NLWJC - Kagan

Counsel - Box 026 - Folder 005

Counsel: Regulatory Working Group 1994 [2]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 29, 1993

MEMORANDUM FOR DESIGNATED AGENCY HEADS
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Robert G. Damus RGD
Acting General Counsel

SUBJECT: Proposed Executive Order Entitled "Regulatory Planning and Review"

Attached is a proposed Executive order entitled "Regulatory Planning and Review."

It was prepared by the Office of the Vice President and this office.

This order is for your review and information and is not to be circulated outside your immediate office. It is a close hold document.

Thank you.

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Proposed Executive Order

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Honorable John Podesta
Assistant to the President
and Staff Secretary

Honorable Jack Quinn
Chief of Staff to the Vice President

EXECUTIVE ORDER

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REGULATORY PLANNING AND REVIEW

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

With this Executive order, the Federal Government begins a program to reform and make more efficient the regulatory process. The objectives of this Executive order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. In pursuing these objectives, the regulatory process shall be conducted so as to meet applicable statutory requirements and with due regard to the discretion that has been entrusted to the Federal agencies.

Accordingly, by the authority vested in me as President of by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Statement of Regulatory Philosophy and Principles. (a) The Regulatory Philosophy. Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should

assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) The Principles of Regulation. To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable:

(1) Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(4) In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

(5) When an agency determines that a regulation is the best

available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

(7) Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(9) Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.

(10) Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.

(11) Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

Sec. 2. Organization. An efficient regulatory planning and review process is vital to ensure that the Federal Government's regulatory system best serves the American people. (a) The Agencies. Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and assuring that the regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order.

(b) The Office of Management and Budget. Coordinated review of agency rulemaking is necessary to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. The Office of Management and Budget (OMB) shall carry out that review function. Within OMB, the Office of Information and Regulatory Affairs (OIRA) is the repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency, this Executive order, and the President's regulatory policies. To the extent permitted by law, OMB shall provide guidance to agencies and assist the President, the Vice President, and other regulatory policy advisors to the President in regulatory planning and shall be the entity that reviews individual regulations, as provided by this Executive order.

(c) The Vice President. The Vice President is the principal advisor to the President on, and shall coordinate the development and presentation of recommendations concerning, regulatory policy, planning, and review, as set forth in this Executive order. In fulfilling their responsibilities under this Executive order, the President and the Vice President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President and the Vice President may, from time to time, consult.

Sec. 3. Definitions. For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President and Vice President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Assistant to the President for Science and Technology; (7) the Assistant to the President for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Deputy Assistant to the President and Director of the White House Office on Environmental Policy; and (12) the Administrator of OIRA, who also shall coordinate communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

(b) "Agency," unless otherwise indicated, means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(c) "Director" means the Director of OMB.

(d) "Regulation" or "rule" means an agency statement of

general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

(1) Regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(2) Regulations or rules that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(3) Regulations or rules that are limited to agency organization, management, or personnel matters; or

(4) Any other category of regulations exempted by the Administrator of OIRA.

(e) "Regulatory action" means any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) "Significant regulatory action" means any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Sec. 4. Planning Mechanism. In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law: (a) Agencies' Policy Meeting. Early in each year's planning cycle, the Vice President shall convene a meeting of the Advisors and the heads of agencies to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

(b) Unified Regulatory Agenda. For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). Each agency shall prepare an agenda of all regulations under development or review, at a time and in a manner specified by the Administrator of OIRA. The description of each regulatory action shall contain, at a minimum, a regulation identifier number, a brief summary of the action, the legal authority for the action, any legal deadline for the action, and the name and telephone number of a knowledgeable agency official. Agencies may incorporate the information required under 5 U.S.C. 602 and 41 U.S.C. 402 into these agendas.

(c) The Regulatory Plan. For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. The Plan shall be approved personally by the agency head and shall contain at a

minimum:

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

(F) The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

(2) Each agency shall forward its Plan to OIRA by June 1st of each year.

(3) Within 10 calendar days after OIRA has received an agency's Plan, OIRA shall circulate it to other affected agencies, the Advisors, and the Vice President.

(4) An agency head who believes that a planned regulatory action of another agency may conflict with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency, the Advisors, and the Vice President.

(5) If the Administrator of OIRA believes that a planned regulatory action of an agency may be inconsistent with the President's priorities or the principles set forth in this Executive order or may be in conflict with any policy or action taken or planned by another agency, the Administrator of OIRA shall promptly notify, in writing, the affected agencies, the

Advisors, and the Vice President.

(6) The Vice President, with the Advisors' assistance, may consult with the heads of agencies with respect to their Plans and, in appropriate instances, request further consideration or inter-agency coordination.

(7) The Plans developed by the issuing agency shall be published annually in the October publication of the Unified Regulatory Agenda. This publication shall be made available to the Congress; State, local, and tribal governments; and the public. Any views on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the public, or confer any unclaimed benefits on the public, should be directed to the issuing agency, with a copy to OIRA.

(d) Regulatory Working Group. Within 30 days of the date of this Executive order, the Administrator of OIRA shall convene a Regulatory Working Group ("Working Group"), which shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility, the Advisors, and the Vice President. The Administrator of OIRA shall chair the Working Group and shall periodically advise the Vice President on the activities of the Working Group. The Working Group shall serve as a forum to assist agencies in identifying and analyzing important regulatory issues (including, among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities). The Working Group shall meet at least quarterly and may meet as a whole or in subgroups of agencies with an interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA, the Administrative Conference of the United States, or any other

agency.

(e) Conferences. The Administrator of OIRA shall meet quarterly with representatives of State, local, and tribal governments to identify both existing and proposed regulations that may uniquely or significantly affect those governmental entities. The Administrator of OIRA shall also convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern.

Sec. 5. Existing Regulations. In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regulations promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

(b) The Administrator of OIRA shall work with the Regulatory Working Group and other interested entities to pursue the objectives of this section. State, local, and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.

(c) The Vice President, in consultation with the Advisors, may identify for review by the appropriate agency or agencies other existing regulations of an agency, groups of regulations of more than one agency that affect a particular group, industry, or sector of the economy, or may identify legislative mandates that may be appropriate for reconsideration by the Congress.

Sec. 6. Centralized Review of Regulations. The guidelines set forth below shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those agencies specifically exempted by the Administrator of OIRA:

(a) Agency Responsibilities. (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer

shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

(3) In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and other applicable law, each agency shall develop its regulatory actions in a timely fashion and adhere to the following procedures with respect to a regulatory action:

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with section 6(a)(3)(B) or section 6(a)(3)(C), set forth below.

(B) For each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA:

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory

mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(C) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(D) In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow,

the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with subsections (a)(3)(B) and (C) of this section. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for OIRA to conduct its review, as set forth below in subsection (b)(2) through (4) of this section.

(E) After the regulatory action has been published in the Federal Register or otherwise issued to the public, the agency shall:

(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

(iii) Identify for the public those changes in the regulatory action that were made at the suggestion or recommendation of OIRA.

(F) All information provided to the public by the agency shall be in plain, understandable language.

(b) OIRA Responsibilities. The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency's regulatory actions are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

(1) OIRA may review only actions identified by the agency or by OIRA as significant regulatory actions under subsection (a)(3)(A) of this section.

(2) OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

(A) For any notices of inquiry, advance notices of proposed rulemaking, or other preliminary regulatory actions prior to a

Notice of Proposed Rulemaking, within 10 working days after the date of submission of the draft action to OIRA;

(B) For all other regulatory actions, within 90 calendar days after the date of submission of the information set forth in subsections (a)(3)(B) and (C) of this section, unless OIRA has previously reviewed this information and, since that review, there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case, OIRA shall complete its review within 45 days; and

(C) The review process may be extended (1) once by no more than 30 calendar days upon the written approval of the Director and (2) at the request of the agency head.

(3) For each regulatory action that the Administrator of OIRA returns to an agency for further consideration of some or all of its provisions, the Administrator of OIRA shall provide the issuing agency a written explanation for such return, setting forth the pertinent provision of this Executive order on which OIRA is relying. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the Administrator of OIRA in writing.

(4) Except as otherwise provided by law or required by a Court, in order to ensure greater openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

(A) Only the Administrator of OIRA (or a particular designee) shall receive oral communications initiated by persons not employed by the executive branch of the Federal Government regarding the substance of a regulatory action under OIRA review;

(B) All substantive communications between OIRA personnel and persons not employed by the executive branch of the Federal Government regarding a regulatory action under review shall be governed by the following guidelines: (i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within 10

working days of receipt of the communication(s), all written communications, regardless of format, between OIRA personnel and any person who is not employed by the executive branch of the Federal Government, and the dates and names of individuals involved in all substantive oral communications (including meetings to which an agency representative was invited, but did not attend and telephone conversations between OIRA personnel and any such persons); and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in subsection (b)(4)(C) of this section.

(C) OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information pertinent to regulatory actions under review:

(i) The status of all regulatory actions, including if (and if so, when and by whom) Vice Presidential and Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

(D) After the regulatory action has been published in the Federal Register or otherwise issued to the public, or after the agency has announced its decision not to publish or issue the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA under this section.

(5) All information provided to the public by OIRA shall be in plain, understandable language.

Sec. 7. Resolution of Conflicts. To the extent permitted by law, disagreements or conflicts between or among agency heads

or between OMB and any agency that cannot be resolved by the Administrator of OIRA shall be resolved by the President, or by the Vice President acting at the request of the President, with the relevant agency head (and, as appropriate, other interested government officials). Vice Presidential and Presidential consideration of such disagreements may be initiated only by the Director, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review will not be undertaken at the request of other persons, entities, or their agents.

Resolution of such conflicts shall be informed by recommendations developed by the Vice President, after consultation with the Advisors (and other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). The development of these recommendations shall be concluded within 60 days after review has been requested.

During the Vice Presidential and Presidential review period, communications with any person not employed by the Federal Government relating to the substance of the regulatory action under review and directed to the Advisors or their staffs or to the staff of the Vice President shall be in writing and shall be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket(s). When the communication is not in writing, such Advisors or staff members shall inform the outside party that the matter is under review and that any comments should be submitted in writing.

At the end of this review process, the President, or the Vice President acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President's decision with respect to the matter.

Sec. 8. Publication. Except to the extent required by law, an agency shall not publish in the Federal Register or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the

Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Vice President, as provided under section 7 of this order. Upon receipt of this request, the Vice President shall notify OIRA and the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

Sec. 9. Agency Authority. Nothing in this order shall be construed as displacing the agencies' authority or responsibilities, as authorized by law.

Sec. 10. Judicial Review. Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 11. Revocations. Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.

THE WHITE HOUSE,

INSTITUTE OF INTERNATIONAL BANKERS

299 PARK AVENUE, 38TH FLOOR, NEW YORK, N.Y. 10171

TELEPHONE: (212) 421-1611

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93 OCT 21 P1:12

LAWRENCE R. UHLICK

EXECUTIVE DIRECTOR AND GENERAL COUNSEL

October 12, 1993

Bernard Nussbaum, Esq.
Counsel to the President
The White House
Washington, D.C. 20500

Dear Bernie:

I am pleased to enclose a copy of the Institute's 1993 "Annual Global Survey of Regulatory and Market Developments in Banking, Securities and Insurance". The survey now covers 45 countries and the European Community and also contains a chart (pages 7-13) summarizing permissible activities and investments for banks in the various countries. We hope the information in the survey will contribute to a better understanding of financial developments taking place around the world.

The survey provides clear documentation of the fundamental integration of banking and other financial services in most other countries. In addition, the survey shows quite dramatically how the Basle risk-based capital standards have become the international norm.

Please call if we can provide any further information or would like to receive additional copies of the survey.

Very truly yours,

Larry

Lawrence R. Uhlick
Executive Director and
General Counsel

The Institute, founded in 1966, is an association of banking organizations operating in the United States with headquarters in over 55 countries.

Institute of International Bankers

Global Survey 1993

Regulatory and Market Developments

Banking-Securities-Insurance
Covering 45 Countries and the EC

September 1993

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Institute of International Bankers

The Institute is an association of over 200 banking organizations that operate in the United States and have their headquarters in 50 other countries. This sixth *Annual Global Survey of Regulatory and Market Developments in Banking, Securities, Insurance and Other Financial Services* is a continuation of the Institute's efforts to contribute to the understanding of the trends toward globalization of financial markets and convergence of regulatory systems around the world, as well as to the ongoing dialogue in the United States concerning proposals to modernize U.S. laws governing financial institutions. The Annual Global Survey is published each year with the cooperation of banking organizations from around the world and this year covers 45 countries and the European Community. A special feature of the Annual Global Survey is a chart beginning on page 7 showing permissible securities, insurance and real estate activities and affiliations permitted to bank organizations in various countries covered in the survey.

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CLINTON LIBRARY PHOTOCOPY

TABLE OF CONTENTS

INTRODUCTION 1

TABLE OF CONTENTS 2

CHART OF PERMISSIBLE ACTIVITIES 7

ARGENTINA 14
Prepared with the cooperation of the
ASOCIACION DE BANCOS ARGENTINOS (ADEBA)

AUSTRALIA 15
Prepared with the cooperation of the
AUSTRALIAN BANKERS' ASSOCIATION

AUSTRIA 16
Prepared with the cooperation of the
VERBAND OESTERREICHISCHER BANKEN UND BANKIERS

BAHRAIN 18
Prepared with the cooperation of the
BANKERS' SOCIETY OF BAHRAIN

BELGIUM 19
Prepared with the cooperation of the
ASSOCIATION BELGE DES BANQUES

BOLIVIA 22
Prepared with the cooperation of the
ASOCIACION DE BANCOS E INSTITUCIONES FINANCIERAS
DE BOLIVIA

BRAZIL 22
Prepared with the cooperation of the
FEDERACAO BRASILEIRA DAS ASSOCIACOES DE BANCOS

CANADA 23
Prepared with the cooperation of the
CANADIAN BANKERS ASSOCIATION

CLINTON LIBRARY PHOTOCOPY

THE CAYMAN ISLANDS 24
Prepared with the cooperation of
THE CAYMAN ISLANDS BANKERS ASSOCIATION

CHILE 25
Prepared with the cooperation of the
ASOCIACION DE BANCOS E INSTITUCIONES FINANCIERAS
DE CHILE A.G.

CHINA 26
Prepared with the cooperation of the
BANK OF CHINA

COLOMBIA 28
Prepared with the cooperation of the
ASOCIACION BANCARIA Y DE ENTIDADES FINANCIERAS
DE COLOMBIA

DENMARK 30
Prepared with the cooperation of the
DANISH BANKERS ASSOCIATION

EGYPT 31
Prepared with the cooperation of the
BANKS' ASSOCIATION OF EGYPT

EUROPEAN COMMUNITY 32
Prepared with the cooperation of the
FEDERATION BANCAIRE DE LA COMMUNAUTE EUROPEENNE

FINLAND 35
Prepared with the cooperation of
THE FINNISH BANKERS' ASSOCIATION

FRANCE 36
Prepared with the cooperation of the
ASSOCIATION FRANCAISE DES BANQUES

GERMANY 37
Prepared with the cooperation of the
BUNDESVERBAND DEUTSCHER BANKEN E.V.

GREECE 39
Prepared with the cooperation of the
HELLENIC BANKS' ASSOCIATION

CLINTON LIBRARY PHOTOCOPY

HONG KONG 42
Prepared with the cooperation of
THE HONG KONG ASSOCIATION OF BANKS

INDIA 43
Prepared with the cooperation of the
INDIAN BANKS' ASSOCIATION

INDONESIA 45
Prepared with the cooperation of
PERBANAS (INDONESIAN NATIONAL PRIVATE BANKS ASSOCIATION)

IRELAND 46
Prepared with the cooperation of
THE IRISH BANKERS FEDERATION

ITALY 48
Prepared with the cooperation of the
ASSOCIAZIONE BANCARIA ITALIANA

JAPAN 49
Prepared with the cooperation of the
FEDERATION OF BANKERS ASSOCIATIONS OF JAPAN (ZENGINKYO)

KOREA 53
Prepared with the cooperation of
THE KOREA FEDERATION OF BANKS

LUXEMBOURG 54
Prepared with the cooperation of
THE LUXEMBOURG BANKERS' ASSOCIATION

MEXICO 56
Prepared with the cooperation of the
ASOCIACION MEXICANA DE BANCOS

THE NETHERLANDS 58
Prepared with the cooperation of the
NETHERLANDS BANKERS' ASSOCIATION

NEW ZEALAND 59
Prepared with the cooperation of the
NEW ZEALAND BANKERS' ASSOCIATION

CLINTON LIBRARY PHOTOCOPY

NIGERIA 61
Prepared with the cooperation of
THE CHARTERED INSTITUTE OF BANKERS OF NIGERIA

NORWAY 64
Prepared with the cooperation of the
NORWEGIAN BANKERS' ASSOCIATION

PAKISTAN 64
Prepared with the cooperation of the
PAKISTAN BANKING COUNCIL

PANAMA 65
Prepared with the cooperation of the
ASOCIACION BANCARIA DE PANAMA

PERU 65
Prepared with the cooperation of the
ASOCIACION DE BANCOS DEL PERU

POLAND 67
Prepared with the cooperation of the
ZWIAZEK BANKOW POLSKICH

PORTUGAL 69
Prepared with the cooperation of the
ASSOCIACAO PORTUGUESA DE BANCOS

SINGAPORE 70
Prepared with the cooperation of
THE ASSOCIATION OF BANKS IN SINGAPORE

SPAIN 72
Prepared with the cooperation of the
ASOCIACION ESPANOLA DE BANCA PRIVADA

SWEDEN 72
Prepared with the cooperation of the
SWEDISH BANKERS' ASSOCIATION

SWITZERLAND 73
Prepared with the cooperation of the
SWISS BANKERS ASSOCIATION

CLINTON LIBRARY PHOTOCOPY

THAILAND 76
Prepared with the cooperation of the
THAI BANKERS ASSOCIATION

UKRAINE 77
Prepared with the cooperation of the
UKRAINIAN BANKERS' ASSOCIATION

UNITED KINGDOM 78
Prepared with the cooperation of the
BRITISH BANKERS' ASSOCIATION

UNITED STATES 79

URUGUAY 82
Prepared with the cooperation of the
ASOCIACION DE BANCOS DEL URUGUAY

CLINTON LIBRARY PHOTOCOPY

PERMISSIBLE ACTIVITIES
FOR BANKING ORGANIZATIONS
IN VARIOUS FINANCIAL CENTERS

	Securities[1]	Insurance[2]	Real Estate[3]	Bank Investments in Industrial Firms[4]	Industrial Firm Investments in Banks
Argentina	Unlimited, certain activities through subsidiaries	Permitted through subsidiaries	Limited based on bank capital and investment objective	Limited	Permitted but subject to prior approval of authorities
Australia	Unlimited, but in practice through a subsidiary	Permitted through subsidiaries, subject to controls of insurance legislation	Limited by prudential guidelines	Limited by prudential guidelines	Acquisition of more than 10% of a bank's voting stock requires regulatory approval
Austria[5]	Unlimited	Unlimited through subsidiaries	Unlimited	Permitted but subject to limits based on the bank's capital	Permitted but subject to notification and prohibition under certain circumstances
Bahrain	Limited by terms of license and supervisory guidelines	Not permitted	Generally limited to holding bank premises	Not permitted	No legal restriction, but subject to approval of banking authorities
Belgium	Unlimited, some activities through subsidiaries	Unlimited through subsidiaries	Generally limited to holding bank premises	Single shareholding may not exceed 10% of bank's own funds and such shareholdings on an aggregate basis may not exceed 35% of own funds	Unlimited, but subject to prior approval of authorities
Bolivia	Unlimited through subsidiaries	Permitted through subsidiaries	Not permitted	Not permitted	No legal restriction, but subject to approval of banking authorities

[1] Underwriting, dealing and brokering all kinds of securities and all aspects of the mutual fund business.
[2] Underwriting and selling insurance as principal and as agent.
[3] Real estate investment, development and management.
[4] Including investments through holding company structures.
[5] This information is effective January 1, 1994, the scheduled date for effectiveness of the Banking Act of 1993.

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Brazil	Unlimited through subsidiaries	Unlimited through subsidiaries	Generally limited to holding bank premises	Limited to suppliers to the bank	Permitted
Canada	Unlimited through subsidiaries	Unlimited through subsidiaries	Unlimited through subsidiaries	Permitted to hold up to 10% interests, with aggregate shareholdings not to exceed 70% of bank capital	Permitted to hold up to 10% interests
Cayman Islands	Unlimited	Permitted upon issuance of a license	Unlimited	Not restricted by law	Permitted, but subject to consultations with authorities
Chile	Limited, certain activities through subsidiaries	Not permitted	Not permitted	Not permitted	Unlimited
China	Permitted through subsidiaries	Permitted through subsidiaries	Permitted through subsidiaries	Not permitted	Not permitted
Colombia	Unlimited through subsidiaries	Unlimited through subsidiaries	Generally limited to holding bank premises	Unlimited through subsidiaries	Permitted, but investments over 10% subject to prior approval of banking authorities
Denmark	Unlimited	Unlimited through subsidiaries	Limited to 20% of capital	Permitted with restrictions; permanent controlling holdings in industrial companies are prohibited	Not prohibited, but such investments are generally not made

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
European Community[6]	Not applicable; permissiblity is subject to home country and host country regulation	Not applicable; permissibility is subject to home country and host country regulation	Not applicable; permissibility is subject to home country and host country regulation	Each 10% or more shareholding may not exceed 15% of the bank's own funds and such shareholdings on an aggregate basis may not exceed 60% of own funds	No general restriction; does not allow investments of 10% or more if home country supervisor is not satisfied with the suitability of the shareholder
Finland	Unlimited	Only selling of insurance policies as an agent is permitted	Permitted to hold real estate and shares in real estate companies up to 13% of total assets	Permitted to hold directly up to 10% of shares of non-financial companies, and up to 20% on an aggregate basis through subsidiaries	Not prohibited, but such investments are generally not made
France	Unlimited	Unlimited, usually through subsidiaries	Unlimited	Permitted with regulatory approval of interests in excess of 10%	Not prohibited, but such investments are generally not made
Germany	Unlimited	Unlimited, but only through insurance subsidiaries	Permitted, subject to limits based on bank's capital; unlimited through subsidiaries	Limited to 15% of the bank's capital, in the aggregate limited to 60% of the bank's capital	Permitted (subject to regulatory consent based on suitability of the shareholder)
Greece	Underwriting permitted by certain credit institutions; brokerage and dealing permitted through subsidiaries	Permitted to hold shares in insurance companies subject to limits based on the bank's capital and the insurance company's capital	Generally permitted	Permitted, subject to the EC Directive on qualified holdings	Permitted, subject to the EC Directive on qualified holdings

[6] The Second Banking Directive contains a broad list of securities and commercial banking activities that EC "credit institutions" (i.e., entities engaged in deposit-taking and lending) may conduct directly or through branches throughout the EC so long as their home countries authorize the activities. Subsidiaries of credit institutions governed by the law of the same member state may also conduct activities on the list throughout the EC, subject to conditions which include 90% ownership and a guarantee of commitments by the parent credit institutions. Insurance and real estate activities are not on the list and are therefore determined by home country and host country regulations.

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Hong Kong	Permitted (except for limitation on shareholding in certain listed companies and subject to limits based on the capital of the bank)	Permitted (subject to limits based on the capital of the bank and approval from Insurance Authority for 15% or more shareholding)	Permitted (subject to limits based on the capital of the bank)	Permitted (subject to limits based on the capital of the bank)	Permitted (subjec to regulatory consent based on suitability of the shareholder)
India	Permitted, some activites through subisidiaries	Not permitted	Generally limited to holding bank premises	Limited to 30% of the share capital and reserves of the company or the bank, whichever is less	Permitted subject to acknowledge-ment of Reserve Bank of India to transfer 1% or more of the capital of the bank
Ireland	Unlimited, usually through a subsidiary	Unlimited agency, certain life assurance activities through subsidiary which must be separate and independent	Unlimited	Unlimited	Permitted subject to Central Bank prior approval for acquisition of more than 10% of total bank shares
Italy	Unlimited, but not permitted to operate directly on the Stock Exchange	Limited to 10% of own funds for each insurance company and 20% aggregate investment in insurance companies	Generally limited to holding bank premises	Not permitted	Permitted up to 15% of shares of the bank, subject to approval of the Bank of Italy
Japan	Permitted through subsidiaries, except for equity brokerage for the time being; banks are allowed to own more than 50% of a securities subsidiary	Not permitted	Generally limited to holding bank premises	Limited to holding 5% interests	Permitted, pro-vided total investment does not exceed investing firm's capital or net assets

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Korea	Permitted through affiliates	Not permitted	Limited to banking activities and to 40% of bank capital	Subject to prior approval for investments in excess of 10%	Permitted up to 8% of the bank's shares
Luxembourg	Unlimited	Unlimited through subsidiaries	Limited to the amount of the bank's own funds	Strictly limited	Investment may not exceed 50% of banking capital
Mexico	Securities trading permitted; proposal pending to permit options and futures trading	Permitted through affiliates	Not permitted	Not permitted	Not permitted
The Netherlands	Unlimited	Unlimited through subsidiaries	Unlimited	Subject to regulatory approval for voting shares in excess of 10%	Subject to regulatory approval for voting shares in excess of 5%
New Zealand	Unlimited, but in practice through a subsidiary	Permitted through subsidiaries	Unlimited through subsidiaries	Permitted	Permitted, but subject to approval of authorities
Norway	Generally permitted through subsidiaries	Unlimited through subsidiaries	Permitted subject to restrictions based on total assets of the bank	Investments of up to 49% in single companies permitted; only 4% of total bank assets permitted to be invested in shares	Generally, maximum ownership of 10% for any single owner of financial institution; some exemptions, the most important relating to subsidiaries of foreign institutions
Pakistan	Mostly government securities	Not permitted	Generally limited to holding bank premises	Permitted	Permitted

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Korea	Permitted through affiliates	Not permitted	Limited to banking activities and to 40% of bank capital	Subject to prior approval for investments in excess of 10%	Permitted up to 8% of the bank's shares
Luxembourg	Unlimited	Unlimited through subsidiaries	Limited to the amount of the bank's own funds	Strictly limited	Investment may not exceed 50% of banking capital
Mexico	Securities trading permitted; proposal pending to permit options and futures trading	Permitted through affiliates	Not permitted	Not permitted	Not permitted
The Netherlands	Unlimited	Unlimited through subsidiaries	Unlimited	Subject to regulatory approval for voting shares in excess of 10%	Subject to regulatory approval for voting shares in excess of 5%
New Zealand	Unlimited, but in practice through a subsidiary	Permitted through subsidiaries	Unlimited through subsidiaries	Permitted	Permitted, but subject to approval of authorities
Norway	Generally permitted through subsidiaries	Unlimited through subsidiaries	Permitted subject to restrictions based on total assets of the bank	Investments of up to 49% in single companies permitted; only 4% of total bank assets permitted to be invested in shares	Generally, maximum ownership of 10% for any single owner of financial institution; some exemptions, the most important relating to subsidiaries of foreign institutions
Pakistan	Mostly government securities	Not permitted	Generally limited to holding bank premises	Permitted	Permitted

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Panama	Unlimited	Not permitted	Generally limited to holding bank premises	Permitted up to 25% of the bank's capital	Not prohibited, but such investments would require approval by the National Banking Commission
Peru	Permitted through subsidiaries	Not permitted	Generally limited to holding bank premises	Generally not permitted	Permitted subject to approval of Superintendent of Banks if investments exceed 15% of bank's capital
Poland	Permitted	Unlimited	Unlimited	Permitted up to 25% of the bank's capital	Unlimited
Portugal	Generally permitted; mutual funds only through subsidiaries	Unlimited through subsidiaries	Generally limited to holding bank premises	Permitted up to 15% of bank's own funds (but not to exceed 25% of the voting rights of the company) and such investments may not in the aggregate exceed 60% of the bank's funds	Subject to regulatory approval for acquisitions of voting shares in excess of 20, 33 and 50%
Singapore	Banks may hold equity participations in stockbrokering firms with MAS' approval	Locally-incorporated banks may own insurance companies with MAS' approval	Limited in the aggregate to 40% of bank's capital	Limited in the aggregate to 40% of bank's capital	Acquisition of 5% or more requires regulatory approval
Spain	Unlimited; banks are permitted to own up to 100% of stock exchange members	Unlimited through subsidiaries	Unlimited	Permitted, subject to capital-based limits	Need authorization from Bank of Spain for equity investments of 15% or more; notification to Bank of Spain required for all purchases and sales of 5%

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Panama	Unlimited	Not permitted	Generally limited to holding bank premises	Permitted up to 25% of the bank's capital	Not prohibited, but such investments would require approval by the National Banking Commission
Peru	Permitted through subsidiaries	Not permitted	Generally limited to holding bank premises	Generally not permitted	Permitted subject to approval of Superintendent of Banks if investments exceed 15% of bank's capital
Poland	Permitted	Unlimited	Unlimited	Permitted up to 25% of the bank's capital	Unlimited
Portugal	Generally permitted; mutual funds only through subsidiaries	Unlimited through subsidiaries	Generally limited to holding bank premises	Permitted up to 15% of bank's own funds (but not to exceed 25% of the voting rights of the company) and such investments may not in the aggregate exceed 60% of the bank's funds	Subject to regulatory approval for acquisitions of voting shares in excess of 20, 33 and 50%
Singapore	Banks may hold equity participations in stockbrokering firms with MAS' approval	Locally-incorporated banks may own insurance companies with MAS' approval	Limited in the aggregate to 40% of bank's capital	Limited in the aggregate to 40% of bank's capital	Acquisition of 5% or more requires regulatory approval
Spain	Unlimited; banks are permitted to own up to 100% of stock exchange members	Unlimited through subsidiaries	Unlimited	Permitted, subject to capital-based limits	Need authorization from Bank of Spain for equity investments of 15% or more; notification to Bank of Spain required for all purchases and sales of 5%

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Sweden	Unlimited	Unlimited	Generally limited to holding bank premises	Limited	Not prohibited, but such investments are generally not made
Switzerland	Unlimited	Unlimited through subsidiaries	Unlimited	Unlimited	Not prohibited, but such investments are generally not made
Thailand	Unlimited through subsidiaries	Unlimited through subsidiaries	Generally limited to holding bank premises	Permitted to hold up to 10% interest	Maximum equity interest limited to 5%
Ukraine	Not permitted	Not permitted	Permitted up to 10% of the bank's authorized capital	Permitted up to lesser of 10% of the bank's authorized capital or 15% of other firm's authorized capital	Commercial state enterprises are prohibited from such investment
United Kingdom	Unlimited, usually through subsidiaries	Unlimited through subsidiaries	Unlimited	Permitted subject to consultations with the Bank of England	No prohibitions contained in The Banking Act of 1987[7]
United States[8]	Limited, through affiliates	Generally not permitted	Generally limited to holding bank premises	Permitted to hold up to 5% of the voting shares through a holding company	Permitted to make noncontrolling investments up to 25% of the voting shares
Uruguay	Unlimited underwriting authority; dealing limited to public debt; brokerage and mutual funds not permitted	Not permitted	Not permitted	Not permitted	Not permitted

[7] No statutory prohibition, but the Bank of England has indicated it would not favor controlling investments by industrial firms in major banks.

