Monday,  
December 13, 2004

Part LVI

Federal Reserve System

Semiannual Regulatory Agenda
FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM
12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board’s Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period November 1, 2004, through April 30, 2005. The next agenda will be published in spring 2005.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its fall 2004 agenda as part of the Fall 2004 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board’s agenda is divided into four sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Long-Term Actions, reports on matters that have been proposed and are under Board consideration, but will not be completed within the next year. And the fourth section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board’s previous agenda and which the Board has not completed.

Margaret McCloskey Shanks, Assistant Secretary of the Board.

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<td>Regulations: H and Y - Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Asset-Backed Commercial Paper Programs and Early Amortization Provisions (Docket Number: R-1162)</td>
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Federal Reserve System (FRS)

4057. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1828(t)

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: Section 204 of the Gramm-Leach-Bliley Act added a new subsection (t) to section 18 of the Federal Deposit Insurance Act requiring the Board, in consultation with the Securities and Exchange Commission, to establish recordkeeping requirements for state member banks and branches and agencies of foreign banks that rely on the exceptions from the definition of broker or dealer provided in section 3(a)(4) or (5) of the Securities Exchange Act of 1934.

The Board anticipates issuing for public comment a rule that would implement these recordkeeping requirements. The Board notes that the Securities and Exchange Commission has, by rule, delayed the effective date of the new exemptions for banks contained in section 3(a)(4) or (5) of the Securities Exchange Act of 1934, and recently has issued for public comment, a revised rule to implement the “broker” exception in section 3(a)(4) of the Securities and Exchange Act. In light of these developments, the Board has delayed adopting a recordkeeping rule pending action by the Securities and Exchange Commission. It is not anticipated that the Board’s proposal, when issued, would have a significant economic impact on a substantial number of small entities subject to the Board’s regulation.

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Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Kieran Fallon, Managing Senior Counsel, Federal Reserve System, Legal Division

Phone: 202 452–5270

RIN: 7100–AC73

4058. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL, CAPITAL APPENDICES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 24a; 12 USC 36; 12 USC 92a;…

CFR Citation: 12 CFR 208 app A; 12 CFR 208 app D; 12 CFR 208 app E; 12 CFR 225 app A; 12 CFR 225 app D; 12 CFR 225 app E

Legal Deadline: None

Abstract: The capital appendices to Regulations H and Y set forth guidelines for institutions in calculating their regulatory capital requirements, both risk-based and leveraged. While the guidelines are continuously monitored and updated as required to reflect market innovations, accounting changes, or modifications to supervisory policy, the Board is undertaking a more comprehensive review of the guidelines to minimize regulatory burden, clarify issues arising from the Gramm-Leach-Bliley Act, enhance the overall risk sensitivity, and to comply with provisions of section 610(c) of the Regulatory Flexibility Act of 1994. This review is proceeding in conjunction with ongoing revisions to the Basel Accord. The Board will
consider requesting comment after the next quantitative impact study on the impact of the Basel revisions.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Barbara Bouchard, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation. Phone: 202 452–3072

**RIN:** 7100–AC88

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4059. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 12 USC 1844(b)

**CFR Citation:** 12 CFR 225

**Legal Deadline:** None

**Abstract:** Title I of the Gramm-Leach-Bliley Act (GLB Act) makes a number of miscellaneous amendments to sections 3, 4, and 5 of the Bank Holding Company Act of 1956 (BHC Act) and adds a new section 10A to the BHC Act. These amendments, among other things, prohibit the Board from determining that new activities are closely related to banking under section 4(c)(8) of the BHC Act; streamline the Board’s reporting, examination, and other supervisory authority over bank holding companies and their subsidiaries; reduce the restrictions applicable to companies that control “nonbank banks” that are exempt from the nonbanking restrictions of the BHC Act under section 4(f) of that Act; and repeal the savings bank life insurance provisions currently set forth in section 3(g) of the BHC Act.

