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**Sec. 161. - Reports to Comptroller of the
Currency**

(a) Reports of condition; form; contents; date of making; publication

Every association shall make reports of condition to the Comptroller of the Currency in accordance with the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.). The Comptroller of the Currency may call for additional reports of condition, in such form and containing such information as he may prescribe, on dates to be fixed by him, and may call for special reports from any particular association whenever in his judgment the same are necessary for his use in the performance of his supervisory duties. Each report of condition shall contain a declaration by the president; a vice president, the cashier, or by any other officer designated by the board of directors of the bank to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the bank other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. Each report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day specified by the Comptroller, and shall be transmitted to the Comptroller within the period of time specified by the Comptroller. Special reports called for by the Comptroller need contain only such information as is specified by the Comptroller in his request therefor, and publication of such reports need be made only if directed by the Comptroller.

(b) Payment of dividends

Every association shall make to the Comptroller reports of the payment of dividends, including advance reports of dividends proposed to be declared or paid in such cases and under such conditions as the Comptroller deems necessary to carry out the purposes of the laws relating to national banking associations in such form and at such times as he may require.

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(c) Reports of affiliates; form; contents; date of making; publication; penalties

Each national banking association shall obtain from each of its affiliates other than member banks and furnish to the Comptroller of the Currency not less than four reports during each year, in such form as the Comptroller may prescribe, verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, disclosing the information hereinafter provided for as of dates identical with those for which the Comptroller shall during such year require the reports of the condition of the association. Each such report of an affiliate shall be transmitted to the Comptroller at the same time as the corresponding report of the association, except that the Comptroller may, in his discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Comptroller of the Currency shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the Comptroller to inform himself as to the effect of such relations upon the affairs of such bank. The Comptroller shall also have power to call for additional reports with respect to any such affiliate whenever in his judgment the same are necessary in order to obtain a full and complete knowledge of the conditions of the association with which it is affiliated. Such additional reports shall be transmitted to the Comptroller of the Currency in such form as he may prescribe

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All banks admitted to membership under authority of this section shall be required to comply with the reserve and capital requirements of this chapter, to conform to those provisions of law imposed on national banks which prohibit such banks from lending on or purchasing their own stock and which relate to the withdrawal or impairment of their capital stock, and to conform to the provisions of sections 56 and 60(b) of this title with respect to the payment of dividends; except that any reference in any such provision to the Comptroller of the Currency shall be deemed for the purposes of this sentence to be a reference to the Board of Governors of the Federal Reserve System. Such banks and the officers, agents, and employees thereof shall also be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of title 18, and shall be required to make reports of condition and of the payment of dividends to the Federal Reserve bank of which they become a member. Not less than three of such reports shall be made annually on call of the Federal Reserve bank on dates to be fixed by the Board of Governors of the Federal Reserve System. Any bank which

(A)

maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or

(B)

inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The bank shall have the burden of proving that an error was inadvertent

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and that a report was inadvertently transmitted or published late. Any bank which fails to make or publish such reports within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(1)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818 (h) of this title shall apply to any proceeding under this paragraph. Such reports of condition shall be in such form and shall contain such information as the Board of Governors of the Federal Reserve System may require.

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COLLECTION[search](#)[TITLE 12 > CHAPTER 16 > Sec. 1817.](#)[Prev](#) | [Next](#)**Sec. 1817. - Assessments****(a) Reports of condition; access to reports****(1)**

Each insured State nonmember bank (except a District bank) and each foreign bank having an insured branch which is not a Federal branch shall make to the Corporation reports of condition which shall be in such form and shall contain such information as the Board of Directors may require. Such reports shall be made to the Corporation on the dates selected as provided in paragraph (3) of this subsection and the deposit liabilities shall be reported therein in accordance with and pursuant to paragraphs (4) and (5) of this subsection. The Board of Directors may call for additional reports of condition on dates to be fixed by it and may call for such other reports as the Board may from time to time require. Any such bank which

(A)

maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, or

(B)

inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any such bank which fails to make or publish any report required under this paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, in a manner not

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described in the 2nd preceding sentence shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any such bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Corporation may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818 (l)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any such bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this paragraph.