[8] In 1991 and 1992, the U.S. Department of Treasury proposed legislation to modernize the U.S. financial services industry. The proposal would have permitted banks to affiliate with securities firms and insurance companies within a financial services holding company, subject to restrictions on financial transactions among the affiliates. Commercial firms could also have invested in financial services holding companies subject to more stringent "firewalls" on transactions between commercial and financial companies.

CLINTON LIBRARY PHOTOCOPY

	Securities	Insurance	Real Estate	Bank Investments in Industrial Firms	Industrial Firm Investments in Banks
Sweden	Unlimited	Unlimited	Generally limited to holding bank premises	Limited	Not prohibited, but such investments are generally not made
Switzerland	Unlimited	Unlimited through subsidiaries	Unlimited	Unlimited	Not prohibited, but such investments are generally not made
Thailand	Unlimited through subsidiaries	Unlimited through subsidiaries	Generally limited to holding bank premises	Permitted to hold up to 10% interest	Maximum equity interest limited to 5%
Ukraine	Not permitted	Not permitted	Permitted up to 10% of the bank's authorized capital	Permitted up to lesser of 10% of the bank's authorized capital or 15% of other firm's authorized capital	Commercial state enterprises are prohibited from such investment
United Kingdom	Unlimited, usually through subsidiaries	Unlimited through subsidiaries	Unlimited	Permitted subject to consultations with the Bank of England	No prohibitions contained in The Banking Act of 1987[7]
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CLINTON LIBRARY PHOTOCOPY

I. ARGENTINA

The Argentine financial system consists of both publicly and privately owned banks that operate as commercial, investment or mortgage banks. Nonbanking institutions such as financial companies and savings and loan institutions also engage in financial activities. The Central Bank of Argentina regulates and supervises these institutions based upon information that is provided to it on a confidential basis. Regulations cover solvency and liquidity (including limits to the expansion of credit), fixed assets and ratios between equity capital and specific assets or liabilities. Financial institutions in Argentina must be constituted as stock companies unless they are local agencies of foreign entities or are authorized to function as mutual institutions. Banks are also required to maintain reserves on their deposits. Financial institutions are required to meet the Basle Accord's risk-based capital guidelines.

Banks may conduct all activities not specifically forbidden by law, including futures activities and swaps. Banks are not permitted to own industrial, commercial, or agricultural firms unless the Central Bank gives a general authorization for the whole system. However, financial institutions may own insurance companies, may also invest in stock up to 50 percent of the bank's capital and may also hold fixed and floating rate bonds. Banks in Argentina may act directly in the capital market as over-the-counter agents and may indirectly do business on the Stock Exchange through a subsidiary firm that may be a member of the Stock Exchange. Membership on the Stock Exchange is limited to stock brokerage agents, stock brokerage agents' firms, and stock brokerage firms. Due to a recent agreement between banks and the Stock Exchange, banks may do business on the Exchange as brokers and dealers on behalf of one or more stock brokerage agents or stock brokerage firms.

Stocks, stock derivatives, fixed rate bonds and public securities are traded on the Stock Exchange. Fixed rate bonds and public securities are also traded in the over-the-counter market. The Stock Exchange, the Electronic Over-The-Counter Market (Mercado Abierto Electronico) and the National Securities Commission (Comision Nacional de Valores) regulate capital market participants. Insider trading is illegal and it is a fundamental objective of Argentina's securities regulators to protect investors against fraud and to maximize public disclosure in order to instill public confidence in financial markets.

Options and futures are currently traded on the Stock Exchange. Effective May, 1992 mutual funds may invest in securities, precious metals, foreign currency, options and futures instruments issued by financial entities. Foreign mutual funds have applied for authorization to sell shares in Argentina. The use of new instruments such as forwards and derivatives are currently being studied by capital market participants.

Bank secrecy laws only protect borrowing operations unless the Central Bank, the Argentine tax authorities or court order requires disclosure of certain information related to a particular client.

CLINTON LIBRARY PHOTOCOPY

I. ARGENTINA

The Argentine financial system consists of both publicly and privately owned banks that operate as commercial, investment or mortgage banks. Nonbanking institutions such as financial companies and savings and loan institutions also engage in financial activities. The Central Bank of Argentina regulates and supervises these institutions based upon information that is provided to it on a confidential basis. Regulations cover solvency and liquidity (including limits to the expansion of credit), fixed assets and ratios between equity capital and specific assets or liabilities. Financial institutions in Argentina must be constituted as stock companies unless they are local agencies of foreign entities or are authorized to function as mutual institutions. Banks are also required to maintain reserves on their deposits. Financial institutions are required to meet the Basle Accord's risk-based capital guidelines.

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CLINTON LIBRARY PHOTOCOPY

II. AUSTRALIA

Over the past year, Australia has developed authorization criteria for foreign banks operating branches and subsidiaries within Australia. It has removed the purpose criteria on the concessional 50 percent risk weight applied to loans fully secured against residential property in meeting capital adequacy requirements. Changes have also been made to the constraints on ownership of authorized money market dealers.

In February 1992, the Australian government announced that it would allow non-Australian banks to establish and operate bank branches in Australia. With authorization, a foreign bank can operate a branch with unlimited access to the deposits of corporations, non-residents and bank employees. However, banks are restricted in the extent of their deposit taking from individuals and non-corporate institutions to initial amounts of $250,000 or more. A foreign bank branch wishing to accept deposits and other funds in initial amounts less than $250,000 will be required to seek authorization as a locally incorporated subsidiary for that purpose.

Where a foreign bank is authorized to operate both a branch and a subsidiary bank, each of the authorized banks will be required to conduct their business in Australia in a way which recognizes, and makes clear to others, their separate legal status and banking authorization. Any banking transactions between a branch and a subsidiary of the same foreign bank are expected to be at arm's length. A subsidiary would normally be expected to refrain from purchasing assets from a branch of its parent. All nonbank subsidiaries engaged in retail deposit-taking activities are required to be consolidated with an authorized subsidiary bank; stockbroking subsidiaries generally would not be regarded as retail deposit-takers for this purpose.

Nonbank businesses which are consolidated with an authorized subsidiary bank for prudential purposes are subject to size relativity requirements; these requirements currently limit the aggregate size of nonbank businesses to a maximum of half that of the bank. This requirement does not apply to non-consolidated associated identities (e.g., fund management vehicles, life companies).

Where both a subsidiary and branch are authorized, large loans can be booked directly onto the branch's book; therefore, such loans are not subjected to the Australian large credit exposure limits.

In April 1993, the Reserve Bank announced that it was amending the risk weights applied to certain housing loans under its capital adequacy guidelines. Since August 1988, each Australian bank has been required to have a ratio of capital to "risk weighted" assets of not less than eight percent, in line with arrangements agreed by the Basle Committee on Banking Supervision. In determining the level of risk weighted assets, most loans to private borrowers attract a 100 percent risk weight. In connection with a concessional 50 percent

CLINTON LIBRARY PHOTOCOPY

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Nonbank businesses which are consolidated with an authorized subsidiary bank for prudential purposes are subject to size relativity requirements; these requirements currently limit the aggregate size of nonbank businesses to a maximum of half that of the bank. This requirement does not apply to non-consolidated associated identities (e.g., fund management vehicles, life companies).

Where both a subsidiary and branch are authorized, large loans can be booked directly onto the branch's book; therefore, such loans are not subjected to the Australian large credit exposure limits.

In April 1993, the Reserve Bank announced that it was amending the risk weights applied to certain housing loans under its capital adequacy guidelines. Since August 1988, each Australian bank has been required to have a ratio of capital to "risk weighted" assets of not less than eight percent, in line with arrangements agreed by the Basle Committee on Banking Supervision. In determining the level of risk weighted assets, most loans to private borrowers attract a 100 percent risk weight. In connection with a concessional 50 percent

CLINTON LIBRARY PHOTOCOPY

risk weight for loans which are fully secured against residential property, the Reserve Bank has decided to widen the application of the 50 percent risk weight by dropping the requirement that the relevant loan be for housing. This revision is consistent with the terms of the Basle Accord's capital adequacy framework, and is in line with the practice followed in a number of other countries, including the United Kingdom and the United States.

In April 1993, the Reserve Bank decided to relax its rule on bank ownership of authorized dealers. In certain circumstances, it is now willing to allow a bank (or a bank owner) to hold up to 75 percent equity interest in a dealer.

In June 1993, the Treasurer and the Reserve Bank announced that from July 1993 the Reserve Bank would pay an interest rate equal to the yield on 13-week Treasury Notes for the Non-Callable Deposits banks (including foreign bank branches) are required to lodge with the Reserve Bank.

On June 18, 1993, the Treasurer issued a major Banking Policy statement. The Statement noted that the government would bring forward in the Budget sitting of Parliament the Financial Corporations (Transfer of Assets and Liabilities) Bill. The legislation will provide for eligible assets and liabilities of subsidiaries of foreign banks operating in Australia prior to February 1992 to be transferred to newly authorized banks (branches or locally-incorporated subsidiaries) free of normal Commonwealth and State government fees and charges. Also, legislation would be introduced to enable existing tax losses to be transferred from subsidiaries to newly authorized banks. In addition, transfers of assets will be exempted from capital gains tax. Borrowing by branches in Australia from head office (and other overseas branches) will be subject to (non-resident) Interest Withholding Tax (IWT). However, as a concession half of the interest on intra-bank borrowings will be exempted from IWT. Four percent of foreign bank branch liabilities will be deemed to represent notional equity and the interest cost of these funds will not be deductible, and the interest rate applied to funding of branches from head office (and other overseas branches) will be subject to a cap in determining the cost of funding which is deductible.

III. AUSTRIA

During the past 12 months the Austrian legislation concerning the financial sector was predominantly concerned with the implementation of several EC directives as a result of Austria's participation in the European Economic Area (EEA), which is expected to lead eventually to Austria's membership in the EC currently being negotiated and which should be finally decided through a national referendum not later than 1995.

The new Banking Act of 1993 incorporates the EC's First and Second Banking Directive, the Own Funds Directive, the Solvency Ratio Directive, the Directive on the Annual Accounts and Consolidated Accounts of Banks and other Financial Institutions, the

CLINTON LIBRARY PHOTOCOPY

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CLINTON LIBRARY PHOTOCOPY

Directive on the Supervision of Credit Institutions on a Consolidated Basis, the Directive on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and the Directive on Consumer Credit into Austrian law. Those Directives adopted by the EC after the conclusion of the EEA treaty, such as the Directive on Monitoring and Controlling Large Exposures of Credit Institutions, the Investment Services Directive and the Directive on Capital Adequacy of Investment Firms and Credit Institutions, are scheduled for incorporation into Austrian law at a later date.

The Second Banking Directive creates a single European license and "home country control". Thus, not only EC-subsidiaries of non-EC-banks, but also EEA-subsidiaries of non-EEA-banks are allowed to operate branches and to render cross-border services throughout the whole EEA. The responsibility for the control of an EEA-bank's operations and solvency, however, remains with the supervisory authority of the individual bank's home country. Also, there is a standardized capital requirement for newly established credit institutions of at least 5 million ECU. Furthermore, new limits on a bank's equity investment in nonbank companies are introduced. No single equity investment may exceed 15% of a bank's capital nor may the aggregate of all such investments exceed 60% of a bank's capital.

In line with the Basle Accord capital adequacy guidelines, Austria now requires banks' own funds to be at least 8% of both risk-weighted assets and off-balance-sheet items. The Austrian federal government, Austrian regional and local governments and OECD-countries are considered to be no risk and are therefore weighted 0%, whereas OECD-bank risk is weighted 20% and all other risk is basically at 100%. The number of off-balance sheet items against which capital must be maintained is considerably extended. The solvency ratio must be maintained not only by the individual bank, but also by the banking group on a consolidated basis.

Existing exposure limitations on "major investments" under the Banking Act of 1986 will remain valid until the EC's Directive on Large Exposures is incorporated by amendment into the new Banking Act of 1993.

Under the new Banking Act of 1993, credit and financial institutions will be subject to a stringent duty to notify the Minister of the Interior in cases of transactions where there is a reasonable suspicion of money laundering.

Regulations governing consumer credits have been adopted to make it easier for a customer to compare these loans by requiring banks to provide more and uniform information.

Current deposit insurance rules will remain in effect. The rules provide that in case of a bank's insolvency, savings deposits and private accounts of individuals will be paid out to the deposit or account holder up to an amount of AS 200,000 (which equals roughly the EC's envisaged minimum deposit protection amount of ECU 15,000). Deposit protection

CLINTON LIBRARY PHOTOCOPY

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CLINTON LIBRARY PHOTOCOPY

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As a result of the 1992 tax reform, a new flat tax rate on interest income, generally at 22%, on most fixed interest bearing private investments (such as private accounts, savings deposits and bonds) has been introduced. This new tax is not applicable to non-residents.

IV. BAHRAIN

Supervision and regulation of Bahrainian banks is conducted by the Bahrain Monetary Agency. The following principles guide its supervisory efforts. First, the Agency maintains a focus on asset quality. In this context, the Agency fully subscribes to the Basle Accord capital adequacy guidelines, and Bahrain's locally-incorporated banks have successfully met the 8% capital adequacy ratio for some time. Second, the Agency conducts its supervisory effort to permit it to identify problems at an early stage and initiate timely preventative action to avoid significant harm. This entails on-site inspections focusing on an evaluation of the quality of management, ability to control risk exposure, and quality of internal control systems. Third, the Agency performs off-site monitoring based on an analysis of reports and statements submitted to the Agency by the banks. In this connection, it should be noted that the full implementation of international accounting standards (IAS) has recently been introduced by the Agency for locally-incorporated banks. Branches of foreign banks in Bahrain are required to adopt "Generally Accepted Accounting Principles" (GAAP) or to comply with the requirements of IAS.

As of May 31, 1993, there were 158 institutions based in Bahrain which were licensed, supervised and regulated by the Agency. In addition, some 60 insurance companies were registered with the competent authority.

On November 18, 1992, the Bahrain Monetary Agency issued a Regulation governing the supervision, operation and marketing of Collective Investment Schemes (or mutual funds). Under the Regulation, the Agency is responsible for the approval and supervision of Collective Investment Schemes which are marketed in or from Bahrain. As of May 31, 1993, there were 24 such Schemes.

Efforts are underway to develop the Bahrain Stock Exchange, established in 1989, into an important international exchange by the end of the 1990's by enabling both regional and international companies to list on the exchange. In addition, it was announced on June 21, 1993 that long-term expatriate residents of Bahrain would shortly be allowed to trade shares on the Exchange.

CLINTON LIBRARY PHOTOCOPY

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CLINTON LIBRARY PHOTOCOPY

V. BELGIUM

Legislation of March 22, 1993, which came into effect on April 19, 1993, has significantly changed the legal framework of banking business in Belgium. The legislation incorporates into Belgian law the EC's Second Banking Directive and the EC Directive on Consolidated Supervision. The law also modernized many of the provisions governing the legal status of banks. The most important of the changes are: (i) introduction of a uniform legal status and supervision for all types of credit institutions; (ii) modification of the rules concerning ownership of shares, relations with shareholders, and mergers and takeovers; (iii) changes in the rules governing banking activities by Belgian banks abroad and by non-Belgian banks in Belgium; (iv) changes in the procedure for supervision of branches of Belgian banks abroad and of non-Belgian banks in Belgium; (v) changes concerning the reporting of regulatory ratios, and accounting and statistical information; (vi) audit reforms; (vii) changes in the rules pertaining to registration of credit risk; (viii) changes in the rules governing netting between credit institutions. The legislation also adopts the framework in which Belgian supervisory authorities cooperate with the authorities in other countries and opens the door to more effective consolidated supervision; new rules are expected on consolidated supervision which will modify the existing procedures of cooperation with supervisory authorities of other EC member states.

Pursuant to two circulars of May and July 1992 of the Banking and Finance Commission (the "BFC"), starting from the 1993 financial year, the accounting and statistical reporting requirements for Belgian banks (including on a consolidated basis) will become more precise and comprehensive. As a consequence of this and of the Belgian and EC rules on accounting for companies, in particular for credit institutions, the annual accounts will be profoundly changed and enlarged to an important extent from the report for the same financial year.

In line with recommendations of the Basle Committee on Banking Supervision, since January 1, 1993 Belgian banks have been required to maintain 8 percent risk-based capital. In addition, the BFC is preparing a revision of its system for accounting for off-balance sheet transactions and other market risks with a view to the application of the directive on the capital adequacy of investment firms and credit institutions.

New rules were introduced at the end of 1992 regarding provisioning for country exposure. The new rules refine the criteria for the selection of countries by differentiating required reserves and by organizing a frequent revision of the list of countries. The new rule has led to a loosening of the financial strain on credit institutions.

As a consequence of the application of the EC Second Banking Directive, Belgian regulations concerning own funds have not applied since April 1991 to branches of foreign banks having their registered office in another EC Member State. On December 30, 1992, this exception was extended to all other countries of the A zone (as defined by the Basle Committee on Banking Supervision), provided a number of legal and technical conditions are

CLINTON LIBRARY PHOTOCOPY

met. The United States and Japan are currently the only countries falling under this scheme because they are the only countries belonging to the A zone, apart from the EC member states, with branches in Belgium. The only obligation is that, effective April 1993, the branches must possess a minimum allocation of BEF 250 million (US $7.75 million).

Annual accounts published by the branches of foreign banks are allowed to be abridged to a large extent for the 1993 financial year onward. The accounting and statistical information required to be communicated periodically to the authorities has also been reduced to a certain extent.

Under the legislation of March 22, 1993, and following the EC Second Banking Directive, credit institutions are now allowed to own, without any limit, shareholdings and participations in other financial institutions, including stock exchange member companies and insurance companies. Credit institutions are also now allowed to have shareholdings in non-financial institutions, provided that no single shareholding exceeds 10% of the credit institution's own funds and provided the portfolio of those shareholdings does not exceed 35% of own funds. Although this rule is not as liberal as the corresponding provision in the EC Directive, the standards are able to be brought into convergence with the EC standards by royal decree.

An important modification of the Belgian deposit insurance scheme, to be coordinated with, among other things, the future EC directive on this matter, is currently being examined.

New legislation on money laundering which implements the EC Directive on the subject is now in effect. Banks and other financial institutions are now obliged to report suspicious transactions to an authority which will, after further investigation, transmit if necessary the information to judicial authorities.

A new law of August 5, 1992 addresses securitization issues by, among other things, creating special purposes vehicles. A number of royal decrees for its implementation are being prepared.

Since January 1, 1993, new mortgage credit legislation has been in force. A new system of variable interest rate mortgages is gradually being introduced.

The incorporation into Belgian law of the EC Directive on investment services is under way. This will allow credit institutions to have direct access to those markets and provide important modifications concerning the rules for centralization and transparency, among others.

Since January 1993, the Stock Exchange Commission has had the authority to approve listings of new securities.

CLINTON LIBRARY PHOTOCOPY

Starting from July 1994, EC Directives governing single licenses and home country control for insurance companies will come into effect in Belgium. At this date, there will no longer be restrictions on the free offering of services in the insurance field throughout the EC.

Draft legislation on the rules concerning insurance intermediation, which aims at incorporating into Belgian law a 1991 EC recommendation, is pending. It will also apply to credit institutions.

Two other important Belgian legal initiatives regarding insurance, which came into effect on January 1, 1993, are new legislation on non-marine insurance contracts and a royal decree on life insurance. One of the major innovations of the insurance contract legislation is the limitation of the contract term to one year (with some exceptions for contracts concluded with large firms).

The new regulations governing life insurance, which came into effect on January 1, 1993, offer more freedom for life insurance schemes, including in particular: (i) a new range of products, e.g., life insurance coupled with investment funds; (ii) a higher rate of interest for classic types of life insurance; and (iii) less restrictions for determining the costs of drawing up the contract.

The processes of opening up the markets and of diversification of financial activities are going on at a faster pace than in the past, which still intensifies competition between financial institutions. Banks, for instance, are proving themselves to be very dynamic, particularly in trading of the Belgian public debt, the marketing of commercial paper and in stock exchange business; as far as retail marketing is concerned, they acquire growing market shares in mortgage credit and insurance products distribution markets.

Insurance companies are now starting to be active also in the medium term savings market, whereas formerly their activity was limited to the long term savings market. Insurance companies are also trying to take over control of large credit institutions, especially in order to take advantage of the dense branch networks of the latter. There has been an unsuccessful takeover bid by the bancassurance conglomerate, ING of the Netherlands, for Banque Bruxelles Lambert. Within the framework of the process of privatization of public undertakings inititated by the government, the Belgo-Dutch bancassurance financial group Fortis is on the verge of aquiring an important participation in the capital of ASLK-CGER, the biggest public financial institution.

With respect to tax developments, a reduced rate of Belgian foreign withholding tax is being considered. On the other hand, the system of dematerialized government securities set up at the beginning of the nineties is now being extended to all bond issuers and incorporates certain tax advantages, in practice first to Belgian issues and later to foreign ones.

CLINTON LIBRARY PHOTOCOPY

VI. BOLIVIA

In May 1993, the Bolivian government passed the new Banking and Financial Institutions Law ("1993 Banking Law") which replaces the 1938 Kemmerer Law (named after Princeton University professor J.G. Kemmerer). The 1993 Banking Law addresses reform of the Central Bank, prudential regulation, and permissible activities.

The 1993 Banking Law establishes the autonomy of the Central Bank and specifies that its President and Board of Directors will be appointed for terms of six and five years, respectively, by the President of the Republic from a list of candidates proposed by the Chamber of Deputies. The Law also adopts the overall risk-based capital framework established by the Basle Committee on Banking Supervision, and sets the minimum requirement at 8% of risk-weighted assets. Regulations issued by the Superintendent of Banks have established risk weightings of 50% for loans backed by mortgages, 150% for past due loans and 200% for loans under legal collection procedures.

The new law also establishes a legal lending limit of 20% of a bank's net worth for any one borrower (5% for any unsecured borrower) and prohibits a bank from lending any borrower an amount that exceeds 100% of the borrower's net worth.

With respect to new activities, the 1993 Banking Law permits banks to engage in factoring, leasing, trust services and securities activities. Bolivian banks also are permitted to accept deposits and make loans denominated in Bolivian currency, Bolivian currency with exchange parity adjustment to the U.S. dollar and foreign currencies.

Non-Bolivian banks may establish subsidiaries or branches in Bolivia and may also establish off-shore subsidiaries, which may accept deposits from non-Bolivian residents and may grant loans to borrowers outside the country.

Bolivian confidentiality laws protect against disclosure of information concerning client transactions unless tax authorities or court orders require disclosure of certain information about a particular account.

VII. BRAZIL

No important changes in the financial institution regulatory framework have occurred over the last year. Legislation to permit increased foreign investment in Brazilian banks and the establishment of Brazilian offices of foreign financial institutions has not been enacted. Although the Brazilian Constitution (Article 192, III) calls for enabling legislation, it is not expected to be adopted this year because the Constitution is going to be revised after October 1993.

CLINTON LIBRARY PHOTOCOPY

VIII. CANADA

Canada radically re-structured its federal financial sector in mid-1992. The traditional barriers that had existed between the historical "four pillars" (banks, trust companies, securities firms, and insurance companies) of the financial services industries were reduced. As a result, banks were permitted to own trust companies, securities firms and insurance companies; trust companies could own insurance companies and securities firms; while insurance companies were permitted to establish banks. In the last twelve months, therefore, the focus of the federal government and the regulators has been on developing the more detailed regulations which complement the statutory changes brought into force on June 1, 1992. In addition, several financial institutions have acquired or established subsidiaries in other financial sectors.

One widely-held insurance company has established a Schedule "II" bank subsidiary and it is likely that bank subsidiaries will be established by other insurance companies in the near future. Meanwhile, the major Canadian banks have acquired existing trust companies or established their own trust company subsidiaries in order to take advantage of the new rules that permit them to offer fiduciary services through a separately incorporated trust company. Several of the Canadian banks have also established or acquired insurance companies even though they are still not permitted to network most insurance products through their bank branches.

