment in a position for which he is qualified before the receiving agency may make an appointment from another source to that position.

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be transferred to OCC. FDIC and FRB determined that no funds related to the OTS transfer of authority and responsibilities need to be transferred to their respective agencies.

We were told that FDIC's and FRB's 2011 budgets include funding for the transfer of OTS responsibilities. In addition, OCC has re-allocated approximately \$3 million in its fiscal year 2011 budget to pay the expenses associated with the consolidation of certain OTS functions before the transfer date of July 21, 2011. OCC has also requested that OTS pay an office space termination fee of approximately \$350,000 for its office in Atlanta, Georgia, so that OTS staff can be physically consolidated into OCC facilities.

### **The Plan Sufficiently Takes Into Consideration the Orderly Transfer of Property**

The Plan generally conforms to the provisions of the sections relating to the transfer of property and sufficiently takes into consideration the orderly transfer of property. The Plan does not address what property and administrative services are necessary to support OCC, FDIC, and FRB prior to the transfer date. However, we do not consider this a significant omission in the Plan.

### **Other Matters Identified During Our Review**

The following are other matters that we identified during our review.

- Underfunded Pension Plan: Most OTS employees participate in either the Civil Service Retirement System or the Federal Employees Retirement System, which are administered by the Office of Personnel Management. However, approximately 460 OTS retirees and 375 current OTS employees participate in a separate retirement system, the Financial Institutions Retirement Fund (FIRF), paid by OTS. Under the Plan, OCC is to sponsor FIRF after the transfer date. OTS's audited fiscal year 2010 and 2009 financial statements report disclosed that FIRF had an estimated shortfall as of July 1, 2010, of \$74.7 million. The shortfall is not addressed by the Plan. According to OCC and OTS, discussions for managing the underfunded FIRF are ongoing.

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- Supervisory Assessments: Section 318 of Title III, which relates to funding, states that OCC may collect assessments, fees, or other charges, as determined necessary or appropriate to carry out its responsibilities; and that the cost of conducting any regular examination or special examination may be assessed by FDIC against the institution or entity to meet the expenses of FDIC in carrying out such examinations. With the transfer of OTS functions, federal-chartered savings associations will pay assessments to OCC. Consistent with FDIC's current practice for state non-member insured depository institutions for which it is the primary federal supervisor, state-chartered savings associations will not pay assessments for examinations to FDIC. Rather, FDIC is funded by premiums that financial institutions pay for deposit insurance coverage and from earnings on investments in U.S. Treasury securities. We do not view this issue as one that directly impacts the orderly transfer of OTS functions.
  - OTS Financial Reporting for Fiscal Year 2011: OTS, OCC, and their respective auditors are currently determining the financial reporting requirements, presentation, and audit scope related to OTS's fiscal year 2011 financial statements.

### **Recommendation**

We recommend that the principals amend the Plan to address the prohibition in section 322(g) of Title III against involuntary separation, or involuntary relocation, of transferred OTS employees for 30 months (except under certain circumstances).

## **Management Response and OIG Comment**

In written responses, FDIC and OCC, the agencies receiving OTS employees, along with OTS, concurred with the recommendation. These agencies will work together to incorporate language into the Plan that addresses the prohibition in section 322(g) of Title III against involuntary separation or involuntary relocations of transferred OTS employees by May 16, 2011. FRB stated in its written response that it agreed with the conclusion that FRB's part of the Plan complies with Title III.

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In its response, OCC provided additional comments on the transfer of OTS employees, and its supervisory approach for transferred OTS functions.

The management comments of FRB, FDIC, OCC, and OTS are provided as Appendices 5, 6, 7, and 8, respectively.

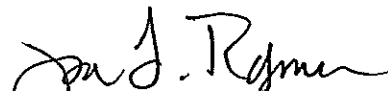
The agencies' planned action meets the intent of our recommendation.

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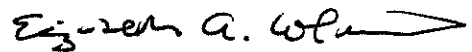
We appreciate the courtesies and cooperation provided to our staffs during the audit. If you wish to discuss the report, you may contact Marla A. Freedman, Assistant Inspector General for Audit, Treasury OIG, at (202) 927 5400; E. Marshall Gentry, Acting Assistant Inspector General for Evaluations, FDIC OIG, at (703) 562-6378; or Anthony J. Castaldo, Associate Inspector General for Inspections and Evaluations, FRB OIG, at (202) 973 5024. Major contributors to this report are listed in Appendix 9.



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We conducted this joint review to fulfill our requirement under section 327(b) of Title III, *Transfer of Powers to the Comptroller of the Currency, the Corporation, and the Board of Governors* (Title III), of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This section requires the Inspectors General of the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Department of the Treasury (Treasury) to review the Joint Implementation Plan (Plan) submitted by FRB, FDIC, the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) detailing the steps they will take to implement the provisions of Title III.

The objective for our joint review, as defined by section 327(b), was to determine whether the Plan conforms to the provisions of sections 301 through 326 of Title III, and the provisions of the amendments made by such sections, to include determining whether the Plan (1) sufficiently takes into consideration the orderly transfer of personnel, (2) describes procedures and safeguards to ensure that OTS employees are not unfairly disadvantaged relative to employees of OCC and FDIC, (3) sufficiently takes into consideration the orderly transfer of authority and responsibilities, (4) sufficiently takes into consideration the effective transfer of funds, and (5) sufficiently takes into consideration the orderly transfer of property. As appropriate, we are also to provide any additional recommendations for an orderly and effective process. We conducted our fieldwork in Arlington, Virginia, and Washington, DC from January 2011 to March 2011.

To accomplish our objective, we performed the following work:

- We analyzed the extent to which the Plan addressed all the requirements of Title III, and actions FRB, FDIC, OCC, and OTS have taken or are planning to take to support the implementation of sections 301 through 326 of Title III. Appendix 2 presents a section by section summary of the Title III requirements, the corresponding provisions of the Plan, and our offices' analyses.
- We reviewed Title III and all related legislation. The Plan is provided as appendix 4.
- We reviewed relevant documentation such as: correspondence between the banking agencies' high-level officials discussing

key issues relating to the transfer of OTS; memoranda and policies discussing various aspects of the transfer such as pay structures, benefits, and professional certifications; the banking agencies' financial statements audit reports; and the draft report of the consultant hired by OCC to identify any differences between the OTS examiner accreditation process and the OCC Uniform Commission Examination process.

- We interviewed members of the FDIC transition team, including the Deputy Director, Corporate Planning and Performance Management, Division of Finance, transition team lead; Deputy Director, Division of Administration; Chief Information Officer and Director, Division of Information Technology; Deputy General Counsel, Supervision; Deputy General Counsel, Corporate, Consumer, Insurance and Legislation; Associate Director, Risk Management Examinations Branch, Division of Risk Management Supervision; Deputy Director, Benefits Center, Human Resources Branch; and additional FDIC staff from the Division of Administration, Division of Risk Management Supervision, and Legal Division.
- We interviewed members of the OCC/OTS transition team, including OCC's Chief Financial Officer (CFO) and head of the transition team, OTS's CFO, OCC's Deputy Comptroller for Human Resources, OTS's Managing Director for Human Capital, OCC's Deputy Chief Counsel, and OCC's Director of Administrative and Internal Law.
- We interviewed OCC senior officials, including the Senior Deputy Comptroller for Midsize/Community Bank Supervision, and the Director of Public Affairs Operations.
- We interviewed OTS senior officials, including the Acting Director and the Deputy Director.
- We interviewed OCC's Contracting Officer's Technical Representative responsible for the consultant's study to identify any differences between the OTS examiner accreditation process and the OCC Uniform Commission Examination process.
- We interviewed an OCC representative from the National Treasury Employees Union and an OTS representative, the Chapter President, from the American Federation of Government Employees.
- We interviewed FRB senior officials in the Division of Banking Supervision and Regulation, and received written responses to questions posed to officials in the Legal Division.



Consistent with the audit objective, we did not assess FRB's, FDIC's, OCC's, or OTS's overall internal control or management control structure, obtain data from their information systems, or assess the effectiveness of their information system controls.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

As required by section 327(a) of Title III, *Transfer of Powers to the Comptroller of the Currency, the Corporation, and the Board of Governors* (Title III), of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), on January 25, 2011, the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) submitted a Joint Implementation Plan (Plan) to the Congress, and the Inspectors General of the Department of the Treasury (Treasury), FDIC, and FRB detailing the steps the respective agencies will take to implement Title III. Section 327(b) of Title III requires the Inspectors General to jointly report on whether the Plan conforms to the provisions of sections 301 through 326 of Title III.

This appendix presents a section by section summary of the Title III requirements, the corresponding sections of the Plan, and our offices' analyses of whether the Plan conforms to Title III requirements. In accordance with Title III, as part of our future work on the transfer of OTS functions, we will be monitoring implementation of the Plan and the resolution of certain matters discussed in our analysis, and will be reporting on the progress to transfer the OTS functions every 6 months.

Title III does not include sections 303–310, and 320. Additionally, the following Title III sections are not included in this appendix because they do not require any specific action be taken by OCC, OTS, FDIC, or FRB: 300-302, 312(c), 314(a), 314(c), 315, 316(a)(1), 317, 318(a), 319, 321(a)(3), 321(c), 322(a)(3)(A), 322(a)(3)(B), 322(a)(4), 322(c)(1), 322(c)(2), 322(h)(3), 322(h)(4), 322(i)(2)(E)(ii)(IV), 322(l)(1), and 322(l)(2). The sections excluded from this appendix either discussed the purpose of the title, defined certain terms, or amended existing law.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<b>SUBTITLE A: TRANSFER OF POWERS AND DUTIES</b>		
<b>Section 311. Transfer Date.</b>		
The transfer date is 1 year (July 21, 2011) after the date of enactment of the Dodd-Frank Act, except as provided in subsection (b). Subsection (b) allows for the Secretary of the Treasury, in consultation with the OCC, OTS, FRB, and FDIC, to extend the period and designate a transfer date that is not later than 18 months after the date of enactment of the Dodd-Frank Act, provided specific Committees of the Congress are informed of: (a) a determination that an	<b>Transfer of Authority and Responsibilities (Sec. 3., pp. 13-22)</b>  The Plan recognizes the transfer date of July 21, 2011, 1 year after enactment of the Dodd-Frank Act. (pp. 16 & 18)	The Plan conforms to the section. According to officials of FRB, FDIC, OCC, and OTS, there are no plans at this time to seek a later transfer date.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>orderly process to implement Title III is not feasible within 1 year; (b) an explanation of why an extension is necessary; (c) the new transfer date; and (d) a description of the steps that will be taken to initiate the process of an orderly and timely implementation of Title III within the extended time period. The Secretary is also required to publish a Federal Register notice of any such extended transfer date within a certain timeframe. (311(a) and 311(b))</p>		
<p><b>Section 312. Powers and Duties Transferred.</b></p>		
<p>Savings and Loan Holding Company Functions and Rulemaking Authority Transferred</p>		
<p>All functions of OTS, including the authority to issue orders, relating to the following will be transferred to FRB on the transfer date:</p> <p>a) the supervision of savings and loan holding companies and any subsidiary (other than a depository institution) of a savings and loan holding company; and</p> <p>b) all rulemaking authority relating to savings and loan holding companies. (312(b)(1)(A))</p> <p>FRB shall succeed to all powers, authorities, rights, and duties that were vested in OTS relating to the functions and authority transferred under subparagraph (A). (312(b)(1)(B))</p> <p>All rulemaking authority of OTS under section 11 of the Home Owners' Loan Act (HOLA) (12 U.S.C. 1468) relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders and under section 5(q) of</p>	<p><b>Transfer of Authority and Responsibilities Regarding Oversight of Savings and Loan Holding Companies (FRB) (Sec 3.3., pp. 18-19)</b></p> <ul style="list-style-type: none"> <li>• The Plan recognizes that the Dodd-Frank Act transfers authority for supervision of savings and loan holding companies and their non-depository subsidiaries from OTS to FRB effective July 21, 2011.</li> <li>• The Plan states that FRB is working closely with OTS, OCC, and FDIC to implement the transfer.</li> <li>• FRB and OTS signed a memorandum of understanding to facilitate sharing of confidential supervisory information.</li> <li>• FRB staff are reviewing FRB's bank holding company supervision program to determine how to incorporate savings and loan holding companies into the program consistent with HOLA.</li> <li>• Each savings and loan holding company has</li> </ul>	<p>The Plan conforms to the section.</p> <p>Title III does not address the transfer of OTS employees to FRB, and, therefore, the matter is not required to be included in the Plan. However, we are including an issue raised by FRB senior officials because it could potentially affect savings and loan holding company supervision. FRB senior officials noted early indications of possible challenges in recruiting OTS personnel because of differences between the FRB and OTS benefits and salary systems. FRB is in the</p>

<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
HOLA relating to tying arrangements is transferred to FRB. <sup>1</sup> (312(b)(2)(A))	<p>been assigned to an FRB for supervision. To facilitate the transition, FRB examiners are joining certain OTS examinations prior to the transfer date.</p> <ul style="list-style-type: none"> <li>• Discussions are underway regarding the transition of the caseload from OTS to FRB.</li> <li>• FRB anticipates that all regulations as appropriate, relating to supervision of savings and loan holding companies and their non-depository institution subsidiaries and to transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders; and tying arrangements will continue and will be enforceable by the appropriate agency.</li> <li>• FRB established a working group to analyze OTS and FRB regulations and guidance documents to determine any policy or technical differences and identify any gaps.</li> <li>• FRB will make decisions about whether to amend any OTS regulations after the transfer date and will only make changes after a public comment period.</li> <li>• FRB will have the authority to require grandfathered non-financial unitary savings and loan holding companies to establish an intermediate holding company.</li> <li>• FRB has established a working group to</li> </ul>	process of assessing the issue and determining an approach to address any emerging problems.

<sup>1</sup> Tying arrangements are prohibited by section 5(q) of HOLA. HOLA defines a tying arrangement as an arrangement whereby the sale of property or a financial service (tying good) by a savings association is conditional on the customer obtaining additional credit, property, or financial service (tied good) from such savings association.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	consider issues, and provide opportunities for public comment prior to implementation of unitary savings and loan holding company supervision.	
<b>Functions and Rulemaking Authority Related to Federal Savings Associations Transferred</b>		
All functions relating to federal savings associations and rulemaking authority of OTS relating to savings associations will be transferred to OCC on the transfer date. OCC shall succeed to all powers, authorities, rights, and duties that were vested in OTS on the transfer date. (312(b)(2)(B))	<p><b>Federal Savings Associations (Sec 3.1., pp. 13-14)</b></p> <ul style="list-style-type: none"> <li>• All OTS functions relating to the approximately 670 federal savings associations will be transferred on the transfer date to OCC.</li> <li>• All rulemaking authority for federal and state savings associations will be transferred to OCC on the transfer date.</li> <li>• OCC developed 12 principles to guide the supervision integration strategy.<sup>2</sup></li> <li>• OCC plans to integrate OTS staff and functions into the current OCC structure and supervisory model.</li> <li>• In 2011, OCC and OTS will jointly develop fiscal year 2012 examination plans and supervisory strategies and will jointly conduct a small number of pilot examinations.</li> </ul>	The Plan conforms to the section.

<sup>2</sup> OCC's 12 principles are: (1) building a sustainable staffing structure that provides flexibility through the transition; (2) upholding the protections afforded by the legislation and maximizing opportunities for staff; (3) fully and quickly integrating thrifts and OTS staff into OCC's supervision model; (4) preserving the single Deputy Comptroller model in each OCC district and department to ensure clear leadership; (5) preserving the benefits of a flat organizational structure, including bank supervision decision-making authority; (6) ensuring a reasonable span of control for managers with the additional savings association supervision; (7) minimizing disruption to staff, processes, and industry; (8) minimizing the number of new office locations; (9) over time, having employees live where the work is located; (10) over time, ensuring each commissioned examiner has the skill set and credentials to supervise both savings associations and banks; (11) deploying staff consistent with OCC's integrated staffing strategy; and (12) assigning larger federal savings associations to OCC's Midsize and Large Bank Supervision portfolios based on business model and geographic footprint.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<ul style="list-style-type: none"> <li>OCC's community bank supervision unit will supervise the vast majority of federal savings associations. Its special supervision, midsize, and large bank supervision units will supervise federal savings associations whose profiles align with those units.</li> </ul>	
<b>Functions of State Savings Associations Transferred</b>		
<p>All functions of OTS relating to state savings associations will be transferred to FDIC on the transfer date. FDIC shall succeed to all powers, authorities, rights, and duties that were vested in OTS on the transfer date. (312(b)(2)(C))</p>	<p><b>State Savings Associations (Sec 3.2., pp. 16-17)</b></p> <ul style="list-style-type: none"> <li>The Plan acknowledges the Dodd-Frank Act requirement to transfer supervisory responsibility for the approximately 61 state-chartered savings associations from OTS to FDIC.</li> <li>FDIC and OTS are working closely to execute an orderly transfer of authority and responsibility to ensure effective supervision during and after the transition period.</li> <li>FDIC and OTS have agreed on a division of responsibility for 2011 examinations scheduled.</li> <li>OTS and the appropriate state regulator will retain responsibility for scheduled examinations that can be completed prior to the transfer date. For the remaining examinations, OTS and FDIC will develop plans for a coordinated transfer of responsibility to FDIC.</li> <li>After the transfer date, FDIC will incorporate state-chartered savings associations into its supervisory program. All of them are expected to be absorbed into FDIC's regional</li> </ul>	<p>The Plan generally conforms to the section.</p> <p>We were informed of a potential issue relating to the transfer of functions. Specifically, Title III transfers all rulemaking authority for savings associations, both federal and state, to OCC. FDIC officials expressed concern that not transferring the state-chartered savings associations rulemaking authority to FDIC could inhibit FDIC's ability to effectively regulate the 61 state-chartered savings associations being transferred to FDIC. FDIC is not seeking or currently planning to seek a legislative change; therefore, we do not view this issue as one impacting the orderly transfer</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>supervisory structure.</p> <ul style="list-style-type: none"> <li>• Prior to the transfer date, FDIC will coordinate monthly with OTS regarding examination plans and scheduling for state-chartered savings associations.</li> <li>• OTS will coordinate with FDIC regarding savings associations subject to or expected to be subject to enforcement action.</li> <li>• Prior to the transfer date, FDIC will participate in OTS examinations of state-chartered savings associations with assets of more than \$1 billion or a CAMELS composite rating of 3 or lower.<sup>3</sup></li> <li>• FDIC may rely on OCC to maintain its supervisory systems and make data on state-chartered thrifts available to FDIC for a brief period of time after the transfer date.</li> </ul>	<p>of OTS functions. We will monitor this issue going forward.</p>
<b>Section 313. Abolishment.</b>		
<p>Effective 90 days after the transfer date, OTS and the position of OTS Director are abolished. (313)</p>	<p><b>Transfer of Authority and Responsibilities Regarding Oversight of Federal Savings Associations (Sec. 3.1., pp. 13-15)</b></p> <ul style="list-style-type: none"> <li>• The Plan recognizes that OTS is abolished 90 days after the transfer date.</li> </ul> <p><b>Disposition of OTS Affairs (Sec. 6.3., p. 28)</b></p> <ul style="list-style-type: none"> <li>• The Acting Director of OTS and a small cadre</li> </ul>	<p>The Plan conforms to the section relating to the abolishment of OTS. However, the Plan does not specifically mention the abolishment of the position of OTS Director. We do not consider this a significant omission.</p>

