debtor contained in the Debt Collection Operations System (Treasury/FMS .014) including name, taxpayer identification number, the amount of the indebtedness, the name and address of the agency who is principally responsible for collecting the debt, and the name, phone number and address of an agency contact. Information contained in Payment Issue Records for Regular Recurring Benefit Payments (Treasury/FMS .002) which shall be included in this program of computer matches shall be limited to information concerning individuals receiving civil service annuities and shall include name, taxpayer identification number, mailing address, and the amount of payment.

Dated: February 14, 1996.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 96–4109 Filed 2–22–96; 8:45 am]

Billing Code: 4810–35–F

Office of the Comptroller of the Currency

[Docket No. 96–04]

Independent Regulatory Appeals Process

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing in final form its guidelines that permit national banks to appeal certain OCC decisions and actions. These appeals guidelines are required by the Riegle Community Development and Regulatory Improvement Act of 1994. These final guidelines supersede the OCC prior appeals policy as set forth in Banking Circular No. 272.

EFFECTIVE DATE: February 23, 1996.

FOR FURTHER INFORMATION CONTACT: Heidi Thomas, Legislative Counsel, Legislative and Regulatory Activities Division, 202–874–5090, or Carol Connelly, Office of the Chief National Bank Examiner, 202–874–5350, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

A. Background

Section 309(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325 (12 U.S.C. 4806) (Act), which was signed into law on September 23, 1994, requires the OCC, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Reserve Board (Federal banking agencies), and the National Credit Union Administration to establish an independent internal appellate process. This process must be available to review material supervisory determinations made at insured depository institutions or credit unions that the agency supervises.

Specifically, the Act defines ''independent appellate process'' in section 309(f)(2) (12 U.S.C. 4806(f)(2)) as a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

In addition, the Act defines ''material supervisory determinations'' in section 309(f)(1) (12 U.S.C. 4806(f)(1)) to include determinations relating to (1) examination ratings, (2) the adequacy of loan loss reserve provisions, and (3) loan classifications on loans that are significant to an institution. This definition expressly excludes a determination to appoint a conservator or receiver for an insured depository institution or a decision to take prompt corrective action pursuant to section 38 of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1831o). Section 309(g) of the Act (12 U.S.C. 4806(g)) expressly provides that the Act's requirement to establish an appeals process does not affect the authority of the Federal banking agencies to take enforcement or supervisory actions against an institution.

Finally, section 309(b) of the Act (12 U.S.C. 4906(b)) requires that the Federal banking agencies hear and decide appeals expeditiously and ensure that appropriate safeguards exist for protecting the appellant from retaliation by Federal banking agency examiners.

On December 22, 1994, the OCC published in the Federal Register for notice and comment proposed guidelines for this appellate process (59 FR 66067), as required by section 309(c) of the Act (12 U.S.C. 4806(c)). These procedures modified and clarified the OCC's existing national bank appeals procedures, described in Banking Circular No. 272 (June 11, 1993), to make them consistent with the requirements of the Act.

Pursuant to this notice and request for comments, the OCC received three comment letters from interested parties. These comment letters generally supported the OCC's proposed guidelines and concluded that they satisfied the requirements of the Act. However, the commenters suggested some changes, several of which the OCC has addressed in the final guidelines.

B. Comments

1. Examiner Retaliation

To prevent examiner retaliation, the proposed guidelines required the OCC Ombudsman to contact the appellant bank to inquire whether it believes that OCC examiners have taken actions against it in retaliation for its appeal. The Ombudsman must contact the bank within: (1) six months after the date the Ombudsman, Deputy Administrator, or Deputy Comptroller issues a final written response to an appeal; and (2) six months after the date of completion of the first examination following an appeal. In addition, national banks that believe they are the subject of retaliation because of their appeal may, at any time, seek redress with the Ombudsman.