In view of the intent in the revised federal financial legislation that all financial institutions be placed on a level playing field, the Office of the Superintendent of Financial Institutions ("OSFI"), which regulates the federal financial industry, has been revising its capital adequacy requirements. The OSFI is undertaking extensive studies on this issue, which are expected to lead to further changes late in 1993 in order to achieve a consistent approach to capital adequacy requirements for all federally regulated deposit-taking institutions. The OSFI, along with Statistics Canada and the Bank of Canada, has also been involved in consultations with financial industry representatives to update the regulatory reporting requirements and these discussions are expected to be successfully concluded very soon, leading to new formats and forms for the reporting of information by financial institutions.

Although foreign banks are still required under the new Bank Act to set up in Canada as subsidiaries of the parent bank rather than as branches, the administrative and financial burdens that were removed in the 1992 Bank Act have had a positive effect. Most notably, a number of Schedule "II" foreign bank subsidiaries have taken the opportunity to apply to the OSFI and have received Exemption Orders in order to do their data processing outside Canada. In addition, approximately half of the foreign bank subsidiaries in Canada will be moving to a December 31 financial year-end in order to be consistent with the financial year-end of their parent institution. The foreign bank community, however, remains committed to seeking "branch status".

CLINTON LIBRARY PHOTOCOPY

In early 1993, the federal government enacted further measures against money laundering. Vital regulations under the 1991 The Proceeds of Crime (money laundering) Act finally became effective as of March 26, 1993. This legislation sets out the records that financial institutions and other corporations and persons who are susceptible to being used to launder money must keep in order to facilitate money laundering investigations and prosecutions. In addition, it sets out the time for which these records must be kept, as well as the procedures that must be followed, by those required to keep records in order to ensure that the names of the persons who appear in these records reflect the true identity of the persons carrying out the transactions. For example, persons who, in the course of their business, receive more than $10,000 in cash will be required to keep records of such transactions. These records (called "large cash transaction records") will have to include such information as the name, address and occupation of the person from whom the money is received, as well as the date, amount and type of transaction.

IX. THE CAYMAN ISLANDS

The Cayman Islands has further enhanced its banking regulatory framework, acknowledged as a model by the Gallagher Report prepared for the British Government. The enhancements include a reorganization of the supervision of the various departments involved in the financial sector. In response to market developments, there has been the introduction of Exempt Limited Partnership facilities; Limited Duration Company opportunities; and a law to regulate mutual funds that use Cayman as their jurisdiction, even though managed elsewhere, and those that use the jurisdiction in the legal and practical sense through the use of a Mutual Fund Administrator established in the Cayman Islands.

The reorganization of the regulatory structure for Banks, Trust Companies, the Insurance Sector, Mutual Funds and Company Management was announced by the Cayman Government on June 30, 1993. The new Financial Services Supervision Department will assist the Financial Secretary in ensuring close budgetary control over the areas within his responsibility while streamlining the Civil Service hierarchy to make more effective use of available human resources, especially eliminating areas of overlap so that a uniform administrative structure can be put in place. By bringing the various regulatory functions under an Inspector of Financial Services, the industry believes there will be a rationalization of some of the areas of supervision, as well as consistency in the formulation of the regulations and their application to the issues involved. There will be two Deputy Inspectors who will have, respectively, responsibility for Banks and Trust Companies and Insurance. Initially, the overall effect will be felt within the various Government Departments. Policy changes and legislative amendments will occur as the consolidation process develops. The process takes account of the industry as a whole, rather than isolated segments; the consolidation is seen as strengthening the Cayman's finance industry.

CLINTON LIBRARY PHOTOCOPY

The Inspector of Financial Services has been charged with monitoring existing laws governing the financial services sector. The laws include the Insurance Law 1979, the Banks and Trust Companies Law 1989, the Company Management Law 1984, and the Trusts (Foreign Elements) Law, which provides that where a trust is governed by the laws of the Cayman Islands, it cannot be void, voidable or capable of being set aside because another jurisdiction does not recognize a trust or it defeats claims under the laws of other countries. In protecting the client's position, the Confidential Relationships (Preservation) Law permits the normal discreet relationship between banker and client, providing for disclosure of information only in cases of criminal activity. The Mutual Legal Assistance Treaty in effect extends recognized circumstances for disclosure to cases of fraud and money laundering.

While maintaining infrastructural elements which provide an appropriate environment for banker-client relationships, the monitoring of the day-to-day activities of banks is subject to supervision in accordance with risk-based capital guidelines established under the Basle Committee on Banking Supervision. For prudential reasons, the minimum capital ratio for Cayman banks is 12 percent for subsidiaries of major banks and 15 percent for Private Banks.

The newly enacted Mutual Fund Law aims toward a greater rationalization of many of the areas concerned with supervision, enforcement and the scope of the Inspector of Financial Services powers and duties. The Law regulates mutual funds, unless they satisfy an exemption, and ensures that the managers of mutual funds have a Mutual Fund Administrators License. The Inspector has the authority to apply to the Grand Court to preserve the assets of a mutual fund if the mutual fund is in breach of any of the provisions which formed the basis for the granting of the license. If the Inspector is hindered in any way in the carrying out of his duties, a fine not exceeding US$200,000 may be imposed.

Other new legislation includes Exempted Limited Partnerships, which allow a partnership formed under the law to obtain from the Governor an undertaking that the partnership and its partners will not be subject to any form of taxation for a period of 20 years, and Exempted Limited Duration Companies, which can have a limited life of 30 years. While these new laws are important for Cayman to keep abreast of the demands of the market place, they also reflect the wider breadth of responsibility now imposed upon the Inspector of Financial Services.

X. CHILE

The Congress is considering a bill to modernize the Chilean capital markets. The bill is expected to pass the Congress in 1993. If passed, the law would widen the range of investments permissible for pension funds, insurance companies and mutual funds, thereby diversifying such portfolios and would establish the regulatory framework to reduce conflicts of interest involving the management of open investment funds (pension funds, mutual funds and closed-end funds) and private rating agencies, particularly on issues involving the use of

CLINTON LIBRARY PHOTOCOPY

inside information. In addition, the bill would permit the securitization of loan portfolios on a pass-through basis. It is expected that the first securitization transactions will involve only mortgage loans.

In 1992, Congress passed Law No. 19,207, which modified the Statute of Foreign Investment to reduce the minimum holding period for foreign capital repatriation from three years to one year.

The Chilean Government also has under consideration the adoption of the risk-based capital guidelines of the Basle Committee on Banking Supervision.

Finally, Chile is considering enlarging the scope of permissible activities conducted by banks. During the latter half of 1993, the Chilean Government is expected to propose a bill in Congress to amend the banking laws to permit banks to provide a wider range of financial services.

XI. CHINA

The rise in China's financial system reform started with the approval made by the State Council in 1983 to authorize the People's Bank of China to execute exclusively the functions of a central bank. Since then, operations in commercial deposit and loan business have been gradually taken over by a variety of specialized national banks such as the Industrial and Commercial Bank, the Agricultural Bank, the Construction Bank, and the Bank of China. In recent years, in order to introduce competition into China's banking industry, the Bank of Communications has been reestablished, along with the development of some other regional- or enterprise-owned banks -- among these are Guangdong Development Bank, China Merchants Bank, Citic Industrial Bank, and Everbright Bank of China. After its ten year preliminary reform in financial system, China has now formed a multi-faceted financial framework consisting of the specialized national banks, rural credit unions, and other kinds of financial institutions.

The objective of a new and second stage of China's financial system reform, which begins in 1993, has been established. It focuses on further development of the market-oriented reform in the financial system and will transform the system from its direct control into an indirect control. Under the existing system, the People's Bank of China is authorized to supervise all the specialized banks by specifying their credit limits, loan interest rates, and even basic uses of the credit. As a result, those specialized banks may not have the right to make their own decisions on these matters, and therefore some misallocation of scarce financial resources may occur.

The measures undertaken in the second stage of financial system reform will tend to reduce the executive powers of the People's Bank of China over the specialized national banks, leaving the former concentrating on monetary supply and macroeconomic

CLINTON LIBRARY PHOTOCOPY

manipulation. As a result, each specialized bank may operate as a commercial bank, able to determine its loan limits and loan rates in accordance with cost-benefit analysis, the nation's industrial policy, customer creditworthiness, and bank exposure.

Exchange-traded securities have increased rapidly after Shanghai and Shenzhen developed their security exchanges in 1990 and 1991, respectively. In July 1992, the online OTC (over-the-counter) national STAQ (Security Transaction Automatic Quotations) system was started and both organized exchanges and OTC markets, in which bonds are the major trading products, were developed in some provinces such as Guangxi, Hubei and Tianjin. With the formation of the nationwide securities market, the State Council of China enacted the "Tentative Regulations on Supervision of Stock Issues and Transactions" on May 3, 1993. These regulations provide that the outstanding common stock of a listed company owned by any individual stockholder cannot exceed 0.5 percent of the total. Any shares owned beyond this limit will be bought back by the company at the previous bid price or current market price, whichever is lower. They also provide that the proportion of shares bought by the issuer cannot be less than 35 percent of the total equity, and the underlying cash amount normally cannot be less than 30 million RMB.

The number of foreign bank branches and representatives has expanded rapidly in the last several years. By the end of May 1993, foreign branches totaled 87 and foreign representatives totaled 252. As of February 1993, total assets of branches and representatives of foreign banks amounted to $5.59 billion. In response to this increase, China recently modified some of the existing rules and regulations regarding foreign-related taxation. According to the new rules, interest earnings received by any foreign-owned or joint-ventured financial institution through its loan business in foreign currency will be taxed at a 5% flat rate of the net interest margin on such a loan. All business income other than on foreign-currency loans will be taxed on its total amount at a 5 percent flat rate (a 3 percent rate will be applied for those institutions located in the Special Economic Zones). In addition, officials of the Special Zone's government are authorized to give those foreign-owned or joint-ventured financial institutions within the zone a tax reduction or tax exemption for 5 years as long as they start to run their business. Any extension to this period must be approved by the National Tax Bureau.

There have also been some notable developments of new institutions and services in 1993. First, an official corporation for security registration and clearing was established on March 8 in Shanghai and formally opened on May 10. It is responsible for all security registration and clearing services associated with B shares issued and listed for overseas investors, which services were previously handled by China's Bank of Communications and Citibank, respectively.

Second, the Shanghai Security Exchange announced on May 7 that it has added 20 more seats used exclusively by B share agents who make daily transactions for offshore investors. Including the existing 3 seats, this indicates that more than half of the offshore agents have obtained exclusive seats in Shanghai Security Exchange.

CLINTON LIBRARY PHOTOCOPY

Third, tentative regulations on the registration of futures companies passed in 1993. The regulations will standardize the operations of futures companies, which have proliferated in recent years. China now has more than 50 futures companies and futures consulting institutions. Eight nationwide futures markets opened in 1992 and four opened before June 7, 1993, including crude oil and rubber exchanges in Shanghai and Guangzhou. Shenzhen Special Economic Zone opened China's first futures market in January 1991, and subsequently many others have opened such as a metal exchange and a coal exchange in Shanghai; a petroleum exchange in Nanjing; a nonferrous metals exchange in Shenzhen; a timber wholesale market in Harbin; a building materials wholesale market and a farming machinery market in Zhengzhou; a chemical materials exchange in Yantai; and a coal exchange in Qinhuangdao. Besides these commodities futures, futures in financial products have been considered. For example, Shenzhen will soon introduce trading in equity index futures to meet the demand of the market.

Fourth, the price ceiling for China's foreign exchange swap markets was abolished on June 1, 1993 which reduced the gap between the exchange rate in swap markets and the real market rate. The result was a sharp appreciation in the U.S. dollar relative to RMB. At the same time, trading volume in the markets was stimulated and increased rapidly.

Finally, the Guangzhou tax-free zone was formally established on May 10, 1993, which brings the total number of the tax-free zones in the country to six. The planned financial innovations in this newly established tax-free zone will include a development of domestic and international futures markets in both commodities and financial products, as well as the introduction of other bank and nonbank financial services.

An anticipated development is the investment of 4 billion RMB to develop a modernized inter-bank payment system, which will become a nationwide fully functional financial information network as part of China's eighth five-year national plan starting in 1993.

XII. COLOMBIA

The recent Laws 35 of 1993 ("Law 35") and 31 of 1992 define the roles of the authorities that govern the financial sector in Colombia. The National Government is responsible for promulgating regulations, the Banking Superintendency is in charge of inspection and compliance, and the Board of Directors of the Bank of the Republic (Colombia's Central Bank) is responsible for monetary, exchange, and credit policies.

Pursuant to Law 35, the National Government has discretionary authority to expand the scope of the regulatory scheme to reach subsidiaries and affiliates of credit institutions. Moreover, since 1989, the Banking Superintendency has taken the provisions of the Basle Accord on capital adequacy into consideration in its supervision of credit institutions. Accordingly, Colombian credit institutions must furnish information on their subsidiaries and

CLINTON LIBRARY PHOTOCOPY

affiliates to the Superintendent. In addition, credit institutions under the jurisdiction of the Superintendency can provide certified consolidated financial statements that include an opinion by the Statutory Auditor of the Head Office, otherwise investments in foreign countries are taken into account in order to determine capital adequacy. The consolidated financial statements must comply with rulings of the Superintendency addressing accounting policies and practices as well as the structure and frequency of the statements. There are also rules setting forth specific parameters and criteria for the classification of assets in subsidiaries and affiliates.

Since 1987, the Colombian regulation has been implementing the capital adequacy standards established by the Basle Accord. Colombia abides by the Accord in general terms for banks, financial corporations, savings and housing funds, and commercial financial companies. However, certain modifications to the Accord have been made to reflect the particular economic conditions of the country and the requirements of Colombian law, especially with respect to tax matters. The elements of primary and secondary capital are consistent with the Basle Accord, as is a requirement that at least 50% of total capital be primary capital. Assets are risk-weighted in general accordance with the Basle Accord. In addition, regulations are in force regarding the proper treatment of assets denominated in foreign currency, the necessary adjustments with respect to business and trustee charges, and the classification of debtors.

The risk-adjusted assets of Colombian banking institutions, financial corporations, and commercial financial companies must not exceed 12 times total capital. The risk-adjusted assets of savings and housing funds must not exceed 15 times total capital.

The Banking Superintendent has announced that, pursuant to Law 35, the Government will adopt regulations to improve the effectiveness of the existing system of prudential regulations. The aim of these regulations is to make the existing regulations on capital adequacy and other prudential standards operate in a uniform and consolidated way in order to better control the solvency of groups of institutions and institutions holding investments outside of Colombia.

The process of deregulation, which began with the financial reform of 1990, continues to proceed. This process has given rise to new financial products. For example, securitizations, which have been regulated since the end of 1992, are expected to increase. In addition, intermediaries of the exchange market are permitted to conduct hedging activities, including trading in contracts on future peso-dollars.

At the end of 1992, the financial entities affiliated with the Colombian Banking Association and other Colombian financial entities signed an agreement to combat money laundering which contains a series of principles addressing: (i) the selection and knowledge of customers and their operations; (ii) the maintenance of information for investigatory purposes; (iii) cooperation with authorities; (iv) the need to avoid engaging in certain operations; and (v) the adoption of internal codes of behavior. These principals were

CLINTON LIBRARY PHOTOCOPY

subsequently acknowledged by decree 1872 of 1992. Pursuant to that decree, a series of measures were established to avoid the use of financial institutions for the concealment, handling, investment, or exploitation of money or other assets gained from criminal activities. Under the agreement and then the decree, financial institutions adopted adequate and sufficient measures to: (i) know their customers; (ii) establish the normal volume, characteristics, and frequency of transactions; and (iii) immediately report to the General Attorney of the Republic any suspicious activity. Although these measures represent an exception to the Colombian bank secrecy laws, government authorities are generally required to keep secret information supplied to them by financial institutions.

XIII. DENMARK

In 1992 Denmark continued implementation of laws to harmonize its banking regulations with those of the EC Directives.

In December, 1992 the Danish Parliament passed a bill amending the Commercial Banks and Savings Banks Act to implement the new Directive on the supervision of credit institutions on a consolidated basis. The amendments became effective on January 1, 1993.

As the current provisions on consolidated supervision under the Act already contained wide-reaching requirements, the most important amendments arising from the Directive were the extension of the consolidation to include the financial holding company, and the introduction of pro rata consolidation vis-a-vis jointly-owned credit and financial institutions where the participating interests exceed 20 percent of the votes or the capital of the institution.

Among other amendments the Act also contains a tightening of provisions concerning the criminal liability of bank management who fail to take the necessary steps in the event of considerable losses or a risk of such.

In order to promote transparency in financial groups, the Danish Financial Supervisory Authority in 1992 issued auditing regulations on intra-group transactions. These regulations cover agreements concluded between related companies forming part of a group which includes at least one financial institution i.e., banks, insurance companies, pension funds, stock brokerage companies and mortgage credit institutions.

In December, 1992 the Council of Ministers adopted a new directive on the monitoring and control of large exposures of credit institutions. The Ministry of Industry is preparing amendments to the Commercial Banks and Savings Banks Act in order to implement the directive. The bill is expected to be introduced in the fall of 1993. One consequence of the directive would be a restriction on the current rules on lending limits and guarantee commitments of banks.

CLINTON LIBRARY PHOTOCOPY

In March 1993 the Ministry of Industry introduced a bill amending the Stock Exchange Act to permit banks to trade on the Stock Exchange directly. Currently only stock brokerage companies and Denmark's Central Bank may trade directly on the Stock Exchange. The bill would implement the new Directive on investment services, and will mean that foreign banks will have access to all securities markets within the EC from 1996. The bill does not implement the Directive in its entirety since the Directive will involve fundamental changes in conditions in European capital markets. This work will take place at a later stage as part of a general reform of the Stock Exchange.

Finally, in May 1993 the Danish Parliament passed a bill to implement the EC Directive on money laundering which would establish measures to prevent the use of the financial system to launder money.

XIV. EGYPT

Over the past year, Egypt has continued to implement a reform program designed to strengthen the Egyptian economy. The reform process has proven successful as reflected in: (1) the growth of gross domestic production; (2) the substantial reduction of the budget deficit, leading in turn to a declining inflation rate; (3) the stabilization of exchange rates of foreign currencies versus the Egyptian Pound; (4) the increasing surplus of the balance of payments; and (5) the growth of net international reserves amounting to approximately US$15 billion.

Egypt has adopted overall risk-based capital guidelines in accordance with the 1988 Basle Accord, requiring banks operating in Egypt to meet capital standards equivalent to those of the Accord. Currently, most banks are in compliance with this measure.

In accordance with the liberalization policy in the banking sector, the Banking and Credit Act (the "Act") was amended in 1993. The Act authorizes the Minister of Economy, upon the recommendation of the Central Bank of Egypt, to give permission, under certain rules, to foreign bank branches established in Egypt to deal in both local and foreign currencies.

The bylaws of the new capital market law were issued in 1993 to implement the legislation. The law seeks to enhance the capital market by giving a number of incentives to invest in securities. It also establishes the legal base for the introduction of mutual funds and other financial firms operating in the securities industry. Hopefully, implementing the capital market law will provide momentum to the process of privatization currently taking place.

Banks started participating in the capital market through trading their securities portfolios, establishing mutual funds and operating securities subsidiaries.

CLINTON LIBRARY PHOTOCOPY

The privatization of public sector companies is under way. The Government announced the sale of 20 companies this year and potential purchasers have been invited to submit offers. Some banks have been assigned as financial advisors to help in the privatization process.

XV. EUROPEAN COMMUNITY

In the wake of the BCCI affair, the EC Commission is formulating proposals for amendments to both the First and Second Banking Directives in order to strengthen supervision of credit institutions. The amendments are expected to include the following: (1) the introduction of measures to ensure the transparency of a group to which a credit institution belongs; (2) a requirement that the central administrative office and the registered office of a credit institution be located in the same Member State; (3) expansion of the list of entities to which supervisory authorities may communicate confidential information; and (4) a requirement that auditors report to the supervisory authorities in certain specific cases.

In June 1992, the EC Commission issued a proposal for a Directive on Deposit-Guarantee Schemes and an amended proposal was issued in June 1993. The proposal provides that EC banks must adhere to the deposit insurance system established by the Member State in which their head office is located, with some provision made for the situation in which the deposit-guarantee schemes of the home and host States differ. The minimum level of protection was set at ECU 15,000 in the original proposal and has been raised to ECU 20,000 in the amended proposal. The Banking Federation of the EC feels that the latter level is too high and believes that ECU 15,000 would be the more appropriate figure. The proposal also provides that all currencies will be covered. The Banking Federation would have liked the proposal to limit complusory coverage to deposits that are denominated in Community currencies or in ECUs.

The Capital Adequacy Directive (CAD) and the Investment Services Directive (ISD) were adopted by the EC Council in March and May 1993, respectively. Both the CAD and the ISD will come into force by the end of 1995. The CAD (i) adopted a common definition of "own funds" for both banks and nonbanks, particularly with respect to using subordinated capital to cover market risk, (ii) addressed the need for market risk on open positions to take account of currency volatilities, and (iii) recognized the need to refine the system for taking account of hedging of positions in debt instruments when calculating market risk.

The ISD provides definite time limits by which Member States must amend current legislation that prohibits direct access by banks to stock exchanges in other Member States. The ISD also provides that Member States can require transactions by an investment firm in that Member State to be carried out on a regulated market for investors who are habitually resident in the Member State unless otherwise directed by the investor.

CLINTON LIBRARY PHOTOCOPY

The Basle Committee on Banking Supervision has recently released a proposal concerning a requirement for banks to set aside capital to cover market risks in their securities trading operations. The proposed rules aimed at covering market risk are stricter than the rules established in the CAD for foreign exchange risk and position risk. There is a concern that there be consistency between any EC directive and Basle Committee recommendations in order to avoid changes to the EC directive after it has been implemented.

In addition to the proposal covering market risk, the Basle Committee has published proposals concerning a common method for measuring a bank's overall interest rate risk and the recognition of new forms of bilateral "netting" agreements. Different risk-measurement systems are applied to debt, equities and foreign exchange, and different methods of measuring risk for the same instruments are recognized. The three Basle Committee proposals are not expected to come into force until 1997 at the earliest.

The EC Commission is considering drawing up rules on the supervision of financial conglomerates, which are defined as a group containing a bank, an insurance company and an investment firm. Because rules already exist at the EC level with respect to the consolidation of banks and investments firms, debate has focused on the need to establish rules for the supervision of "bank/insurance" groups. The EC Commission has identified two risks that might arise within a "bank/insurance" group: the risk of double gearing and the risk of contagion. To counter the risk of double gearing the EC Commission is currently considering either the deduction method of supervision or the consolidation method of supervision. To counter the risk of contagion, the EC Commission is contemplating the introduction of rules on the transparency of group structures and a requirement that each entity have an independent board of management.

With respect to taxation issues, a proposal for a directive to abolish withholding taxes on interest and royalty payments made between enterprises in different Member States is expected to be adopted soon. On the other hand, a proposal to enable EC enterprises to take account of the losses of their branches (the proposal no longer provides for the off-setting of losses of subsidiaries) is not expected to be adopted in the near future. The EC Commission is considering whether to revive a 1989 proposal to adopt a common withholding tax on savings, although it is expected to meet much opposition. Finally, in October 1992, the EC Commission issued a proposal regarding application of a VAT to gold. The proposal provides that investment gold would be exempt from any VAT until it is physically delivered.

The EC Commission adopted an amended version of its proposal for a directive on data protection in October 1992. However, the financial sectors have expressed fundamental concern to the EC Commission that a comprehensive new regulatory scheme is unnecessary, especially in light of the Council of Europe Convention on the same matter already implemented by most EC Member States.

CLINTON LIBRARY PHOTOCOPY

In April 1993, the EC Council adopted a Directive on Unfair Terms in Consumer Contracts. The directive is intended to eliminate contractual clauses that impose unreasonable and excessive obligations on consumers, although it covers only "non-individually negotiated" terms (i.e., standard terms). Terms are prohibited if they cause, in breach of the requirement of good faith, a significant imbalance in the rights and obligations of the parties to a contract to the detriment of the consumer. At the urging of the Banking Federation, the directive includes a provision that allows EC banks to alter the rate of interest on variable rate loan or deposit contracts without being required to inform the customer prior to the alteration, provided notification is given at the earliest opportunity.

Work on the proposed EC Directive on Civil Liability for Damage Caused by Waste was suspended pending further consideration of environmental liability issues. In the meantime, the EC Commission adopted a Communication in March 1993 which addresses certain fundamental problems, such as definitions and the potential scope of possible legislation. The Council of Europe has now approved the Convention on Damage Resulting from Activities Dangerous to the Environment, which is expected to have a positive affect on the EC Commission's proposed directive on lender liability.

In June 1992, the EC Commission issued a Green Paper on the Development of the Single Market for Postal Services. The Banking Federation has requested that the EC Commission ensure that the provision of financial services by postal authorities occur within a fair, competitive environment.

In the payment system area, the EC Commission has published a working paper "Easier Cross-border Payments: Breaking Down the Barriers." Continued efforts are being made toward improving cross-border payments by automated clearing house (ACH) linkage or increased competition between ACH systems, and a cross-border direct debit scheme is under review. The banking sector is already in the process of implementing various improvements including: (1) applying guidelines with respect to transparency; (2) complying with an originator's instructions to prevent double charging; and (3) establishing redress procedures. Although generally opposed by the banking sector, the EC Commission continues to recommend extension of existing redress procedures to small- and medium-sized enterprises and the establishment of formal cooperation between national ombudsman systems. The EC Commission has continued to exert considerable pressure on the banking sector with a view to increasing the protection of consumers using cross-border payment services.

The European Parliament and the Economic and Social Committee both presented a report on payment system, financial services and consumer protection issues in the Internal Market. These bodies strongly support the demands of consumer organizations by calling in particular for: (1) a reduction in charges for cross-border transfers for users; (2) the drafting of a directive setting out rules on transparency including the right of the user to be informed of the various means of effecting payments at his disposal and their respective costs; (3) the elimination of double charging; (4) the possibility of access to a redress procedure

CLINTON LIBRARY PHOTOCOPY

(ombudsman) for the user; (5) the establishment of a four-working-day period for settlement of cross-border payments accompanied by a fine for a bank which has delayed execution; (6) the creation by the European Monetary Institute of a European Automated Clearing House; (7) legislative initiatives aimed at the prevention of overindebtedness; and (8) an appraisal of the feasibility of requiring financial institutions to provide basic financial services to the public.

Finally, the EC Commission is expected to issue in the near future a communication on the subject of future EC rules on short-term export credit insurance. The Banking Federation has asked that political risks be excluded from the scope of the future rules because private-sector export credit insurers do not currently cover such risks. The EC authorities are also reviewing the provision of medium- and long-term export credit insurance in order to harmonize the conditions for export credit insurance offered by the various public agencies within the EC.

XVI. FINLAND

As part of its continuing efforts to harmonize the regulation of its financial services market with EC developments, Finland prepared amendments regarding banking legislation called for by the European Economic Area (EEA) agreement during the last year. The Committee on the Financial Services Legislation submitted its report on the legislation on credit institutions in early 1992 and the Government drafted and submitted to Parliament an act in late 1992. It is presently under review in Parliament's Economics Committee. The draft Government act combines both the Deposit Bank Act and the Credit Institutions Act into a single new act. The most important changes are:

- the incorporation of regulations on risk concentrations;
- the revision of certain points in the capital adequacy regulations;
- the revision of provisions on financial statements;
- the incorporation of provisions preventing money laundering; and
- the establishment of an ownership control system which would require notification to the authorities of major ownership.

The Financial Inspection Working Group proposed in its report that responsibility for the supervision of financial markets should be reorganized, and the Government submitted a bill to Parliament in late 1992. Parliament passed an act, which will come into force on October 1, 1993.

The Securities Trading Committee proposed in its report amendments to the securities trading legislation resulting from the EEA agreement. The most important amendments concern the extent of the duty to disclose information and more precise provisions on insider trading. An act has been passed and will come into force simultaneously with the EEA agreement.

