

BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Chairman, Subcommittee
On Commerce, Consumer And Monetary Affairs,
Committee On Government Operations
House Of Representatives

Financial Institution Regulatory
Agencies Can Make Better Use Of
Consumer Complaint Information

The five Federal agencies that supervise financial institutions received more than 23,000 complaints from consumers in 1981. Many of these complaints reflect financial institution errors or violations of laws and regulations.

To improve the effectiveness of complaints systems, GAO recommends that agencies make better use of complaint information in their examination and supervision activities and in their assessment of unfair or deceptive banking practices. GAO also recommends that agencies better enforce and strengthen existing procedures for investigating discrimination complaints.



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WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-202289

The Honorable Doug Barnard, Jr.
Chairman, Subcommittee on Commerce,
Consumer and Monetary Affairs,
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report, in response to a request by the late Chairman, Benjamin Rosenthal, discusses the consumer complaint handling activities of the five Federal financial institution regulatory agencies. The agencies generally agreed with most of our recommendations to integrate complaint handling with other compliance activities. The recommendations should result in more efficient and effective implementation of consumer legislation.

As arranged with your subcommittee staff, unless you publicly announce the contents earlier, we plan no further distribution of the report until 30 days from its date. At that time, we will send copies to interested parties and make copies available to others on request.

Sincerely yours,

W. J. Anderson

William J. Anderson
Director



COMPTROLLER GENERAL'S
REPORT TO THE CHAIRMAN OF THE
SUBCOMMITTEE ON COMMERCE,
CONSUMER AND MONETARY AFFAIRS
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

FINANCIAL INSTITUTION
REGULATORY AGENCIES CAN
MAKE BETTER USE OF
CONSUMER COMPLAINT
INFORMATION

D I G E S T

The five Federal financial regulatory agencies--the Federal Deposit Insurance Corporation (FDIC), the Federal Home Loan Bank System (FHLBS), the Federal Reserve System (FRS), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC)--accept, investigate, and resolve consumers' complaints against the banks and savings institutions they regulate. The Federal Trade Commission Improvement Acts of 1975 and 1979 require that four of these agencies establish complaint handling programs for the purpose of dealing with unfair or deceptive acts or practices. NCUA, the only agency not covered by these acts, has established a similar program for handling complaints against credit unions. (See p. 2.)

At the request of the Chairman of the Subcommittee on Commerce, Consumer and Monetary Affairs of the House Committee on Government Operations, GAO reviewed the regulatory agencies' handling of consumer complaints against banks and other regulated financial institutions. GAO was asked to comment specifically on such matters as how complaints are handled and the use of complaint information for supervisory and policymaking purposes.

GAO found that agency complaint systems often help consumers solve significant problems, such as disputes over account balances or discrimination in granting credit. Agency records show that complaints result in resolutions favorable to complainants about 27 percent of the time. Most of these favorable resolutions involved situations in which financial institutions had made errors or had violated laws or regulations. (See p. 10.)

Although many complaints prove to be well-founded, GAO recognizes that the resources used in handling complaints must compete with those available for carrying out other aspects of the agencies' missions. GAO estimates that Federal agencies spent about \$3 million to handle approximately 26,000 complaints in 1980, or about \$113 on average for each complaint. GAO supports agency efforts to reduce costs and encourages institutions to establish better procedures for handling matters that otherwise would likely become complaints filed with these agencies. (See p. 14.) GAO's recommendations, discussed in the following paragraphs, are intended to increase the benefits from the complaint system.

AGENCIES NEED TO MAKE BETTER USE
OF COMPLAINT INFORMATION IN EXAMINING
AND SUPERVISING INSTITUTIONS

Although agency procedures provide for some coordination between complaint handling and examination activities, GAO analyzed 119 serious complaints that uncovered violations of laws or regulations and found that information from these complaints was often not used during subsequent compliance examinations. GAO's review of compliance examination reports and workpapers showed that only about one-third of the time was an examiner even aware that one of these 119 complaints uncovering violations of law or regulation had been filed against an institution since the last examination. Only 11 percent of the cases suggested that any special or additional work was done during the examination because of such complaints.

GAO recommends that agencies take steps to improve the links between their complaint system and supervisory activities. Minor changes to agencies' complaint data systems would improve the coordination between complaints and examinations. (See pp. 25 and 26.)

BETTER DOCUMENTATION COULD ENHANCE
AGENCY EFFORTS TO EVALUATE HOW WELL
DISCRIMINATION COMPLAINTS ARE HANDLED

GAO reviewed agencies' handling of consumers' complaints alleging credit discrimination to determine how well complaints were investigated. GAO selected this type of complaint for review because discrimination is against the law and because agency policies single out this type of complaint for special consideration. Although agency procedures suggest numerous investigative steps be followed when investigating a charge of credit discrimination, the exact nature and extent of the investigation is left to the complaint handler.

GAO found that Federal agencies did give some discrimination complaints the special handling suggested by agency procedures. But this did not occur in the majority of cases. For example, although each agency's procedures suggest that complainants who file complaints alleging discrimination be contacted, this was done in 8 percent of the 94 cases GAO reviewed. Onsite investigations were conducted in 28 percent of the cases. Special reviews of institutional lending policies or of similarly situated customers occurred in 27 percent of the cases.

GAO's analysis does not, however, allow it to conclude that special handling should have been used more often. This is because the agencies do not require complaint handlers to document reasons why particular approaches were used in investigating discrimination complaints or whether the information supplied by financial institutions in response to complaints is reliable. GAO believes this lack of information limits agencies' ability to enforce adherence to policy guidelines and is a shortcoming in the agencies' complaint handling systems. Accordingly, GAO recommends that these agencies require complaint handlers to document reasons for selecting the type of investigations they perform and that information supplied by institutions during complaint investigations be verified during subsequent supervisory examinations. (See pp. 35 and 36.)

GAO also found that FDIC, FRS, OCC, and FHLBS had not exchanged information about mortgage lending complaints with the Department of Housing and Urban Development (HUD) as previously agreed. Although the agencies were not referring these cases to HUD during the period covered by GAO's review, they have now resumed this practice. (See p. 39.)

BETTER USE COULD BE MADE OF COMPLAINT
INFORMATION IN ASSESSING UNFAIR AND
DECEPTIVE PRACTICES

In addition to handling consumer complaints, two of the financial regulatory bodies--the Federal Reserve Board and the Federal Home Loan Bank Board--are charged by the Federal Trade Commission Improvement Acts with prescribing regulations which define and prohibit unfair or deceptive banking acts or practices for the banking and saving and loan industries respectively. The Federal Reserve Board promulgates regulations for the FRS, FDIC, and OCC. The Federal Home Loan Bank Board promulgates regulations for FHLBS.

Most agency officials and consumer professionals GAO talked with acknowledged that complaints can be an important source of information about possible unfair and deceptive practices. Agencies already make some use of complaints. For example, NCUA and FHLBS use complaint information to revise procedures for their regular examination of institutions for compliance with consumer laws and regulations.

GAO studied 102 complaints which dealt with how institutions handled customer accounts that had no transaction activity for a period of time because this area was of particular interest to the subcommittee. The subcommittee wanted to know how these complaints were used by FRS and FHLBS in setting policy for the banking and savings industries. These complaints primarily concerned three areas: failure to notify customers of institution treatment policy, imposition of a service charge, and suspension of interest payments.

GAO confirmed that the information contained in complaints can provide a useful perspective

on an area of possible regulatory concern by providing examples of possible abuses and of differences in the way accounts are handled by different institutions. Because this type of anecdotal information does not tell how often a given practice occurs in the industry, GAO agrees with the agencies that other information will usually also be needed to assess the need for new regulations. (See p. 51.)

GAO also found that information contained in complaint files was not organized in a way that would be most useful to policy makers concerned with possibly unfair or deceptive practices. Only after a time-consuming review was GAO able to identify inactive or dormant account complaints from agency data systems and to differentiate those complaints that described possibly unfair or deceptive practices from those that did not. In order to improve the usefulness of complaint information, the FDIC, FRS, and OCC should develop and implement consistent descriptive complaint categorization codes. Although they are not part of the same industry, FHLBS and NCUA should, to the extent possible, adopt similar categorization codes to facilitate industry-wide information. A special code should indicate types of complaints in unregulated areas that could identify unfair and deceptive practices that may be the subject of additional regulation under the FTC Act.

GAO's recommendations can be implemented without large expenditures or substantial changes to present programs. GAO believes these recommendations are also consistent with efforts to reduce the regulatory burden on financial institutions. An efficient, effective consumer complaint system allows financial institutions maximum flexibility to experiment with innovative services and also helps target regulators' efforts to specific areas or institutions in which serious problems occur.

AGENCY COMMENTS AND GAO'S EVALUATION

The agencies generally agreed with findings and proposals in GAO's draft report. Most indicated that they are developing specific plans to review their procedures for linking

complaint handling and other supervisory activities and for better handling of discrimination complaints. For example, FDIC, FRS, and OCC have taken steps to devise consistent complaint categorization codes. In addition, because of corrective actions cited by the agencies, some proposals contained in GAO's draft report are not contained in the final report.

Although the Federal Home Loan Bank Board agreed with most of the proposals, it felt that the draft report tended to overstate the value of complaints and to understate FHLBS efforts to utilize them. NCUA also questioned the value of the information they obtain from complaints. GAO has expanded the discussion about the uses of complaints and has incorporated additional information about FHLBS's handling of complaints.

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ABBREVIATIONS

FDIC	Federal Deposit Insurance Corporation
FHLBS	Federal Home Loan Bank System
FRS	Federal Reserve System
FTC	Federal Trade Commission
GAO	General Accounting Office
HUD	Housing and Urban Development
NCUA	National Credit Union Administration
OCC	Office of Comptroller of the Currency



CHAPTER 1

INTRODUCTION

Since 1968 the Congress has enacted a series of consumer oriented laws designed to inform and protect users of financial services. These laws mandate several basic consumer rights, including disclosure of credit terms, equal credit opportunity, and fair credit reporting and billing practices. The Congress also provided that Federal regulatory agencies should address other unregulated but possibly unfair or deceptive industry practices and, where necessary, promulgate regulations to prevent or prohibit these practices.

While several Federal regulatory agencies enforce consumer laws, the responsibility for ensuring compliance by depository institutions rests primarily with the five Federal financial institution regulatory agencies--the Federal Deposit Insurance Corporation (FDIC), the Federal Home Loan Bank System (FHLBS), the Federal Reserve System (FRS), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC). The depository institutions supervised by these agencies include banks, savings and loan associations, and credit unions. Compliance by commercial non-depository institutions, such as finance and mortgage companies, is enforced by the Federal Trade Commission (FTC).

The late Chairman of the Subcommittee on Commerce, Consumer and Monetary Affairs, House Committee on Government Operations, asked us to review one aspect of the consumer protection activities of Federal regulatory agencies--the handling of consumer complaints and agencies' responses to the industry practices reflected in them. (See app. I.) Specifically, the Chairman requested that we review

- public accessibility to agencies' complaint assistance staffs,
- the handling of individual complaints,
- the use of consumer complaint information for supervisory purposes, and
- the use of consumer complaint information for policymaking purposes.

The subcommittee was particularly interested in complaints about inactive or dormant accounts, and how these complaints were used by FRS and FHLBS in setting policy for their respective industries. We were requested to review all written complaints about these accounts received by the five regulatory agencies during 1978, 1979, and 1980. The subcommittee asked that we consider the various issues raised during past subcommittee hearings on this topic.

THE FTC IMPROVEMENT ACT ASSIGNS A DUAL MISSION TO THE REGULATORY AGENCIES

Although the FTC is responsible for monitoring consumers' complaints about practices in or affecting most areas of commerce, similar responsibility for financial depository institutions was assigned to the agencies that regulate this industry. ^{1/} Responsibility for addressing consumers' problems about banking practices was assigned to the three banking regulatory agencies--FDIC, FRS, and OCC--by the FTC Act of 1975 (15 U.S.C. 57a). A 1979 amendment extended similar responsibility for savings and loan association activities to FHLBS. The FTC Act outlined a dual mission with respect to consumer problems in the financial industry. It required that

- all four agencies receive and take appropriate action on consumers' complaints against institutions under their jurisdiction, including complaints about unregulated practices, ^{2/} and
- FHLBS and FRS define within their respective industries those acts or practices that are unfair or deceptive and prescribe regulations to prevent them.

Each regulatory agency exercising authority under the FTC Act must submit an annual report to the Congress on its activities under the act during the previous year. ^{3/} NCUA, although not operating under the mandate of the act, handles complaints and monitors unfair and deceptive practices within its industry.

^{1/}To ensure consistent treatment of all providers of financial services, FHLBS and the FRS must respond to certain rules imposed by the FTC that address unfair or deceptive financial practices. The financial regulatory agencies must promulgate, within 60 days of an effective date of an FTC rule, substantially similar regulations that apply to banks and savings and loan associations, unless certain exceptions apply. Although neither FRS nor FHLBS have yet been required to promulgate similar regulations, new rules currently being considered by FTC concerning credit practices or preservation of consumers' claims and defenses would necessitate such action.

^{2/}FHLBS comments on our report suggest that it may have a differing interpretation regarding its responsibilities for resolving complaints in unregulated areas. (See p. 55.)

^{3/}Issue dates of agencies' most recent FTC reports follow: FDIC, Mar. 24, 1983; FRS, Apr. 10, 1983; OCC, Mar. 22, 1983; and FHLBS, Mar. 15, 1983.

OBJECTIVES, SCOPE, AND METHODOLOGY

We reviewed the financial regulatory agencies' complaint handling programs to assess their effectiveness from two perspectives:

- how well they handle and resolve individual complainant's problems or concerns and
- how effectively they use complaint information for supervisory and policymaking purposes.

Our conclusions are based on our survey of agency programs at the headquarters and field office ^{4/} levels as well as intensive reviews of selected complaint and examination files.

We reviewed the complaint handling programs established by the agencies named in the request, examining agencies' written complaint handling policies, procedures, and guidelines, and discussing policies and practices with both headquarters and regional officials. We visited the headquarters offices and three field offices of each agency. In all, we contacted 15 field offices in 6 locations: Austin, Texas; Boston, Massachusetts; Chicago, Illinois; Dallas, Texas; Little Rock, Arkansas; and Toledo, Ohio. (See app. II for a complete list of agency locations visited.)

Because of the numerous complaints the agencies receive each year, we were unable to examine all of the complaint files in detail. Consequently, we selected three groups of complaints at three field offices of each agency that allowed us to test how well complaints were being investigated and used. These groups included

- all complaints that, upon investigation, uncovered institution violations of laws or regulations, which indicate how well complaints are tied to agency examination and supervision processes;
- all complaints that alleged discrimination by regulated institutions, which indicate agency practices for investigating serious complaints; and
- all complaints about institutions' treatment of inactive or dormant accounts, which show how agencies use complaints for policymaking purposes.

^{4/}In this report the term "field office" is used in a generic sense to designate the major regions, districts, or banks associated with the Federal regulatory agencies.

The statistical validity of our conclusions based on case analyses is limited to the regions from which the cases were drawn. Because of the small number of complaints involved, we did not compare findings among the field offices of a single agency. The complaints selected for these reviews were obtained from the agencies' complaint data systems. Although these data systems were the best available sources for this information, a few complaints that should have been included in our review may have been omitted because they were miscoded. We attempted to compensate for possible coding errors by checking complaints in related categories or consulting field office personnel to identify applicable complaints not listed on the data system printout.

Our observations about the use of complaint data in subsequent examinations or the investigation of discrimination complaints are limited to the information in agency files. We recognize that additional procedures may have been completed but were not documented. Detailed descriptions of the methodology followed in each complaint review may be found in chapter 3 for complaints that uncovered violations, chapter 4 for discrimination complaints, and appendix IX for complaints about the treatment of inactive or dormant accounts.

During this review we concentrated on the complaints themselves and agency processes for handling them. Our observations on accessibility are limited. Because of privacy considerations and the lack of other data on the topic, we made no survey of individual complaints to determine satisfaction with the regulatory agencies' complaint handling processes. Also, because of various problems inherent in a survey of such a broad based, nonspecific population, we did not survey the general population to determine accessibility of complaint programs.

In order to evaluate how well agencies used complaint information in subsequent examinations, our samples of complaints were drawn from those filed in 1979 and 1980. To the extent possible, we used more recent data when available. This review was conducted in accordance with generally accepted government auditing standards.

CHAPTER 2

COMPLAINT HANDLING: A USEFUL SERVICE

In 1981 the five Federal financial regulatory agencies received more than 23,000 complaints from consumers. This chapter discusses how the agencies are organized, the numbers and types of complaints they received, the methods and costs of their complaint investigations, and the accessibility of their complaint programs. Although these complaint systems uncover many violations and other problems, they do compete for limited resources within agency budgets.

ORGANIZATION

The financial regulatory agencies have organized their complaint handling activities along the same lines as their other examination and supervision functions. Each agency has established a headquarters group responsible for program oversight, including complaint handling policy, investigative procedures, and computerized complaint information maintenance. Each has developed its own set of complaint handling guidelines specifying agency policy on complaint acknowledgment, investigative procedures, and treatment of different types of complaints. Like other agency examination and supervision activities, the agency field office responsible for supervising the subject institution determines what type of investigation is required to resolve the complaint. Individual complaint handling organizations are briefly described in appendix III.

THE NUMBER AND NATURE OF CONSUMER COMPLAINTS

There were 23,336 complaints filed in calendar year 1981, down 10 percent from the previous year. The following table shows the number of complaints received by each agency during the 4 years 1978 through 1981.

Complaints Received
(note a)

	<u>1981</u>	<u>1980</u>	<u>1979</u>	<u>1978</u>
FDIC	1,870	2,099	2,604	2,263
FRS	3,913	4,568	4,141	3,308
OCC	12,372	14,136	13,384	11,319
FHLBS	4,251	4,379	3,916	3,231
NCUA	<u>930</u>	<u>889</u>	<u>921</u>	<u>943</u>
Total	<u>23,336</u>	<u>26,071</u>	<u>24,966</u>	<u>21,064</u>

a/This chart describes only written complaints for every agency except FRS, which includes data for telephone complaints. For FHLBS, the chart describes the number of allegations received, which may be larger than the number of complaints reviewed, since a single complaint letter may discuss more than one allegation.

The number of complaints received by each agency, especially the Federal Reserve, includes some double counting, as some of the complaints are referred to the other financial regulatory agencies. ^{1/} The high rate of complaints misfiled with the Federal Reserve may be explained by the Board of Governors' activity in the consumer area. The Federal Reserve has authored most consumer regulations--Regulation Z, for example, implemented the Truth-in-Lending Act. The following table describes complaints received, referred, and handled by the five agencies during 1980.

^{1/}In commenting on this report, FHLBS stated that most of its referred complaints are referred to State agencies.

1980 Consumer Complaints

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Complaints received (note a)	2,099	4,568	14,136	4,379	889	26,071
Complaints referred agencies (note c)	(b)	2,218	1,015	396	6	3,635
Complaints handled or investigated (note d)	2,099	2,350	13,121	3,983	883	22,436
Percent complaints referred	(b)	48.6	7.2	9.0	.7	13.9

a/Includes complaints referred from other agencies.

b/FDIC does not collect data on complaints received but later referred.

c/FHLBS stated that most of its referrals are to State agencies.

d/Some complaints received at the end of 1 year are investigated and resolved in the next. As described in its comments to this report, FHLBS calculates complaints handled regardless of date received. Because no other agency in our study calculates complaints handled in this fashion, comparable data was not available. For consistency, we have calculated the number of complaints handled by FHLBS as the number of complaints received during the year, less those referred to other agencies for action.

Of the more than 22,000 consumer complaints handled in 1980, almost 60 percent were against OCC-regulated national banks. However, these institutions are larger and tend to offer services such as credit cards, that are more likely to generate complaints. The following chart identifies the number of 1980 written complaints handled per billion dollars of total domestic assets regulated by each agency.

Complaints in 1980 Per Billion Dollars
Domestic Assets

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Total domestic assets of supervised institutions (in billions)	\$ 369	\$ 251	\$ 821	\$ 630	\$ 61	\$ 2,131
Number of complaints handled	2,099	2,350	13,121	3,983	883	22,436
Number of complaints per billion dollars of assets	5.7	9.4	16.0	6.3	14.5	10.5

Types of complaints received

Because of differences in the way the five agencies describe consumer complaints in their computerized information systems, it is difficult to compare the number of complaints each agency receives by type. ^{2/} FDIC, OCC, and FHLBS describe the bulk of their complaints by type of transaction as subsets of deposit or loan functions. FRS reports complaints by the law or regulation they concern or, if not covered by a specific law or regulation, as an unregulated topic. NCUA uses a combination of both systems, plus several categories applicable only to that agency, such as credit union field of membership. The following table describes the types of complaints received by each agency during 1980.

^{2/}For additional discussion of this point, see chapter 5, especially pages 46 to 49.

1980 Complaints Identified By Category

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>
Deposit function	952		4,130	1,903	
Loan function	1,019		6,202	1,901	352
Trust accounts	39		236		
Safe deposit	10		166		
Insurance	1			31	34
International banking			113		
Giveaways and premiums				48	
Conflict of interest				6	
Reg B: Equal Credit Opportunity		741			78
Reg C: Home Mortgage Disclosure		9			
Reg E: Electronic Funds Transfer	20	84	174		
Reg Q: Advertising/Deposit Interest		430		100	5
Reg Z: Truth-in-Lending		825			11
Reg BB: Community Reinvestment		4	9		
Reg CC: Consumer Credit Restraint		104			
Fair Housing Act		2			
Fair Credit Reporting		125			7
Fair Debt Collection		87			1
Securities Credit and Transfer Agent Holder in Due Course		21			
Unfair or deceptive practices		2,011			
Shares					141
Bylaws					25
Service offered					3
Field of membership					8
Miscellaneous	58	113	1,245	390	224
Appeals			846		
Total	<u>2,099</u>	<u>4,568</u>	<u>13,121</u>	<u>4,379</u>	<u>889</u>

Notes (a) (b) (a) (b) (b)

a/Number of complaints handled.

b/Number of complaints received.

Although it is not apparent from this chart, most agency officials responsible for complaint handling agree that most consumer complaints concern problems that are not specifically regulated by any law or regulation. Many of the problems in unregulated areas concern practices established as individual institution policy or actions that were matters of factual dispute. For example, a complaint about the service charge imposed by a bank on an inactive account reflects an unregulated policy decision, while a complaint that alleges disclosure of an incorrect annual percentage rate concerns an item specifically regulated under the Truth-in-Lending Act.

