

Board of Governors of the Federal Reserve System

The Board Should Finalize Guidance to Clearly Define Those Considered Senior Examiners and Subject to the Associated Postemployment Restriction



Office of Inspector General
Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection



Office of Inspector General

Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection

Executive Summary, 2020-SR-B-003, March 9, 2020

The Board Should Finalize Guidance to Clearly Define Those Considered Senior Examiners and Subject to the Associated Postemployment Restriction

Findings

We visited four Reserve Banks for our evaluation—Minneapolis, New York, Richmond, and San Francisco—to assess compliance with the postemployment restriction for senior examiners. We conducted interviews with program officials, ethics officers, and individuals designated as senior examiners and reviewed documentation regarding the postemployment restriction.

We found that the four Reserve Banks in our sample have issued policies and procedures to identify senior examiners, require that they be notified of their postemployment restriction, and require workpaper reviews as appropriate. These Reserve Banks took different approaches, however, to determining whom to designate as a *senior examiner*. The senior examiners we interviewed appeared to understand the postemployment restriction and the penalties for violating the restriction.

Although the Board of Governors of the Federal Reserve System (Board) found through a 2017 horizontal review that the Reserve Banks implemented the Board’s postemployment restriction guidance, the review also found that the Reserve Banks did not always apply the *senior examiner* definition in accordance with the guidance. Thus, the horizontal review team recommended that the Board issue additional guidance to clarify the definition of a *senior examiner*. As of November 2019, the Board had not finalized this guidance.

Recommendation

Our report contains a recommendation designed to enhance the consistency among Reserve Banks in determining which employees should be designated as *senior examiners* for the purpose of applying the postemployment restriction. In its response to our draft report, the Board concurs with our recommendation. We will follow up to ensure that the recommendation is addressed.

Purpose

We conducted this evaluation to assess the effectiveness of controls designed to ensure compliance with the requirements outlined in Supervision and Regulation Letter 16-16/Consumer Affairs Letter 16-7, *Special Post-Employment Restriction for Senior Examiners* (SR Letter 16-16).

Background

The Intelligence Reform and Terrorism Prevention Act of 2004 imposes a postemployment restriction on senior examiners of depository institutions and depository institution holding companies. To implement the act, the Board issued SR Letter 16-16, which prohibits an individual who served as a senior examiner from accepting compensation from an institution they supervised during 2 or more months of their final 12 months of employment. This prohibition lasts for 1 year after termination of employment. The penalties for violating the postemployment restriction may include an industrywide prohibition for up to 5 years and a civil monetary penalty of up to \$250,000.

Additionally, if any examiner, regardless of whether they were designated as a *senior examiner*, accepts employment with an institution that they examined in the prior 12 months, SR Letter 16-16 requires the relevant Reserve Bank to review the workpapers related to their supervision of that institution. SR Letter 16-16 states that the workpaper review “should consider whether the examiner compromised examination findings or supervisory proceedings because of pending employment with the relevant depository institution or depository institution holding company.”



Office of Inspector General

Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection

Recommendations, 2020-SR-B-003, March 9, 2020

The Board Should Finalize Guidance to Clearly Define Those Considered Senior Examiners and Subject to the Associated Postemployment Restriction

Finding 1: The Reserve Banks in Our Sample Have Issued Policies and Procedures to Administer the Requirements of SR Letter 16-16

Number	Recommendation	Responsible office
	No recommendations.	