The commenters agreed that these procedures provide appropriate safeguards to protect the appellant bank from retaliation by agency examiners, as required by the Act. However, the commenters suggested that the guidelines also should state specifically that examiner retaliation is unacceptable and unprofessional and should provide for disciplinary sanctions or otherwise describe what ''appropriate action'' may ensue if the Ombudsman determines that retaliation has occurred. In addition, one commenter suggested permitting the Ombudsman to exclude from the next examination any personnel involved in the appealed decision.

The OCC strongly agrees that any form of examiner retaliation is unacceptable and unprofessional. The OCC also agrees that, in some cases, it may be appropriate to exclude from the next examination of the bank personnel involved in the appealed decision. Therefore, the final guidelines provide that the Ombudsmen may recommend to the Comptroller that the next examination of a national bank not include personnel involved in a decision appealed by that bank. The Comptroller will make the final decision on exclusion.

The proposed guidelines required the Ombudsman, upon determining that retaliation has occurred, to forward the complaint to the District Administrator, Deputy Comptroller, or Inspector General for appropriate action. The final guidelines require the Ombudsman to forward these complaints to the Senior Deputy Comptroller for Bank Supervision Operations or the Inspector General. The OCC believes that retaliation complaints are better handled by senior staff in the Washington Office than in the District Office where the retaliation is alleged.

In addition, the final guidelines more specifically refer to ''disciplinary'' action consistent with OCC policies and procedures. The OCC believes, however, that further description of particular disciplinary actions is outside the scope of these guidelines.

2. Scope of Appeal

Except as otherwise provided, the proposed guidelines permitted national banks to seek review of all agency decisions and actions, including material supervisory determinations. Section 309(f)(1) of the Act (12 U.S.C. 4806(f)(1)) defines ''material supervisory decisions'' as determinations relating to examination ratings, the adequacy of loan loss reserve provisions, and loan classifications on loans that are significant to an institution.

The proposed guidelines did not allow a national bank to seek review of an agency decision or action involving the appointment of a receiver or conservator, or a decision that is enforcement-related, including a decision to take prompt corrective action pursuant to section 38 of the FDI Act (12 U.S.C. 1831o). The proposed guidelines also expressly excluded preliminary examination conclusions communicated to the national bank prior to the issuance of either a Final Report of Examination or other written communication from the OCC. The OCC believes that, until these preliminary conclusions become final, they are not ''material supervisory determinations'' for purposes of the appellate procedures.

The commenters stated that, in general, the scope of appealable matters under the proposed guidelines is appropriate and reasonable. However, one commenter requested the OCC to clarify that national banks may appeal informal enforcement actions under the guidelines. The OCC believes, however, that distinguishing between formal and informal enforcement actions or decisions could be counterproductive, and could improperly influence what would otherwise be OCC supervisory judgements concerning the appropriate enforcement action in a particular case. Currently, the OCC excludes informal enforcement decisions and actions from appeals pursuant to Banking Circular 272. This exclusion has proved to be workable and the OCC believes that it is appropriate. Therefore, both formal and informal enforcement actions will continue to be excluded from the scope of appealable matters available under the final guidelines.

Some commenters also requested that the OCC not tie the definition of significant loan classification to a set percentage of the portfolio classified. The commenters also opposed a definition that is more narrow or more restrictive than that used by any other agency in implementing their guidelines. These comments do not apply to the OCC's proposed guidelines, which permit appeals of all types of loan classifications. The OCC agrees that the definition should not be narrowed and therefore will continue to permit appeals of all types of loan classifications.

3. Timing of Appeal

The proposed guidelines required the District Administrator, the Deputy Comptroller, and the Ombudsman, absent any extenuating circumstances, to issue a written response within 45 calendar days of the filing of an appeal. In addition, the Ombudsman must issue a written response to a second-tier appeal, an appeal by a national bank of an appeal decision made by a District Administrator or Deputy Comptroller, within 30 calendar days of the filing of that second-tier appeal. These time periods are longer that those specified in Banking Circular 272. Based on its current experience with the appeals process, the OCC found that some additional time is necessary to hear and decide appeals.