FRS is the only agency that categorizes complaints by their regulated and unregulated status. About half of the complaints it received in 1980 were about regulated issues. Other agencies estimated the percentage of complaints received about unregulated areas from more than 50 percent (OCC) to as much as 90 percent (NCUA). In commenting on this report, FHLBS disagreed with these estimates and stated that it believes the majority of complaints it receives are in regulated areas. This disagreement may be in part a semantic one, if, in counting complaints in regulated areas, FHLBS includes all complaints about an area that is only partially regulated.

AGENCIES' COMPLAINT SYSTEMS PROVIDE VALUABLE SERVICES TO CONSUMERS

Even though many complaints concern practices that are not regulated under current law or regulation, one in every four findings results in a resolution advantageous to the complainant, and one in five identifies an institution error or violation. ^{3/} In two agencies (OCC and NCUA), more than one in every three complaints resulted in a resolution favorable to the complainant. The following table summarizes these findings. A more complete description of resolution categories by agency may be found in appendix IV. ^{4/}

^{3/}This excludes about 8,000 complaints where no finding of correctness or legality was made. Examples of non-findings include resolutions where information was given to the complainant or the complaint was withdrawn before final resolution.

^{4/}The percent of findings favorable to the complainant range from 13 percent by FHLBS to 41 percent by NCUA.

1980 Complaints

Findings:

Favorable to Complainant	
Institution error or violation	3,188
Settled by mutual agreement	541
Other Findings	
Institution legally correct	8,067
Misunderstanding	749
Consumer error	26
Factual dispute	<u>1,499</u>
	14,070
Other Resolutions	<u>8,366</u>
Total	<u><u>22,436</u></u>

Percent complaints with findings
favorable to complainant (note a) 27

a/The percent of complaints with findings favorable to the complainant is calculated by dividing the number of favorable findings by the total number of complaints with findings.

Complainant satisfaction

In the most recent banking agency surveys of complainant satisfaction, between 38 and 52 percent of the respondents expressed satisfaction with the resolution of their complaint. A higher percentage were pleased with the complaint handling process. FHLBS and NCUA have done no surveys of this type. These surveys are described in greater detail in appendix V.

EFFORTS TO IMPROVE AGENCY COMPLAINT HANDLING SYSTEMS ARE WARRANTED

Although complaint systems successfully identify and resolve many consumer problems, the effectiveness of these systems is difficult to gauge. Handling complaints is, however, costly, and efforts to improve the efficiency of the systems are warranted.

Agencies estimated that in 1980 they spent about \$3 million handling and resolving complaints.^{5/} The estimated average direct cost of handling a consumer complaint against a federally regulated financial institution in 1980 was \$132.^{6/} The estimated cost per complaint was lowest at OCC (\$51), but differences among agencies' cost estimates are difficult to evaluate because of differences in the way agencies collected and reported the data.^{7/} Details on agency estimates of complaint costs can be found in appendix VI.

Estimating the benefits of a complaint handling service is more difficult than trying to estimate costs. One measure of benefits is consumer restitution achieved during complaint resolution, but not all agencies maintain such data. FDIC and OCC do monitor restitution, and in 1980 recorded complainant reimbursements of \$75,000 and \$732,000, respectively. OCC's recorded reimbursements were larger than the estimated cost of its system, while FDIC's were considerably less.

It must be recognized, however, that the benefits of an effective complaint system are greater than the amount of reimbursement received by those who file complaints. Many of the problems solved do not involve monetary benefits, but they do involve other types of consumer assistance like explanations of laws, regulations, bank policy, or consumer rights. A complaint system can also make a significant contribution to the supervisory process by bringing to the attention of regulators practices that may affect other customers. In addition, an effective agency complaint handling program is an incentive to institutions to comply with consumer laws and regulations.

^{5/}None of these costs are paid from appropriated funds. Four of the five agencies fund their operations, including complaint handling activities, out of fees and premiums charged the institutions they supervise. The FRS funds its operations from its investment earnings on government securities.

^{6/}Including complaints received but referred to other agencies (important cost elements for FRS and to a lesser extent, FHLBS) reduces the cost to \$113 per complaint.

^{7/}In commenting on this report, FHLBS emphasized that its cost figures included other activities besides the handling of consumer complaints.

In commenting on our report, two agencies--FHLBS and NCUA--explicitly questioned the effectiveness of the complaint system for purposes other than providing a service to consumers. FHLBS stated that relative to effort expended, consumer compliance examinations reached more institutions and uncovered more violations than complaint examinations.^{8/} NCUA indicated that complaints had little relation to safety and soundness regulation.^{9/} We agree that the cost and effectiveness of complaint systems is a valid concern and that at best they complement other regulatory supervisory and policymaking activities. In subsequent chapters we have therefore recommended that agencies undertake efforts to increase the benefits that flow from the complaint systems which the agencies (except for NCUA) are required by law to provide. It is also possible that an effective consumer complaint "safety net" may increase in importance as agencies develop new products in today's rapidly changing financial environment.

AGENCY EFFORTS TO MAKE COMPLAINT HANDLING MORE EFFICIENT

In some agencies, we noted efficient complaint processing procedures that may contribute to lower complaint handling costs. This was especially apparent at OCC, which had the lowest complaint handling costs. OCC efforts to streamline the complaint handling process include

- maintaining lists of all bank contacts who are responsible for handling and resolving customer complaints;
- using form post card acknowledgments, eliminating the necessity of typing individual letters to each complainant;
- recording messages from incoming telephone inquiries in high volume regions (New York and San Francisco) so that regional responses may be staggered throughout the day;
- using checklist forms to request additional information from complainants to commence an investigation; and
- referring complaints to banks for direct response to the complainant when the complainant does not talk to the bank first (with subsequent agency review of bank's response).

^{8/}See FHLBS comments, app. XIII, p. 105.

^{9/}See NCUA comments, app. XIV, p. 113.

These procedures no doubt contribute to OCC's low cost per complaint, although part of the lower complaint handling costs may be due at least in part to economies of scale. OCC, which processes almost two-thirds of the more than 20,000 complaints received yearly by the Federal financial institution regulatory agencies, also performs relatively few onsite investigations.

Other agencies have also made efforts to reduce their complaint handling costs. For example, the FHLBS, in commenting on our report, pointed out that for the past 3 years it has used preprinted form acknowledgments for most new complaints received in Washington. In addition, in 1982, the two district banks that received the most consumer complaints began a successful pilot program of referring large numbers of consumer complaints to see if the institution involved could resolve the complaints before FHLBS began to investigate them. In view of the expense of complaint handling activities, we believe that cost-reducing efforts such as these are appropriate, provided that they do not compromise the usefulness of complaints for supervisory and policymaking purposes.

ACCESSIBILITY AND EFFICIENCY

One particular concern of the subcommittee was the accessibility of agencies' complaint handling services. In assessing the effectiveness of the agencies' outreach programs, we encountered several problems. One was the lack of an effectiveness measure to assess agencies' efforts to publicize their outreach programs; that is, we could not determine whether or not consumers with complaints about financial institutions found agencies' complaint systems easy to use. Obviously, those consumers whose complaints reached a financial regulatory agency gained access to the appropriate complaint system. The number of consumers with complaints that were unable to access these systems, however, was impossible to measure.

To test whether or not calls or inquiries to agency switchboards provided consumers information explaining how to pursue complaints against supervised institutions, we called 20 offices of the 5 agencies we reviewed: the 5 agency headquarters and 15 field offices we visited. In every case, our calls were immediately and appropriately referred to an agency complaint handler who discussed the problem and explained how to pursue it through the complaint process.

Another related difficulty was deciding how accessible the agencies' complaint handling programs should be. Complaint handling staff at the headquarters level and at all but 2 of 15 agency field offices felt their complaint handling

systems were reasonably accessible. Managers of agency complaint programs, however, expressed concern that the programs were too accessible. They felt that their programs were collecting and handling complaints that should more correctly be handled at the source of the problem--the institution.

We agree that the regulators' complaint systems should not substitute for institutions' handling their own customers' complaints before they reach the regulatory agencies. Institutions can provide quick responses to consumers' problems and improve their customer service profile. Ultimately, these actions increase both the efficiency and effectiveness of complaint handling systems by moving the solution closer to the problem and reducing unnecessary agency intervention. Another concern expressed was that the existence of competition among financial institutions reduced the need for an all-encompassing complaint system; customers who did not like the way they were treated by one institution could take their business to another.

We noted several agency efforts to encourage complainants to take their problems to the institution first. The complaint forms used by FDIC, FRS, OCC, and FHLBS instruct complainants to contact the institution and attempt to resolve the problem before filing a complaint with the agency. Available to interested institutions, these forms request information that is necessary to start a complaint investigation, such as the name of the institution, the account number, and a brief description of the problem. We did not determine how available these forms were. Agencies explained that while they encourage institutions to make the pamphlets available, they also encourage the institutions to address customers' complaints before the complaint is referred to the agency.

Of the more than 14,000 written complaints OCC received during 1980, 7 percent were on the specially designed complaint form. Less than 2 percent of FRS's 4,500 complainants used forms to file their complaints. Neither FDIC nor FHLBS maintain similar data on the number of forms used for filing their complaints.

Another agency effort to encourage complainants to go first to institutions that are the subject of their complaints was briefly mentioned in the section on OCC's streamlined procedures. In some cases, when it is clear that the complainant has not contacted the institution with the problem or complaint, OCC may suggest a direct call to the institution's complaint handler, supplying the complainant with both a name and a phone number. We encountered this type of referral during one of our calls to test the accessibility of agency complaint handling programs.

Other efforts to advertise complaint services

All of the agencies' headquarters offices and many of the local field offices have made efforts to publicize their complaint handling programs. Most often cited efforts include speaking to local consumer awareness groups, encouraging institutions to use agency supplied complaint forms, and in some cases, publicizing complaint programs on television or radio. However, because so many of these activities are informal, records describing the exact amounts of time and money spent on them do not exist.

FDIC consumer hotline

Perhaps the most comprehensive effort to increase public accessibility was made when FDIC introduced a toll-free consumer hotline in November 1979. The hotline was installed to allow the public to "ask questions, present views and voice complaints about consumer or civil rights matters in banking." ^{10/} During 1980, the first full year of operation, 8,786 calls were received over the hotline. FDIC estimated that between 15 and 25 percent of these calls were referred to other Federal agencies, including other financial regulatory agencies, for information or handling. Although there has been no increase in the number of written complaints received since installation of the hotline, FDIC estimates that its telephone complaints increased about 20 percent. Most calls to the hotline involve general questions about the adequacy of the insurance fund, early withdrawal penalties, or the meaning of truth-in-lending disclosures.

The cost of maintaining the toll-free number during 1980 was estimated at \$84,000, including both telephone and personnel costs. This figures to just over \$9.50 for each of the 8,786 calls. During 1982, these costs fell to just under \$43,000, and each of the 6,000 calls received cost about \$7.00. Additional costs for advertising and publicizing the hotline are not known, as no records of the types or frequency of that activity are maintained. However, FDIC does cite various methods it uses to publicize its toll-free service, including press releases, newsletters, and television spots. Other less direct methods include Government or private consumer groups that have further publicized the hotline.

CONCLUSIONS

Many consumer complaints are well founded; indeed, more than one-quarter of all complaints with findings resulted in

^{10/}FDIC News Release, PR-114-79, Oct. 30, 1979. The toll-free number is in daily service, Monday through Friday from 8:30 a.m. to 5:15 p.m., Eastern Standard Time. The number is 800-424-5488 for all locations except the Washington, D.C. area, which is 389-4353.

findings favorable to the complainant. But handling and resolving complaints does require the expenditure of agency resources. We support agency efforts to improve the efficiency with which they handle complaints. As described in the following chapters, we also believe efforts should be made to increase the contribution which the complaint system makes to the supervision of financial institutions.

AGENCY COMMENTS AND OUR EVALUATION

All five agencies generally agreed that actions are needed to increase complaint handling efficiency and encourage institutions to establish procedures for handling customer problems. FDIC, FHLBS, and OCC cited several new initiatives they are implementing to reduce their costs. NCUA also agreed with the comments in our report and plans to encourage credit union officials to address complaints.

In commenting on our draft report, FHLBS indicated it would consider our proposals for making complaint handling programs more efficient. The agency did not, however, agree with some of the data or the findings on which our discussion was based. In particular, FHLBS objected to our use of estimated costs for complaint handling activities and pointed out that the cost estimates it had provided us for use in appendix VI include expenses for other consumer activities. We fully recognize the difficulties involved in obtaining comparable data, but we believe the data (which was developed in cooperation with agency officials) is sufficient to give an approximate cost of complaint systems. Given the difficulty of getting cost estimates that are exactly comparable, however, we have dropped most of the discussion of relative agency costs from the text; protracted debate about these cost numbers is not productive. In view of the data limitations, actions already being taken by the agencies to improve complaint handling procedures, and the fact that our work did not attempt to define a reliable standard by which we could measure the efficiency of agency complaint systems, we decided not to include a specific recommendation regarding efficiency in the final report. We have considered all of the technical points FHLBS raised and, where appropriate, changes were made, or additions or footnotes to the text were added.

CHAPTER 3

AGENCIES SHOULD INTEGRATE COMPLAINT

HANDLING WITH OTHER SUPERVISORY ACTIVITIES

Evidence in agency files indicates that complaints showing that regulatory violations have occurred usually are not pursued in subsequent agency examinations of institutions. To be sure that violations are corrected or that other customers in similar situations are protected, we believe that the agencies need to integrate information and findings discovered during complaint investigations with other examination and supervision activities. One way of accomplishing this coordination could be through the agencies' complaint data systems.

OBJECTIVES, SCOPE, AND METHODOLOGY

While not specifically directing that all complaint issues be routinely addressed in examination reports, agency procedures provide for examiner review and consideration of completed complaint investigations during subsequent examinations. To determine how well the regulatory agencies use complaint information in examining and supervising institutions, we selected those complaints we felt would clearly be most useful to the agencies in measuring institution compliance--complaints that, upon investigation, uncovered violations of laws and regulations. As a standard for followup, we felt that these complaints were ones that agencies should, at a minimum, consider during subsequent institution examinations and supervisory activities. Where complaints disclose regulatory violations by financial institutions, agency procedures specifically provide for verifying that institutions have implemented corrective measures.

To determine how well the agencies coordinated complaint information, we reviewed all complaints that were received by three field offices of each agency during calendar years 1979 and 1980 that (1) had uncovered a regulatory violation and (2) involved institutions that had received compliance examinations subsequent to or during complaint resolution. In all, our universe included 119 consumer complaints.

In some cases it was not apparent from the data system or the complaint file whether or not the complaint investigation had uncovered a violation. Sometimes, institution problems that the agency had resolved as "errors" or "mistakes" were violations of laws or regulations. In several instances we had to request additional agency rulings before we knew whether to include these complaints in our universe.

The following table describes the types of complaints we reviewed for each agency.

Types of Violations Uncovered
by 1979 and 1980 Complaints

Violated Laws or Regulations	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Reg Z: Truth-in-Lending-- open end credit	1	3	24			28
Reg Z: Truth-in-Lending-- closed end credit	4		2	1		7
Reg B: Equal Credit Opportunity	6	5	1	1	9	22
Reg Q: Advertising	3		1	1	1	6
Reg Q: Early withdrawal penalties	3		3	9		15
Reg C: Home Mortgage Disclosure			1	1		2
Reg E: Electronic Funds Transfer	1					1
Reg CC: Credit Control Real Estate Settlement Procedures					1	1
Fair Housing Act				1		1
Fair Debt Collection Act			1			1
12 U.S.C. 85-Usury interest			1			1
State laws	1		7			8
Contract law (note a)	1		1	2	2	6
FHLBS regulations				4		4
NCUA regulations	---	---	---	---	15	15
Total	<u>21</u>	<u>8</u>	<u>42</u>	<u>20</u>	<u>28</u>	<u>119</u>

a/In commenting on this report, FHLBS noted that contract compliance was a matter of State law and, unless such a problem indicated an unsafe or unsound practice, would not be investigated.

In analyzing the complaints, we reviewed complaint investigation files, examination reports, accompanying examination workpapers, and supervision files of the institutions that were the subjects of the complaints. We also reviewed agency procedures and regulations regarding complaint investigations and coordination of complaints with the examination and supervision functions. Additionally, we discussed with cognizant agency personnel their views on coordinating complaint handling with examination and supervision activities and, where appropriate, on individual investigative approaches and issues addressed in selected complaint cases.

Our analysis of how well complaint examination and supervision activities were coordinated is based on documentation from the files we reviewed. If the complaint was in any way mentioned in the examination report, workpapers, or supervisory files, we gave the agency credit for "considering" it. For example, a complaint that appeared on a computerized complaint listing in the examination workpapers was counted as "considered." If any evidence existed that a specific review was done, such as a review of institution policies or similarly situated customers, we considered the complaint "pursued."

While we believe our selection of complaints that uncovered violations of laws or regulations provides a reasonable basis on which to draw our conclusions and make recommendations, we realize this methodology has some limitations. One limitation is that our findings reflect only those field offices we visited and may or may not reflect agency practices as a whole. Because of the low complaint volume at the Reserve Banks we visited, our findings for the FRS are based on only a few complaints.

The most serious limitation is the possibility that an agency could have performed actions on complaints that were not documented. As FHLBS pointed out in commenting on our report, examination reports generally do not report the absence of violations nor do they report procedures followed that detected an absence of violations. It is also possible, as FHLBS points out, that a supervisory agent might not specifically ask examiners to determine if consumers, other than the complainant, had been injured by a violation if (a) looking for that type of violation was already a regular part of the examination process, (b) the association had demonstrated that the violation was isolated, and/or (c) the examination prior to the complaint already showed that at the time of the alleged violation there was not a pattern of such violations. By basing our conclusions on agency records, our methodology could make things appear worse than they are. In conducting our review, our discussions with agency officials did not lead us to believe that our approach would lead to conclusions that would be substantially in error. But there is, however, no way to reconstruct exactly what transpired during the relevant complaint and supervisory examinations. If implemented, the recommendations we have made in this chapter would provide greater confidence in the basic data were such an analysis to be performed again.

COMPLAINT INFORMATION NOT FULLY USED
DURING SUBSEQUENT EXAMINATIONS

Agency procedures provide for coordination between complaint handling and examination functions, and almost all

of the complaint handlers we talked with said that examiners are apprised of complaints received since prior examinations. However, we found little evidence that even the more serious complaints indicating violations were more than perfunctorily considered during subsequent examinations.

In one-third of the agencies' subsequent examination files we reviewed, including examination reports and workpapers, we found no mention of any consumer complaint or complaint handling activity. Of those files that did refer to complaint activity, almost half were nonspecific references to institution complaint processing or timely response. For almost all of these, it was difficult to assess exactly what had been done to reach what were uniformly favorable conclusions about institutions' general complaint handling activities. OCC, which addressed institutions' complaint handling activities in two-thirds of its reports, indicated that some general review of institutions' internal complaint handling controls had been completed. Most of the time this statement was made without reference to any specific complaint. In five cases, the examination incorrectly reported that no complaints had been received since the last examination--obvious errors since these were examinations we selected because they followed the resolution of a serious complaint.

Only 38 percent of the 119 case files we reviewed showed any evidence that the specific complaint in our universe was considered. In those 45 cases where the complaint was considered, only 16 cases indicated that any type of additional or special review--such as verifying that a violation had been corrected--was done as a result of a complaint. The agencies used information or pursued issues developed during complaint investigations in only 13 percent of the files we reviewed.

There were some differences in individual agencies' treatment of complaints during subsequent examinations. Appendix VII summarizes the data on complaint and examination coordination by agency.

Of the three banking agencies, FDIC paid the most attention to violations that had been discovered during complaint investigations. FDIC considered complaints that uncovered violations 45 percent of the time, OCC 21 percent of the time, and FRS 13 percent of the time. Some examples of FDIC's examination followup to violations identified during complaint investigations include

- an examination date that was moved up to accommodate a special review of a bank found using spousal credit information without permission,
- a complaint finding of racial discrimination that triggered an in-depth review of a bank's lending practices, and
- one complaint that uncovered violations of early withdrawal penalty regulations that resulted in a review of all similar cases.

During subsequent examinations of its 42 cases, OCC verified that violations had been corrected in 3. In the eight FRS complaints that uncovered violations, we found no evidence that any complaint was considered during the subsequent institution examination.

In 5 of NCUA's 28 cases, comprehensive complaint investigations were completed as part of ongoing credit union examinations. NCUA also followed up on six complaints to ensure that violations were corrected. Five were followed up as part of the subsequent compliance examination. In another case, a violation in the credit union's election of officers prompted an NCUA examiner to monitor the credit union's annual meeting.

Evidence in 65 percent of FHLBS's subsequent examination files indicated the complaint was considered. In these cases, a copy of the complaint file was included in the examination workpapers. FHLBS completed reviews of institution lending policy once, or 5 percent of the time. Evidence of reviews of similarly situated customers was found in files of four complaints, or in 20 percent of the cases.

When discussing the lack of complaint followup, agencies' field office complaint handling personnel told us that although some violations were identified in the complaint handling process, consumer examinations were the primary tools used to do so. They also explained that the complainants themselves were an aid to followup because they would file another complaint if their original problems were not corrected. We found no examples of followup complaints in the cases we reviewed.

IDENTIFYING SERIOUS COMPLAINTS COULD IMPROVE
COORDINATION OF COMPLAINTS WITH OTHERS
COMPLIANCE ACTIVITIES

Part of the reason for examiners' failure to use consumer complaints is that it is difficult to separate complaints that need followup from those that do not. This can cause examiners to deemphasize the role of complaints in suggesting possible problem areas. The agencies' data systems could provide complaint handlers and examiners a systematic method of highlighting complaints that require additional supervisory oversight or attention in subsequent examinations.

A complaint code to identify serious complaints
could assist examiners

Improvements in the evaluative content of complaint data systems would promote more meaningful communication between persons investigating and coding complaint cases and persons who later use complaint data for policy or supervisory purposes. By coding complaints to highlight ones that merit additional followup in subsequent examinations or making better use of systems currently in place, agencies could better focus their examination efforts on the complaints that really need it. Using the complaint data systems in this fashion would require only minimal changes to the practices already followed, and little or no additional cost to the agency. One agency already has such a system.

FHLBS has a disposition code in its data system to indicate complaints to be followed up during the next examination. We find this an appropriate and useful method of followup. However, during our review we were told this code was not used consistently or appropriately by all field offices. Our audit work verified this statement. Although FHLBS handles approximately 4,000 complaints each year, this code was used only 11 times in 1979 and 15 times in 1980. Of the 20 complaints that uncovered actual violations in the universe of complaints we reviewed, none were designated by FHLBS for followup.