<sup>3</sup> Federal banking agencies use the Uniform Financial Institutions Rating System, or “CAMELS,” to assign composite and component ratings to financial institutions. An institution’s composite CAMELS rating integrates ratings from six component areas—capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk. The ratings range from 1 to 5 with 1 being the highest rating and least supervisory concern.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>of staff will make a final disposition of the affairs of OTS during the 90-day period after the transfer date.</p> <ul style="list-style-type: none"> <li>• OTS will use this period to ensure a full and accurate accounting and transfer of all OTS assets.</li> <li>• OTS will ensure that compensation and benefits owed to OTS employees be provided, and prudently manage any remaining assets until transferred.</li> <li>• OTS intends to take necessary actions to ensure an appropriate disposition of its affairs and document the measures taken to wind down the agency.</li> </ul>	
<p>The Comptroller of the Currency shall designate a Deputy Comptroller who shall be responsible for the supervision and examination of federal savings associations. (314(b))</p>	<p><b>Designation of a Deputy Comptroller for Thrift Supervision (Sec. 3.1.1., p. 16)</b></p> <ul style="list-style-type: none"> <li>• The Deputy Comptroller for Thrift Supervision, who will report to the Senior Deputy Comptroller for Midsize/Community Bank Supervision, will lead the planning process for integrating OTS examination and supervision functions and staff, serve as a key senior management group member, coordinate the nationwide network of senior thrift advisors, and function as the key advisor to other deputy comptrollers on large and problem thrifts.</li> </ul>	<p>The Plan conforms to the section. OCC named a former OTS employee to this position on November 3, 2010. The individual will assume the responsibilities of this position on the transfer date.</p>



Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<b>Section.316. Savings Provisions.</b>		
<b>Continuation of Suits</b>		
<p>No action or proceeding commenced by or against OTS or the OTS Director before the transfer date is abated. However:</p> <ul style="list-style-type: none"> <li>for any action or proceeding arising out of a function of OTS or the OTS Director transferred to FRB, FRB shall be substituted as a party to the action or proceeding on and after the transfer date;</li> <li>for any action or proceeding arising out of a function of OTS or the OTS Director transferred to OCC, OCC or the Comptroller of the Currency shall be substituted as a party to the action or proceeding on and after the transfer date; and</li> <li>for any action or proceeding arising out of a function of OTS or the OTS Director transferred to FDIC, FDIC shall be substituted as a party to the action or proceeding on and after the transfer date. (316(a)(2))</li> </ul>	<p><b>Continuation of Suits (Sec. 3.5., p. 21)</b></p> <ul style="list-style-type: none"> <li>All actions or proceedings commenced by or against OTS prior to the transfer date are continued.</li> <li>OCC, FDIC, and FRB will be substituted for OTS as parties for such actions on or after the transfer date.</li> <li>OCC, FDIC, and FRB will review OTS litigation files and determine which agency will assume responsibility. Cases with co-parties that may involve dual regulatory oversight under the Dodd-Frank Act will be assigned accordingly.</li> <li>OTS will furnish case files to the receiving agencies on or before the transfer date.</li> <li>OCC and FDIC will handle actions that involve employees transferred to OCC or FDIC, respectively.</li> <li>OCC will handle employment actions of former OTS employees who have not transferred to OCC or FDIC.</li> </ul>	<p>The Plan conforms to the section.</p>
<b>Continuation of Existing OTS Orders, Resolutions, Determinations, Agreements, etc.</b>		
<p>All orders, resolutions, determinations, agreements, regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, that have been issued, made, prescribed, or allowed to become effective by OTS or the OTS Director, or by a court of competent jurisdiction, in the performance of functions that are transferred shall continue in effect, and shall be enforceable by or</p>	<p><b>Continuation of Existing Orders, Resolutions, Determinations, Agreements, Regulations, etc (Sec. 3.6., p. 21)</b></p> <ul style="list-style-type: none"> <li>All orders, resolutions, determinations, agreements, regulations, interpretive rules, other interpretations, guidelines, procedures, and other advisory materials that have been</li> </ul>	<p>The Plan conforms to the section.</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>against:</p> <ul style="list-style-type: none"> <li>FRB, in the case of a function of OTS transferred to FRB;</li> <li>OCC, in the case of a function of OTS transferred to OCC; and</li> <li>FDIC, in the case of a function of OTS transferred to FDIC. (316(b))</li> </ul>	<p>issued by OTS, or a court of competent jurisdiction, in the performance of functions transferred by the Dodd-Frank Act that are in effect on the day before the transfer date will continue to remain in effect according to their terms. These materials will be enforceable by or against OCC, FDIC, and FRB, as appropriate, consistent with the transfer of functions until modified, terminated, set aside, or superseded by an appropriate agency, court of competent jurisdiction, or operation of law.</p>	
<p><b>Identification of Regulations Continued</b></p>		
<p>Not later than the transfer date:</p> <ul style="list-style-type: none"> <li>FRB shall identify and publish a list in the Federal Register of the regulations continued that will be enforced by FRB;</li> <li>OCC shall, after consultation with FDIC, identify and publish a list in the Federal Register of the regulations continued that will be enforced by OCC; and</li> <li>FDIC shall, after consultation with OCC, identify and publish a list in the Federal Register of the regulations continued. (316(c))</li> </ul>	<p><b>Review of OTS Regulations (Sec. 3.1.3., p. 16)</b></p> <p><b>Identification of Regulations Continued (Sec. 3.6.1., p. 21)</b></p> <ul style="list-style-type: none"> <li>OCC has begun a review of all OTS regulations regarding savings associations and is working with OTS staff to determine how to integrate OTS regulations with OCC regulations. The process is expected to include certain changes that will be effective as of the transfer date and to continue in phases after that date. (p. 16)</li> <li>OCC, FRB, and FDIC have begun to identify these regulations and will publish the required lists on or before the transfer date. (p. 21)</li> </ul>	<p>The Plan conforms to the section.</p>
<p><b>Status of Regulations Proposed or Not Yet Effective</b></p>		

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>Any proposed regulation of OTS before the transfer date shall be deemed to be a proposed regulation of OCC or FRB, as appropriate, according to the terms of the proposed regulation. Any interim or final regulation of OTS published before the transfer date but which has not become effective before that date, shall become effective as a regulation of OCC or FRB, as appropriate, according to the terms of the interim or final regulation. (316(d))</p>	<p><b>Status of Regulations Proposed or Not Yet Effective (Sec. 3.6.2., p. 22)</b></p> <p>Any regulation proposed by OTS in performing functions transferred by the Dodd-Frank Act that has not been published as a final regulation before the transfer date will be considered to be a proposed regulation of OCC or FRB, as appropriate. Any interim or final regulation that OTS published prior to the transfer date in performing functions transferred by the Dodd-Frank Act but which has not become effective before the transfer date will become effective as a regulation of OCC or FRB, as appropriate, unless modified, terminated or set aside, or superseded by OCC or FRB or a court of competent jurisdiction or operation of law.</p>	<p>The Plan conforms to the section.</p>
<p><b>Section 318. Funding.</b></p>		
<p><b>Funding of OCC</b></p>		
<p>OCC may collect an assessment, fee, or other charge from any entity described in section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)),<sup>4</sup> as determined necessary or appropriate to carry out its responsibilities. In establishing the amount of an assessment, fee, or charge collected, OCC may take into account the nature and scope of the activities of the entity, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other</p>	<p><b>Funding: Establishing an Assessment Process (Sec. 4.2., pp. 23–24)</b></p> <p><b>OCC (Sec. 4.2.1., p. 23)</b></p> <ul style="list-style-type: none"> <li>Assessments are the primary means of funding for OCC and OTS.</li> <li>In July 2010, OCC and OTS established a bank assessment workgroup consisting of economic, legal, and financial management</li> </ul>	<p>The Plan conforms to the section.</p> <p>With the transfer of OTS functions, federal-chartered savings associations will pay assessments to OCC. Consistent with FDIC’s current practice for state non-member insured</p>

<sup>4</sup> These entities are national banks, federal branch or agency of a foreign bank, and federal savings associations.

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<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
<p>factor. Funds derived from any assessment, fee, or charge collected or payment made shall not be construed to be Government funds or appropriated monies, and shall not be subject to apportionment. OCC shall have sole authority to determine the manner in which the obligations of the OCC shall be incurred and its disbursements and expenses allowed and paid, except as provided in chapter 71 of title 5 U.S.C. with respect to compensation.<sup>5</sup> (318(b))</p>	<p>staff. It meets monthly to develop recommendations for the Comptroller of the Currency.</p>	<p>depository institutions for which it is the primary federal supervisor, state-chartered savings associations will not pay assessments for examinations to FDIC. We do not view this issue as one that directly impacts the orderly transfer of OTS functions.</p> <p>According to an OCC official, OCC will collect the lesser of what the savings associations would pay under the OCC or OTS assessment schedules for the next two collections (September 2011 and March 2012). After that, all savings associations will be on the same fee schedule as other OCC-regulated institutions. The subject of assessments is planned to be included in a Notice of Proposed Rulemaking, which OCC believes will be released in the latter part of March</p>

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<sup>5</sup> Chapter 71 of title 5 U.S.C. covers federal employee collective bargaining and conditions of employment.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
2011.		
<b>Funding of FRB</b>		
<p>FRB shall collect a total amount of assessments, fees, or other charges from the following companies that is equal to the total expenses FRB estimates are necessary or appropriate to carry out its supervisory and regulatory responsibilities with respect to such companies:</p> <ul style="list-style-type: none"> <li>• all bank holding companies having total consolidated assets of \$50 billion or more;</li> <li>• all savings and loan holding companies having total consolidated assets of \$50 billion or more; and</li> <li>• all nonbank financial companies supervised by FRB pursuant to the Dodd-Frank Act.<sup>6</sup> (318(c))</li> </ul>	<p><b>Funding: Establishing an Assessment Process (Sec. 4.2., pp. 23–24)</b></p> <p><b>FRB (Sec. 4.2.3., p. 24)</b></p> <ul style="list-style-type: none"> <li>• The Dodd-Frank Act directs FRB to offset only a portion of its total supervision and regulation costs by charging fees to supervise institutions.</li> <li>• With respect to savings and loan holding companies, only those with assets of \$50 billion or more will be subject to assessment.</li> <li>• FRB will determine costs to carry out its supervisory and regulatory responsibilities, formulate a framework to apportion the costs through periodic assessments, and implement a process to collect the assessments.</li> <li>• FRB has a team responsible for implementing these assessment fees and initial efforts to identify supervision and regulation costs are underway.</li> <li>• FRB is considering a variety of approaches to differentiate these costs from total supervision.</li> </ul>	<p>The Plan conforms to the section.</p>

<sup>6</sup> Under section 113 of the Dodd-Frank Act, the Financial Stability Oversight Council can make the determination that a U.S. nonbank financial company or a foreign nonbank financial company shall be supervised by FRB if the company poses a threat to the financial stability of the United States.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<ul style="list-style-type: none"> <li>FRB plans to provide notice for establishing the assessment framework before the collection of assessments in 2012.</li> </ul>	
<b>Funding of FDIC</b>		
<p>The cost of conducting any regular examination or special examination of any depository institution may be assessed by FDIC against the institution or entity to meet the expenses of FDIC in carrying out such examinations. (318(d))</p>	<p><b>Funding: Establishing an Assessment Process (Sec. 4.2., pp. 23–24)</b></p> <p><b>FDIC (Sec. 4.2.2., p. 23)</b></p> <ul style="list-style-type: none"> <li>FDIC does not intend to charge assessments for its supervision of state-chartered savings associations, consistent with its current practice of not charging for its supervision of state nonmember banks.</li> </ul>	<p>The Plan conforms to the section.</p>
<b>SUBTITLE B: TRANSITIONAL PROVISIONS</b>		
<b>Section 321. Interim Use of Funds, Personnel, and Property of OTS.</b>		
<b>In General and Agency Consultation</b>		
<p>Before the transfer date, OCC, FDIC, and FRB shall consult and cooperate with OTS to facilitate the orderly transfer of functions to OCC, FDIC, and FRB. (321(a)(1))</p>	<p><b>Transfer of Personnel (Sec. 2., p. 5)</b></p> <ul style="list-style-type: none"> <li>Senior managers from OCC, OTS, and FDIC are meeting regularly to discuss the process for transferring functions and to identify the functions to transfer to each agency and the numbers of employees needed to perform and support those functions.</li> </ul> <p><b>Transfer of Authority and Responsibilities Regarding Oversight of [Savings and Loan Holding Companies (Sec. 3.3., pp. 18-19)</b></p>	<p>The Plan conforms to the section.</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>Before the transfer date, OCC, FDIC, and FRB shall determine jointly, from time to time, the amount of funds necessary to pay any expenses associated with the transfer of functions (including expenses for employees, property, and administrative services) during the period beginning on the date of enactment of the Dodd-Frank Act and ending on the transfer date. (321(a)(2)(A))</p> <p>When requested jointly by OCC, FDIC, and FRB to do so before the transfer date, OTS shall pay to OCC, FDIC, and FRB, as applicable, such amounts as OCC, FDIC, and FRB jointly determine to be necessary. (321(b)(1))</p>	<p>FRB is working closely with OTS, OCC, and FDIC to implement the transfer of functions.</p> <p>The Plan does not specifically address the interim transfer of funds to OCC.</p> <p><b>Transfer of Funds (Sec. 4., pp. 23-24)</b></p> <ul style="list-style-type: none"> <li>• OTS, OCC, FRB, and FDIC established a workgroup to address the transfer of remaining funds that are not necessary to dispose of OTS’s affairs.</li> <li>• The funds remaining on the day prior to transfer will remain available to OTS for its expenses relating to the agency’s functions that are transferred.</li> <li>• On the transfer date, all OTS account balances will be transferred to OCC. The agency location code and associated fund symbols will remain open at the Department of the Treasury pending clearance of all outstanding transactions.</li> <li>• FDIC determined that no funds will be transferred from OTS to FDIC.</li> <li>• FRB determined that no funds will be transferred from OTS to FRB.</li> </ul>	<p>The Plan does not fully conform to the requirements of the section; that is, what interim transfer of OTS funds may occur. We do not consider this a significant omission.</p> <p>As discussed in the body of this report, we were told that FDIC’s and FRB’s 2011 budgets include funding for the transfer of OTS responsibilities. In addition, according to OCC, OCC has re-allocated approximately \$3 million in its fiscal year 2011 budget to pay the expenses associated with the consolidation of certain OTS functions before the transfer date of July 21, 2011. OCC has also requested that OTS pay an office space termination fee of approximately \$350,000 for office space in Atlanta, Georgia, currently occupied by OTS so that OTS staff</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>Before the transfer date, OCC, FDIC, and FRB shall determine jointly which employees are appropriate to facilitate the orderly transfer of functions by this title. (321(a)(2)(B))</p> <p>When requested jointly by OCC, FDIC, and FRB to do so before the transfer date, OTS shall detail to the OCC, FDIC, and FRB, as applicable, such employees as OCC, FDIC, and FRB jointly determine to be appropriate. (321(b)(2))</p>	<p>As discussed in other sections, the following are examples of employees or workgroups formed from OCC, OTS, FDIC, and/or FRB to perform key tasks to facilitate the orderly transfer of functions, such as the following:</p> <ul style="list-style-type: none"> <li>• OCC, OTS, and FDIC established transition teams to coordinate these efforts [p. 5].</li> <li>• Prior to the transfer date, FDIC will participate in OTS examinations of state-chartered savings associations with assets of more than \$1 billion or a CAMELS composite rating of 3 or lower [p. 17].</li> <li>• FRB staff are reviewing FRB’s bank holding company supervision program to determine how to incorporate savings and loan holding companies into the program consistent with HOLA [p. 18].</li> <li>• FRB established a working group to analyze OTS and FRB regulations and guidance documents to identify differences and gaps [p. 19].</li> <li>• OTS employees are working in various work groups with FRB, FDIC, and OCC. The Plan does not address whether these employees are detailed.</li> <li>• OTS, OCC, FRB, and FDIC, working through the Federal Financial Institutions Examination</li> </ul>	<p>can be physically consolidated into OCC facilities.</p> <p>The Plan conforms to the section.</p> <p>According to OTS, OTS and OCC have agreed to, and are already, sharing staff resources to facilitate the transition. In some cases, OTS staff have been officially detailed to OCC and in other cases, OTS staff are providing informal assistance to facilitate the transition. That said, we were also told by OTS that it has not been able to meet all of OCC’s informal requests for staffing assistance because of the need to meet all its own responsibilities until the transfer of functions. FDIC is prepared to invoke these provisions, if necessary. According to FDIC, if it identifies a critical need to detail OTS staff before the transfer date, it will make such a request</p>



Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>Council, plan to request public comment regarding burden estimates as a result of thrift industry reporting requirement changes<sup>7</sup> [p. 19].</p> <ul style="list-style-type: none"> <li>• Federal banking agencies have worked closely with each other to deliberate consistent and appropriate reporting requirements for savings and loan holding companies and their subsidiary savings associations [p. 20].</li> <li>• In July 2010 OCC and OTS established a bank assessment workgroup consisting of economic, legal, and financial management staff. It meets monthly to develop recommendations for the Comptroller of the Currency [p. 23].</li> <li>• OTS, OCC, FRB, and FDIC established a workgroup to address the transfer of remaining funds that are not necessary to dispose of the OTS’s affairs [p. 23].</li> <li>• FRB has a team responsible for implementing assessment fees, and initial efforts to identify supervision and regulation costs are underway [p. 24].</li> </ul>	
<p>Before the transfer date, OCC, FDIC, and FRB shall determine jointly, from time to time, what property and administrative services are necessary to support OCC, FDIC, and FRB during the period beginning on the date of enactment of the Dodd-Frank Act and</p>	<p>The Plan does not address what property and administrative services are necessary to support OCC, FDIC, and FRB during the interim period.</p>	<p>While the Plan does not address the requirement of the section, we do not consider this a significant omission in the Plan.</p>

<sup>7</sup> The Federal Financial Institutions Examination Council is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by FRB, FDIC, the National Credit Union Administration, OCC, and OTS, and to make recommendations to promote uniformity in the supervision of financial institutions.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>ending on the transfer date. (321(a)(2)(C))</p> <p>When requested jointly by OCC, FDIC, and FRB to do so before the transfer date, OTS shall make available to OCC, FDIC, and FRB, as applicable, such property and provide to OCC, FDIC, and FRB, as applicable, such administrative services as OCC, FDIC, and FRB jointly determine to be necessary. (321(b)(3))</p>		<p>An OCC official told us that OCC has not requested, nor plans to request the use of OTS's property prior to the transfer date.</p>
<b>Section 322. Transfer of Employees.</b>		
In General: OTS Employees		
<p>Except for employees transferred to the Bureau of Consumer Financial Protection,<sup>8</sup> all employees of OTS shall be transferred to OCC or FDIC. (322(a)(1)(A))</p> <p>OTS, OCC, and FDIC shall jointly determine the number of OTS employees necessary to perform or support the functions that are transferred to OCC or FDIC. (322(a)(1)(B)(i))</p>	<p><b>Transfer of Personnel (Sec. 2., p. 5)</b></p> <ul style="list-style-type: none"> <li>The OTS Director, the Comptroller of the Currency, and the FDIC Chairman will jointly determine the number of OTS employees necessary to perform and support the functions transferred to each agency.</li> <li>Senior managers from OCC, OTS, and FDIC are meeting regularly to discuss the process for transferring functions and to identify the functions to transfer to each agency and the numbers of employees needed to perform and support those functions.</li> <li>Because the OTS functions relating to federal savings associations make up the bulk of OTS's operations, most of OTS's approximately 1,000 employees will transfer</li> </ul>	<p>The Plan generally conforms to the section.</p> <p>As of March 17, 2011, OCC had not finalized the assignment of functions or the number of employees that will be required to carry out those functions.</p> <p>As discussed in the body of this report, OTS expressed concern that the assignments have not been finalized and that there will not be enough positions with the same functions for all</p>