Commenters, in general, agreed that the new time periods meet the Act's requirement that appeals be heard and decided expeditiously. However, two of the commenters suggested that the OCC increase the amount of time in which a national bank may file a second-tier appeal. The proposed guidelines required that a national bank file a second-tier appeal within 15 calendar days of receiving a decision from the District Administrator or Deputy Comptroller. The commenters stated that, due to intervening business, vacations, or holidays, a national bank may not be able to determine whether to file a second appeal within this time period. The OCC agrees that providing additional time for filing second-tier appeals is reasonable. Therefore, the final guidelines provide that a national bank may file a second-tier appeal within 30 calendar days after receiving the decision from the District Administrator or Deputy Comptroller.

C. Other Modifications to Proposed Guidelines

The OCC has made the following additional modifications to the proposed guidelines:

1. Liaison Activity

To comply with section 309(d)(2) of the Act (12 U.S.C. 4806(d)(2)), the OCC has modified the proposed guidelines to specifically state that, in addition to hearing and deciding appeals, the Ombudsman is available to act as a liaison between the OCC and any affected person with respect to any problem that party may have in dealing with the OCC resulting from its regulatory activities. In so doing, the Ombudsman will ensure that safeguards exist to encourage persons to come forward and to preserve their confidentiality. In practice, the Ombudsman informally acts as a liaison. This modification to the final guidelines formalizes this activity and notifies other interested persons of the availability of the Ombudsman for that purpose.

2. Recommendations of Policy Changes

The final guidelines state that the Ombudsman may report weaknesses in OCC policy to the Comptroller, and may make recommendations regarding changes in OCC policy.

3. Reference to Banking Bulletin OCC 96–18

In order to clarify that other OCC appeals processes are available for national banks, the final guidelines include a statement advising national banks that they may obtain a separate OCC Bulletin, OCC 96–18, that consolidates all OCC appeals processes that national banks may follow to appeal agency decisions and actions. Specifically, this OCC Bulletin consolidates these final appeals guidelines, the Shared National Credit Appeals Process, and a new process for appealing fair lending-related decisions. The final guidelines specifically reference the availability of this separate fair lending appeals process.

4. Stay of Decisions and Actions Pending an Appeal

The proposed guidelines provided that, as a general rule, the filing of an appeal serves to stay all agency decisions and actions until the appeal is resolved. The final guidelines specifically provide that this stay does not allow a corporate matter subject to an appeal to be approved simply by the passage of time. In addition, the final guidelines provide that an appropriate OCC official, in addition to the Ombudsman, may put the disputed agency decision into effect while the appeal is still pending.

5. Appeals on Behalf of Individuals

To ensure that appealable OCC actions and decisions relating to an individual as opposed to a national bank are not excluded from the appeals

process, the final guidelines specify that in the case of an appealable matter relating specifically to an individual, such as section 914 of FIRREA or Change in Bank Control Act notices, a national bank may file an appeal on behalf of that individual.

6. Scope of Appealable Matters

To further define the scope of those OCC decisions that are subject to the appeals process, the final guidelines state that formal and informal rulemakings pursuant to the Administrative Procedure Act (5 U.S.C. 500 *et seq.*) and requests for agency records or information under, and submissions of information to the OCC that are governed by, the Freedom of Information Act (5 U.S.C. 552 or 12 CFR Part 4) are not appealable matters. These matters are governed by separate statutory and regulatory procedural requirements and are not included in the scope of matters appealable to the Ombudsman.

The final guidelines also emphasize that, although preliminary examination conclusions are not appealable, a national bank is encouraged to discuss any concerns or disagreements regarding these conclusions with its examiner-in-charge or its supervisory office.