We found little evidence that other agency data systems were helping examiners track the complaint files we examined. Only seven of the files (six of which were at NCUA) recommended that the complaint be followed up. Two were followed up in supervisory contacts and three in subsequent institution examinations. There was no evidence that the remaining two complaints were given any further consideration.

A complaint code to identify serious complaints
could assist in supervising institutions

In dealing with institutions that are the subject of large numbers of consumer complaints, the five regulatory agencies have emphasized the quantity rather than the seriousness of complaints. Establishing definitive criteria for determining when complaints constitute a systemic problem is difficult because there may be contributing factors besides the number of complaints received. We believe that a code to identify serious complaints would make it easier for agencies to use complaints in examining and supervising institutions.

In dealing with institutions that are the subject of large numbers of complaints, the agencies have used only information that described the number of complaints received. In yearly complaint activity reports to the Congress, the regulatory agencies (except FRS) calculated complaints received per million dollars of assets and indicated that complaints at those banks with larger ratios were reviewed for patterns of practices. How successful these efforts have been is, in most cases, unclear. The agencies offer little guidance to field office staff for assessing which institutions need special attention because they are the subject of many complaints.

Although each agency reviews aggregate numbers of complaints for individual institutions, officials explained that the usefulness of these analyses is limited. As a tool for comparing bank compliance or behavior, too many other factors that might affect the analysis are lacking, such as type, seriousness, or disposition of complaint. We agree that more than simple ratios are needed, although some peer group analysis is useful.

The following case illustrates both the usefulness of analyzing complaint histories of institutions in the same size category or peer group and the need for using evaluative data in addition to computing total numbers or ratios of complaints. At the special request of the House Subcommittee on Commerce, Consumer and Monetary Affairs, OCC completed an analysis of complaints received by national banks during 2 calendar years. Some national banks that received the most complaints had lower complaint to asset ratios than other banks that received only a few complaints. Institutions that received many complaints were large metropolitan banks with extensive credit card operations--a major source of consumer complaints. One bank had almost 1,800 complaints, more than 13 percent of the total number of complaints OCC received in 1980. But considering this institution's multibillion dollar assets, the complaint ratio was less than 50 complaints per

billion dollars. Another bank received only 16 complaints that same year, just over .1 percent of the total received. However, its complaint ratio was 760 complaints per billion dollars of assets. With an overall average ratio of 16 complaints per billion dollars of assets, the bank with the largest number of complaints had 3 times the average ratio, and the bank with the smaller number had almost 50 times the overall average.

Peer group analysis of complaints properly identifies both institutions as ones which would warrant special attention. However, to be most useful for supervisory purposes, additional information on the type and seriousness of complaints is needed. Our recommendations in this chapter and in chapter 5 suggest using agency data systems to identify complaints that need followup. We believe that a complaint code that identifies serious complaints could improve the usefulness of complaint information by identifying institutions that need supervisory attention because they are subject to many serious complaints. Knowing which complaints are serious alerts examiners and supervisors to problems that exist or are developing and deemphasizes simple complaint quantity as a measure of need for supervisory attention.

In its comments to this report, FHLBS cites the success it has had working with institutions that receive relatively large numbers of complaints. Of the 22 associations that FHLBS defined as recipients of many complaints in 1979 and 1980, 16 had reduced the number of complaints they received by 1982. This seems to be the best example of how this type of complaint information is now being used for supervisory purposes.

CONCLUSIONS

We do not believe the financial regulatory agencies adequately coordinate complaint handling with examination and supervision activities. We found few instances where complaints were recommended for review during subsequent examinations, mentioned in examination reports or supervision files, or followed up to ensure that institutions had implemented proposed actions to correct violations. We found very little to indicate agencies reviewed institutions' policies as a result of substantiated complaints or considered other customers who might be similarly affected by the regulatory violations. We conclude that the agencies' failure to consistently follow up on violations discovered during complaint investigations or to consider the treatment of customers who may have received the same improper or illegal treatment as the complainant weakens the effectiveness of complaints as a supervisory tool.

These problems indicate a need for a more formal method to coordinate complaint handling with examinations and other supervisory actions. One low cost way to improve the agencies' coordination between these activities is through better use of agencies' complaint data systems.

RECOMMENDATIONS

We recommend that the Chairmen of the Federal Deposit Insurance Corporation, Federal Home Loan Bank System, Federal Reserve System, and National Credit Union Administration and the Comptroller of the Currency revise their complaint handling and examination procedures to include specific requirements for coordinating complaints, examinations, and supervisory efforts. In particular, the agencies should

- require followup during subsequent examinations to ensure that measures were taken to correct identified violations and to ensure that violations are not affecting similarly situated customers and
- require at least minimal documentation of all work performed.

We also recommend that the Chairmen of the Federal Deposit Insurance Corporation, Federal Reserve System, and the National Credit Union Administration and the Comptroller of the Currency alter their computerized complaint data systems to identify which complaints require followup or which provide information that may be useful in the examination or supervision process.

The Chairman of the Federal Home Loan Bank System should also take steps to ensure that the followup code currently in FHLBS' data system is consistently applied.

AGENCY COMMENTS AND OUR EVALUATION

The agencies generally agreed with our recommendations to integrate the handling of consumer complaints with other compliance activities. The agencies indicated they would review, revise, or reemphasize procedures to implement these suggestions.

FDIC, and to some extent FHLBS, felt that our recommendation to document all work performed would require extensive written memoranda and would be an inefficient use of examiner and financial resources. We feel adequate documentation is necessary, given the turnover of complaint handling staff (many positions are staffed on a rotating basis) and the difficulties we encountered in identifying which complaints

were serious. The agencies' extensive use of checklists in other examination activities would be one way of minimizing written memoranda. We believe a reasonable balance can be struck between providing a record on complaint followup and minimizing the paperwork burden.

FHLBS and NCUA expressed reservations about the usefulness of complaint information for detecting and correcting violations. FHLBS pointed out that for merely twice the price, its consumer examination program reached more than 3 times as many regulated institutions and unearthed several times as many violations of laws and regulations as did its complaint program. We do not suggest that complaint handling programs could or should replace examination programs. We feel that as long as these complaint programs exist and expose violations or problems not uncovered in the examination process, the information should be used to its fullest advantage. We also believe that a complaint system can operate as a safety net of sorts--providing the financial regulatory agencies information about institution behavior that might be missed during the examination process. Agency concerns about the cost of complaints are discussed in the previous chapter.

FHLBS also expressed reservations about the methodology we used in this chapter. Its concern is discussed earlier in this chapter's section on objectives, scope, and methodology.

FDIC and OCC concurred with our recommendation to alter their computerized complaint data systems to identify complaints that require followup. FRS believes that given the small number of complaints it receives, these changes are not necessary. NCUA agrees that some complaints may be useful in identifying compliance problems but doubts that this information has a significant role in promoting safe and sound credit union operations. Given NCUA's emphasis on safety and soundness issues and its reintegration of consumer and financial examinations, we feel complaints may be increasingly useful in helping to assess credit union compliance with consumer laws and regulations. We believe that the recommended changes to complaint data systems are the simplest way of ensuring that serious complaints are followed up and taken into account in the examination process.

Both FDIC and FHLBS believe their current methods for handling institutions that are the subject of large numbers of complaints are adequate. However, we feel that additional evaluative information about the quality of complaints provided by revised data systems would improve this procedure. In view of the specific actions that FHLBS is able to cite concerning its use of this information, we have not included FHLBS in our recommendation in this area.

Appropriate changes have been made to reflect or clarify other technical points FHLBS discussed in its comments about this chapter.

CHAPTER 4

BETTER DOCUMENTATION CAN ENHANCE AGENCY

EFFORTS TO EVALUATE HOW WELL DISCRIMINATION

COMPLAINTS ARE HANDLED

Because of the seriousness and complexity of consumer complaints about credit discrimination, the regulatory agencies established detailed procedures requiring special handling and consideration of discrimination allegations. These procedures rightfully allow complaint handlers discretion in determining the scope of the investigation. While some discrimination complaints are investigated thoroughly, special procedures suggested by agency policies are not used often. We believe agencies need to better enforce and strengthen existing procedures to be certain that discrimination complaints deserving special investigations receive them.

OBJECTIVES, SCOPE, AND METHODOLOGY

To assess the effectiveness and thoroughness of agencies' investigation practices, we selected discrimination complaints for examination. This selection seemed appropriate for several reasons, the most important being that discrimination is against the law. In addition, the five regulatory agencies suggest or prescribe their most thorough investigative procedures for addressing discrimination complaints. Finally, discrimination was the subject of a prior GAO review which found that the agencies neither adequately identified violations of the substantive aspects of some consumer laws, nor enforced their correction. ^{1/} We were interested in seeing whether the complaint handling process exhibited similar problems with identifying discrimination. The investigation of discrimination complaints has been cited by FRS ^{2/}

^{1/}GAO report, "Examinations of Financial Institutions Do Not Assure Compliance with Consumer Credit Laws" (GGD-81-13, Jan. 2, 1981).

^{2/}February 27, 1981, letter to Senator Charles A. Percy, Chairman, Committee on Governmental Affairs, from Frederick H. Schultz, Vice Chairman, Board of Governors of the Federal Reserve System. The letter discussed efforts to address deficiencies cited in GAO report GGD-81-13, "Examinations of Financial Institution Do Not Assure Compliance with Consumer Credit Laws." FRS said, "* * * data needed to analyze a bank's record (regarding compliance with civil rights statutes) are, at present, scanty. This is the reason our procedures call for an expeditious investigation of consumer complaints alleging discriminatory practices by a State member bank."

and NCUA ^{3/} as a useful method of identifying discriminatory practices by regulated financial institutions.

Various laws and agency regulations have been enacted to protect credit applicants against discrimination on any of several prohibited bases. The Fair Housing Act ^{4/} prohibits discrimination in the financing of housing on the basis of race, color, religion, sex, or national origin. Similarly, the Equal Credit Opportunity Act (ECOA) of 1975 and its amendments prohibit discrimination with respect to any credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of income from public assistance programs, or good faith exercise of rights under the Consumer Credit Protection Act.

While legislation makes it very clear that credit should be "equally available to all creditworthy customers," ^{5/} it does not define the criteria for identifying discriminatory practices. In Regulation B, which defines the requirements of the ECOA for all creditors, the FRS established numerous prohibitions on the type of nature of information that may be collected from credit applicants or used in making credit decisions.

Universe selected

The universe we selected included those discrimination complaints received by the three field offices of each agency during calendar year 1980. The only exception was the Boston Federal Reserve Bank, which received no discrimination complaints during that year; for this field office we used complaints received during 1981. We define discrimination complaints as do the regulatory agencies: any complaint that alleges discriminatory treatment by a supervised institution. This includes all complaints that allege discrimination, regardless of whether they are eventually substantiated.

^{3/}NCUA procedures for investigating consumer complaints, Examiner's Handbook, p. CI-12: "The investigations (of discrimination complaints) are very important because they are one of the most effective means we have for monitoring Federal credit union compliance with ECOA."

^{4/}Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3605).

^{5/}The Equal Credit Opportunity Act (Public Law 93-495, Title V, §502).

Our universe selection was based on information from the agencies' data systems. We also consulted local complaint handling personnel to see if they were aware of other discrimination complaints that were received but not included in the data system output. In all, we identified 94 discrimination complaints from these 2 sources. The number of complaints we reviewed at each agency is reflected below. Appendix VIII, table A, describes the discrimination complaint universe in more detail.

Discrimination Complaints Reviewed--By Agency

FDIC	31
FRS	8
OCC	23
FHLBS	13
NCUA	<u>19</u>
Total	<u>94</u>

The complaints in our universe reflected several types of discrimination. Sex, race, age, and marital status were cited most often. The table below reflects these summary statistics. A complete description of the types of discrimination alleged in the complaints in our universe by agency may be found in appendix VIII, table B.

Discrimination Complaints By Type

Race	18
Sex	19
Marital status	9
Age	10
Source of income	4
Redlining (note a)	6
Other bases	13
Combination of two or more bases	<u>15</u>
Total	<u>94</u>

a/Redlining is the refusal by some lending institutions to issue mortgage loans on property in specific neighborhoods because of alleged deteriorating conditions. The term derives from the practice of outlining such areas in red on a map.

Almost half of the discrimination complaints were filed by consumers who sought credit cards or personal loans. The following table reflects the types of credit sought by complainants in our universe. More complete information may be found in appendix VIII, table C.

Discrimination Complaints By Type of Credit Sought

Credit card	24
Personal loan	22
Mortgage	15
Auto loan	12
Home improvement	3
Business loan	4
Construction loan	2
Mobile home	2
Student loan	1
Real estate loan	1
Non-specific credit	<u>8</u>
Total	<u>94</u>

We reviewed the complaint investigation file for each of the 94 cases. Our analysis is based on the documentation within these files, with further explanation provided by the field office complaint handler in some cases. The evidence was accepted at face value; if, for example, an investigation memorandum stated that a sample of similarly situated customers was reviewed, appropriate credit was given, although working papers from the review were not present.

Criteria

We reviewed the complaint files to determine how the agencies investigated the discrimination complaints they handled, paying particular attention to the specialized investigation procedures described in the agencies' own guidelines. These procedures are of two types: one concerns specific information gathering activities; the other, analyses of information to determine whether discrimination exists. For information gathering activities, agency procedures offer several alternatives:

- contacting complainants,
- reviewing institution policy,
- reviewing prior complaints against the institution, and
- reviewing the institution's examination files.

The financial regulatory agencies have developed and refined their own procedures for analyzing this data to identify discrimination during regular compliance examinations and complaint investigations. These procedures focus on two analyses. The first involves an institution's treatment of customers with respect to stated institution policy and the second involves treatment of customers with respect to each other.

Using these tests for consistency of treatment, each of the five agencies has devised procedures for investigating discrimination complaints. These procedures include reviews of institution lending policy and reviews of similarly situated customers. Although these procedures suggest a more comprehensive investigation of these complaints, field office complaint handlers are allowed wide discretion in determining the depth of each actual investigation. We did not evaluate the quality of any investigative analysis or determine whether discrimination did occur. Instead, we evaluated evidence as to whether the analyses described in agency procedures had been attempted. In assessing whether or not investigations were adequate, we considered two criteria:

--whether the documentation or discussion addressed the complaint issues, and

--whether there was some explanation as to why additional investigation was not required.

We also reviewed the complaints in our universe to see if they conformed to other agency procedures, such as those requiring agencies to share information about housing discrimination complaints with the Department of Housing and Urban Development (HUD) and those that instruct complaint handlers to inform complainants of other rights and remedies they have under the law.

We acknowledge that there exist no universally recognized standards for determining discrimination. Our review of discrimination complaints tested only for completion of agency procedures, including types of analyses. In view of the legal and conceptual problems involved in establishing discrimination, we have included among those procedural items notification of legal rights.

COMPLAINT INVESTIGATIONS ARE OFTEN INADEQUATE TO ASSESS SUBSTANTIVE DISCRIMINATION ISSUES

The actual complaint handling practices that four of the five financial regulatory agencies employ have not resulted in many in-depth investigations of discrimination complaints.

For the cases we reviewed, only the National Credit Union Administration pursued most of its discrimination complaints with special investigation. Overall, more than 70 percent of the complaints we reviewed did not receive the more comprehensive discrimination investigation suggested in agency complaint handling procedures. In these cases, agencies followed their routine practice of referring complaints to institutions for investigation.

Initial processing decisions are incomplete

Decisions made during initial complaint processing often determine the quality and success of discrimination complaint resolutions. Agency procedures specify two early decisions that are critical in handling discrimination complaints: identifying all complaint issues and determining the type of investigation that will resolve these issues. For almost all the complaints we reviewed, it was not clear why one investigative approach was selected over another.

We found little evidence that complaint handlers consulted other sources of information to clarify the problem or assess past institution performance before starting an investigation. Such procedures are required by FRS, FHLBS, and NCUA and suggested by OCC and FDIC. Although all agencies' procedures suggest that complainants who file complaints alleging discrimination be contacted, this was done in only 8 of the 94 cases we reviewed. Similarly, the agencies reviewed past examination and correspondence files in only seven cases, all involving onsite investigations.

The following cases illustrate the need to better define complaint issues and determine the depth of investigation during initial complaint processing.

A complainant alleged sex discrimination by a national bank which told her she could not get a loan without a cosigner. OCC's complaint handler did not contact the complainant to clarify the exact circumstances surrounding the complaint, such as when and to whom the application had been made. The possibility of prescreening (discouraging a loan applicant from seeking credit before the actual loan application is filed) was not discussed with the complainant or addressed during the bank's investigation, nor does documentation suggest that any review of institution examination or supervision files was done to assess past compliance with Regulation B. A copy of the complaint was sent to the bank in question with directions to "review and respond to the enclosed communication." In its letter to the regulatory agency, the institution responded that it had no records of the complainant submitting any loan application. This response was accepted by OCC without further investigation, and the case was closed.

In a second case, an unmarried couple alleged marital status discrimination by a savings and loan that had denied their mortgage loan application. After being told that their application had been denied due to a lack of collateral, the complainant received an adverse action notice stating "information obtained from an outside source" contributed to the denial. A copy of the complaint was sent to the association with directions to "inquire into this matter and furnish information * * * useful in preparation of a response" to the complainant. The institution responded that a mistake had been made on the adverse action notice, and that the denial was based solely on the institution's judgment that the collateral was inadequate. This answer was accepted without any further pursuit or consideration of the discrimination allegations involved.

These cases illustrate how the agencies routinely send complaints to the institution without defining salient issues or considering the need for other available investigative procedures. For most complaints not investigated onsite, the quality of the investigations of the discrimination complaints we reviewed depended on the quality of the institutions' responses. In no case did the evidence suggest that the agencies requested information or performed additional investigation beyond what was first provided by the institution.

Few discrimination complaints are
subjected to onsite investigations

Agency complaint handlers have not consistently performed onsite investigations of discrimination complaints. Our review of 94 cases showed that NCUA and FDIC performed all but 3 of the 26 onsite investigations performed by all agencies. Further, we found no evidence in complaint files to explain why similar types of complaints were handled differently.

Each agency currently provides at least some criteria or guidance to field complaint handlers for determining when onsite investigations are needed. The criteria vary widely from the brief FHLBS statement that recommends onsite investigations for "serious cases, such as a discrimination complaint," to the FRS list of five factors to be considered when "the complaint involves possible credit discrimination." NCUA requires onsite review when a complaint alleges discrimination on a prohibited basis and provides "credible information" that, if substantiated, would indicate that discrimination exists. No further definition or explanation is given for "credible information," giving the complaint handler considerable discretion in making this determination. Onsite investigations are optional under the current procedures at all agencies except for fair housing complaints at FDIC and OCC. Although these two agencies require an examiner to interview

the complainant and investigate the complaint at the institution, we found that onsite investigations were done for only half the fair housing complaints at each agency (two of four FDIC complaints and one of two OCC complaints).

Given differences in complaint credibility and in types of allegations received, local discretion in the depth of complaint investigation allows complaint handlers necessary flexibility to balance resources and investigative requirements. But because agencies' procedures do not require complaint handlers to document the reasons for selecting one investigative method over another, it is impossible to tell what factors were considered when deciding what kind of investigation was needed.

One of the most important options suggested by agency procedures and available to complaint handlers is an onsite investigation. The incidence of onsite investigations ranged from 63 percent at NCUA to 0 percent at FRS. Although FRS performed no onsite investigations for any of the eight complaints in our universe, it should be noted that two cases were withdrawn by the complainants before any investigation could be started.

The following chart describes the number and percentage of onsite investigations by agency.

Onsite Investigation of Discrimination Complaints

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Number of complaints in universe	31	8	23	13	19	94
Number of onsite investigations	11	0	1	2	12	26
Percent of onsite investigations	35	0	4	15	63	28

The remaining three-fourths of the discrimination complaints were referred to institutions for investigation. In defending their decisions to refer complaints, agency field staff frequently cited the integrity of institution officials; they felt institution officials would not willfully discriminate and would readily correct any isolated errors or practices that may discriminate. Complaint handlers or their supervisors in several field offices told us they felt most discrimination complaints result from misperceptions or misunderstandings by complainants rather than mistreatment by lending institutions. Because agencies do not document their complaint handling decisions, we were not able to verify these impressions.

Few complaints received comprehensive analyses of discrimination allegations

Of the 94 discrimination complaints, the agencies reviewed treatment of similarly situated customers during 15 investigations, all performed onsite. We also identified 26 cases where institution lending policy was reviewed. Seventy percent of these policy reviews were completed during onsite investigations. Of the 26 onsite investigations completed, 72 percent included a review of institution lending policy and 60 percent, a review of similarly situated customers. A detailed description of these statistics may be found in tables E and F of appendix VIII.

We analyzed the complaint investigations to determine whether the complaint issues were adequately addressed. We found that about one-third of the 94 complaints, or half of all those referred to institutions for investigation, did not address all complaint issues. For example, a complainant alleged sex discrimination by an FRS-supervised bank because she was denied a credit card. After referring the complaint to the institution, the complaint handler received information on the institution's credit scoring system, but never analyzed its relationship to the complaint. The institution's response that none of the factors considered in the denial were discriminatory was accepted without question. In its periodic review of Reserve Bank operations, Federal Reserve staff subsequently questioned why an onsite investigation was not performed in this case and why the credit system was not reviewed to ensure it did not discriminate against a protected class. There was no evidence to suggest further investigation was done. An onsite investigation and a credit scoring system analysis could have better addressed the discrimination issues.

This FRS complaint was the only file we reviewed that indicated any headquarters review and feedback to field complaint handlers. This review occurred during one of FRS' periodic reviews of Reserve Bank operations. FRS also reviews complaints it refers to Reserve Banks for handling.

In early 1981, FHLBS completed a review of 1980 discrimination complaints. That review confirms for that agency the same problems that we identified in our study. The FHLBS indicated in its comments to this report that it has brought these matters to the attention of the Federal Home Loan Banks and is correcting these problems. FHLBS also reported that it is now reviewing all discrimination complaints.

Discrimination not pursued after
institution accommodates complainants

There were 15 cases in our universe that were resolved in favor of complainants: 4 were agency enforced resolutions and 11 were voluntary accommodations made by the institution. Of 11 discrimination complaints the institution voluntarily resolved during or following the complaint investigation, 7 complainants were awarded the loan or the credit they had initially been denied. In four cases, the institution agreed to reconsider the loan with additional information or references from the complainant. The ultimate loan decision, however, was not mentioned in these four complaint files.

