



Office of the General Counsel

B-239201.3

July 25, 1991

Mr. Robert D. Hoffman  
Inspector General  
Federal Deposit Insurance Corporation  
Washington, D.C. 20429

Dear Mr. Hoffman:

Thank you for your June 12, 1991 letter to the Comptroller General regarding required audits of the financial statements of the Federal Deposit Insurance Corporation (FDIC). We agree with you and your Counsel that the audit provisions in section 220(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. No. 101-73, 103 Stat. 183, 263 (1989) (codified at 12 U.S.C. § 1827(d) (Supp. I 1989)), and section 305 of the Chief Financial Officers Act of 1990 (CFO Act), Pub. L. No. 101-576, 104 Stat. 2838, 2853 (1990) (to be codified at 31 U.S.C. § 9105), are not entirely consistent. However, we conclude that the audits our Office plans to conduct will satisfy the audit provisions of both acts.

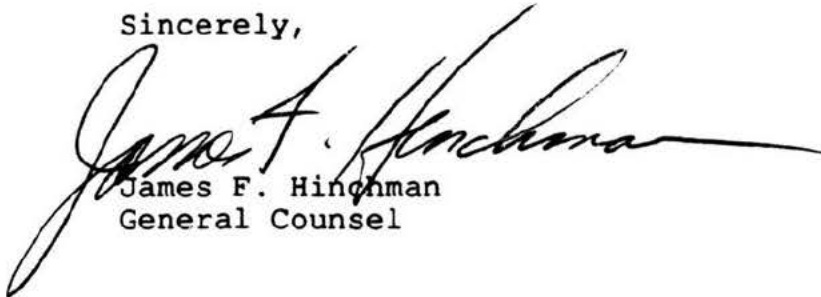
Both FIRREA and the CFO Act require annual audits of FDIC. Section 220(a) of FIRREA amended section 17(d) of the Federal Deposit Insurance Act to require the Comptroller General to annually audit the financial transactions of the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund. Section 305 of the CFO Act amended 31 U.S.C. § 9105 to require the Office of Inspector General, or an independent external auditor selected by the Inspector General, to audit FDIC's annual financial statements. However, that section also authorizes the Comptroller General to conduct the required audit in lieu of the audit that otherwise would be performed by the Inspector General or independent external auditor. We agree with your Counsel that the different terminology used in FIRREA to require audits of the financial transactions of the three funds administered and maintained by FDIC and in 31 U.S.C. § 9105 to require audits of the financial statements of FDIC itself is without practical effect. While the two requirements differ slightly in form, they do not differ in substance.

We find no basis, legal or otherwise, for requiring the Office of Inspector General to audit FDIC under 31 U.S.C. § 9105 when the Comptroller General audits the three funds FDIC administers. In our view, any financial statement audit our Office conducts of FDIC would satisfy the audit requirements

of the Federal Deposit Insurance Act, as amended by FIRREA, as well as 31 U.S.C. § 9105, as amended by the CFO Act. Since we plan to annually conduct such audits and, like you, wish to avoid duplication, the Office of Inspector General need not audit FDIC's financial statements under 31 U.S.C. § 9105. However, the requirement in 31 U.S.C. § 9106, as amended by the CFO Act, that FDIC issue a management report annually to Congress is independent of the audit requirement contained in section 9105. Therefore, our audits do not relieve FDIC of that responsibility.

While we believe that the audit provisions contained in FIRREA and the CFO Act can be reconciled, we appreciate your concerns regarding their interpretation. We hope this response satisfies the purposes of your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Hinchman", with a long horizontal flourish extending to the right.

James F. Hinchman  
General Counsel