7. Appeal of Decisions on Corporate Applications

Because appeals of corporate decisions are now made though the National Bank Appeals Process, the final guidelines delete all references to the appeal of corporate decisions as a separate appeals process. In addition, the final guidelines provide that banks that choose not to file their appeal of corporate application decisions directly with the Ombudsman must file with the Deputy Comptroller for Bank Organization and Structure (BOS), rather than with the District Deputy Comptroller, District Administrator or Deputy Comptroller for Multinational Banking or Special Supervision, as in other cases.

8. Recusal of Ombudsman

The proposed guidelines provided that in cases where the Ombudsman should be recused from reviewing the decision under appeal, the Ombudsman must transfer the appeal to the Senior Deputy Comptroller for Bank Supervision Policy. The final guidelines instead provide that, in such cases, the appeal must be transferred to a senior official designated by the Comptroller. The OCC has made this change to ensure that, in all cases, the appeal will be heard by a neutral reviewer.

D. Effect of Final Guidelines

This notice supersedes the current OCC appeals policy as set forth in Banking Circular No. 272. These final guidelines, however, do not supersede any other existing appeals procedures available under current law. All of the OCC's currently available regulatory appeals processes for national banks, including these final guidelines, are consolidated in OCC Bulletin 96–18, available through the OCC's Communications Division, 250 E. Street, SW., Washington DC 20219–0001; phone—(202) 874–4700, fax—(202) 874–5263.

The following is the text of the OCC's Appeals Process for National Banks:

National Bank Appeals Process

I. Policy

The OCC is responsible for fostering the safety and soundness of the national banking system, monitoring, and enforcing national banks' compliance with laws and regulations, and encouraging competitiveness, integrity, and stability of financial services provided by the national banking system. In fulfilling this mission, it is the OCC's policy to maintain open and ongoing communication with both the institutions it supervises and other affected persons, and to foster the fair and equitable administration of the supervisory process.

If a disagreement arises during the supervisory process, the OCC will attempt to resolve the dispute fairly and expeditiously in an informal, amicable manner. If disagreements cannot be resolved through informal discussions, national banks and Federal branches and agencies of foreign banks (collectively referred to as ''national banks'' for purposes of these guidelines) are encouraged, and the examiner involved in the dispute should specifically encourage the national bank, to seek a further review of the OCC decisions or actions in dispute.

These guidelines establish a process through which a national bank can seek such a review. A critical element in this appeals process is the OCC Ombudsman. The Ombudsman is outside the bank supervision area and reports directly to the Comptroller of the Currency. With the prior consent of the Comptroller, the Ombudsman may supersede any appealable agency decision or action during the resolution of an appealable matter. The Ombudsman also may report weaknesses in OCC policy to the Comptroller, and may make recommendations regarding changes in OCC policy.

The procedures established in these guidelines provide national banks a fair and expeditious review of agency decisions and actions while ensuring that no one is disadvantaged by filing an appeal. If a national bank has a question as to whether it should make use of this appeal authority, it should contact the Ombudsman.

In addition, the Ombudsman is available to act as a liaison between the OCC and any affected person with respect to any problem such person may have in dealing with the OCC resulting from its regulatory activities.

Interested parties should direct all communications with the Ombudsman to the following address: Office of the Ombudsman, 1000 Louisiana Street, Suite 950, Houston, Texas 77002–5008; phone—(713) 650–0475, fax—(713) 650–6248.

II. Procedures

A. Filing An Appeal

A national bank may seek review of appealable matters by filing an appeal with either its immediate supervisory office or with the OCC's Ombudsman.[1] The choice of where to file is a matter within the sole discretion of the bank, except as indicated below. All appealable matters can be received in either location. However, in cases where the District Administrator or Deputy Comptroller directly or indirectly participated in making the decision under review or directly or indirectly reports to the agency official who made the decision under review, the District Administrator or Deputy Comptroller must transfer the appeal to the Ombudsman. In addition, in cases where the Ombudsman should be recused from reviewing the decision under appeal, the Ombudsman shall transfer the appeal to a senior official designated by the Comptroller. The procedures for filing an appeal under the two options are outlined below.[2]

[1] In the case of an appealable matter specifically relating to an individual as opposed to a national bank, such as section 914 of FIRREA or Change in Bank Control Act notices, a national bank may file an appeal on behalf of that individual.