CLINTON LIBRARY PHOTOCOPY

The draft Government act on credit institutions includes provisions proposed by the Financial Group Committee which address cases in which a bank and an insurance company are members of the same group. According to the bill, sizeable share investments made by a bank in an insurance company within the same group must be deducted from the bank's shareholders' equity. The amendment of the Insurance Companies Act is underway reflecting the developments in the EC third Non-Life Insurance Directive and third Life Assurance Directive.

In December 1992, Parliament passed an act on the priority system of loans, corporate restructuring and debt rescheduling for individuals. Due to the very deep economic recession in Finland, banks have experienced difficulties resulting from credit losses, non-performing loans and weak demand of bank services. To ensure the stability of the banking system, the Government Guarantee Fund was established by special Act of Parliament at the beginning of May 1992. To strengthen banks' capital base and to keep solvency ratios above 8 percent, the Government granted - and most banks accepted - preferred capital injections to a total of nearly FIM 8 billion to safeguard bank lending powers.

Parliament accepted in spring 1993 an amendment to the Government Guarantee Fund Act, and adopted the following resolution: Parliament requires the State to guarantee that Finnish banks will be able to meet their commitments on a timely basis under all circumstances. Whenever necessary, Parliament shall grant sufficient appropriations and powers to be used by the Government for meeting such commitments. By spring 1993, of the total amount of FIM 40 billion of bank support (including the capital injections of FIM 8 billion referred to earlier), over FIM 30 billion was channelled to the savings bank group.

Restructuring of the Finnish banking industry accelerated in 1992. During the last three years, bank personnel has been reduced by one fifth from a peak in 1989 and the branch network also continues to be reduced sharply. The banks' distribution network has at the same time diversified. ATMs, Eftpos and bill payment terminals are becoming widespread. The bankgiro and the postgiro systems have been combined.

The Savings Bank of Finland was established by the merger of 43 saving banks in September 1992. Other merger developments include the founding of the Aktia Bank by 18 savings banks, and an agreement for the transfer of the business operations of STS-Bank Ltd. to Kansallis-Osake-Pankki.

XVII. FRANCE

In 1992 France continued to harmonize its banking regulation with developments in the EC. The Act of July 16, 1992 and the Decree of March 15, 1993 adopted the principle of the EC's Second Banking Directive and introduced the principle of free provision of services by EC banking institutions and the free establishment of branches by banks which

CLINTON LIBRARY PHOTOCOPY

are already authorized in one member state. In addition, in December 1992, the Banking Regulation Committee adopted three regulations that provide for: (i) the provision of banking services outside of France by French credit and financial institutions; (ii) the provision of banking services in France by institutions headquartered in other EC member states; and (iii) the acquisition of shares, directly or indirectly, of credit or financial institutions in France or another member state. In March 1993, the Credit Institutions Committee set forth the rules for applying the procedures instituted by the Second Banking Coordination Directive.

Also in December 1992, the Banking Regulation Committee adopted a regulation adjusting the minimum capital requirement for financial institutions to 5 million ECUs, although waivers are possible for certain types of institutions. The new regulation also requires credit institutions that routinely collect deposits to maintain minimum capital of FF 35 million, and finance companies to maintain capital of FF 15 million. These new minimum capital requirements took effect immediately particularly in the case of mergers between one or more institutions. A period of adaptation was granted to existing institutions, expiring on January 1, 1998.

With respect to consumer issues, the National Credit Council adopted the basic banking services charter, which enables all persons, including those with low incomes, to gain access to basic banking services. The French Banking Association supported the charter, committing its members to providing these services.

In the financial products field, UCITS (undertaking for collective investment in transferable securities) were reclassified into the following categories in order to simplify and clarify them for the public: (i) equity shares, (ii) bonds and other debt securities, (iii) money market UCITS, (iv) diversified UCITS, and (v) guaranteed or protected UCITS.

With respect to accounting issues, the financial agents database has been introduced as scheduled on January 1, 1993. Banks' and financial institutions' accounts must now be prepared and published according to the standards set forth in the Eighth EC Directive of December 1986 and the Thirteenth Directive of February 1989.

The minimum supervisory standards for international banking groups issued by the Basle Committee on Banking Supervision have been adapted into French law.

XVIII. GERMANY

Over the past year, Germany has continued to implement EC directives concerning banking and securities business under German law. In the field of banking supervision, an important amendment to the Banking Act and new Principles Concerning the Capital of Banks came into force on January 1, 1993, implementing the EC's Second Banking Directive, the Own Funds Directive and the Solvency Ratio Directive. Since then, banks

CLINTON LIBRARY PHOTOCOPY

incorporated in other EC countries are allowed to operate branches in Germany on the basis of the banking license granted by their home country's supervisory authorities (the so-called "single passport"). They are no longer required to maintain additional endowment capital. However, the benefits of this amendment are not restricted to banks from other EC countries. The Minister of Finance is authorized to extend these rules in whole or in part also to branches of banks from countries outside the EC. This is, however, subject to the condition that these are, inter alia, supervised in their home countries in accordance with internationally agreed principles, that branches of German banks are granted national treatment in the respective country and that the respective supervisory authorities are prepared to cooperate on an agreed to basis.

A further amendment to the Banking Act in order to implement the new EC Directive on the Supervision of Credit Institutions on a Consolidated Basis and the Directive on Monitoring and Controlling Large Exposures of Credit Institutions is already taking shape. Under this amendment, the obligation to observe capital standards in accordance with the Basle Accord on capital adequacy will be extended to all institutions of a group which have a financial institution as a member, including investment firms. The limit for loans to a single customer or for loans to a group of affiliated customers will be lowered from 50% to 25% of own funds of the credit institution.

Currently, a general reform of Germany's securities and stock exchange regulations is under discussion. Its main goal is more efficient supervision of securities trading. To further enhance the position of Germany as an international financial centre, the reform concept provides, inter alia, for a Federal Securities Supervisory Office to be established. This is expected to be the counterpart of foreign supervisory authorities for detecting and prosecuting cases of insider dealing and for negotiations on international agreements. It will set up common rules of conduct and control their observance by market participants. The reform also serves to implement the EC Directives on Insider Dealing and on Investment Services in the Securities Field.

In January 1993, a new withholding tax legislation ("Zinsabschlaggesetz") came into force. It imposes a flat-rate 30% deduction on interest payments to residents accruing from deposits and from bonds held in safe-custody accounts. For natural persons resident in Germany a tax-allowance of DM 6,100 is granted. Consequently, each resident can receive interest payments up to this amount without deduction of a withholding tax provided an exemption instruction has been filed with the bank paying out the interest. Non-residents are exempt from this withholding of tax at source. If, however, interest coupons are presented for encashment, there is a 35% deduction on interest payments to both residents and non-residents. The new withholding tax is merely a prepayment on the regular income or corporation tax. It will be taken into account when assessing the actual individual income or corporation tax liability.

CLINTON LIBRARY PHOTOCOPY

Over the past year, further steps have been taken to improve relations between banks and their customers. Since July 1, 1992, the German private commercial banks have been operating an ombudsman scheme, allowing disputes between private customers and private commercial banks to be settled quickly, economically and unbureaucratically outside a court of law. The ombudsman's decision is binding on the banks when the amount involved in the dispute does not exceed 10,000 DM. The scheme is widely used. Nearly 60% of the complaints concerning private commercial banks are settled in favor of or in agreement with the customer.

Furthermore, at the beginning of this year, extensively revised General Business Conditions for the private commercial banks came into effect. These contain only essential clauses and are formulated for customers in plain language. Beyond this, the special conditions concerning for example securities transactions and eurocheque services are currently being revised.

In 1992, an act to combat illicit drug trafficking and other kinds of organized crime went into effect, making money laundering a criminal offense. Parliament is now discussing a bill concerning the identification of profits from serious crime. This bill requires banks to identify customers in all cases of acceptance or delivery of cash, securities and precious metals of 25,000 DM or more. It is expected to be passed in the near future.

XIX. GREECE

The main EC directives concerning the operation and prudential regulation of credit institutions established in EC Member States were implemented into Greek law in 1992 and are now effective. In particular, the Second Banking Directive and the Own Funds and Solvency Ratio Directives have been enacted into law or implemented by the Governor of the Bank of Greece ("BoG"). In addition, the BoG is currently working on implementation of the remaining directives addressing banking services. Although the BoG has not specifically incorporated the 1992 Basle Committee on Banking Supervision's minimum standards for supervision of banks operating internationally concerning consolidated supervision, it is clear that the underlying prudential requirements form part of the on-going supervisory practice in Greece. Further regulatory developments in this area will depend on coordinated EC efforts to strengthen supervisory cooperation among EC regulatory authorities.

In January 1993, the Greek Parliament adopted a deposit protection scheme that will be operative by January 1995 and that will follow the EC directive concerning deposit guarantee schemes. The Greek deposit protection scheme provides that branches of non-Greek credit institutions must participate in the Greek deposit protection system, unless depositors are covered by the deposit guarantee system of the institution's home country for at least an equivalent level of protection. Because the subsidiaries of EC credit institutions are separately incorporated in Greece and are granted an operating license by the BoG, they will be required to participate in the Greek deposit protection scheme as any other

CLINTON LIBRARY PHOTOCOPY

domestically owned Greek credit institution. Bank subsidiaries of non-EC credit institutions will also be required to participate in the Greek deposit protection scheme.

Under Greek law there are no specific rules concerning the establishment and operation of financial conglomerates. There are, however, specific rules pertaining to the limitation of holdings by banks in other types of financial institutions, including insurance companies, as well as the limitation of holdings by insurance companies (and other financial corporations) in credit institutions. No single authority is responsible for the supervision of financial conglomerates in Greece. The Greek system utilizes the principles of operational regulation and regulatory autonomy such that Greek credit institutions are supervised by the BoG, insurance companies are supervised by the Ministry of Commerce, and investment companies are supervised by the Capital Markets Committee.

Under the Greek law implementing the Second Banking Directive, credit institutions' qualified holdings in insurance companies are not subject to general quantitative limitations. However, the BoG has authority to impose a prior authorization requirement on certain levels of participation in insurance companies. The Governor of the BoG permits credit institutions, without obtaining BoG approval, to acquire a participation in an insurance company of up to 20 percent of the bank's own capital and 10 percent of the share capital or voting rights of the insurance company. Similarly, there is no prior authorization requirement for insurance company and other financial institution participations in credit institutions subject to the same limits. Any larger participations require the prior authorization of the BoG. All qualified holdings (within the meaning of the Second Banking Directive) by insurance companies in banks must nonetheless be disclosed to the BoG. As prescribed by the Own Funds Directive, credit institutions' participations in other credit and financial institutions (except insurance companies) are deducted from the institutions' regulatory capital.

Generally, Greek branches and subsidiaries of EC credit institutions are treated according to the principles established by the First and Second Banking Directives. Pursuant to these directives, the authorities of the home country control whether a particular credit institution based in another EC Member State may branch into Greece. Similarly, the responsibility for supervising the solvency of a Greek branch established by an EC credit institution is the responsibility of the home country authorities. However, the liquidity position of these branches is monitored by the BoG, and the reorganization and liquidation of such branches is carried out by the BoG according to Greek law.

A non-Greek EC credit institution must obtain a license from Greece to establish a subsidiary in Greece. According to Greek law, authorization will be granted only if the separately incorporated subsidiary has: (i) deposited in cash initial capital of 4 billion drachmas; (ii) informed the BoG of the identity of the shareholders having a qualified holding and the amount of this holding; (iii) submitted a feasibility study to the BoG; and (iv) submitted a declaration stating the sources of the funds used for financing the equity participation.

CLINTON LIBRARY PHOTOCOPY

Bank subsidiaries of EC credit institutions are subject to the same solvency requirements as Greek institutions. In addition, under the EC's consolidated supervision directive, which is in the process of being implemented into Greek law, EC credit institutions with bank subsidiaries in Greece will be subject to the consolidated supervision of the EC credit institution's home country. Both the reorganization and winding-up of subsidiary undertakings of such EC credit institutions are carried out by the BoG following Greek law.

Credit institutions incorporated in non-EC countries must obtain authorization from the BoG to establish branches in Greece. Such a branch can be granted an operating license by the BoG only if the non-EC bank: (i) has deposited with the BoG an endowment capital of 2 billion drachmas, which would cover the establishment of four branches of the bank in Greece; (ii) is willing to provide the BoG with any information that is relevant to its financial structure and activities; and (iii) has appointed two reputable persons with sufficient professional experience as managers of the branch. The principle of national treatment is observed, but the operation of a branch of a non-EC bank cannot be more favorable than that accorded to Greek branches of EC credit institutions.

Under the "Revised Concordat" of the Basle Committee on Banking Supervision, which has been endorsed by the BoG, responsibility for liquidity control of Greek branches of non-EC credit institutions lies with the BoG, while solvency control is the responsibility of the appropriate authorities of the home country. The reorganization and winding-up of branches of non-EC banks established in Greece is carried out by the BoG under Greek law.

In addition to branching, there are two ways in which a non-EC credit institution may establish a commercial presence in Greece: first, the de novo establishment of a bank subsidiary and, second, the acquisition of a majority participation in a Greek credit institution. The BoG has full authority to grant operating licenses for subsidiaries of non-EC credit institutions upon fulfillment of the requirements pertaining to the authorization of subsidiaries of EC credit institutions. The BoG is required to inform the EC Commission of all such authorizations, although the EC Commission has no power to suspend the decision of the BoG. Credit institutions that are direct or indirect subsidiaries of non-EC banks are afforded the same treatment as domestically owned credit institutions and accordingly are supervised by the BoG. Liquidation of Greek subsidiaries of non-EC banks is also carried out by the BoG, according to the provisions pertaining to the reorganization and winding-up of Greek credit institutions.

Greek law provides for two systems of rules pertaining to bank secrecy: (i) the Penal Code addresses general banking secrecy and applies to all financial transactions; and (ii) a separate bank secrecy law provides greater protection of bank deposit information to act as an incentive for attracting deposits. After following specified procedures, there are several instances in which the prohibition on disclosure of the existence of and information about bank accounts (with regard to either general or special bank secrecy) can be waived. For instance, bank secrecy is lifted in certain tax evasion cases, insider trading cases, and, as of 1993, in the case of money laundering.

CLINTON LIBRARY PHOTOCOPY

XX. HONG KONG

Hong Kong continued to establish a broader approach to banking supervision consistent with international standards. As at the end of 1992, the consolidated capital ratio of locally-incorporated authorized institutions stood at 16% compared with 15% a year before. The Hong Kong Monetary Authority was established on April 1, 1993, bringing together the supervision of the banking sector and monetary management under one official body.

The Banking Ordinance was amended, empowering the Commissioner of Banking to call for reports from external auditors on various aspects of authorized institutions' internal control systems. Reports may also be commissioned on an ad hoc basis where more comfort is required in particular areas. Guidelines were also issued by the Commissioner regarding his expectations as to internal controls.

In addition, amendments were made to the statutory limits on credit exposures. Financial exposures secured by cash deposits, government securities, or guarantees, etc. are now exempt. The Commissioner has issued revised guidelines setting out the general criteria for qualification for exemption.

In May 1992, the Government set up a liquidity adjustment facility allowing banks to borrow fully-secured short-term funds from the Government in order to overcome tight monetary conditions in the Hong Kong inter-bank market.

In April 1993, the Monetary Authority issued a consultation paper proposing a new approach to the supervision of liquidity of authorized institutions. Under the proposed regime, the authority will assess the adequacy of an institution's liquidity with regard to a number of criteria including the institution's liquidity ratio, maturity mismatch profile, ability to borrow in the inter-bank market, stability and breadth of deposit base and other relevant factors.

Following public consultation in 1992, the Government announced in January 1993 that it would not proceed with a deposit protection scheme: instead it would pursue legislative proposals designed to give priority to small depositors in the event of a winding up of a bank. The plan would be modeled on that used after the closure of Bank of Credit and Commerce (Hong Kong) Ltd.

The Drug Trafficking (Recovery of Proceeds) Ordinance requires banks to report to the appropriate authorities (in confidence) suspected money laundering transactions. In a 1992 High Court case, the main enabling provisions of the Ordinance were held to be inconsistent with the Hong Kong Bill of Rights Ordinance and in consequence, repealed. This decision was overruled by the Privy Council in May 1993. Financial institutions will now continue to make reports of suspicious transactions, including those circumstances not

CLINTON LIBRARY PHOTOCOPY

reported between the two decisions. More recently, the Hong Kong Monetary Authority has consulted the banking industry with respect to further enhancements of the current regime; the authorities are about to issue a new set of guidelines, modeled on those operative in the United Kingdom and requiring full compliance with FATF recommendations.

In September 1992, a code of conduct for foreign exchange and money market dealers and brokers was issued by the Foreign Exchange and Money Market Practices Committee, a body with representation from both the Government and market practitioners. The Code is based on international standards set out in the Code of Association Cambiste Internationale, although some guidelines have been augmented to reflect local market practices.

The Securities (Clearing Houses) Ordinance was enacted in July 1992. This legislation preserves the integrity of the Central Clearing and Settlement System for securities transactions by isolating it from certain provisions of insolvency law.

1992 was a positive year for the industry in Hong Kong: total customer deposits at authorized institutions grew by 9.3%, while loan demand remained strong and margins healthy. The system remained structurally "over-lent", a reflection of the territory's role as a regional depository and ability to attract deposits from banks overseas. Loans for use in Hong Kong rose by 11%, attributable to continuing business confidence, infrastructural development and continuing appetite for residential mortgages.

The territory's banking industry retains it cosmopolitan profile with more than half of the world's top 500 banks active in Hong Kong at the end of 1992: as important, banking remains a central component of the Hong Kong economy employing some seventy-six thousand people and contributing significantly to both "invisible" exports and the territory's increasing profile as the regional service entrepot for East Asia.

XXI. INDIA

The process of economic liberalization initiated in mid-1991 continued in 1992-93. One major development during the period was that the Indian Rupee became fully convertible. Financial sector reforms in particular have begun to receive greater attention.

The recommendations of the Committee on the Financial System formed the basis for policy decisions in the financial sector. The major recommendations of the Committee included (a) drastic reduction in the required Statutory Liquidity Ratio (SLR) and Cash Reserve Ratio (CRR), (b) stipulation of capital adequacy and income recognition norms, (c) restructuring of banks and development financial institutions, and (d) deregulation of interest rates.

Through Monetary Policy implementing the recommendations of the Committee of the Financial System, during the second half of 1992, SLR was brought down from 38.5 percent

CLINTON LIBRARY PHOTOCOPY

to 37.75 percent and one third of the cash balances maintained with the Reserve Bank of India pursuant to the withdrawal of the 10 per cent incremental CRR were released. During the first half of 1993-94, the level of CRR has been brought down from 15 to 14 percent and SLR from 37.75 to 37.25 percent of demand and time liabilities (DTL).

During the first half of 1992-93 monetary policy announcements included, among others, liberalization of deposit rates, rationalization of lending rates and the issue of guidelines on Money Market Mutual Funds. All these measures had a favorable impact on lending to the commercial sector by banks. The interest rates on bank advances were further rationalized twice during the current financial year 1993-94. Priority sector lending targets for foreign banks have been raised from 15 percent to 32 percent of DTL.

The Reserve Bank of India (RBI) announced guidelines for establishment of new banks in the private sector. The guidelines provide, inter alia, that (i) banks have minimum paid up capital of Rs.1000 million, (ii) banks' equity shares be listed on the stock exchanges, (iii) banks' capital ratios be equal to at least 8 per cent of risk weighted assets, and (iv) banks be subject to priority sector norms. Voting rights of individuals shareholders will be limited to one per cent of outstanding voting shares.

The Government has appointed a panel to review reforming the insurance industry.

The Working Group on Financial Companies was set up by the RBI to review the role of non-bank financial intermediaries and to recommend measures for ensuring their healthy growth while strengthening the supervision and control exercised by the RBI over such institutions. The RBI has accepted the resulting Report on Financial Companies, highlighting the protection of depositor's interests, making monetary and credit policy more effective, integrating the regulatory framework and encouraging new financial services and products.

Guidelines issued to finance companies, effective from April 12, 1993, include (a) a requirement for financial services companies including residuary non-banking companies with net own funds of Rs.50 lakhs and over to register with the RBI; (b) a requirement for hire purchase finance and equipment leasing companies to maintain liquid assets of 10 percent of certain deposits (at least half of which will have to be maintained in the form of Union/State Government guaranteed bonds); (c) the reduction of the minimum term for deposits of all financial companies to 10 months from 24 months; and (d) the reduction of the maximum term for deposits of residuary nonbanking companies from 120 months to 84 months.

Recent proposals to address irregularities which surfaced in the government securities market include the establishment of (i) an Internal Debt Management Cell in the RBI, (ii) the Securities Trading Corporation of India to develop secondary markets in government securities and public sector bonds, and (iii) a separate supervisory agency for banks and financial institutions under the aegis of the RBI. The foreign banks have been permitted by the RBI to function as depository institutions for large foreign institutional investors.

CLINTON LIBRARY PHOTOCOPY

In other developments, the Securities and Exchange Board of India ("SEBI") has taken several actions. Guidelines for Foreign Institutional Investors (FIIs) were announced. FIIs can invest in any securities traded in the primary and secondary markets once they have registered with the SEBI. The SEBI also announced detailed guidelines for DFIs for disclosure and investor protection when they raise fresh capital. The DFIs are allowed to freely price their issues provided they have a three year track record of consistent profitability.

Portfolio management has been brought under the control of SEBI. Additionally, the SEBI will permit listed companies to announce rights issues. The Office of the Controller of Capital Issues in the Ministry of Finance has been abolished and almost all powers under the Securities Contract (Regulations) Act have been delegated or transferred to the SEBI. The Over the Counter Exchange of India started trading in September 1992.

The Tax Reforms Committee submitted its final report in August 1992. Important recommendations include the reduction in corporate tax on domestic companies and maintenance of the differential between corporate tax on domestic and foreign companies at around 7.5 in percentage points. The 1993-94 budget has reduced customs and excise duties considerably, as suggested by the Committee. On the direct tax side, rationalization of income tax rates has been implemented.

XXII. INDONESIA

Following the rapid expansion of money and credit supplies after the financial liberalization of 1988, together with an apparent deterioration in the quality of many banks' assets in the aftermath of the 1989-1990 investment boom, new prudential regulations were introduced in early 1991 designed to enhance the soundness and stability of the Indonesian banking system. These regulations included capital adequacy requirements consistent with the standards recommended by the Basle Committee on Banking Supervision, as well as rules for the maintenance of adequate liquidity, mandatory provisioning for nonperforming assets, and submission of detailed monthly bank reports to Bank Indonesia.

The supervisory authority of Bank Indonesia was further enhanced in March 1992 upon enactment of a new banking law. The law also provided for: (i) the elimination of all specialized categories of financial institutions; (ii) the phased reduction of banks' equity participation in nonfinancial enterprises; (iii) the opening of bank ownership to non-Indonesians; and (iv) the conversion of state banks into limited liability companies with up to 49% private ownership, which occurred as of August 1, 1992.

In order for state banks to meet Bank Indonesia's new prudential standards, a World Bank loan program has been established. Accordingly, each state bank has prepared an action plan covering the period March 1992 through December 1994, and is expected that growth in the risk-weighted assets of the state banks will have to be restrained over that period.

CLINTON LIBRARY PHOTOCOPY

Despite the slowing pace of credit expansion and persistently high bank intermediation margins, Indonesian authorities have not relaxed the new prudential standards in light of indications that the rehabilitation of bank portfolios is well underway. Provisioning for nonperforming loans increased sharply in 1992, and as a result the number of banks classified as unsound or poor declined for all major categories of banks. Most banks have been able to meet Bank Indonesia's requirements for capital adequacy and liquidity.

In an effort to improve the operation of the stock market, which experienced a sharp downturn following the tightening of monetary policy in 1990, the Jakarta Stock Exchange was officially privatized in July 1992. As a private body, the stock exchange is expected to devote more resources to and be more aggressive in modernizing its operations and fostering market development. The transfer of the daily operations of the stock exchange to the private sector was also intended to improve the ability of the Capital Market Supervisory Agency (BAPEPAM), which previously had performed dual roles as operator of the market and supervisor, to enforce stricter supervision. Other measures that have been recently enacted regarding the stock market include enhanced investor protection, equalized tax treatment of deposits and stocks, revision of the pension law enabling pension funds to invest in the stock market, adoption of a new trust fund law, and the establishment of an institution for settlement and clearing functions. The authorities are also considering measures to lower transaction costs, introduce computerized trading, and establish a minimum standard of transparency.

Following two years of tight monetary policy, demand pressure appeared to abate in 1992 and 1993. As inflation declined and external accounts strengthened, improved confidence in the rupia led to a sustained increase in inflows of private capital, posing a serious challenge for monetary control. In response, the Indonesian monetary authorities adopted a policy of steady, albeit cautious, reductions in interest rates while continuing to sterilize the monetary effects of reserve inflows. This, together with banks' reluctance to extend new loans in the midst of continuing balance sheet consolidation, has helped limit credit expansion.

XXIII. IRELAND

Two major items dominated banking headlines in the past year: the disruption in the European Monetary System and the creation of a Single European Market for financial services.

In the latter half of 1992, the Irish pound experienced great difficulty within the European Exchange Rate Mechanism. Following the withdrawal of the British pound sterling from the mechanism in September, the Irish pound came under attack from speculators. These attacks intensified in November and December 1992. The turmoil in the money markets was reflected in record levels of retail interest rates. High interest rates combined with a ten percent appreciation in the value of the Irish pound vis-a-vis the British pound

CLINTON LIBRARY PHOTOCOPY

sterling profoundly affected the competitive position of Irish exports to the U.K., one of Ireland's principal export markets. Despite the Government's determination to resist speculators, a ten percent devaluation occurred at the end of January 1993. The realignment brought relief and a subsequent restoration of confidence, which has seen interest rates fall to levels that are now the lowest pertaining for some years.

In preparation for a Single European Market for financial services, the Government brought regulations into force on January 1, 1993 to implement the Second Banking Directive and the European Community Directive on the Supervision of Credit Institutions on a Consolidated Basis. Furthermore, the Central Bank of Ireland lifted remaining exchange controls on January 1, 1993. The Government simultaneously introduced new low tax savings accounts for individuals to counter possible outflows of depositor funds to other EC jurisdictions. These accounts attract a ten percent rate of deposit interest retention tax in contrast to a rate of 27 percent which prevails on all other deposit accounts. The banking industry views these new accounts as essential to preserving the existing deposit base and to reducing the market's reliance on non-resident deposits.

Arising from the implementation of the Second Banking Directive, which establishes the principle of the single banking license and gives freedom of establishment within the EC on the basis of home country control, the Central Bank's licensing and supervisory role changed on January 1, 1993. The Bank continues to be the licensing authority for credit institutions incorporated in Ireland and for branches in Ireland of non-EC credit institutions. However, it no longer has any role in licensing or authorizing the establishment of branches of credit institutions incorporated in other member States; such credit institutions are now the responsibility of the home country supervisory authority. The host supervisory authority only retains a limited supervisory function, confined to the surveillance of liquidity and market risk.

In 1993, the Central Bank, which is responsible for the supervision of credit institutions (licensed banks, building societies, and the trustee savings banks) also assumed supervisory responsibility for two state banks, the ACC Bank and the ICC Bank. The Central Bank's criteria relating to the licensing of credit institutions is published and principally concerns ownership, risk management and capital structure.

Government measures expected before the end of 1993 include legislation to implement EC Directives on Money Laundering and Consumer Credit, and legislation to give authority to the Central Bank to supervise stockbrokers and the Stock Exchange in Ireland. In December 1992, the Government announced its decision to assign responsibility for the prudential supervision of investment intermediaries, which are presently unregulated, to the Central Bank. The implementing legislation is expected to incorporate the provisions of the EC Investment Services Directive and the Capital Adequacy Directive for investment firms.

