



FEDERAL RESERVE BANK OF DALLAS

2200 N. PEARL ST.
DALLAS, TX 75201-2272

March 14, 2005

Notice 05-12

TO: The Chief Executive Officer of each
financial institution and others concerned
in the Eleventh Federal Reserve District

SUBJECT

Federal Banking Agencies Issue Advisory on Confidentiality of Supervisory Ratings

DETAILS

The federal banking and thrift agencies have issued an interagency advisory to remind financial institutions that they are prohibited by law from disclosing their CAMELS rating and other nonpublic supervisory information without permission from the appropriate federal banking agency.

The advisory is prompted by insurers who have requested or required banks and savings associations to disclose their CAMELS rating during the underwriting process for directors and officers liability coverage. As a result of actions by insurers, the agencies have requested the assistance of the National Association of Insurance Commissioners (NAIC) in notifying insurance companies that the practice of requesting or requiring CAMELS ratings should be discontinued.

ATTACHMENT

A copy of the interagency statement is attached.

MORE INFORMATION

For more information, please contact Marion White, Banking Supervision Department, (214) 922-6155. Paper copies of this notice or previous Federal Reserve Bank notices can be printed from our web site at www.dallasfed.org/banking/notices/index.html.

**Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Board of Governors of the Federal Reserve System
Office of Thrift Supervision**

February 28, 2005

**Interagency Advisory on the Confidentiality of the Supervisory Rating and
Other Nonpublic Supervisory Information**

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (the agencies) have learned that some insurers have requested or required banks and savings associations to disclose their CAMELS rating during the underwriting process when those institutions have sought Directors and Officers Liability (D&O) coverage.¹ The agencies are issuing this advisory to remind all banking organizations that, except in very limited circumstances, they are prohibited by law from disclosing their CAMELS rating and other nonpublic supervisory information to insurers as well as other non-related third parties without permission from their appropriate federal banking agency.

The agencies' regulations provide that the report of examination, which contains the CAMELS rating, is nonpublic information and the property of the agency issuing the report.² These regulations specifically provide that, except in very limited circumstances, banks, savings associations, and other financial institutions may not disclose a report of examination or any portion of the report, nor make any representations concerning the report or the report's findings without the prior written permission of the appropriate federal banking agency.³ The circumstances for release of nonpublic supervisory information may include disclosure to a parent holding company, director, officer, attorney, auditor, or other specified third party, as indicated in the regulations of the appropriate federal banking agency.⁴ Any person who discloses or uses nonpublic information except as expressly permitted by one of the appropriate

¹ As part of the examination process, the agencies assign a confidential supervisory rating, called a CAMELS rating, to each depository institution they regulate. A CAMELS rating is based on an evaluation of the financial institution's capital, assets, management, earnings, liquidity and sensitivity to market risk (CAMELS), and may range from "1" to "5", with "1" being the highest rating.

² See 12 CFR 4.32(b)(2) and 4.36(d) (OCC); 12 CFR 309.5(g)(8) and 309.6(a) (FDIC); 12 CFR 261.2(c)(1); 261.20(g), and 261.22(e) (FRB); and 12 CFR 510.5(c)(4)(v) (OTS).

³ See 12 CFR 4.36, 4.37(b), and 18.9 (OCC); 12 CFR 309.6 (FDIC); 12 CFR 261.20(g) and 261.22 (FRB); and 12 CFR 510.5(c)(4)(v) (OTS).

⁴ See 12 CFR 4.37(b)(2) (OCC exceptions); 12 CFR 309.6(b) (FDIC exceptions); 12 USC 326, 12 CFR 261.20(b) (FRB exceptions); and 12 CFR 510.5(c)(4) (OTS exemptions).

federal banking agencies or as provided by the agency's regulations may be subject to the criminal penalties provided in 18 USC 641.

This legal prohibition on the release of nonpublic supervisory information applies to all financial institutions supervised by the agencies, including bank and thrift holding companies, Edge corporations, and the U.S. branches or agencies of foreign banking organizations, which receive confidential supervisory ratings, including the RFI/C(D) rating, ROCA rating, CORE rating, and CAMEO rating.⁵ As with the CAMELS rating, these ratings are transmitted to the regulated institutions in reports of inspection or examination, which are the property of the agencies.

