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Highlights

Highlights of GAO-07-242, a report to congressional committees

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DEPOSIT INSURANCE

Assessment of Regulators' Use of Prompt Corrective Action Provisions and FDIC's New Deposit Insurance System

Why GAO Did This Study

The Federal Deposit Insurance Reform Conforming Amendments Act of 2005 required GAO to report on the federal banking regulators' administration of the prompt corrective action (PCA) program under section 38 of the Federal Deposit Insurance Act (FDIA). Congress created section 38 as well as section 39, which required regulators to prescribe safety and soundness standards related to noncapital criteria, to address weaknesses in regulatory oversight during the bank and thrift crisis of the 1980s that contributed to deposit insurance losses. The 2005 act also required GAO to report on changes to the Federal Deposit Insurance Corporation's (FDIC) deposit insurance system. This report (1) examines how regulators have used PCA to resolve capital adequacy issues at depository institutions, (2) assesses the extent to which regulators have used noncapital supervisory actions under sections 38 and 39, and (3) describes how recent changes to FDIC's deposit insurance system affect the determination of institutions' insurance premiums. GAO reviewed regulators' PCA procedures and actions taken on a sample of undercapitalized institutions. GAO also reviewed the final rule on changes to the insurance system and comments from industry and academic experts.

www.gao.gov/cgi-bin/getrpt?GAO-07-242.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Yvonne D. Jones at (202) 512-8678 or jonesy@gao.gov.

What GAO Found

In recent years, the financial condition of depository institutions generally has been strong, which has resulted in the regulators' infrequent use of PCA provisions to resolve capital adequacy issues of troubled institutions. Partly because they benefited from a strong economy in the last decade, banks and thrifts in undercapitalized and lower capital categories decreased from 1,235 in 1992, the year regulators implemented PCA, to 14 in 2005, and none failed from June 2004 through January 2007. For the banks and thrifts GAO reviewed, regulators generally implemented PCA in accordance with section 38. For example, regulators identified when institutions failed to meet minimum capital requirements, required them to implement capital restoration plans or corrective actions outlined in enforcement orders, and took steps to close or require the sale or merger of those institutions that were unable to recapitalize. Although regulators generally used PCA appropriately, capital is a lagging indicator and thus not necessarily a timely predictor of problems at banks and thrifts. In most cases GAO reviewed, regulators had responded to safety and soundness problems in advance of a bank or thrift's decline in required PCA capital levels.

Under section 38 regulators can take noncapital supervisory actions to reclassify an institution's capital category or dismiss officers and directors from deteriorating institutions, and under section 39 regulators can require institutions to implement plans to address deficiencies in their compliance with regulatory safety and soundness standards. Regulators generally have made limited use of these authorities, in part because they have chosen other informal and formal actions to address problems at troubled institutions. According to the regulators, other tools, such as cease-and-desist orders, may provide more flexibility than those available under sections 38 and 39 because they are not tied to an institution's capital level and may allow them to address more complex or multiple deficiencies with one action. Regulators' discretion to choose how and when to address safety and soundness weaknesses is demonstrated by their limited use of section 38 and 39 provisions and more frequent use of other informal and formal actions.

Recent changes to FDIC's deposit insurance system tie the premiums a bank or thrift pays into the insurance fund more directly to the estimated risk the institution poses to the fund. In the revised system, FDIC generally (1) differentiates between larger institutions with current credit agency ratings and $10 billion or more in assets and all other, smaller institutions and (2) requires all institutions to pay premiums based on their individual risk. Most bankers, industry groups, and academics GAO interviewed and many of the organizations and individuals that submitted comment letters to FDIC on the new system generally supported making the system more risk based, but also had some concerns about unintended effects. FDIC and the other federal banking regulators intend to monitor the new system for any adverse impacts.