



Commissioner Gonzales Comments on Banking Oversight To Include 'Flexibility' During Pandemic

By [Philip Rosenstein](#)

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Law360 (June 23, 2020, 9:48 PM EDT) -- Federal and state banking regulators released guidance on Tuesday outlining their approach to examination and supervision of the banking industry as the economy struggles to deal with fallout from the COVID-19 pandemic, highlighting a focus on "consistency and flexibility."

The joint release said that given the "unique, evolving, and potential long-term nature" of the COVID-19 pandemic's impact on the financial services industry, banking supervisors will "exercise appropriate flexibility in their supervisory response." The document was released by the Board of Governors of the [Federal Reserve System](#), the [Office of the Comptroller of the Currency](#), the [Federal Deposit Insurance Corporation](#), the [National Credit Union Administration](#) and state regulators.

While many regulators have periodically released updates on the impact that the COVID-19 pandemic has had on the banking industry, Tuesday's release, titled "Interagency Examiner Guidance for Assessing Safety and Soundness Considering the Effect of the COVID-19 Pandemic on Institutions," presents a united message on how regulators will approach their supervisory duties as external stresses linger in the banking industry.

"Stresses caused by COVID-19 can adversely impact an institution's financial condition and operational capabilities, even when institution management has appropriate governance and risk management systems in place to identify, monitor, and control risk," the release read.

"Examiners will continue to assess institutions in accordance with existing agency policies and procedures and may provide supervisory feedback, or downgrade an institution's composite or component ratings, when conditions have deteriorated," the regulators said. "In conducting their supervisory assessment, examiners will consider whether institution

management has managed risk appropriately, including taking appropriate actions in response to stresses caused by COVID-19 impacts."

The regulators said they will continue to issue supervisory ratings, adding that they will take particular note of whether responses to the distressed environment are addressed in an institution's long-term strategy.

Tuesday's release outlines various issues regulators look at when evaluating the health of a bank, notably assessing how well an institution has modeled risk in light of the pandemic, including internal assessments of capital adequacy and asset quality. Importantly, the document notes that participation in the Congressionally authorized Paycheck Protection Program will not negatively impact supervisory outcomes.

Greg Gonzales, chairman of the [Federal Financial Institutions Examination Council State Liaison Committee](#) and commissioner of the [Tennessee Department of Financial Institutions](#), told Law360 that "State regulators pushed for this guidance because we think it is important to speak to institutions' evolving and long-term pandemic response. All regulators must apply consistent principles while recognizing the unique issues confronting each supervised institution."

"These principles will help guide examiners to a tailored and balanced supervision that seeks to ensure safety and soundness while encouraging economic recovery," he said.

The document also highlights that when assessing management, examiners should look at the reasonableness of decisions made by leadership, and that "when rating an institution's management, examiners will distinguish between problems caused by the institution's management and those caused by external factors beyond management's control."

"Provided prudent planning and policies are in place and management is pursuing realistic resolution of the institution's problems, management of an institution with problems largely related to the pandemic may warrant a more favorable rating than management of an institution operating with problems stemming from weak risk management practices that are, or should have been, substantially within the institution's control," the document said.

OCC acting head Brian Brooks [outlined at the beginning of June](#) that extended stay-at-home orders risked the stability of the financial system as the COVID-19 pandemic and recent civil unrest exacerbated economic uncertainty.

He said that the commercial real estate market has been notably impacted by the stay-at-home orders, as buildings and storefronts that serve as collateral for real estate loans face threats of property damage and looting, given lengthy vacancies.

Tuesday's release acknowledged the impact that COVID-19 may have on real estate prices, saying that existing or new real estate loans assessments should be made based on the institution's "policies and practices for valuing collateral in real estate markets that have experienced a substantial, but possibly temporary, change in real estate values as a result of pandemic containment measures."

"When reviewing an institution's estimates of collateral values, examiners should ascertain whether the values are based on assumptions that are prudent and realistic," the regulators said.

The OCC and FDIC declined to comment on the guidance Tuesday. The Federal Reserve Board and NCUA did not respond to a request for comment.

--Editing by Michael Watanabe.