The Board will consider issuing for public comment amendments to Regulation Y to implement the provisions of the GLB Act affecting the BHC Act that have not previously been addressed in rules adopted by the Board. It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities subject to the Board’s regulation.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Kieran Fallon, Managing Senior Counsel, Federal Reserve System, Legal Division. Phone: 202 452–5270

**RIN:** 7100–AC66

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4060. • REGULATION: DD — TRUTH IN SAVING (DOCKET NUMBER: R–1197)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 12 USC 4301 et seq

**CFR Citation:** 12 CFR 230 et seq

**Legal Deadline:** None

**Abstract:** The Board proposed amendments to Regulation DD, which implements the Truth in Savings Act and the regulation’s official staff commentary, to address concerns about the uniformity and adequacy of information provided to consumers when they overdraw their accounts. The proposed amendments, in part, address a specific service offered by depository institutions, commonly referred to as “bounced-check protection” or “courtesy overdraft protection.”

Depository institutions sometimes offer courtesy overdraft protection to deposit account customers as an alternative to a traditional overdraft line of credit. To address concerns about the marketing of this service, a proposed revision to the regulation would expand the prohibition against misleading advertisements to cover communications with current customers about existing accounts. Other proposed revisions to Regulation DD would require additional fee and other disclosures about courtesy overdraft services, including advertising. The Board also proposed amendments of general applicability that would require institutions to provide more uniform disclosures about overdraft and returned-item fees. Following the review of public comments, the Board will take further action.

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Ky Tran–Trong, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs. Phone: 202 452–3667

**RIN:** 7100–AC93
### Federal Reserve System (FRS)

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#### Regulatory Flexibility Analysis
- **Required**: No
- **Government Levels Affected**: None
- **Federalism**: Undetermined
- **Agency Contact**: Michael J. O’Rourke, Counsel, Federal Reserve System, Legal Division
- **Phone**: 202 452–3288
- **RIN**: 7100–AC69

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### 4062. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R–1064)

**Priority**: Substantive, Nonsignificant

**Legal Authority**: 12 USC 335; 12 USC 1835a

**CFR Citation**: 12 CFR 208

**Legal Deadline**: None

**Abstract**: In March 2000, the Board approved an interim rule with request for public comment amending Regulation H to implement section 121 of the Gramm-Leach-Bliley Act for state member banks (65 FR 14810, March 20, 2000). Section 121 in part authorizes state member banks to control, or hold an interest in, financial subsidiaries so as to conduct certain activities that are financial in nature or incidental to a financial activity. In August 2001, following review of the public comments, the Board adopted the final rule substantially as proposed (66 FR 42929, August 16, 2001).

The Board will also consider issuing for public comment a proposed rule in place of an existing Miscellaneous Interpretation (12 CFR 250.141) relating to member bank purchases of stock in operations subsidiaries to update its provisions and conform to section 121. It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board’s regulation.

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#### Regulatory Flexibility Analysis
- **Required**: No
- **Government Levels Affected**: None
- **Federalism**: Undetermined
- **Agency Contact**: Thomas R. Boemio, Senior Project Manager, Policy, Federal Reserve System, Division of Banking Supervision and Regulation
- **Phone**: 202 452–2982
- **RIN**: 7100–AC94
On December 4, 2003, the President signed into law the Fair and Accurate Credit Transactions Act (FACT Act) Pub. L. 108-159, 117 Stat. 1952, which amends the Fair Credit Reporting Act. In general, the FACT Act contains provisions designed to enhance the ability of consumers to combat identity theft, increase the accuracy of consumer reports, and allow consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. The FACT Act requires the Board to issue regulations or guidelines to implement various provisions of the statute. Many of these actions must be undertaken jointly or in consultation with other federal agencies. Each rulemaking under the FACT Act is separately listed herein. The agencies will take final action on the October 2000 proposal when the rulemakings required by the FACT Act are completed.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** David A Stein, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs

Phone: 202 452–2412

RIN: 7100–AC68

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On December 4, 2003, the President signed into law the Fair and Accurate Credit Transactions Act (FACT Act) Pub. L. 108-159, 117 Stat. 1952, which amends the Fair Credit Reporting Act. In general, the FACT Act contains provisions designed to enhance the ability of consumers to combat identity theft, increase the accuracy of consumer reports, and allow consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. The FACT Act requires the Board to issue regulations or guidelines to implement various provisions of the statute. Many of these actions must be undertaken jointly or in consultation with other federal agencies. Each rulemaking under the FACT Act is separately listed herein. The agencies will take final action on the October 2000 proposal when the rulemakings required by the FACT Act are completed.