Finding 2: The Board Had Not Finalized Guidance to Clarify the Definition of *Senior Examiner*

Number	Recommendation	Responsible office
1	Finalize and issue guidance to clarify the definition of <i>senior examiner</i> .	Division of Supervision and Regulation and Division of Consumer and Community Affairs



Office of Inspector General

Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection

MEMORANDUM

DATE: March 9, 2020

TO: Michael S. Gibson
Director, Division of Supervision and Regulation
Board of Governors of the Federal Reserve System

Eric Belsky
Director, Division of Consumer and Community Affairs
Board of Governors of the Federal Reserve System

FROM: Michael VanHuysen 
Assistant Inspector General for Audits and Evaluations

SUBJECT: OIG Report 2020-SR-B-003: *The Board Should Finalize Guidance to Clearly Define Those Considered Senior Examiners and Subject to the Associated Postemployment Restriction*

We have completed our report on the subject evaluation. We conducted this evaluation to assess the effectiveness of controls designed to ensure compliance with the requirements outlined in Supervision and Regulation Letter 16-16/Consumer Affairs Letter 16-7, *Special Post-Employment Restriction for Senior Examiners*.

We provided you with a draft of our report for review and comment. In your response, you concur with our recommendation and outline actions that will be taken to address our recommendation. We have included your response as appendix B to our report.

We appreciate the cooperation that we received from the Board of Governors of the Federal Reserve System and the Reserve Banks in our sample during the evaluation. Please contact me if you would like to discuss this report or any related issues.

cc: Jim Price
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Introduction

Objective

Our objective was to assess the effectiveness of controls designed to ensure compliance with the requirements outlined in Supervision and Regulation Letter 16-16/Consumer Affairs Letter 16-7, *Special Post-Employment Restriction for Senior Examiners* (SR Letter 16-16). The Board of Governors of the Federal Reserve System’s (Board) Division of Supervision and Regulation (S&R) and Division of Consumer and Community Affairs (DCCA) issued SR Letter 16-16, which pertains to both safety and soundness and consumer compliance examiners.¹

Background

History of the Postemployment Restriction for Senior Examiners

Intelligence Reform and Terrorism Prevention Act of 2004

Section 6303(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Intelligence Reform Act) imposes a postemployment restriction on senior examiners of depository institutions and depository institution holding companies.² Specifically, the restriction pertains to an officer or an employee of a federal banking agency or a Federal Reserve Bank who serves as a senior examiner for 2 or more months of their final 12 months of employment “with continuing, broad responsibility for the examination (or inspection) of that depository institution or depository institution holding company.”³ According to the Intelligence Reform Act, such individuals may not, within 1 year after terminating employment with the relevant agency or Reserve Bank, knowingly accept compensation—as an officer, a director, an employee, or a consultant—from that depository institution or any company that controls the depository institution. If a senior examiner violates the postemployment restriction, the statute requires the appropriate federal banking agency to seek an order of removal and an industrywide employment prohibition for a period of up to 5 years, a civil monetary penalty of not more than \$250,000, or both. The Intelligence Reform Act directed each federal banking agency to prescribe regulations to administer and carry out the postemployment restriction on senior examiners, including defining the scope of persons who are designated as *senior examiners*.

¹ SR letters address policy and procedural matters of continuing relevance to S&R’s efforts or matters that Board staff have otherwise decided to make public. Consumer Affairs letters address policy and procedural matters of continuing relevance to the Board’s consumer compliance supervisory functions.

² Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, § 6303(b), 118 Stat. 3638, 3751-53 (2004). Section 6303(b) of the Intelligence Reform Act added section 10(k) to the Federal Deposit Insurance Act, currently codified at 12 U.S.C. § 1820(k).

³ Federal banking agencies are defined in 12 U.S.C. § 1813(z) to include the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

One-Year Postemployment Restriction for Senior Examiners

In December 2005, the federal banking agencies jointly adopted final rules to implement section 6303(b) of the Intelligence Reform Act, *One-Year Post-Employment Restrictions for Senior Examiners* (final rules). The final rules describe the postemployment restriction for an officer or an employee of an agency or a Reserve Bank who serves as a senior examiner for a depository institution during 2 or more months of the individual's final 12 months of employment. Specifically, the final rules prohibit such individuals from knowingly accepting compensation for work as an officer, a director, an employee, or a consultant from the depository institution or any company that controls the depository institution for 1 year after terminating employment with the agency or the Reserve Bank.