<sup>8</sup> Under Dodd-Frank Act, Section 1064 (a) (5)(A), *Identifying Employees For Transfer*, of Title X, *Bureau of Consumer Financial Protection*, which establishes the Bureau of Consumer Financial Protection, requires the Bureau and the OTS Director to jointly determine the number of OTS employees necessary to perform or support the consumer financial protection functions of OTS that are to be transferred to the Bureau and identify the OTS employees for transfer to the Bureau.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>to OCC.</p> <ul style="list-style-type: none"> <li>• OCC, OTS, and FDIC established transition teams to coordinate these efforts.</li> <li>• OTS shared information related to employee data, work locations, salary and classification structures, benefits, and human resources policies and practices with both OCC and FDIC.</li> <li>• OCC, OTS, and FDIC human resources staffs worked together to analyze this information, identify differences in policies and practices, assess implementation impacts, and formulate recommendations for the efficient and effective integration of their workforces.</li> </ul>	<p>OTS transferred employees at OCC.</p> <p>So far, FDIC has committed to taking 53 current OTS employees—43 examiners and 8 staff to work on Thrift Financial Reports, and 2 administrative law staff. More OTS employees may transfer to FDIC based on additional FDIC needs.</p> <p>The Plan does not include any reference to the concurrent activities to identify the OTS employees to be transferred to the Bureau of Consumer Financial Protection. While we do not consider this a significant omission for the purpose of the Plan, the impact of the transfer of OTS employees to the Bureau of Consumer Financial Protection on the orderly transfer of OTS functions to OCC, FDIC, and FRB will be something we plan to assess as the Plan is implemented.</p>

<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
<p>OTS, OCC, and FDIC shall jointly identify OTS employees necessary to perform or support the functions transferred to OCC or FDIC. (322(a)(1)(B)(ii))</p>	<p><b>Transferring Personnel (Sec. 2.1, pp. 6-7)</b></p> <ul style="list-style-type: none"> <li>OCC will assign OTS employees, to the extent practicable, to OCC positions performing the same functions and duties that they performed prior to the transfer. OCC and OTS are working together to reach a consensus on how to integrate all OTS grades into OCC pay bands.</li> <li>FDIC plans a similar approach in integrating transferred staff into its existing organizational structure. FDIC and OTS have worked together to map their respective classification systems. Available positions are being identified by location and grade, and FDIC plans to solicit the interest of OTS employees in these vacancies in early 2011. Final decisions on the transfer and placement of individual OTS employees will be made jointly by FDIC and OTS.</li> </ul>	<p>The Plan conforms to the section. However, it must be recognized that the Plan is at a high level and, as indicated in the Plan and confirmed by our interviews with OCC, OTS, and FDIC officials, there are still critical details to be worked out before an orderly transfer of individual OTS employees can be effectively accomplished.</p>
<b>Employees Transferred: Service Periods Credited</b>		
<p>For purposes of this section, periods of service with a federal home loan bank, a joint office of federal home loan banks, or a federal reserve bank shall be credited as periods of service with a federal agency. (322(a)(2))</p>	<p>The Plan does not address this requirement.</p>	<p>We do not consider this a significant omission in the Plan. In interviews, OCC and FDIC officials told us that this requirement will be met. According to FDIC, it plans to follow its standard operating procedure of reviewing transferred employees' Official Personnel Files and other relevant documentation to establish or confirm a valid service</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
computation date.		
<b>Timing of Transfers and Position Assignments</b>		
Each employee to be transferred shall be transferred not later than 90 days after the transfer date. (322(b)(1))	<b>Transferring Personnel (Sec. 2.1., pp. 6-7)</b> <ul style="list-style-type: none"> <li>• The transfer of OTS employees must occur no later than 90 days after July 21, 2011.</li> </ul>	The Plan conforms to the section.
Each employee to be transferred shall receive notice of the position assignment of the employee not later than 120 days after the effective date of the transfer of the employee. (322(b)(2))	<b>Transferring Personnel (Sec. 2.1., pp. 6-7)</b> <ul style="list-style-type: none"> <li>• OCC and FDIC intend to provide initial notification letters to transferring OTS employees and meet with them as soon as possible, but not later than 60 days before the transfer date.<sup>9</sup></li> <li>• Final notification of position assignments with full details will follow no later than 120 days after the effective date of each employee’s transfer.</li> <li>• OTS will provide regular updates to OCC and FDIC regarding current employees to ensure that both agencies are aware of changes due to retirements, transfers, resignations, or other actions. This information will ensure that each agency maintains accurate rosters through the transfer date.</li> </ul>	The Plan conforms to the section.
<b>Employee Status and Eligibility/Equal Status and Eligibility</b>		
The transfer of functions and employees and the abolishment of OTS shall not affect the status of the transferred employees as employees of an agency of	<b>Safeguards to Ensure OTS Employees Are Not Unfairly Disadvantaged (Sec. 2.2., p. 7)</b>	The Plan conforms to the requirements of these sections. Because OCC and

<sup>9</sup> Initial notices will describe: (a) how the transfer will occur, (b) the actual date of the transfer, (c) information on affecting the transfer through a personnel action, (d) the corresponding “grade” level of the transferred employee’s new position, (e) duty location, (f) tentative organizational assignment, and (g) available information on the position assignment.

<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
<p>the United States under any provision of law. (322(d))</p> <p>Each transferred OTS employee shall be placed in a position at OCC or FDIC with the same status and tenure. (322(e)(1))</p> <p>To the extent practicable, each transferred employee shall be placed in a position at OCC or FDIC, as applicable, responsible for the same functions and duties as the transferred employee had on the day before the date on which the employee was transferred, in accordance with the expertise and preferences of the transferred employee. (322(e)(2))</p>	<ul style="list-style-type: none"> <li>OCC and FDIC are committed to ensuring that transferred OTS employees receive equitable treatment with respect to their status, tenure, pay, benefits, and accrued leave or vacation time for prior periods of service with a federal agency.</li> <li>OCC and FDIC intend to properly document all decisions regarding position and organizational assignments of transferred employees to ensure that every transferred employee is accounted for, aligned properly into OCC or FDIC, and retains the same pay, status, and tenure, and to the extent practicable, functions and duties in effect immediately preceding the effective date of the transfer.</li> </ul>	<p>FDIC are agencies of the United States in accordance with 12 U.S.C. §1 and 12 U.S.C. §1819(b)(1), respectively, transferred employees will retain status “as employees of an agency of the United States.”</p> <p>OCC has not finalized the work assignments yet. OCC has reached out to OTS employees through several conference calls and employee profile forms to obtain more information on employees’ expertise and preferences.</p>
	<p><b>Transfer of Authority and Responsibilities Regarding Oversight of Federal Savings Associations (Sec. 3.1., pp. 13-16)</b></p> <ul style="list-style-type: none"> <li>Positions created by OCC’s structural changes will be posted for internal competition and qualified OTS and OCC staff will be encouraged to apply. OCC will post the new management positions beginning in the first quarter of calendar year 2011. The related analyst positions will be posted following the management selections.</li> <li>OCC’s community bank supervision function will continue to have four districts and be led by the existing deputy comptrollers. With the addition of new federal savings associations</li> </ul>	<p>However, as discussed in other parts of this report, OTS officials have repeatedly expressed concern about this process. Specifically, they noted the following issues (1) the assignments have not been finalized and there will not be enough positions with the same functions for all OTS transferred employees at OCC; (2) the proposed number of potential</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>and examiners, each district’s span of control will increase by more than 50 percent. To help manage the workload, OCC created a new position, Associate Deputy Comptroller (AsDC), who will supervise Assistant Deputy Comptrollers (ADC). Each region will have two AsDCs except the South, which will have three.</p> <ul style="list-style-type: none"> <li>• OCC will add two ADCs for Midsize Bank supervision—one in Chicago and one in Washington, D.C.</li> <li>• OCC will add a Senior Advisor for Thrift Supervision in each district office and in Special Supervision.</li> <li>• The Deputy Comptroller for Thrift Supervision (designated on November 3, 2010, pursuant to section 314(b) of the Dodd-Frank Act) will serve as an advisor to Midsize and Large Bank Supervision.</li> <li>• OCC will add ADC and team leader positions as necessary and has already developed a tentative list.</li> <li>• OCC will add two new field offices, Des Moines and Seattle.</li> <li>• Other OCC organizations (i.e., those with nonsupervisory functions) are working to integrate transferring OTS employees.</li> </ul>	<p>management positions available to OTS transferred employees is lower than the current number of OTS management positions, resulting in OTS managers assigned to positions at least one level lower than they currently hold and lacking the same functions, and duties;<sup>10</sup> and (3) the senior-level positions being created by OCC to run the functions being transferred to OCC are being announced as competitive between current OCC employees and former OTS employees.</p> <p>In performing our assessment, we also noted that OCC is creating senior-level positions to run those functions being transferred; the positions are being announced as competitive between current OCC employees and former OTS</p>

<sup>10</sup> According to a letter from OCC’s First Senior Deputy Comptroller and Chief Counsel to the OTS Deputy Director dated October 25, 2010, the Dodd-Frank Act does not require OCC to redesign and reorganize OCC’s structure so that OTS managers are guaranteed particular positions; and provides that to the extent practicable, transferred employees will be placed in positions at OCC and FDIC responsible for the same functions and duties.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p><b>Transfer of OTS Examination Staff (FDIC) (Sec. 3.2.1., pp. 17-18)</b></p> <ul style="list-style-type: none"> <li>• FDIC is working closely with OTS and OCC to identify the number of new examiner positions that will be required to perform the supervisory functions being transferred from OTS to FDIC as well as other FDIC examiner vacancies in locations where OTS examination staff are currently assigned.</li> <li>• OTS employees will be given the opportunity to express interest in these positions, and if selected, will transfer to FDIC not later than 90 days after July 21, 2011, as part of the transfer of function.</li> <li>• FDIC will fully integrate these employees into the FDIC’s existing organizational structure, and will assign responsibility for examinations and other supervisory activities for each state-chartered savings association to the appropriate FDIC field office on the transfer date.</li> </ul>	<p>employees. It is important that OCC ensure the selection of personnel for these positions is done in compliance with 5 U.S.C. §3503, <i>Transfer of Functions</i>.<sup>11</sup></p> <p>Accordingly, there are still a number of critical details of the Plan that need to be worked out before an orderly transfer of individual OTS employees can be effectively accomplished.</p> <p>FDIC officials told us that OTS employees transferring to FDIC include the previously mentioned 8 OTS employees that work on Thrift Financial Reports and the 2 OTS administrative law staff as well as voluntary transfers under expression of interest announcements.</p>
<p><b>No Additional Certification Requirements</b>                      An examiner who is a transferred employee shall not</p>	<p><b>Training and Certification of Employees (OCC)</b></p>	<p>The Plan generally conforms</p>

<sup>11</sup> 5 USC §3503 states that when a function is transferred from one agency to another, each competing employee in the function shall be transferred to the receiving agency for employment in a position for which he is qualified before the receiving agency may make an appointment from another source to that position.



Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>be subject to any additional certification requirements before being placed in a comparable position at OCC or FDIC, if the examiner carries out examinations of the same type of institutions as an OCC or FDIC employee as the employee was responsible for carrying out before the date on which the employee was transferred. (322(f))</p>	<p><b>(Sec. 3.1.2., p. 16)</b></p> <ul style="list-style-type: none"> <li>• OCC and OTS are reviewing each of their training and certification programs to ensure that existing and transferred employees have the training and skills necessary to supervise both national banks and federal savings associations.</li> <li>• Additional training may be required before transferred OTS employees supervise other types of institutions [p. 16].</li> <li>• The expectation is that on and after the transfer date, all examiners who serve as examiners in charge of thrifts or banks will continue to perform these functions.</li> <li>• OCC engaged a consultant to identify any differences between the OTS examiner accreditation process and the OCC Uniform Commission Examination (UCE) process. The study is underway and the consultant will provide recommendations for coordinating the two processes.</li> <li>• New examiners hired by OTS in 2010 have accepted positions with OCC beginning in January 2011, and the agencies plan to enroll additional OTS employees in OCC national</li> </ul>	<p>to the section in that transferring OTS employees are not subjected to additional certification requirements to continue performing examinations of savings associations.</p> <p>However, OTS officials expressed concerns that OCC plans to require additional certification for certain transferred OTS examiners<sup>12</sup> prior to them being able to supervise national bank examinations. Conversely, FDIC is not requiring additional certification for transferred OTS examiners before they are able to supervise an FDIC-regulated bank examination. As discussed under “Pay” below, OTS officials are concerned with the implication of OCC</p>

<sup>12</sup> The affected OTS examiners hold the title of Examiner III and they are at the OTS TG-18 grade level, with supervisory responsibilities and the authority to sign-off on reports of savings association examinations. According to OCC, being a commissioned national bank examiner demonstrates that the individual has the requisite competence in not only the full range of safety and soundness issues, but also asset management, bank information systems, and compliance. TG-18 examiners have been accredited in either safety and soundness, compliance, trust (asset management) or bank information technology.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>bank examiner training courses prior to the transfer date.</p> <ul style="list-style-type: none"> <li>OCC’s National Bank Examiner commission will expand to ensure that each commissioned examiner has the skill set and credentials to lead examinations of both national banks and federal savings associations.</li> </ul> <p><b>Training and Certification of Employees (FDIC) (Sec. 3.2.2., p. 18)</b></p> <ul style="list-style-type: none"> <li>FDIC will treat as commissioned FDIC examiners all OTS examiners who transfer to FDIC with OTS accreditation.</li> <li>FDIC will address any individual training gaps that emerge after the transfer date through individual training and development plans.</li> </ul>	<p>placing these transferring OTS employees in a newly created pay band.</p> <p>OCC has contracted with a consultant to study and identify any differences between the OTS examiner accreditation process and the OCC Uniform Commission Examination process and to provide recommendations. The consultant’s final work product was not complete at the time of our report.</p>
<b>Personnel Actions Limited</b>		
<p>Each affected employee<sup>13</sup> shall not, during the 30-month period beginning on the transfer date, be involuntarily separated, or involuntarily reassigned outside his or her locality pay area. However, this requirement does not limit the right of OCC or FDIC to separate an employee for cause or for unacceptable performance; terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or reassign an employee outside such employee’s</p>	<p>The Plan does not address the 30-month period during which employees cannot be involuntarily separated or relocated.</p>	<p>We consider this to be an omission in the Plan that should be addressed.</p> <p>OCC officials told us that while decisions have not been made, they expect there will be circumstances in which it will be necessary to involuntarily reassign an employee outside of his or</p>

<sup>13</sup> Section 322(g)(1)(B) defines an affected employee as an employee transferred from OTS holding a permanent position on the day before the transfer date; and an employee of OCC or FDIC holding a permanent position on the day before the transfer date.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>locality pay area when OCC or FDIC determines that the reassignment is necessary for the efficient operation of the agency. (322(g)(1)(A) and 322 (g)(2))</p>		<p>her geographic location for the efficient operation of the agency.</p> <p>FDIC officials stated that they could not think of any circumstances that would cause FDIC to take an involuntary action other than a matter related to performance or employee conduct.</p>
<b>Pay</b>		
<p>During the 30-month period beginning on the date on which the employee was transferred, a transferred employee shall be paid at a rate that is not less than the basic rate of pay, including any geographic differential, that the transferred employee received during the pay period immediately preceding the date on which the employee was transferred. If the employee was receiving a higher rate of basic pay on a temporary basis (because of a temporary assignment, temporary promotion, or other temporary action) immediately before the transfer, the agency may reduce the rate of basic pay on the date the rate would have been reduced but for the transfer, and the protected rate for the remainder of the 30-month period will be the reduced rate that would have applied but for the transfer. However, OCC or FDIC may reduce the rate of basic pay of a transferred</p>	<p><b>Protection of Pay, Status, Tenure, Functions and Duties (Sec. 2.3., pp. 7-8)</b></p> <ul style="list-style-type: none"> <li>• Neither OCC nor FDIC will reduce a transferred employee’s pay during the 30-month period except in the limited circumstances specifically permitted by the Dodd-Frank Act.</li> <li>• OCC and FDIC will ensure the employees’ pay is not adversely affected.</li> </ul> <p><b>Incorporation Into the OCC Pay System (Sec. 2.7.1., pp. 10-11)</b></p> <ul style="list-style-type: none"> <li>• Transferred employees will be paid at a rate that is not less than the basic rate of pay, including any geographic differential that the transferred employees received during the pay</li> </ul>	<p>The Plan conforms to the section. According to the Plan, transferring OTS employees are to be paid at the same basic rate of pay for the 30-month period after the transfer date.</p> <p>However, as discussed above under “No Additional Certification Requirements,” OTS officials expressed concerns that OCC plans to require additional certification for certain transferred OTS examiners prior to them being able to</p>

<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
<p>employee for cause, including unacceptable performance, or with the consent of the transferred employee. (322(h)(1) and 322(h)(2))</p>	<p>period immediately preceding the date the employee is transferred.</p> <ul style="list-style-type: none"> <li>• Despite the pay structures of OCC and OTS differing significantly, OCC’s salary structure can accommodate the transfer of all employees from the OTS salary structure.</li> <li>• When a transferred employee’s salary fits within the assigned OCC pay band range for the assigned position, OCC will set the salary within that OCC pay band and at the same level the transferred employee received during the pay period immediately prior to the effective date of the transfer.</li> <li>• Where a transferred employee’s salary exceeds the OCC pay band range for the position assignment, OCC will assure that the pay protection required by the Dodd-Frank Act is invoked and applied accordingly.</li> <li>• OCC and OTS compensation policies and mechanisms for permanent adjustments to base pay and other types of pay increases also differ. OCC will maintain its human resources policies, including compensation, merit increases, and merit bonuses to recognize and incentivize performance. OCC continues to work closely with OTS human resources professionals to identify and resolve differences in these policies.</li> </ul>	<p>supervise national bank examinations. OTS’s concern is that OCC plans to assign these TG-18 examiners to a newly created pay band within OCC. This newly created pay band provides for the same pay as the current OTS pay band, but with a lower salary range than what would have been the case had OCC accepted the OTS accreditation. The examiners are to remain in that newly created pay band, until additional certification is obtained.<sup>14</sup> See appendix 3 for a description of OCC’s planned new pay band for certain transferred OCC employees.</p>

<sup>14</sup> OTS examiners at the OTS TG-19 grade level hold certifications that are commensurate to OCC’s national bank examiner certifications. These OTS examiners are to be transferred into OCC at the level consistent with the OCC examiner and will not be placed in the newly created pay band.

