



# Offices of Inspector General

Department of the Treasury  
Federal Deposit Insurance Corporation  
Board of Governors of the Federal Reserve System  
and Consumer Financial Protection Bureau

## **Transfer of Office of Thrift Supervision Functions Is Completed**

OIG-14-030  
AUD-14-005  
2014-AE-B-004

March 26, 2014



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## Abbreviations

CFPB	Consumer Financial Protection Bureau
FDIC	Federal Deposit Insurance Corporation
FRB	Board of Governors of the Federal Reserve System
OCC	Office of the Comptroller of the Currency
OIG	Office of Inspector General
OTS	Office of Thrift Supervision
Plan	Joint Implementation Plan
SF-50s	Standard Form 50, Notification of Personnel Action
Thrift	Federal Savings Association
Treasury	Department of the Treasury

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## Offices of Inspector General

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March 26, 2014

Janet L. Yellen, Chair  
Board of Governors of the Federal Reserve System

Martin J. Gruenberg, Chairman  
Federal Deposit Insurance Corporation

Thomas J. Curry, Comptroller of the Currency  
Office of the Comptroller of the Currency

This report presents the results of our offices' seventh and final joint review of the transfer, pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or the Act), of the functions, employees, funds, and property of the former Office of Thrift Supervision (OTS) to the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC). In accordance with Title III of the Act, the transfer occurred in July 2011.

Our joint reviews are mandated by Section 327 of Title III. During our first review, we determined the Joint Implementation Plan (Plan) for the transfer prepared by FRB, FDIC, OCC, and OTS generally conformed to relevant Title III provisions.<sup>1</sup> Since then, in accordance with Section 327, this is the sixth joint review we completed to report every 6 months on the status of the Plan's implementation. In our prior reports, we jointly reported that the Plan has been implemented for the most part, as the functions,

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<sup>1</sup> We noted that the plan did not address the prohibition in Title III against the involuntary separation or the involuntary reassignment of a transferred OTS employee outside the employee's locality pay area for 30 months (except under certain circumstances). In response, the agencies amended the plan in April 2011.

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people, and property of OTS were transferred to FRB, FDIC, and OCC in accordance with Title III and the Plan. We also reported that procedures and safeguards were in place at FDIC and OCC as outlined in the Plan to ensure that transferred employees are not unfairly disadvantaged, a key requirement in Title III. Further, we reported that for savings and loan holding companies and bank holding companies with consolidated assets of \$50 billion or more, and nonbank financial companies that FRB is required to supervise pursuant to Section 113 of the Dodd-Frank Act, FRB is to collect assessments, fees, or other charges equal to the expenses FRB estimates are necessary or appropriate to carry out its supervisory and regulatory responsibilities. FRB's final rule for the collection of assessments, fees, and other charges was published in the Federal Register on August 23, 2013. Accordingly, the rulemaking for FRB's supervisory assessment pursuant to Section 318 of the Dodd-Frank Act is completed. Appendix 1 lists our prior reports on the transfer of OTS functions.

For this reporting period, we determined that both FDIC and OCC complied with the Act by providing the remaining protections afforded to the transferred OTS employees for the required 30-month period following the transfer. Accordingly, this is our final joint review of the transfer of the functions, employees, funds, and property of the former OTS to FRB, FDIC, and OCC.

## **Results of the Joint Review**

For this 6-month period, we are reporting that both FDIC and OCC complied with the Section 322 requirement to protect transferred OTS employees from certain pay and other personnel actions during the 30-month period following the transfer (July 2011 to January 2014).<sup>2</sup> Additionally, we are reporting on OCC employee utilization of the alternative examiner qualification process as an update to our March 27, 2013, report on this process. As part of our work, we interviewed FDIC's Deputy Director of Human Resources, FDIC's Compensation Program Manager, and OCC's Deputy Comptroller for Human Resources. We also reviewed

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<sup>2</sup> Ninety-five (95) OTS employees were transferred to FDIC, and 668 OTS employees were transferred to OCC. No OTS employees transferred to FRB under Title III.

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relevant FDIC and OCC documentation. Consistent with our objective, we did not assess FDIC's or OCC's overall internal control or management control structure, obtain data from their information systems, or assess the effectiveness of their information system controls. We conducted our fieldwork at FDIC in Arlington, Virginia and OCC in Washington, DC, from December 2013 to March 2014.