[2] The process by which national banks may appeal OCC decisions to make a referral to the Department of Justice (DOJ) or a notification to the Department of Housing and Urban Development (HUD) regarding fair lending-related matters is described separately in OCC Bulletin 96–18. In general, national banks may file an appeal to the Ombudsman for reconsideration of a fair lending decision within 15 calendar days of the date of the written notification from the Senior Deputy Comptroller for Bank Supervision-Operations of the OCC's intention to make a referral to DOJ or a notification to HUD.

1. Supervisory Office Appeals

If a disagreement concerning an OCC supervisory decision or action cannot be resolved informally, a national bank may file an appeal with its immediate supervisory office. Except as indicated below, a community bank or a regional bank seeking appeal under this option should file the appeal with the District Administrator or Deputy Comptroller of the OCC District in which the bank is headquartered. A bank in the Multinational Banking or Special Supervision programs using this option should file an appeal with the Deputy Comptroller for the program in the Washington Office. A national bank seeking appeal of a corporate application decision under this option shall file its appeal with the Deputy Comptroller for Bank Organization and Structure (BOS) in the Washington, DC office. In cases where the District Administrator or Deputy Comptroller directly or indirectly participated in making the decision under review or directly or indirectly reports to the agency official who made the decision under review, the District Administrator or Deputy Comptroller must transfer the appeal to the Ombudsman after advising the appellant.

An appellant national bank must submit information in writing fully describing the matter in dispute and setting forth its basis for requesting an appeal. Upon receipt of an appeal, the appropriate District Administrator or Deputy Comptroller, or a designee who has not directly or indirectly participated in making the decision in dispute and is not directly or indirectly responsible to the agency official who made the decision under review, will contact the OCC employee(s) involved in the matter under appeal. The OCC employee(s) shall submit written or oral information concerning the basis of the appeal. If requested by a senior official of the national bank filing the appeal, the appropriate District Administrator or Deputy Comptroller shall arrange a meeting or a telephone call to more fully discuss the appeal and related issues.

In the absence of any extenuating circumstances, the appropriate District Administrator or Deputy Comptroller shall issue a written response within 45 calendar days of the filing of the appeal. Immediately after the response is issued, the District Administrator or Deputy Comptroller shall forward to the Ombudsman a copy of all relevant material considered in the preparation of the response, including any written submission by the bank.

If the national bank disagrees with the response from the District Administrator or Deputy Comptroller, a senior official of the bank may further appeal the matter to the Ombudsman. The bank shall file written notice of this second-tier appeal within 30 calendar days of receiving the response from the appropriate District Administrator or Deputy Comptroller.

After receipt of a second-tier appeal, the Ombudsman shall review any material considered by the appropriate District Administrator or Deputy Comptroller in the preparation of the initial response. The Ombudsman shall contact the national bank to ensure that the OCC is in possession of all relevant material. If requested by either OCC management involved in the dispute or a senior official of the national bank filing the appeal, the Ombudsman shall arrange a meeting or a telephone call to more fully discuss the appeal and related issues. In the absence of any extenuating circumstances, the Ombudsman shall issue a written response to the second-tier appeal within 30 calendar days of the filing of that appeal.

2. Appeals to the Ombudsman

When a disagreement concerning an OCC supervisory decision or action cannot be resolved informally and a national bank chooses not to file an appeal with its immediate supervisory office, the national bank may file an appeal directly with the Ombudsman. In a case where the Ombudsman should be recused from reviewing the decision under appeal, the Ombudsman shall transfer the appeal to a senior official designated by the Comptroller. In such a case, the procedures outlined below apply.