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**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Federalism:** Undetermined

**Agency Contact:** Krista Delargy, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs

Phone: 202 452–3667

RIN: 7100–AC91
4067. REGULATION: V — FAIR CREDIT REPORTING (DOCKET NUMBER: R—1203)

Priority: Substantive, Nonsignificant
Legal Authority: 15 USC 1681 et seq
CFR Citation: 12 CFR 222
Legal Deadline: None

Abstract: On December 4, 2003, the President signed into law the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), Pub. L. 108-159, 117 Stat. 1952, which amends the Fair Credit Reporting Act (FCRA). Section 214 of the FACT Act adds a new section 624 of the FCRA. This new provision gives consumers the right to restrict a person from using certain information about a consumer obtained from an affiliate to make solicitations to that consumer. That section also requires the Agencies, in consultation and coordination with each other, to issue regulations in final form implementing section 214 not later than 9 months after the date of enactment. These rules must become effective not later than 6 months after the date on which they are issued in final form.

The proposed rules were issued by the Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. The Federal Trade Commission (FTC) and the Securities and Exchange Commission (SEC) are also required to issue regulations under new section 624 in consultation and coordination with the Agencies. The FTC published its proposed rule on June 15, 2004 (69 FR 33,324). The SEC proposal will also be published in a separate Federal Register notice.

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Federal Reserve System (FRS)

4068. REGULATION: BB — COMMUNITY REINVESTMENT (DOCKET NUMBER: R—1112 AND R—1181) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant
Legal Authority: 12 USC 290 et seq
CFR Citation: 12 CFR 228 et seq
Legal Deadline: None

Abstract: In 1995, the Board issued Regulation BB which implements the Community Reinvestment Act (CRA). Substantially similar regulations were issued by the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS). The goal of these regulations was to achieve more objective performance-based CRA examinations and to minimize burden. At the time these regulations were issued, the agencies committed to conducting a 2002 comprehensive review of the regulations’ effectiveness in achieving this goal.

In July 2001, the Board issued a proposed rulemaking (NPR) (69 FR 5729, Feb. 6, 2004). The agencies proposed to amend their CRA regulations (Regulation BB, for the Board) to increase the number of institutions eligible for streamlined CRA examinations and clarify when an illegal or abusive credit practice by a bank or its affiliate will adversely affect the bank’s CRA evaluation. Each agency certified that the proposal would reduce burden and would not raise costs for small financial institutions and, therefore, would not have a significant economic impact on a substantial number of small entities subject to the regulations. (69 FR at 5742) The comment period closed on April 6, 2004. In July 2004, the OCC and the Board withdrew their CRA proposals and the OTS announced that they would modify the “small bank” threshold. Then in August 2004, the OTS finalized their CRA rule and the FDIC issued a proposed rule seeking additional comments on the “small bank” CRA threshold.

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Regulatory Flexibility Analysis
Required: Yes
Small Entities Affected: Businesses
Government Levels Affected: None
Federalism: Undetermined
Agency Contact: Dan Sokolov, Attorney, Federal Reserve System, Division of Consumer and Community Affairs, Phone: 202 452–2412

RIN: 7100–AC87

The comments and the issues, the agencies issued a proposed rulemaking (NPR) (69 FR 5729, Feb. 6, 2004). The agencies proposed to amend their CRA regulations (Regulation BB, for the Board) to increase the number of institutions eligible for streamlined CRA examinations and clarify when an illegal or abusive credit practice by a bank or its affiliate will adversely affect the bank’s CRA evaluation. Each agency certified that the proposal would reduce burden and would not raise costs for small financial institutions and, therefore, would not have a significant economic impact on a substantial number of small entities subject to the regulations. (69 FR at 5742) The comment period closed on April 6, 2004. In July 2004, the OCC and the Board withdrew their CRA proposals and the OTS announced that they would modify the “small bank” threshold. Then in August 2004, the OTS finalized their CRA rule and the FDIC issued a proposed rule seeking additional comments on the “small bank” CRA threshold.