### Protections for Transferred OTS Employees

Section 322 of the Dodd-Frank Act provides certain protections for 30-months to former OTS employees transferred to FDIC and OCC. FDIC and OCC were required to ensure all OTS transferred employees were paid at a rate that was not less than the basic rate of pay, including any geographic differential, that the transferred employee received during the pay period immediately preceding the date on which the employee was transferred, except with the consent of the transferred employee.<sup>3</sup> The 30-month period of pay protection for former OTS employees began on their effective start date, July 31, 2011, and ended on January 31, 2014.<sup>4</sup> In addition, Section 322 required former OTS transferred employees not be involuntarily separated, or involuntarily reassigned outside their locality pay area.<sup>5</sup>

We obtained a listing of the 490 transferred OTS employees who were still employed at OCC as of January 31, 2014, as well as their salaries at the beginning and end of this period, and determined their pay was protected. We sampled 112 of the employees on the listing and compared the salaries on the listing to the salaries on each employee's Standard Form 50,

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<sup>3</sup> As previously reported, at the time of the transfer we determined that, pursuant to Section 322 of Title III, transferred employees' pay was not negatively affected by the transfer.

<sup>4</sup> At the time the employees were transferred, FDIC elected to extend the pay protection until the first day of the first full pay period following January 31, 2014, or February 9, 2014, to ease administrative burden and decrease the possibility of errors.

<sup>5</sup> Section 322 of the Dodd-Frank Act does not limit the right of OCC or FDIC to separate an employee for cause or for unacceptable performance; terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or reassign an employee outside such employee's locality pay area when OCC or FDIC determines that the reassignment is necessary for the efficient operation of the agency.

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Notification of Personnel Action (SF-50), without exception. An OCC official told us that, at the time of the transfer, OCC decided not to reduce pay after the protection period and will honor that decision.

We also asked the OCC official whether any transferred OTS employees were involuntarily separated or transferred. The OCC official told us that there were two transferred OTS employees that were involuntarily separated because of unacceptable performance,<sup>6</sup> which is not a violation of the Dodd-Frank Act. In addition, we sampled 26 of the 178 transferred OTS employees who were no longer employed at OCC as of January 31, 2014. We reviewed their respective SF-50s and determined that their pay was protected for their period of employment at OCC, and that they were not involuntarily separated from the agency, without exception.

FDIC selected 95 OTS employees based on “Expressions of Interest.” In that regard, qualified OTS employees were given the opportunity to apply and be considered for those positions through competitive processes in accordance with standard merit principles selection criteria, as an alternative to the OCC placements they were offered. An FDIC official noted that each of the affected employees signed agreements prior to their FDIC employment in which they indicated they understood the impact on their salaries when their pay protection ended.

During a prior review, we found that 18 of the 95 OTS employees who transferred to FDIC were impacted by the pay protection requirement.<sup>7</sup> More specifically, 12 employees volunteered to accept a lower grade, and 6 employees accepted positions in which their converted FDIC base pay exceeded the FDIC’s pay range for their grade. We reviewed documentation that clearly explained to these 18 employees that their pay protection would expire after the 30-month period.

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<sup>6</sup> Based on our review of the two employees’ SF-50s, one of the employees resigned in lieu of involuntary action and the other employee was removed as a result of failing to meet performance standards.

<sup>7</sup> The remaining OTS transferred employees accepted permanent positions at FDIC with salaries at least equivalent to or higher than their OTS salaries prior to transfer.



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During this reporting period, we determined that 11 of these 18 employees still received pay greater than the pay range for the position they held at the end of the 30-month pay protection period.<sup>8</sup> We reviewed the SF-50s of these employees as of the end of the protection period, and confirmed that FDIC properly protected these individuals' pay. In addition, though not statutorily required, FDIC provided impacted employees an assessment of their potential salary reduction should their pay still exceed the maximum for their position grade on February 9, 2014, by letter on July 12, 2013. We confirmed that impacted employees' pay was adjusted to the maximum of the range for the positions' grade they held effective February 9, 2014.

#### OCC Examiner Certification

In prior reports, we described the alternative qualification process OCC created to address the differences between national banks and federal savings associations (thrifts) for examination purposes.<sup>9</sup> The alternative process allows certain experienced OCC and former-OTS examiners to acquire a universal certification valid for both bank and thrift examinations. OCC implemented the alternative qualification process on January 14, 2013. As of January 2014, approximately 13 percent of transferred OTS examiners and 19 percent of all OCC examiners (including transferred OTS employees) had earned the alternative bank and thrift examiner accreditation. An OCC official stated that implementation of the new accreditation is an ongoing process and employees are still working toward obtaining it.

We provided a draft of this report to FRB, FDIC, and OCC. We received a written response from FRB. FRB stated in its written response that it agrees it has completed the requirements pursuant

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<sup>8</sup> Of the 18 transferred employees, 3 employees separated and 4 received promotions that put their pay in range of their new position's pay band.