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p><b>Incorporation Into the FDIC Pay System (Sec. 2.7.2., pp. 11-12)</b></p> <ul style="list-style-type: none"> <li>• Despite differences between FDIC and OTS classification and pay systems, FDIC is confident that its salary structures can, with limited adjustments, accommodate the OTS salary structures. FDIC will map existing OTS positions to the FDIC classification and pay system as quickly as possible.</li> <li>• Where a transferred employee’s salary fits within the assigned FDIC pay range, FDIC will set the salary at the same level within that FDIC pay grade.</li> <li>• Where a transferred employee’s salary exceeds the maximum salary for the assigned FDIC pay range, FDIC will maintain the employee’s higher salary in accordance with Dodd-Frank Act requirements.</li> <li>• FDIC will maintain its established policies regarding performance-based base pay increases and bonuses/lump sum payments to recognize and incentivize performance.</li> <li>• FDIC will work with OTS human resources professionals as needed to identify and resolve differences in policies.</li> </ul>	
<p><b>Retirement Benefits for Transferred Employees</b></p> <p>Each transferred employee shall remain enrolled in the retirement plan of the transferred employee, for as long as the transferred employee is employed by OCC or FDIC. (322(i)(1)(A)(i))</p>	<p><b>Protection and Continuation of Retirement Benefits (Sec. 2.4., p. 8)</b></p> <ul style="list-style-type: none"> <li>• The majority of OCC, FDIC, and OTS employees participate in one of two retirement</li> </ul>	<p>The Plan conforms to the section. We noted that according to OTS’s audited fiscal year 2010 financial statements, FIRF had an</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>systems administered by the Office of Personnel Management (OPM)—the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).</p> <ul style="list-style-type: none"> <li>• Approximately 375 current OTS employees participate in a third system, the Financial Institutions Retirement Fund (FIRF), and approximately 460 retirees receive a FIRF annuity.</li> <li>• Transferred OTS employees covered by CSRS or FERS will remain in those retirement systems.</li> <li>• Because OTS serves as the benefit administrator for OTS retirees—such as OPM serves as the CSRS and FERS benefit administrator for federal agencies—OCC will assume that same benefit administrator role for OTS/FIRF employees on the transfer date. OCC has also agreed to provide retirement benefits administration for OTS/FIRF employees who transfer to FDIC and the Bureau of Consumer Financial Protection.</li> <li>• OCC will modify its financial systems to accommodate any additional transactions required to support FIRF entitlements.</li> </ul> <p><b>Supplemental Retirement Benefits (Sec. 2.5., pp. 8-9)</b></p> <ul style="list-style-type: none"> <li>• Both OCC and FDIC have additional retirement savings programs for their employees that will be available to transferred OTS employees.</li> </ul>	<p>estimated shortfall as of July 1, 2010, of \$74.7 million. According to OTS, OTS and OCC are discussing options for managing the underfunded FIRF.</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	Transferred employees may participate and roll over OTS-unique retirement savings programs into these programs. <sup>15</sup>	
OCC or FDIC, as appropriate, shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under each such existing retirement plan. <sup>16</sup> (322(i)(1)(A)(ii))	<p><b>Protection and Continuation of Retirement Benefits (Sec. 2.4., p. 8)</b></p> <ul style="list-style-type: none"> <li>OCC will modify its payroll system to include an OTS/FIRF identifier to ensure that OCC makes accurate contributions to the FIRF account.</li> <li>Agencies receiving transferred OTS employees will make payroll and financial systems adjustments similar to those of OCC to accommodate FIRF entitlements of these transferred OTS employees and will coordinate with OCC to ensure integrated benefits delivery to these employees.</li> </ul>	<p>The Plan conforms to the section.</p> <p>According to OCC officials, OCC has begun working with the National Finance Center, which is OCC’s and FDIC’s payroll processing provider, to complete programming changes necessary for the administration of OTS benefits.</p>
<b>Benefits Other Than Retirement Benefits</b>		
<i>During the First Year</i>		
For 1 year following the transfer date, each transferred employee may retain membership in any employee benefit program (other than a retirement benefit program) of the agency from which the employee was transferred, including any dental, vision, long term care, or life insurance program to	<p><b>Protection and Continuation of Benefits Other Than Retirement (Sec. 2.6., pp. 9-10)</b></p> <ul style="list-style-type: none"> <li>OTS employees will remain in OTS benefits programs as currently constituted for the first year after transfer.</li> </ul>	<p>The Plan conforms to the section regarding membership.</p> <p>An OCC official told us that OCC will comply with this</p>

<sup>15</sup> FDIC and OCC provide an automatic contribution of 1 percent of pay and an additional matching contribution up to 4 percent of pay to eligible employees’ federal Thrift Savings Plan accounts. In addition, FDIC and OCC employees can contribute a portion of their base pay to a sponsored tax-deferred 401(k) savings plan. FDIC and OCC provide eligible employees with a maximum matching contribution of 5 percent and 3 percent, respectively.

<sup>16</sup> Section 322 (i)(1)(B) defines an existing retirement plan, with respect to a transferred employee, as the retirement plan (including FIRF), and any associated thrift savings plan, of the agency from which the employee was transferred in which the employee was enrolled on the day before the date on which the employee was transferred.

<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
<p>which the employee belonged on the day before the transfer date. OCC or FDIC, as appropriate, shall pay any employer cost required to extend coverage in the benefit program to the transferred employee as required under that program or negotiated agreements. (322(i)(2)(A))</p>	<ul style="list-style-type: none"> <li>OCC and FDIC will jointly explore options for the most efficient administration of OTS’s life insurance benefit program during the interim period.</li> <li>The Plan does not address the requirement to pay any employer costs required to extend coverage in the benefit program to the transferred employee, although that could be inferred since it does include the provision that OTS employees will remain in OTS benefits programs for the first year.</li> </ul>	<p>provision.</p> <p>FDIC officials told us that FDIC will offer transferred OTS employees the option to change to FDIC benefits. The transferred OTS employees will have 30 days to make their decision, as would any new FDIC employee. If OTS employees elect to retain their OTS benefits for 1 year, FDIC will comply with this provision as set forth.</p>
<b><i>Dental, Vision, or Life Insurance After the First Year</i></b>		
<p>If, after the 1-year period beginning on the transfer date, OCC or FDIC determines that OCC or FDIC will not continue to participate in any dental, vision, or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in the enhanced dental benefits program established under chapter 89A, the vision benefits established under chapter 89B, and the Federal Employees' Group Life Insurance Program 87 (without regard to any requirement of insurability) established under chapter 87. These chapters are part of 5 U.S.C. (322(i)(2)(B))</p>	<p><b>Protection and Continuation of Benefits Other Than Retirement (Sec. 2.6., pp. 9-10)</b></p> <ul style="list-style-type: none"> <li>After 1 year, all employees will transition to OCC and FDIC benefit programs.</li> <li>Human resource specialists from OCC, FDIC, and OTS completed a side-by-side analysis comparing the benefits at the three agencies. They determined that the following programs are comparable: Federal Employees Health Benefits, Federal Employees Group Life Insurance, and employee-paid programs (Long Term Care insurance and the Federal Employees Dental and Vision Insurance Program (federal dental and vision insurance).</li> </ul>	<p>The Plan conforms to the section.</p>
<b><i>Long Term Care Insurance After the First Year</i></b>		
<p>If, after the 1-year period beginning on the transfer</p>	<p><b>Protection and Continuation of Benefits Other</b></p>	<p>The Plan conforms to the</p>



Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>date, OCC or FDIC determines that OCC or FDIC, as appropriate, will not continue to participate in any long term care insurance program of an agency from which an employee transferred, a transferred employee who is a member of such a program may, before the decision takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established under chapter 90 of 5 U.S.C., under the underwriting requirements applicable to a new active workforce member. (322(i)(2)(C))</p>	<p><b>Than Retirement (Sec. 2.6., pp. 9-10)</b></p> <ul style="list-style-type: none"> <li>• After one year, all employees will transition to OCC and FDIC benefit programs.</li> <li>• Human resource specialists from OCC, FDIC, and OTS completed a side-by-side analysis and determined the benefits of long term care insurance programs at the three agencies are comparable.</li> </ul>	<p>section.</p>
<p><b><i>Contribution of Transferred Employee</i></b></p>		
<p>A transferred employee who is enrolled in a plan under the Federal Employees Health Benefits Program shall pay any employee contribution. OCC or FDIC, as applicable, shall pay any difference in cost between the employee contribution required under the plan provided to transferred employees by the agency from which the employee transferred and the plan provided by OCC or the FDIC, as the case may be. OCC or FDIC shall transfer to the Employees Health Benefits Fund, an amount determined by OPM, after consultation with OCC and FDIC, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Employees Health Benefits Fund for the cost to the fund of providing any benefits under this subparagraph that are not otherwise paid for by a transferred employee under clause (i). (322(i)(2)(D))</p>	<ul style="list-style-type: none"> <li>• The Plan does not specifically state that a transferred employee who is enrolled in a plan under the Federal Employees Health Benefits Program will pay any employee contribution or that OCC or FDIC will pay any difference in cost.</li> <li>• The Plan also does not address OCC or FDIC’s responsibility to pay any difference in cost between the employee contribution required under the plan and the plan provided by OCC or FDIC, respectively.</li> <li>• The Plan does not address the transfer of funds from OCC or FDIC to the Employees Health Benefits Fund.</li> </ul>	<p>We do not consider this a significant omission in the Plan. Employee and employer contributions under the Federal Employees Health Benefits Program are set by law. OCC, FDIC, and OTS are currently part of the program; thus, any contributions paid by OTS and its employees will carry over to OCC and FDIC.</p> <p>According to an OCC official, OCC will comply with these provisions.</p> <p>According to an FDIC official, FDIC will comply with these provisions. FDIC</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
		has arranged for OCC to administer OTS legacy benefit programs for OTS staff that transfer to FDIC. FDIC will reimburse OCC for the relevant costs.
<i>Special Provisions To Ensure Continuation of Life Insurance Benefits:</i>		
<p>An annuitant who is enrolled in a life insurance plan administered by an agency from which employees are transferred on the day before the transfer date shall be eligible for coverage by a life insurance plan under 5 U.S.C., or by a life insurance plan established by OCC or FDIC, as applicable, without regard to any regularly scheduled open season or any requirement of insurability. A transferred employee shall pay any employee contribution required by the plan. OCC or FDIC shall pay any difference in cost between the benefits provided by the agency from which the employee transferred and the benefits provided. Additionally, OCC or FDIC shall transfer to the Federal Employees' Group Life Insurance Fund, an amount determined by OPM, after consultation with OCC and FDIC, to be necessary to reimburse the Federal Employees' Group Life Insurance Fund for the cost to the Federal Employees' Group Life Insurance Fund of providing benefits not otherwise paid for by a transferred employee. (322(i)(2)(E))</p>	<p>The Plan does not address these provisions.</p>	<p>We do not consider this a significant omission of the Plan. An OCC official stated that OCC is obtaining consulting advice as to how to handle the retiree life insurance for annuitants. According to an FDIC official, since OCC will be administering FIRF, FDIC will not have any annuitant issues related to the transfer of OTS powers and authorities. FDIC extends one FDIC-specific benefit to annuitants—dental insurance—and any transferred OTS staff will be treated the same as any other FDIC employee for purposes of qualifying for that benefit at retirement.</p>
<i>Incorporation Into Agency Pay System</i>		
<p>Not later than 30 months after the transfer date, OCC and FDIC shall place each transferred employee</p>	<p><b>Transferring Personnel (Sec. 2.1., p. 6)</b></p>	<p>The Plan conforms to the section.</p>

<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
<p>into the established pay system and structure of the appropriate employing agency. (322(j))</p>	<ul style="list-style-type: none"><li>• OTS employees transferring to OCC and FDIC will be placed into OCC's and FDIC's established pay systems and structures as soon as feasible following the date of transfer, but not later than 30 months after the transfer date.</li><li>• OCC and FDIC determined that their current pay systems, with some possible modifications, can accommodate OTS's salary structure. However, the 30-month protection of pay may necessitate the retention of separate systems and structures for a period of time.</li></ul> <p><b>Incorporation Into the OCC Pay System (Sec. 2.7.1., pp. 10-11)</b></p> <ul style="list-style-type: none"><li>• Despite the pay structures of OCC and OTS differing significantly, OCC salary structure can accommodate the transfer of all employees from the OTS salary structure.</li></ul> <p><b>Incorporation Into the FDIC Pay System (Sec. 2.7.2., pp. 11-12)</b></p> <ul style="list-style-type: none"><li>• Despite differences between FDIC and OTS classification and pay systems, FDIC is confident that its salary structures can, with limited adjustments, accommodate the OTS salary structures.</li><li>• FDIC plans to convert transferred OTS employees to its pay system as soon as</li></ul>	

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Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	feasible after the transfer date and well before the 30-month deadline.	
<b><i>Equitable Treatment</i></b>		
<p>OCC and FDIC:</p> <ul style="list-style-type: none"> <li>may not take any action that would unfairly disadvantage a transferred employee relative to any other OCC or FDIC employee on the basis of prior employment by OTS.</li> <li>may take such action as is appropriate in an individual case to ensure that a transferred employee receives equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by OPM), and accrued leave or vacation time for prior periods of service with any federal agency of the transferred employee.</li> <li>shall, jointly with OTS, develop and adopt procedures and safeguards designed to ensure that these requirements are met.</li> <li>shall conduct a study detailing the position assignments of all employees transferred, describing the procedures and safeguards adopted, and demonstrating that the requirements of this subsection have been met; and shall, not later than 1 year after the transfer date, submit a copy of such study to Congress. (322(k))</li> </ul>	<p><b>Safeguards to Ensure OTS Employees Are Not Unfairly Disadvantaged (Sec. 2.2., p. 7)</b></p> <ul style="list-style-type: none"> <li>No changes will be adopted that in any way result in an unfair disadvantage to transferred employees.</li> <li>OCC and FDIC are committed to ensuring that transferred OTS employees receive equitable treatment with respect to their status, tenure, pay, benefits, and accrued leave or vacation time for prior periods of service with a federal agency.</li> <li>Both OCC and FDIC leadership and human resources employees have worked with their OTS counterparts to review human resources policies, identify gaps and differences in those policies, and assess impacts of those differences. Based on this analysis, OCC and FDIC plan to continue existing human resources policies. The two agencies will consider future changes to policies where they benefit the combined organizations and their employees. No changes will be adopted that in any way result in an unfair disadvantage to transferred employees.</li> <li>OCC and FDIC will submit a study to Congress within 365 days after the transfer date describing and demonstrating the procedures and safeguards adopted by the agencies to</li> </ul>	<p>The Plan conforms to these requirements. However, as stated above, under “No Additional Certification Requirements,” OTS officials expressed concerns that OCC plans to require additional certification for certain transferred OTS examiners prior to them being able to supervise national bank examinations. Conversely, FDIC is not requiring additional certification for transferred OTS examiners before they are able to supervise an FDIC-regulated bank examination. OTS officials are concerned with the implication of OCC placing these transferring OTS employees in a newly created pay band.</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
ensure that they meet these requirements.		
<b>Section 323. Property Transferred<sup>17</sup>.</b>		
<p>No later than 90 days after the transfer date, all property of OTS (other than property described under paragraph (b)(2)) that OCC and FDIC jointly determine is used, on the day before the transfer date, to perform or support the functions of OTS transferred to OCC or FDIC, shall be transferred to OCC or FDIC in a manner consistent with the transfer of employees. (323(b)(1))</p>	<p><b>Transfer of Property (Sec. 5, pp. 25-27)</b></p> <ul style="list-style-type: none"> <li>• The agencies will complete the property transfer no later than 90 days after the transfer date.</li> </ul> <p><b>Transfer of the OTS Building and Real Property (Sec. 5.1., p. 25)</b></p> <ul style="list-style-type: none"> <li>• The agencies have jointly determined that ownership of all buildings and real property will transfer to OCC.</li> <li>• FDIC will house transferring OTS employees in current FDIC facilities.</li> <li>• OCC's legal staff is working to determine appropriate transfers of title and transfers of leases to OCC effective July 21, 2011.</li> </ul> <p><b>Transfer of Information Technology Assets, Systems, and Infrastructure (Sec. 5.2., p. 25)</b></p> <ul style="list-style-type: none"> <li>• OCC, FDIC, and OTS chief information officers are working closely together to develop a plan to integrate the agencies' assets and systems.</li> <li>• The agencies will follow applicable policies and procedures to ensure that all assets are</li> </ul>	<p>The Plan conforms to the section.</p>

<sup>17</sup> For purposes of this section, the term property includes all real property (including leaseholds) and all personal property, including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers, and correspondence related to such reports, and any other information or materials.

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<b>Title III Requirements</b>	<b>Joint Implementation Plan Sections</b>	<b>OIG Analysis</b>
	<p>transferred in a structured and secure manner to support transferred functions and employees.</p>	
	<p><b>OCC (Sec. 5.2.1., p. 25)</b></p>	
	<ul style="list-style-type: none"><li>• OCC and OTS have developed an analysis framework and completed a comprehensive inventory of IT assets and systems by business function.</li><li>• OCC staff is analyzing both agencies' systems, from the business and technical perspective to recommend the best course of action for each system with the goals of integrating and aligning business and reducing duplication as much and as quickly as possible.</li><li>• OCC anticipates that some information systems may need to run in parallel for an initial period to ensure continuity and availability.</li><li>• The Plan will also ensure that core OCC administrative systems and IT infrastructure services, such as time and attendance and e-mail, are available to all incoming OTS staff by the transfer date.</li><li>• OCC will allot sufficient time for training OTS and OCC employees on any new systems as necessary.</li></ul>	
	<p><b>FDIC (Sec. 5.2.2., pp. 25-26)</b></p>	
	<ul style="list-style-type: none"><li>• FDIC and OTS staff will work together to</li></ul>	

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Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>determine how best to integrate supervisory and administrative information from OTS systems into existing FDIC automated information systems, with a goal of accomplishing this transition as quickly as possible.</p> <ul style="list-style-type: none"><li>• The staff will also develop guidelines for the retention and archiving of relevant OTS data to ensure that it continues to be available, as needed, in the future.</li><li>• FDIC does not anticipate transferring from OTS any IT systems, equipment, or other infrastructure. To ensure compatibility, FDIC will issue standard FDIC IT equipment and software to all OTS employees transferring to FDIC.</li></ul>	
	<p><b>Transfer of Records (Sec. 5.3., pp. 26-27)</b></p>	
	<ul style="list-style-type: none"><li>• By the transfer date, OTS will update and verify inventories and locations of paper and electronic records for both current and active records as well as archived records.</li><li>• OTS records and information regarding OTS functions and activities will be transferred to OCC, FDIC and FRB.</li><li>• OTS, OCC, and FDIC records management staffs established a joint team that is working to identify the types of records and the related comprehensive records schedules for both agencies, and to identify and catalogue the number and physical location of all records.</li></ul>	

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>All books, accounts, records, reports, files, memoranda, papers, documents, reports of examination, work papers, and correspondence of OTS that OCC, FDIC, and FRB jointly determine is used, on the day before the transfer date, to perform or support the functions of the OTS transferred to FRB under this title shall be transferred to FRB in a manner consistent with the purposes of this title. (323(b)(2))</p>	<ul style="list-style-type: none"> <li>• The joint team is working directly with the National Archives and Records Administration (NARA) to determine how best to establish a new, joint comprehensive records schedule for OCC and its expanded responsibilities.</li> <li>• Team members are jointly preparing a plan for physically transferring OTS records, as appropriate, to OCC, FDIC, and FRB recordkeeping facilities, NARA facilities and the Federal Records Centers.</li> </ul> <p><b>Transfer of Property (Sec. 5., pp. 25-27)</b></p> <p><b>FRB (Sec. 5.2.3., p. 26)</b></p> <ul style="list-style-type: none"> <li>• FRB is working with OTS on direct access to OTS systems and official records<sup>18</sup> to the extent consistent with the Dodd-Frank Act, other applicable law, and other legal constraints.</li> <li>• FRB has access to comprehensive OTS databases containing structure and financial data.</li> <li>• FRB is working with FDIC and OCC to ensure comprehensive bilateral information sharing and coordination for thrift subsidiaries comparable to that in place for bank holding companies' bank subsidiaries.</li> <li>• An interagency team will handle the supervisory information requirements in a</li> </ul>	<p>The Plan conforms to the section.</p>

<sup>18</sup> The official records include supervisory ratings, enforcement actions, other assessments, examination reports and related work papers, application filings, and all other communications with savings and loan holding companies.



Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>similar manner, preparing for automated transfers of key OTS supervisory information to FRB to be incorporated in FRB automated systems.</p> <p><b>Transfer of Records (Sec. 5.3., pp. 26-27)</b></p> <ul style="list-style-type: none"> <li>• By the transfer date, OTS will update and verify inventories and locations of paper and electronic records for both current, active records as well as archived records.</li> <li>• FRB is coordinating with OTS to transfer records necessary to effectively carry out its supervisory responsibilities.</li> </ul> <p><b>Transfer of Other Assets (Sec. 5.5., pp. 27)</b></p> <ul style="list-style-type: none"> <li>• FDIC and FRB have determined that they do not require any additional assets not described in the plan from OTS.</li> <li>• OCC recently completed an inventory of accountable property and has updated its asset management system to reflect the current status.</li> <li>• OTS plans to conduct a complete inventory in the April/May 2011 timeframe of all its accountable property. Once that effort is completed, OCC will enter the appropriate assets in its asset management system for continued accountability.</li> </ul>	
<p>Each contract, agreement, lease, license, permit, and similar arrangement relating to property transferred to</p>	<p><b>Transferring Contracts (Sec. 5.4., p. 27)</b></p>	<p>The Plan conforms to the section.</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>OCC or FDIC by this section shall be transferred to OCC or FDIC, as appropriate, together with the property to which it relates. (323(c))</p>	<ul style="list-style-type: none"> <li>• OTS recently updated and verified inventories of all open and active leases of real and personal property, purchase orders, and contracts.</li> <li>• OTS leases, purchase orders, and contracts will transfer to OCC; FDIC does not anticipate assuming responsibility for any OTS leases, contracts, or purchase orders</li> <li>• OCC’s acquisition management staff will review all active actions to identify and address any redundancies and will work with OTS to determine which contracts provide OCC the best support and represent the best value.</li> <li>• OCC’s administrative and internal law department staff will review contract modification actions for legal sufficiency, as necessary.</li> </ul>	
<p>Property identified for transfer shall not be altered, destroyed, or deleted before transfer. (323(d))</p>	<p>The plan does not address this provision.</p>	<p>We do not consider this a significant omission.</p>
<p><b>Section 324. Funds Transferred.</b></p>		
<p>The funds that, on the day before the transfer date, OTS (in consultation with OCC, FDIC, and FRB) determines are not necessary to dispose of the affairs of OTS and are available to OTS to pay OTS expenses relating to the OTS functions transferred shall be transferred to OCC, FDIC, and FRB, as the case may be, on the transfer date. (324)</p>	<p><b>Transfer of Funds (Sec. 4., pp. 23-24)</b></p> <ul style="list-style-type: none"> <li>• OTS, OCC, FRB, and FDIC established a workgroup to address the transfer of remaining funds that are not necessary to dispose of OTS’s affairs.</li> <li>• The funds remaining on the day prior to transfer will remain available to OTS for its expenses relating to the agency’s functions that are transferred.</li> <li>• On the transfer date, all OTS account balances</li> </ul>	<p>The Plan conforms to the section.</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
	<p>will be transferred to OCC. The agency location code and associated fund symbols will remain open at the Department of the Treasury pending clearance of all outstanding transactions.</p> <ul style="list-style-type: none"> <li>• FDIC determined that no funds will be transferred from OTS to FDIC.</li> <li>• FRB determined that no funds will be transferred from OTS to FRB.</li> </ul>	
<b>Section 325. Disposition of Affairs.</b>		
<p>During the 90-day period beginning on the transfer date, the OTS Director shall, solely for the purpose of winding up the affairs of OTS relating to any function transferred to OCC, FDIC, or FRB:</p> <ul style="list-style-type: none"> <li>• manage the employees of OTS who have not yet been transferred and provide for the payment of the compensation and benefits of the employees that accrue before the date on which the employees are transferred;</li> <li>• manage any property of OTS, until the date on which the property is transferred;</li> <li>• take any other action necessary to wind up the affairs of OTS;</li> <li>• exercise any authority vested in the OTS Director on the day before the transfer date, only to the extent necessary to wind up OTS; and</li> <li>• exercise any authority vested in the OTS Director on the day before the transfer date, only to the extent necessary to carry out the transfer during such 90-day period. (325(a) and 325(b))</li> </ul>	<p><b>Disposition of OTS Affairs (Sec. 6.3., p. 28)</b></p> <ul style="list-style-type: none"> <li>• The Acting OTS Director and a small cadre of staff will make a final disposition of the affairs of OTS during the 90-day period after the transfer date.</li> <li>• OTS will use this period to ensure a full and accurate accounting and transfer of all OTS assets.</li> <li>• OTS will ensure that compensation and benefits owed to OTS employees are provided, and prudently manage any remaining assets until transferred.</li> <li>• OTS intends to take necessary actions to ensure an appropriate disposition of its affairs and document the measures taken to wind down the agency.</li> </ul>	<p>The Plan conforms to the section.</p>

Title III Requirements	Joint Implementation Plan Sections	OIG Analysis
<p>The OTS Director shall, during the 90-day period beginning on the transfer date, continue to be treated as an officer of the United States. Additionally, the OTS Director will continue to be entitled to receive compensation at the same annual rate of basic pay that the OTS Director received on the day before the transfer date. (325(b)(2))</p>	<p>The Plan does not address this requirement.</p>	<p>We do not consider this a significant omission.</p>
<p><b>Section 326. Continuation of Services.</b></p>		
<p>Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was, before the transfer date, providing support services to OTS in connection with functions transferred to OCC, FDIC, or FRB shall:</p> <ul style="list-style-type: none"> <li>• continue to provide such services, subject to reimbursement by OCC, FDIC, or FRB, until the transfer of functions under this title is complete; and</li> <li>• consult with OCC, FDIC, or FRB, as appropriate, to coordinate and facilitate a prompt and orderly transition. (326)</li> </ul>	<p>The Plan does not address this requirement. Section 326 is directed towards agencies, departments, or other instrumentalities of the United States providing support services to OTS regarding the transfer of functions – not to OCC, FDIC, or FRB.</p>	<p>We do not consider this a significant omission.</p>

This appendix presents a description of the pay structures of the Office of Thrift Supervision (OTS), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC), and OCC's planned new pay band for certain transferred OTS employees.

#### OTS Pay Structure

OTS has a 30-grade pay system, with grades 25 to 30 regarded as the executive level. Salary ranges include a minimum, midpoint, and maximum. Salary structures are adjusted to reflect geographic differences in the cost of living. OTS considers the employee's full salary as base pay for all compensation computations.

#### OCC Pay Structure

OCC has a nine-band pay system, with bands VIII and IX regarded as the executive level. Minimum and maximum salaries are set within each band, and salaries are adjusted based on merit. OCC considers the band salaries as base pay and separately uses geographic pay differentials when OCC finds significant differences in living and/or labor costs for various metropolitan areas. Benefit computations include base pay plus any geographic differential.

#### New OCC Pay Band for Certain Transferred OTS Employees

OCC created a new pay band (NB-V-T) for OTS examiners having the examiner III title and at the TG-18 OTS grade level. The salary ranges (\$56,032-\$102,036) for both the new OCC pay band and OTS's TG-18 grade level are identical. OTS transferees who are placed in the NB-V-T pay band will be eligible to receive special increases consistent with OCC policy. They will also move to the full NB-V pay band salary range (\$64,400 - \$119,900) when they earn a National Bank Examiner commission, which is a requirement at the NB-V level. In addition, they will receive a \$3,000 bonus if they successfully complete the commissioning process on the first attempt. Alternatively, NB-V-T examiners can compete for NB-V bank examiner positions in large banks or policy without acquiring a National Bank Examiner commission, if they possess sufficient specialty expertise.

### FDIC Pay Structure

FDIC has a 15-grade corporate grade (CG) structure for non-supervisory employees; two corporate manager (CM) pay bands for supervisory and managerial employees; a corporate expert (CX) pay band for senior, non-supervisory and managerial employees; and an executive management (EM) pay band for executive level employees. Minimum and maximum salaries are set for each grade/pay band. FDIC salaries include two components, base salary and a locality pay adjustment. Benefits computations are based on base pay plus locality pay. FDIC negotiates pay and benefits with its employee union, and pay and benefits for its bargaining unit employees are typically covered by multi-year negotiated compensation.



## Joint Implementation Plan

301-326 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

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January 2011

Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation  
Office of the Comptroller of the Currency  
Office of Thrift Supervision

Washington, D.C.

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**1. Overview**

This joint implementation plan has been prepared pursuant to section 327(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203 (Dodd-Frank), and is submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Inspectors General of the Department of the Treasury, the Federal Deposit Insurance Corporation (FDIC), and the Board of Governors of the Federal Reserve Board (FRB). The FDIC, the FRB, the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) jointly prepared this plan. It provides an overview of actions taken to date by the agencies to efficiently and effectively implement sections 301 through 326 of Dodd-Frank.

**2. Transfer of Personnel**

Section 2 describes the orderly transfer of personnel from the OTS to the OCC and the FDIC.

Pursuant to section 322(a) of Dodd-Frank, the Director of the OTS, the Comptroller of the Currency, and the FDIC Chairman will jointly determine the number of OTS employees necessary to perform and support the functions transferred to each agency. Pursuant to section 312(b)(2)(B) all of the OTS's functions relating to federal savings associations and all of the OTS's rulemaking authority for federal and state savings associations will be transferred to the OCC on the transfer date. Because these functions make up the bulk of the OTS's operations, most of the OTS's approximately 1,000 employees will transfer to the OCC. Senior managers from the OCC, the OTS, and the FDIC are meeting regularly to discuss the process and to identify the functions to transfer to each agency and the numbers of employees needed to perform and support those functions.

The OCC and the OTS have established transition teams to coordinate these efforts, and these teams are working together to identify and address mutual concerns and issues for resolution. The FDIC and the OTS are following a similar process. The OTS has shared information related to employee data, work locations, salary and classification structures, benefits, and human resources policies and practices with both the OCC and the FDIC. The human resources staffs of the three agencies have worked together to analyze this information, identify differences in policies and practices, assess implementation impacts, and formulate recommendations for the efficient and effective integration of their workforces.

Principles governing the transfer of personnel include:

- *Upholding the protections afforded by the legislation.* The legislation provides a number of protections for transferred OTS employees. The agencies will ensure that employees are afforded the protections to which they are entitled.
- *Building a sustainable organizational structure.* The OCC and the FDIC believe that integrating OTS staff and functions into the current organizational structures of the two agencies is the optimal solution to ensure that no gaps in supervision occur. The transferred OTS functions and staff will not constitute separate reporting lines of business in the OCC or the FDIC; rather, the agencies will integrate those individuals into their existing teams.
- *Fostering an environment that will maximize opportunities for staff.* The identification of the OTS staff who will transfer into the OCC and the FDIC will allow agency leadership to take advantage of the collective knowledge of combined staffs. Integrating staffs from the outset and equipping examiners with the training and skills necessary to examine both thrifts and banks will maximize opportunities for staff and will leverage the experience of both bank and thrift supervision regulators to support their missions.
- *Promoting communication to all employees throughout the transition.* A regular flow of information to OTS, FDIC, and OCC employees about the transition process is important to success. These agencies are providing ongoing communication to their employees to inform them of key implementation items and timelines, promote mission focus, and support a smooth transition.

### **2.1. Transferring Personnel**

The first task for the agencies is to identify the primary OTS functions that will transfer to the OCC, the FDIC, and the FRB. Representatives from each agency are carefully reviewing the Dodd-Frank language to define the functions identified for transfer to the OCC, the FDIC, and the FRB. This information will help to determine the transfer of OTS staff to the OCC and the FDIC.

Pursuant to the legislation, the transfer of OTS employees must occur no later than 90 days after July 21, 2011.

As discussed below, OTS personnel transferring to the OCC and the FDIC will be placed into the OCC's and the FDIC's established pay systems and structures as soon as feasible following the date of transfer, but not later than 30 months after the transfer date as required by Dodd-Frank (section 322(j)). Other organizations that underwent similar transfers of personnel experienced significant delays and administrative burdens when maintaining two separate pay systems and structures, even if only for short periods following the transfer of functions and personnel. Both agencies have further determined that their current pay systems, with some possible modifications, can accommodate OTS's salary structure. However, the 30-month protection of pay may necessitate the retention of separate systems and structures for a period of time.

**Personnel Transfers to the OCC.** The OCC will assign OTS employees, to the extent practicable, to OCC positions performing the same functions and duties that the OTS employees performed prior to the transfer. The pay bands of these new positions will be based on established OCC standards for the classification of positions. While considerable differences exist, the agencies are working together to reach a consensus on how to integrate all OTS grades into the OCC pay bands.

**Personnel Transfers to the FDIC.** The FDIC plans a similar approach in integrating transferred staff into the existing FDIC organizational structure. The FDIC and the OTS have worked together to map their respective classification systems. The FDIC will ultimately use this tool to place OTS employees in comparable positions within the FDIC. In addition to establishing new positions for the transferring work, the FDIC is identifying existing vacancies that it might also use to place OTS employees. Available positions are being identified by location and grade, and the FDIC plans in early 2011 to solicit the interest of OTS employees in these vacancies. Final decisions on the transfer and placement of individual OTS employees will be made jointly by the FDIC and OTS.

**Notice Commitments.** The OCC and the FDIC intend to provide initial notification letters to transferring employees and meet with them as soon as possible, but not later than 60 days before the transfer date. Initial notices will describe: (a) how the transfer will occur, (b) the actual date of the transfer, (c) information on affecting the transfer through a personnel action, (d) the corresponding "grade" level, (e) duty location, (f) tentative organizational assignment, and (g) available information on the position assignment. In addition to the written notification, the agencies will use a variety of communication channels to ensure that employees are aware of the decisions and opportunities that affect them. Consistent with the legislation, final notification of position assignments with full details will follow no later than 120 days after the effective date of each employee's transfer. The OCC intends to effect these changes by the transfer date.

The OTS will provide regular updates to the OCC and the FDIC regarding current personnel to ensure that both agencies are aware of changes due to retirements, transfers, resignations, or

other actions. This information will ensure that each agency maintains accurate rosters through the transfer date.

The OCC and the FDIC are also monitoring other aspects related to the transfer of OTS personnel. For example, the OCC will provide a roster of transferred employees to the OCC's manager of payroll systems and to the OCC's manager of other financial systems (such as travel, time/attendance, and work reports). These managers are working with their OTS counterparts and with the payroll service provider, the National Finance Center (NFC), to manage the transfer within appropriate systems. The OCC and the OTS also are meeting weekly with the NFC and the Department of the Treasury's HRConnect Program Office (administrator of OCC's and OTS's human resources systems) to ensure a smooth transition from OTS's payroll and personnel systems. NFC is also the FDIC's payroll provider, but the FDIC has a separate human resources system (Corporate Human Resources Information System or CHRIS).

The OCC and FDIC business units also are coordinating with their OTS counterparts to review positions, responsibilities, and business processes to determine the best means of integrating staff and their functions into the OCC and the FDIC. A thorough review of OTS position descriptions is necessary for this exercise.

### **2.2. Safeguards To Ensure OTS Employees Are Not Unfairly Disadvantaged**

The OCC and the FDIC are committed to ensuring that transferred OTS employees receive equitable treatment with respect to their status, tenure, pay, benefits and accrued leave or vacation time for prior periods of service with a federal agency, as required in section 322(e) and section 322(k)(2) of Dodd-Frank. The OCC and the FDIC also intend to properly document all decisions regarding position and organizational assignments of transferred employees to ensure that every transferred employee is accounted for, aligned properly into the OCC or the FDIC, and retains the same pay, status, and tenure, and to the extent practicable, functions and duties, in effect immediately preceding the effective date of the transfer.

Both OCC and FDIC leadership and human resources personnel have worked with their OTS counterparts to review human resources policies, identify gaps and differences in those policies, and assess impacts of those differences. Based on this analysis, the OCC and the FDIC plan to continue existing human resources policies. The two agencies will consider future changes to policies where they benefit the combined organizations and their employees. No changes will be adopted that in any way result in an unfair disadvantage to transferred employees. The agencies recognize the importance of providing employees the protections afforded to them by Dodd-Frank and continue to work on details regarding safeguarding pay, tenure, and status as well as continuing to discuss details regarding position assignments of managers who transfer from the OTS to OCC and issues regarding examiner accreditation and training requirements.

As required by section 322(k)(4) of Dodd-Frank, the OCC and the FDIC will submit a study to Congress within 365 days after the transfer date describing and demonstrating the procedures and safeguards adopted by the agencies to ensure that they meet the requirements of section 322(k).

### **2.3. Protection of Pay, Status, Tenure, Functions, and Duties**

Section 322(e) of Dodd-Frank requires that the OCC and the FDIC place each transferred employee in a position with the same status, tenure, and to the extent practicable, functions and duties as the transferred employee held on the day before the date on which the employee was

transferred. In addition, for 30 months beginning on the date the employee is transferred, the employee shall be paid at a rate not less than the basic rate of pay (including geographic differential) that the employee received during the pay period immediately preceding the date on which the employee was transferred.

If the salary of the transferred employee exceeds the pay range of the position in which placed, the OCC and the FDIC will provide saved pay to ensure the employees' pay is not adversely affected. In accordance with Dodd-Frank, neither the OCC nor the FDIC will reduce a transferred employee's pay during the 30-month period except in the limited circumstances specifically permitted by Dodd-Frank.

#### **2.4. Protection and Continuation of Retirement Benefits**

The majority of OCC, FDIC, and OTS employees participate in one of two retirement systems administered by the Office of Personnel Management (OPM)—the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). A portion of OTS's current employees participate in a third retirement system, the Financial Institutions Retirement Fund (FIRF). FIRF is a defined benefit plan administered by Pentegra Retirement Services (Pentegra).

A defined benefit plan is a pension plan that provides a specific payment based on a formula that combines salary and years of service. Unlike CSRS and FERS, FIRF is a system where all costs are paid by the employer (in this case, OTS) into one general account. At retirement, employees may either receive a lump sum or opt for an annuity/lump sum split. The employee must elect to receive at least 25 percent of their distribution as an annuity in order to continue receiving an annuity benefit. Early and optional retirement ages under FIRF are different from those of CSRS and FERS. Approximately 375 current OTS employees participate in FIRF, and approximately 460 retirees receive a FIRF annuity.