CLINTON LIBRARY PHOTOCOPY

XXIV. ITALY

Analysis of the structural condition of the Italian financial sector sheds light not only on its well-known weaknesses, but also on strengths that can prove advantageous in the current phase of the business cycle.

The reluctance of intermediaries to transmit expansionary monetary policy impulses to lending and of borrowers to take on further debt in order to increase their spending capacity have appreciably undermined the countercyclical action of monetary policy.

Borrowers in Italy, especially households, increased their use of credit during the eighties, but maintained a lower level of indebtedness than that found in other industrial countries. The banking system, for its part, not only considerably strengthened its capital base, but also, at its own initiative and because of regulatory constraints, exercised great prudence in expanding its lending to sectors such as real estate, which in Italy as elsewhere long held out illusory promises of unlimited gains. The banking system thus faces the difficult challenge of the recession from a position of strength, not weakness. In addition, it can contribute to managing corporate crises with a greater degree of freedom than in the past, thanks to the provisions of the law implementing the Second Banking Directive.

Last year, after the suspension of intervention to defend the lira's parity in the EMS Exchange Rate Mechanism, the Bank of Italy pursued a monetary policy designed to avoid fueling inflation while steering interest rates down from the peaks recorded in September to levels more consistent with the depreciation of the currency and the slowdown in economic activity.

To signal its intent of maintaining a stance that would not accommodate upward pressures on prices, in September the Bank announced that the target for monetary expansion for 1993 would be the same as that set for 1992 (5-7%) which was achieved. In October credit institutions were called on to keep growth in their lira lending within the limits laid down by the Central Bank as part of a five-month monitoring program (November 1992 - March 1993).

The difficulties of placing government securities that usually arise in countries with a large public debt result in interest rate expectations to be rapid and downward adjustments to be gradual.

The reduction in official rates from the emergency levels they had reached at the height of the currency crisis began in October 1992. After a first cut of half a point in the premium on fixed-term advances, the discount rate was lowered five times, so that on June 14th its level was fixed at 10%.

The promptness with which the banks reacted to the sizable increases in official rates last summer contrasts with their slower response to subsequent cuts in the discount rate. The

CLINTON LIBRARY PHOTOCOPY

deterioration in loan quality, which reflects the cyclical downturn, is a factor in the slow reduction in lending rates, whose downward stickiness is partly attributable to the worsening of customers' creditworthiness and the increase in non-performing loans. Between June and December the share of loans disbursed by banks at rates not exceeding the prime rate more than halved, falling from 38 to 16 percent. In addition, the overall cost of fund-raising has increased, as depositors have progressively shifted their funds from current accounts and savings deposits into certificates of deposits.

The rise in interest rates and the measures adopted in October to curb the growth in bank lending, and the economic downturn and deceleration in prices were reflected in a pronounced slowdown in bank loans and deposits in the closing months of the year.

The slowdown in lending by bank's domestic and foreign branches was most pronounced for lira loans. After picking up in August and September, the growth in such lending slowed in October and diminished further in November and December, when it grew less than provided for in the central bank monitoring program. For the year as a whole lira lending expanded by 4.8%, as against 14.5% in 1991. Adjusted for exchange rate movements, foreign currency lending grew by around 30 percent in November and December, compared with the last two months of 1991. This rapid growth may have been due not only to the substitution effects of the monitoring procedure but also to borrowers' diminished expectations of a depreciation of the lira, coupled with the relatively low cost of foreign currency borrowing. For the year as a whole and adjusted for exchange rate movements, the growth in foreign currency loans slightly outpaced that in lira loans. The overall growth in lending amounted to 8.2 percent.

The small increase in non-CD deposit rates during the period of rising interest rates was partly responsible for the slowdown in the annual rate of growth of deposits from 8.5 percent in 1991 to 3 percent last year, on the basis of average monthly data; current accounts fell by 1.6 percent. The banks responded to the slowdown in deposits by raising the rates on CDs, which recorded twelve-month growth of more than 30 percent after the summer; on the basis of average monthly data, the share of CDs in total deposits rose from 22 to 27.8 percent in the year to December. Banks also made larger use of repo's with customers, which amounted to almost 54 trillion in the first eleven months of 1992, up from 46.1 trillion a year earlier.

XXV. JAPAN

Japan has continued to implement reforms to the Japanese financial system begun in 1992, and has taken action aimed at assuring the stability of the nation's financial system.

The Ministry of Finance announced in August 1992 its "Current Policy for Administration of the Financial Industry" aimed at assuring the stability of the nation's financial system. The policy goals are: (i) to stabilize stock prices by dissuading financial

CLINTON LIBRARY PHOTOCOPY

institutions from easily relying on gains from the sales of securities; (ii) to enhance the ability of financial institutions to cope with loan demand by expanding the means available to financial institutions to improve their capital base and by diversifing options for liquidating loan claims; and (iii) to deal with nonperforming assets by studying options for liquidating property as collateral on loans, creating an environment conducive to writing off bad debt and enhancing disclosure.

In December 1992, the Ministry of Finance authorized banks to transfer loans to a trust to liquidate the loans to free up funds for additional credit demand and to assist in improving capital ratios. Loan liquidation could proceed according to either of two methods: (i) the direct method in which loan claims held by a financial institution are transferred directly to a trustee (trust bank); or (ii) the indirect method in which loan claims held by a financial institution are first transferred to another financial institution which in turn transfers them to a trustee (trust bank). The minimum amount of the beneficiary certificate is ¥100 million, and the sale of beneficiary certificates is limited to financial institutions and institutional investors. The trustee would be responsible for marketing loans transferred to it, while the transferring bank may assist by introducing prospective investors to the trustee of the trust.

The "Cooperative Credit Purchasing Company" was established with capital of ¥7,925 million in January 1993 to purchase troubled loans collateralized by real estate, to promote the sale of such real estate, and to provide information on real estate transactions. The 162 institutions which have subscribed to the capital of the company are able to realize losses on non-performing loans secured by real estate by selling such loans to the company. It also enables them to accelerate write-offs of bad loans with corresponding tax benefits. This enhances the quality of the assets of the financial institutions and improves their ability to cope with demand for credit. The new organization started buying bad debts in March. As of the end of May, cumulative loan purchases totaled 239 loans, with a total face value of ¥691.8 billion. The aggregate purchase price was ¥458.8 billion.

The Federation of Bankers Associations of Japan revised its disclosure standards in March 1993 to require all banks to disclose the total amount of loans outstanding to bankrupt borrowers starting with March 1993 results. In addition, city banks, long-term credit banks, and trust banks are required to disclose the amount of loans on which interest payments are in arrears. At the same time, disclosure of information on the market value of securities was made mandatory for all banks. Similar standards apply to life and non-life insurance companies.

In February 1993, the Ministry of Finance called on banks to raise capital through issuances of perpetual subordinated bonds or preferred stock. In March, for the first time, a Japanese bank issued Euroyen-denominated perpetual subordinated bonds through its overseas subsidiary, and another Japanese bank issued Euroyen-denominated convertible perpetual subordinated bonds.

CLINTON LIBRARY PHOTOCOPY

In March 1993, the Zengin Data Telecommunications System (the "Zengin System"), which handles domestic funds transfer among banks, began same-day inter-bank settlement. The improvement was established to address systemic risk in the payments system, and to harmonize inter-bank settlement with customer settlements which are already effected on a real-time basis.

On December 15, 1992, the Ministry of Finance and the Ministry of Posts and Telecommunications reached an agreement on the deregulation of interest rates on the Teigaku Deposit Certificate (a major fund raising instrument at post offices). The ministries agreed that the interest rate on the Teigaku Deposit Certificate would be set by considering: (i) the coupon rate of 10-year Japanese government bonds and (ii) the general interest rate trends on deposits at private financial institutions. The ministries also agreed that the prevention of a significant shift of the household sector's assets between private and public institutions should also be a consideration in setting interest rates.

On June 21, 1993, time deposit rates were completely deregulated with the abolition of the minimum deposit requirement of ¥3 million for the deregulated "Super" time deposit. With the deregulation of time deposits irrespective of the deposit amount, the money market linked time deposit was discontinued. Further action deregulating deposit products is expected to include: (i) the introduction by October 1993 of a floating rate time deposit with maturities of up to three years and a fixed rate time deposit with maturities of up to four years, (ii) the revision of product characteristics of savings deposits during 1993, and (iii) the deregulation of deposit interest rates on deposits other than time deposits (excluding the current account) by the end of 1994.

On July 20, 1992, in connection with the revised Securities and Exchange Law, the Securities and Exchange Surveillance Commission was established within the Ministry of Finance. The primary objective of the Surveillance Commission is to supervise compliance with market rules by participants in order to assure fair transactions and restore investors' confidence in the market. The Surveillance Commission is authorized to conduct on-site inspections of securities companies, including compulsory investigations when there is a suspicion of insider trading.

On August 1, 1992, the eligibility standards for issuance of foreign bonds were eased to eliminate the net assets requirement. Any resident with a minimum credit rating of "A" may issue straight or warrant bonds without a bank guarantee in foreign markets, and any non-resident private corporation with a minimum credit rating of "BBB" may offer convertible bonds for public subscription in Japan.

Effective April 1, 1993, the Ministry of Finance revised the eligibility standards for issuing straight bonds, convertible bonds, and warrant bonds. The minimum credit rating standard for issuing unsecured corporate bonds has been lowered from "A or higher" to

CLINTON LIBRARY PHOTOCOPY

"BBB or higher." Issuances of straight or warrant bonds with a credit rating of "A" are no longer subject to a requirement that the total outstanding balance of liabilities secured by mortgages be less than 50% of the net asset value.

Also on April 1, 1993, the Ministry of Finance introduced a program to abolish, over a five year transition period, the restrictions that had prevented overseas securities subsidiaries of Japanese banks from acting as lead underwriter for Japanese corporate bond issuances in overseas markets. The restrictions will be eased gradually during the transition period starting with small amount bond issues (less than ¥10 billion) and companies with net assets over ¥500 billion.

In October 1992, the Ministry of Finance licensed a total of 49 firms, including trading firms and leasing companies, to engage in the establishment and marketing of commodity funds in accordance with the "Commodity Fund Law" (law concerning businesses related to commodities investments, aiming at investor protection) which came into effect on April 20, 1992. Banks are exempt from the application of the Commodity Fund Law, since they are authorized to establish and market commodity funds as their ancillary business under the Banking Law. Commodity funds manage the money of investors through commodity futures such as precious metals, agricultural products, crude oil and other products, and distribute the profits back to the investors. The minimum investment amount is ¥100 million, and the minimum maturity period is 5 years (normally no redemptions are permitted for the first three years).

GLOBEX, an online futures and options trading system, started operations on June 25, 1992. The system was initially used for trading in Chicago, New York, London, and Paris. On February 8, 1993, the Ministry of Finance issued a directive concerning authorization of trading on non-Japanese financial futures markets through GLOBEX terminals. As of May 1993, four firms had installed GLOBEX terminals in Japan.

On July 14, 1992, Tokyo International Financial Futures Exchange ("TIFFE") listed one-year Euroyen interest rate futures. The three-month Euroyen futures contract had been traded on TIFFE since June 1989. The one-year Euroyen futures contract was added to expand the range of futures available for trading to cope with the increasing needs for futures contracts with varying maturities.

The Ministry of Finance has been advising banks since October 1990 to verify the identity of persons who open new accounts or transfer large sums of money. In addition, new money laundering laws came into effect on July 1, 1992. Among other things, these new laws: (i) require that financial institutions furnish the Ministry of Finance with information concerning suspicious transactions; (ii) criminalize the laundering of money derived from drug trafficking; (iii) enable confiscation of proceeds derived from drug trafficking; (iv) enable punishment, by Japanese law, of persons who commit drug-related crimes outside of Japan; (v) enable investigation through controlled delivery; and (vi) authorize measures to improve legal assistance among nations.

CLINTON LIBRARY PHOTOCOPY

XXVI. KOREA

Over the last year, Korea has made significant progress toward the deregulation of its financial sector, including the repeal or relaxation of many of the regulations imposed on the banking, securities and insurance industries. For example, (i) restrictions on the fees charged by banks and life insurance agencies have been lifted, (ii) the previous 10 percent limit on the total stockholdings of an individual investor in a firm has been rescinded, and (iii) both institutional investors and foreign exchange banks are now permitted to trade in stock index futures.

In addition to deregulation, Korea has launched sweeping financial reforms. On April 26, 1993, the Minister of Finance announced the plan for financial reform as part of the new economic five-year plan. The plan covers such issues as restructuring the financial industries, the monetary control system, and the supervision of financial institutions and liberalization of the financial market. Under the plan, the core business of each financial sector would continue to be protected from infringement by other sectors but institutions from other financial sectors could engage through affiliates in these secondary financial activities and more liberal rules will apply to entry into these secondary financial sectors.

Also included in the five-year plan is a preliminary timetable for the opening of a domestic capital market. Direct investment procedures for non-Koreans will be simplified so that investments can be made following notification to the Korean government; no prior government approval will be required. The number of sectors open to non-Korean direct investment will continue to expand over the next five years. The limits on total non-Korean investment in an individual company will also be increased as market conditions warrant.

Under the five-year plan, the monetary control system will be restructured from a direct control system to an indirect system using open market operations. The deposit insurance system which currently covers only nonbank financial institutions will be reviewed so as to provide coverage to bank deposits. The plan will also establish a new independent agency for the supervision of financial institutions that are not banks, securities firms or insurance companies.

The five-year plan envisions three implementation stages. During the second half of 1993, banks will be permitted to install automatic teller networks and to act as main managers in underwriting state and municipal bonds. Prepaid or debit cards will be introduced. In 1994 and 1995, laws governing financial futures transactions and electronic funds transfers will be adopted. During 1996 and 1997, banks and insurance companies will be permitted to sell state and municipal bonds on their premises. Also during this third stage, banks will be permitted to develop new products linked to financial futures and options. By the end of the five-year plan, Korea is expected to establish a market in stock index futures and a market in interest rate and currency futures.

CLINTON LIBRARY PHOTOCOPY

In July 1992, the Monetary Board issued a directive setting the capital requirements for financial institutions in Korea. According to the directive, during 1994 and 1995, all Korean banks, including their branches outside Korea, will be required to maintain an equity capital position (including loan loss provisions) of at least 7.25 percent of their total risk-adjusted assets. In 1996, Korean banks will be required to maintain equity capital of at least 8 percent of risk-adjusted assets.

XXVII. LUXEMBOURG

Luxembourg implemented the EC's Second Banking Directive and the Money Laundering Directive in its financial act of April 5, 1993 (the "1993 Financial Act"). The 1993 Financial Act contains three main parts that address: access to financial activities in Luxembourg; supervision of the financial sector; and professional duties.

The Luxembourg Monetary Institute ("LMI") is responsible for the supervision of credit institutions and strict regulations are provided by the 1993 Financial Act as well as by administrative directives or rules concerning the establishment and periodic filings of the balance sheet and the financial reports of the banks. Credit institutions, or banks, are considered to be institutions set up or established in the Grand-Duchy of Luxembourg, whose business consists of receiving deposits or other repayable funds from the public and granting credits for their account. The LMI exercises its supervisory duties by screening requests for a banking license, setting operating ratios, analyzing periodic reports submitted by the banks according to prescribed schedules (e.g., on the concentration of risks), inspecting each bank regularly, issuing directives and recommendations informally contacting the banking community and issuing injunctions.

The LMI may grant a license to open a credit institution only if it determines upon investigation that the required legal conditions have been fulfilled. Among other things, central administration of the credit institution must be located in Luxembourg and shareholdings in the bank must be transparent with any shareholder subject to prudential supervision by a competent authority.

All reports, long form reports, and written comments issued by an external auditor in the audit process are required to be communicated to the authorities. Further, the LMI may request external auditors to produce special reports on particular matters relating to the activities and development of a particular bank.

Credit institutions may hold shareholdings of greater than 10% in other companies only with prior authorization from the LMI. Shareholdings in nonbanks are strictly limited.

The 1993 Financial Act confirms 1990 legislation which entrusted the LMI with the supervision of financial sector professionals to monitor the good conduct of those who operate in the financial market. Financial sector professionals include financial advisors,

CLINTON LIBRARY PHOTOCOPY

brokers, portfolio managers, distributors of UCIs and custodians of securities. Like the banks, these professionals are subject to the control of the LMI and must appoint an external auditor. As of December 31, 1992, 61 such professionals had a license to operate in Luxembourg.

The LMI, with its circular 93/93, has implemented the EC's Own Funds and Solvency Ratio Directives. Accordingly, Luxembourg banks must maintain 8% risk-based capital. Banks must report their non-consolidated risk-based capital ratio monthly to the LMI and their consolidated ratio quarterly.

Pursuant to the 1993 Financial Act, credit institutions have three kinds of professional obligations. First, credit institutions are required to know their customer. This principle was introduced by a 1989 law and an LMI circular of the same year. This principle requires professionals to know the beneficial owners of any account. For customers without an account, an identification is needed for transactions exceeding LUF 500,000.

Second, credit institutions are required to co-operate with the competent authorities. In particular, professionals are required to inform the attorney general of all cases of drug money laundering of which they become aware.

Third, credit institutions must observe professional secrecy. The 1993 Financial Act confirms that banking secrecy is protected by Article 458 of the Penal Code. Article 458, which governs professional secrecy in general, states that persons who, by their functions or profession, come into possession of secrets entrusted to them, and who, except where they are called to testify in the courts of law and in cases where the law requires them to make secrets known, divulge such secrets shall be subject to a fine.

Since enactment of the 1993 Financial Act, the LMI also fulfills the ombudsman function. The LMI is competent to receive complaints from clients of persons subject to its supervision and to mediate with those persons, with the objective of settling these complaints on an amicable basis.

The Luxembourg stock exchange does not differ fundamentally from other stock exchanges in the EC, although it is characterized by its strong international orientation. Over 2,600 issuers from about 60 different countries constitute the official list. The Luxembourg stock exchange has developed rapidly in part because foreign securities represent 98% of all quotations, making Luxembourg the most important center of eurobond quotations. By the end of 1992, quotations were taking place in 22 foreign currencies and two composite currencies. Stocks and shares are quoted either in Luxembourg francs or in foreign currencies.

The stock exchange has set up over the last years a computer assisted trading system which will be extended to more securities.

CLINTON LIBRARY PHOTOCOPY

The bulk of transactions in eurobonds on the secondary market and on the equity market has always been concentrated in the hands of banks, a number of which have created an active over-the-counter market in bonds, where transactions are regulated by rules and recommendations of the Association of International Bond Dealers (AIBD).

Several nonbank brokers joined the banks operating on the floor and the benefit of their contribution is already apparent. At the end of 1992, the stock exchange counted 81 members: 68 banks and 13 brokers. From another point of view, the high involvement of the banks and the high standing of the principal brokerage houses mean there are no doubts as to the bona fide character of participants in transactions on the Luxembourg stock exchange. At the end of 1992, 7,048 bonds, 268 shares and 1,783 UCIs were quoted on the Luxembourg stock exchange.

XXVIII. MEXICO

During the past year, legislation was adopted granting increased supervisory authority to the Banking National Commission and the National Securities Commission (NSC) in order to increase supervision over Mexican financial institutions. By constitutional amendment, Banco de Mexico was given the independence to assure stability in prices and to avoid credit allocations.

In addition, amendments were adopted to the General Law of Organizations and Credit Assistant Activities, which deregulated many of the activities of financial intermediaries. General deposit warehouses are now permitted to extend credit to depositors, with general goods on deposit with the lender serving as collateral. Credit unions are now authorized to obtain loans from non-Mexican financial institutions on behalf of Mexican companies. Insurance companies may now act as trustee for trusts established upon the payment of benefits from insurance policies, while life insurance companies may act as trustee for trusts containing the proceeds of seniority bonuses, pension or retirement funds and life annuities.

Beginning in 1993, Mexican banking institutions are now required to meet the 8 percent risk-based capital requirement set forth in the Basle Accord.

The current loan-to-one-borrower limits for banks are 139 million new pesos to individuals and 1.67 billion new pesos to companies. These lending limits are determined by Banco de Mexico every six months.

Banking institutions are permitted to trade securities, both on an exchange and over-the-counter. In some cases, securities activities are conducted through subsidiaries.

Amendments to the Stock Market Law have been adopted which provide for the regulation of automated systems used by brokerage firms, stock exchange houses, mutual

CLINTON LIBRARY PHOTOCOPY

funds and their administrators. In addition, brokerage firms are now permitted to offer trustee services through linked business, and the boards of brokerage firms are granted wider operating discretion, although internal codes of conduct must be included in the firms' by-laws. The amended law provides greater penalties for the use of inside information in securities trades, regardless of whether gains were realized in the securities trades.

In addition, the amended Stock Market Law now requires shares issued offshore that are to be publicly offered in Mexico to be registered with the National Securities and Intermediaries Registration Office and to be approved by the NSC. In order to obtain approval, an issuer must establish that: (i) there will be sufficient distribution of the shares in order to avoid disrupting the market; (ii) the offering is of a sufficient size in relation to the size of the market and of the issuer; (iii) the issuer is solvent and liquid; (iv) the issuer will subject itself to the regulations of the NSC; (v) the issuer has provided sufficient information to the NSC, the stock exchange and the public regarding the offering; and (vi) the issuer will not manipulate the price of the shares issued or, without NSC permission, grant beneficial share prices to insiders.

Mexican brokerage firms are permitted to: (i) act as intermediaries in the stock market; (ii) maintain custody of customer securities, provided they are kept in segregated accounts; (iii) provide investment advice; (iv) manage retirement and pension funds; and (v) operate through the offices of credit institutions.

Although forward foreign exchange and options markets have not yet been established, brokerage firms and multiple banking institutions may enter into contracts with their customers to trade forward foreign exchange and options contracts in international markets. Operations on a financial futures market are expected to begin soon.

At the end of 1992, amendments to the laws governing mutual funds were adopted. Under the new laws, three kinds of mutual funds were authorized: debt instrument mutual funds, common mutual funds and capital mutual funds.

With respect to the operations of non-Mexican institutions in Mexico, branches of non-Mexican banks may be established in Mexico provided their operations are limited to the provision of services to customers residing abroad. Such branches are subject to regulations issued by the Finance Ministry and Banco de Mexico. In addition, non-Mexican persons may acquire shareholdings in Mexican companies up to 30 percent of the company's capital, provided the investment is in non-voting series C shares. Non-Mexican brokerage firms are not permitted to operate in Mexico.

CLINTON LIBRARY PHOTOCOPY

XXIX. THE NETHERLANDS

With the completion of the integration of the market for financial institutions, The Netherlands continued to conform its financial laws with the Second Banking Directive and other EC Directives.

In the area of prudential supervision, the revised Act on the Supervision of the Credit System came into force on January 1, 1993 thereby implementing into Dutch law the Second EC Banking Directive and the Directives on Own Funds and Solvency Ratio. As required by the Second Banking Directive, this law incorporates the principles of mutual recognition of supervisory authorities in other EC Member States, harmonization of prudential supervision (with home country control) and banking operations on the basis of a single license. The law also includes provisions regulating bank holdings in non-financial institutions and provisions authorizing the Dutch Central Bank to issue directions concerning the internal administration and management of Dutch banks.

The EC Directive on Consolidated Supervision, incorporated in the revised Act on the Supervision of the Credit System of 1993, did not result in an increase of supervisory requirements in The Netherlands. The implementation of the recent minimum standards of the Basle Committee is still under discussion between the Netherlands Bankers' Association and the Dutch Central Bank. The implementation of the EC Directive on Large Credit Exposures is also under discussion by the Netherlands Bankers' Association and the Dutch Central Bank .

In conformity with the EC Directive, the Law on Annual Report of Banks is effective. The Law changes reporting of the provision for general risks (hidden reserves). Banks will have the option of disclosing in their balance sheets a fund for general bank risks, or of creating a new provision by a regulated underdevaluation of certain assets. The latter option will probably be repealed as of 1998 after which banks will be required to disclose these provisions.

During the first half of 1993, the Ministry of Finance, the Dutch Central Bank and the Verzekeringskamer prepared a revision of the so-called "Protocol" in which the supervision of financial conglomerates (i.e., a financial group in which banking and insurance operations form a considerable part of the total operations) is set forth. To incorporate the revised Protocol into Dutch law, a bill will soon be presented to Parliament. To address double counting of capital within a conglomerate, the Protocol requires a combined test of capital. Supervisors will take into account the combined capital of the conglomerate in relation to the total sum of required own funds of both bank and insurance companies that are part of the conglomerate.

Effective June 1992, the Ministry of Finance has exempted banks from the license duty order. The Act on the Supervision of Securities Transfer applies to both securities traded on the Amsterdam Stock Exchange and on foreign exchanges.

CLINTON LIBRARY PHOTOCOPY

The Netherlands Bankers' Association has established investment transaction rules for bank managers. The rules, which have been developed in close consultation with the Dutch Central Bank, are designed to provide uniform standards to prevent abuse of inside information. The Dutch Central Bank has made these rules binding on credit institutions. In consultation with the central bank, the Netherlands Banker's Association is currently drafting similar rules for other bank personnel.

In October 1992, a new code of conduct governing the statutory provision of fiscal information came into effect. The code provides for the provision of information by banks about financial relations between the bank and its clients if required by the fiscal authorities.

A bill to prevent money laundering by requiring reports of unusual transactions was presented to Parliament. The bill requires the reporting party to assess, on the basis of "indicators" specified by the public authorities, whether a transaction should be reported as "unusual".

The proposed bill on the right to attach goods and chattels found on the premises has encountered broad parliamentary opposition according to the interim report of the Standing Parliamentary Commission for Justice. Parliament has asked for further information on the justification for the bill, the financial interest of the tax authorities and the EC aspect, among other things.

XXX. NEW ZEALAND

Before 1984, the New Zealand banking sector was divided into distinct sectors. For example, commercial or "trading" banks were prohibited from offering certain financial services, notably household savings and investment. The Government exercised its monetary policy through a system of Reserve Asset Ratios, exchange controls and interest on deposit regulations. The various institutions were required to hold different proportions of their assets in the form of government securities, with the prime focus being on the trading banks whose activities were tightly controlled.

Beginning in 1984, the Reserve Asset Ratio requirements and interest rate and foreign exchange controls were dismantled in a series of steps. Since April 1, 1987 when the Reserve Bank of New Zealand Amendment Act 1986 came into force, there have been only two categories of financial institutions: registered banks and nonbank financial institutions.

A bank must meet certain criteria to become registered with the Reserve Bank of New Zealand and be permitted to use the word 'bank' in its name. Domestic and foreign applicants must satisfy certain criteria with respect to capital (minimum of $NZ30 million of which at least $NZ15 million must be paid up) and proven standing and expertise in financial markets. Upon registration, banks are subject to ongoing prudential supervision. This supervision entails fulfillment of minimum quantitative requirements in the areas of capital

CLINTON LIBRARY PHOTOCOPY

adequacy, individual borrower exposures, open positions in foreign exchange, and exposures to borrowers connected to the bank.

Currently, a branch of a foreign bank is exempt from these requirements on the assumption that the parent is satisfying similar regulatory requirements imposed in its home country. There are no restrictions on the entry of foreign banks into the New Zealand banking system, subject to their meeting the criteria for bank registration. At December 1992, there were 20 registered banks operating in New Zealand. Of these banks, seven were registered as branches of overseas banks.

The Reserve Bank of New Zealand is reconsidering its supervisory role. Banks currently report directly to the Reserve Bank. However, because 18 of New Zealand's 20 banks are foreign-owned, it is considered that the health of the foreign parent bank is probably more relevant than supervision in New Zealand. The proposed new regime would place the onus on disclosure and market pressure. Banks would be required to report quarterly according to a new bank accounting standard and have their accounts audited every six months. The Reserve Bank would retain a crisis management role.