According to the final rules, an officer or an employee of an agency or a Reserve Bank is considered a senior examiner for a particular depository institution or depository institution holding company if

- the individual has been authorized by the relevant agency to conduct examinations or inspections on behalf of the agency
- the relevant agency or Reserve Bank has assigned the individual continuing, broad, and lead responsibility for examining or inspecting the depository institution or holding company
- the individual's responsibilities for the depository institution or holding company represent a substantial portion of the individual's assigned responsibilities and require the individual to routinely interact with officers or employees of the institution, the holding company, or its affiliates

According to the final rules, an officer or employee must meet each of the criteria listed above to be designated as a *senior examiner*. Further, the final rules state that unless an examiner has broad and lead responsibility for the overall examination program for a particular institution, the examiner is not a senior examiner because the examiner is not likely to develop the type and degree of relationship with a supervised institution that the postemployment restriction was designed to address. The final rules do not cover an examiner who performs only periodic, short-term examinations and who does not have ongoing, continuing responsibility for the institution or holding company.

SR Letter 05-26

Based on the final rules, S&R issued Supervision and Regulation Letter 05-26, *Special Post-Employment Restriction Set Forth in the Intelligence Reform and Terrorism Prevention Act of 2004* (SR Letter 05-26), which became effective on December 17, 2005.⁴ SR Letter 05-26 describes the postemployment restriction for an individual who served as a senior examiner for a depository institution or depository institution holding company for 2 or more months during the examiner's final 12 months of employment with a Reserve Bank. Specifically, SR Letter 05-26 notes that such individuals are prohibited from knowingly accepting compensation as an officer, a director, an employee, or a consultant from that depository institution or holding company or from certain related entities. The Board expected that the restriction would affect a relatively small number of Federal Reserve System examiners, primarily central

⁴ SR Letter 05-26 was superseded by SR Letter 16-16.

points of contact (CPCs) or examiners in functionally equivalent positions, such as senior supervisory officers (SSOs), for the largest and most complex institutions under System supervision.⁵

SR Letter 05-26 includes administrative procedures and additional guidelines, including the following:

- The Reserve Banks are required to routinely review examiners' duties and promptly notify examiners when changes in their duties would cause them to be designated as *senior examiners* or to cease to be designated as *senior examiners*. Further, the Reserve Banks are required to maintain electronic records for examiners covered by the rule.
- Examiners are responsible for becoming familiar with the restriction and ensuring that they comply.
- If any examiner, regardless of whether they were designated as a *senior examiner*, accepts employment with an institution that they examined in the past 12 months, the relevant Reserve Bank is required to review the workpapers related to the examiner's supervision of that institution. In performing this review, the Reserve Bank should consider whether the examiner compromised examination findings or supervisory proceedings because of their pending employment with that institution.

SR Letter 05-26 includes an attachment, Notice of Post-Employment Restriction, which serves to notify an employee of their *senior examiner* designation and the associated postemployment restriction. The examiner's signature on the form is their acknowledgment of their postemployment restriction.

SR Letter 16-16

On November 16, 2016, the Board issued SR Letter 16-16, which supersedes SR Letter 05-26. In SR Letter 16-16, the Board amended its postemployment rule to promote consistency across the System and to address the risk associated with examiners leaving the System for employment with a regulated entity. In addition, in light of developments such as the financial crisis, the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and changes to the oversight approach for large institutions, the Board determined that it was necessary to apply the rule more expansively.