In these cases, once the complainant was accommodated, the complaint handler almost always closed the case without further investigation of the discrimination issue. There was no evidence that questions such as whether the institution denied credit to similarly situated customers, or whether policies or procedures adversely affected certain classes of people were asked during the investigation. In only one case was there evidence that an agency (in this instance, NCUA) pursued the issue of discrimination despite the institution's statement of intent to accommodate the complainant.

Although complainant accommodation achieves a measure of effectiveness in terms of the individual complainant, it does not ensure other customers similar protection. The following case illustrates this point:

In a complaint filed with FDIC, a woman alleged sex discrimination by a bank that refused to grant her a credit card. Shortly after the agency referred the complaint to the institution for investigation, the requested credit card was issued to the complainant. The bank's explanation was that her application had earlier been turned down due to an oversight in the application review process. The complaint file indicates that no other assessment or review of discrimination issues was performed, and none was recommended for the upcoming compliance examination.

The remaining four cases resolved in favor of the complainants were agency enforced. All four were violations identified in onsite investigations; FDIC and NCUA each identified one credit discrimination violation, and NCUA an adverse action violation. One FHLBS complaint was a fair housing complaint initially received and investigated by HUD. Although not defined by that agency as a violation, HUD subsequently developed a conciliation agreement with the savings and loan association requiring it to take various affirmative lending actions and compensate the complainant for damages.

Complainants are not informed
of other rights and remedies
available to them

We found that FDIC and FHLBS did not consistently inform complainants of other rights or remedies available to them. Where an institution fails to comply with the antidiscrimination provisions of ECOA, aggrieved applicants may consult a private attorney and ultimately sue for actual damages and for punitive damages up to \$10,000. Also, complainants who alleged discrimination in mortgage or housing lending were not told that they could file an additional complaint with HUD under the Fair Housing Act. Complainant rights were not explained in 90 percent of FDIC's and FHLBS's non-sustained complaints. FRS, OCC, and NCUA correctly informed all complainants of their rights.

AGENCIES' FAILURE TO NOTIFY HUD
OF FAIR HOUSING ACT COMPLAINTS
DILUTED ENFORCEMENT

Under the Fair Housing Act of 1968, HUD is responsible for the investigation and conciliation of complaints it receives and for maintaining records on institutions or organizations that are the subject of fair housing complaints, regardless of the investigating agency. Because consumers' complaints sometimes concern alleged discrimination in mortgage lending, HUD, FDIC, FHLBS, FRS, and OCC agreed in a 1977 memorandum of understanding to voluntarily exchange information concerning fair housing complaints against federally regulated financial institutions. FHLBS updated its agreement with HUD on October 27, 1980.

In our review of 94 discrimination complaints, we identified 16 fair housing complaints, none of which had been referred to HUD as agreed in the memorandum of understanding. These 16 cases involved all four financial regulatory agencies: FHLBS, 9 cases; FDIC, 4 cases; OCC, 2 cases; and FRS, 1 case.

As a result of this review, OCC has reimplemented this previously lapsed policy and is currently referring these complaints to HUD. FDIC continues to refer information about its fair housing complaints to HUD, resuming this activity in January 1981. FRS officials said this agreement with HUD was still effective and described its failure to refer the case in our review as an oversight. FHLBS did not refer fair housing complaint information to HUD during the period covered by this review. In commenting on this report, FHLBS agreed to implement the 1980 agreement for exchanging information with HUD.

As far as HUD is concerned, the agreement is still in effect, and we were told HUD continues to refer for information purposes fair housing complaints to the regulatory agencies. We found two complaints that HUD had referred to FHLBS. Both included details of the HUD investigation and final disposition.

CONCLUSIONS

The agencies' procedures for handling discrimination complaints allow local complaint handlers much discretion in determining the type and depth of investigations. We agree that some discretion is necessary to accommodate different types of discrimination allegations. We noted, however, that the special procedures agencies suggest for this type of complaint are not used often. Agencies' complaint handlers have not routinely used available complaint information to clearly define discrimination issues. Complaint handlers seldom contacted complainants or reviewed files, and little documentation exists to explain how or why decisions to investigate complaints are made. Agencies frequently accepted minimal documentation as support for the institution's investigation and often focused upon the complaint action rather than the discrimination issues raised in the complaint. At some agencies many complainants are not informed of other rights and actions that are available to them.

Unfortunately there is no way to know whether more special investigations should have been performed in response to discrimination complaints. The agencies do not document their reasons for the selection of investigative approaches, nor do they verify data supplied by the banks or savings institutions that are the subject of complaints. This lack of information is a shortcoming in the agencies' complaint systems because it makes it difficult to enforce compliance with agency policies.

Agencies have other procedures besides consumer complaints for monitoring institutions' compliance with consumer oriented laws and regulations. However, a more systematic approach to handling complaints would have merit in that it would simplify compliance monitoring and provide complaint handlers a convenient summary of investigative steps or options. We believe that requiring complaint handlers to document decisions about investigative options can be achieved with a checklist, similar to the ones agencies use in their examination activities.

As a result of our review, OCC has recently renewed its participation in the agreement and now refers all appropriate

complaints to HUD. Although FDIC and FRS continue to honor the agreement, they have not consistently referred complaints. Suspensions and lapses in referrals both have the effect of diluting HUD's administration and enforcement responsibilities under the Fair Housing Act.

RECOMMENDATIONS

To ensure appropriate investigations of all discrimination allegations, we recommend that the Chairmen of the Federal Deposit Insurance Corporation, Federal Home Loan Bank System, Federal Reserve Board, and National Credit Union Administration and the Comptroller of the Currency

- require local complaint handlers to document reasons for selecting the types of discrimination investigations they perform and
- require that unverified information supplied by institutions during investigations be verified during subsequent compliance examinations.

We also recommend that the Chairman of the Federal Home Loan Bank System require agency staff to identify and refer fair housing complaints to HUD, as specified in their 1980 memorandum of understanding.

AGENCY COMMENTS AND OUR EVALUATION

OCC and FHLBS generally agreed with our recommendations that they give greater attention to procedures for handling discrimination complaints. Both indicated they would review or revise current procedures to ensure more thorough investigations.

Some agencies believe that their current policies and procedures are effective in handling discrimination complaints. As discussed in this chapter, despite basically good policies for resolving discrimination complaints, our review showed substantial deficiencies. For example, despite procedures requiring a memorandum explaining the reasons why an on-site investigation was not done, we did not find evidence of such a memorandum in the Federal Reserve discrimination complaint files.

FDIC and FHLBS were particularly concerned about our recommendation for additional documentation. FHLBS stated that its procedures require information verification during complaint investigations. This is indeed preferable but not always possible unless an onsite examination is completed.

Seven of the thirteen FHLBS discrimination complaint resolutions we reviewed were based solely on discussion and explanation provided by the associations. There was no evidence that any of this information was verified. As we indicate in the agency comment section of chapter 3, we believe that the documentation objective can be met without creating an excessive paperwork burden.

In its draft GAO proposed that agencies' headquarters staffs monitor the quality of field investigation by reviewing selected cases. In commenting on our report draft, FRS, FHLBS, and FDIC each pointed out specific actions they are now taking to monitor the quality of their investigation of discrimination complaints. The Federal Reserve indicated that its Board staff monitors the system's handling of discrimination complaints by reviewing monthly reports and by reviewing specific complaints received by the Board and by the individual Reserve Banks. FHLBS indicated that it regularly monitors district office handling of discrimination complaints and that in April 1981 it took steps to correct problems identified in a study of 1980 discrimination complaints. FDIC indicated that its Washington staff reviews individual cases and that it has engaged a Senior Civil Rights Specialist to help in its review of discrimination complaints. We have not evaluated the effectiveness of these activities, but they appear to us to meet our objective in this area. NCUA and OCC did not specifically comment on GAO's proposal, but we felt on the basis of available evidence they should not be singled out and therefore have taken out our proposed recommendation for agency monitoring of how discrimination complaints are handled.

Our draft report suggested that FHLBS implement the 1977 memorandum with HUD concerning the exchange of complaint information about mortgage lending. In commenting on the report, FHLBS told us that it had revised the memorandum in 1980 and that its efforts would be better directed toward trying to implement the 1980 agreement. We agree.

CHAPTER 5

THE REGULATORY AGENCIES CAN MAKE BETTER USE OF COMPLAINTS FOR POLICYMAKING PURPOSES--

A CASE STUDY OF INACTIVE AND DORMANT ACCOUNT COMPLAINTS

Consumer complaint information should help regulatory agencies in assessing industry practices and analyzing policy issues. Agencies do make some use of complaint information when considering policy matters. However, our review of one class of complaints--complaints about inactive or dormant accounts--showed that improvements to agencies' complaint data systems would enhance the usefulness of this information.

OBJECTIVES, SCOPE, AND METHODOLOGY

In addition to the review of agencies' complaint handling systems, the requesting subcommittee asked that we review all consumer complaints dealing with the treatment of inactive or dormant accounts that were received by the five agencies during calendar years 1978, 1979, and 1980. The subcommittee was particularly interested in agencies' responses to these complaints and possible institution abuses in this area. ^{1/} Our review of numerous cases identified a universe of 102 complaints about inactive or dormant accounts. A detailed description of how we identified and analyzed these complaints may be found in appendix IX.

Our review of complaints about inactive and dormant accounts served as a case study for an assessment of how agencies use complaint data for policymaking purposes in unregulated areas. Up to the point where the State law requires that dormant accounts revert to the State, the treatment of depositors' inactive or dormant accounts is a matter of individual institution policy. Our evaluation centered on problems agencies encounter in trying to use current complaint systems for policymaking purposes and the types of complaint information that could prove useful for policymaking. We did not attempt to draw conclusions about what regulatory action, if any, might be appropriate with respect to inactive and dormant accounts.

^{1/}Abuses in the treatment and handling of these accounts were discussed in hearings before the Subcommittee on Commerce, Consumer and Monetary Affairs, House Committee on Government Operations, July 23 and 24, 1980, and in a meeting of the Consumer Advisory Council of the Federal Reserve System, January 27, 1982.

We have included NCUA in our review of inactive or dormant accounts because many of its regulatory activities are identical to those of the other four agencies, even though the FTC Act does not assign it specific responsibility for regulating unfair and deceptive practices.

CONSUMER COMPLAINTS ARE OFTEN USEFUL
FOR IDENTIFYING AND CORRECTING
UNFAIR OR DECEPTIVE PRACTICES

Consumer complaints are widely considered a major tool for identifying many types of industry problems. Thus, the FTC, also concerned with preventing unfair or deceptive practices in many facets of commerce, uses complaint data to help define business practices that need regulation or to identify current rules that need to be changed. Representatives of a group of consumer agency professionals also told us complaint information was used to support consumer legislation or design educational programs. One State, for example, used complaints received about auto repair practices to support new regulations requiring repair estimates before work was done. Many of the people we contacted at all levels of the financial regulatory agencies' complaint handling organizations agreed that consumers' complaints are a good source of information about questionable institution conduct, although we found only limited use of this data.

Complaints are used by supervisory
agencies in various ways

During our review we noted that all agencies make some policy use of complaint data. The most active use of this information that we observed occurred in NCUA, the agency whose complaint system was not mandated by the FTC Act. NCUA used complaint analyses to simplify credit union share disclosure regulations, identifying three basic problems that credit union members had with existing procedures. On the basis of consumer complaints, the agency also changed its examination procedures to highlight problem areas that had been the subject of past complaints. In addition, a new section was added to the compliance examination to assess credit unions' protection of members' rights, an area that often concerned unregulated practices. Another NCUA initiative included a "special recommendations" program to review and eliminate credit union practices that are not regulated but often generate complaints or other disputes.

The most common use of complaint data consisted of consulting computerized data about complaints received or resolved. One such use by the Federal Reserve is discussed on page 50.

In commenting on our report draft, FHLBS and FRS, the two agencies charged by the FTC Act with regulating unfair and deceptive practices, did point out several other specific uses that they made of complaint information that warrant mentioning. The FHLBS pointed out that it uses consumer complaint data in reporting on and evaluating compliance with consumer laws and regulations and commenting on proposed regulations and examiner instructions. The agency said it also circulates opinions that were written as a result of consumers' complaints. In its comments, FRS described how it has recently enhanced its procedures for obtaining additional information concerning complaints about unregulated practices. FRS indicated that, where appropriate, its examiners are asked to investigate specific bank practices, and it requests data from the other bank regulatory agencies concerning similar types of practices. These practices represent appropriate use of complaint data.

USING CONSUMER COMPLAINT DATA
TO EVALUATE CONSUMER POLICY
ISSUES--A CASE STUDY

In assessing the usefulness of complaint information for policymaking purposes, we used the case study of complaints about institution treatment of inactive or dormant accounts that had been requested by the subcommittee. This category of complaints reflects an unregulated banking practice of separating depositor accounts that have been left inactive for a period of time from other active accounts.^{2/} In separating inactive accounts, institutions add safeguards to prevent employee tampering or embezzlement. The separation and safeguarding of these accounts is done at some expense, and many institutions charge a service fee to these account holders.^{3/} The institution determines the period of inactivity, the amount of service charge, and whether to continue interest accrual.

We were unable to locate any analysis of how much it costs to maintain the average inactive account. The closest estimates were the statements by agency staff that the cost of

^{2/}For more information about institution treatment of these accounts, see the GAO report, "Summary of Survey Results: Bank Policies on Dormant Accounts," GAO/GGD-83-45, March 31, 1983.

^{3/}During the period covered by our review, the renewed emphasis on pricing bank services had not occurred.

servicing an inactive account was less than the cost of servicing an active account. The Federal Reserve's analysis of costs to maintain an active savings deposit account for the period closest to our review was about \$25.00 per year. ^{4/}

None of the decisions concerning account handling or service fees charged by banks are currently the subject of bank regulation. For the 3-year period of our review, FHLBS did, however, regulate the amount of service charge savings and loan associations could assess. The limit on the amount of service charges under this regulation has since been withdrawn. Also, NCUA has adopted a policy statement discouraging credit unions from treating these accounts differently. All States have passed laws that require property unclaimed after several years to escheat to the State treasury. Regulations governing handling of this property, including such items as unclaimed deposit accounts, are enacted by individual States.

DIFFERENCES IN COMPLAINT DATA
SYSTEMS LIMIT CAPABILITY TO
MONITOR INDUSTRYWIDE COMPLAINTS

Because of differences among and deficiencies in agencies' computerized complaint data systems, it is difficult to assess how widespread complaints about certain acts or practices are. Similarly, it is difficult to aggregate complaint information for the three agencies that regulate the banking community.

In fulfilling its responsibility for identifying and prohibiting unfair and deceptive practices, FRS monitors those 4,000 or so complaints it receives yearly. While the agency's monitoring does include complaints it receives but subsequently refers to other agencies for investigation, the 16,000 complaints received annually against banks regulated by OCC and FDIC are not considered. Thus, in monitoring complaints that may have policymaking implications for the entire banking industry, the FRS considers less than 20 percent of all consumers' complaints against banking institutions. FRS officials told us that the inconsistencies in the agencies' data systems made it difficult to combine the detailed complaint data for broader perspective on potential consumer problems.

We encountered these problems first hand while identifying complaints for our case study of inactive accounts. For the three banking agencies, we reviewed 455 complaint files in 4 directly related categories, such as "escheat" or "inactive account problems." Of these, 320 related to our review.

^{4/}1979 FRS Functional Cost Analysis, p. 19.

Including indirectly related categories such as "service charges" or "payment of interest," the number of cases requiring review grew to almost 2,000, and the number relating to our review increased by 28.

Because the responsibility for supervising savings and loan associations is not shared, FHLBS does not experience the same problems with combining complaint information. We did, however, find that FHLBS's use of complaint information for policymaking purposes was limited by the use of relatively broad descriptive categories.^{5/} Because the FHLBS data systems did not utilize a specific category that described the group of complaints in which we were interested, we had to rely on the System's district bank staff to manually screen the more than 11,000 complaints received during the 3-year period. The review identified 38 relevant complaints.

Although NCUA has no responsibility under the FTC Act to monitor unfair and deceptive industry practices, we included the agency in our case study at the subcommittee's request. From three broad "other," "share," and "miscellaneous" categories, we reviewed 760 of the 2,753 total complaints NCUA received during the 3 years. Eighteen complaints applied to our review.

Considering the costs and resources involved, the difficulty of such a time-consuming review might discourage agencies from using complaint information for evaluating some consumer policy issues. Although NCUA's and FHLBS's complaint data systems do have descriptive categories covering many valid consumer issues, our difficulties illustrate that when the issue has not been anticipated, evaluating relevant complaint information is fairly difficult. Since we completed our review, both FHLBS and NCUA have added categories to accommodate complaints about inactive or dormant accounts.

Because each agency classifies complaints differently, any attempt to combine complaint information results in either a fragmented or a forced perspective. Officials at NCUA and FDIC said that using comparable descriptive categories was both "logical" and "long overdue"; however, officials at FHLBS, FRS, and OCC expressed views ranging from ambivalent to skeptical. OCC representatives also suggested that getting all agencies to agree on consistent categories would be difficult.

^{5/}FHLBS has 58 complaint codes. Each of the other four agencies has at least twice that number in its data system.

Other characteristics of agencies' data systems further complicate attempts to compare or combine complaint information. For example, the contents of one complaint letter may be counted as a single complaint at one agency but may be counted as two or more complaints at another agency. The following matrix summarizes some system characteristics from the three banking agencies.

Comparison of Data System Characteristics
for the Three Banking Agencies

<u>System characteristic</u>	<u>FDIC</u>	<u>OCC</u>	<u>FRS</u>
1. Are multiple allegations in a single complaint recorded separately?	Yes, up to 4 allegations shown per complaint letter.	No, the "most substantive" problem described by the complainant is entered.	Yes, they can be shown by completing separate data input forms, but that is not generally done.
2. Are verbal/telephone complaints included in the automated data system?	No, unless written action is taken on the complaint.	Yes, except for the New York and San Francisco regions; they keep separate, manual records.	Yes, the complaint input form shows whether it was received by phone, letter, etc.
3. Are complaints in the "miscellaneous" category explained/described in the data base?	No, but the capability is there.	No.	Yes.
4. Are restitution payments to the complainants shown and quantified?	Yes.	Yes.	No.
5. Are definitions of complaint coding categories provided to persons classifying complaints for data input?	Yes, a complaint dictionary is provided.	No.	No.

What the case study says about the
treatment of inactive or dormant accounts

Our case study identified the types of problems consumers have with the treatment of their accounts that have become dormant. Complaints do not provide valid quantitative information on the prevalence of a particular practice, except in relative terms (by comparing one year to the next). They do, however, define numerous qualities of the problem that were previously unknown. Analyzing the treatment of inactive or dormant account complaints shows that

- few accounts involve large amounts of money;
- institution service charges, with one exception, averaged less than \$10.00 per year and ranged between \$1.50 and \$36.00 per year;
- institution policies for months of inactivity before imposing dormant status ranged from 1.5 to 5 years for savings accounts; and
- seventy percent of the institutions stated that their policy prescribed some sort of notification procedure, and 30 percent admitted having no policy to notify account holders.

More specific information on the findings from the case study may be found in appendix IX.

NEED FOR MORE EVALUATIVE
INFORMATION IN DATA SYSTEMS

Analysis of the complaints in this case study quickly identified those isolated instances of possible abuse. For example, the institution that charged a \$100 per year service fee, or the institutions that did not notify customers before changing their account status might warrant further attention. Had the agencies' complaint data systems accommodated some sort of complaint handler evaluation of the seriousness of unregulated abuses reflected in consumers' complaints, these cases could have been easily identified.

In assessing unfair or deceptive practices, FRS monitors concentrations of complaints in categories of unregulated practices. An early warning feature in FRS' computerized complaint data system flags accumulations of more than 15 complaints per quarter or 50 complaints per year, in any single category. In 1980 almost half of the 2,000 complaints that occurred in categories of potentially unfair or deceptive practices raised the early warning system flag. Further agency review, however, identified no discernable trends or patterns that resulted in action by the Federal Reserve Board of Governors.

Officials at FRS told us that even when a large number of cases is received in a single category, the individual case files are not reviewed for specific details. FRS officials explained that because many complaints do not concern unfair or deceptive conduct, a detailed review of all cases in a category is not worthwhile especially in light of staffing constraints. To supplement what it felt was relatively uninformative complaint data, FRS performed two surveys to identify problem practices: a survey of examiners from the three banking agencies and a survey of bankers themselves. The findings have been discussed with the FRS consumer advisory council but no regulatory action has been taken as a result.

Although FHLBS has no computerized warning system, it similarly reviews its unregulated categories of complaints for several policymaking activities, including review of examiner or supervisor instructions and review of proposed regulations.

Agencies' complaint data systems are unable to distinguish between those cases that reveal abusive, unfair, or deceptive industry practices and other cases that involve less serious problems. The systems' inability to highlight complaints about acts or practices that require attention makes the agencies' job of monitoring and analyzing complaint information for policymaking purposes all the more difficult. While a complaint data system that provides better information is necessary, it is not guaranteed to reflect all unfair or deceptive practices. Information from other sources, such as the surveys FRS has already done, is desirable, if not necessary input.

However, we believe, and agency staff generally agree, that complaints have potential as a good source of information about problematical institution practices. It was also agreed that sometimes even a single complaint can identify an industry practice that requires attention. The challenges, then, are to use complaints in the most effective and efficient manner, to characterize consumer problems, and to ensure that abusive practices revealed by these problems receive appropriate attention.

In addition to identifying those complaints that require followup in subsequent examination or supervisory contacts, we discussed with agency personnel the idea of adding a second evaluative feature to identify complaints that reflect unfair or deceptive practices. With some reservations, agency personnel generally supported the idea of including evaluative information in the data systems. Some field complaint handlers said complaints had occasionally revealed questionable conduct by institutions in their regions, but had not been brought to the attention of their consumer policy staffs in agency headquarters. Highlighting cases in the data system reports would accomplish that objective. It would also

facilitate identifying trends in serious complaints--a process that is currently discouraged by the time-consuming, manual review of case files now required. Flagging serious complaints in the agency data systems would minimize the need for persons unfamiliar with the complaint to reassess its significance from historical files that may be difficult to retrieve or interpret.

Consumer affairs officials at each of the five agencies noted that adding a data system feature to identify cases of questionable industry conduct would probably only involve adding one resolution type code. Several officials mentioned that such minor coding updates were done occasionally and were not costly.