Banks still would be required to adhere to minimum capital requirements, following the framework developed for international application by the Basle Committee on Banking Supervision. A bank's exposures are divided into broad categories of risk: government, other public sector, mortgage-backed and private sector. These categories are weighted from zero to 100 percent, depending on the degree of risk of default. A bank's tier one or core capital must be no less than four percent of its total risk-weighted exposures and its total capital (core capital plus supplementary capital) must be no less than eight percent (since end 1992). Aggregate banking system capital adequacy has been above minimum requirements since the introduction of Basle-based reporting in 1989. The core capital and total capital ratios for the industry were 6.8 percent and 9.9 percent respectively at December 1992.

Currently, specific exposure limits apply in two areas of risk concentration: large credit exposures to single borrowers and large foreign exchange open positions. A "single borrower" large exposure limit has been set at the equivalent of 35 percent of a bank's capital. A bank's foreign currency liabilities are not allowed to exceed its foreign currency assets by more than 40 percent of the bank's capital. These rules would be dropped under the proposed new supervision regime.

Banks in New Zealand offer a wide range of products and services, including the offering of securities, futures and commodities products, insurance and investment services, superannuation, financial planning, travel and real estate.

Another feature of the deregulation of the finance sector during the mid-1980's was the removal of the tax deductibility of life assurance contributions. The added attractiveness of this form of investment had meant that, prior to deregulation, half the adult population of New Zealand had some form of life assurance. With the removal of tax advantages, other

CLINTON LIBRARY PHOTOCOPY

financial institutions, such as banks, became free to compete on an equal basis for longer-term savings. Due to this circumstance and the performance of some company portfolios since 1987 there has been some decline in the fortunes of the insurance sector. In addition, banks have an advantage over the life insurance industry in the marketing of superannuation products because they are able to use their extensive branch networks and forgo the agent commission fees payable to the life offices' large network of agents.

During 1992, the New Zealand Bankers' Association introduced two related self-regulatory measures. In March 1992, a Code of Banking Practice came into force, establishing minimum standards of practice to be observed by banks in their dealings with customers and covering the responsibilities of banks and their customers (including the protection of customer information), the use of EFT cards, and guidelines for customer complaint procedures. The Code is linked to an independent external complaints review process, the Banking Ombudsman scheme, which became operational in July 1992. The Banking Ombudsman is empowered to rule on complaints, which have been considered by the internal complaints procedures of banks but remain in dispute, involving claims of not more than $NZ100,000 related to the banking services and products of participating banks. All 15 current members of the New Zealand Bankers' Association have endorsed the Code and participate in the Banking Ombudsman scheme.

New Zealand continues to experience one of the lowest rates of inflation among OECD nations - one percent at March 1993 - largely as a result of the greater independence granted to its central bank in 1989. The statutory scheme now controlling New Zealand's Reserve Bank requires its governor to meet a pre-determined inflation target or risk losing his job. Interest rates have, accordingly, continued to fall over the past several years, with base lending rates sliding from a high of 20 percent in April 1987 to current levels of 10.4 percent at May 1993.

The banking industry is returning to profitability after a brief period of soft returns following rapid trans-market liberalization in the mid- to late-1980s. More flexible labor laws and improving export markets have contributed to the country's overall economic recovery, with gross domestic product predicted to expand by 2.9 percent in the year ending March 1994.

XXXI. NIGERIA

The Central Bank of Nigeria Decree 24 of 1991, which repealed the earlier Central Bank of Nigeria Act of 1958, considerably strengthened the powers of the Central Bank as the agency of government responsible for maintaining monetary stability and a sound financial system in the country. The Decree facilitated the use of market-based instruments for monetary control and strengthened and expanded the Central Bank's powers to obtain information from economic agents and issue directives to financial institutions to include all

CLINTON LIBRARY PHOTOCOPY

the major financial institutions in the economy. The Decree also substantially reduced the size of advances that the Central Bank may grant to the Federal Government in any year.

The Banks and Other Financial Institutions Decree 25 of 1991, which replaced the Banking Decree of 1969 as amended, aimed at promoting a more stable monetary and credit system, making the banking and other financial services industry more efficient and sound, and establishing a firm basis for financial sector development in a deregulated environment. The decree: (i) centralizes the functions of bank licensing, regulation, and supervision in the Central Bank and clearly defines authority for appropriate actions to ensure efficient and prudent operation; (ii) overcomes the rigidity inherent in several provisions of the earlier law by allowing for changes without recourse to new legislation; (iii) greatly strengthens the regulatory powers of the Central Bank with respect to matters such as the keeping of proper books of account by institutions, the control of ailing institutions, and the processes for winding up failed institutions; (iv) stipulates and details the duties and responsibilities of bank directors as well as those of external auditors of banks and provides increased security for such external auditors; (v) substantially clarifies and enhances the enforcement powers of the Central Bank with regards to its directives arising from the routine examination of banks; (vi) contains conflict-of-interest provisions designed to deal in a comprehensive manner with various kinds of insider abuse; and (vii) brings under regulation, for the first time, various operators in the financial system whose impact on the economy has become increasingly significant.

The Central Bank of Nigeria in 1990 introduced the concept of risk-based capital requirements as recommended by the Basle Committee on Banking Supervision. This step was taken to improve the capital base of banks through engendering a more professional approach to bank lending and provisioning for non-performing credits. This reform followed: (i) the rapid expansion in the banking industry and the heightened risk of failure; (ii) the problems of liquidity or insolvency in some institutions; and (iii) the significant amounts of problem loans in the industry as a whole. The minimum regulatory requirement of total capital to risk-adjusted assets for commercial and merchant banks was raised in January 1992 from 7.25% to 8.0%. At least 50% of a banks' capital must comprise primary capital, defined as paid-up capital reserves. In addition, each bank must maintain a ratio of not less than one to ten between adjusted capital funds and its total credit.

The equity capital requirement of commercial and merchant banks has also been raised in order to consolidate the capital base, ensure solvency, and discourage rampant application for bank licenses. The equity capital requirements were raised in 1992 from 20 million naira for commercial banks and 12 million naira for merchant banks to 50 million naira and 40 million naira, respectively. In addition, effective September 1992, the minimum cash reserve requirement for commercial and merchant banks was raised from 3.0% of their total deposit liabilities at the end of each month to 6.0% to be maintained on a daily average basis. The minimum liquidity ratio for both categories of banks was retained at 30%, but treasury bills and certificates were required to constitute not less than 20 percentage points of the ratio. This was reduced to 10 percentage points in June 1993.

CLINTON LIBRARY PHOTOCOPY

Since the establishment in 1989 of the Nigerian Deposit Insurance Corporation, the deposits of the customers of all commercial and merchant banks are insured to a maximum of 50,000 naira.

The general direction of monetary policy has been to create an environment which is conducive for a change over to the use of market-based instruments of monetary control beginning in 1992. However, the direct control of monetary and credit aggregates continues. During 1992, the framework for use of Open Market Operations ("OMO"), an indirect approach of monetary control, was laid. OMO is a market-based approach which will finally phase out the use of non-market based stabilization securities currently used by the monetary authorities.

The Central Bank has continued to limit banks' total credit to the domestic economy. The government has strived to stimulate growth in the non-oil sectors by according priority to agriculture and industry in the allocation of bank credit. Sectoral distribution of commercial and merchant banks' credits in 1992 remained at their 1991 levels. Specifically, both commercial and merchant banks were assigned a 50% sectoral allocation for credit advances to the high priority sector. Within the high priority sector: (i) agricultural production had a sectoral allocation for commercial and merchant banks of 15% and 10%, respectively; and (ii) manufacturing enterprises had a sectoral allocation for commercial and merchant banks of 30% and 40%, respectively.

The minimum share of medium and long-term credit with maturity of not less than 3 years remained at 20% of their total credit and the share of short-term credit remained at a maximum of 20%. Commercial banks' rural lending as a proportion of deposits mobilized in rural communities in 1992 was maintained at 50%. Such credit was to be granted exclusively to finance economic activities based in the rural areas. A requirement that commercial and merchant banks allocate a minimum of 20% of their total credit outstanding to small-scale enterprises was retained. With respect to interest rate policy, the ceiling on bank lending rates was removed in 1992, but banks were required to observe a maximum spread of 5% between their average cost of funds and their maximum lending rates.

The Bureaux-de-change was introduced in 1989 to enlarge the scope of the official foreign exchange market and thus discourage informal market transactions in foreign exchange. Objectives of the bureaux-de-change include: (i) to accord legal recognition to small dealers in foreign exchange thereby further liberalizing the foreign exchange market; (ii) to provide free access to foreign exchange by small buyers in a convenient and informal manner, thereby decongesting the banks; (iii) to enhance efficiency in macro-economic management through more adequate statistical coverage of foreign exchange flows; and (iv) to improve fiscal efficiency by imposing a maximum spread of 2% on buying and selling rates, over and above the cost of funds.

CLINTON LIBRARY PHOTOCOPY

XXXII. NORWAY

Last year, Norway continued to harmonize the regulation of its financial services market with developments in the EC.

In June 1992, the regulations on capital measurement and capital standards for Norwegian banks and credit institutions were revised. General provisions are permitted to be included in core capital. Furthermore, until the end of 1993 non-specific loan loss provisions may be included in total capital. Following year end 1993, a phase-out period for the inclusion of non-specific loan loss provisions has been established to permit the inclusion of 2/3 of such provisions in 1994, 1/3 in 1995, and none in 1996 and thereafter.

In 1993 the regulations on foreign holdings in Norwegian banks and credit institutions were amended. Foreigners may hold up to 33 1/3 percent of the share capital in Norwegian banks and credit institutions. The previous limit on foreign holdings was 10 percent of the share capital. By January 1, 1995, the limitation on foreign holdings in Norwegian banks and credit institutions will be entirely removed.

XXXIII. PAKISTAN

Pakistan has continued its policy of privatization and liberalization of the banking system begun in 1991. The process has been accompanied by significant restructuring and reform aimed at ensuring a greater role for market forces and private sector dynamism while strengthening the regulatory system. Important developments in the banking sector due to recent banking reforms are briefly discussed below.

The comprehensive system of prudential regulations including lending guidelines, provisioning rules and capital adequacy requirements which was introduced in 1991 has been in force from July 1992.

Detailed allocative credit planning by the State Bank of Pakistan ("SBP") was replaced with a more flexible credit to deposit ratio, under which banks were allowed to extend credit up to 65 percent of their deposits. To control the resultant rapid increase in credit, the SBP utilized the liquidity ratio (LR) as a tool to check inflationary pressures in the economy. The LR was revised upward, first in August 1992 from 35 percent to 40 percent and again in December 1992 from 40 percent to 45 percent. As a result, banks can effectively lend no more than 55 percent of available funds. To further reform the credit allocation process, in September 1992 the separate allocation system for credit to public and private sectors was abolished and banks were allowed to lend freely to both public and private sector borrowers on commercial considerations alone.

For many years, the SBP has been providing refinance facilities against certain credits, including credit for exports. These facilities are being modified with a view to

CLINTON LIBRARY PHOTOCOPY

encouraging banks to use their own resources for such credits and minimize the inflationary impact of central bank refinancing.

The 1992-93 Federal Budget provided for progressive reduction in tax rates on bank profits. Beginning in 1992-93, the tax rate on bank profits will be progressively reduced from 66 percent to 50 percent by 1998-99. This reduction will strengthen the banking system by permitting the transfer of a larger portion of profits to reserves.

XXXIV. PANAMA

The Asociacion Bancaria de Panama has indicated that the information about Panama contained in the 1992 Annual Global Survey is up to date. There have been no significant changes in the last year to the regulatory structure for banking institutions in Panama.

XXXV. PERU

The Peruvian financial sector has been a major focus of the government's efforts to restructure the Peruvian economy. In 1991 and 1992, a number of laws were enacted to create a new framework for the development of financial institutions, focusing on banking, securities and pension fund issues.

The activities of Peruvian banks are regulated by the Superintendent of Banks and Insurance (the Superintendent) under the General Banking and Insurance Law of 1991 (the Banking Law). The Banking Law removed limits on product diversification and permits domestic institutions to provide universal banking services. The Banking Law also improves the Superintendent's supervision capabilities, sets more precise lending limits and requires savings and loan associations, cooperatives and other unregulated financial intermediaries to comply with the new rules by certain dates.

In 1992, legislation strengthening the authority and responsibilities of the Superintendent was enacted. In the last two years, the Superintendent has improved the quality of its supervision and has set stricter prudential guidelines with respect to: (i) loan portfolio classifications, (ii) rescheduling and refinancing of past due loans, (iii) loan provisions, (iv) limits on lending to related parties and to avoid concentration of credit risk, and (v) limits on foreign exchange exposure. Furthermore, in order to improve market transparency, the Superintendent requires institutions to adjust their financial statements for inflation, to publish detailed financial information on their operations weekly and to publish interest rates daily. Finally, the Banking Law establishes lending limits based on effective capital and limits on equity investments and real estate holdings. The Banking Law does permit banks to own directly general warehouses, brokerage houses and leasing companies. It does not, however, permit direct ownership of real estate companies, insurance companies or other banks.

CLINTON LIBRARY PHOTOCOPY

All banks are also subject to Central Bank regulation in matters related to the control of the money supply and supervision of the foreign exchange market. In 1991, all existing controls on the foreign exchange market were eliminated. Thus, foreign and domestic capital can now enter and exit the country without condition.

Minimum reserve requirements are set by the Banking Law at 6 percent for saving and time deposits and at 15 percent for current accounts. The Central Bank has set marginal reserve rates at 15 percent of deposits in domestic currency and 50 percent of dollar-denominated deposits.

The Banking Law establishes minimum capital requirements of approximately 9.8 million new soles (US$ 4.9 million), which is adjusted for inflation at the end of each year. Capital adequacy measures follow the spirit of the Basle Accord, with slight modifications. A bank's risk-weighted assets must not exceed 15 times its effective capital. Effective capital consists of paid-in capital, reserves, loan loss provisions, subordinated debt and accumulated earnings, less equity investments in subsidiaries.

The Peruvian Banking Law does not discriminate between domestic and foreign-owned banks, applying the same limits and capital requirements to both.

In 1991, a deposit insurance fund was established. The fund is managed by the Central Bank and is designed to protect only small depositors up to 6750 new soles (US$ 3375). This limit is adjusted for inflation on an annual basis. Banks must pay a 0.75 percent premium on insured deposits.

In the securities area, the 1991 Securities Market Law modernized securities trading in several respects: (i) it allowed more stockbrokers to trade on the Lima Stock Exchange; (ii) it required stockbrokers to form securities trading companies with a minimum capital of 570,000 new soles (US$ 285,000), adjusted for inflation; (iii) it liberalized brokerage fees in order to promote competition; (iv) it permitted the establishment of stock exchanges in addition to the Lima Stock Exchange; (v) it established a regulatory framework for the development of mutual funds; (vi) it provided additional protections for the rights of minority shareholders; and (vii) it improved disclosure requirements.

The Securities Market Law prohibits the use of inside information to obtain trading profits, punishable by fine and dismissal from the securities trading company. The government is making efforts to implement the law and improve capital market supervision.

In December 1992 the Law of Private Pension Funds was adopted to privatize the pension system. The system, modelled after the Chilean system, is based on personal capitalization funds managed by private companies. The Superintendency of Pension Fund Administrators supervises administration of the funds. In the short run, the new system will create an important demand for financial products, thus prompting the expansion of the capital market.

CLINTON LIBRARY PHOTOCOPY

XXXVI. POLAND

Until the end of 1988, the Polish banking system could be described as a "monobank" with 90 percent of the lending activity carried out by the National Bank of Poland ("NBP") which at the same time functioned as a central bank. Starting with the enactment of the Banking Law of December 31, 1988 ("1988 Banking Law"), Polish banks have been promoted from subordinate units of the state administration to independent commercial companies with an increasingly significant influence on the functioning and development of the economy. The 1988 Banking Law introduced a two-tier structure consisting of a central bank and commercial banks. Under the new structure, the functions and role of the NBP became more or less similar to the functions and role of central banks in developed market economies.

In 1989 the regional NBP branches were transformed into nine state-owned commercial banks headquartered in the largest Polish cities with networks of 30-40 branches located within their region. The majority of corporate and individual clients are still served by these regional banks, which have extended approximately 45 percent of the total credit due the Polish banking sector. By April 1992, more than 70 commercial banks had obtained licenses to conduct banking activities. In addition to private and state-owned banks, there are 1665 small cooperative banks in Poland. These banks have a well-developed banking network with 2700 cash desks. Until early 1990, all of the cooperative banks were affiliated with the BGZ. By the end of 1990, cooperative banks began to create their own regional banks to perform refinancing services and offer technical assistance separately from the BGZ. In addition to banks with Polish capital, the NBP and the Ministry of Finance have issued licenses for the opening of ten representative offices by non-Polish banks, eight licenses for the establishment of banks with non-Polish capital participation and two licenses to open branches of non-Polish banks.

To further develop the financial system, amendments to the 1988 Banking Law were drawn up and adopted by Parliament on April 7, 1992. The amendments generally provided for: (1) strengthening the supervisory role of the NBP; (2) improving the financial situation of banks by granting the NBP authority to determine, among other things, the standards of liquidity, solvency and capital coverage of assets, and the amount of total permissible risk; (3) regulating securities trading by banks; (4) strengthening requirements for the licensing of new banks (the capital requirements for a new bank were increased from PZL 20 billion to 70 billion, or from about US$1.5 million to $5.2 million); (5) limiting concentration of credits; and (6) preventing money laundering.

Several amendments reflected compromise among diverging interests. For instance, to prevent abuse by private owners of nonbank institutions while preserving competition, the Parliament decided to allow nonbank institutions to perform some banking services, subject to a licensing requirement as well as supervisory rules and penalties for performance of banking activities without a license. Another issue was whether the NBP should pay interest on the compulsory reserves maintained by commercial banks (which constitute a percentage

CLINTON LIBRARY PHOTOCOPY

of all deposits taken by a bank). The compromise adopted was that no interest would be paid through the end of June 1992, and that interest paid starting in July 1992 would be paid to the account of an Agricultural Restructuring Fund. Another controversial issue was bank confidentiality. Bank information about individuals' and companies' accounts could already be disclosed to a court and a prosecutor in connection with legal proceedings, but there was no provision concerning disclosure of account information to tax authorities. The final legislation provides that the Chief Board of Supervision and the General Inspectorate of Tax Supervision may request disclosure of bank information.

The above described amendments notwithstanding, in 1991 the NBP established a commission for the reform of the Polish banking system which was to draft a new set of banking laws, including laws on the state monetary system, the state central bank, credits, guarantees, and insurance of bank deposits.

Poland's present deposit-holders protection system covers only the 17 state-owned banks set up before 1989. The remaining more than 70 recently established banks are not covered. A scheme establishing the Towarzystwo Ubezpieczen Depozytowych (Deposit Insurance Company), the Polish equivalent to the FDIC in the United States, has been proposed, but the proposal has been criticized by the country's bankers. The main criticisms are the low ceiling of the proposed guarantee, PZL 35m ($2,600) per depositor, indexed to inflation, and the heavy cost of the scheme for the banks. Bankers are also objecting to the provision in the proposed scheme which provides for more efficient liquidation procedures only for banks covered by the scheme, as they would prefer to have uniform liquidation procedures established by statute for all banks.

Recently, the Ministry of Finance has transformed the state regional banks into joint stock companies owned by the Treasury, and appointed Supervisory Boards, consisting of specialists with an academic background, persons with international banking experience and representatives of private business. Steps towards privatization of two out of the nine state regional banks (Wielkopolski Bank Kredytowy in Poznan and Bank Slaskl in Katowice) have been taken and are expected to be completed in 1993. The Polish government plans to sell approximately 20 percent of its ownership of these banks to non-Polish financial institutions, 10 percent to bank employees, and 40 percent to Polish institutional and individual investors, while retaining approximately 30 percent. In addition, a "twinning program" has been established under which non-Polish financial institution partners are found to provide complete technical help for Polish banks.

A significant issue facing the state banks is the issue of credit risk. Under the guidance of the Ministry of Finance, the banks are considering addressing existing problem loans by liquidating collateral, swapping loans for equity, and for debtors that have reasonable prospects for the future, securitizing the loans. In addition, the Ministry of Finance intends to transfer some of the non-performing credits granted in the past to state enterprises to a newly established quasi-banking institution.

CLINTON LIBRARY PHOTOCOPY

The approximately 70 banks established since 1989 (mainly private) also face similar issues to those faced by the state-owned banks, particularly credit issues. In addition, they lack a branch network, and, as new institutions, generally have inexperienced staff. To date, government bodies have not been willing to provide similar assistance to the private banks.

The Polish banking system is upgrading its technology with TELBANK - a bank communication system network designed to effect non-cash transactions, electronic funds transfer, cash dispensing and credit card terminal processing. It will act as a central clearing house and an information management system. TELBANK also intends to link banks with the SWIFT network and news services such as Reuters.

XXXVII. PORTUGAL

During the past year, Portugal, like other EC countries, has continued its efforts to implement the EC directives affecting banks and other financial institutions. In addition, the process of privatizing nationalized banks has continued at a slower pace than expected.

The most significant development in Portugal's banking regulation over the past year concerns the adoption in December 1992 of a new Banking Law which endorses the principles of the Second Banking Directive. The Banking Law extends the definition of "credit institution" to several non-deposit-taking financial institutions and adopts the pattern of the universal bank rather than the specialized bank as was formerly the case. Furthermore, the Banking Law creates a deposit insurance scheme.

Portugal has also incorporated into its laws new prudential supervision rules on own funds and capital adequacy. As of the end of 1992, Portuguese banks will be required to meet the 8 percent risk-based capital requirements.

One of the most significant features of the changes in Portugal due to the upcoming integration of the European financial market has been the lessening of market controls. Under this liberalization process, effective December 1992 the remaining controls on movement of capital, including the constraints on making loans abroad, have been repealed. Moreover, the administrative controls on the interest rates banks may pay on demand and certain time deposits, and the interests rates banks charge for certain types of loans, have been lifted.

In the securities area, the Code of the Securities Market was adopted in 1991, which overhauled the securities regulatory framework in Portugal. Under the Code, the Lisbon and Porto stock exchanges have been privatized and are now managed by securities brokers and dealers.

CLINTON LIBRARY PHOTOCOPY

XXXVIII. SINGAPORE

In 1992-1993 the Singapore government continued to liberalize Singapore's financial system while at the same time maintaining prudence and discipline within the industry.

The Monetary Authority of Singapore (MAS) holds the view that high capital standards are necessary for prudential reasons. In its 1992 Annual Report, the MAS said that Singapore-incorporated banks would be statutorily required to maintain a minimum Tier 1 capital adequacy ratio of 12 percent (which is higher than the Basle Accord total risk-based capital adequacy ratio of 8 percent).

MAS also intends to lower the limit on bank loans to a single or a group of borrowers from 30 percent to 25 percent in order to be in line with Basle Accord recommendations.

Also on the subject of convergence with the Basle Committee on Banking Supervision minimum standards, the Finance Minister announced in August 1992 that measures would be implemented to provide for more effective consolidated supervision of overseas branches and subsidiaries of Singaporean financial institutions.

To further liberalize the financial sector and to enable the offshore banks to meet the S$ needs of their customers, the MAS raised the S$ resident loans limit for offshore banks from S$70 million to S$100 million on July 1, 1993. Furthermore, several fiscal incentives were extended in the 1993 Budget, namely, tax exemption for non-resident beneficiaries of trusts, tax exemption for interest paid by members of the RAS Commodity Exchange, and a 5-year extension of the tax holiday for the Singapore International Monetary Exchange (SIMEX) and the tax exemption scheme for syndicated offshore credit and underwriting facilities.

The MAS continues to maintain its overall stance of discouraging the internationalization of the S$. In a circular dated July 18, 1992, banks were informed that they must continue to consult the MAS before considering S$ credit facilities exceeding S$5 million to non-residents. Among the activities for which S$ lending would not be approved are financing of non-resident investment activities that are of a speculative nature or are viewed as having a potentially damaging effect on the Singaporean economy. Banks, however, are not required to consult the MAS on S$ credit facilities which are extended to non-residents for direct exports or imports into Singapore, issuance of performance bonds for economic activities in Singapore in favor of Singapore parties, guarantees of economic activities in Singapore, and the hedging by forward sales of S$ receipts from exports to Singapore.

With regard to the securities industry, one of the most significant developments was the launching of the Share Ownership CPF (Central Provident Fund) Top-Up Scheme which evolved from the Government's plan to double the proportion of share-owners to 30 percent

CLINTON LIBRARY PHOTOCOPY

of the 1.7 million adult Singaporeans. Under this new scheme, the government will contribute S$200 to each CPF account (of Singapore citizens aged 21 years and above) in September 1993, provided certain conditions are met.

To attract international investors, the Stock Exchange of Singapore (SES) extended its trading hours in 1992, starting half an hour earlier at 9:30 a.m. and ending an hour later at 5:00 p.m. Also, on August 21, 1992, the investment and underwriting limits of stockbroking firms were raised significantly in order to foster Singapore's capabilities as a center for trading and underwriting of regional share issues. For firms with adjusted net capital of more than S$50 million or more, the investment limits would be doubled to 300% of their adjusted net capital. At the same time, underwriting limits for securities approved for quotation on the SES or the main board of any recognized stock exchange would be raised from 10% to 100% for firms with adjust net capital below S$50 million and 150% for those with adjusted net capital of at least S$50 million.

The MAS also announced in March 1993 that brokers who are non-SES members will be allowed to trade directly in non-S$ securities listed or quoted on the SES, securities denominated in any currency which are issued by non-Singapore incorporated companies, and derivative products in respect of debentures, stocks and shares which are not issued by Singapore-incorporated companies listed on the SES.

Other progressive measures undertaken by the SES included the launching of stock options trading on March 8, 1993. There are currently four underlying counters on the stock options market and the SES aims to have at least six underlying counters by the end of 1993. Guidelines on share offerings were also modified to give more flexibility to investors and underwriters. To reduce the exposure of investors to market risks, the SES has decided to allow "when issued" trading for shares upon completion of a public offer.

With regard to SIMEX, the daily price limits on its popular Nikkei stock average futures contract were modified on September 16, 1992. The cooling-off period (when the first and final price limits are reached) was shortened to 15 minutes from 30 minutes. In addition, the price limits on this contract would be removed for the rest of the trading day after a final limit is hit and the cooling-off period lapses. To keep up with international demand, particularly of investors' growing interest in the region, SIMEX launched the Morgan Stanley Capital International Hongkong Index on March 31, 1993. On August 16, 1993, SIMEX announced plans to list Japanese government bond futures contracts in response to widespread demand by international investors to have such a contract traded on SIMEX.

The most significant regulatory development within the insurance industry was the implementation of various new insurance regulations in 1992. Under these regulations (which took effect from December 31, 1992), the company solvency margin was raised from S$1 million to S$5 million for insurers with only life or general business and from S$1.5 million to S$10 million for insurers with both classes of business. Also for the first time,

CLINTON LIBRARY PHOTOCOPY

life insurers were required to maintain a solvency margin for their domestic life business. General insurers' fund solvency margins were also raised. The MAS also ruled that effective April 1993, insurers must ensure minimum death benefits for single-premium policies.

XXXIX. SPAIN

By the beginning of 1993, Spain's banking law had incorporated the provisions of the EC's directives on own funds, solvency coefficients and major risks and stakes in non-financial institutions. Two bills to incorporate the Second Banking Directive and the EC directive on money laundering were considered by Parliament during the first half of 1993, but the bills were not passed before Parliament was dissolved and elections were called. It is expected that similar bills will be considered by the new Parliament immediately.