(2)

(A)

The Corporation and, with respect to any State depository institution, any appropriate State bank supervisor for such institution, shall have access to reports of examination made by, and reports of condition made to, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank, or any Federal Reserve bank and to all revisions of reports of condition made to any of them, and they shall promptly advise the Corporation of any revisions or changes in respect to deposit liabilities made or required to be made in any report of condition. The Corporation may accept any report made by or to any commission, board, or authority having supervision of a depository institution, and may furnish to the Comptroller of the Currency, the ^[1] Director of the Office of Thrift Supervision, the (FOOTNOTE 1) Federal Housing Finance Board, any (FOOTNOTE 1) Federal home loan bank, to any Federal Reserve bank; and to any such commission, board, or authority, reports of examinations made on behalf of, and reports of condition made to, the Corporation. "to".

(B) Additional reports. -

The Board of Directors may from time to time require any insured depository institution to file such additional reports as the Corporation, after agreement with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision, as appropriate, may deem advisable for insurance purposes.

(3)

Each insured depository institution shall make to the appropriate Federal banking agency 4 reports of condition annually upon dates which shall be selected by the Chairman of the Board of Directors, the Comptroller of the Currency, and the Chairman of the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision. The dates selected shall be the same for all insured depository institutions, except that when any of said reporting dates is a nonbusiness day for any depository institution, the preceding business day shall be its reporting date. Two dates shall be selected within the semiannual period of January to June inclusive, and the reports on such dates shall be the basis for the certified statement to be filed in July pursuant to subsection (c) of this section, and two dates shall be selected within the semiannual period of July to December inclusive, and the reports on such dates shall be the basis for the certified statement to be filed in January pursuant to subsection (c) of this section. The deposit liabilities shall be reported in said reports of conditions in accordance with and pursuant to paragraphs (4) and (5) of this subsection, and such other information shall be reported therein as may be required by the respective agencies. Each said report of condition shall contain a declaration by the president, a vice president, the cashier or the treasurer, or by any other officer designated by the board of directors or trustees of the reporting depository institution to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of said report of condition shall be attested by the signatures of at least two directors or trustees of the reporting depository institution other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. At the time of making said reports of condition each insured depository institution shall furnish to the Corporation a copy thereof containing such signed declaration and attestations. Nothing herein shall preclude any of the foregoing agencies from requiring the banks or savings associations under its jurisdiction to make additional

reports of condition at any time.

(4)

In the reports of condition required to be made by paragraph (3) of this subsection, each insured depository institution shall report the total amount of the liability of the depository institution for deposits in the main office and in any branch located in any State of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, according to the definition of the term "deposit" in and pursuant to subsection (l) of section 1813 of this title without any deduction for indebtedness of depositors or creditors or any deduction for cash items in the process of collection drawn on others than the reporting depository institution: Provided, That the depository institution in reporting such deposits may

(i)

subtract from the deposit balance due to any depository institution the deposit balance due from the same depository institution (other than trust funds deposited by either depository institution) and any cash items in the process of collection due from or due to such depository institutions shall be included in determining such net balance, except that balances of time deposits of any depository institution and any balances standing to the credit of private depository institutions, of depository institutions in foreign countries, of foreign branches of other American depository institutions, and of American branches of foreign banks shall be reported gross without any such subtraction, and

(ii)

exclude any deposits received in any office of the depository institution for deposit in any other office of the depository institution: And provided further, That outstanding drafts (including advices and authorizations to charge depository institution's balance in another depository institution) drawn in the regular course of business by the reporting depository institution on depository institutions need not be reported as deposit liabilities. The amount of trust funds held in the depository institution's own trust department, which the reporting depository institution keeps segregated and apart from its general assets and does not use in the conduct of its business, shall not be included in the total deposits in such reports, but shall be separately

stated in such reports. Deposits which are accumulated for the payment of personal loans and are assigned or pledged to assure payment of loans at maturity shall not be included in the total deposits in such reports, but shall be deducted from the loans for which such deposits are assigned or pledged to assure repayment.

(5)

The deposits to be reported on such reports of condition shall be segregated between

(i)

time and savings deposits and

(ii)

demand deposits. For this purpose, the time and savings deposits shall consist of time certificates of deposit, time deposits-open account, and savings deposits; and demand deposits shall consist of all deposits other than time and savings deposits.

(6) Lifeline account deposits. -

In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 1834(a)(3)(C) of this title) shall be reported separately.

(7)

The Board of Directors, after consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System, may by regulation define the terms "cash items" and "process of collection", and shall classify deposits as "time", "savings", and "demand" deposits, for the purposes of this section.

(8)

In respect of any report required or authorized to be supplied or published pursuant to this subsection or any other provision of law, the Board of Directors or the Comptroller of the Currency, as the case may be, may differentiate between domestic banks and foreign banks to such extent as, in their judgment, may be reasonably required to avoid hardship and can be done without substantial compromise of insurance risk or supervisory and regulatory effectiveness.