Agency staff did express some reservations about using an evaluative code. One problem cited was lack of guidance on how to evaluate complaints. They pointed out that both the FTC Act and the Federal Reserve Regulation AA address "unfair or deceptive" conduct but fail to define either term. In a recent FRS consumer advisory council meeting, it was noted that defining "deceptive" is relatively simple, but describing what constitutes "unfair" is more difficult. We feel, however, that the proximity of agencies' field office complaint handlers to consumers and institutions puts them in an ideal position to gauge the unfairness or deceptiveness of institutions' practices. And, with some basic guidance, complaint handlers would be in an even better position to do so.

Some agency staff were concerned that the evaluative nature of information in agencies' complaint data systems might be used in private litigation suits. In response, we can only emphasize that highlighting complaint situations for further review does not constitute an agency policy decision or position, but simply serves to bring attention to unusual behavior.

A last concern was that more time would be required to code complaints for data system input. While this may be true, we feel that any additional time needed to add an evaluative code would be minimal and would be more than offset by the usefulness of such information.

OPPORTUNITIES TO IMPROVE DATA
SYSTEM SUPPORT FOR PROGRAM
MANAGEMENT

Consumer complaint program management functions are also supported by agency complaint data systems. Data systems are used by headquarters consumer affairs staffs to monitor the total volume of complaints and response times, and in FHLBS, to track complaint correspondence. The data systems provide this support fairly well, although in some instances

infrequent data base updates limit the usefulness of the information. For example, OCC updates complaint data monthly, thus printouts may not reflect the current status of all complaints against institutions.

The agency field offices we visited relied on manual systems to monitor their complaint handling activity. Some officials indicated that data systems might be used more in the field if they provided convenient access to up-to-date information on current cases. Generally, field staff said they had little involvement in the agency's complaint data system; most of their participation consisted of filling out computer input forms and correcting headquarters' printouts. As discussed in detail in chapter 3, complaint data systems could provide more support for supervising institutions by identifying serious complaints.

CONCLUSIONS

Consumers' complaints represent an important source of information about individual institutions and the industry they represent; however, complaint data is not used to its fullest potential for policy analysis. Inconsistencies among the agencies' data systems make it difficult to obtain an industrywide perspective of consumer complaints in the regulated financial industry as a whole and in the banking industry in particular. Because data systems do not distinguish between innocuous cases and those indicating potentially "unfair or deceptive" institution conduct, it is difficult to evaluate the quality of the problems addressed in the complaints. The lack of complete information concerning all institutions and the lack of an evaluative assessment of consumers' complaints limit the complaints' usefulness to the regulatory agencies.

Although changes to agencies' complaint data systems would enhance their usefulness, the prevalence or seriousness of questionable industry practices may not always be clear from complaint data alone. Agencies' consumer affairs staffs emphasized the need to supplement or clarify complaint data with information from other sources before deciding on a course of corrective action.

RECOMMENDATIONS

To make consumer complaint information more accessible and usable for policy analyses, we recommend that the Chairmen of the Federal Deposit Insurance Corporation and the Federal Reserve System and the Comptroller of the Currency devise and implement consistent industrywide complaint classification and reporting procedures. We also recommend that the Chairmen of

→ OCUA

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the Federal Home Loan Bank System and the National Credit Union Administration consider adopting similar classification codes to facilitate broader comparisons throughout the entire regulated financial industry. We also recommend that all five agencies add an additional code to their complaint data systems to assist in identifying and evaluating potentially unfair or deceptive practices that require further study.

We believe these changes will not increase the regulatory burden on financial institutions because a complaint data system that identifies operating problems allows institutions maximum flexibility to experiment with innovative customer services, while at the same time maintaining a degree of control over these services.

AGENCY COMMENTS AND OUR EVALUATION

The FDIC, FRS, and OCC agree with our recommendation to develop and implement consistent complaint classification codes. Recently, these three agencies set up an informal working group to explore the possibilities of developing a consistent coding system. FHLBS has agreed to review the complaint classification codes of other agencies to determine if changes to their systems are feasible, though they note that reprogramming agencies' complaint systems would necessitate reformatting summary reports. It would also make prior year comparisons difficult. Given the similar services that are developing in banks and savings and loan associations, we believe that the benefits of cross agency analysis outweigh the benefits of year-to-year comparisons.

FHLBS is also studying the feasibility of adding an additional code to its data system to assist in identifying and evaluating potentially unfair or deceptive practices. In commenting on this report it cited several instances where it used aggregate consumer complaint data to analyze the success or adequacy of existing regulation. This activity is commendable and the chapter discussion has been expanded to reflect these activities. However, the thrust of this chapter is the use of complaint data for identifying the need for addressing unfair or deceptive practices that are not currently regulated. We believe the additional evaluative code we recommend will be useful in this endeavor.

Because FRS recently revised its consumer complaint classification system to more clearly identify categories of unregulated practices that are potentially unfair or deceptive and because it also devised definitions of complaint categories, it does not believe such a data system change is necessary at this time. We commend FRS for its continuing efforts to identify problematical bank practices, but we feel it could make more use of information from consumer complaints. We

believe that our recommendation to add an evaluative feature to highlight complaints that might require regulatory attention or further study would only simplify its analysis.

In commenting on this report, FHLBS stated, "The (FTC) Act makes no mention of resolving complaints about unregulated practices," and, "* * * we do not believe that the (FTC) Act gives us the authority to resolve complaints that are not the result of an unsafe or unsound practice and concern areas that are not covered by regulation." Although we do not discern any difference between the types of complaints the FHLBS accepts and investigates and the types of complaints accepted and investigated by any other agency covered under this act, we do note differences in this agency's position with respect to complaints about unfair or deceptive practices. In its Annual Report to the Congress on the FTC Improvement Act for the year 1975, the Federal Reserve noted that, among its several requirements, the FTC Act directed the Board "to establish a procedure for handling consumer complaints regarding unfair or deceptive acts or practices" of supervised institutions. Our interpretation of the FTC Act is consistent with that of the FRS. Agency comments regarding the cost and effectiveness of complaints are discussed in chapter 2.

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NINETY-SIXTH CONGRESS
Congress of the United States
House of Representatives
 COMMERCE, CONSUMER, AND MONETARY AFFAIRS
 SUBCOMMITTEE
 OF THE
 COMMITTEE ON GOVERNMENT OPERATIONS
 RAYBURN HOUSE OFFICE BUILDING, ROOM B-377
 WASHINGTON, D.C. 20518

November 24, 1980

Hon. Elmer B. Staats
 Comptroller General
 General Accounting Office
 441 G Street, N.W.
 Washington, D. C. 20548

Dear Mr. Comptroller General:

The Commerce, Consumer, and Monetary Affairs Subcommittee, pursuant to its oversight responsibilities for the activities of the banking regulatory agencies, has been concerned for some time with agency handling of consumer complaints and agency response to the banking industry practices reflected in the complaints. I am writing to request an in-depth analysis and written report by the General Accounting Office on these topics.

This analysis and report should cover the activities of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank System, Federal Reserve System, and National Credit Union Administration. Within each agency (or system) it should review:

- a. public accessibility to the complaint assistance staff;
- b. the handling of individual complaints to determine whether and to what extent the individual complainants are receiving adequate and prompt assistance;
- c. the use of consumer complaint information for supervisory purposes, in particular for determining which individual institutions are the subject of abnormal and statistically significant numbers of complaints; and
- d. the use of consumer complaint information for policy making purposes, in particular for determining what areas of banking practice and consumer dissatisfaction may require general regulatory attention to limit or prohibit certain practices.

Part a. above, concerning public accessibility to the complaint assistance staff, should among other things determine (a) whether the complaint forms provided by the Comptroller of the Currency and the Federal Reserve are generally available in banks; (b) whether the FDIC's toll-free consumer "hotline" telephone service is adequately publicized; (c) whether the Home Loan Bank Board or National Credit Union Administration have effective consumer "outreach" programs to inform S&L and credit union customers of the complaint handling facilities of the agencies; and (d) whether, when a consumer calls the switchboard of an agency's headquarters or regional office with a problem, he is referred to the right staff person for assistance and is informed of the agency's (or another agency's) program for handling written complaints.

Parts a. and b. above, concerning agency responsiveness to individual complaints, should examine comparatively the consumer access of and the complaint handling by the regional offices of each agency, to identify weak spots or differences in treatment within the individual regional offices of the agencies.

Parts c. and d. above should include a review of each agency's internal data system for consumer complaints. The data systems of the different agencies should be compared with each other for usefulness and comparability of (a) complaint classifications and (b) resolution classifications; retrievability of summary information by (a) nature of complaint, (b) individual institution, (c) length of processing time, and (d) nature of resolution; and usefulness and comprehensiveness of internal reports now being prepared periodically for (a) supervisory purposes and (b) policy purposes.

Part d. of the above paragraph, concerning the use of consumer complaint information for policy making purposes, should be interpreted broadly to include a comprehensive review of the fulfillment by the Federal Reserve Board and the Federal Home Loan Bank Board of their respective responsibilities under Section 18(f) of the Federal Trade Commission Act to regulate unfair and deceptive trade practices in the banking and savings and loan industries. In the case of the Federal Reserve, an important question for GAO review is whether the Federal Reserve has an adequate procedure for keeping itself informed about the precise nature of the consumer complaints received by (and examination findings of) the two other banking regulatory agencies (CofC and FDIC) so that it can have a comprehensive understanding of what kinds of bank practices are giving rise to consumer complaints. (The Federal Reserve's latest annual report to Congress on this subject, dated March 15, 1980, is attached to this letter.)

The subcommittee is particularly interested in the agency responses to consumer complaints and possible institutional abuses in the area of dormant accounts and unclaimed property. Accordingly, please treat this as an area of application of the general questions raised above that should receive concentrated (but not exclusive) attention.

The Commerce, Consumer, and Monetary Affairs Subcommittee held two days of hearings on this topic on July 23-24, 1980, and many of the bank practices that concern the subcommittee were addressed in that hearing. The subject areas in which the subcommittee is interested are:

1. retention of bank records showing final disposition of closed accounts;
2. service charges for dormancy, and notification of depositors of the prospective or actual imposition of service charges;

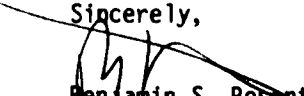
3. suspension of interest accruals on dormant savings accounts, or transfer of savings from matured certificates of deposit into non-interest-bearing status, and notification of depositors of the prospective or actual suspension of interest accruals;
4. Notification of depositors whose accounts are subject to impending transfer to state authorities under the state unclaimed property laws; and
5. efforts to determine correct addresses of depositors who have moved or of executors or heirs of deceased depositors.

For the subcommittee's information in studying agency response in this problem area, the GAO analysis should include a detailed review and summary report on all written complaints received by all five agencies during 1978, 1979, and 1980 dealing with dormant or inactive accounts. This review and report should include complaints that may have been classified by the agency staff into other related categories, such as "account balance discrepancy," "service charges," "interest payments," etc. The GAO summary report should:

1. categorize the complaints according to type of problem, and report the numbers of each type of complaint;
2. within each category evaluate each agency's success in securing a beneficial outcome for the complainants;
3. identify potential feasible regulatory or supervisory steps that could be taken; and
4. state any GAO recommendations.

The subcommittee is tentatively planning to conduct an oversight hearing on this subject in the summer of 1981, and consequently I would especially appreciate completion of this GAO analysis in time for a hearing at that time, if that would be possible.

Sincerely,


Benjamin S. Rosenthal
Chairman

Enclosures

BSR:tb

FIELD OFFICES VISITED

Federal Deposit Insurance Corporation
Boston Regional Office
Chicago Regional Office
Dallas Regional Office

Federal Reserve System
Boston Federal Reserve Bank
Chicago Federal Reserve Bank
Dallas Federal Reserve Bank

Office of the Comptroller of the Currency
Boston Regional Office
Chicago Regional Office
Dallas Regional Office

Federal Home Loan Bank System
Federal Home Loan Bank of Boston
Federal Home Loan Bank of Chicago
Federal Home Loan Bank of Little Rock

National Credit Union Administration
Region I - Boston
Region IV - Toledo
Region V - Austin

AGENCIES' COMPLAINT HANDLING ORGANIZATIONS

COMPLAINT INVESTIGATION

Each of the five regulatory agencies handles complaint investigations from its field offices. This responsibility is assigned to the local offices that are also responsible for examining and supervising individual institutions. Although each agency prescribes policies and procedures for handling and investigating complaints, field office staff are allowed much discretion in determining what kind of investigation is required to resolve each. All five agencies rely heavily on the institutions that are the subject of complaints to provide explanations and/or documentation concerning consumers' problems. Investigations of most complaints are handled over the phone or through the mail without an agency representative visiting the institution. More serious or complex complaints, like those alleging discrimination, may be the subject of more comprehensive procedures that suggest additional investigative steps. Chapter 4 discusses the procedures for handling discrimination and fair housing complaints in more detail.

Federal Deposit Insurance Corporation

In addition to providing Federal deposit insurance for both State and national banks, the FDIC also supervises approximately 9,000 State-chartered banks that are not members of the Federal Reserve System. The agency consists of a Washington, D.C., headquarters office and 13 regional offices. The headquarters Consumer Affairs/Civil Rights Office is responsible for overseeing the processing of complaints directed to FDIC, establishing agency complaint handling policy and procedures, and maintaining a computerized consumer complaint information system.

Complaints are investigated and resolved in the FDIC regional office responsible for supervising the subject institution. In the Boston and Dallas Regional Offices, we found that complaints are handled by a review examiner and, in Chicago, by a law clerk working for the regional counsel.

Federal Reserve System

Consumers' complaints about any of the 1,000 State-chartered banks that are members of the Federal Reserve System are handled by that agency. The Federal Reserve System consists of the Board of Governors (Board) in Washington, D.C., and 12 Federal Reserve Banks (Banks). Overall complaint program management is provided by the Board's Division of Consumer and

Community Affairs. This headquarters group establishes policy and procedures for complaint handling activities throughout the System, maintains a computerized complaint data system, and conducts periodic reviews of banks' complaint operations.

Complaints that require investigation of an institution are referred to the Federal Reserve Bank responsible for supervising that institution. In the three Banks we visited, consumer complaints are handled in a consumer affairs division, under the umbrella of bank supervision. In the Chicago and Dallas Banks, the complaint handling function is performed by a consumer affairs attorney and, in Boston, by a credit regulation specialist.

Office of the Comptroller of the Currency

OCC is responsible for chartering, examining, and supervising about 4,500 national banks. As part of this function, OCC handles all consumer complaints lodged against these banks. Program oversight is provided by the headquarters Consumer, Community, and Fair Lending Examinations Division, which also establishes program policy and procedures and maintains the complaint data system. Individual complaint investigations are completed by one of the agencies' 14 regional offices. At the three field offices we visited, complaints are handled through or with the assistance of the regional counsel's section by a consumer complaint specialist. At each office the specialist was a former bank examiner with experience in the consumer area.

Federal Home Loan Bank System

The Federal Home Loan Bank System supervises and regulates all federally insured savings and loan associations. These include about 2,000 federally chartered and 2,000 State-chartered associations. Complaints are handled by staff at 1 of the 12 local association-owned Federal Home Loan Banks. In Boston and Little Rock, this function is performed in the Supervision Unit and, in Chicago, under the general counsel. Onsite complaint investigations are done by a field examiner from the Board's Office of Examination and Supervision. The Board's headquarters Consumer Affairs/Civil Rights Division provides complaint handling policy guidance and maintains the complaint data system.

National Credit Union Administration

The NCUA has sole responsibility for supervising approximately 12,000 federally chartered credit unions. A Washington, D.C., headquarters office and six regional offices participate in consumer complaint handling. Under the headquarters Office of Chartering and Education, the Division of Member Affairs is charged with complaint program oversight as well as consolidation of complaint information for analytical purposes. Each regional office we visited had a Member Affairs section that was responsible for consumer complaint handling as well as consumer compliance examinations.

1980 COMPLAINTS
BY RESOLUTION CATEGORY

	<u>Banking Agencies</u>			<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>			
Findings						
Institution error or violation	357	235	2,003	420	173	3,188
Settled by mutual agreement			502		39	541
Institution legally correct	1,450	567	3,340	2,412	298	8,067
Misunderstanding			556	193		749
Consumer error		26				26
Factual dispute	<u>250</u>	<u>65</u>	<u>1,006</u>	<u>166</u>	<u>12</u>	<u>1,499</u>
Total	<u>2,057</u>	<u>893</u>	<u>7,407</u>	<u>3,191</u>	<u>522</u>	<u>14,070</u>
Other Resolutions						
Information given	25	1,147	3,616		267	5,055
No reply (note a)		95	367	95		557
Other (note b)			115	697	55	867
Outstanding (note c)	<u>17</u>	<u>215</u>	<u>1,616</u>		<u>39</u>	<u>1,887</u>
Total	<u>42</u>	<u>1,457</u>	<u>5,714</u>	<u>792</u>	<u>361</u>	<u>8,366</u>
Total	<u>2,099</u>	<u>2,350</u>	<u>13,121</u>	<u>3,983</u>	<u>883</u>	<u>22,436</u>

Percent complaints with findings favorable to complainant (note d) 17 26 34 13 41 27

a/No reply made because complaint was anonymous, no return address was given, complaint was illegible, or complainant was informed no further reply would be made to recurring complaints unless new information was introduced.

b/Complaints withdrawn before resolution or complaints referred after investigations began.

c/Complaints outstanding at time data was collected, early 1981. Most outstanding complaints have been resolved. For example, as of May 30, 1982, OCC had only 153 complaints outstanding.

d/The percent of favorable findings is calculated by dividing the number of complaints in the "institution error or violation" and "settled by mutual agreement" categories by the total number of complaints with findings.

COMPLAINANT SATISFACTION

We did not survey consumers to determine their satisfaction with the agencies' complaint processes, relying instead on agencies' own work in this area. The three banking regulatory agencies surveyed a sample of complainants to determine how satisfied they were with the agencies' handling and resolution of their complaint. The results of these surveys, which are summarized in the following chart, were quite similar. The majority of responding complainants were satisfied with the way their complaint was handled, while fewer were pleased with the agency's resolution of their complaint. In its survey report, the FRS explained that consumers' satisfaction with complaint outcome was less than their satisfaction with procedures because many cases involved factual disputes or unregulated practices that the agencies are powerless to resolve or change. Given that the majority of complaints fall within the unregulated area, we do not believe this explanation is unreasonable.

BANKING REGULATORY AGENCIES' COMPLAINANTSATISFACTION SURVEYS

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>
Date of survey	October '79	CY 1980	March '81
Sample size	986	118	609
Number returned	421	71	274
Percent returned	43	60	45
Percentage of respondents who:			
agreed treatment was courteous	81	93	91
agreed response was prompt	66	72	77
agreed response was under-standable	56	72	80
would use agency services again	65	84	82
were satisfied with resolution	38	52	50
felt statutory limitations or alternatives were adequately explained	(a)	(a)	53
would like agency followup	44	(a)	(a)

a/Question not used.

One other source of information on complainant satisfaction is a previous study done by the Subcommittee on Consumer Affairs of the House Committee on Banking, Currency and Housing. ^{1/} This survey of consumers who had filed written complaints with the five financial regulatory agencies during 1976 found that 31 percent of the respondents were satisfied with the resolution of their complaint. While the questions on this survey appeared similar, it is not possible to know if they are comparable to later agency surveys or whether later surveys show improvement in complainant satisfaction.

^{1/} Subcommittee staff report dated September 1976, entitled, "Do Financial Regulatory Agencies Listen to Consumers?"

FEDERAL FINANCIAL REGULATORY AGENCIES'
ESTIMATED DIRECT COMPLAINT HANDLING COSTS FOR 1980
 (note a)

	<u>FDIC (note b)</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS (note c)</u>	<u>NCUA</u>	<u>Total</u>
Headquarters salaries	\$ 60,095	\$ 94,136	\$140,200	\$ 108,677	\$ 36,198	\$ 439,306
Field office salaries	177,218	330,960	497,000	904,275	187,722	2,327,921
Data processing costs	59,300	16,124	29,200	47,000	(b)	151,624
Onsite examinations	<u>(d)</u>	<u>(d)</u>	<u>(d)</u>	<u>22,500</u>	<u>12,382</u>	<u>34,882</u>
Total costs	<u>\$296,613</u>	<u>\$441,220</u>	<u>\$666,400</u>	<u>\$1,082,452</u>	<u>\$236,302</u>	<u>\$2,953,733</u>
Number complaints received	2,099	4,568	14,136	4,379	889	26,071
Cost per complaint received	\$ 141	\$ 97	\$ 47	\$ 247	\$ 266	\$ 113
Number complaints handled	2,099	2,350	13,121	3,983	883	22,436
Cost per complaint handled	\$ 141	\$ 188	\$ 51	\$ 272	\$ 268	\$ 132

a/Because of possible differences in the way each agency collected or reported this information, we feel this chart represents, at best, a rough estimate of complaint handling costs. We recommend caution in drawing conclusions from any cost comparison.

b/FDIC figures include startup costs for data processing. Headquarters salaries reflect 15 staff positions. Since our review was completed, the number of headquarters positions was reduced to nine.

c/FHLBS figures include time spent handling appeals, inquiries, and telephone calls as well as consumer complaints.

d/Not collected as a separate category.

Source: OCC and NCUA cost data excerpted from agencies' 1980 complaint handling activity reports to Congressman Rosenthal. FRS, FDIC, and FHLBS data provided for this analysis.

COORDINATION BETWEEN COMPLAINTS THAT UNCOVERED
VIOLATIONS AND SUBSEQUENT EXAMINATIONS

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	FDIC			FRS			OCC			FHLBS			NCUA (note a)				Total			
	Yes	No	%	Yes	No	%	Yes	No	%	Yes	No	%	Yes	No	NA	%	Yes	No	NA	%
Was this complaint considered in subsequent exam?	10	11	48	0	8	0	9	33	21	13	7	65	13	15	46		45	74		38
Were institution policies reviewed during exam as a result of this complaint?	4	17	19	0	8	0	1	41	2	1	19	5	8	20	29		14	105		12
Was information provided during complaint investigation verified?	6	15	29	0	8	0	1	41	2	0	20	0	3	20	5 13		10	104	5	9
Was correction of violation verified?	6	15	29	0	8	0	3	39	7	1	19	5	6	22	21		16	103		13
Were similarly situated customers reviewed?	4	17	19	0	8	0	1	41	2	4	16	20	3	23	2 12		12	105	2	10

a/For NCUA, the third question is not applicable to five cases that were investigated during ongoing exams. The last question is not applicable to two complaints about credit union management.