Financial institutions supervised by the agencies that receive requests for confidential supervisory ratings should refer all requesters to the following publicly available information in lieu of disclosing any confidential regulatory information including the CAMELS rating:

- For banks and savings associations, an institution's quarterly reports of condition (Call Reports and Thrift Financial Reports (TFRs)) (*see* 12 USC 1817);
- For holding companies or foreign banks with U.S. operations, an institution's quarterly and annual FR Y or H-(b)11 reports (*see* 12 USC 1844; 3106, 3108, 601-604a, and 611-631), and Schedule HC of the TFR (*see* 12 CFR 584.1);
- For national banks, the annual disclosure statement (*see* 12 CFR 18.3);
- For banks, the institution's Uniform Bank Performance Report (UBPR), which is available to all interested parties at the Federal Financial Institutions Examination Council (FFIEC) Web site, www.ffiec.gov, and is designed for summary and in-depth analysis of banks; for savings associations, the Uniform Thrift Performance Report (UTPR) is available from the OTS upon request;
- An institution's publicly available filings, if any, filed with the appropriate federal banking agency (15 USC 78(l)(i)) or with the U.S. Securities and Exchange Commission;
- Any reports or ratings on the institution compiled by private companies that track the performance of financial institutions;⁶
- Any reports or ratings issued by private rating services on public debt issued by an institution;

⁵ RFI/C(D), ROCA, and CAMEO ratings are assigned by the FRB as a result of an examination or inspection, while OTS assigns CORE ratings. As of January 1, 2005, the FRB adopted a new rating system, RFI/C(D) ratings, for bank holding companies that replaces the BOPEC rating system. RFI/C(D) ratings components are: risk management, financial condition, potential impact of the parent and nondepository subsidiaries on the subsidiary depository institutions, composite, and depository institution. For noncomplex bank holding companies with assets of \$1 billion or less, only risk management and composite ratings are assigned. ROCA ratings are assigned to the U.S. branches, agencies, and commercial lending companies of foreign banking organizations. The ROCA rating components are: risk management, operational controls, compliance, and assset quality. CORE ratings are assigned to complex holding company enterprises. The CORE rating components are: capital, organizational structure, relationship, and earnings. CAMEO ratings are assigned to Edge corporations and the overseas branches and subsidiaries of U.S. banks. The CAMEO ratings components are: capital, assset quality, management, earnings, and operations and internal controls.

⁶ See guidance on bank rating services found at <http://www.fdic.gov/bank/individual/bank/index.html>.

- Any publicly available cease and desist order or enforcement proceeding against an institution;⁷ or
- Any reports or other sources of information on institution performance or internal matters created by the institution that does not contain information prohibited from release by law or regulation.

The agencies have advised the National Association of Insurance Commissioners (NAIC) that some insurers are inappropriately requesting, or requiring, disclosure of CAMELS ratings as a part of the underwriting process and have requested its assistance in notifying insurance companies that this practice should be discontinued because of the confidential nature of the CAMELS rating.

For further information, contact at the OCC, Heidi M. Thomas, special counsel, Legislative and Regulatory Activities Division at (202) 874-5090, or Barbara Washington, Operational Risk Policy at 202 874- 6037; at the FRB, Katherine Wheatley, associate general counsel, Legal Division at (202) 452-3779, or Nancy Oakes, counsel, Division of Banking Supervision and Regulation at (202) 452-2743; at the FDIC, Sean Forbush, senior financial analyst at (202) 898-8506, or Pamela E.F. LeCren, counsel, Legal Division at (202) 898-3730; and at the OTS, Josephine Battle, program analyst at (202) 906-6870.

⁷ Information on enforcement actions taken by the agencies may be found at the following websites: http://www.occ.treas.gov/enforce/enf_search.htm; <http://www.fdic.gov/bank/individual/enforcement/index.html>; <http://www.ots.treas.gov/enforcement>; and <http://www.federalreserve.gov/boarddocs/enforcement/search.cfm>. Information on enforcement actions taken by other federal agencies, such as the Securities and Exchange Commission, the Financial Crimes Enforcement Network, and the Department of Justice, as well as foreign authorities, may also be publicly available.