<sup>9</sup> After the transfer and prior to implementation of the alternative qualification process, all thrift examiners interested in leading bank examinations needed to first pass the Uniform Commission Examination; the same was true for bank examiners looking to lead thrift examinations. The alternative process created two cross-certification tests that provided examiners a means of becoming universally certified for thrift and bank examinations.

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to Section 318 of the Act concerning supervisory fees and assessments. With regard to FRB's other responsibilities under the Act to prepare for and complete the transfer, it concurs with the report's overall conclusion that the transfer of OTS responsibilities is complete. We received no written comments from FDIC; however, FDIC agreed with the conclusions contained in the report that the transfer of OTS functions is complete. OCC reviewed the report and had no comments. FRB's written response is included in this report as appendix 2.

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

\* \* \* \* \*

We appreciate the courtesies and cooperation provided to our staffs during the audit. If you wish to discuss the report, you may contact Marla A. Freedman, Assistant Inspector General for Audit, Treasury Office of Inspector General (OIG), at (202) 927-5400; E. Marshall Gentry, Assistant Inspector General for Evaluations, FDIC OIG, at (703) 562-6378; or Melissa M. Heist, Associate Inspector General for Audits and Evaluations, FRB and Consumer Financial Protection Bureau (CFPB) OIG, at (202) 973-5024. Major contributors to this report are listed in appendix 3.

/s/

Eric M. Thorson  
Inspector General  
Department of the  
Treasury

/s/

Fred W. Gibson, Jr.  
Acting Inspector General  
Federal Deposit Insurance  
Corporation

/s/

Mark Bialek  
Inspector General  
Board of Governors of the  
Federal Reserve System  
and Consumer Financial  
Protection Bureau

*Review of the Joint Implementation Plan for the Transfer of Office of Thrift Supervision Functions; OIG-11-064, Department of the Treasury Office of Inspector General (Treasury OIG); FRB OIG 2011-02, Board of Governors of the Federal Reserve System and Consumer Financial Protection Bureau OIG (FRB-CFPB OIG); EVAL-11-002, Federal Deposit Insurance Corporation OIG (FDIC OIG) (Mar. 28, 2011)*

*Status of the Transfer of Office of Thrift Supervision Functions, OIG-11-109, Treasury OIG; FRB OIG 2011-04, FRB-CFPB OIG; EVAL-11-005, FDIC OIG (Sep. 28, 2011)*

*Status of the Transfer of Office of Thrift Supervision Functions: OIG-12-046, Treasury OIG; FRB OIG 2012-01, FRB-CFPB OIG; EVAL-12-004, FDIC OIG (Mar. 21, 2012)*

*Status of the Transfer of Office of Thrift Supervision Functions; OIG-12-075, Treasury OIG; FRB OIG 2012-09, FRB-CFPB OIG; AUD-12-015, FDIC OIG (Sep. 26, 2012)*

*Status of the Transfer of Office of Thrift Supervision Functions; OIG-13-035, Treasury OIG; 2013-IE-B-003, FRB-CFPB OIG; AUD-13-005, FDIC OIG (Mar. 27, 2013)*

*Status of the Transfer of Office of Thrift Supervision Functions; OIG-13-054, Treasury OIG; 2013-AE-B-014, FRB-CFPB OIG; AUD-13-008, FDIC OIG (Sep. 26, 2013)*

Appendix 2  
FRB Management Comments



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

March 20, 2014

Mr. Mark Bialek  
Inspector General  
Board of Governors  
of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Dear Mark:

Thank you for providing the Federal Reserve with the opportunity to review and comment on the Office of Inspector General's draft report of the *Transfer of Office of Thrift Supervision Functions is Completed*. We have reviewed the report and agree that the Federal Reserve has completed the requirements pursuant to Section 318 of the Dodd-Frank Act (Act) concerning supervisory fees and assessments. With regard to the Federal Reserve's other responsibilities under the Act to prepare for and complete the transfer, we concur with the report's overall conclusion that the transfer of OTS responsibilities is complete.

We appreciate your efforts and the professionalism extended to the officers and staff of the Federal Reserve throughout this review. Please let me know if you have any questions.

Regards,

/s/

Michael S. Gibson  
Director  
Division of Banking Supervision  
and Regulation

/s/

Scott G. Alvarez  
General Counsel  
Legal Division

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**Federal Deposit Insurance Corporation**

Chairman

**Department of the Treasury**

Deputy Secretary  
Office of Strategic Planning and Performance Management  
Office of the Deputy Chief Financial Officer, Risk and Control  
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**Office of the Comptroller of the Currency**

Comptroller of the Currency  
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**Office of Management and Budget**

OIG Budget Examiner

**United States Senate**

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

**U.S. House of Representatives**

Chairman and Ranking Member  
Committee on Financial Services