TABLE A
FEDERAL FINANCIAL REGULATORY AGENCIES'
UNIVERSE OF 1980 DISCRIMINATION COMPLAINTS
AT THREE FIELD OFFICES

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Data system listing	35	11	28	14	20	108
Other complaints identified	—	<u>1</u>	—	<u>2</u>	<u>2</u>	<u>5</u>
Total complaints identified	<u>35</u>	<u>12</u>	<u>28</u>	<u>16</u>	<u>22</u>	<u>113</u>
Less complaints eliminated due to:						
Miscoding	3	4	3	1	2	13
Referral			2	1		3
Incorrect year	1			1		2
Duplication	—	—	—	—	<u>1</u>	<u>1</u>
Total eliminated	<u>4</u>	<u>4</u>	<u>5</u>	<u>3</u>	<u>3</u>	<u>19</u>
Net complaint universe	<u>31</u>	<u>8</u>	<u>23</u>	<u>13</u>	<u>19</u>	<u>94</u>

TABLE B
FEDERAL FINANCIAL REGULATORY AGENCIES'
UNIVERSE OF 1980 DISCRIMINATION COMPLAINTS
BY TYPE OF COMPLAINT

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Race	8	1	4	1	4	18
Sex	7	2	5	1	4	19
Marital status		1	1	5	2	9
Sex and marital status	5	1	4	1		11
Sex and race	1				1	2
Age	5		2		3	10
Non-specific discrimination	4	1	3		2	10
Redlining			1	5		6
Source of income		1	1		2	4
National origin			1			1
Religion		1				1
Reprisal for exercising rights					1	1
Race and national origin	1					1
Age, race, and marital status	—	—	<u>1</u>	—	—	<u>1</u>
Total	<u>31</u>	<u>8</u>	<u>23</u>	<u>13</u>	<u>19</u>	<u>94</u>

TABLE C
FEDERAL FINANCIAL REGULATORY AGENCIES'
UNIVERSE OF 1980 DISCRIMINATION COMPLAINTS
BY TYPE OF CREDIT SOUGHT

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Credit card	10	3	11			24
Personal loan	2		7		13	22
Mortgage	2		1	11	1	15
Auto loan	5	1	3		3	12
Home improvement		1		2		3
Business loan	4					4
Construction loan	1		1			2
Mobile home	1				1	2
Student loan	1					1
Real estate loan					1	1
Non-specific credit	<u>5</u>	<u>3</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>8</u>
Total	<u>31</u>	<u>8</u>	<u>23</u>	<u>13</u>	<u>19</u>	<u>94</u>

TABLE D

COMPARISON OF AGENCIES' PROCEDURES FOR INVESTIGATING
AND RESOLVING DISCRIMINATION COMPLAINTS

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>
General Procedures					
Define all complaint issues	-	X	-	X	X
Headquarters complaint review	F	X	F	X	X
Exchange FHA complaints with HUD	F	F	F	-	-
Investigation Procedures					
Review examination file	S, F	X	X	-	-
Review prior complaints	X	X	-	-	-
Contact complainant	F	X	F	X	X
Review institution policy	S, F	X	X	-	X
Review similarly situated customers	X	X	X	-	X
Perform onsite review	X	X	X	X	X
Response					
Cite laws and regulations violated	X	X	-	-	X
Advise rights if not substantiated	X	X	-	X	X

Key

X = Suggested in procedures
 F = Fair housing complaints only
 S = Onsite investigations only
 Dash = not addressed

TABLE E
FEDERAL FINANCIAL REGULATORY AGENCIES'
REVIEW OF INSTITUTION LENDING POLICY FOR
DISCRIMINATION COMPLAINTS

	<u>Banking Agencies</u>			<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>			
Number of complaints in which lending policy was reviewed	9	2	2	3	10	26
Number of policy reviews completed during onsite investigations	8	0	1	1	8	18
Percent reviewed during onsite investigation	89	0	50	33	80	69
Number of onsite investigations	11	0	1	2	12	26
Percent of onsite investigations that included policy reviews	73	-	100	50	67	69
Number of total complaints	31	8	23	13	19	94
Percent of all complaints that received policy reviews	29	25	9	23	53	28

TABLE F
FEDERAL FINANCIAL REGULATORY AGENCIES'
REVIEW OF SIMILARLY SITUATED CUSTOMERS FOR
DISCRIMINATION COMPLAINTS

	<u>Banking Agencies</u>					<u>Total</u>
	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	
Number of complaints in which similarly situated customers were reviewed	6	0	1	1	7	15
Number of reviews completed during onsite investigations	6	0	1	1	7	15
Percent reviewed during onsite investigations	100	0	100	100	100	100
Number of onsite investigations	11	0	1	2	12	26
Percent of onsite investigations that included review of similarly situated customers	55	-	100	50	58	58
Number of total complaints	31	8	23	13	19	94
Percent of all complaints that received review of similarly situated customers	19	-	4	8	37	16

CASE STUDY OF COMPLAINTS ABOUT INACTIVE
OR DORMANT ACCOUNTS

Since the five regulatory agencies received more than 72,000 complaints during the 3 years of our case study, we sought to reduce the number of complaint files we screened for the study. Working with agencies' consumer affairs staffs, we identified as many relevant complaints as possible from their computerized complaint data systems. Because the data systems do not contain the detailed facts of individual complaint cases, we obtained and reviewed the file on each selected complaint case to evaluate the issues involved.

In their complaint data systems, FDIC and OCC had designated categories that were sufficiently descriptive to allow us to easily identify the bulk of the complaint files for our review. To ensure that no relevant cases would be missed, we also reviewed complaints in other categories not directly related to the dormant account issue. The names of these categories are described in the table below.

TABLE A

CATEGORIES OF COMPLAINTS REVIEWED FOR CASE STUDY
OF INACTIVE AND DORMANT ACCOUNTS

	<u>FRS</u>	<u>FDIC</u>	<u>OCC</u>
Directly related categories	1. Inactive accounts	1. Escheat and dormant accounts	1. Possible escheat and inactive account problems
	2. Escheats	2. Safe deposit/ safekeeping services and disappearances	2. Safe deposit/ safekeeping functions and disappearances
	3. Disappearance of items		
Other	1. Service charge	1. Service charge assessment and disclosure	1. Disclosure of service charge or fees
		2. Payment of interest	2. Service charge or fees
			3. Payment of interest

Of the 455 complaints classified in the directly related categories, 320, or about 70 percent, were relevant to our analysis of problems with the treatment of inactive or dormant accounts. We also reviewed 1,574 cases classified in 6 indirectly related categories and found 28 complaints that were also relevant.

Because of the smaller numbers of complaints in their related categories, neither FDIC nor FRS had difficulty identifying and obtaining for our review all complaints categorized in the selected other categories. OCC, however, felt that our review of the numerous complaints in its other categories would be burdensome, as it would necessitate pulling 1,648 case files, most of which would not apply to our review. We agreed to sample the complaints in the other categories that had been received and handled by OCC's San Francisco, New York, Boston, Dallas, and Chicago regions. As a result, we reviewed a sample of 747 complaints that revealed only 21 additional cases that applied to our review. In all, we reviewed more than 2,000 complaints that the FRS, the OCC, and the FDIC received during the 3-year period.

Because NCUA and FHLBS data systems lacked specific complaint categories directly concerning the consumer policy issues under study, considerable manual review was needed to get the desired complaint information. At NCUA we were directed to complaints classified "other," "share," and "miscellaneous" as being potentially related to dormant account issues. These broad categories included 760 of the 2,753 complaints NCUA received during the 3 years. After manually screening the files for relevant cases, we found 18 complaints concerning inactive account problems. Because no relevant categories existed at the FHLBS, we had to rely on the district banks' staffs to manually screen the more than 11,000 complaints received from 1978 to 1980. The project identified 38 complaints relevant to inactive accounts.

Of the 15,000 or more complaints that were reviewed for this case study, we identified 404 complaints that addressed different types of inactive account problems. The category most closely related to the subcommittee's primary interest contained complaints about accounts currently held by financial institutions in inactive or dormant status. Related problems included complaints about accounts that had been turned over to the State

under local escheat laws, complaints about unclaimed property, and complaints about lost accounts which consumers recently rediscovered. The latter category contained two types of complaints: lost accounts for which the institution had records showing the account had been closed or lost accounts where no record existed to indicate what happened to the account. The number of complaints we identified in each of these categories during calendar years 1978, 1979, and 1980 follows.

TABLE B
COMPLAINTS RELATED TO ACCOUNT INACTIVITY
RECEIVED BY FIVE REGULATORY AGENCIES

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Inactive or dormant accounts	16	8	73	1	4	102
Escheated accounts	5	4	43	12	0	64
Unclaimed property	1	2	3	3	2	11
Lost accounts, records	4	6	73	13	7	103
Lost accounts, no records	<u>12</u>	<u>3</u>	<u>95</u>	<u>9</u>	<u>5</u>	<u>124</u>
Total	<u>38</u>	<u>23</u>	<u>287</u>	<u>38</u>	<u>18</u>	<u>404</u>

On the basis of reviews of individual complaint files, we gleaned numerous details about the characteristics of inactive and dormant accounts and institutions' treatment of them. The following sections describe the various circumstances and handling of the 102 complaints that addressed the subcommittee's area of interest. Chapter 5 discusses how we used the case study to assess the adequacy of complaint data systems.

Our analysis was constrained somewhat because not all complaint files referred to specific data items we analyzed. For example, a complaint about an institution's notification policy may not mention the amount of service charge or whether interest payments were deferred. Given the information that was available, these complaints outlined the following complainant concerns.

TABLE C

SUBJECT OF COMPLAINT
INACTIVE AND DORMANT ACCOUNTS

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Service charge only	6	5	25			36
Interest payment	1		7			8
Notification only	1		3		1	5
SC, IP, and N			5			5
SC and IP			6	1		7
SC and N	7		16			23
Dormant status	<u>1</u>	<u>3</u>	<u>11</u>	<u>0</u>	<u>3</u>	<u>18</u>
Total	<u>16</u>	<u>8</u>	<u>73</u>	<u>1</u>	<u>4</u>	<u>102</u>

Key

SC = Service charge
IP = Interest payment
N = Notification

Most complainants were concerned with the service fee charged against their inactive account or the lack of notification that their account had been placed in inactive status. Almost 80 percent of the complainants who cited a specific problem with the treatment of their account mentioned one or both of these issues.

For those 89 accounts that contained information about the amount of the deposit involved, we found the average account balance was \$364. This amount was skewed, however, because of one account that contained \$21,679. Without this single large account, the average amount of the deposit put into inactive status was \$122.

TABLE DAMOUNT OF ORIGINAL ACCOUNT DEPOSIT BEFOREIMPOSITION OF INACTIVE OR DORMANT STATUS

(note a)

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Number of accounts	15	7	60	3	4	89
Total dollar amount	\$3,771	\$ 168	\$26,061	\$ 17	\$2,386	\$32,403
Average dollar amount	251	24	434	5.67	597	364
Range: low to	1.34	2.80	.51	4.04	43.71	.51
high	2,852	74	21,679	7.17	2,057	21,679

TABLE ERANGE OF ORIGINAL ACCOUNT DEPOSITS BEFOREIMPOSITION OF INACTIVE STATUS

(note a)

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
.01 - 10	5	3	20	3		31
11 - 20	2	1	11			14
21 - 50	4	2	15		1	22
51 - 100	2	1	8			11
101 - 1000	1		4		2	7
1000 +	<u>1</u>	<u>-</u>	<u>2</u>	<u>-</u>	<u>1</u>	<u>4</u>
Total	<u>15</u>	<u>7</u>	<u>60</u>	<u>3</u>	<u>4</u>	<u>89</u>

a/Some complaints were about more than one account and some did not mention the amount of original deposit. Therefore, the totals on tables D and E do not match those on table C.

We found that institutions' yearly service charges ranged from \$1.50 to \$100.00. For the complaints in our sample, the average amount actually charged was \$12.42 per year. Without the single

high annual fee of \$100 assessed by one institution, the average was \$9.51 per year. While this one annual fee was more than 3 times greater than the next highest fee, it is not inconsistent with many institutions' new policies for pricing services or regulatory agencies' encouragement to do so. ^{1/}

TABLE F

ACTUAL SERVICE CHARGES PER YEAR

INACTIVE AND DORMANT ACCOUNTS

(note a)

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Number of cases	10	2	29	-	1	42
Total amount	\$ 206.50	\$ 16	\$306.55	-	\$ 5	\$ 534.05
Average	\$ 20.65	\$ 8	\$ 10.57	-	\$ 5	\$ 12.72
Range	\$1.50-100	\$4-12	\$2-24	-	\$ 5	\$1.50-100

a/Some complaints were about more than one account and some did not mention the amount of service charge. Therefore, the totals on table F do not match those on table C.

^{1/}Comptroller of the Currency, C. T. Conover, in interview in the June 20, 1982, edition of The Washington Post, p. F-1.

Institutions' policies designating months of account inactivity before imposition of inactive status varied from 3 months for checking accounts at one institution to 60 months for savings accounts at another. Twenty-one institutions used an average of 26 inactive months in conjunction with an average minimum account balance of \$47.00. Fourteen institutions did not employ minimum balance criteria but instead placed accounts in inactive status after 20 months of inactivity, regardless of size.

TABLE G
INSTITUTION POLICY FOR
PLACING ACCOUNTS IN INACTIVE STATUS (note a)

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>Total</u>
Combined policy				
Number of cases	4	2	15	21
Average time in months	11	24	27	26
Average dollar minimum	\$40	\$55	\$47	\$47
Time only policy				
Number of cases	4	1	9	14
Average time in months	8	6	27	20

a/FHLBS and NCUA complaints contained no statements of institution policy.

For those 27 cases where institution notification policies were known, 70 percent of the institutions cited procedures that called for notifying customers before accounts were put in inactive status. Thirty percent of the institutions had no notification policy.

TABLE H
CUSTOMER NOTIFICATION POLICIES
INACTIVE AND DORMANT ACCOUNTS

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Notified depositors						
When account was opened			7			7
Prior to imposition of inactive status	2	1	5			8
In closing statement after status imposition			4			4
No notification policy	3		4		1	8
Unknown	<u>11</u>	<u>7</u>	<u>53</u>	<u>1</u>	<u>3</u>	<u>75</u>
Total	<u>16</u>	<u>8</u>	<u>73</u>	<u>1</u>	<u>4</u>	<u>102</u>

Many of the complaints about the treatment of inactive or dormant accounts resulted in some sort of reimbursement to the complainant. In those cases where the outcome was evident from the complaint file, only 19 percent of the cases received no reimbursement. Fifty-six percent of the complainants were fully reimbursed, and 8 percent were partially reimbursed. Due to gaps in the complaint file information, the exact amount of money reimbursed was almost always impossible to determine. When restitution was made, institution responses usually stated that "all service charges and interest payments had been reimbursed," but seldom cited a specific dollar amount. While service charges were cited, the amount of unpaid interest was not.

TABLE IDISPOSITION OF COMPLAINTINACTIVE AND DORMANT ACCOUNTS

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>FHLBS</u>	<u>NCUA</u>	<u>Total</u>
Full reimbursement			2		4	6
SC fully reimbursed	11	4	34			49
IP fully reimbursed			2			2
IP partially reimbursed			2			2
SC partially reimbursed	1			1		2
SC fully/IP partially			4			4
No reimbursement	1	2	16			19
No charge or unknown	<u>3</u>	<u>2</u>	<u>13</u>	—	—	<u>18</u>
Total	<u>16</u>	<u>8</u>	<u>73</u>	<u>1</u>	<u>4</u>	<u>102</u>

Key

SC = Service charge
 IP = Interest payment

At the three banking agencies, more than 76 percent of the complainants spoke with someone from the bank before filing a complaint. In almost all cases, however, it was unclear as to whom or to what level employee the complainant spoke. For most complaints, it was also unclear what they were told. Only five complainants stated that their bank had not responded to their questions or concerns.

TABLE JBANKS' RESPONSES TO COMPLAINANTSWHO TOOK COMPLAINT THERE FIRST

	<u>FDIC</u>	<u>FRS</u>	<u>OCC</u>	<u>Total</u>
Explained bank policy	11	3	20	34
No response from bank	-	2	3	5
Unspecified response	2	1	32	35
Unknown	<u>3</u>	<u>2</u>	<u>18</u>	<u>23</u>
Total	<u>16</u>	<u>8</u>	<u>73</u>	<u>97</u>

The requesting committee was interested in learning how many of these complaints concerned children's accounts. Of the 102 accounts, 14 were held by children, 84 by adults, 3 by heirs of the original depositor, and 1 was unknown.



FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, D.C. 20429

OFFICE OF DIRECTOR - DIVISION OF BANK SUPERVISION

March 4, 1983

Mr. William J. Anderson, Director
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

Chairman Isaac has asked me to respond to your letter of February 1, 1983 requesting this Corporation's comments on the GAO draft report entitled "Financial Regulatory Agencies Can Make Better Use of Consumer Complaint Information."

We believe your study will be helpful in the internal management review of the FDIC complaint and inquiry handling policies and procedures. Certainly the FDIC should use complaint information to enhance examination and supervision activities, to detect bank discriminatory credit activities, and to assess unfair or deceptive banking practices. Such agreement does not imply, however, that current policies and procedures in FDIC are deficient in these respects. Your office's study covered complaints received by the Corporation during 1978-1980 and much happened between then and 1983 when the report is being issued. The FDIC complaint handling procedures and processes have continued to evolve and change over the last two years. Consequently, some of the differences noted in the report have been corrected and new procedures have been instituted. We assure you the Board of Directors and senior staff of the FDIC take seriously the responsibilities imposed by the consumer protection laws and we intend to enforce them.

The most significant and helpful recommendations include the following:

1. Consumer complaints should be investigated and the process should be an integrated part of compliance examinations and the supervisory activities:

The FDIC does investigate consumer complaints and is ensuring that complaints are part of the examination and supervision process. In March 1981 an internal Management and Analysis Study was made of the Office of Consumer Programs staffing and functions. As a result, some compliance activities were reassigned to the Division of Bank Supervision offices engaged in similar safety and soundness activities. We have increased the use of form letters and word processing equipment whenever possible. Complainants are encouraged to contact a bank's senior management to resolve a possible problem before filing a formal complaint. Through these measures, staff and computer costs have been reduced significantly.

Mr. Anderson

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March 4, 1983

2. Substantive violations should be followed up in the next visitation or compliance examination to make certain that desired or necessary corrective steps have been taken and they are:

A standard FDIC examination procedure is for the examiner to review the entire Regional Office or field office file of correspondence relating to that bank since the previous examination. This file includes complaints, bank responses, investigation reports and file memoranda combined with the complaint data, computer reports which identify complaint concentrations, and resolutions within the bank. Since 1976, Washington Office staff has monitored the quality of field investigations by reviewing all complaint cases on a case-by-case basis. In June 1979, the Corporation hired a senior Civil Rights Specialist to review complaint cases of alleged discrimination. In 1981, the FDIC distributed "Guidelines for Processing and Investigating Consumer Complaints and Inquiries". These guidelines address many of the recommendations. Presently, the Office of Consumer Programs is working on revisions of the 1981 guidelines in light of this study and later developments.

3. When substantive violations are discovered, examiners frequently should broaden an investigation to see if similar violations occurred with respect to other customers in similar circumstances and if so whether the correctives and remedies followed were generally the same:

Since January 1980, the Washington Office has sent monthly to the Regional Offices a complaint report which lists at least the last two years' complaints by region, bank and complaint code. Since January 1982, the Washington Office has sent quarterly to the Regional Offices the same information with an additional listing by field office so that the examiner in a field office will have a summary of complaint concentrations, violations and resolutions for each bank in addition to the correspondence file.

4. Complaint coding should be expanded to identify complaints or violations considered to be substantive and serious:

This recommendation to change the complaint system to identify complaints requiring follow up has merit. The FDIC staff currently is working on the addition of codes to show substantive violations and complaint cases requiring follow up.

5. Banks with a large number of complaints and violations should be identified and given a more intensive examination:

The FDIC has identified, each year since 1980, banks that had a significant number of complaints in relation to their asset size. Regional Offices are supplied with the names of those banks in the top 20% and are requested to conduct an in-depth analysis of these concentrations. If appropriate, the examiner discusses the number, nature, and cause of the complaints with the bank's senior management at the next compliance examination.

6. Uniformity in complaint codes for all agencies would provide more useful information for the supervisory agencies and Congress:

Mr. Anderson

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March 4, 1983

The FDIC has been exchanging information concerning complaints and inquiries since 1976 with the Federal Reserve System and the Office of the Comptroller of the Currency. Each quarter, reports are sent to these agencies showing the numbers, nature and types of complaints and where the complaints originated.

The FDIC Office of Consumer Affairs has been reviewing these complaint codes since July 1982 with the staffs of the Comptroller of the Currency and the Federal Reserve System. We have been meeting to achieve as much uniformity as possible in coding systems. Complete uniformity is not to be expected or even desirable because the functions of each agency are somewhat different. For example, the FDIC has the responsibility of responding to complaints and inquiries concerning insurance coverage and has several codes covering this area. The other agencies do not. Although we believe there are differences that affect the coding system, we are attempting to make the coding systems as uniform as possible. Also, we in FDIC are updating our coding system to account for the current developments such as the new money market accounts and the various certificates of deposit.

We do have reservations about two recommendations. In our view they are too inflexible. First, the study holds that files should be fully documented by the examiner. They should indicate all inquiries and procedures undertaken by him, and when several alternative courses of investigation are available, why he selected one type over the others. Second, it holds that investigative procedures outlined in agency guidelines and policy directives should be followed closely. These two could require extensive written memoranda by the field examiner and the Regional Office Review Examiners to fully document actions not taken as well as to report the facts of an investigation.

These recommendations might be helpful but to follow them could result in the inefficient use of significant amounts of all too limited examiner and financial resources. We believe the Corporation has a good group of knowledgeable, experienced and conscientious examiners. To make the best use of their limited time, FDIC has been adopting more flexible examination practices and policies. It has delegated to them and the Regional Directors authority to vary these procedures based upon their initial observations in an examination and the past record of the bank.

The Corporation has relied upon the field examiners's knowledge, experience, and integrity to reach sound decisions in an investigation. Furthermore, each complaint investigation is reviewed at the Regional and Washington Office. We believe it could be most time consuming to require the field examiner to record his thought patterns and all his actions during an investigation. This use of scarce time could lead to eliminating or abbreviating other examination activities. Unfortunately, conclusions of this study seem to assume an action was not taken or considered if it was not documented in the file.