Spain is continuing to reduce the cash or liquidity ratio, which is currently set at 3 percent of the deposits of private customers, regardless of type of deposit. In addition, in February 1993 Spain reduced, from 2.5 percent to 1.5 percent of deposits, the required contributions to the Deposit Guarantee Fund.

In the area of consolidated supervision and capital adequacy of investment companies, Spain has adopted legislation incorporating criteria similiar to the EC directive on investment services. A May 1993 Royal Decree adopted rules of conduct and required reporting procedures for investment companies and banks which included, among other things, the IOSCO code of conduct.

With respect to insurance matters, the principle of supervision on a consolidated basis was established in 1992. The dissolution of Parliament also affected a bill that would have incorporated certain EC directives on insurance matters within Spanish law.

XL. SWEDEN

On November 19, 1992, the Riksbank abandoned the rate for krona pegged to the EC and allowed the krona to float. With a flexible exchange rate, the overriding monetary policy continues to be price stability. It is the Riksbank's ambition to return in time to a fixed exchange rate for the krona.

Regulatory attention over the last year in Sweden has been focused on assuring the stability of the banking system while implementing increased capital requirements and a restructuring of the savings bank and cooperative bank sectors. Aggregate results for the banks in 1991 and 1992 after loan losses were negative SEK -12bn, and SEK -49bn, respectively. Because the sector's foreseeable needs for new capital would exceed the capacity of the regular capital market, this trend was endangering the stability of the banks.

CLINTON LIBRARY PHOTOCOPY

Under these circumstances, in December 1992 Parliament approved extraordinary measures in the form of a plan for financial support from the State and a reconstruction of banks and their subsidiaries as well as of certain other State-affiliated credit institutions. To administer the support measures, a new institution, the Bank Support Authority, was set up under the Ministry of Finance.

By the end of 1992, banks and banking groups were required to meet new minimum capital requirements of 8 percent. Equivalent requirements apply to independent finance companies, mortgage institutions and securities trading companies.

A restructuring of the savings bank sector has also been underway. Since 1991, 11 regional savings banks have been transformed into limited banking companies. Together with the sector's former commercial bank, in late 1992 these banks were combined into Sparbanken Sverige AB. The sector also includes 90 independent savings banks.

In the cooperative bank sector there has likewise been a series of mergers at the regional level, resulting in a joint cooperative bank with an attendant local organization. Under amended laws, in 1992 this cooperative bank was transformed into a limited banking company, Foreningsbanken AB.

XLI. SWITZERLAND

In October 1992, in anticipation of Swiss participation in the European Economic Area (EEA), the Swiss parliament adopted a series of legislative revisions (the EUROLEX program), intended to incorporate European Community law as required by the EEA Accord. The EUROLEX program included a revision of the Swiss federal law on banks and savings banks of 1934. Ratification of the EEA Accord was largely supported by political and economic circles as well as by banks. Nevertheless, on December 6, 1992, the majority of Swiss voters (50.3 percent) and states rejected the EEA Accord.

In February 1993, the Federal Council unilaterally submitted to Parliament legislation designed to enact the EUROLEX program with minimal adaptations and increase the "euro-compatibility" of Swiss law in anticipation of bilateral negotiations with the EC, including a revision of the banking law. Currently, Parliament is examining these revisions. The Swiss Bankers Association welcomes the adaptation of Swiss banking legislation to EC standards, but insists that any amendments safeguard the traditional qualities of the Swiss Banking center.

The proposal now contains: (1) the possibility of Cantons delegating their supervisory powers over their Cantonal Banks to the Swiss Federal Banking Commission; (2) a new definition of "foreign dominance" for foreign banks, based exclusively on qualified holdings (in excess of ten percent); and (3) a legal basis for the exchange of information among international level supervisors exclusively for the purpose of assessing consolidated

CLINTON LIBRARY PHOTOCOPY

supervision of banking groups while preserving the confidentiality guarantees of private clients.

Swiss law does not provide for mandatory deposit insurance comparable to the United States. Nor have Swiss banks created a fund to protect deposits, as German banks did some years ago. The basic philosophy in Switzerland is not to see depositors' protection schemes in isolation. Although such schemes are remedial, priority has to be given to prophylactic measures. The banking industry should be kept sound and well-functioning in the first place. That means the State should exercise its legislative, supervisory and taxing powers with a sense of proportion and professional insight. Then, any depositors' protection scheme should not be overstrained. Depositors' protection in Switzerland follows a twofold base.

- The Federal Bankruptcy Code establishes a privilege for savings account holders up to SFr 10,000 per client (SFr 5,000 in the third and fourth class). The privilege provides that these accounts have to be fully paid before a dividend on any account or debt of a following (i.e., the fifth) class may be paid. Practically, these privileged accounts have always been fully honored (i.e., up to at least SFr 10,000 per client).

- Because of the need for liquidity in a bankruptcy proceeding, since 1984 the "Convention XVIII", a voluntary agreement among banks in Switzerland, provides for an advance of up to SFr 30,000 on savings and salaries accounts. In the case of the Spar + Leihkasse Thun (closed down in October 1991, and placed under receivership on January 1, 1993) it was possible to pay SFr 73,000,000 to clients within three months.

- As of July 1, 1993, the Convention XVIII will be replaced by a new "Agreement on the Depositors' Protection in Case of Forced Liquidation of a Bank". For the present time, this Agreement will change nothing from the clients' perspective. However, the system will be limited to a total possible advance of SFr one billion, to avoid forcing other banks in a general banking crisis to be liquidated by the sheer mechanism of solidarity.

Presumably within the next two or three years, an amendment to the Bankruptcy Code will, among other changes, extend the above-mentioned privilege to other categories of accounts, notably salaries, deposit and investment accounts, and bank-issued medium-term notes ("Kassenobligationen", "Bons de caisse"). At the same time, the privileged amount will be raised from SFr 10,000 to SFr 30,000 per client (which corresponds to the amount advanced under the Agreement).

In 1992, the Swiss Bankers Association decided to create a Banking Ombudsman, a purely private institution without any legal function. The General Assembly of the Swiss Bankers Association accepted a new rule in the Association's statutes endorsing the Banking Ombudsman for all member banks.

CLINTON LIBRARY PHOTOCOPY

The Ombudsman functions as part of a foundation, independent of the Swiss Bankers Association. The foundation board, composed of five independent persons representing consumers and the political and economic community, oversees the Ombudsman. The Chairman of the board is a former member of the Swiss Federal Government. The Ombudsman, an attorney and former member of the Swiss Federal Parliament, began his activities on April 1, 1993.

The Ombudsman, who receives banking customers' complaints relating to all kinds of bank services, can give advice or act as a mediator between a customer and a bank. Both parties are free to accept or refuse the Ombudsman's suggestions for settlement.

The Ombudsman's service is available to every individual customer and to companies in matters concerning private or business transactions. However, the Ombudsman has no power over a complaint when the subject of the complaint is already being dealt with by an authority (e.g., Court, Federal Banking Commission), where general legal or economic information is needed, when the complaint concerns a transaction with a foreign branch of a Swiss bank, or when the complaint concerns general questions regarding tariffs and fees.

In the last years, many mutual funds moved away from Switzerland because of its unsatisfactory legal conditions. In December 1992, the Federal Council submitted to parliament a proposal for a total revision of the Law on Mutual Funds. The main purpose of the law is to maintain investor protection. Investors will receive more information rights and a better legal position in administrative procedures. Foreign mutual funds, which until now have been regulated by a separate ordinance, are to be governed by the new law. A new category of EC compatible mutual funds will be created and new investment options (like derivatives) will be allowed. This should reestablish the attractiveness and competitiveness of the Swiss financial center in the field of mutual funds.

In March 1993, the Federal Council submitted to Parliament a proposal for a Federal law on Stock Exchanges and Securities Dealers. The bill goes back to a March 1991 draft which had been out for public comment. Until now, the stock exchanges were regulated only on the Canton level. The proposal is intended to protect investors and to ensure the functioning of the securities markets. It provides for a federal license for stock exchanges and securities dealers, with minimum requirements for capital adequacy, organization, dealers' skills, principles of business conduct and auditing. The Federal Bill also contains a regulatory framework for takeovers for companies with shares listed at a Swiss exchange.

This proposal may not offer enough room for self-regulation, as regulation by political authorities often fails when the market requests a flexible and timely response to new developments. The Federal Bill will also induce an in-depth examination of banking legislation, especially concerning capital requirements. These and many other issues will have to be resolved in the course of parliamentary committee work and debate. Given the

CLINTON LIBRARY PHOTOCOPY

complexities involved in the matter, this process might take more time than initially expected. Earlier it was believed that the new law would become effective as early as January 1995.

XLII. THAILAND

Over the past year, Thailand has continued its efforts to implement guidelines issued by the Basle Committee on Banking Supervision with respect to minimum capital adequacy standards and to liberalize the Thai financial markets. In fact, since the risk-based capital guidelines became effective on January 1, 1993, most Thai banks are well in compliance with mandated requirements.

In 1992, a U.S.-styled Securities Exchange Commission ("SEC") was established to oversee the growing equity and financial markets. In its initial six months of existence, the SEC, in conjunction with the Ministry of Finance and the Securities Exchange of Thailand, has implemented tough insider trading rules and clamped down on big-time stock speculators. The SEC's actions were criticized by certain politicians as creating a pronounced bearish trend in the local capital markets, but otherwise received praise for its efforts to better regulate the local equity market. Additionally, the SEC created new guidelines to refine procedures governing stock margin requirements.

Other significant developments in 1993 include: (1) the passage of legislation which permits the creation of International Banking Facilities in Thailand; (2) the granting of seven privately-owned mutual fund licenses; (3) the planned segregation of finance and securities licenses to advance further specialization of these two separate and distinctly different businesses; and (4) the proposed creation of an Export-Import Bank to further promote international trade.

On the first issue, the Thai Prime Minister in April 1993 announced the names of 47 foreign and local banks which received Bangkok International Banking Facility ("BIBF") licenses. The Government's long-term objective is to develop Bangkok into a regional financial center capable of vying with Hong Kong and Singapore. However, most observers believe that the near-term goal is for Thailand to better position itself as a financial center for Indochina and Burma, especially since the Thai government failed to eliminate certain withholding taxes on so-called "out-in" transactions (i.e., foreign currency loans to Thai domestic companies). By comparison, no withholding taxes apply to "out-out" transactions thereby making such transactions comparable with other financial centers for loans to borrowers domiciled outside Thailand. To date, although many of the local banks awarded licenses have established their BIBF units, very little incremental loan business has resulted.

Relative to the second issue, the creation of seven new mutual fund companies has created much more competition and professionalism in an industry formerly controlled by the Government mutual fund company. The new entities have been successful in mobilizing

CLINTON LIBRARY PHOTOCOPY

substantial investments primarily because they have outperformed the SET Index. Notably, most Thai investors had previously preferred to follow individual counters rather than use the mutual fund approach.

XLIII. UKRAINE

A new Ukrainian banking system continued to form and strengthen in 1992-93. In addition to state banks that finance the public sector of the economy, a "new wave" of banks (more than 170) aimed at financing commercial enterprises are being developed.

However, the development of the banking system is occurring under extremely unfavorable conditions. Difficulties to be addressed include enacting legislation for the privatization of the economy, reducing high rates of inflation and creating a stable monetary unit. Other hurdles include frequent changes in the forms of accounts presented to the National Bank of Ukraine, and the small numbers of qualified bank auditors and certified auditing organizations.

Commercial banks are prohibited from engaging directly in industrial and insurance activities. With regard to investments, the total sum of a commercial bank's investments in other enterprises or organizations cannot exceed 10 percent of the bank's own funds according to the April 26, 1993 Decree of the Cabinet of Ministers of Ukraine. Furthermore, commercial bank investment in any single other enterprise cannot exceed 15 percent of such enterprise's authorized capital. Investment in real estate by Ukrainian banks is limited to 10 percent of capital. In addition, regulations prohibit state enterprises from investing in commercial banks.

In 1993 the Central Bank increased deposit reserve requirements up to 30 to 35 percent and is not expected to pay interest on those reserves. The reserves are used by the National Bank of Ukraine for the formation of new credit lines for private banks.

Proposed legislation will introduce a mechanism for the regulation of interest rates by the National Bank of Ukraine.

Recent decrees of the National Bank of Ukraine are aimed at strict limitations on lending. The increase of credit by commercial banks is limited to 10 percent per month (compared to an inflation rate of 50 percent per month). Banks may use temporary free credit resources only with the agreement of the National Bank of Ukraine. Interbank credit is temporarily forbidden.

Notwithstanding these difficulties, efforts continue to increase the authorized funds of Ukrainian banks to bring them to the world standards of bank capital.

CLINTON LIBRARY PHOTOCOPY

XLIV. UNITED KINGDOM

The past year saw the implementation by the Bank of England of key EC directives in the financial services field, the publication of the conclusions of an official inquiry into the issues raised by the failure of BCCI, and the conduct of a wide-ranging review of investment regulation by the Securities and Investment Board (SIB).

Following passage of detailed regulations by Parliament at the end of 1992, the EC Second Banking Directive came into force in the UK on January 1, 1993. UK banks now enjoy the "passport" rights of the directive, subject to notification requirements for the initiation of branch or cross-border business. The Bank of England has relinquished most supervisory responsibilities for branches and subsidiaries of non-UK EC Banks.

Also implemented early in the new year was the EC Second Consolidated Supervision Directive which extends consolidation to include banks' EC-based parents and financial (other than insurance company) subsidiaries.

The Bank of England also published policy notices to allow verified profits to be included, per certain criteria, in either Tier I or Tier II capital and to set out the conditions under which holdings of mortgage-backed securities qualify for a 50% risk-weighting under the EC Solvency Ratio Directive (SRD). (The SRD, which parallels the Basle Accord risk-based capital requirements, was previously implemented in 1990.)

Work is in progress to implement a number of other EC measures which were approved last year, including the Large Exposures Directive (LED) and Capital Adequacy Directive (CAD). The LED will impose a 25% individual and 800% aggregate limit on exposures, subject to various exceptions and qualifications, and encompasses exposures from foreign exchange and interest rate contracts. The CAD establishes capital requirements for bank and securities firm market, counterparty and foreign exchange risks, as well as setting trading book large exposure limits and allowing limited use of Tier III capital. Consultations are currently underway on the related Basle Committee on Banking Supervision's proposals on market risk, interest rate risk and netting. The Bank of England has also recently published an interim study of the regulatory issues raised by the growth of derivatives markets.

In October 1992, the conclusions and recommendations of Lord Justice Bingham's official Parliamentary inquiry into the collapse of BCCI and its implications for UK banking supervision were published. The Government and Bank of England announced that they would accept the inquiry's recommendations in full. While there are no fundamental changes to supervisory policy, some important reforms are planned. Most notable is a new statutory duty on auditors to report to the Bank of England any information material to a bank's fulfillment of authorization requirements. Also, the Bank of England's in-house legal and investigative functions have been strengthened. In addition, the Bank agreed to the new minimum standards for the supervision of banking groups adopted by the Basle Committee on Banking Supervision, which were developed in the light of BCCI.

CLINTON LIBRARY PHOTOCOPY

Turning to investment regulatory issues, the Chairman of the Securities and Investments Board in May 1993 completed a wide ranging review of investment regulation in the UK. His report, delivered to the Chancellor of the Exchequer, calls for the retention of the current two-tier regulatory system. However, in response in part to industry criticism, the Board intends to reduce its direct regulation of firms and concentrate on standard-setting and enforcement, leaving day-to-day regulation and supervision to the self regulatory organizations (SROs). The report comes amid efforts to establish a new SRO for the retail sector, the Personal Investment Authority. Debate is continuing on the appropriate standards for membership of this new entity.

Other investment regulation developments during the past year include the introduction of legislation, soon to complete its passage through Parliament, to implement the EC Directives on Insider Dealing and Disclosure of Major Shareholdings.

XLV. UNITED STATES

Following the adoption of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), the U.S. Congress did not consider any major banking legislation in 1992. In fact, Congress has been unable to reach agreement to authorize sufficient funding for the Resolution Trust Corporation to permit it to fulfill its legal mandate of liquidating failed savings and loan associations and paying off federally insured depositors.

There have been numerous Congressional hearings on various bills to permit U.S. banks to branch interstate, and there is some prospect that interstate legislation may be passed in 1994. While most of the proposals provide international banks with national treatment, there is some concern about one bill in the Senate which does not. This proposal, which is the same as a bill which passed the Senate in 1991, repeals the federal prohibition in the McFadden Act that prevents interstate branching by domestic banks but does not repeal the federal prohibition in the International Banking Act of 1978 that prevents interstate branching by international banks.

During the past year, however, the federal bank regulatory agencies were active in developing and adopting regulations to implement the significant bank regulatory provisions of FDICIA, including important changes in the regulation and supervision of international banks operating in the U.S. mandated by the Foreign Bank Supervision Enhancement Act of 1991 (FBSEA). Among the new supervisory requirements of FDICIA are regulations: (i) requiring federal bank regulatory authorities to take increasingly stringent, prompt corrective action within statutory timeframes to address supervisory concerns at individual institutions if the capital level of a federally insured U.S. bank falls below prescribed minimum levels; (ii) requiring federally insured U.S. banks with assets over $500 million to provide federal regulators not only with audited financial statements prepared by "qualified" independent accountants but also with certified management reports on internal controls and compliance with banking laws and to establish independent audit committees of the Board of Directors;

CLINTON LIBRARY PHOTOCOPY

(iii) requiring all federally insured U.S. banks to comply with mandated operational and managerial standards, covering among other things internal controls and audit systems, credit underwriting, asset quality and earning standards as well as compensation and benefit plans; (iv) requiring all federally insured U.S. banks to adopt limits on interbank exposure; (v) implementing a risk-based deposit insurance system; and (vi) limiting the activities of state-licensed banks (including branches and agencies of international banks) to those permissible for national banks (federally licensed branches in the case of state-licensed branches and agencies).

As the full impact of the regulatory scheme Congress had established became apparent, many in the U.S. banking industry as well as in the U.S. regulatory agencies criticized FDICIA as micromanagement of the banking industry which imposed significant regulatory burdens and operational inefficiencies with limited direct benefits. In response, in 1993 the domestic banking industry began a major legislative campaign for regulatory burden relief in addition to its on-going efforts to achieve financial modernization legislation which would expand permissible activities and permit nationwide branching to banks operating in the U.S. The new Clinton administration has indicated that it will be considering legislation to modernize the U.S. financial services industry but has not at this early stage submitted any detailed plan or legislation. In June, the President did outline his proposal to promote lending in low and moderate income areas through federal financing of community development institutions and through improving the tangible benefits derived from the Community Reinvestment Act.

In December 1992, the Department of the Treasury and the Federal Reserve Board issued to Congress their year-long study on whether international banks should be required to conduct their banking operations in the United States through subsidiaries rather than branches. The joint study concluded that such a requirement was "neither necessary nor desirable" and reaffirmed the longstanding U.S. policy that international banks should be able to operate in the U.S. through branches and agencies. The study recognized that this policy benefits the United States because it allows the banks to rely on their global capital strength to support their U.S. operations, thereby providing depth and liquidity to the U.S. markets.

Under FBSEA, there are new regulatory requirements for international banks operating in the U.S. In January 1993, the Federal Reserve adopted final regulations implementing the requirement that international banks obtain prior approval from the Federal Reserve before establishing any new office, including a representative office, in the U.S. An international bank seeking to establish an office or expand its existing operations in the U.S. must now demonstrate in its application that, among other things, it is subject to comprehensive supervision on a consolidated basis by its home country authorities and that it is able to provide the Federal Reserve with the information necessary to ensure compliance with U.S. laws. In order to determine whether this latter standard has been met, the Federal Reserve requires information on the secrecy laws of all the jurisdictions in which the bank's operations comprise five percent or more of the consolidated assets of the bank or its parent.

CLINTON LIBRARY PHOTOCOPY

These requirements are similar to the minimum standards adopted by the Basle Committee on Banking Supervision. For international banks already operating in the U.S. that are not subject to comprehensive supervision on a consolidated basis, the Federal Reserve is developing criteria to be used in evaluating the operation of such international banks, but it has not yet published its proposal.

While implementation of these requirements of FBSEA did result in extended delays in processing applications for new offices (which were exacerbated by extensive background checks on key members of the bank's U.S. and head office management), the Federal Reserve announced in March 1993 new procedures designed to expedite the review of such applications. As of July 1993, the Federal Reserve had approved six applications by international banks (four from Taiwan, one from Spain and one from Switzerland whose parent comes from the UK) to establish branches or agencies in the United States. In addition, the FRB has approved four applications by international banks (from France, South Korea, Taiwan and the UK) to establish representative offices.

The Federal Reserve has also significantly expanded its role in examining the U.S. operations of international banks. FBSEA requires each office to be examined annually, and the Federal Reserve has been moving toward its goal of examining all U.S. offices of an international bank simultaneously, usually in conjunction with the primary licensing authority, either the Comptroller of the Currency or the state banking authorities. In some cases, this has led to duplication of supervisory effort and to inconsistent supervisory policies. Recognizing the need for efficiency in the examination area, the Federal Reserve together with the other federal and state bank regulators has been working on developing uniform examination policies and procedures to be applied to international banks. In a related development, the Federal Reserve implemented in 1993 a supplement to the quarterly call report requiring asset and liability information about offshore branches that are managed and controlled by a U.S. office of an international bank.

In other bank regulatory developments, the FRB adopted an alternative means to measure the 10 percent revenue test for so-called section 20 securities subsidiaries, which are "principally engaged" in securities activities permissible for a bank and to a limited extent in other securities activities. In its revisions, the FRB gave institutions the option of indexing their interest and dividend revenues from securities activities to interest rates that existed when the original section 20 orders were issued (September 1989). The FRB has also proposed amendments to its risk-based capital adequacy guidelines to take account of interest rate risk, concentration of credit risk and risks from nontraditional activities.

In October 1992, Congress adopted the Annunzio-Wylie Anti-Money Laundering Act which, among other things, requires federal bank regulatory agencies to consider terminating the charter or license of U.S. banks and federal and state branches and agencies of international banks in the event of a criminal violation of U.S. money laundering laws or currency transaction reporting requirements.

CLINTON LIBRARY PHOTOCOPY

Congress also adopted legislation in October 1992 clarifying the authority of the Commodity Futures Trading Commission (CFTC) to exempt swaps and hybrid instruments from regulation as commodities. The CFTC has adopted regulations implementing these exemptions.

During the last year, the U.S. tax treatment of global trading and cross-border trading activities of international banks has received increased attention. The rapid growth in cross-border financial instruments trading has highlighted shortcomings in existing U.S. tax rules. An area of particular concern is the current rules' disregard of international banks' cross-border interbranch transactions in foreign exchange, swaps, and other financial products. For example, if a U.S. branch of an international bank sells a foreign currency forward and buys the currency at a small spread from its head office, for U.S. tax purposes the branch is treated as if it held an open position rather than a balanced position. As a result, currency fluctuations can leave the bank with a large U.S. tax gain or tax loss even though the bank is actually earning a spread. The Institute has requested that Treasury remedy this situation by taking international banks' arm's length interbranch trading transactions into account for U.S. tax purposes.

During this period, the Internal Revenue Service's proposed revisions to the rules for computing an international bank's deductible interest expense remained outstanding. The proposals, which would severely restrict the amount of interest expense deductible by such a bank for U.S. tax purposes, were the subject of extensive adverse comments and testimony by the Institute and other affected parties in the fall of 1992.

In connection with the adoption of President Clinton's deficit reduction plan and budget, banks and other dealers will have to adopt a mark-to-market method of tax accounting for financial products such as foreign currency instruments, swaps, other financial derivatives and loans which the institution intends to sell or participate. In addition, the legislation contains new "earnings stripping" rules that may deny interest deductions to U.S. subsidiaries of non-domestic companies whose borrowings are supported by parent guarantees under certain circumstances.

Finally, in the area of state taxation, Barclays Bank petitioned the U.S. Supreme Court for review of a California Supreme Court decision upholding application of the unitary method of taxation. The British government announced its intention to activate retaliatory legislation if the unitary tax issue is not resolved by the end of this year.

XLVI. URUGUAY

The Uruguay financial system consists of both publicly and privately owned banks that operate as commercial banks. Nonbanking institutions such as "financial houses" and savings and loan cooperatives also engage in financial activities.

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The Central Bank regulates and supervises these institutions based upon information that is provided to it on a confidential basis. The Central Bank's regulations impose on institutions the risk-based capital adequacy guidelines adopted by the Basle Committee on Banking Supervision, and also cover solvency and liquidity, restrictions on fixed assets and ratios between equity capital and specific assets. Financial institutions must be in stock form unless they are local agencies of foreign banks or cooperatives. Uruguay does not provide deposit insurance coverage.

Uruguay banks are permitted to engage in any activity that is not specifically prohibited by law. Banks are not permitted to make investments in other companies.

Uruguay's bank secrecy laws, which protect customer transactions and accounts, may be overridden by a court order requiring disclosure of certain information related to a particular client.

CLINTON LIBRARY PHOTOCOPY

EXECUTIVE OFFICE OF THE PRESIDENT

Washington, D. C.

FAX TRANSMITTAL COVER SHEET

DATE: 12-May-94

TO: CUTLER

SUBJECT: NEXT REGULATORY WORKING GROUP MEETING

FROM: LORRAINE DAY (202) 395-7340
OFFICE OF MGMT AND BUDGET, OIRA

If there are any problems receiving this transmission,
please call the sender, or (202) 395-7370.

calendar clear

I will go if free
LVC
5-17-94

MEMORANDUM FOR THE REGULATORY WORKING GROUP MEMBERS

FROM: DON ARBUCKLE

SUBJECT: REGULATORY WORKING GROUP MEETING

The next meeting of the Regulatory Working Group will be held on Friday, May 20, 1994, from 1:30 to 3:30 p.m. in the Vice President's Office, Room ~~476~~ 274, Old Executive Office Building. Please notify Lorraine Day (395-7340; fax 395-7285) if you will be coming so that we can clear you into the building.

We will be discussing OIRA's May 1, 1994 report on the first six months of Executive Order 12866; the draft Regulatory Plans, due to OIRA on June 1st; the progress of the four subgroups; and Department of Commerce efforts at streamlining agency delivery systems. If you have other issues you would like to raise or have discussed, please let me know; we would be glad to put them on the agenda.

EXECUTIVE OFFICE OF THE PRESIDENT

Washington, D. C.

FAX TRANSMITTAL COVER SHEET

DATE: 06-Jun-94

TO: CUTLER

SUBJECT: UPCOMING REGULATORY WORKING GROUP MEETIN

FROM: LORRAINE DAY (202) 395-7340
OFFICE OF MGMT AND BUDGET, OIRA

If there are any problems receiving this transmission,
please call the sender, or (202) 395-7370.

Calendar clear

June 6, 1994

File

MEMORANDUM FOR REGULATORY WORKING GROUP MEMBERS

FROM: SALLY KATZEN

SUBJECT: REGULATORY WORKING GROUP MEETING

The next meeting of the RWG will be held on **Thursday, June 23, 1994, from 2:00 to 3:30 PM in the Vice President's Office, Room 274, Old Executive Office Building.** The agenda will include Small Business issues, including the next Small Business Forum; a report by the Risk Assessment Subgroup; and discussion of the Regulatory Plan. Please call **Lorraine Day (202-395-7340, fax 202-395-7285)** to indicate whether you will be coming so that we can properly clear you into the building.

The Regulatory Plan was due to OIRA on June 1st. As of Monday, June 6th, we had received Plans from eight of the fourteen cabinet departments and eight from other agencies and commissions. If you have not yet sent your Plan to us, please do so as quickly as possible. Section 4 of Executive Order 12866 requires that OIRA circulate draft Plans to the Vice President, the Advisors, and other affected agencies within ten days of receiving them.

