



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

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Office of Inspector
Systems & Control
Jan 1981

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The Honorable Ted Stevens
Assistant Majority Leader
United States Senate

Dear Senator Stevens:

This responds to your request of May 28, 1981, for our views on H.R. 2322. H.R. 2322 would authorize and direct the General Accounting Office (GAO) to audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and Federal Reserve banks and their branches. The bill would broaden GAO's authority to audit the Federal Reserve System.

Under present law, GAO's authority to audit the System's economic, monetary, and central bank activities is limited. Specifically, the Accounting and Auditing Act of 1950, as amended by Public Law 95-320 (31 U.S.C. §67(e)), provides that GAO audits of the Federal Reserve System shall not include:

"(A) transactions conducted on behalf of or with foreign central banks, foreign governments, and nonprivate international financing organizations;

"(B) deliberations, decisions, and actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

"(C) transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account; and

"(D) those portions of oral, written, telegraphic, or telephonic discussions and communications among or between Members of the Board of Governors, and officers and employees of the Federal Reserve System which deal with topics

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listed in subparagraphs (A), (B), and (C) of this paragraph." 31 U.S.C. §67(e)(3).

In effect, these provisions place significant limitations on our ability to audit the Federal Reserve's largest categories of financial transactions and assets. When the matter of GAO's audit responsibility for the Federal Reserve System as a whole was discussed in 1977, we stated in testimony that we did not see how we could satisfactorily audit the Federal Reserve System without authority to examine open market transactions. If the Congress now believes GAO should undertake comprehensive audits of the Federal Reserve's monetary, central bank, and economic functions, an authorization comparable to that contained in H.R. 2322 would be necessary to give us access to the nonpublic data and transaction records that are maintained by the Federal Reserve.

As presently drafted, however, H.R. 2322 contains several ambiguities and omissions that should be addressed in any legislation that would expand our authority to audit the Federal Reserve. The bill does not amend or repeal specifically the audit restrictions contained in existing law. If legislation to expand our audit authority is considered, we suggest that the Accounting and Auditing Act of 1950 be amended to avoid interpretive ambiguities and inconsistencies in our audit and access to records authority.

On a related matter, H.R. 2322 contains no explicit restrictions on the disclosure of confidential information obtained during our audits. This contrasts sharply with the requirements of present law. See 31 U.S.C. §67(e)(5). We recommend that the disclosure prohibitions and safeguards contained in existing law be extended to cover confidential information obtained in connection with audits of the type contemplated by H.R. 2322.

Section (a) of H.R. 2322 requires GAO to audit the named entities at least once each fiscal year. We recommend that the mandatory annual audit requirement be deleted and that the Comptroller General be given the flexibility to determine the frequency of the audit work to be performed. This would be consistent with the discretion provided in present law. As is the case for audits of most Federal agencies, our judgments as to the frequency of the audit work to be performed are made considering congressional requests and interests in specific activities as well as issues, questions, or problems that might surface.

Section (a) of the bill also would require GAO to audit "transactions of the system open market account conducted through recognized dealers." The phrase "conducted through recognized dealers" appears to represent one category of open

market account transactions. To the best of our knowledge, however, the term "recognized dealers" is not an official term of the trade, and its meaning could become the subject of confusion. If Congress desires GAO to audit transactions in this area, we suggest that the term "recognized dealer" be defined.

Subsection (b) of H.R. 2322 grants GAO access to the records of the entities subject to audit and requires that GAO "* * * be afforded full facilities for verifying transactions with balances or securities held by depositaries, fiscal agents, and custodians of such entities." Although this seems to authorize GAO direct access to the records of certain financial institutions such as insured commercial banks, present law prohibits GAO from conducting onsite examinations of open insured banks and bank holding companies without the written consent of the appropriate regulatory agency. To avoid confusion regarding the relationship between this restriction and the access authorization contained in H.R. 2322, we recommend that the circumstances under which GAO can obtain direct access to records of financial institutions, including insured commercial banks, be clarified, and that the terms "depositaries, fiscal agents, and custodians" be defined.

Section (c) of H.R. 2322 requires GAO's reports to the Congress to show any activity observed during the course of the audit which in the Comptroller General's opinion was carried out without authority of law. We view this provision as unnecessary since it is already a basic responsibility and policy of this Office to ascertain whether programs subject to our review authority are performed in accordance with law and to report such matters to the appropriate agencies and to the Congress.

We recognize that changes in GAO's audit authority with respect to the Federal Reserve System involve complex considerations. We appreciate this opportunity to express our views on H.R. 2322, and we will be pleased to provide whatever additional information you might require. We are sending copies of this letter to chairmen of the appropriate congressional committees and to Congressman Paul, the sponsor of the bill. We will also make copies available to others on request.

Sincerely yours,

MILTON J. SOCOLAR

Acting Comptroller General
of the United States