Accordingly, SR Letter 16-16 expands the definition of *senior examiner*, which increased the number of System examiners subject to the 1-year statutory postemployment restriction. In addition to CPCs and SSOs, the amended rule covers deputy CPCs, deputy SSOs, enterprise risk officers, and supervisory team leaders.⁶ SR Letter 16-16 clarifies that the rule only applies to an individual serving in a leadership role who is dedicated to supervising a single depository institution, a group of affiliated depository institutions, or a depository institution holding company. The rule does not apply to those who (1) are dedicated to supervising a single depository institution or depository institution holding company but do

⁵ CPCs direct the supervision of large, complex banking organizations by coordinating the activities of an assigned team of examiners, obtaining appropriately skilled staff for supervisory activities, establishing partnerships with other regulatory entities, and communicating activities and results to a variety of constituencies. The SSO job title is generally considered equivalent to the CPC job title.

⁶ SR Letter 16-16 defines *supervisory team leader* as any Reserve Bank officer or employee who serves in a leadership role on a dedicated supervisory team. The letter further notes that the application of this rule is determined based on the roles and responsibilities of individuals rather than their specific job titles.

not have leadership responsibilities; (2) serve in a leadership role and supervise multiple unaffiliated depository institutions or depository institution holding companies; or (3) perform only periodic, short-term examinations of a depository institution or depository institution holding company, dedicating less than 2 months in a year to that institution. In addition, SR Letter 16-16 details other guidelines, such as expectations for conducting reviews of workpapers related to an examiner's supervision of an institution from which they accepted employment if they examined that institution within the past 12 months.⁷ SR Letter 16-16 also includes an updated Notice of Post-Employment Restriction form that reflects the amendment.

SR Letter 16-16 states that the Board expected the Reserve Banks to implement the guidance it set forth within 45 days of its issuance. SR Letter 16-16 further states that in early 2017, each Reserve Bank's quality assurance function would conduct a horizontal review, in partnership with Board staff, to ensure that the Reserve Banks had effectively implemented the new policy.

The 2017 Postemployment Horizontal Review

Following the implementation of SR Letter 16-16, in the first quarter of 2017 the Board and the Reserve Banks conducted a horizontal review to determine the effectiveness of each Reserve Bank's implementation of the postemployment restriction guidance in the letter. Quality assurance staff from each Reserve Bank, under the Board's leadership, assessed whether their respective Reserve Bank effectively implemented the expanded *senior examiner* definition within 45 days of the issuance of SR Letter 16-16. Quality assurance staff also assessed whether their respective Reserve Bank conducted the required workpaper reviews. Each Reserve Bank's quality assurance team issued to applicable Reserve Bank officials a review memorandum. The Board issued a report that compiled the detailed results from each Reserve Bank quality assurance review in May 2017.

Overall, the horizontal review found that the Reserve Banks implemented the postemployment restriction guidance outlined in SR Letter 16-16, but it also identified opportunities for improvement. For example, the review found that processes and procedures for monitoring senior examiner assignments were sound, as were disciplinary procedures; however, several Reserve Banks did not always appropriately apply the *senior examiner* definition in accordance with the guidance. As noted earlier, SR Letter 16-16 expanded the definition of *senior examiner* to include other roles, such as deputy CPCs, deputy SSOs, and supervisory team leaders. The review team found that the Reserve Banks appropriately identified individuals who served as CPCs, deputy CPCs, SSOs, and deputy SSOs; however, several Reserve Banks had difficulty identifying individuals who served as supervisory team leaders.⁸ Based on this finding, the review team recommended that the Board provide written clarification of the *senior examiner* definition as presented in SR Letter 16-16, specifically for the supervisory team leader role.

⁷ As previously required by SR Letter 05-26, SR Letter 16-16 requires Reserve Banks to review the workpapers related to the supervision of that institution if any examiner, regardless of whether they were designated as a *senior examiner*, accepts employment with an institution that they examined in the past 12 months. SR Letter 16-16 states that the workpaper review "should consider whether the examiner compromised examination findings or supervisory proceedings because of their pending employment with the relevant depository institution or depository institution holding company."

⁸ *Review team* refers to the collective team composed of the Board staff and Reserve Bank quality assurance staff who conducted the 2017 horizontal review.