Because the OTS serves as the benefit administrator for OTS retirees—much like the OPM serves as the CSRS and FERS benefit administrator for federal agencies—the OCC will assume that same benefit administrator role on the transfer date. The OCC has also agreed to provide retirement benefits administration for OTS/FIRF employees who transfer to the FDIC and the Bureau of Consumer Financial Protection. Agencies receiving transferred OTS employees will make payroll and financial systems adjustments similar to those of the OCC to accommodate FIRF entitlements of these transferred OTS employees and will coordinate with the OCC to ensure integrated benefits delivery to these employees. The OCC will maintain continuity by using transferred OTS staff members with the expertise to oversee FIRF and its contract with Pentegra to the greatest extent possible. The OCC will modify its financial systems to accommodate any additional transactions required to support FIRF entitlements. The OCC also will modify payroll systems to include an OTS/FIRF identifier to ensure that the OCC makes accurate contributions to the FIRF account. NFC is the current payroll provider for the OTS and is already familiar with the FIRF deduction process. Regular audits will ensure that transferred employees maintain their coverage in FIRF.

The OCC is committed to adhering to sound financial policies and management oversight of FIRF to ensure FIRF's sustainability for current and future retirees.

Transferred OTS employees covered by CSRS or FERS will remain in those retirement systems.

#### **2.5. Supplemental Retirement Benefits**

Both the OCC and the FDIC have additional retirement savings programs for their employees that will be available to transferred OTS employees. The following is a description of those programs and how transferred employees may participate and roll over OTS-unique retirement savings programs into these programs.

Both the OCC and the FDIC provide qualified retirement savings plans in the form of a 401(k) program to their employees. The plans offer an additional opportunity to save and invest for the future. Although employee contribution options are similar, employer matching and vesting policies differ. Both agencies contract out to separate private vendors to administer the program, with oversight provided by the agencies and an internal committee of employees and managers. Both have similar accounts for employees (e.g., regular 401(k), Roth, etc.). In accordance with section 322(i) of Dodd-Frank, the supplemental retirement benefits of OTS employees will continue as provided for by law.

#### **2.6. Protection and Continuation of Benefits Other than Retirement**

The OCC and the FDIC offer benefits programs similar to those of the OTS, but with some notable differences. Human resource specialists from the OCC, the FDIC, and the OTS have completed a side-by-side analysis comparing the benefits programs of the three agencies. The highlights follow:

- The OCC offers the following agency-paid programs not offered by the OTS: Dental Insurance, Vision Insurance, Tamiflu Protection, Physical Exam Program, and a health unit at Headquarters. The FDIC provides Dental and Vision Insurance at minimal cost to employees in addition to providing Tamiflu Protection and a health unit at Headquarters, like the OCC.
- The OCC offers the following employee-paid programs not offered by the OTS or the FDIC: 24-Hour Personal Accident Insurance, and Short Term Disability Insurance.
- Both the OCC and the OTS offer a Lifecycle Account Program, which the FDIC does not offer. The OTS offers a Lifecycle Account Program with a greater benefit than the OCC.
- Both the OCC and the FDIC offer a Parking Flexible Spending Account not offered by the OTS.
- Both the OCC and the FDIC offer agency-paid Business Travel Accident Insurance with higher coverage levels than the OTS.
- Both the FDIC and the OTS offer agency-paid Group Life Insurance with higher coverage levels than the OCC, especially for executives. The OTS and the FDIC offer the following programs with benefits greater than the OCC: Long Term Disability Insurance, Military Reservist Protections, and Wellness Screenings.
- Both the OCC and the FDIC offer Domestic Partner Benefits at greater levels than the OTS. Both the FDIC and the OCC offer domestic partners (same and opposite sex) dental, vision and dependent life insurance coverage, a health insurance premium subsidy, business travel accident insurance, and relocation benefits.
- The following programs are comparable at the three agencies: Federal Employees Health Benefits (FEHB), Federal Employees Group Life Insurance, and employee-paid programs—Long Term Care insurance and the Federal Employees Dental and Vision Insurance Program (federal dental and vision insurance).
- All three agencies provide a comparable FEHB premium subsidy.
- The FDIC offers a Flexible Spending Account with no government contribution. The OTS provides a \$1,000 contribution, which can be deposited in either a flexible spending

- account (pre-tax) or the Lifecycle Account (post-tax). OCC employees may choose to deposit their \$900 lifecycle benefit into their flexible spending account pre-tax.
- The OCC, the OTS, and the FDIC offer separate 401(k) plans. The FDIC plan has the highest agency contribution, allowing for a five percent employer match of contributions, whereas the OCC contributes three percent and the OTS four percent. In addition, under the FDIC and the OCC Savings Plans, contributions can be made pre-tax or after-tax (Roth).

Section 322(i) of Dodd-Frank provides that transferred OTS employees may retain their benefits for the one-year period following the transfer date. The OCC and the FDIC have carefully compared their respective benefits packages to those of the OTS and considered the possibility of offering OTS employees the choice of remaining in the OTS benefits program or moving into the benefits program of the agency to which they are transferred (the OCC or the FDIC). However, both agencies have decided to leave the transferred OTS employees in the OTS benefits programs as currently constituted for the first year after transfer. This decision not only complies with the requirements of the legislation but ensures that the agencies have sufficient time to work through related systems and contracting issues associated with integrating the two benefits programs.

#### **2.6.1. Continuation of Health, Dental, Vision, Long-Term Care Insurance**

Consistent with Dodd-Frank, transferred employees will remain in their federal programs and continue to receive the current OTS FEHB subsidy for the first year following the transfer. After one year, all employees will transition to OCC and FDIC benefit programs.

#### **2.6.2. Continuation of Life Insurance Benefits**

For employees transferring to the OCC and the FDIC, transferred employees will remain in the OTS benefits programs as currently constituted for the first year following the transfer. The FDIC and the OCC will jointly explore options for the most efficient administration of this separate OTS benefit program during this interim period. After such time, all employees will transition to OCC and FDIC benefit programs or other federal benefit programs offered to all federal employees.

### **2.7. Incorporation into Agency Pay Systems**

Section 322(h) of Dodd-Frank provides OTS employees pay protection during the 30-month period after each employee is transferred to the OCC or the FDIC. Transferred employees will be paid at a rate that is not less than the basic rate of pay, including any geographic differential that the transferred employees received during the pay period immediately preceding the date the employee is transferred.

#### **2.7.1. Incorporation into the OCC Pay System**

The pay structures of the OCC and the OTS differ significantly. The OCC has a nine-band pay system, with bands VIII and IX regarded as the executive level. Minimum and maximum salaries are set within each band, and salaries are adjusted based on merit. Band salaries are considered base pay. Annually, the OCC surveys the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) agencies to determine what adjustments it should make to ensure comparability with these agencies, as required by FIRREA. Additionally, the agency uses geographic pay differentials, considered separately from base pay, when the OCC finds



significant differences in living and/or labor costs for various metropolitan areas. Nevertheless, benefit computations include base pay plus any geographic differential.

The OTS has a 30-grade pay system, with grades 25-30 regarded as the executive level. Salary ranges include a minimum, midpoint, and maximum. The OTS also annually reviews and compares salaries against other FIRREA agencies. The OTS collects cost-of-living data for the locations in which employees are assigned to determine geographic pay differentials. Unlike the OCC, the OTS does not separate base pay into salary and geographic adjustment. Because salary structures are adjusted to reflect geographic differences in the cost of living, the OTS considers the employee's full salary as base pay for all compensation computations. Both organizations use the higher number for benefits computations.

Even with these noted differences, the OCC salary structure can accommodate the transfer of all employees from the OTS salary structure. Moving to one agency pay system as soon as feasible after the transfer date will support early and successful integration. Section 322(j) of Dodd-Frank requires the agencies to complete this transition within 30 months of the transfer date. The OCC will assign OTS employees to OCC positions in accordance with section 322(e) of Dodd-Frank. When a transferred employee's salary fits within the assigned OCC pay band range for the assigned position, the OCC will set the salary within that OCC pay band and at the same level the transferred employee received during the pay period immediately prior to the effective date of the transfer. Where a transferred employee's salary exceeds the OCC pay band range for the position assignment, the OCC will assure that the pay protection required by Dodd-Frank is invoked and applied accordingly.

The OCC and the OTS compensation policies and mechanisms for permanent adjustments to base pay and other types of pay increases also differ. The OCC will maintain its human resources policies, including compensation, merit increases, and merit bonuses to recognize and incentivize performance. At the same time, the OCC continues to work closely with OTS human resources professionals to identify and resolve differences in these policies with an eye toward considering future changes that will benefit the combined organization and its employees.

#### **2.7.2. Incorporation into the FDIC Pay System**

The pay-for-performance systems of the FDIC and the OTS also differ significantly. The FDIC has a 15-grade Corporate Grade (CG) structure (similar to the General Schedule) for non-supervisory employees; two Corporate Manager (CM) pay bands for supervisory and managerial employees; a Corporate Expert (CX) pay band for senior, non-supervisory technical experts; and an Executive Management (EM) pay band for executive level employees. The EM and CX bands include positions equivalent to the SES. Minimum and maximum salaries are set for each grade/pay band. Like the OCC, FDIC salaries include two components, base salary and a locality pay adjustment. The latter is determined separately from base pay to compensate for significant differences in labor and/or living costs for various metropolitan areas. Benefits computations are based on base pay plus locality pay.

Like the OCC and the OTS, the FDIC participates annually in a joint survey of the FIRREA agencies to determine what adjustments it should make to ensure comparability with these agencies. However, the FDIC negotiates pay and benefits with its employee union, and pay and benefits for its bargaining unit employees are typically covered by multi-year negotiated compensation agreements.

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Despite the differences between the FDIC and the OTS classification and pay systems, the FDIC is confident that its salary structures can, with limited adjustments, accommodate the OTS salary structures. As with the OCC, the FDIC plans to convert transferred OTS employees to its pay system as soon as feasible after the transfer date and well before the 30-month deadline established by Dodd-Frank. The FDIC will map existing OTS positions to the FDIC classification and pay system as quickly as possible. Where a transferred employee's salary fits within the assigned FDIC pay range, the FDIC will set the salary at the same level within that FDIC pay grade; where a transferred employee's salary exceeds the maximum salary for the assigned FDIC pay range, the FDIC will maintain the employee's higher salary in accordance with the requirements of Dodd-Frank.

Mechanisms for permanent adjustments to base pay and other types of pay increases at the FDIC and the OTS also differ. The FDIC will maintain its established policies regarding performance-based base pay increases and bonuses/lump sum payments to recognize and incentivize performance. At the same time, the FDIC will work with OTS human resources professionals as needed to identify and resolve differences in these policies with an eye toward considering future changes that will benefit the combined organization and its employees. Such changes may also require negotiations with the FDIC's employee union.

### **3. Transfer of Authority and Responsibilities**

Section 3 of this plan describes the orderly transfer of authority and responsibilities to provide effective and efficient supervision of the thrift industry. It describes the steps the agencies are taking to transfer the responsibilities of supervising federal savings associations to the OCC, state savings associations to the FDIC, and savings and loan holding companies to the FRB. This section outlines steps taken to ensure personnel are adequately trained and equipped to perform these responsibilities.

#### **3.1. Transfer of Authority and Responsibilities Regarding Oversight of Federal Savings Associations**

Pursuant to section 312(b)(2)(B) all of the OTS's functions relating to federal savings associations, of which there will be approximately 670 on the transfer date, and all of the OTS's rulemaking authority for federal and state savings associations will be transferred to the OCC on the transfer date. Because these functions make up the bulk of the OTS's operations, most OTS personnel and assets will transfer to the OCC. Although the legislation preserves the federal thrift charter and the Home Owners' Loan Act (HOLA), it abolishes the OTS 90 days after the transfer date.

The OCC is working with the OTS to execute an orderly transfer of authority and responsibilities that will ensure the effective supervision of both national banks and federal savings associations. The OCC developed the following set of principles to guide the supervision integration strategy:

1. Build a sustainable staffing structure that provides flexibility through the transition.
2. Uphold the protections afforded by the legislation and maximize opportunities for staff.
3. Fully and quickly integrate thrifts and OTS staff into the OCC supervision model, including problem bank supervision.
4. Preserve the single Deputy Comptroller model in each OCC district and department to ensure clear leadership.
5. Preserve the benefits of a flat organizational structure, including bank supervision decision-making authority.
6. Ensure a reasonable span of control for managers with the additional thrift supervision workload.
7. Minimize disruption to staff, processes, and industry.
8. Minimize the number of new office locations.
9. Over time, have employees live where the work is located.
10. Over time, ensure each commissioned examiner has the skill set and credentials to supervise both thrifts and banks.
11. Deploy staff consistent with the OCC's integrated staffing strategy. The OCC will assign the majority of staff to the districts and the OCC's Community Bank Supervision program, but will deploy examiner resources across business lines to also fulfill priorities in the OCC's Midsize and Large Bank Supervision programs.

12. Assign larger federal saving associations to the OCC's Midsize and Large Bank Supervision portfolios based on business model and geographic footprint.

Using these principles, OCC management developed a range of options for restructuring and discussed these options with the National Treasury Employees Union (NTEU) representatives and OTS senior management. Feedback from the NTEU and the OTS helped shape the final recommendation approved by the OCC Executive Committee. The OCC believes that the following decisions are fully consistent with the 12 guiding principles above and will ensure high quality, effective supervision for national banks and federal savings associations. The details of these decisions were discussed with staff at the OTS and the OCC on December 7, 2010.

Throughout the transition, the agencies will take care to minimize disruption to the industry while implementing best practices in bank supervision. The more than 1,300 nationally chartered community banks that the OCC currently supervises use a variety of business models, including a significant number of institutions that look very similar to thrifts with a preponderance of long-term assets. The OCC also supervises other types of specialized institutions, including credit card banks and trust banks. Because of this diversity of experience, OCC examiners understand the importance of evaluating the condition and future prospects of each institution based on its unique characteristics and performance, as well as its local market conditions.

The OCC's objective is to complete an orderly transfer of OTS authority and responsibilities by fully and quickly integrating OTS staff and functions into the current OCC organizational structure and supervisory model. The functions relating to supervision of federal savings associations and the staff from the OTS who supervise these institutions will not constitute a separate reporting line of business in the organization.

The OCC and OTS staff currently participate in some of the other agency's supervisory reviews of problem banks. Starting in early 2011, the OCC and OTS will jointly develop fiscal year 2012 examination plans and supervisory strategies for federal savings associations and will conduct a small number of pilot examinations on a joint basis.

OCC's Community Bank Supervision will supervise the vast majority of federal savings associations. The Special Supervision portfolio will expand to include certain troubled federal savings associations. Midsize and Large Bank Supervision programs will supervise federal savings associations with profiles that align with those units.

The OCC's Community Bank Supervision function will continue with four districts and will be led by the existing Deputy Comptrollers. Each District Deputy Comptroller's span of control will increase by more than 50 percent on average with the addition of a significant number of federal savings associations and OTS examiners. To compensate for that realignment, the OCC is creating a new management position titled "Associate Deputy Comptroller" (AsDC). AsDCs will be located in each district office (two each in Northeast, Central, and Western; and three in the Southern District) and will report to the Deputy Comptroller for those districts. The AsDCs will supervise the Assistant Deputy Comptrollers (ADCs) and will be supported by analysts. This structure will allow the Deputy Comptrollers to focus on leadership, strategy, development of staff, and rapid integration of federal savings associations and OTS staff. The addition of the AsDCs will result in a more manageable portfolio distribution, enhance the management succession pool, and facilitate prompt consultation on supervision and personnel issues.

## Appendix 4 Joint Implementation Plan

### Joint Implementation Plan

For Midsize Bank Supervision, the OCC will add two AsDC positions (one in Chicago and one in Washington, D.C.).

The OCC also will add a Senior Advisor for Thrift Supervision (Senior Thrift Advisor) in each district office reporting directly to the Deputy Comptroller. The Senior Thrift Advisor will be an expert resource on thrift supervision, serving as a key member of the District Deputy Comptroller's senior management team that provides advice, support, and leadership in all aspects of district operations. In addition, the OCC will establish a Senior Thrift Advisor position in Special Supervision reporting to the Deputy Comptroller. In addition to the duties described in section 3.1.1, the recently named Deputy Comptroller for Thrift Supervision will serve as an advisor for the Midsize and Large Bank Supervision portfolios.

Under the new structure, ADCs will maintain their existing authorities and responsibilities. To address the increase in institutions and staff, the OCC will add ADC and Team Leader positions, as needed. In some locations, the OCC will have substantial increases in staff but not institutions. In those cases, the agency plans to use an ADC for Resource Management. The ADC for Resource Management may have some bank portfolio responsibilities but will focus primarily on the effective deployment of examiners to facilitate implementation of the district business plans, including support of Midsize and Large Bank Supervision resource needs. The tentative list of new ADC positions includes:

- Northeast: Boston, Charlotte, New York Metro (2), Philadelphia, Pittsburgh, and Wilkes Barre/Washington, D.C.
- Southern: Atlanta (Resource), Dallas (Resource), Jacksonville, and New Orleans
- Central: Chicago North, Cincinnati, Cleveland, Indianapolis, Minneapolis, and St Louis
- Western: California (Resource), Des Moines, Kansas City, and Seattle
- Midsize: Chicago and Washington, D.C.

Des Moines and Seattle represent new field office locations for the OCC. To accommodate the increase in staff and the new ADC positions, the OCC is working to determine space requirements. The OCC plans to minimize disruption to employees and the work they perform, and optimize existing OCC and OTS office space as available. Consequently, the OCC will carefully manage the staffing of various offices, taking into consideration the necessary work, expiration of office leases, the capacity of existing offices to absorb additional staff, the impact of office locations and assignments on travel requirements and work-life balance for employees, and other relevant factors.

The remaining positions created by the OCC's structural changes will be posted for internal competition and qualified OTS and OCC staff will be encouraged to apply. The OCC will post the new management positions in sequence (AsDC and Senior Thrift Advisor first, followed by the ADC and Team Leader positions) beginning in the first quarter of calendar year 2011. The related analyst positions will be posted following the management selections.

Similar to the supervision functions, other OCC organizations are working to integrate transferring OTS employees into those functional organizations.

**3.1.1. Designation of a Deputy Comptroller for Thrift Supervision (OCC)**

Pursuant to section 314(b) of Dodd-Frank, on November 3, 2010, the OCC designated a Deputy Comptroller for Thrift Supervision. He will lead the planning process for integration of the OTS's examination and supervision functions and staff, serve as a key senior management group member, coordinate the nationwide network of Senior Thrift Advisors, function as the key advisor to other Deputy Comptrollers on large and problem thrifts, and will report to the Senior Deputy Comptroller for Midsize/Community Bank Supervision.

**3.1.2. Training and Certification of Employees (OCC)**

Training will be critical to the combined success of the OCC and the OTS. The agencies are reviewing each of their training and certification programs to ensure that existing and transferred employees have the training and skills necessary to supervise both national banks and federal savings associations. This review will identify where OCC and OTS training programs overlap and where gaps need to be addressed. While the legislation does not require additional certification for transferred OTS employees to continue supervising the types of institutions that they supervised prior to the transfer, additional training may be required before transferred employees may supervise other types of institutions. The expectation is that on and after the transition date, all examiners who serve as Examiner in Charge (EIC) of thrifts or banks will continue to perform these functions.