The GAO study would have been more helpful to the Corporation if the recommendations had been directed to each agency individually rather than broadly to all five.

Mr. Anderson

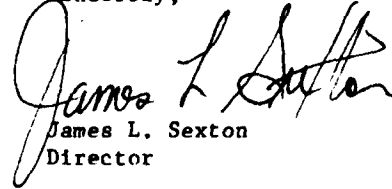
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March 4, 1983

Your staff reviewed only the Regional Office records. We recommend that in future complaint studies, you review the Washington Office and field office files and workpapers and talk with the examiner making the investigation.

The FDIC is committed to seeing that all consumer complaints receive a prompt, thorough and informative response. Complaints are pursued to a logical conclusion and are assisting the FDIC evaluate its administration of the consumer protection statutes. Your study will help this effort.

Sincerely,



James L. Sexton
Director



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

March 31, 1983

The Honorable William J. Anderson
Director
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

As requested in your letter of February 1, 1983, I am providing the Board's comments regarding the GAO's draft report entitled, "Financial Institution Regulatory Agencies Can Make Better Use of Consumer Complaint Information." The report recommends that the financial institution supervisory agencies: 1) reexamine their complaint handling systems to identify ways to make them more cost-efficient; 2) revise their complaint handling and examination procedures to include specific requirements for coordinating complaints, examinations, and supervisory efforts; and 3) take measures to ensure that procedures established for investigating discrimination complaints are followed. The draft report also suggests that the three bank regulatory agencies devise and implement consistent complaint classification and reporting procedures, and that all five regulatory agencies add an additional code to their complaint data systems to identify and evaluate potentially unfair or deceptive practices that require further study.

Since initiating its system for handling consumer complaints, the Board has continued to refine the system and has already addressed many of the report's recommendations. The Board believes that the refinements, many of which are discussed later in this letter, have been successful in strengthening its complaint program. In addition, the Board plans to implement a number of the draft report's recommendations to further improve its complaint program. The Board believes that a few recommendations should not be incorporated into our program at this time for the reasons outlined below.

Cost-Efficiency of Complaint Programs

With respect to the report's recommendation concerning cost efficiency, the estimated cost of the Federal Reserve System's complaint handling function, as shown in the report, is in the average range of the costs of all of the regulatory agencies. Moreover, when complaints that were referred to other agencies are included in the calculation, the average cost for the Federal Reserve decreases substantially. We would emphasize that, as your report points out, the referral costs are especially important to the Federal Reserve System since we refer almost half of the complaints that we receive.

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As examples of methods that can be used to increase cost efficiency, the report lists several procedures the Comptroller of the Currency (OCC) uses, such as sending preprinted post card acknowledgements. The report suggests that because these procedures have contributed to a lower cost for the OCC, other agencies could benefit from using them. We recognize that the measures used by the OCC may be essential to processing the large number of complaints that that agency receives. Although we have already taken many steps to mechanize and routinize our complaint handling system, overall we believe that the moderate number of complaints we receive allows us to provide a more personal response to consumers. Since the procedures listed in the report may, however, be helpful to some Reserve Banks that receive a larger volume of complaints, we will ask those Banks to review the suggestions mentioned in your report to determine whether they would be useful in their complaint programs.

The report suggests that agencies encourage financial institutions to establish formal procedures for addressing customer problems before they become complaints requiring agency attention, and advise consumers to attempt to first try to resolve their problems with the institution. It has been our experience that the institutions that we supervise generally have procedures for resolving consumer complaints. The formality of those procedures often depends on the size of the institution with larger institutions often having more structured procedures. In addition, the institutions that offer open end credit and electronic fund transactions must have procedures for addressing problems regarding those functions that are required by the Fair Credit Billing and Electronic Fund Transfers Acts.

As the report notes, the Federal Reserve encourages consumers to discuss their problems with the bank involved before making a formal complaint with a supervisory agency. The Board produces complaint forms that explain how to file consumer complaints with a federal agency and that urge consumers to first try to resolve their problems with the financial institution. Although it has been our experience that most complainants attempt to resolve their disputes before filing a complaint, the Board will remind its own and appropriate Reserve Bank staff to advise consumers to contact the bank involved prior to filing a complaint with the Federal Reserve.

Integration of Complaint and Examination Functions

The report suggests that a lack of coordination between the complaint and examination functions within agencies compromises the agencies' ability to follow-up on information received during complaint investigations. The Board has taken steps to integrate the complaint and examination functions within the System. In 1979, the Board issued instructions that Reserve Banks are to ensure that State member banks correct violations detected during complaint investigations, and that institutions that agree to make accommodations to resolve complaints fulfill those agreements. These instructions also require System examiners to review a bank's consumer complaint files at the Reserve Bank prior to an examination. The sample referenced in the report may not show the coordination between complaints and examinations because examiners are not presently required to document these actions in the examination report or workpapers. In addition, we believe that the eight complaints noted in this report handled by the Federal Reserve is a small sample given the number of complaints the System receives

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and may not be representative of the System's record of coordinating the complaint and examination functions. Our own reviews indicate that Reserve Banks generally follow established procedures and coordinate the complaint function with other activities. However, the Board will re-emphasize to the Reserve Banks that they should continue to adhere to these policies and document that they have done so.

The draft report suggests that minor changes to the agencies' data systems to identify complaints that require follow-up could help to integrate the complaint and examination functions. We believe that the procedures that we currently use to coordinate the complaint and examination functions are sufficient given the small number of complaints against State member banks that the System handles (an average of about one complaint per bank per year). Consequently, we do not believe that it is necessary to make this change to our complaint data system at this time.

Investigation of Discrimination Complaints

The report recommends that agencies take measures to ensure that procedures established for investigating discrimination complaints are followed. The Board believes that the guidelines it has issued for investigating discrimination complaints and the measures it has taken to monitor the use of these procedures are effective in its complaint program.

The Board's instructions for investigating complaints that allege discrimination on a prohibited basis require that Reserve Banks perform an on-site investigation whenever elements are present that suggest that discrimination may have, in fact, occurred. Reserve Banks, however, may use some discretion in deciding whether and when to perform on-site investigations. We believe that it is important to allow the Reserve Banks to exercise judgement in such cases for two reasons. First, the System receives complaints from consumers that allege discrimination wherein it is apparent from the information provided that the complaint does not involve illegal discrimination. Second, it would be very costly to conduct an immediate on-site investigation for each complaint of discrimination that the System receives. In the interest of cost-efficiency, and absent the apparent need for an immediate on-site investigation, the Reserve Bank may decide, for example, to defer an on-site investigation if an examiner is scheduled to be in the area in the near future. If, for some reason, the Reserve Bank determines that an on-site investigation is not necessary for a complaint of discrimination, our procedures require the Reserve Bank to prepare a memorandum that explains the reasons.

Board staff monitors the System's handling of discrimination complaints by reviewing data on monthly reports generated by the computerized complaint logging system to determine whether complaints that allege discrimination have been promptly and properly resolved. In addition, Board staff reviews both complaints it has referred to the Reserve Banks, and a sample of complaints received directly by the Reserve Banks, for adherence to System procedures for investigating complaints. In reviewing the correspondence, staff is especially attentive to complaints that may involve illegal discrimination. The results of both the computer report review and the correspondence review are considered in the Board's periodic reviews of Reserve Banks' operations.

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Monitoring Unfair and Deceptive Practices

Finally, the draft report suggests that the regulatory agencies implement consistent complaint classification procedures to improve the use of complaints in developing policies regarding unfair and deceptive practices. The report states that the addition of a new complaint classification code to the agencies' computer data systems could assist in identifying unregulated practices.

The Board agrees that the usefulness of complaint information would be improved if the agencies used consistent complaint categories in their data systems. Since 1979 the bank regulatory agencies have periodically discussed developing procedures for complaint handling, recordkeeping, and reporting in a more uniform manner. In July of 1982 staff from the bank regulatory agencies organized an informal working group to explore the possibilities of developing comparable complaint categories for unregulated practices. Because the complaint coding systems serve various purposes in each agency, we have not yet agreed on a system that is suitable for all our needs. We are, however, continuing to pursue this effort.

In the interim, the Board has implemented methods of monitoring complaints handled by other agencies involving practices that are potentially unfair or deceptive. One method we use to monitor unregulated practices about institutions supervised by the other agencies is to classify the complaints we receive about these institutions in our data system before we refer the complaints to the proper agency. As a result, the Board has a record of a substantial sample of the types of complaints other agencies handle. In 1982, for example, the System received 2,840 complaints: 1,227 were against State-member banks; 555 were referred to the Comptroller's office, and 278 were referred to the Federal Deposit Insurance Corporation for handling.

In addition, the Board has included a feature in its computer system that signals the receipt of 15 or more complaints per quarter, or 50 annually, about practices that are not subject to existing regulations. To further analyze the information generated by this early warning feature, Board staff prepares quarterly and annual summaries of certain categories of these complaints that might indicate a trend.

Last year, the Board enhanced these procedures to facilitate obtaining additional information concerning complaints about unregulated practices. The new procedures, in appropriate cases, call for enlisting the aid of examiners to investigate specific practices of banks, and requesting data and/or summaries from the other bank regulatory agencies regarding similar types of practices in institutions supervised by those agencies. The Board believes these procedures will allow it to enhance significantly its ability to use complaint information to fulfill its responsibilities of identifying potentially unfair or deceptive practices.

In considering the draft report's proposal that the agencies add a new code to data systems to assist in identifying unregulated practices, it should be recognized that there already is a feature in the Board's computer system that enables us to identify several categories of complaints about such practices. In addition, the Federal Reserve recently revised its consumer complaint codes for the computerized logging system to more clearly identify

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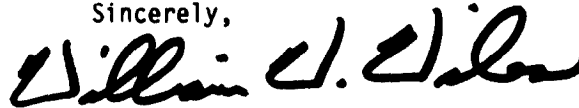
categories of unregulated practices that are potentially unfair or deceptive. The Board has also provided definitions of complaint categories to persons coding complaints for data input. These definitions are particularly useful in classifying complaints concerning unregulated practices. Consequently, we do not believe that the suggested change is necessary at this time.

Complaints are not our only source of information about consumers' experiences with various banking practices. In an effort to gain additional knowledge about consumers' banking experiences, the Board conducts periodic consumer surveys through the Survey Research Center of the University of Michigan. The surveys conducted during 1982 included questions about unregulated practices such as delayed funds availability and service charges on dormant accounts, as well as questions concerning regulated practices such as perceived discrimination by creditors and truth in lending credit disclosures. The Board monitors the results of these surveys to improve its administration of consumer protection regulations.

In closing, we believe that the procedures the Board has adopted for handling consumer complaints enable the System to do a good job in performing its complaint function. We will continue to emphasize System policies and strive to enhance the complaint program.

We appreciate the opportunity to comment on the draft report.

Sincerely,



William W. Wiles
Secretary of the Board



Comptroller of the Currency
Administrator of National Banks

Washington, D. C. 20219

March 14, 1983

Mr. William J. Anderson
Director
General Government Division
U.S. General Accounting Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Anderson:

We appreciate the opportunity to respond to GAO's draft report entitled, "Financial Institution Regulatory Agencies Can Make Better Use of Consumer Complaint Information." The draft report contains recommendations to the financial regulatory agencies in four specific areas of the complaint handling process. The Office of the Comptroller of the Currency (OCC) agrees with most of the recommendations and has already begun implementing many of them. We would like to offer some general comments on each of the topic areas addressed.

Cost Effectiveness

The OCC supports GAO's recommendation that the agencies reexamine their complaint handling systems. We undertook a review of our system last year. We now plan to implement several changes which will improve its efficiency and responsiveness.

When complaints are received, we will make sure the consumers have first tried to resolve their problems with each bank. If not, we will refer them to a specific person at the bank. We believe the bank should have the first opportunity to respond to its customers. As a rule, OCC will only handle consumer appeals of bank decisions. This change is expected to reduce letter writing for both OCC and banks. However, OCC will handle on an individual basis those complaint cases with evidence of illegal discrimination or other egregious unfair treatment.

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We will refer most complaints received in Washington to our field offices. The field office complaint specialist will be able to respond sooner since they are familiar with the banks in their areas and have contacts in each. They also should be in a better position to recognize and take action on serious and recurring problems.

We are increasing the use of standard forms and letters. This change will improve our response time in common problem cases and allow us to concentrate our efforts on serious problems.

Integration of Complaints with Bank Supervision

The OCC concurs with GAO's recommendation to alter the Consumer Complaint Information System (CCIS) to help identify complaints that require followup at subsequent examinations. Presently, we have procedures for using complaint derived information in the examination process. Certain reports from the CCIS are sent to our field officers on a monthly basis. We are reviewing these reports to determine if they can be revised and made more useful to examiners and the field office staff.

Investigation of Substantive Discrimination Issues

The OCC is revising procedures for investigating complaints alleging discrimination to assure proper handling and adequate investigation. Additionally, we are considering the benefits of holding seminars for a small number of examiners. These seminars would cover more complex consumer compliance problems and would include additional guidance on how to investigate alleged discrimination.

Use of Complaint Derived Information for Policymaking Purposes

The OCC is considering ways of making our complaint information system more useful for policy analysis. We are currently revising complaint codes with the goal of reducing the number of codes and better defining them. This should simplify encoding and improve the accuracy of CCIS reports. In addition, we are working with the Federal Reserve and the Federal Deposit Insurance Corporation to determine whether uniform complaint codes for both regulated and unregulated areas are feasible.

Again, we appreciate the opportunity to comment on GAO's draft report and are willing to discuss our comments or prospective changes with you or your staff.

Sincerely,



C.T. Conover
Comptroller of the Currency

Federal Home Loan Bank Board



1700 G Street, N.W.
Washington, D.C. 20562
Federal Home Loan Bank System
Federal Home Loan Mortgage Corporation
Federal Savings and Loan Insurance Corporation

RICHARD T. PRATT
CHAIRMAN

APR 8 1983

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This is in response to your February 1, 1983, draft report entitled "Financial Institutions Regulatory Agencies Can Make Better Use of Consumer Complaint Information."

We have reviewed this report carefully, and in general we concur with GAO's draft recommendations. Indeed, we believe our current procedures already implement many of them. The Bank Board is currently considering revisions to its complaint procedures, and in this process we will ask our supervisory agents (who handle complaints) for their comments on GAO's recommendations. To the extent that our current procedures do not already implement GAO's recommendations and we believe the recommendations will improve the efficiency and effectiveness of the Board's consumer complaint process we will make additional changes.

In Part I below we have provided more detailed comments on GAO's draft recommendations. In Part II we have provided detailed comments on the findings and substance of GAO's report. We hope that this information will be useful to you.

Part I. Comments on the Recommendations

Chapter 2.

1. [The Federal financial regulatory agencies, including FHLBB, should] re-examine their complaint handling systems, identifying ways to make these systems more efficient, paying special attention to culling complaints that could be handled by the institutions they supervise (p. 16).

We agree with this recommendation. We will keep it in mind as we consider revisions to our complaint procedures. However, as we discuss in Part II, we disagree with the findings upon which this recommendation is based because they overestimate the cost and underestimate the efficiency of the Bank Board's consumer complaint program. Therefore, to the extent that we have not already improved the operating efficiency of our complaint handling system and believe GAO's report offers valuable suggestions for more efficiency, we will change our procedures.

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2. [The Federal financial regulatory agencies, including FHLBB, should] encourage the institutions they supervise to establish formal procedures for addressing customer problems and concerns before they become full blown complaints requiring agency attention. Such procedures should in no way preclude a complainant's option of filing a complaint with the appropriate agency, but they should serve as a complement to that system (p. 16).

We will consider encouraging such procedures in institutions against whom a large number (absolutely or in relation to asset size) of complaints have been filed. However, we believe that it would not be advisable to encourage all, or even most, institutions to take such steps. Indeed, we believe the recommendation would be unnecessarily burdensome for the industry generally, since there is no evidence that most institutions need such procedures.

In 1982, we received complaints against only 969 of the approximately 3,500 institutions we supervised that year. Further, only 293 (approximately 8 percent) were the subject of more than two complaints. Therefore, we infer that most institutions already a) provide relatively problem-free customer service and/or b) have adequate procedures for addressing any concerns that do arise.

Chapter 3

[The Federal financial regulatory agencies, including FHLBB should] integrate the handling of consumers' complaints about regulated institutions with their other compliance activities. The agencies should revise their complaint handling and examination procedures to include specific requirements for coordinating complaints, examinations, and supervisory efforts (p. 25).

We agree that the handling of consumers' complaints should be integrated with other compliance activities. In the process of revising our complaint procedures, we will consider if the Bank Board needs to take further actions to carry out this recommendation and, if so, whether any of the GAO's specific sub-recommendations should be incorporated in our revision. However, we do note that, as we discuss in Part II, the Bank Board's consumer complaint and examination processes are already integrated parts of the Bank Board's consumer compliance program. Further, as we also discuss in Part II, we believe that GAO's findings overestimate both the need for follow-up to specific complaints and the extent to which complaints have proven useful in the examination and supervisory process.

Page Three

The following are our comments on each of the specific sub-recommendations in Chapter 3:

- a. [The Federal financial regulatory agencies, including FHLBB should] require follow-up during subsequent examinations to ensure that measures were taken to correct identified violations and to ensure that violations are not affecting similarly situated customers (p. 25).

We agree that where, after a complaint investigation, the supervisory agent does not have good reason to believe that all violations have been identified and corrected, follow-up should be required. We will review a sample of recent complaints to determine whether we currently need to increase our follow-up.

- b. [The Federal financial regulatory agencies, including FHLBB should] require at least minimal documentation of all work performed (p. 25).

We agree that discrimination complaint files should contain at least minimal documentation of all work performed, and we currently require this. In the process of considering revised complaint procedures we will also consider whether we should strengthen this requirement and/or expand it to other areas. We note, however, that reporting on procedures conducted and/or absence of violations would require considerably more paperwork than at present.

- c. [The Federal financial regulatory agencies, including the FHLBB, should] alter their computerized complaint data systems to identify which complaints require follow-up or which provide information in the examination and supervision process (p. 25).

We do not believe that such an alteration is either desirable or practical at this time. As we describe in Part II, our current procedures, in effect since at least 1980, provide for this.

- d. [The Federal financial regulatory agencies, including FHLBB, should] develop specific procedures that call for attention to institutions that are the subject of many complaints (p. 25).

We agree that the Bank Board should work with institutions that are subject of many complaints to determine if the cause(s) of the complaint volume can be lessened or eliminated. However, as we describe in Part II, we believe our procedures already implement this recommendation.

Page Four

Chapter 4

1. [The Federal financial regulatory agencies, including FHLBB, should] require local complaint handlers to document reasons and justifications for selecting the types of discrimination investigations they perform (p. 38).

We will review our procedures to determine if they can be improved. They were designed to permit little leeway to complaint handlers and to require full documentation of the investigative action. We want to assure they are working effectively.

2. [The Federal financial regulatory agencies, including FHLBB, should] require that information supplied by institutions during discrimination complaint investigations be verified during subsequent compliance examinations (p. 39).

We believe that information should be verified during the complaint investigations. Our procedures currently require this. However, we will review them to determine if they can be improved.

3. [The Federal financial regulatory agencies, including FHLBB, should] require headquarters staff to monitor the quality of field investigations by reviewing selected cases (p. 39).

We agree that the headquarters staff should monitor the quality of field investigations and believe that they are already doing so. As we discuss in Part II, we believe that the GAO study is misleading in that it does not reflect that, well before the GAO study began, the Washington office:

- ° Regularly monitored district office handling of discrimination complaints,
- ° Identified in a formal study in early 1981 all the problems in FHLBB 1980 handling of discrimination complaint handling that GAO identified, and
- ° In April 1981, took steps to correct the problems identified in its study of 1980 discrimination complaints.

4. The Chairman of the Federal Home Loan Bank Board System should require agency staff to identify and refer fair housing complaints to HUD, as specified in the 1977 Memorandum of Understanding (p. 38).

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We agree that more coordination between HUD and the Bank Board could be helpful and we will renew our efforts with HUD to implement the enclosed agreement which we signed in 1980 to replace the agreement to which GAO refers. We disagree that the 1977 Memorandum should be implemented.

- ° The 1977 agreement does not address division of responsibility for complaint investigation or resolution. It is only an agreement for the sharing of information and as such invites duplication of effort.
- ° The 1980 agreement was drafted to remedy deficiencies in the 1977 agreement. It covers the topics of complaint investigations, resolutions, regulations and training. It is directed toward eliminating duplication.
- ° The 1977 agreement has not been implemented by the Bank Board or, as we discuss in Part II, to our knowledge by HUD since 1980 or earlier. Rather than establish procedures to implement the 1977 agreement at this date we believe our efforts would be better directed if we tried to implement the 1980 agreement.

Chapter 5

The Federal Home Loan Bank Board should consider adopting consistent industry-wide complaint classification and reporting procedures (p. 50).

We will review the complaint code list of other agencies and determine if at a minimal cost any changes are feasible. We will also study the feasibility of adding a code to the complaint data system to assist in identifying and evaluating potentially unfair and deceptive practices that require further study.

We note, however, that as we discuss in Part II, GAO appears to be unaware of the large number of complaint codes we use. We note also that an additional code to identify potentially unfair and deceptive practices would not be inexpensive. It would require an additional space on our forms and computer program in order to avoid losing valuable information we now collect. We try to assure that we have written regulations to address most potentially widespread unfair or deceptive practices that fall within our supervisory authority. Potentially unfair and deceptive practices may occur in any area (e.g. due-on-sale clauses, dormant accounts, or construction loans) whether regulated or not.

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Part II. Comments on the Findings

Comments on Chapter 2

Due to the following factors, including GAO staff errors in reporting the total cost of the Bank Board's program to handle consumer complaints and inquiries, GAO has greatly overestimated the cost per consumer complaint handled at the Bank Board.

1. The total cost of FHLBB's program to handle consumer complaints and inquiries at the Bank Board in 1982 was \$1,082,452, not \$1.3 million, as GAO implies on page 12. (GAO states that FHLBB handled 3,983 complaints at \$330 per complaint. $3,983 \times \$330 = \$1,314,390$.) We have provided the correct total figure (\$1,082,452 for the entire program) to GAO on at least three occasions. Most recently we provided it in a memorandum to GAO dated October 8, 1982. Nonetheless, GAO has reported the correct figure only in Appendix VI, where GAO also more realistically states that the cost per complaint handled at FHLBB is \$272.
2. We believe, however, that even the figure of \$272 is too high because it divides the cost of the entire consumer complaint program among only those complaints that were closed without being referred to a party other than the supervisory agent. This method of calculating the average cost of handling a consumer complaint ignores the fact that there is substantial cost associated with the disposition category "referred to some other party."