A national bank filing an appeal with the Ombudsman must submit information in writing fully describing the matter in dispute. After receipt of an appeal, the Ombudsman shall contact the OCC management official involved in the dispute. That management official shall submit written material and relevant OCC documents pertaining to the basis of the appeal within 10 calendar days of the notice from the Ombudsman. The Ombudsman shall contact the national bank to ensure that the OCC is in possession of all relevant materials. If requested by either OCC management involved in the dispute or a senior official of the national bank filing the appeal, the Ombudsman shall arrange a meeting or a telephone call to more fully discuss the appeal and any related issues. In the absence of any extenuating circumstances, the Ombudsman shall issue a written response to the appeal within 45 calendar days of the filing of the appeal by the national bank.

B. Follow-Up by Ombudsman

After the Ombudsman, Deputy Administrator, or Deputy Comptroller renders a decision on an appeal, the Ombudsman shall contact the appellant bank to inquire whether the bank believes OCC examiners have taken actions against the bank in retaliation for its appeal. The Ombudsman shall make these contacts (1) six months after the date the Ombudsman, Deputy Administrator or Deputy Comptroller issues a final written response to an appeal, and (2) six months after the date of completion of the first examination of the appellant bank following its appeal. Of course, a national bank may contact the Ombudsman at any time during or after the appeal if the bank reasonably believes that an OCC examiner is taking action against it in retaliation for its appeal.

Upon identifying or learning of any possible retaliatory action, the Ombudsman shall investigate the complaint. In the absence of any extenuating circumstances, the Ombudsman must complete investigations within 30 days. If the Ombudsman determines that retaliation has occurred, the Ombudsman shall forward the complaint to the Senior Deputy Comptroller for Bank Supervision Operations or Inspector General for appropriate action, including disciplinary action consistent with OCC policies and procedures.

In addition, the Ombudsman may recommend to the Comptroller that the next examination of a national bank exclude personnel involved in a decision appealed by that bank. The Comptroller shall make the final decision on any exclusion.

C. Appealable Matters

Except as otherwise provided, a national bank may seek a review of any agency decision or action, including a material supervisory determination. Examples of material supervisory determinations include determinations relating to:

- Examination ratings;
- The adequacy of loan loss reserve provisions; and
- Loan classifications on loans that are significant to an institution.

A national bank may not appeal to the Ombudsman or its immediate OCC supervisory office:

- Appointments of receivers and conservators;
- Preliminary examination conclusions communicated to the national bank prior to the issuance of

either a final Report of Examination or other written communication from the OCC;[3]

- Enforcement-related actions or decisions, including decisions to take prompt corrective action pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o);
- Formal and informal rulemakings pursuant to the Administrative Procedure Act, 5 U.S.C. 500 *et seq.;* and
- Requests for agency records or information under, and submissions of information to the OCC that are governed by, the Freedom of Information Act, 5 U.S.C. 552 or 12 CFR Part 4.

An enforcement-related action or decision commences, and therefore becomes unappealable, when the national bank receives notice from the OCC indicating its intention to pursue available remedies under applicable statutes or published enforcement-related policies of the OCC. Such policies include OCC's Policy for Corrective Action (PPM 5310–3)(REV), Civil Money Penalty Policy (PPM 5000–7)(REV), and Securities Enforcement Policy (PPM 5310–5). These policies are available on request from the OCC's Communications Division, 250 E. Street, SW., Washington DC 20219–0001; phone—(202) 874–4700, fax—(202) 874–5263. For purposes of these guidelines only, remarks in a Report of Examination do not constitute notice of intent to pursue enforcement remedies.

III. Effect of Filing An Appeal

As a general rule, the filing of an appeal concerning an appealable matter with either the national bank's immediate supervisory office or with the Ombudsman serves to stay all agency decisions and actions until the appeal is resolved. A stay does not allow a corporate matter subject to an appeal to be approved simply by the passage of time. In the appropriate circumstances, however, the Ombudsman or the appropriate OCC official may put the disputed agency decision or action into effect while the appeal is still pending.