The horizontal review team also noted a lack of formal policies and procedures for aspects of the postemployment restriction requirements, such as procedures for performing workpaper reviews, at a few Reserve Banks. In addition, the review team noted that some Reserve Banks did not have a process to notify individuals at the end of their senior examiner assignments. As a result, the review team recommended that the Reserve Banks (1) establish formal policies and procedures regarding SR Letter 16-16, (2) formally document whether a workpaper review is required for all departing staff, and (3) promptly notify examiners in writing when a change in their duties causes them to cease to be considered senior examiners.

In addition, the horizontal review team looked at the Conflicts of Interest application (COFI). COFI is a web-based application used to track conflicts of interest with financial institutions for System supervision employees and others who may participate in bank supervision matters. It is also used for managing examiner credentials, postemployment restrictions, and waivers. The review team identified a need to enhance COFI to enable Reserve Bank staff to better monitor and track the postemployment restriction. For example, one suggested enhancement was to allow staff to electronically sign the postemployment notification form and upload the form to COFI.



Finding 1: The Reserve Banks in Our Sample Have Issued Policies and Procedures to Administer the Requirements of SR Letter 16-16

The four Reserve Banks in our sample have issued policies and procedures to identify senior examiners, require that they be notified of their postemployment restriction, and require workpaper reviews as appropriate. In addition, officials from three Reserve Banks told us that they addressed several findings and recommendations from their respective 2017 quality assurance reviews.⁹ We interviewed senior examiners from the four Reserve Banks in our sample and learned that they were aware of and appeared to understand the postemployment restriction. During our 2017–2018 review period, however, none of the four Reserve Banks reported having a senior examiner accept employment with an institution and be subject to the postemployment restriction. Finally, the COFI system administrator updated the COFI application to enable staff to electronically sign the postemployment acknowledgment form in the application.

Each Reserve Bank in Our Sample Has Policies and Procedures to Identify Senior Examiners, Require That They Be Notified of Their Postemployment Restriction, and Require Workpaper Reviews

Identification and Notification of Senior Examiners

Based on our review of documentation and interviews, we determined that each Reserve Bank in our sample has policies and procedures to implement and administer the postemployment restriction pursuant to SR Letter 16-16, including procedures to identify senior examiners and notify them of their postemployment restriction.

- One of the Reserve Banks in our sample has procedures to routinely review staffing changes, such as new hires, transfers, and promotions, to help identify new senior examiners and promptly notify them of their postemployment restriction through COFI.
- Another Reserve Bank has procedures to determine whether an examiner should be designated as a *senior examiner* both during the onboarding process and when the examiner’s role changes.
- Another Reserve Bank in our sample has procedures to review position descriptions and job responsibilities on a quarterly basis to determine whether additional examiners warrant the

⁹ The fourth Reserve Bank in our sample did not have any findings.

senior examiner designation. If an employee’s responsibilities meet the definition of *senior examiner*, the Reserve Bank informs the employee of that designation.

- The final Reserve Bank has procedures and a process map that outline the roles and responsibilities for administering SR Letter 16-16, procedures to identify senior examiners and notify them of their postemployment restriction, and a step-by-step process to determine whether new hires and internal transfers meet the definition of *senior examiner*.

During our 2017–2018 review period, three of the four sample Reserve Banks had procedures that required business-line managers to periodically verify *senior examiner* designations; the fourth Reserve Bank implemented a process for periodic verifications in the second quarter of 2019.

All four Reserve Banks in our sample email employees to notify them of their *senior examiner* designation and provide them with information regarding SR Letter 16-16. Officials at one Reserve Bank told us that their managers also discuss the postemployment restriction with staff designated as *senior examiners*. Another Reserve Bank created a list of frequently asked questions to explain the postemployment restriction. In addition, all four Reserve Banks have procedures to notify senior examiners via email when their *senior examiner* designation terminates and to remind them of the time frame during which they will remain subject to the postemployment restriction.