In addition, at the May 20th meeting of the RWG, I asked for examples of regulations that have been improved as a result of the Executive Order principles and process. These could include, for example, rules where improvements resulted from the analytic requirements of the Order. It could also include rules where improved consultation -- with OIRA, the Regulatory Advisors, or other agencies; with State, local, or tribal governments; or with small businesses -- resulted in improved regulation.

Several examples from each major regulatory department would be helpful. Using the format below, please forward such examples to **Don Arbuckle (395-7340; fax 395-7285) by June 21st.** We will discuss these further at the June 23rd meeting.

I look forward to seeing you again on the 23rd.

Attachment

FORMAT FOR REG IMPROVEMENT EXAMPLES

Department/Agency. Title. (ANPRM/MPRM/FINAL/OTHER.) Publication Date: _____.

[3-6 sentence description of the example. 1-3 sentences describing the purpose of the regulation. 1-3 sentences discussing the improvement that resulted from the Executive Order principles or process.]

EXECUTIVE OFFICE OF THE PRESIDENT

Washington, D. C.

FAX TRANSMITTAL COVER SHEET

DATE: 15-Jul-94

TO: CUTLER

SUBJECT: COMBINING RESOURCES

FROM: LORRAINE DAY (202) 395-7340
OFFICE OF MGMT AND BUDGET, OIRA

If there are any problems receiving this transmission, please call the sender, or (202) 395-7370.

July 15, 1994

File

MEMORANDUM FOR THE REGULATORY WORKING GROUP

FROM: The Regulatory Streamlining Subgroup

SUBJECT: Combining Resources

1. Guidebooks

During the most recent meeting of the Regulatory Streamlining Subgroup (June 29), one issue that came up was internal agency books, directives, or guides instructing staff how to conduct rulemaking -- which agencies have them? what rulemaking issues are covered? etc.

It was suggested that there may be some utility in collecting all such guidebooks into a central, interagency library. A second possible undertaking (to be assessed once we see the volume of materials involved) is to have some group of people volunteer to review those materials and draft one interagency desk book. (You may recall that the creation of such a book was one of the NPR recommendations.)

As a first step (that we hope will help us determine whether/how to proceed further), we need your assistance in identifying the universe of what's out there. Our request is a simple one -- we'd like you to send us a brief description of any guidebooks or directives that you have instructing staff on the regulatory process. We request that you include the following information: (1) type of document (e.g., manual, guidebook, Secretarial Order); (2) volume (e.g., number of pages); (3) date when last updated; and (4) type of information included in the document (e.g., guidance on all executive orders and statutes relevant to the development of rulemakings). (Note: If there is a table of contents, please forward that to us, with your written description covering the other points noted above). Please also indicate whether you would be willing to share the materials themselves with other agencies.

2. Expertise/Training

The subgroup also thought that the RWG would benefit from information regarding whether the various agencies have persons who provide expertise on regulatory process or development issues. Similarly, it would be useful to know what types of training courses have been developed (e.g.,

use of plain English, the basics of drafting regulations). By obtaining such information from each of you, our subgroup can assess possibilities that may exist for developing interagency seminars or other means for sharing expertise in an efficient way.

Therefore, we request that you provide as with a brief

description of: (1) resident experts within your agencies; and (2) training courses that you have developed or hosted (or contractor courses you have found particularly useful) on regulatory issues. A third piece of information that would be useful is your thoughts on issues/topics that should be considered for interagency seminars (regardless of whether your agency could provide the "teacher").

3. Submission of Information on the Above Issues

We do not mean for these requests to be exhaustive or time-consuming; we are trying to get enough information to assess the utility of further investigation.

If possible, please get this information to us by **Friday, July 29.** You should send them to **Molly Poag at Interior (fax: 202-208-4561).** If this timetable poses a problem for you, let us know. The subgroup will review the information received and come back to the RWG with recommendations on any further activities.

Thanks in advance for your anticipated assistance.

EXECUTIVE OFFICE OF THE PRESIDENT

Washington, D. C.

FAX TRANSMITTAL COVER SHEET

DATE: 19-Jul-94

TO: CUTLER

SUBJECT: THE NEXT RWG MEETING.

FROM: LORRAINE DAY (202) 395-7340
OFFICE OF MGMT AND BUDGET, OIRA

If there are any problems receiving this transmission,
please call the sender, or (202) 395-7370.

Do you have any unfunded mandates within your jurisdiction that should have been reported by July 15?

NO

C-
7/19

Hearings?

Regrd

7-20-94

July 19, 1994

File

MEMORANDUM TO THE REGULATORY WORKING GROUP MEMBERS

FROM: SALLY KATZEN

SUBJECT: REGULATORY WORKING GROUP MEETING

The next meeting of the RWG will be held on **Tuesday, August 2, 1994, from 2:30 to 4:00 PM in the Vice President's Office, Room 274, Old Executive Office Building.** The agenda will include a discussion of the Regulatory Plan; reports by the working groups; and a legislative update (cost/benefit and risk analysis; takings; and unfunded mandates).

In June, I requested that you provide us by July 15th with estimates of the number and costs of unfunded mandates within your jurisdiction. We discussed at the last RWG meeting the importance of these data to the Administration's response to legislation related to unfunded mandates. Some of you have not yet submitted the information -- you know who you are! Please get it to me as soon as possible.

Regarding regulatory success stories, many of you --including USDA, HHS, HUD, and Treasury -- have sent us examples of how the Executive Order is working to improve regulation. We would like additional examples and expect to put together a package for the Vice President. Please send them to me as soon as you can. Take the opportunity to brag about the good things you have done! On August 2nd, we will discuss some of these examples.

Also, let me remind you that the Second Small Business Forum will be held on Wednesday, July 27, 1994, from 1:30 to 3:30 in the Internal Revenue Service Auditorium, 7th floor, 1111 Constitution Avenue N.W. I hope to see many of you there.

October 21, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Michael Waldman
Paul Weinstein

SUBJECT: Options for Political and Government Reform

Whatever the results of the upcoming elections, the President will need to put forth a bold, coherent set of reform initiatives to make government, Congress, and the political system work. It is no longer a question of whether Congress will address reform issues; the only question is whether we will be leading the reform fight or being left behind.

In consultation with Rahm Emanuel, Jack Quinn, Elaine Kamarck, Cliff Sloan, Stan Greenberg, and others, we have assembled some preliminary options that could be included in the President's reform agenda. We list them here in four categories: 1) reform issues the Republicans are sure to push immediately; 2) Administration initiatives left over from this Congress; 3) relatively low-risk, low-profile ideas; and 4) bold ideas. This list is far from complete; if it makes sense, we can convene a more thorough process to canvass ideas and prepare an actual proposal.

I. Response to the Republican Agenda

The Republicans have made it clear that government reform -- as they define it -- is an early priority for action should they take control. They are likely to press a host of issues:

1. Balanced Budget Amendment. With this expected to pass easily in the next Congress, we will need to decide whether to amend, oppose, or accept it:

a. Demand line-item veto. One option would be to demand that it include a Constitutional line-item veto that would make it easier to balance the budget. We should insist on the strongest possible version of this veto, not the enhanced rescission authority that passed the House this time.

b. Capital/operating budget alternative. In the campaign, the President said he could support a balanced budget amendment that separated capital and operating expenses so that long-term investments would be encouraged and operating costs reduced.

c. Freeze Congressional and Presidential pay until budget is balanced.

2. Term Limits. Republicans pledge to bring to a vote a constitutional amendment limiting congressional terms to 12 years. But they would grandfather in existing Members of Congress. Beyond principled opposition, our response might be:

a. Call their bluff. We could demand that the 12-year limit on service apply immediately (or by a date certain, such as 1996), and thereby affect sitting members of Congress.

b. Let the states decide. We could support a constitutional amendment to allow states to vote to apply term limits to their own federal representatives. This would be consistent with our legal position that state-mandated term limits are unconstitutional.

c. Change the debate. We could counter with our political reform proposals -- campaign finance and lobby reform -- so that we at least force them to swallow some medicine and give us some credit for reform.

3. Cuts in Congressional Subcommittees and Staff. The Contract pledges to cut committee staff by 1/3, and to reduce the number of committees and subcommittees. They did not pledge to cut personal staffs (see below).

II. Unfinished Business

1. Lobby Reform and Gift Ban. The lobby reform/gift ban legislation is basically sound (requiring registration of lobbyists, full disclosure of expenses and sources of funds, barring gifts, meals, etc. from lobbyists to lawmakers). Disclosure of grass-roots lobbying expenses was pulled from the bill, and would probably be off the table in future versions of the bill, even though it was not the real reason for defeat.

The Counsel's office suggests that some of the provisions of lobby reform could be implemented unilaterally. We could require that any professional lobbyist who seeks to contact the executive branch would have to register and disclose under the provisions of the legislation. There is no constitutional bar to this.

2. Campaign Finance Reform. The failure of campaign finance reform legislation this year, coupled with the Republican ascendancy in Congress, makes it extremely unlikely that a comprehensive campaign reform bill (with public funding) would pass. However, the issue has not lost its salience. Our options include:

a. Limited bill (soft money only). Common Cause and other reform groups intend to push for separate passage of the soft money provisions of the legislation, effective for this presidential election. This would likely pass, and we need to decide whether we would want to accede to it, take the lead on it, or resist it.

b. Comprehensive bill. We could propose a comprehensive bill including public funding, to keep the high ground. If so, we may want to strengthen the other provisions -- particularly, propose a lower PAC limit -- with the assumption that none of it will pass.

c. Free TV time. In addition to, or instead of, a comprehensive bill, we could propose free time for candidates (or for candidates who abide by spending limits). This proposal has been advanced by the President, Dole, and Perot over the years. Alternately, it could be done through the FCC.

d. Base closing commission. Trevor Potter, the chair of the Federal Election Commission, will be proposing that campaign finance reform legislation be crafted by a bipartisan commission whose recommendations would be acted upon by the President and Congress following the base-closing model. Alternately, we could simply appoint our own bipartisan commission to draft a proposal. This would require a Republican co-chair and members with genuine partisan credentials (i.e., not just an Eliot Richardson-type).

3. Apply Laws to Congress. Legislation applying a host of laws to Congress passed the House but not the Senate this past Congress. This would be a relatively noncontroversial measure (with the public, anyway).

III. Low-Risk Ideas

1. Full-Scale Assault on Bureaucracy. One of the most promising reforms is already under way -- a significant downsizing of the federal bureaucracy. We could do more to speed up and dramatize this effort through:

a. Accelerated reduction of the workforce: Buyout authority expires in March 1995, and NPR recommends that we should make the most of it while it lasts. We could also ask the Cabinet to meet its FY99 goals by 1996, in return for a pledge that departments which meet their targets will not be punished further down the road.

b. Repeal of all FTE floors: We can introduce legislation to repeal FTE floors, including the VA, and veto any appropriations bills that contain them.

c. REGO SWAT team: The President could appoint a kind of bureaucratic bomb squad -- an elite group of troubleshooters and investigative journalists who report directly to him. Any time a story breaks about fraud or mismanagement in the bureaucracy, they would move in, get to the bottom of it, and report back within days with recommendations to the President. They could also uncover such troubles before they become public. This has been done before: FDR dispatched journalist Lorena Hickok around the country to see how the New Deal was really working.

2. Reduce Congressional Bureaucracy. The Republican Contract calls for dramatic changes in Congress, some of which they might regret were they to take over. We should press the case for changes of our own:

a. Cut Congressional staff overall by 25%. In the campaign, the President promised not only to cut the White House staff by 25%, but to challenge Congress to

do the same. The Republican Contract calls for a 25% cut in committee staff. We could press forward with our original demand.

b. Reduce Congressionally mandated reports. Since 1970, the number of reports mandated by Congress has grown from 700 to 5,300. Many of these reports consume the agencies' time and the taxpayers' dollars for the members' gain; most just gather dust. We could introduce legislation to reduce or eliminate such reports. In Arkansas, the President ordered a complete review of every report produced by the Department of Education, and got rid of those no one read.

3. Regulatory Overhaul. The administration could launch a major effort to streamline the regulatory system. Republicans rail against red tape, and over time have proposed gimmicks such as a regulatory moratorium, but have never done anything systemic to change the way regulatory agencies work. The process is cumbersome; slow; imposes irrational burdens on people in the private sector; and (as Justice Breyer argues) both overregulates and underregulates, seemingly at random.

a. Across the board. The administration could announce a proposal to revise the Administrative Procedures Act, impose time limits on rulemakings or regulatory litigation, or significantly increase negotiated rulemaking. These changes would be opposed by many both on the left and, to a lesser extent, the right.

b. Small business only. Alternately, we could propose dramatic regulatory relief for small business only -- e.g., exemptions from a defined set of rules, an expedited appeals process for small business, whatever. (Note: this might not be particularly appealing in some areas, such as OSHA, where a 75 person business can pose as much threat as a large conglomerate.)

4. Assault on the Filibuster. We should consider mounting a drive to eliminate dilatory rules like the filibuster, which is now a prime obstacle to getting things done. Republican senators have used the filibuster more in the first two years of this administration than at any time in American history. Once reserved for the weightiest matters of constitutional import, it now is used to effectively require a 60 vote supermajority for any legislation. Lobby reform, campaign finance reform, even the stimulus bill received a majority of votes in the Senate -- and telecommunications, Superfund, Clean Water, and a host of other measures expired merely due the threat of a filibuster. Moreover, Lloyd Cutler and others argue that the filibuster is unconstitutional. (In fact, as a private citizen he plans to file a lawsuit to overturn it.) Whether we want to push for this depends on the political landscape -- if we retain a slim majority, this might be seen as an attempt to avoid bipartisanship. If we are in the minority, our motives would be less suspect, but our side might not want to do it.

IV. Bold Ideas

1. National Referendum. Most major democracies have national referenda to allow their people to vote on issues of national importance. For example, in recent years, Italians have voted on divorce and abortion; Spain voted on membership in NATO; and Austria and Sweden voted on the use of nuclear power. In the U.S., 43 states allow their legislatures to submit referenda to the people, and 24 states allow citizens to sponsor initiatives. In Arkansas, some of Governor Clinton's best known legacies -- such as ethics reform -- were enacted in this way.

Establishing a binding national referendum would require a Constitutional amendment. Such an amendment might provide for putting an issue to a nationwide vote if the legislatures in 3/4 of the states recommended it or if petitioners gathered signatures from 1% of the population of every state. As Constitutional safeguards, the referendum could require 60% approval to be enacted, and could be overturned by a 2/3 vote in the Congress. A tamer approach might send any approved referendum to the Congress for final approval, and require Congress to pass it within one year or submit a revised version to another vote of the electorate.

Is this a good idea? For starters, this is the one truly popular reform idea that has not been appropriated by either party. The best argument for direct democracy is that it enables the broad public to make its voice heard when the congressional system is unresponsive or gridlocked. It also changes the balance of power between the President and Congress, since the President still has most claim to the national megaphone. The advance of information technology will make this process easier (and perhaps inevitable). The strongest argument against a referendum is that it could fall prey to extreme social or fiscal proposals, and that it might make it impossible to rationally conduct the rest of the public's business. (Not that it's so easy today.) In addition, campaign spending on referenda is even harder to regulate than in candidate elections.

2. Sweeping Reorganization of Government. Our attack on the bureaucracy could go further, and propose the actual elimination of one or more departments or functions.

a. Panetta-Kerrey plan. This proposal, put forward during the 1992 primary campaign, called for consolidating the current 14 cabinet-level departments into seven: Defense, State, Justice, Treasury, Human Resources, Natural Resources, Economic Policy. Kerrey argued that cutting the number of cabinet departments would reduce administrative costs of the Federal government by 25 percent over a ten-year period. At the time, the Clinton campaign dismissed it as rearranging the boxes, but it had some appeal.

b. Base-closing commission. Alternately, we could propose a base-closing commission or fast track model for government reorganization, reform, and reinvention -- a Hoover Commission or Grace Commission with teeth. Under a fast track model, a commission would propose legislation, which would have to be voted on by the Congress with no amendments. Under a base-closing model, the recommendations

would stand unless they were overturned by a 2/3 vote. Either version would require authorizing legislation. A fast-track process was considered by the administration at the outset of the REGO review in 1993, but was set aside due to likely congressional hostility.

3. Reform Trust Fund (Children's Allowance Paid for by Cutting Special Interest Subsidies). The President's most prominent remaining campaign promise (and the Republicans' last hope for a wedge issue) is the middle-class tax cut. One option would be to set up a trust fund to use savings from eliminating unnecessary government subsidies to pay for a children's allowance for middle-class families. Rob Shapiro has identified a series of special interest subsidies; an expanded deduction for middle-class families with children would cost in the neighborhood of $20-40 billion over five years. Nobody would get their tax cut unless Congress agreed to make the cuts. Established interests would attack us, but we could press the simple theme that parents can do more for their children with that money than government or those interests can.

4. Tax Reform for Business. The tax code is littered with special preferences for certain types of businesses -- pharmaceutical, advertising, dairy, life and casualty insurance -- which together cost nearly $50 billion in lost revenues. We could propose simplification of the tax code that would eliminating special tax incentives for a few businesses and use the savings to implement an across-the-board, long-term capital gains tax reduction and a tax cut for business spending on worker training. These measures (which would cost around $25 billion a year) would level the playing field for all business, and give us a pro-business, pro-investment fight.

5. Eliminate the Congressional Frank, and Give It to the American People. The frank is one of the most entrenched and abused symbols of incumbency. We could propose to take it away from Congress and give it to the American people instead. Any individual who wants to send a letter to their Congressman or Senator would be able to do so for free. Postcards, letters from organizations, and letters from another district or state would not be eligible (mail could be delivered directly to the district office to prevent abuse). This is how it works in Canada, where citizens can write Parliament for free.

REGULATORY WORKING GROUP
MEETING

November 17, 1994

AGENDA

- o Update from Cost/Benefit Analysis Subgroup
- o Regulatory Legislative Issues (The Unholy Trinity and More)
- o Agency Review of Non-Significant Regulations and Other Policy Documents
- o Interagency Review of Regulations
- o Ex-Parte Contacts and Public Consultation

Golden Fleece Award - reverse zero-based regulation

November 10, 1994

MEMORANDUM TO THE REGULATORY WORKING GROUP MEMBERS

FROM: Sally Katzen

SUBJECT: Regulatory Working Group Meeting
November 17, 1994

This is a reminder that the next RWG meeting with be held Thursday, November 17, 1994, at 10:00 am in the Vice President's Office, Room 274 OEOB. We have many issues to discuss; it is important that you personally be there.

A tentative agenda is attached. If there are other issues that you think we should discuss, please let me know. Also, please confirm as soon as possible with Lorraine Day (395-3085; fax 395-7285) that you are coming so that we can properly clear you into the OEOB.

See you Thursday.

– find out who else will be attending.
called 11/11/94

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

REGULATORY WORKING GROUP MEETING

November 17, 1994

AGENDA

- Regulatory Update
  - One-Year Report on Executive Order 12866
  - Legislative Oversight
  - Agency Review of Non-Significant Rules and Other Policy Documents
  - Interagency Review of Rules
- Reports by Subgroups
- Ex-Parte Contacts and Public Consultation

Who's Attending the RWG Meeting on 11/17/94 @ 10am, Rm. 274, OEOB

KAPLAN, STEPHEN H. -- DOT

EISNER, NEIL -- DOT

SCHNEIDER, MARGARET -- EPA

KELLY, THOMAS E. -- EPA

BERGERON, MARY ELLEN -- HUD

SHAPIRO, ROBERT (ATTENDING FOR THOMAS WILLIAMSON, DOL)

VARGYAS, ELLEN -- EEOC

GESSEL, THOMAS -- VA

POAG, MARY (MOLLY) -- DOI

FALKNER, JULIE -- DOI

MATZNER, RONALD (ATTENDING FOR JOHN SPOTILA AND PHIL LADDER, SBA)

KLEIN, JOEL (WHITE HOUSE, NSC)

AULT, THOMAS -- HCFA

TROANOVITCH, MARY ANN -- HCFA

COHEN, DAN -- DOC

LEW, GINGER -- DOC

ROGERS, THOMASINA -- ACUS

LUBBERS, JEFFREY S. -- ACUS

DRAKE, ROBERT S. -- DOD

GILLILAND, JAMES S. -- USDA

FOWLER, JOHN -- ACHP

ROBINSON, MARY ANN (ATTENDING FOR THOMAS WILLIAMSON, DOL)

JONES, KEVIN -- DOJ

MIKVA, ABNER (WHITE HOUSE, COUNSEL)

COTTINE, BERTRAM -- CPSC

Abner Mikva
cw

THE WHITE HOUSE

WASHINGTON

cancelled 11/30 by phone

November 21, 1994

MEMORANDUM TO REGULATORY ADVISORS TO THE PRESIDENT

FROM: JACK GIBBONS, OSTP
SALLY KATZEN, OIRA

SUBJECT: Meeting November 30, 1994 on
Risk in Regulatory Analysis and Decisionmaking

This memo is to clarify the purpose of the meeting we have scheduled for Wednesday, November 30, 1994, 3:00 p.m. in the Roosevelt Room.

Pursuant to the Vice President's memo dated November 17 to the Regulatory Advisors to the President (p. 1, paragraph 3), OSTP and OIRA want to begin work as quickly as possible on developing recommendations for the Regulatory Advisors on the issue of **risk in regulatory analysis and decision-making.**

The November 30 meeting is to lay out terms of reference and get the work underway. We invite you (or senior policy representative knowledgeable about "risk" and able to represent your views) to this meeting.

Please inform either of our offices (6-7116 or 5-4852) to confirm participation.

Distribution:

Alice Rivlin
Laura Tyson
Jack Quinn
Abner Mikva
Carol Rasco
Marcia Hale
Bob Rubin
Tony Lake
John Podesta
Katie McGinty

OFFICE OF THE VICE PRESIDENT

WASHINGTON

November 17, 1994

MEMORANDUM FOR THE REGULATORY POLICY ADVISORS TO THE PRESIDENT

FROM: THE VICE PRESIDENT

SUBJECT: REGULATORY REFORM

In the months since the President charged us with implementing his Executive Order on regulatory planning and review, we have made great progress in bringing a new sense of accountability and order to the regulatory review process. It is now time to take the next steps and develop for the President options for further reforms in the regulatory area.

Set forth below is a process by which I suggest we undertake to develop these various options. The process will focus on a series of "regulatory policy reviews" in which we can explore innovative approaches to achieve regulatory objectives in cost-effective and reasonable manners. These reviews will examine -- with the help of innovative and interesting thinkers and experts -- a variety of sectoral and cross-cutting issues so to enable us to make well-considered recommendations to the President early next year.

In addition, there are several issues closely related to the regulatory issues noted below which, as you know, have already been the object of excellent work by several White House offices. I refer to risk, takings and unfunded mandates. These issues should be considered in a coordinated, but expedited, manner by the same group that will look at the broader regulatory agenda. To that end, I propose that the Regulatory Policy Advisors also coordinate (through an inter-office process) the development of options to address these issues. Specifically, I propose that, over the next three weeks, the DPC and OEP lead a review of the takings issue, OIRA and OSTP take the lead on risk, and the DPC coordinate the development of a proposed response to the unfunded mandates issue. Ideally, these offices would prepare recommendations to be considered by the Regulatory Advisors on or before December 12, 1994. We would then forward a decision memorandum to the President.

For the remaining regulatory-related issues, I suggest the following schedule:

November - December 1994

During this period, we will discuss with affected agency heads and each other the format and process for regulatory policy reviews. We will also finalize a schedule for the policy review sessions.

December 1994 - February 1995

During this period, we will conduct the review sessions. Each review session will be organized by the relevant White House office. I will co-chair the sessions with the head of the office that organizes the session. My office will coordinate the overall schedule of the sessions and provide additional assistance as necessary.

Subject to our further discussion, suggested topics and leaders for the review sessions would include:

- General regulatory and cross-cutting regulatory issues -- OIRA
- Environment, energy and other natural resources -- OEP
- Financial institutions -- NEC and CEA
- Small business regulation -- CEA
- Information technology -- OSTP
- Customer service in the regulatory environment -- OVP
- Food and drug -- DPC
- Health industry regulation -- DPC
- Transportation -- NEC
- Equal opportunity -- White House Counsel
- Workplace safety and labor issues -- DPC
- Agriculture -- NEC

February - March 1995

At the end of the review process, the Regulatory Advisors will hold a series of meetings to determine (after appropriate consultation with affected agency heads) which of the options developed during the first phase should be presented to the President. The proposals chosen will then be drafted by the relevant policy office. These drafts will form the basis of the options memorandum to the President.

March 1995

Present options memorandum to the President.

* * *

Please review these proposed assignments (which I assume we will need to modify) and schedule and be prepared to discuss it at a meeting on the Regulatory Policy Advisors, which we will convene shortly.

Please feel free to contact Jack Quinn if you have any questions regarding the process outlined above or the meeting itself.

Distribution:
- The Director of the Office of Management and Budget
- The Chair of the Council of Economic Advisors
- The Assistant to the President for Science and Technology
- The Assistant to the President and Chief of Staff to the Vice President
- The Assistant to the President and Counsel
- The Assistant to the President for Domestic Policy
- The Assistant to the President for Intergovernmental Affairs
- The Assistant to the President for Economic Policy
- The Assistant to the President for National Security
- The Assistant to the President and Staff Secretary
- The Deputy Assistant to the President and Director of the Office of Environmental Policy
- The Administrator of the Office of Information and Regulatory Affairs

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

28-Nov-1994 06:02pm

TO: (See Below)

FROM: Julie E. Demeo
Domestic Policy Council

SUBJECT: Slight Time Change for P & G Mtg.

There has been a slight time change for the Political and Government Reform Meeting tomorrow.

The Pre-meeting will begin at 3:30 (as previously scheduled) and continue until 4:15, in Carol Rasco's office.

The meeting with the President will begin at 4:15 (previously scheduled for 4:00 pm), in the Cabinet room.

The following people have been invited to the pre-meeting (3:30 - 4:15) and meeting with the President (4:15 - 5:15):

Bob Rubin
Gene Sperling
Bo Cutter
Carol Rasco
Bruce Reed
Bill Galston
Paul Weinstein
Elaine Kamarck
Michael Waldman
Jack Quinn
George Stephanopoulos
Pat Griffin

The following people will only be at the meeting with the President (4:15 - 5:15pm):

Leon Panetta
Mark Gearan
Abner Mikva

Distribution:

TO: Cathy R. Mays
TO: Kimberly M. Ross
TO: Paul J. Weinstein, Jr
TO: Kamarck, Elaine C.
TO: Michael Waldman
TO: Erin C. Kelly
TO: Valerie M. Owens
TO: Erin A. O'Connor
TO: Jennifer N. Palmieri
TO: Steven A. Cohen
TO: Deborah J. DeMille-Wagman

12/9

AJM:

Do you want to attend ~~this~~ or Joel?

I gave ~~him~~ back ~~him~~ copy.

OFFICE OF THE VICE PRESIDENT
WASHINGTON

rec'd 12/9

December 7, 1994

MEMORANDUM FOR THE REGULATORY POLICY ADVISORS TO THE PRESIDENT

TO: ALICE RIVLIN
LAURA TYSON
JACK QUINN
JACK GIBBONS
ABNER MIKVA
CAROL RASCO
MARCIA HALE
BOB RUBIN
TONY LAKE
JOHN PODESTA
KATIE MCGINTY
SALLY KATZEN

FROM: ELAINE KAMARCK

SUBJECT: REGULATORY REFORM MEETING

In preparation for the first regulatory reform meeting with the Vice President, we will have an agenda-setting meeting on December 16, 1994 from 10:00am to 11:30am in the Ceremonial Office. The purpose is to frame our presentation to the Vice President on general regulatory and cross-cutting regulatory issues.

Please call my office (6-2816) to let us know if you or a representative from your office will be able to attend.

called 12/9 at 3:00

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