

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 81-34
February 17, 1981

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Reporting Procedures

TO THE STATE MEMBER BANK ADDRESSED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

Upon recommendation of the Federal Financial Institutions Examination Council, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, jointly adopted procedures for reporting certain violations of the Employee Retirement Income Security Act of 1974 (ERISA) to the Department of Labor.

The Department of Labor has primary responsibility for the administration, interpretation, and enforcement of the standards of conduct and responsibility for fiduciaries of employee benefit plans under ERISA. Section 506 of Title I and Section 3004(b) of Title III of the Act provide that the Secretary of Labor may utilize the services of other Federal agencies in the enforcement of the statute.

The procedures require that significant possible violations of ERISA be submitted in writing to the Department of Labor by the Board.

Enclosed for your information is a copy of the Board's press release dated February 3, 1981, and a copy of the Interagency Agreement.

Any questions concerning the Interagency Agreement should be directed to James Caughlin, Ext. 6676 or David Smith, Ext. 6677, of our Bank Supervision and Regulations Department.

Sincerely yours,

William H. Wallace

First Vice President

Enclosure

Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank: 1-800-442-7140 (intrastate) and 1-800-527-9200 (interstate). For calls placed locally, please use 651 plus the extension referred to above.

FEDERAL RESERVE press release



For immediate release

February 3, 1981

The Federal Reserve Board has adopted the attached procedures for bringing to the attention of the Department of Labor possible significant violations by State member banks of the Employee Retirement Income Security Act (ERISA).

The Board acted upon a recommendation to Federal supervisors of financial institutions by the Federal Financial Institutions Examination Council.

ERISA provides that the Secretary of Labor may use the facilities of other agencies, with their consent, to help discharge the Department's responsibilities under the Act, and directs the agencies to cooperate with the Secretary to the extent permitted by law.

Attachment

Procedures for Cooperation Between the
Federal Financial Institution Regulatory
Agencies and the Department of Labor in
the Enforcement of the Employee Retirement
Income Security Act of 1974.

The Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, and the Office of the Comptroller of the Currency ("the federal financial institution regulatory agencies") as part of their supervision of the institutions regulated by them, conduct examinations and perform other functions which occasionally disclose violations of the Employee Retirement Income Security Act of 1974 (ERISA). The Department of Labor (DOL) is charged with the administration, interpretation and enforcement of standards of conduct and responsibility of fiduciaries of employee benefit plans under ERISA.

Section 3004(b) of ERISA provides that the Secretary of Labor may utilize the facilities or services of any department, agency, or establishment of the United States, with the lawful consent of such department, agency, or establishment; and each department, agency or establishment of the United States is authorized and directed to cooperate with the Secretary of Labor and, to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under ERISA. This agreement is executed pursuant to that authority.

1. To the maximum extent consistent with law and dependent upon the availability of resources, the federal financial institution regulatory agencies shall provide written notification to the DOL of possible violations of ERISA of a significant nature, which are discovered in the course of their supervision of the fiduciary activities of institutions subject to their respective jurisdiction. The responsibility of The National Credit Union Administration shall be limited to possible violations disclosed in the examination of federal credit unions.

2. A possible violation shall be considered significant when, in the view of the appropriate federal financial institution regulatory agency, it falls within the following circumstances:

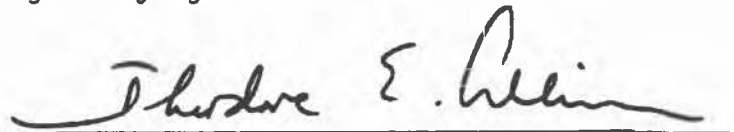
- a. Where the financial institution does not serve as plan administrator or plan sponsor, as those terms are defined in ERISA Section 3(16), possible violations of:

- (1) Title I, Part 4, Section 404, relating to fiduciary duties (including transactions directed by named fiduciaries or qualified investment managers), except where the transaction amounts, individually or in combination with other questionable transactions, constitute less than \$100,000;
 - (2) Title I, Part 4, Sections 406 and 407(a), relating to prohibited transactions, except where the threat of loss to the plan participants is de minimis;
 - (3) Title I, Part 4, Section 411, relating to prohibition against certain persons holding certain positions;
 - (4) Title I, Part 4, Section 412, relating to the bonding requirements as applicable to the financial institution itself.
- b. Where the financial institution, in respect to a plan, also serves as plan administrator or plan sponsor, the agencies shall provide written notification of possible violations of the ERISA sections enumerated in a. above and, in addition, shall provide written notification of possible violations of Title I, Part 1 of ERISA relating to reporting and disclosure.
3. The written notification to the DOL shall include the following:
 - a. The name of the financial institution.
 - b. The name of the plan.
 - c. A brief description of the nature of the possible violation, and any corrective action requested by the federal financial institution regulatory agency and/or initiated by the federal financial institution regulatory agency.
 4. The DOL agrees that any information received from the federal financial institution regulatory agencies pursuant to this agreement shall to the extent permissible by law be held in strict confidence and may be used for investigative purposes only; and that no other use of such information shall be made without the express written authorization of the agency that supplied such information.

5. The written notification shall be sent to the Assistant Administrator for Enforcement, Pension Welfare Benefit Programs, U. S. Department of Labor, Washington, D.C. 20216.

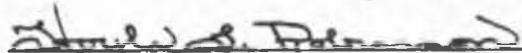
For the Federal Financial Institution Regulatory Agencies:

Date: December 9, 1980



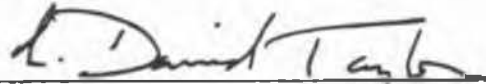
Theodore E. Allison, Secretary
Board of Governors of the
Federal Reserve System

Date: December 11, 1980



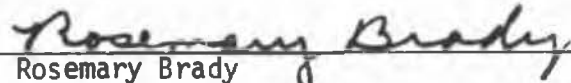
Hoyle D. Robinson
Executive Secretary
Federal Deposit Insurance Corporation

Date: December 10, 1980



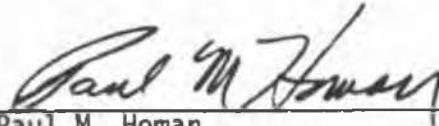
L. David Taylor, Director
Office of Examinations and Supervision
Federal Home Loan Bank Board

Date: December 10, 1980



Rosemary Brady
Secretary of the Board
National Credit Union Administration

Date: December 12, 1980



Paul M. Homan
Senior Deputy Comptroller for Bank
Supervision
Office of the Comptroller of the Currency

For the U. S. Department of Labor:

Date: December 29, 1980



Ian D. Lanoff
Administrator of Pension and Welfare
Benefit Programs