Following the transfer date, the OCC will ensure that bank and thrift examiners conducting bank and thrift supervision have the necessary expertise to meet the challenge of supervising new types of institutions. The OCC has engaged a consultant to identify any differences between the OTS examiner accreditation process and the OCC's Uniform Commission Examination process. The study is underway and the consultant will provide recommendations for coordinating the two processes. New examiners hired by the OTS in 2010 have accepted positions with the OCC beginning in January 2011, and the agencies plan to enroll additional OTS employees in OCC national bank examiner training courses prior to the transfer date. Ultimately, the OCC's National Bank Examiner commission will expand to ensure that each commissioned examiner has the skill set and credentials to lead examinations of both national banks and federal savings associations.

**3.1.3. Review of OTS Regulations (OCC)**

The OCC has begun a comprehensive review of all of the OTS's regulations regarding savings associations. Working together with OTS staff, the OCC is in the process of considering how to integrate the OTS's regulations with the OCC's regulations. This process is expected to include certain changes that would be effective as of the July 21, 2011, transfer date and to continue in phases after the transfer date. Any substantive changes proposed to be made to either the OCC's or the OTS's regulations affecting savings associations will be published in the Federal Register.

**3.2. Transfer of Authority and Responsibilities Regarding Oversight of State Savings Associations (FDIC)**

Section 312(b)(2)(C) of Dodd-Frank transfers the supervisory responsibility for state-chartered savings associations to the FDIC. As of the date of enactment, there were 61 state-chartered savings associations. The FDIC is working closely with the OTS to execute an orderly transfer of authority and responsibility to ensure that effective supervision continues for these institutions both during and after the transition period. FDIC and OTS supervisory personnel have reviewed

2011 examination schedules and have agreed on an appropriate division of responsibility for the timely and effective completion of all scheduled examinations.

The OTS will have responsibility, along with the appropriate state, for scheduled 2011 examinations of state-chartered savings associations that can be completed prior to the transfer date. For the remaining examinations, the OTS and the FDIC will develop plans for a coordinated transfer of responsibility to the FDIC. Officials of both agencies are confident that there will be no gaps in the supervision of these institutions and that the supervisory approach for these institutions will continue to be rigorous, consistent, and balanced both during and after the transition.

After the transfer date, the FDIC will fully incorporate supervision of state-chartered savings associations into its supervisory program. Given their current size and condition, the FDIC expects to absorb all state-chartered savings associations into the appropriate FDIC Regional Office supervisory program. The following procedures will ensure an orderly transition of supervisory responsibilities from the OTS to the FDIC:

- At least monthly prior to the transfer date, the FDIC Regional Offices will coordinate with their OTS Regional Office counterparts regarding examination plans and scheduling for state-chartered savings associations.
- To the extent that state-chartered savings associations are currently under formal or informal enforcement action, or are expected to be placed under such action, the OTS will coordinate with the appropriate FDIC Regional Office to facilitate the effective transfer of oversight and monitoring of enforcement programs. Beginning in January 2011, the OTS will advise the FDIC of the development of any new formal or informal enforcement actions for state-chartered savings associations.
- Prior to the transfer date, the FDIC will participate in the examination of all state-chartered savings associations with total assets over \$1 billion or with a composite CAMELS rating of “3” or lower. If an institution is expected to be downgraded to “3” or lower, the OTS will inform the appropriate FDIC office of the examination plan, the assignment of ratings, and any follow-up supervisory program.

The FDIC and the OTS are both committed to the orderly transfer of caseload knowledge and responsibility. The FDIC will have new portfolio assignments in place on the transfer date. To that end, both agencies will ensure that the transfer of institutional knowledge and supervisory strategies for each transferred institution occurs within the six-month period prior to the transfer date. The FDIC will be responsible for maintaining OTS historical records for these institutions and, where necessary, will implement strategies to add required information on state-chartered thrifts into FDIC supervisory systems as quickly as possible. The FDIC does not anticipate transferring any of OTS’s supervisory systems, although it may rely upon the OCC to maintain such systems and make the data on state-chartered thrifts available to the FDIC for a short period of time after the transfer date.

### **3.2.1. Transfer of OTS Examination Staff (FDIC)**

The FDIC is working closely with the OTS and the OCC to identify the number of new examiner positions that will be required to perform the supervisory functions being transferred from the OTS to the FDIC as well as other FDIC examiner vacancies in locations where OTS examination staff are currently assigned. OTS employees will be given the opportunity to express interest in these positions, and if selected, will transfer to the FDIC not later than 90 days after July 21, 2011, as part of the transfer of function. The FDIC will fully integrate these employees into the

FDIC's existing organizational structure, and will assign responsibility for examinations and other supervisory activities for each state-chartered savings association to the appropriate FDIC field office on the transfer date.

**3.2.2. Training and Certification of Employees (FDIC)**

The FDIC has historically recognized and accepted professional examination credentials from other federal banking agencies, including the OTS. Accordingly, the FDIC will treat as commissioned FDIC examiners all OTS examiners who transfer to the FDIC with OTS accreditation. The FDIC will address any individual training gaps that emerge after the transfer date through individual training and development plans.

**3.3. Transfer of Authority and Responsibilities Regarding Oversight of Savings and Loan Holding Companies (FRB)**

Dodd-Frank transfers authority for consolidated supervision of Savings and Loan Holding Companies (SLHCs) and their non-depository subsidiaries from the OTS to the FRB effective July 21, 2011.

The FRB is engaged in a range of activities to implement this transfer. The FRB staff is working closely with the OTS, whose staff is providing valuable information, expertise, and consultation during this transition period. Additionally, the FRB is working with staff at the OCC and FDIC in light of the critical role that the primary federal regulator plays in contributing to the agency's knowledge of consolidated holding companies. The overriding principles guiding this work include securing an orderly transfer of information and knowledge, ensuring that there are no gaps in holding company supervision, and providing the thrift industry with information on a flow basis so as to increase certainty and minimize unnecessary disruption during the transition period. The FRB has a well developed supervisory program for the comprehensive consolidated supervision of U.S. bank holding companies (BHCs). The FRB's supervisory authorities in this regard are based in the Bank Holding Company Act (BHC Act) as enhanced by Dodd-Frank. The FRB has adopted supervisory guidance entitled, "Consolidated Supervision of Bank Holding Companies and the Combined U.S. Operations of Foreign Banking Organizations" (per SR letter 09-9/CA 08-12, [www.federalreserve.gov/boarddocs/srletters/2008/SR0809.htm](http://www.federalreserve.gov/boarddocs/srletters/2008/SR0809.htm)) that sets forth the supervisory approach and the corresponding program for holding company supervision.

The FRB believes that it is important that any company that controls a depository institution be held to appropriate standards of capitalization, liquidity, and risk management. Consequently, the FRB intends to the greatest extent possible, taking into account any unique characteristics of SLHCs and the requirements of HOLA, to carry out supervisory oversight of SLHCs on a comprehensive consolidated basis, consistent with the FRB's established approach regarding BHC supervision. To this end, FRB staff is reviewing all elements of its BHC supervision program to determine whether and how to incorporate SLHCs into the program, consistent with HOLA. The program includes understanding the structure of holding companies and activities of material parts of these companies; evaluating risks posed by non-banking activities in a holding company structure; imposing prudential standards on a consolidated basis; and assessing the consumer compliance risk profile for holding companies. As the FRB develops plans for other aspects of Dodd-Frank, it will extend these existing approaches to the supervisory programs for SLHCs as appropriate.



Dodd-Frank gives the FRB the authority to require grandfathered unitary SLHCs conducting activities other than financial activities to establish an intermediate holding company over all or a portion of the financial activities. The FRB has established a working group to consider the issues associated with this authority and its potential advantages to effective supervision of such grandfathered companies. The FRB will carry out any implementation of this authority only after a proposed rule has been published for notice and public comment.

The FRB anticipates that all regulations as appropriate, relating to supervision of SLHCs and non-depository institution subsidiaries of SLHCs and to transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders; and tying arrangements will continue and will be enforceable by the appropriate agency. A working group is conducting an analysis of OTS and FRB regulations and guidance documents to determine policy or technical differences, and to assess whether there are any gaps. The FRB will make the decision about which OTS regulations should be amended after the transfer date in conjunction with a broad assessment of the holding company standards to be applied to SLHCs and other policy considerations. The FRB will make changes to any transferred OTS regulations after public notice and opportunity for comment when necessary and appropriate.

The FRB and the OTS are engaged in detailed discussions on the range of operational issues that they need to address during the transition period. The OTS staff has provided information on its holding company program, and on current supervisory issues, in addition to detailed briefings on legal and regulatory issues. The agencies signed a memorandum of understanding (MOU) to facilitate the sharing of confidential supervisory information during the transition so that FRB staff can become familiar with the condition of each SLHC coming under its jurisdiction and to identify resource requirements needed on the transfer date. The FRB will integrate SLHCs into its existing programs that align institutions with institutional portfolios based on their size and complexity. For instance, smaller, noncomplex SLHCs will be supervised in the Community Banking Organization portfolio while larger, more complex SLHCs will be supervised in the Regional or Large Banking Organization portfolios. The FRB has assigned each SLHC to a responsible Reserve Bank (per SR letter 05-27 / CA letter 05-11, "Responsible Reserve Bank and Inter-District Coordination"). To facilitate the transition process, and pursuant to the MOU, examiners from the FRB are joining certain OTS examinations prior to the transfer date to gather information and learn about the OTS supervisory process. Discussions are well underway about the orderly transition of the caseload from the OTS to the Reserve Banks.

#### **3.4. Continuation of Thrift Industry Reporting Requirements**

The agencies have reviewed whether savings associations should continue filing the Thrift Financial Report (TFR) and have determined, subject to public notice and comment and OMB approval, that it would be best to phase out the separate collection of TFR data and to merge that data collection process into the Call Report process used by other FDIC-insured depository institutions beginning with the March 2012 reporting period. The OTS, the OCC, the FRB, and the FDIC, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have worked together closely and plan to publish a joint notice in the Federal Register in the near future, with a request for comments regarding burden estimates and how best to accomplish this change. Non-OTS regulated financial institutions (including all national banks) currently submit the Call Report using the FFIEC's Central Data Repository (CDR), which is published using the CDR's Public Data Distribution Web site.

## Appendix 4 Joint Implementation Plan

### Joint Implementation Plan

The agencies have further agreed that the FDIC will assume responsibility for TFR reporting on an interim basis beginning with the second quarter 2011 TFR. To ensure a smooth transition, OTS personnel who are assigned to the TFR reporting and data analysis functions will begin working with the FDIC during the second quarter 2011 TFR data collection process as soon as the first quarter 2011 TFR reporting process has been completed. These staff will transfer to the FDIC no later than 90 days after the transfer date to support the transition of thrifts to the Call Report and the ongoing reporting process for these institutions. In addition, OTS personnel who are assigned to the FDIC will continue to process all of the existing SLHC reports that are currently required to be filed by the OTS through December 31, 2011.

To ensure that the FDIC has adequate staff to analyze conditions in the banking industry after the thrifts begin to report data through the Call Report process, a portion of the OTS staff in Washington, D.C., who currently use the TFR data to analyze conditions in the economy and the thrift industry will transfer to the FDIC no later than 90 days after the transfer date to perform similar functions for the FDIC. The OTS personnel who currently operate and maintain the systems that support the TFR process will transfer to the OCC on the transfer date, but will be responsible for temporarily maintaining the infrastructure to support ongoing data collection activities for the TFR. If there is a transition of thrift reporting to the Call Report process in 2012, this infrastructure will no longer be used to collect TFR data.

In conjunction with the transition of the TFR to the Call Report process, the agencies have also agreed that it would be best to phase out production of the separate Uniform Thrift Performance Report (UTPR). Once thrifts transition to submitting Call Report data, a Uniform Bank Performance Report (UBPR) will automatically be produced for them.

The OTS and the FDIC have also agreed that it would be best to cease OTS collection of the Branch Office Survey (BOS) after 2010. Beginning with the 2011 data collection, thrifts would submit branch office data using the FDIC's Summary of Deposits (SOD) system. The agencies will need to do minimal work on the SOD system to ensure that it can collect the data beginning in July 2011. The OTS and the FDIC plan to publish a notice in the Federal Register in the near future, with a request for comments on how best to accomplish this change.

The agencies recognize that TFR, UTPR, and BOS historical data needs to be maintained for an indeterminate period to ensure continued accessibility for the public and the agencies. To the extent that this information is stored in existing OTS systems, the OCC will have this responsibility after the transfer date.

Finally, the FRB evaluated the continued use of the consolidated thrift holding company information in the TFR, the continued use of other regulatory reports in the current SLHC reporting scheme, and whether SLHCs should submit more comprehensive consolidated reports as well as a comprehensive parent company only report in a manner consistent with those reports submitted by BHCs. The FRB is in the process of issuing a separate notice of its intentions to phase out the current SLHC reporting scheme and to require SLHCs to adopt reporting standards and processes required of all FRB-regulated BHCs. According to plans, the current SLHC reporting scheme would continue in place through 2011, and the new reporting requirements would take effect beginning with the March 2012 reporting period. The FRB plans to publish a notice in the Federal Register with request for comment regarding burden estimates later this year. In addition, the FRB worked closely with the other banking agencies as they deliberated on the appropriate reporting requirements of the subsidiary savings associations with the intention of providing as much consistency in reporting as appropriate between the reporting of the

subsidiary savings associations and the SLHCs. The FRB is also evaluating the need for organizational structure data of SLHCs and the collection of this information into the FRB's structure database.

### **3.5. Continuation of Suits**

All actions or proceedings commenced by or against the OTS or the Director of the OTS prior to the transfer date are continued by Dodd-Frank. The OCC, the FDIC, and the FRB will be substituted as parties for such actions, consistent with the transfer of functions, on or after the transfer date.

The agencies will review and inventory all litigation files of the OTS and determine which agency under Dodd-Frank has the supervisory jurisdiction over a specific case based on the regulatory plaintiff or defendant named in the action or would have responsibility for the subject matter of the suit if it were brought after the effective transfer date. Staff from each agency will inventory existing suits and create a master list of cases that includes reference to the receiving supervisory agency. The OTS will furnish the case file and associated documents to the receiving agency on or before the transfer date. Cases with co-parties that may involve dual regulatory oversight under Dodd-Frank shall be assigned to the appropriate supervisory agencies. "Suits" include administrative or court actions such as civil money penalties against companies, associations, or individuals; supervisory agreements; orders enforcing safety and soundness standards; prompt corrective action directives; cease and desist orders; temporary cease and desist orders; removal and prohibition orders; injunctive actions; temporary suspensions; as well as cases against the OTS involving all pending court reviews of agency action, including challenges to rules or orders, and Freedom of Information Act actions.

The OCC or the FDIC will handle employment actions that involve OTS employees who are transferred to the OCC or the FDIC, respectively. The OCC will handle employment actions that involve former OTS employees who have not transferred to the OCC or the FDIC.

### **3.6. Continuation of Existing Orders, Resolutions, Determinations, Agreements, Regulations, etc.**

All orders, resolutions, determinations, agreements, regulations, interpretive rules, other interpretations, guidelines, procedures, and other advisory materials that have been issued by the OTS, or a court of competent jurisdiction, in the performance of functions transferred by Dodd-Frank that are in effect on the day before the transfer date will continue to remain in effect according to their terms. These materials will be enforceable by or against the OCC, the FDIC, and the FRB, as appropriate, consistent with the transfer of functions until modified, terminated, set aside, or superseded by an appropriate agency, court of competent jurisdiction, or operation of law.

#### **3.6.1. Identification of Regulations Continued**

Dodd-Frank requires the OCC, the FDIC, and the FRB to identify those continued OTS regulations that each agency will enforce. The OCC and the FDIC must consult with each other in identifying these regulations, and the OCC, the FRB, and the FDIC must publish a list of these identified regulations in the Federal Register not later than the transfer date. The agencies have begun the task of identifying these OTS regulations and will publish the lists required by the legislation on or before the transfer date.

**3.6.2. Status of Regulations Proposed or Not Yet Effective**

Any regulation proposed by the OTS in performing functions transferred by Dodd-Frank that has not been published as a final regulation before the transfer date will be considered to be a proposed regulation of the OCC or the FRB, as appropriate, according to the terms of the proposed regulation. Any interim or final regulation that the OTS published prior to the transfer date in performing functions transferred by Dodd-Frank but which has not become effective before the transfer date will become effective as a regulation of the OCC or the FRB, as appropriate, according to the terms of such regulation, unless modified, terminated or set aside, or superseded by the OCC or the FRB, as appropriate, or by a court of competent jurisdiction or operation of law.

#### **4. Transfer of Funds**

Section 4 of this plan describes the effective transfer of funds from the OTS to the OCC. The FDIC and the FRB have determined that no funds will be transferred from the OTS to their respective agencies.

##### **4.1. Transfer of Funds**

The OCC, the FDIC, the FRB, and the OTS have established a workgroup to address the transfer of funds that, on the day before the transfer date, the Director of the OTS determines are not necessary to dispose of the OTS's affairs, under section 325 of Dodd-Frank, and are available to the OTS to pay its expenses relating to the agency's functions that are transferred under section 312(b). Some of the more significant concerns that the workgroup will address include the appropriate distribution of the OTS investment portfolio holdings, its reserves, and any real property (see separate discussion in Section 5.1). The workgroup will also establish a framework for the distribution of OTS funds.

The OCC will incorporate the OTS account balances transferred to the OCC into the OCC's trial balance operating accounts on the transfer date. The OTS agency location code and associated fund symbols will remain open at the Department of the Treasury (Treasury) pending clearance of all outstanding transactions. When all known outstanding transactions have cleared through Treasury, the OCC will initiate procedures to close the OTS Treasury accounts.

##### **4.2. Funding: Establishing an Assessment Process**

###### **4.2.1. OCC**

The OCC and the OTS receive their primary source of funding through fees, also known as assessments, received from the institutions under their supervision. Both agencies collect these assessments twice a year to fund their operations. The assessment each financial institution pays generally relates to the total dollar amount of assets under supervision and reflects the cost to supervise the industry as a whole, as opposed to the cost of supervising any one particular bank or thrift.

Since the assessment process is the primary means of funding for the OCC and the OTS, the OCC and the OTS established a joint Bank Assessment Workgroup (BAW) on July 26, 2010. The membership of the workgroup includes experienced economics, legal, and financial management staff. The members meet at least monthly and have developed a project plan to guide the work of the BAW and to develop recommendations for the Comptroller of the Currency's consideration. The OCC will continue to monitor the OCC's short- and long-term funding needs and make decisions concerning assessments as required. Currently, the financial condition of the OCC is not expected to significantly change as a result of integrating the resources needed to perform OTS functions.

###### **4.2.2. FDIC**

Consistent with its current practice for the state non-member insured depository institutions for which it is the primary federal supervisor, the FDIC does not intend to charge assessments for its supervision of state-chartered savings associations.

**4.2.3. FRB**

Section 318(c) of Dodd-Frank directs the FRB to collect a total amount of assessments, fees, or other charges from (1) all BHCs with total consolidated assets of \$50 billion or more, (2) all SLHCs with total consolidated assets of \$50 billion or more, and (3) all nonbank financial companies supervised by the FRB under section 113 of Dodd-Frank that is equal to the total expenses the FRB estimates are necessary or appropriate to carry out the supervisory and regulatory responsibilities of the FRB with respect to such companies.