(9) Data collections. -

In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that -

(A)

each Insured depository institution maintains;
and

(B)

the Corporation receives on a regular basis from such institution,

Information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution. In prescribing reporting and other requirements for the collection of actual and accurate information pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions that are well capitalized (as defined in section 1831o of this title) while taking into account the benefit of the information to the Corporation, including the use of the information to enable the Corporation to more accurately determine the total amount of insured deposits in each insured depository institution for purposes of compliance with this chapter.

(10)

A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, if, after confirmation of a plan of reorganization, such corporation would not otherwise be highly leveraged.

(b) Assessments**(1) Risk-based assessment system****(A) Risk-based assessment system required**

The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

(B) Private reinsurance authorized

In carrying out this paragraph, the Corporation may -

(i)

12 C.F.R. Part 18

Disclosure of Financial and Other Information by National Banks

Sec.

18.1 Purpose and OMB control number.

18.2 Definitions.

18.3 Preparation of annual disclosure statement.

18.4 Contents of annual disclosure statement.

18.5 Alternative annual disclosure statements.

18.6 Signature and attestation.

18.7 Notice of availability.

18.8 Delivery.

18.9 Disclosure of examination reports.

18.10 Prohibited conduct and penalties.

18.11 Safe harbor provision.

AUTHORITY: 12 U.S.C. 93a, 161, and 1818.

SOURCE: 53 FR 3866, Feb. 10, 1988, unless otherwise noted.

§ 18.1 Purpose and OMB control number.

(a) *Purpose.* The purpose of this part is to require all national banks and federal branches and agencies to prepare an annual financial disclosure statement, and to make this statement available to security holders, depositors, and anyone who requests it. The bank may, at its option, supplement this financial disclosure statement with narrative information management deems important. The availability of this information is expected to promote better public understanding of, and confidence in, individual national banks and the national banking system. The annual disclosure statement will serve to complement the supervisory efforts of the Office of the Comptroller of the Currency (OCC) to promote bank safety and soundness and public confidence in the national banking system.

(b) *OMB control number.* The collection of information requirements contained in this part were approved by the Office of Management and Budget under OMB control number 1557-0182.

[53 FR 3866, Feb. 10, 1988, as amended at 60 FR 57332, Nov. 15, 1995]

§ 18.2 Definitions.

Unless otherwise defined in this part, the terms used have the same meaning as in the instructions to the Consolidated Reports of Condition and Income (Call Reports).

§ 18.3 Preparation of annual disclosure statement.

(a) Beginning with calendar year 1987, each national bank and federal branch and agency shall prepare an annual disclosure statement as of December 31. The annual disclosure statement shall contain information required by § 18.4 (a), (b) and (d) may include other information that bank management believes important, as discussed in § 18.4(c).

(b) The annual disclosure statement shall be available by March 31 of each year, or by an earlier date as necessary to be made available to security holders in advance of the annual meeting of shareholders. A bank shall continually make its annual disclosure statement available until the annual disclosure statement for the succeeding year becomes available.

§ 18.4 Contents of annual disclosure statement.

(a) *Information concerning financial condition and results of operations.* The annual disclosure statement for any year shall reflect a fair presentation of the bank's financial condition at the end of that year and the preceding year. The annual disclosure statement may, at the option of bank management, consist of the bank's entire Call Reports, or applicable portions thereof, for the relevant periods. At a minimum, the statement must contain the same or comparable information as provided in the following Call Report schedules.

(1) For national banks:

(i) Schedule RC (Balance Sheet);

(ii) Schedule RC-N (Past Due and Nonaccrual Loans, Leases, and Other Assets--column A and memorandum Item 1 need not be included);

(iii) Schedule RI (Income Statement);

(iv) Schedule RI-A (Changes in Equity Capital); and

(v) Schedule RI-B (Charge-Offs and Recoveries and Changes in Allowance for Loan and Lease Losses--part I may be omitted).

(2) For federal branches or agencies:

(i) Schedule RAL (Assets and Liabilities);

(ii) Schedule E (Deposit Liabilities and Credit Balances); and

(iii) Schedule P (Other Borrowed Money).

(b) *Other required information.* The annual disclosure statement shall include such other information as the OCC may require. This may include a discussion of enforcement actions when the OCC deems it in the public interest.

