Thus, bank regulatory reporting requirements are consistent with the objectives and mandate of FDICIA Section 121.

The agencies have been working to limit the number of differences between regulatory reporting requirements and GAAP. In some cases, however, differences will exist when there is a need to address supervisory concerns. In addition, the agencies have been working closely to coordinate any new accounting and reporting policies, to ensure consistency among the agencies and to reduce or eliminate differences with GAAP.

The OTS has developed and maintains a separate reporting system for the thrift institutions under its supervision. The financial report for thrifts, or TFR, is based on GAAP as applied by thrifts.

A summary of the primary differences in regulatory reporting requirements between the three bank agencies and the OTS is set forth below. The information is based on a study developed on an interagency basis.

Futures and Forward Contracts

The banking agencies, as a general rule, do not permit the deferral of losses by banks on futures and forwards regardless of whether they are used for hedging purposes. All changes in market value of futures and forward contracts are reported in current period income. The banking agencies adopted this reporting requirement as a supervisory policy prior to the adoption of FASB Statement No. 80, which allows hedge or loss deferral accounting, under certain circumstances. Hedge accounting in accordance with FASB Statement No. 80 is permitted by the banking agencies only in the case of futures and forward contracts used in mortgage banking operations.

The OTS practice is to follow FASB Statement No. 80 for futures contracts. In accordance with this statement, when hedging criteria are satisfied, the accounting for the futures contract is related to the accounting treatment for the hedged item. Changes in the market value of the futures contract are recognized in income when the effects of related changes in the price or interest rate of the hedged item are recognized. Such reporting can result in deferred losses, which would be reflected as assets on the thrift's balance sheet in accordance with GAAP.

The Federal Reserve is closely reviewing hedge accounting issues with the other federal banking agencies, with the objective of encouraging the FASB to develop a comprehensive hedge accounting framework that results in consistent accounting treatment for all derivative instruments of financial and nonfinancial companies.

Excess Servicing Fees

As a general rule, the three banking agencies do not follow GAAP for excess servicing fees, but require a more conservative treatment. Excess servicing results when loans are sold with servicing retained and the stated servicing fee rate is greater than the normal servicing fee rate. With the exception of sales of pools of first lien one- to four-family residential mortgages for which the banking agencies' approach is consistent with FASB Statement No. 65, excess servicing fee income in banks must be reported as realized over the life of the transferred asset, not recognized up front as required by FASB Statement No. 65.

The OTS allows the present value of the future excess servicing fee to be treated as an adjustment to the sales price for purposes of recognizing gain or loss on the sale. This approach is consistent with FASB Statement No. 65.

In-Substance Defeasance of Debt

The banking agencies do not permit banks to report defeasance of their debt obligations in accordance with FASB Statement No. 76. Defeasance involves a debtor irrevocably placing risk-free monetary assets in a trust solely for satisfying the debt. Under FASB Statement No. 76, the assets in the trust and the defeased debt are removed from the balance sheet and a gain or loss for the current period can be recognized. However, for Call Report purposes, banks may not remove assets or defeased liabilities from their balance sheets or recognize resulting gains or losses. The banking agencies have not adopted FASB Statement No. 76 because of uncertainty regarding the irrevocable trusts established for defeasance purposes. Furthermore, defeasance would not relieve the bank of its contractual obligation to pay depositors or other creditors.

OTS practice is to follow FASB Statement No. 76.

Sales of Assets With Recourse

In accordance with FASB Statement No. 77, a transfer of receivables with recourse is recognized as a sale if: (1) The transferor surrenders control of the future economic benefits; (2) the transferor's obligation under the recourse provisions can be reasonably estimated; and (3) the transferee cannot require repurchase of the receivables except pursuant to the recourse provisions.

The practice of the three banking agencies is generally to permit commercial banks to report transfers of receivables with recourse as sales only when the transferring institution (1) retains no risk of loss from the assets transferred and (2) has no obligation for the payment of principal or interest on the assets transferred. As a result, virtually no transfers of assets with recourse can be reported as sales. However, this rule does not apply to the transfer of first lien 1- to 4-family residential or agricultural mortgage loans under certain government-sponsored programs (including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation). Transfers of mortgages under these programs are generally treated as sales for Call Report purposes.

Furthermore, private transfers of first lien 1- to four-family residential mortgages are also reported as sales if the transferring institution retains only an insignificant risk of loss on the assets transferred. However, the seller's obligation under recourse provisions related to sales of mortgage loans under the government programs is viewed as an off-balance sheet exposure. Thus, for risk-based capital purposes, capital is generally expected to be held for recourse obligations associated with such transactions.

The OTS policy is to follow FASB Statement No. 77. However, in the calculation of risk-based capital under the OTS guidelines, off-balance sheet recourse obligations generally are converted at 100 percent. This effectively negates the sale treatment recognized on a GAAP basis for risk-based capital purposes, but not for leverage capital purposes. Thus, by making this adjustment in the risk-based capital calculation, the differences between the OTS and the banking agencies for capital adequacy measurement purposes are substantially reduced.

Over the past few years, the FFIEC has studied transfers of assets with recourse (often referred to as the "recourse study"). In this respect, the staff of the Federal Reserve has reviewed the capital and regulatory reporting treatment for sales of assets with recourse and on May 25, 1994, issued, under the auspices of the FFIEC, a proposal for public comment which addresses these issues. If finalized, the proposal could reduce the differences between regulatory reporting requirements and GAAP in this area by allowing a larger portion of transfers of assets with recourse to be treated as sales. In addition, the staff of the Federal Reserve has been working with