Workpaper Reviews

Based on our reviews of documentation and interviews, we determined that the four Reserve Banks in our sample have procedures to determine whether a workpaper review is required when an examiner discloses their plan to leave a Reserve Bank to pursue outside employment. SR Letter 16-16 requires Reserve Banks to conduct a workpaper review when any examiner, regardless of whether they are designated as a *senior examiner*, accepts employment with an institution that they examined in the 12 months prior to their departure from the Reserve Bank. The workpaper review should be performed within 60 days of the examiner’s departure and should consider whether the examiner compromised examination findings or supervisory proceedings because of their pending employment with the institution.

The workpaper review procedures for the Reserve Banks in our sample include asking an examiner pursuing outside employment whether they are going to be employed at an institution they examined in the past 12 months. If the answer is yes, the Reserve Bank program office will notify the examiner’s former unit that a workpaper review is required. According to the policies at one of the four Reserve Banks in our sample, business-line managers select the examiners who will conduct the workpaper review. At another Reserve Bank in our sample, the former employee’s manager conducts the workpaper review. At the third Reserve Bank, the quality assurance group conducts the workpaper review because the members of that group have examination backgrounds. At the fourth Reserve Bank, the quality assurance group or business-line managers, or both, perform the workpaper review.

During our 2017–2018 review period, three of the four Reserve Banks conducted workpaper reviews for examiners who left to work for an institution they supervised. None of these individuals were designated as *senior examiners*. The remaining Reserve Bank did not have any examiners accept employment with a supervised institution and therefore did not need to perform a workpaper review. Based on our reviews of documentation, we determined that none of the workpaper reviews completed during our review period identified any compromised examination findings or supervisory proceedings. We also found that

the Reserve Banks generally conducted the workpaper reviews within 60 days of examiner departures, as required by SR Letter 16-16.

Reserve Bank Officials Indicated That They Addressed Several Recommendations From the 2017 Postemployment Horizontal Review

As noted above, the 2017 postemployment horizontal review found that the Reserve Banks implemented the postemployment restriction guidance, but the review included findings and recommendations to the Board and the Reserve Banks. Officials from the three Reserve Banks in our sample that had findings in their reviews indicated that they had addressed several review recommendations.

- An official from one Reserve Bank stated that the Bank has updated its policies and procedures to address gaps identified during the review.
- Officials from another Reserve Bank stated that the Bank fully staffed its program office responsible for postemployment restriction oversight and updated its procedures after experiencing significant staffing changes during the time frame under evaluation by the review.
- Officials from another Reserve Bank told us that the Bank addressed a majority of the recommendations from the review.

Two of the four Reserve Banks' quality assurance reviews included recommendations that the program office wait for the Board to clarify the definition of *senior examiner* before updating the definition in their policies and procedures. We understand that Board staff and Reserve Bank auditors will consider conducting a follow-up review of the 2017 horizontal review, pending the results of this evaluation and the issuance of revised guidance.

Senior Examiner Interviewees Understood the Postemployment Restriction

During our interviews, staff who were designated as *senior examiners* demonstrated that they understood the postemployment restriction and the penalties for violating the restriction. Several senior examiner interviewees stated that they found SR Letter 16-16 to be straightforward and that they understood the postemployment restriction. Senior examiners we interviewed were cognizant of the penalties for violating their postemployment restriction and saw these penalties as a deterrent to seeking employment at an institution they supervised.

In addition, we learned from interviewees that there are other Board and Reserve Bank policies and practices designed to foster supervisory independence and to help mitigate the risk of an examiner compromising findings. For example, the Board's *Policy on Rotations of Examiners-in-Charge of Large Bank Supervisory Teams* limits the number of years a CPC can supervise an institution to 5. Further, there is an examination vetting process during which Reserve Bank supervision management and staff discuss examination findings.