The FRB is directed to offset only a portion of its total supervision and regulation costs—that is, only the portion attributed to those institutions that meet the criteria described above. This portion of the FRB’s total supervision and regulation costs will be offset through assessment fees charged to these institutions. With respect to SLHCs, only those with assets equal to or above \$50 billion will be subject to assessment. Those SLHCs with assets less than \$50 billion will not be subject to a supervision assessment of the holding company.

To implement this section of Dodd-Frank, the FRB will (1) identify and quantify the total respective costs necessary or appropriate to carry out the supervisory or regulatory responsibilities with respect to these companies (2) formulate a framework to apportion these costs to these companies through periodic assessment fees, and (3) implement a process to collect the assessments. A team comprised of staff from the FRB’s divisions of Banking Supervision and Regulation, Management, Legal, and Reserve Bank Operations Efforts are responsible for implementing these supervision assessment fees.

Initial efforts to identify the applicable supervision and regulation costs associated with these companies are underway. The FRB is considering a variety of approaches to differentiate these costs from total supervision. The FRB plans to provide notice for establishing the framework for the assessments before the collection of assessments in 2012.

## **5. Transfer of Property**

Section 5 of this plan describes the process for transferring all owned and leased real property, personal property and all associated furniture, fixtures, equipment, reports of examination, work papers, files, papers, and any other information and materials from the OTS to the OCC, the FDIC, and the FRB pursuant to Section 323 of Dodd-Frank. The OTS is committed to making a thorough, complete, and transparent inventory and disposition of all OTS property to the appropriate receiving agencies.

The agencies will complete property transfer no later than 90 days after the transfer date.

### **5.1. Transfer of the OTS Building and Real Property**

Section 323(b)(1) of Dodd-Frank provides that all real property, including the OTS headquarters building and associated real estate, will transfer to the OCC or the FDIC in a manner consistent with the transfer of OTS employees. The agencies have jointly determined that ownership of all buildings and real property will transfer to the OCC. The FDIC will house transferring OTS employees in current FDIC facilities. The OCC's legal staff are working to determine appropriate transfers of title and transfers of leases to the OCC effective July 21, 2011.

### **5.2. Transfer of Information Technology Assets, Systems, and Infrastructure**

Dodd-Frank provides that OTS Information Technology (IT) assets, systems, and infrastructure will be transferred to the OCC, the FDIC, or the FRB consistent with Section 323.

The OCC, FDIC, and OTS Chief Information Officers are working closely together to develop a plan to integrate the agencies' assets and systems. The combined business needs drive the plan to meet short-term transition objectives and long-term integration goals. The agencies will follow applicable policies and procedures to ensure that all assets are transferred in a structured and secure manner to support transferred functions and personnel.

#### **5.2.1. OCC**

The OCC and the OTS have developed an analysis framework and completed a comprehensive inventory of IT assets and systems by business function. Using this framework as a guide, OCC staff is analyzing both agencies' systems, from the business and technical perspective, to recommend the best course of action for each system with the goals of integrating and aligning business and reducing duplication as much and as quickly as possible. To minimize the potential impact on personnel and regulated entities, the OCC anticipates that some information systems may need to run in parallel for an initial period to ensure continuity and availability.

The plan will also ensure that core OCC administrative systems and IT infrastructure services, such as time and attendance and e-mail, are available to all incoming OTS staff by the transfer date. For other OTS administrative systems and infrastructure services being retired, the end of the fiscal year or beyond may be a more appropriate timeframe for transition. The OCC will allot sufficient time for training OTS and OCC employees on any new systems as necessary.

#### **5.2.2. FDIC**

FDIC and OTS staff will work together to determine how best to integrate supervisory and administrative information from OTS systems into existing FDIC automated information systems, with a goal of accomplishing this transition as quickly as possible. The staff will also

develop guidelines for the retention and archiving of relevant OTS data to ensure that it continues to be available, as needed, in the future.

The FDIC does not anticipate transferring from the OTS any IT systems, equipment, or other infrastructure. To ensure compatibility, the FDIC will issue standard FDIC IT equipment and software to all OTS employees transferring to the FDIC.

### **5.2.3. FRB**

The FRB is working with the OTS on direct access to its systems and official records (including supervisory ratings, enforcement actions, other assessments, examination reports and related work papers, application filings, and all other communications with SLHCs), to the extent consistent with the Dodd-Frank, other applicable law, and other legal constraints. The FRB also has access to comprehensive OTS databases containing structure and financial data. The FRB is also working with the FDIC and the OCC to ensure comprehensive bilateral information sharing and coordination for thrift subsidiaries comparable to that in place for BHC bank subsidiaries.

Staff from the OTS and the FRB also are working toward automated information transfers of the key SLHC and subsidiary structure data to the FRB. In addition, the interagency team will handle the supervisory information requirements in a similar manner, preparing for automated transfers of OTS key supervisory information to the FRB to be incorporated in FRB automated systems. The banking agencies are working through the FFIEC Task Force for Information Sharing and its workgroups.

### **5.2.4. TFR Reporting Systems**

The OCC, the OTS, and the FDIC are working together to determine disposition of the system supporting the TFR process, consistent with the joint proposal to phase out separate collection of the TFR in 2012 (see section 3.4).

### **5.3. Transfer of Records**

By the transfer date, the OTS will update and verify inventories and locations of paper and electronic records for both current, active records as well as archived records. Consistent with Section 323 of Dodd-Frank, OTS records and information regarding OTS functions and activities will be transferred to the OCC, the FDIC, and the FRB.

The OTS, OCC, and FDIC records management staffs have established a joint team that is working to identify the types of records and the related comprehensive records schedules for both agencies, and to identify and catalogue the number and physical location of all records. The team is working directly with the National Archives and Records Administration (NARA) to determine how best to establish a new, joint comprehensive records schedule for the OCC and its expanded responsibilities. Team members are jointly preparing a plan for physically transferring OTS records, as appropriate, to OCC, FDIC, and FRB recordkeeping facilities, NARA facilities, and the Federal Records Centers.

Similarly, the FRB has established a team, which includes staff from across the Federal Reserve System, to coordinate the transfer of records with the OTS. The effort includes identifying records that the FRB will need to perform or support the supervisory authority being transferred to the FRB. The FRB is coordinating closely with the OTS to complete the transfer of records. The implementation plan for the official transfer will have a dependency based on the volume, format, and physical location of OTS records identified for the transfer. The FRB has notified



Reserve Bank Districts that the official transfer of records is being coordinated nationally by FRB staff.

#### **5.4. Transferring Contracts**

The OTS has recently updated and verified inventories of all open and active leases of real and personal property, purchase orders, and contracts. Consistent with Section 323, OTS leases, purchase orders, and contracts will transfer to the OCC. The FDIC does not anticipate assuming responsibility for any OTS leases, contracts, or purchase orders.

For contracts transferring to the OCC, the OCC's Acquisition Management staff (Acquisitions) will review all active actions to identify and address any redundancies. During the review, Acquisitions will work with the OTS to determine which contracts provide the OCC the best support and represent the best value. The OCC will consider the following factors during the review:

- Contract terms and conditions,
- Rights of the government pertaining to increased quantities or scope,
- Periods of performance and remaining option periods,
- Termination provisions,
- Performance issues,
- Cost and price, and
- Available funding.

Once a decision is made regarding which contracts best support the OCC after the transfer date, Acquisitions will take the necessary steps to execute appropriate modifications. The OCC's Administrative and Internal Law Department staff will review contract modification actions for legal sufficiency, as necessary.

#### **5.5. Transfer of Other Assets**

All other OTS assets not otherwise identified in this report that come to light during the wind down of the OTS will be inventoried, recorded, and transferred to the OCC, the FDIC, and the FRB in accordance with Section 323 of Dodd-Frank. The FDIC and the FRB have determined that they do not require any additional assets not described above from the OTS.

The OCC also recently completed an inventory of accountable property and has updated its Asset Management (AM) system to reflect the current status. The OTS plans to conduct a complete inventory in the April/May 2011 timeframe of all its accountable property. Once that effort is completed, the OCC will enter the appropriate assets into its AM system for continued accountability.

## **6. Other Recommendations and Actions**

Section 6 describes other recommendations and actions to ensure an orderly and effective process.

### **6.1. Communication with the Industry**

The agencies recognize the importance of communicating regularly with the industry throughout this process. Among other things, the agencies are developing an outreach program for thrift executives to provide information and perspective on their approach to supervision and regulation. The agencies will hold these programs at various locations throughout the country. An OCC District Deputy Comptroller and an OTS Regional Director will co-host events for federal savings associations. Participation will include FRB representatives. During these sessions, senior examiners will explain how the agencies examine banks and BHCs, including the development of individually tailored supervisory strategies based on the unique risks facing each institution. The program also will describe the functions of the OCC's district counsel and district licensing activities as well as the FRB's application process. The agencies expect these events to take place in the first and second quarters of 2011. The acting Comptroller of the Currency also sent a personal letter to the chief executive officers of each federal savings association to begin the process of communication that will be important throughout the transition.

The FDIC, the OTS, and relevant state authorities will host similar events in areas where state-chartered savings associations have a significant presence.

In addition to the thrift-focused programs, OCC, FRB, FDIC, and OTS supervision managers will continue to participate in industry events that provide interaction with thrift executives in group settings as well as individual conversations to expand the industry's awareness of the agencies' policies, procedures, and supervision philosophy.

### **6.2. Labor Relations**

The OCC and the OTS have invited union representatives to participate in agency planning team meetings. A union representative attends meetings, reviews correspondence, and interacts with management on a pre-decisional basis on an array of activities in support of implementation of sections 301-326 of Dodd-Frank.

The FDIC is providing periodic updates to its employee union on the status of the transition.

### **6.3 Disposition of OTS Affairs**

The OTS Acting Director and a small cadre of staff will make a final disposition of the affairs of the OTS during the 90-day period after the transfer date. The OTS will use this period to ensure a full and accurate accounting and transfer of all OTS human resources, assets, and property of all kinds. The OTS will ensure that compensation and benefits owed to OTS employees will be provided and will prudently manage remaining property and assets until transfer. The OTS intends to take actions to make an appropriate disposition of its affairs and document the measures taken to wind down the agency.



**BOARD OF GOVERNORS**  
OF THE  
**FEDERAL RESERVE SYSTEM**  
WASHINGTON, D.C. 20551

March 25, 2011

Elizabeth A. Coleman  
Inspector General  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Dear Elizabeth,

Thank you for providing the Federal Reserve the opportunity to review the Office of Inspector General's Report on the Review of the Joint Implementation Plan for the Transfer of OTS Functions. We have reviewed the report and have no comments. We appreciate your effort and agree with the conclusion that the Federal Reserve's part of the Implementation Plan complies with Title III.

Sincerely,

A handwritten signature in cursive script that reads "Maryann Hunter".

Maryann Hunter  
Deputy Director  
Division of Banking Supervision and Regulation

Appendix 6  
FDIC Management Comments



**Federal Deposit Insurance Corporation**

550 17th Street NW, Washington, D.C. 20429-9990

Deputy to the Chairman and CFO

**DATE:** March 24, 2011

**TO:** Jon T. Rymer  
Inspector General

**FROM:** Steven O. App *Craig R. Jault*  
Deputy to the Chairman *for*  
and Chief Financial Officer

**SUBJECT:** OIG Review of the Joint Implementation Plan -- Sections 301-326 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

Thank you for the opportunity to review and comment on the draft report, dated March 18, 2011, entitled: OIG Review of the Joint Implementation Plan -- Sections 301-326 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The report acknowledges the collaborative efforts undertaken by the Office of Thrift Supervision (OTS), Office of Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), and FDIC to ensure the orderly transfer of OTS staff, authority, responsibilities, and funds.

The OIG recommended that the principals amend the Plan to address the prohibition in section 322(g) of Title III against involuntary separation, or involuntary relocation, of transferred OTS employees for 30-months (except under certain circumstances). FDIC agrees with the recommendation and will work with the principals to incorporate language into the Plan that addresses the prohibition in section 322(g) of Title III against involuntary separation or involuntary relocations of transferred OTS employees by May 16, 2011.

If you have any questions, please feel free to contact Jim Angel, at (703) 562-6456.

cc: James H. Angel, Jr.  
Thomas E. Peddicord  
Glen Bjorklund  
Roberta K. McInerney  
John V. Thomas  
Steve Hanas  
Serena Owens  
Elaine D. Drapeau  
Daniel H. Bandler



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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

March 28, 2011

Eric M. Thorson  
Inspector General  
U.S. Department of the Treasury  
Washington, DC 20220

Subject: Draft Report on the *Joint Implementation Plan for the Transfer of OTS Functions*

Dear Mr. Thorson:

Thank you for the thoughtful review of the *Joint Implementation Plan* (January 2011), which confirmed that the plan conforms to the provisions of Sections 301 through 326 of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203 (Dodd-Frank). Since the publication of that plan, the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System have continued to work on implementation in advance of the July 21, 2011 transfer date. We believe we are on track to meet that date.

Your report also mentions several important issues that we will continue to work on with our interagency colleagues and monitor closely throughout this transition.

*Involuntary Separation or Relocation*

The OCC agrees with the Office of Inspector General recommendation to add a specific reference to the protections identified in Section 322(g) of Dodd-Frank that prohibit involuntarily terminating a transferred individual's employment with the agency except for cause and involuntarily relocating employees except when that relocation is necessary for the efficient operation of the agency. These protections, and others, were intended to be covered under the first principle governing the transfer of personnel on page five of the plan, which states, "The legislation provides a number of protections for transferred OTS employees. The agencies will ensure that employees are afforded the protections to which they are entitled."

*Assignment of OTS Management Employees*

Our approach to implementation of Dodd-Frank seeks to achieve the most effective and efficient supervision of both national banks and federal thrifts, consistent with the transfer of functions provisions in Dodd-Frank. To accomplish this, we used as a foundation the OCC's operational framework for supervision and developed a number of ways to augment that framework to recognize the integration of functions from the OTS. We strongly believe that the fundamental goals of Dodd-Frank are best achieved by this integration strategy, rather than maintaining a

“silo” for supervision and regulation of savings institutions. We are creating over 40 new management positions in our bank supervision organization with expanded responsibilities that do not constitute “a transfer of functions.” The additional management positions will be needed to manage our existing responsibilities and the integration of OTS staff and institutions. Five OTS senior executives were given the opportunity to select their personal preference from among these newly created positions, without any competition being required. These placements were announced in December 2010. The remaining positions will be open to competition among OCC and OTS employees, so that neither OTS nor OCC employees are unfairly disadvantaged. The advance-placed OTS senior executives will participate in the selection processes used to fill the remaining positions to ensure full consideration of qualified OTS candidates. Additionally, as existing management positions have been vacated due to retirements or resignations, the competition to backfill them has been opened to current OTS employees, as well as OCC employees, in an effort to be as fair as possible. We fully agree that this comprehensive approach needs to be consistent with the transfer of functions requirements of Dodd-Frank, and we firmly believe that it is.

*Additional Certification Requirements for Transferring OTS Examiners*

Dodd-Frank states that no additional certification will be required if the examiners carry out examinations of the same type of institutions as they did before the date on which the employee was transferred. The OCC is honoring that requirement by recognizing the Federal Thrift Regulator credential<sup>1</sup> as the necessary credential to lead examinations of federal savings associations and sign the resulting Reports of Examination after the supervision is transferred to the OCC. Consistent with Dodd-Frank, the OCC will only require additional certification before OTS examiners can lead examinations on institutions different from the ones they examined prior to transfer, specifically national banks. The OCC intends to revise its commissioning program to ensure that each commissioned examiner has the skills and credentials to lead examinations of both national banks and federal savings associations.

*Supervisory Assessments*

Since the publication of this plan, the OCC has determined that it will use a uniform supervisory approach for all institutions it oversees, regardless of charter, and, therefore, proposes to apply a single semiannual assessment fee schedule to those institutions. To ease transition to this single assessment schedule, the OCC would compute assessment fees under both the OCC and OTS schedules for assessments charged in September 2011 and March 2012, and federal savings associations will pay the lesser of the two fees. Beginning with assessments charged in September 2012, the OCC would assess institution fees based on a single fee schedule regardless of charter. The OCC plans to release this proposal as a notice of proposed rulemaking in the Federal Register in the near future.

*Underfunded Pension Plan*

The OCC recognizes the need to fill any underfunded portion of the Financial Institutions Retirement Fund (FIRF). We will continue to work with senior OTS management on this issue throughout the transition.

<sup>1</sup> And other credentials historically recognized by the OTS as comparable.

Appendix 7  
OCC Management Comments

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*OTS Financial Reporting for Fiscal Year 2011*

The OCC stands ready to assist the acting Director of OTS with fulfilling his final financial reporting requirements for FY 2011.

Thank you for the opportunity to review the draft report and provide this response. If you have questions concerning this response, please contact Thomas R. Bloom, Senior Deputy Comptroller for Management and Chief Financial Officer, at 202-874-5080.

Sincerely,



John Walsh  
Acting Comptroller of the Currency

Appendix 8  
OTS Management Comments



**Office of Thrift Supervision**

Department of the Treasury

Thomas A. Barnes  
*Deputy Director, Examinations, Supervision, and Consumer Protection*

1700 G Street, N.W., Washington, DC 20552 • (202) 906-5650

March 23, 2011

To: Marla A. Freedman  
Assistant Inspector General for Audit

From: Thomas A. Barnes  
Deputy Director

Re: Review of Draft Report

This is in response to the Treasury, FDIC and FRB Inspector Generals draft report on the review of the Joint Implementation Plan regarding the transfer of OTS functions. With one exception the Draft finds that the plan generally conforms to the requirements of Title III of the Dodd-Frank Act. That exception is that the Inspector Generals recommend that the plan be amended to address the prohibition against involuntary separation or relocation of transferred OTS employees for 30 months (except under certain circumstances).

OTS concurs with the draft report and the recommendation in line with the comments provided by OTS in our March 23<sup>rd</sup> exit conference.

We appreciate the professionalism and courtesies extended by you and your very capable staff.

cc: John E. Bowman  
Randy Thomas



**Board of Governors of the Federal Reserve System OIG**

Timothy Rogers, OIG Manager  
John Ayers, Senior Auditor and Project Lead  
Jonathan Park, Auditor

**Federal Deposit Insurance Corporation OIG**

A. Michael Stevens, Evaluator-in-Charge

**Department of the Treasury OIG**

Susan Barron, Audit Director  
Amni Samson, Audit Manager  
Alicia Bruce, Auditor-in-Charge  
Katherine Bustell, Auditor  
Daniel Gerges, Auditor  
John Tomasetti, Auditor  
James Lisle, Referencer

**Board of Governors of the Federal Reserve System**

Chairman

**Federal Deposit Insurance Corporation**

Chairman

**Department of the Treasury**

Deputy Secretary of the Treasury  
Office of Strategic Planning and Performance Management  
Office of Accounting and Internal Control

**Office of the Comptroller of the Currency**

Acting Comptroller of the Currency  
Liaison Officer

**Office of Thrift Supervision**

Acting Director  
Liaison Officer

**Office of Management and Budget**

OIG Budget Examiner

**United States Senate**

Chairman and Ranking Member  
Committee on Banking, Housing, and Urban Affairs

**U.S. House of Representatives**

Chairman and Ranking Member  
Committee on Financial Services

**U.S. Government Accountability Office**

Comptroller General of the United States