

³ Applies only to insured state branches of foreign banks.

⁴ See 12 CFR parts 337.3 and 349.3.

⁵ See 12 CFR part 563.43.

[58 FR 31335, June 2, 1993, as amended at 61 FR 6494, Feb. 21, 1996; 62 FR 63258, Nov. 28, 1997]

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

Sec.

364.100 Purpose.

364.101 Standards for safety and soundness.

APPENDIX A TO PART 364—INTERAGENCY GUIDELINES ESTABLISHING STANDARDS FOR SAFETY AND SOUNDNESS

AUTHORITY: 12 U.S.C. 1819 (Tenth), 1831p-1.

SOURCE: 60 FR 35685, July 10, 1995, unless otherwise noted.

§364.100 Purpose.

Section 39 of the Federal Deposit Insurance Act requires the Federal Deposit Insurance Corporation to establish safety and soundness standards. Pursuant to section 39, this part establishes safety and soundness standards by guideline.

§364.101 Standards for safety and soundness.

The Interagency Guidelines Establishing Standards for Safety and Soundness prescribed pursuant to section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1), as set forth as appendix A to this part apply to all insured state nonmember banks and to state-licensed insured branches of foreign banks, that are subject to the provisions of section 39 of the Federal Deposit Insurance Act.

APPENDIX A TO PART 364—INTERAGENCY GUIDELINES ESTABLISHING STANDARDS FOR SAFETY AND SOUNDNESS

TABLE OF CONTENTS

I. Introduction

- A. Preservation of existing authority.
- B. Definitions.

II. Operational and Managerial Standards

- A. Internal controls and information systems.
- B. Internal audit system.
- C. Loan documentation.
- D. Credit underwriting.

E. Interest rate exposure.

F. Asset growth.

G. Asset quality.

H. Earnings.

I. Compensation, fees and benefits.

III. Prohibition on Compensation That Constitutes an Unsafe and Unsound Practice

A. Excessive compensation.

B. Compensation leading to material financial loss.

I. INTRODUCTION

i. Section 39 of the Federal Deposit Insurance Act¹ (FDI Act) requires each Federal banking agency (collectively, the agencies) to establish certain safety and soundness standards by regulation or by guideline for all insured depository institutions. Under section 39, the agencies must establish three types of standards: (1) Operational and managerial standards; (2) compensation standards; and (3) such standards relating to asset quality, earnings, and stock valuation as they determine to be appropriate.

ii. Section 39(a) requires the agencies to establish operational and managerial standards relating to: (1) Internal controls, information systems and internal audit systems, in accordance with section 36 of the FDI Act (12 U.S.C. 1831m); (2) loan documentation; (3) credit underwriting; (4) interest rate exposure; (5) asset growth; and (6) compensation, fees, and benefits, in accordance with subsection (c) of section 39. Section 39(b) requires the agencies to establish standards relating to asset quality, earnings, and stock valuation that the agencies determine to be appropriate.

iii. Section 39(c) requires the agencies to establish standards prohibiting as an unsafe and unsound practice any compensatory arrangement that would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits and any compensatory arrangement that could lead to material financial loss to an institution. Section 39(c) also requires that the agencies

¹Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1) was added by section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Pub. L. 102-242, 105 Stat. 2236 (1991), and amended by section 956 of the Housing and Community Development Act of 1992, Pub. L. 102-550, 106 Stat. 3895 (1992) and section 318 of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325, 108 Stat. 2160 (1994).