Finding 2: The Board Had Not Finalized Guidance to Clarify the Definition of *Senior Examiner*

As of November 2019, the Board had not finalized guidance clarifying the definition of *senior examiner*; thus, the Reserve Banks in our sample took different approaches with respect to whom they designated as *senior examiners*. Although the Board's horizontal review found that the Reserve Banks implemented the requirements of SR Letter 16-16, it also found that the Reserve Banks had difficulty determining which employees should be considered supervisory team leaders and, thus, be designated as *senior examiners*. Accordingly, the review team recommended that the Board issue guidance to clarify the definition of *senior examiner*. If the Board clearly defines the scope of the *senior examiner* designation, the Reserve Banks may take a similar approach when designating *senior examiners* and apply the postemployment restriction more consistently.

The Board Has Not Addressed a Recommendation From the 2017 Postemployment Horizontal Review

As noted previously, the *senior examiner* definition in SR Letter 16-16 includes CPCs, deputy CPCs, SSOs, deputy SSOs, and supervisory team leaders who are dedicated to supervising a single depository institution, a group of affiliated depository institutions, or a depository institution holding company. The horizontal review found that the Reserve Banks were able to appropriately identify individuals who served in the CPC, deputy CPC, SSO, and deputy SSO roles, but the majority of the Reserve Banks had difficulty identifying which staff members should be considered supervisory team leaders. Specifically, the review found that 3 of the 12 Reserve Banks did not appear to have considered designating any staff as supervisory team leaders, whereas 4 Reserve Banks considered applying the designation but later found that no staff served in this role. Based on this finding, in May 2017 the horizontal review team recommended that the Board clarify, within 3 months and in writing, the definition of *senior examiner* in SR Letter 16-16, and in particular, the supervisory team leader role.

In August 2017, the Board circulated draft guidance that attempted to clarify the definition of *senior examiner*. Interviewees at each Reserve Bank in our sample stated that rather than effectively clarifying the definition, the draft guidance led to additional questions and made the definition more confusing. As of November 2019, the Board had not provided additional guidance to clarify the definition of *senior examiner*.

Reserve Banks Have Different Approaches for Identifying Senior Examiners

In the absence of Board guidance that clarifies the definition of *senior examiner*, the Reserve Banks in our sample have taken different approaches to identifying senior examiners:

- One Reserve Bank took a conservative approach to identifying senior examiners. In response to the draft guidance, for example, this Reserve Bank designated every member of a dedicated supervisory team as a *senior examiner*. An official from this Reserve Bank told us that the Bank took this conservative approach to avoid risk but noted that the Board should clarify who should be designated as a *senior examiner*.
- An official at another Reserve Bank stated that the Bank did not make any changes to its definition of *senior examiner* because the Board’s guidance is still in draft form.
- One official told us that their Reserve Bank only designates examiners who supervise a single firm as *senior examiners* but noted that the Board needs to clarify guidance on this topic.
- Interviewees from two Reserve Banks told us that they designated certain examiners who serve as the CPC for two unaffiliated firms as *senior examiners* for both firms.

Given the variability in Reserve Bank approaches, we believe the Board should issue guidance to promote consistency in identifying senior examiners and applying the postemployment restriction across the System.

Recommendation

We recommend that the Directors of S&R and DCCA

1. Finalize and issue guidance to clarify the definition of *senior examiner*.

Management Response

In its response to our draft report, the Board concurs with our recommendation. The Board notes that S&R and DCCA will address this recommendation by issuing an updated version of SR Letter 16-16, which will include an enhanced definition of *senior examiner*. The Board also notes that this definition will provide for a more consistent approach across the System and that DCCA and S&R will work with the Board’s Legal Division and the Reserve Banks to develop and implement the updated guidance.

OIG Comment

The actions described by the Board appear to be responsive to our recommendation. We will follow up to ensure that the recommendation is fully addressed.