The overwhelming majority of these complaints (at least 95 percent) are against institutions under the Bank Board's jurisdiction (institutions holding deposits that are insured by the FSLIC). These complaints are referred to State-agencies* with whom we share joint examination responsibilities for State-chartered FSLIC-insured institutions. The cost of handling these complaints includes:

- ° Analysis of the complaints to make sure they involve only State-regulated activities and no possible violation of Federal law or regulations, such as the Truth In Lending or Equal Credit Opportunity Acts.

*We make such referrals to some, but not all, States depending upon our arrangements with the State agency.

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- ° Investigation, resolution and response to any Federal issues, prior to or simultaneously with referral to State agencies for handling of State issues.
 - ° Responding to the complainant and referral to the State agency.
 - ° Typing forms used both for files and for subsequent computer entry of data on the complaint.
 - ° Computer entry of data.
 - ° In some cases, analysis of State agency responses to assure that the State agency handled the complaint adequately and/or did not surface any new Federal issues.
 - ° In some cases, response to complainants who appealed either the Bank Board's decision that no Federal issues were involved or the State's unfavorable decision on State issues.
3. If it is appropriate to subtract these "referred" complaints from the total volume of complaints, there are other costs that should be subtracted from the total costs of the complaint program before calculating average complaint cost. We note, for example:
- ° As cited in Appendix VI GAO cites \$108,677 for salaries (approximately 4 person years) of staff at FHLBB headquarters handling consumer complaints and inquiries. However, on the average less than 4 hours a week (1/10 of a person year) is spent on work relating to cases logged into the consumer complaint system (excluding appeals). The \$108,677 in salaries for that office cover a variety of activities including, but not limited to responding to approximately 100 appeals, 800 telephone calls and 600 inquiries that GAO has not counted in calculating the average cost of handling a consumer complaint.
 - ° The costs of the complaint programs in district banks also reflect activities other than handling the complaints that were logged in but not referred. Our New York Bank, for example, has informed us that it handles approximately 3,750 telephone calls a year. These telephone complaints are not logged in and counted in the computer complaint data system. Yet the New York bank has stated that responding to calls, including obtaining information for callers, possibly accounts for as much as one half of the cost of its consumer complaint program. The total cost was \$120,000 in 1980.

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We have not calculated new cost estimates because it is not clear how the other agencies have calculated their costs. We recommend that GAO provide guidance to all agencies to enable us to submit comparable data.

4. If GAO cannot reconcile cost comparisons among agencies, we believe that the GAO final report should omit them. GAO does not follow its own caution on page 11 which states that, "Much of the variance [in the cost of handling consumer complaints] was probably due to differences in the way the agencies collected the data." In light of this statement, it appears misleading for GAO to conclude that OCC's lower costs are probably due to its more efficient methods.
5. We note that in order to increase efficiency the Bank Board has taken steps comparable to those taken by OCC and cited by GAO on page 12. The GAO report should also take note that:
 - a. Since April 1980, the Bank Board has used 1) preprinted form acknowledgments for most new complaints received in the Washington Office 2) a variety of standardized letters and paragraphs, stored on word processing disks, to respond to recurring situations. Periodically these materials are updated and also distributed to the district banks.
 - b. In 1982, the two district banks that received the most consumer complaints began a pilot program of referring large numbers of consumer complaints to savings and loan associations to give the associations the option of trying to resolve the complaints. Complainants have the option of appealing the resolutions to the Bank Board if they are dissatisfied with the results. This has been successful. We will consider expanding the use of this procedure as we revise our complaint procedures.
 - c. It is our policy to encourage people who telephone the Bank Board to attempt to work directly with their savings and loan association to resolve the matter, unless the matter appears to be a possible violation that should be called to the attention of supervisory agents.
 - d. The district receiving the most consumer complaints maintains a complete list of savings and loan association contacts responsible for handling customer complaints. In addition, in some other districts supervisory agents maintain such lists for associations against whom we receive more than a few complaints.

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However, due to the requirements of the Paperwork Reduction Act and the need for Office of Management and Budget approval of all requests for information made from nine or more sources, we believe we cannot request our district banks to obtain this information from savings and loan associations.

6. We also note the following minor points with regard to Chapter 2:

- a. GAO should provide a definition of "complaints handled." For the Bank Board, GAO has used the number of allegations (a complaint may have more than one allegation) that were both received in 1980 and resolved in the same year. This is a smaller number than the number of allegations handled in 1980 regardless of when received. Therefore, this definition of "complaint handled" falsely makes it appear that FHLBB handled fewer complaints in 1980 than it received. (See for example Appendix VI, where GAO states that FHLBB "received" 4,379 complaints but "handled" only 3,983.) In 1980, the Bank Board handled more complaints than it received. At the end of the year the number of unresolved complaints (396) was 10 percent fewer than the 440 it started with. All 440, plus 3,853 of the complaints received in 1980 were resolved in 1980. (Of course some work was done on the 396 complaints that were received but not resolved in 1980, but not enough work to close them.) The following figures on complaints should clarify our workload:

Number of complaints that were <u>both</u> received and resolved in 1980	3,853
Number of complaints received in 1980, regardless of when resolved.	4,249
Number of complaints resolved in 1980, regardless of when received.	4,293
Number of complaints that were <u>either</u> received or resolved in 1980.	4,689

We do not have comparable data on allegations.

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- b. On page 6, GAO uses 4,379 as the number of complaints received in 1980. This is FHLBB's count of allegations received and resolved in 1980. Because GAO compares 4,379 to FHLBB's actual number of complaints received in 1978, 1979, and 1981, GAO draws the erroneous conclusion that the number of complaints received by FHLBB decreased from 1980 to 1981. The first decrease in complaints received by FHLBB since the initiation of the complaint system was from 1981 to 1982.
- c. Page 6 implies that FHLBB received 396* complaints that were "double counted" because although FHLBB received them they were sent to other financial regulatory agencies for handling. This is not true. As stated earlier almost none of these 396 complaints were referred to the other financial regulatory agencies. A few were referred within the Bank Board and most were referred to State agencies. Like FDIC, we do not have data on the number of complaints referred to other Federal financial regulatory agencies or, indeed, other Federal agencies. The very large majority of complaints referred to other Federal agencies would not be entered into our complaint system.
- d. GAO states (page 10) that 27 percent of complaints have findings favorable to the complainant. We do not believe that the figure was this high for the Bank Board and would find it helpful if GAO presented this finding separately for each agency.
- e. On page 11, GAO refers to the cost to "agencies." If by agencies GAO means the FHLBB, there has been a misunderstanding. The cost to FHLBB of its entire consumer complaint program in 1980 was \$178,777. The remaining \$904,275 was not a Federal government cost, but rather a cost to industry through the Federal Home Loan Banks.
- f. On page 9, GAO states that most consumer complaints concern issues or problems that are not regulated. We believe GAO should cite the source of this statement, since we have no data at the Bank Board to confirm or deny it. Our impression in Washington is that the overwhelming majority of complaints concern regulated areas. The small proportion of complaints that are not covered by regulations are most frequently complaints concerning contracts. Perhaps because most complaints do not reveal violations of our regulations, GAO has drawn the conclusion that our regulations were not involved. Such a conclusion would be erroneous, since absence of a regulatory violation is most often the result of regulatory compliance.

* We are not sure how GAO obtained this figure. According to our data in 1980, there were 392 complaints that were referred to another party upon closure. There were 396 complaints received in 1980 that were resolved in 1981.

Page Eleven

Comments on Chapter 3

1. GAO's finding that a complaint system can make a significant contribution to the supervisory process by bringing to the attention of regulators practices that may affect other customers (page 17 and elsewhere) overestimates the cost effectiveness of complaint handling as a broad compliance tool.

We investigate and resolve consumer complaints as a service to the public. However, we believe that the following information indicates that responding to consumer complaints is an ineffective and expensive means of detecting and correcting violations:

In 1982, the complaint handling program reached 969 institutions and detected only 503 "violations or errors." In the same year, for approximately twice the cost of the consumer complaint program, the Bank Board conducted complete consumer examinations in approximately 3,200 institutions and found 1,782 violations of the Fair Housing Act, 89 violations of the Home Mortgage Disclosure Act, 528 violations of the Truth in Lending Act. (We do not have comparable data on examination violations in 1980.) These 3,200 examinations also found violations of FHLBB regulations governing deposits, loans, and a number of other laws affecting consumer compliance. However, we do not aggregate data on these latter violations.

2. With regard to the need for follow-up to complaints, GAO may not be aware that in every regularly scheduled examination (on the average, each institution we regulate is examined about every 14 months), the Bank Board examines for compliance with consumer laws and regulations affecting borrowers and savers.
3. The GAO report should make clear that the Bank Board's computerized data system already identifies complaints that require follow-up in the examination process. If a complaint requires follow-up at the subsequent examination, the supervisory agent uses the existing disposition code entitled "To be reviewed at the next examination," and this code is entered into the computer.* In addition, supervisory agents buttress this with a memorandum to the examiner.

* This code can be used in conjunction with other disposition codes, which include "association violation or error."

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4. Every month, the Washington office sends each district examination office a list of associations against whom complaints were filed and/or resolved. (Prior to September 1981, this information was sent to examiners on each complaint separately, once when the complaint was filed and once when it was resolved.) This list gives the name of the complainant, the nature of the complaint, whether or not a violation was found, and the action taken to resolve the complaint. This list also indicates whether the supervisory agent has targeted the complaint for special review at the next examination. The GAO report erroneously implies that no such process exists at FHLBB.
5. The GAO report fails to mention that since early 1981, the Bank Board has had specific procedures for calling attention to institutions that are the subject of many complaints. Specifically, in each of the past three years the Bank Board has compiled a list of associations that received more than .03 complaints per million dollars of assets and at least six complaints. We send these lists to our supervisory agents and examination offices for use in conjunction with both the examination and supervisory process. We believe the GAO report should mention this in conjunction with its findings.

This process has been very successful. There are 22 existing associations that met the above criteria in 1980 and/or 1981. In 1982, 16 of these 22 associations (73 percent):

- ° had few complaints (in absolute numbers) filed against them (an average of 6.3 in 1982, in comparison with 14.5 their first year on the list) and
- ° no longer met the criteria of more than .03 complaints per million dollars of assets.

Our supervisory agents are continuing to work closely with association officials to reduce the complaint load of the six associations whose performance we believe still needs improvement.

In addition, in 1982, we identified all (23) associations, regardless of asset size, against whom 25 or more complaints were filed. We are in the process of following the above practices with regard to these 23 associations.

Page Thirteen

6. We find inadequate the methodology GAO used to determine if there was adequate follow-up to violations found as a result of consumer complaints. As we understand this methodology, GAO a) determined if the complaint was mentioned in the examination files, and then b) looked for evidence of the specific examination steps taken as a result of the complaint. However, a supervisory agent would not specifically ask examiners to determine if consumers, other than the complainant, had been injured by a violation if a) looking for that type of violation was already a regular part of the examination process, b) the association had demonstrated that the violation was isolated and/or c) the examination previous to the complaint already showed that at the time of the alleged violation there was not a pattern of such violations.
7. GAO should also be aware that:
 - ° Examination reports generally do not report the absence of violations. They also do not report the procedures examiners followed that detected an absence of violations. To require more documentation than we do now in our examinations would result in needless expense.
 - ° Injured consumers generally report to FHLBB if they have been promised a remedy of their complaint and that remedy is not forthcoming. Therefore, we believe that it is generally unnecessary to conduct follow-up on the corrective action to an individual complainant. In addition, where there is reason to question that the corrective action will be provided, cases are not closed until the action has been provided.
 - ° Information relative to whether the violation occurred in other similar cases would be unlikely to be in the complaint investigation file.
 - ° We do not provide feedback to complainants on investigations and resolution of issues broader than their individual situations. Information on an institution's financial condition, its compliance status, and examination reports are not publicly available and are not released to complainants.
 - ° We are unable to confirm or deny that the 7 regulatory violations GAO identified on pages 18 and 19 as not having been followed up by an FHLBB examination did in fact deserve followup. We note that GAO referred to two "violations" as "contract" violations. In the course of a complaint investigation an association might inform us that it had violated a contract provision and take appropriate voluntary corrective action. However, compliance with contracts is covered by State and not Federal law. Therefore, examiners do not examine for contractual violations and there would be no examiner follow-up to such cases unless they indicated unsafe or unsound practices.

Page Fourteen

8. GAO's finding in Chapter 3 that there needs to be greater integration of the complaint and examination process seems to overlook:
 - GAO's own finding that in 65 percent of the cases identifying a FHLBB "regulatory violation," FHLBB files indicated that the complaint had been considered in an examination (page 21).
 - FHLBB spent \$22,000 (approximately 175 examiner days) in onsite examinations in conjunction with complaint handling in 1980 (Appendix VI).

Comments on Chapter 4

1. GAO does not report that our complaint procedures, a copy of which were given to GAO, require that the complete files of all discrimination complaints be sent to the Division of Consumer and Civil Rights in Washington for review.
2. GAO does not report that in early 1981, the year covered by the GAO report, that Division conducted an extensive study of all discrimination complaints received by the Bank Board in 1980. The attached memorandum, a copy of which was given to GAO staff, shows the results of that study. The Division's study, along with its workpapers, are on file in the Division and have been since the study was conducted. The Division's findings, both generally and with regard to the complaint GAO described on page 32, were essentially the same as those reached by GAO.
3. GAO places too much emphasis on problems that have long since been corrected. Page 36 of the report devotes an entire paragraph and a major subheading to two complaints that were mistakenly referred to a State agency by a now former employee of the Federal Home Loan Bank of Chicago. This isolated incident occurred nearly three years ago and has long since been corrected. It hardly seems to warrant the amount of emphasis its prominent placement in the report seems to give it.
4. The GAO report is not up to date. In fiscal year 1982 (ending in September 1982, when GAO was still conducting its study), the FHLBB headquarters staff reviewed the complete investigation files of more than 10 percent (at least 12) of the discrimination complaints filed with the Bank Board that year. That staff provided feedback and guidance to the district banks on all of these cases.

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5. Page 37 erroneously implies that the Department of Housing and Urban Development (HUD) regularly continues to "refer" complaints to the Bank Board. This may be true in some districts. It is certainly not true in all. There have been numerous cases in which we 1) have learned about a complaint filed with HUD only through the complainant or a savings and loan association and 2) have received no information from HUD until we made a formal written request. This is not to say that HUD has been uncooperative. Our working relationship with that agency has been good. However, it is erroneous to state that the Bank Board is unilaterally failing to comply with the 1977 agreement.
6. We presume also that on page 37 GAO does not intend to use the word "refer," since the 1977 agreement does not pertain to transferring responsibility for investigation or resolving complaints, but only to sharing information about complaints received.
7. GAO erroneously draws the conclusion, on p. 36, that because agencies fail to notify HUD of Fair Housing Act violations there is "diluted enforcement." On page 36, GAO also erroneously states that HUD is the "enforcer" of the Fair Housing Act and "responsible for all activities that involve housing discrimination." Under the Fair Housing Act, the Secretary of HUD is merely empowered to seek redress of violations through conciliation and referral to the Department of Justice. In contrast, through its nondiscrimination regulations and enabling legislation, the Bank Board has authority to order corrective action of Fair Housing Act violations.

Comments on Chapter 5

1. Pages 42 and 43 state that fees charged on dormant accounts reflect an "unregulated" bank practice. GAO also states, "None of the decisions concerning account handling or service fees charged by banks are currently the subject of bank regulation for the 3-year period of our review. FHLBB did, however, regulate the amount of service charge savings and loan associations could assess. This regulation has since been withdrawn."

GAO's statement is not entirely accurate. From 1965 until April 1982, the Bank Board had a regulation (12 C.F.R. § 545.1(b)) permitting service charges of a nominal amount on dormant accounts. However, in April 1982, the Bank Board revised this regulation to permit unlimited service charges for savings accounts of any type or status. We, therefore, do not believe that it is accurate to refer to service charges on dormant accounts as "unregulated." Charging a fee for a dormant account is a practice which our regulation specifically permits.

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2. With regard to Chapter 5, GAO states on page 2 that the Federal Trade Commission Act requires FHLBB and the other regulatory agencies to:

"receive and take appropriate action on consumers' complaints against institutions under their jurisdiction, including complaints about unregulated practices."
(Emphasis added.)

This is not a quote from the Act, and we believe that GAO's statement misstates the law. Specifically, Section 18f of the Federal Trade Commission Act states:

"In order to prevent unfair or deceptive acts or practices in or affecting commerce, [the Bank Board] shall...receive and take appropriate action upon complaints with regard to such practices by...savings and loan institutions described in paragraph (3) subject to its jurisdiction."
(Emphasis added.)

The Act makes no mention of resolving complaints about unregulated practices. In fact we believe the Act is specific that the first step in handling deceptive, unregulated practices in or affecting commerce is for the Bank Board to issue regulations. Specifically, the Act directs the Bank Board to:

"prescribe regulations to carry out the purpose of this section, including regulations defining with specificity such unfair or deceptive acts or practices and containing requirements prescribed for the purpose such as acts or practices."

The Bank Board corrects unfair and deceptive practices that are regulatory violations and, as necessary, issues new regulations to prevent unfair and deceptive practices. Indeed, we send an annual report to Congress each year that lists regulations issued relating to this act. However, we do not believe that the Act gives us the authority to resolve complaints that are not the result of an unsafe or unsound practice and concern areas that are not covered by regulation. We also do not find that the Act gives us authority to issue regulations to prohibit practices that neither affect commerce nor are unsafe and unsound. For example, we do not regulate private contractual disputes between savings and loan associations and their customers. Therefore, in order to prevent misunderstanding of the Bank Board's authority under the Federal Trade Commission Act, we recommend that GAO reflect the language of the Act more closely.

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3. GAO may have some misunderstanding about the complaint codes we use. Contrary to GAO's statement on page 44 that FHLBB's complaint categories are only broad and general, and contrary to the chart on page 18, the Bank Board has 58 different complaint classification codes. We have provided this information to GAO previously. (To fill in the information missing from page 18, GAO should note the following number of complaints: ECOA, 179; HMDA, 6; EFTA, 10; Regulation Z, 56; CRA, 16; Fair Credit Reporting, 10. Adding those categories would reduce the number of complaints in the category of deposits to 1,893 and the number of complaints in the category of loans to 1,579. These latter two categories were aggregated manually. We can provide data on the unaggregated categories from our computer print-outs if this would be helpful.)
4. Page 44 notes that FHLBB's data system did not have a category for dormant and inactive accounts. It is true that during the period studied by GAO (1978, 1979, and 1980), FHLBB did not have such a category. However, the report should make clear that such a code was added to the FHLBB data system in September 1981. The first full year of data on this category was 1982. The Bank Board received 19 complaints concerning dormant and inactive accounts in that year.
5. On page 49, GAO states that we do not make sufficient use of our complaint data for policy analysis. GAO apparently drew its conclusions from its study of inactive and dormant accounts. GAO apparently did not consider the extent the Bank Board uses complaint information. For example, the Division of Consumer and Civil Rights:
 - a. Uses aggregate data from both examination and complaints to evaluate periodically the extent of compliance industrywide with consumer laws and regulations. We provided GAO with a number of specific reports in such areas as Regulation Z, B, and E which illustrate this use of complaint information.
 - b. Uses FHLBB's complaint data and files in order to comment on FHLBB proposed regulations. All FHLBB regulatory proposals are sent to the Division of Consumer and Civil Rights for comment. (Recently, for example, the Division used complaints about the enforcement of due on sale clauses in the event of within-family property transactions in its comment on a regulatory proposal relating to due on sale clauses.)

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- c. Uses complaint statistics and files when writing or commenting on other FHLBB office's proposals for instructions to examiners and supervisory agents pertaining to consumer laws.
 - d. Has initiated and participated in several special studies (on such issues as advertising, all savers certificates, foreclosures, and early withdrawal penalties) using complaints to identify industry practices that may cause problems for consumers and to evaluate the adequacy of Bank Board regulations to protect consumers.
 - e. Has circulated to all supervisory agents a number of OGC and DCCR opinions that were written as a result of consumer complaints, in order to assure uniform policy guidance throughout the Bank Board on consumer issues.
6. In the introduction (p. IV), GAO states that the recommendations in Chapter 5 "can be implemented without large expenditures or substantive changes to present programs." In addition to our comments in Part I about cost, we note that revising complaint and disposition codes merely for the purpose of Government-wide consistency could:
- Require significant reprogramming of computer-printout summary sheets, since summary reports now contain the maximum number of disposition codes permitted by the system.
 - Destroy the ability to compare data from past years within one agency. We currently find this ability very helpful when using complaint data for policymaking purposes.

We appreciate the amount of work and time GAO spent preparing this report and hope that GAO finds these comments helpful. Please feel free to contact us if you need additional information.

Sincerely,


Richard L. Pratt
Chairman

Enclosures



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

APR 4 1983

Honorable William J. Anderson, Director
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Anderson:

I am writing in response to your draft report entitled "Financial Institution Regulatory Agencies Can Make Better Use of Consumer Complaint Information."

We agree with the general comments in the report concerning reexamination of the integration of handling consumer complaints with other examination and supervision activities and on encouraging credit union officials to develop procedures for answering complaints directly. The National Credit Union Administration is currently finalizing the procedures for the integration of the consumer compliance examination into our examination procedures for review of other compliance areas. This effort follows the NCUA Board's action to bolster the financial examiner staff through an Agency-wide reorganization, which included the conversion of a number of former consumer examiners to financial examiners. Through these changes we will achieve, for the first time in several years, an annual examination program.

With regard to the several recommendations pertaining to the administration of complaints received by the Agency, the NCUA Board has delegated to the regional directors greater authority in many areas, including administrative functions dealing with complaints against credit unions. Management of the Agency's supervision program receives input from many sources and uses a variety of techniques to uncover unsafe and unsound activities. The primary tool in this effort is the on-site examination. While a few complaints may be useful in alerting an examiner to a very specific compliance problem, we do not have information indicating that member complaints have a significant role in uncovering issues involving the safe and sound operation of credit unions. As with all areas of our supervision effort, the instructions to staff on the investigating, documenting, and monitoring of complaints are reevaluated from time to time to assure that complaints are handled in a manner which clearly supports the Agency's number one priority, the safe and sound operations of credit unions.

We appreciate this opportunity to comment. If you have questions please contact me.

Sincerely,

Handwritten signature of E. F. Callahan in cursive script.
E. F. CALLAHAN
Chairman





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