4069. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant
CFR Citation: 12 CFR 225

Timetable:

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Regulatory Flexibility Analysis
Required: No

Government Levels Affected: None
Federalism: Undetermined
Agency Contact: Andrew S. Baer, Phone: 202 452–2246

RIN: 7100–AC78
4071. REGULATIONS: B — EQUAL CREDIT OPPORTUNITY; E — ELECTRONIC FUND TRANSFER; M — CONSUMER LEASING; Z — TRUTH IN LENDING; DD — TRUTH IN SAVINGS (DOCKET NUMBERS: R–1168, R–1169, R–1170, R–1167, AND R–1171)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691–1691f; 15 USC 1603 et seq; 15 USC 1604 et seq; 15 USC 1667f et seq; 12 USC 3806; 15 USC 1604; 15 USC 1637(c)(5); 12 USC 4301 et seq

CFR Citation: 12 CFR 202 et seq; 12 CFR 225 et seq; 12 CFR 226 et seq; 12 CFR 230 et seq

Legal Deadline: None

Abstract: On June 24, 2004, the Board withdrew the December 2003 proposal to amend five regulations to (1) establish a more uniform standard of providing “clear and conspicuous” disclosures among the Board’s consumer financial services regulations, and (2) define more specifically the standard for providing “clear and conspicuous” disclosures. The proposals were intended to help ensure that consumers receive noticeable and understandable information that is required by law in connection with obtaining consumer financial products and services. In response to concerns raised by commenters, the Board determined that this goal should be achieved by developing proposals that focus on improving the effectiveness of individual disclosures rather than the adoption of general definitions and standards applicable across the five regulations.

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Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: James A. Michaels, Assistant Director, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452–3667

RIN: 7100–AC92

4072. REGULATIONS: H AND Y — RISK–BASED CAPITAL GUIDELINES; CAPITAL ADEQUACY GUIDELINES; CAPITAL MAINTENANCE: ASSET–BACKED COMMERCIAL PAPER PROGRAMS AND EARLY AMORTIZATION PROVISIONS (DOCKET NUMBER: R–1162)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: The Federal Reserve, along with the other federal banking agencies, amended their risk-based capital standards by removing a sunset provision in order to permit sponsoring banks, thrifts, and bank holding companies (banking organizations) to continue to exclude from their risk-weighted asset bases those assets in asset-backed commercial paper (ABCP) programs that are consolidated onto balance sheets as a result of Financial Accounting Standards Board Interpretation No. 46, Consolidation of Variable Interest Entities (FIN 46). The removal of the sunset provision was contingent upon the agencies implementing alternative, more risk-sensitive risk-based capital requirements for liquidity facilities supporting ABCP.

Timetable:

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<th>Action</th>
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<tbody>
<tr>
<td>Board requested comment</td>
<td>10/01/03</td>
<td>68 FR 56568</td>
</tr>
<tr>
<td>Board adopted proposal</td>
<td>07/28/04</td>
<td>69 FR 44908</td>
</tr>
</tbody>
</table>

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thomas R. Boemio, Senior Project Manager, Policy, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452–2962

RIN: 7100–AC90

4073. REGULATIONS: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R–1091)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1843

CFR Citation: 12 CFR 225.86

Legal Deadline: None

Abstract: In January 2001, the Board issued for public comment a proposed rule amending Regulation Y that would define real estate brokerage and real estate management activities as financial in nature or incidental to a financial activity and therefore permissible for financial holding companies under the Board’s Regulation Y (66 FR 307, January 3, 2001). The proposal would facilitate the creation of diversified financial companies that can offer “one-stop shopping” to consumers contemplating the purchase or management of real estate. The proposal is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public
comments, the Board will take further action.

Timetable:

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<tr>
<th>Action</th>
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<tr>
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<td>66 FR 307</td>
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<td>Further Board action</td>
<td>09/08/04</td>
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<td>not expected in the next six months</td>
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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Mark E. Van Der Weide, Counsel, Federal Reserve System, Legal Division
Phone: 202 452–2263

RIN: 7100–AC79

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4074. REGULATION: DD — TRUTH IN SAVINGS ACT
Priority: Substantive, Nonsignificant
Legal Authority: 12 USC 4301
CFR Citation: 12 CFR 230
Legal Deadline: None

Abstract: Regulation DD, which implements the Truth in Savings Act, requires that depository institutions uniformly disclose to customers information about the terms and conditions on which interest is paid and fees are assessed on deposit accounts.

The Board has targeted Regulation DD for review to update it and to comply with provisions of section 610(c) of the Regulatory Flexibility Act of 1994. The review is expected to commence with publication of an advance notice of proposed rulemaking in second quarter 2004 and be completed in the same year.

Timetable:

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Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Jane Ahrens, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452–3667

RIN: 7100–AC86

[FR Doc. 04–22106 Filed 12–10–04; 8:45 am]