Appendix A: Scope and Methodology

The scope of our evaluation included safety and soundness examiners and consumer affairs examiners who were designated as *senior examiners* in 2017 and 2018. We reviewed the results of the May 2017 postemployment horizontal review. We also reviewed information from COFI, such as the list of examiners who were subject to the postemployment restriction. Our scope did not include the Reserve Banks' processes for monitoring examiners' place of employment after they separate from employment at the Reserve Banks. In addition, our scope did not include other conflict-of-interest topics, such as borrowing restrictions or gifts.

To accomplish our objective, we selected 4 of the 12 Reserve Banks for our evaluation—Minneapolis, New York, Richmond, and San Francisco. During our site visits, we conducted interviews with program officials, ethics officers, and individuals designated as *senior examiners*. We also interviewed relevant Board employees and the COFI system administrator. Overall, we interviewed 69 Board and Reserve Bank personnel.

We identified and reviewed relevant Board and Reserve Bank postemployment restriction guidance, including procedures for identifying and notifying senior examiners and monitoring senior examiner assignments. We also reviewed offboarding procedures, documentation of workpaper reviews, and training materials pertaining to the postemployment restriction.

We conducted our fieldwork from January 2019 through September 2019. We performed our evaluation in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

Appendix B: Management Response



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, DC 20551

February 20, 2020

Michael VanHuysen
Assistant Inspector General
For Audits and Evaluations
Board of Governors
Of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC, 20551

Dear Mr. VanHuysen,

Thank you for the opportunity to comment on your draft report, *The Board Should Finalize Guidance to Clearly Define Those Considered Senior Examiners and Subject to the Associated Postemployment Restrictions*. We appreciate the effort that the Office of Inspector General ("OIG") has put into this report and the recommendation it has provided for enhancing the efficiency and effectiveness of the Board of Governors of the Federal Reserve System, ("Board") Conflicts of Interest and Credentials program and the application of postemployment restrictions to "Senior Examiners."

The report found that the Reserve Banks have policies and procedures in place to identify those individuals who should be considered Senior Examiners, but identified that further standardization would enhance these procedures. The report also found the Board has not yet provided finalized guidance clarifying the definition of Senior Examiner. This definition would be critical to successfully implementing standardized procedures across the system.

In the report, the OIG makes the following recommendation:

1. Finalize and issue guidance to clarify the definition of senior examiner.

Management Response: The Division of Supervision and Regulation ("S&R") and the Division of Consumer and Community Affairs ("DCCA") will address this recommendation by issuing an updated version of SR 16-16 guidance "*Special Post-Employment Restriction for Senior Examiners*" which will include an enhanced definition of Senior Examiner. This definition will provide for a more consistent

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approach across the System. DCCA and S&R will work with the Board's Legal Division and the Reserve Banks to develop and implement the updated guidance.

We agree this policy is a high priority for the supervision function and are making a concerted effort to address the recommendation and enhance the program quickly.

Regards,



Michael S. Gibson
Director
Division of Supervision and Regulation



Eric Belsky
Director
Division of Consumer and Community Affairs



Abbreviations

Board	Board of Governors of the Federal Reserve System
COFI	Conflicts of Interest application
CPC	central point of contact
DCCA	Division of Consumer and Community Affairs
final rules	<i>One-Year Post-Employment Restrictions for Senior Examiners</i>
Intelligence Reform Act	Intelligence Reform and Terrorism Prevention Act of 2004
OIG	Office of Inspector General
S&R	Division of Supervision and Regulation
SR Letter 05-26	Supervision and Regulation Letter 05-26, <i>Special Post-Employment Restriction Set Forth in the Intelligence Reform and Terrorism Prevention Act of 2004</i>
SR Letter 16-16	Supervision and Regulation Letter 16-16/Consumer Affairs Letter 16-7, <i>Special Post-Employment Restriction for Senior Examiners</i>
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