IV. Other OCC Appeals Processes

The appeals process established by these guidelines does not supersede any other existing appeals procedures available under current law. Matters that are subject to an OCC appeals process designed specifically for the issue in dispute, such as review of Shared National Credit findings and fair lending-related decisions, are appealable to the Ombudsman when the OCC decision is final under the specifically designed appeals procedures.

These final appeals guidelines, the process to appeal Shared National Credit decisions, and the appeals process for fair lending-related decisions are consolidated in OCC Bulletin 96–18, available through the OCC's Communications Division, 250 E. Street, SW., Washington DC 20219–0001; phone—(202) 874–4700, fax—(202) 874–5263.

V. Liaison Activity of Ombudsman

In addition to hearing and deciding appeals brought by national banks, the Ombudsman is available to act as a liaison between the OCC and any affected person with respect to any problem or question the party may have in dealing with the OCC resulting from the OCC's regulatory activities.[4] The Ombudsman will either provide the requested information or direct the person to the appropriate point of contact. In so doing, the Ombudsman will ensure that safeguards exist to encourage persons to come forward and to preserve the confidentiality of those seeking information or identifying a concern.

Dated: February 15, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–4023 Filed 2–22–96; 8:45 am]

BILLING CODE 4810–33–P

[3] A national bank is encouraged to discuss any concerns or disagreements regarding preliminary examination conclusions with its examiner-in-charge or its supervisory office.

[4] Interested parties may also contact the OCC's Customer Assistance Unit, located in the OCC's Washington office, to report any problems or concerns they may have regarding national banks. The Unit's telephone number is 800–613–6743. In addition, interested persons may also comment on proposed OCC rulemakings published in the Federal Register for notice and comment by filing written comments with the OCC, as described in the rulemaking.

DEPARTMENT OF VETERANS AFFAIRS

Loan Guaranty: Percentage to Determine Net Value

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: This notice provides information to participants in the Department of Veterans Affairs (VA) Loan Guaranty Program concerning the percentage to be used in determining whether the Secretary will accept conveyance of a foreclosed property. The new percentage is 15.11 percent.

EFFECTIVE DATE: The new percentage is effective January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard A. Levy, Assistant Director for Loan and Property Management (261), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7344.

SUPPLEMENTARY INFORMATION: VA regulations concerning the payment of loan guaranty claims are set forth at 38 CFR 36.4300, et seq. The formulas for determining whether VA will offer the lender an election to convey the property to VA are set forth at 38 CFR 36.4320. A key component of this is the ''net value'' of the property to the Government, as defined in 38 CFR 36.4301. Essentially, ''net value'' is the fair market value of the property, minus the total of the costs the Secretary estimates would be incurred by VA resulting from the acquisition and disposition of the property for property taxes, assessments, liens, property maintenance, administration, and resale. Each year VA reviews the average operating expenses incurred for properties acquired under 38 CFR 36.4320 which were sold during the preceding three fiscal years and the average administrative cost to the Government associated with the property management activity. Administrative cost is based on the average holding time for properties sold during the preceding fiscal year. Property improvement expenses are estimated on an individual case basis at the time the net value is estimated. VA also includes in the net value calculation an amount equal to the gain or loss experienced by VA on the resale of acquired properties during the prior fiscal year. VA annually updates the net value percentage and publishes a notice of the new percentage in the Federal Register. For Fiscal Year 1995, the percentage was 11.18 percent. For Fiscal Year 1996, the percentage will be 15.11 percent, based upon the operating expenses incurred, exclusive of estimated property improvement expenses which are accounted for separately in each case, for Fiscal Years 1993, 1994, and 1995, and property resale experience for Fiscal Year 1995. Accordingly, VA will subtract 15.11 percent from the fair market value of the property to be foreclosed in order to arrive at the ''net value'' of the property to VA. This new percentage will be used in ''net value'' calculations made by VA on and after January 22, 1996. This is the date the new percentage was issued to VA filed stations for use in these calculations.