

---

## Are Bankers Receiving Contradictory Messages From Regulators?

Not long ago, the supervisory agencies of our banking and thrift institutions published the Interagency Statement on Meeting the Needs of Creditworthy Customers. It contained exhortations to both lending institutions and to examiners that the legitimate credit needs of our country's business and the overall functioning of credit markets be encouraged during these challenging times.

Yet scarcely two weeks later we read in the national press that the OCC and the FDIC are ordering examiners to be more proactive in addressing credit problems and to take more aggressive action when problems are found.

Are these contradictory messages? Are lenders feeling a heavier hand of supervision while reading how regulatory bodies are encouraging more lending to unfreeze the credit markets?

Examiners are political creatures in the sense that they are employees of regulatory agencies beholden to the federal and state governments whose ultimate responsibility it is to promote a safe and sound banking environment. Examiners and the agencies they work for have issued numerous warnings in the last two or three years over concerns about deteriorating lending standards and concentrations of credit, especially real estate related credit. FDIC Chairman Sheila Bair has been widely reported as favoring more aggressive corrective action by examiners as they go about their work examining lending portfolios.

Lenders in recent months have seen their sources of funding seize up; traditional funding sources for their customers (e.g., commercial paper markets) evaporate or become very scarce; and bank managements become virtually obsessed to the point of paralysis with the perceived risks to capital, liquidity, and credit. Lenders don't know how deep this recession will be, how long it will last, whether additional assaults to liquidity and solvency will materialize and whether their institutions are positioned to survive the current malaise. Their caution is understandable especially as the public reacts to the excesses of the relative few who have contributed so heavily to the current economic crisis.

Yes, reasonable people are cautious. Is the real question how much of that caution is artificially imposed by examiner fiat

or nuance? And how much of it is a natural caution at times of considerable uncertainty?

Examiners learned a long time ago that careers are made not by finding things right but by identifying things that are wrong and putting a stop to them. Bankers instinctively know that caution is necessary during periods of illiquidity and credit strain. A constructive first step is to gain an industry consensus about the nature of the credit availability problem.

Do you feel inhibited by the current regulatory environment from exercising credit judgment that you might otherwise do? Are you temporarily "spooked" by conditions leading you or your managements to conclude that it's simply imprudent to expose the bank to any incremental level of risk either of degree or dollar amount? Our economy needs credit to operate and we need to deal with causes rather than symptoms.

What do you recommend to get credit freely flowing again?

About Ed O'Leary:

#### Veteran

lender and workout expert O'Leary spent more than 40 years in bank commercial credit and related functions, working with both major banks as well as community banking institutions. He earned his workout spurs in the dark days of the 1980s and early 1990s in both oil patch and commercial real estate lending.

O'Leary began his banking career at The Bank of New York in 1964, and worked at banks in Florida, Texas, Oklahoma, and New Mexico. He served as a faculty member and thesis advisor at ABA's Stonier Graduate School of Banking for more than two decades, and served as long as a faculty member for ABA's undergraduate and graduate commercial lending schools.

Today he works as a consultant and expert witness, and serves as instructor for ABA e-learning courses and a frequent speaker in ABA's Bank Director Telephone Briefing series. You can hear interviews with Ed about workouts [here](#) . You can e-mail him at [etoleary@att.net](mailto:etoleary@att.net). O'Leary's website can be found at [www.etoleary.com](http://www.etoleary.com).

