

FEDERAL RESERVE BANK OF NEW YORK

NEW YORK, N. Y. 10045-0001

AREA CODE 212 720-6375

FACSIMILE 212 720-8742

CHESTER B. FELDBERG  
EXECUTIVE VICE PRESIDENT

AT 10694  
February 25, 1994

**TO THE CHIEF EXECUTIVE OFFICER OF EACH STATE MEMBER BANK AND  
BANK HOLDING COMPANY IN THE SECOND FEDERAL RESERVE DISTRICT**

**SUBJECT: Depository Institutions Disaster Relief Act**

The Depository Institutions Disaster Relief Acts of 1992 and 1993 ("DIDRA")<sup>1</sup> permit federal financial institutions' regulatory agencies to grant relief from leverage capital standards for banking organizations in certain areas affected by major disasters.<sup>2</sup> The President recently has determined that a major disaster exists in certain areas of Southern California affected by the January 17, 1994 earthquake. This includes the counties of Los Angeles, Orange and Ventura. As a result, some banking organizations in the affected areas may wish to submit requests for relief to their appropriate Reserve Bank.

Until April 1, 1995, the agencies may grant institutions that have collected insurance payments in connection with a major disaster temporary relief from the leverage limits for prompt corrective action on a case-by-case basis. Institutions experiencing temporary asset growth from the deposit of funds obtained from insurance proceeds or government assistance programs received as a result of a major disaster may apply to the Federal Reserve Bank for such relief.

**LEVERAGE STANDARDS**

Section 3 of DIDRA authorizes the Board to permit individual state member banks to subtract from the bank's total assets the amount of certain insurance proceeds collected by the bank in calculating the bank's leverage limit for prompt

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<sup>1</sup> Pub. L. 102-485, 106 Stat. 2771 (1992) and Pub. L. 103-76, 107 Stat. 752 (1993).

<sup>2</sup> Such areas are those for which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Act, 42 USC 5170, has determined that a major disaster exists.

corrective action purposes.<sup>3</sup> A state member bank may request relief if it has experienced temporary asset growth from the deposit of funds received from insurance companies or government assistance programs because of the damage caused by a major disaster. A state member bank is eligible provided that:

- (1) the institution's principal place of business was in the major disaster area on the day before the President declared the area as a major disaster;
- (2) 60 percent or more of the institution's deposits are normally from individuals residing or businesses located in the disaster area;
- (3) the institution was adequately capitalized before the disaster as defined in Section 38 of the Federal Deposit Insurance Act (FDIA); and
- (4) the institution has an acceptable plan for managing this increase in assets and deposits.

This relief allows an institution to deduct from its total assets, as defined in Section 39 of FDIA, for purposes of determining the Tier 1 leverage ratio, an amount not exceeding the qualifying amount of deposit volume attributable to insurance proceeds or government assistance. As a result of this relief, an institution will not be placed in a lower capital category based on its Tier 1 leverage ratio for purposes of prompt corrective action.

This relief does not apply with regard to the calculation of an institution's risk-based capital ratios for purposes of prompt corrective action. Accordingly, in order to limit the effect of an influx of such deposits on their risk-based capital ratios, institutions may need to invest insurance proceeds in lower risk-weighted assets such as U.S. government securities. Moreover, DIDRA does not give relief from the calculation of the tangible equity to total assets ratio used to determine the critically undercapitalized category for prompt corrective action.<sup>4</sup>

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<sup>3</sup> The Federal Deposit Insurance Act (FDIA): 12 U.S.C. 1811, Section 38.

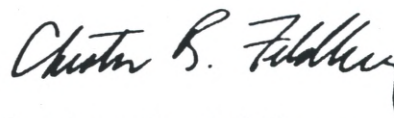
<sup>4</sup> Under Section 38 of FDIA, an institution is critically undercapitalized if its ratio of tangible equity to total assets is 2 percent or less. Tangible equity is defined as core capital elements plus the outstanding cumulative perpetual preferred stock, net of all intangible assets except limited amounts of purchase mortgage servicing rights.



State member banks that believe they are eligible for relief should submit a written request to the Reserve Bank. Upon receiving the request, the Reserve Bank will determine whether in fact the bank meets the eligibility criteria. The Reserve Bank will also consider the appropriateness and reasonableness of the bank's plan for restoring capital to the required minimums. The Reserve Bank will periodically review the bank's progress in meeting the objectives of its plan. If the institution needs to materially change its approved plan, the institution will have to submit a plan for approval.

If there are any questions, contact Donald E. Schmid, Manager, Domestic Banking Department, at (212) 720-6611.

Sincerely,



Chester B. Feldberg  
Executive Vice President