(c) *Optional narrative.* Bank management may, at its option, provide a narrative discussion to supplement the annual disclosure statement. This narrative may include information that bank management deems important in evaluating the overall condition of the bank. Information that bank management might present includes, but is not limited to, a discussion of the financial data; pertinent information relating to mergers and acquisitions; the existence and underlying causes of enforcement actions; business plans; material changes in balance sheet and income statement items; and future plans.

(d) *Disclaimer.* The following legend shall be included in the annual disclosure statement to advise the public that the OCC has not reviewed the information contained therein:

This statement has not been reviewed, or confirmed for accuracy or relevance by the Office of the Comptroller of the Currency.

[53 FR 3866, Feb. 10, 1988, as amended at 60 FR 57332, Nov. 15, 1995]

§ 18.5 Alternative annual disclosure statements.

The § 18.3(a) requirement to prepare an annual disclosure statement is satisfied:

(a) In the case of a national bank having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), by its annual report to security holders for meetings at which directors are to be elected;

(b) In the case of a national bank with audited financial statements, by those statements, provided all of the required information is included;

(c) In the case of a bank subsidiary of a one-bank holding company, by an annual report of the one-bank holding company prepared in conformity with the regulations of the Securities and Exchange Commission or by schedules from the holding company's consolidated financial statements on Form FR Y-9c pursuant to Regulation Y of the Federal Reserve Board (12 CFR part 225). Such schedules must be comparable to the Call Report schedules enumerated in § 18.4(a). In either case, not less than 95 percent of the holding company's consolidated total assets and total liabilities must be attributable to the bank and the bank's subsidiaries.

[53 FR 3866, Feb. 10, 1988, as amended at 60 FR 57332, Nov. 15, 1995]

§ 18.6 Signature and attestation.

A duly authorized officer of the bank shall sign the annual disclosure statement and shall attest to the correctness of the information contained in the statement if the financial reports are not accompanied by a report of an independent accountant.

§ 18.7 Notice of availability.

(a) *Shareholders*. In its notice of the annual meeting of shareholders, each national bank shall indicate that any person may obtain the annual disclosure statement from the bank, and shall include the address and telephone number of the person or office to be contacted for a copy. The first copy shall be provided without charge.

(b) *Depositors, Other Security Holders, and the General Public*. In the lobby of its main office and each branch, each national bank shall prominently display, at all times, a notice that any person may obtain the annual disclosure statement from the bank. The notice shall include the address and telephone number of the person or office to be contacted for a copy. The first copy shall be provided without charge.

§ 18.8 Delivery.

Each national bank shall, after receiving a request for an annual disclosure statement, promptly mail or otherwise furnish the statement to the requester.

§ 18.9 Disclosure of examination reports.

Except as permitted under part 4 of this chapter, a national bank may not disclose any report of examination or report of supervisory activity, or any portion thereof, prepared by the OCC. The bank also shall not make any representation concerning such report or the findings therein.

[53 FR 3866, Feb. 10, 1988, as amended at 60 FR 57332, Nov. 15, 1995]

§ 18.10 Prohibited conduct and penalties.

(a) No national bank or institution-affiliated party shall, directly or indirectly:

(1) Disclose or cause to be disclosed false or misleading information in the annual disclosure statement, or omit or cause the omission of material or required information in the annual disclosure statement; or

(2) Represent that the OCC, or any employee thereof, has passed upon the accuracy or completeness of the annual disclosure statement.

(b) For purposes of this part, institution-affiliated party means:

(1) Any director, officer, employee, or controlling stockholder (other than a bank

holding company) of, or agent for, a national bank;

(2) Any other person who has filed or is required to file a change-in-control notice with the OCC under 12 U.S.C. 1817(j);

(3) Any shareholder (other than a bank holding company), consultant, joint venture partner, and any other person as determined by the OCC (by regulation or case-by-case) who participates in the conduct of the affairs of a national bank; and

(4) Any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in:

(i) Any violation of any law or regulation;

(ii) Any breach of fiduciary duty; or

(iii) Any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the national bank.

(c) Conduct that violates paragraph (a) of this section also may constitute an unsafe or unsound banking practice or otherwise serve as a basis for enforcement action by the OCC including, but not limited to, the assessment of civil money penalties against the bank or any institution-affiliated party who violates this part.

[60 FR 57332, Nov. 15, 1995]

§ 18.11 Safe harbor provision.

The provisions of § 18.10(c) shall apply unless it is shown by the person or bank involved that the information disclosed was included with a reasonable basis or in good faith.