

**INTERPRETIVE LETTER 94-008 (MAY 25, 1994)**

**Other real estate owned ("OREO") that is subject to a lease must still be accounted for as OREO for regulatory reporting purposes.**

Your letter to \* has been referred to me for response. In your letter, you asked whether certain other real estate owned ("OREO") by the \* Bank, \*, ("Bank"), may be accounted for on Bank's statements of condition as leased property rather than as OREO. The Illinois Commissioner of Banks and Trust Companies ("Commissioner") concludes that the proper accounting treatment for that real estate continues to be as OREO for the reasons stated further in this letter.

According to your letter, Bank acquired the OREO by means of a deed in lieu of foreclosure and has had title to the real estate since March, 1991. Bank and several realtors attempted to find a buyer for the OREO, but they were unable to sell the property. Thereafter, Bank entered into a 3-year lease agreement, dated \*, 1992, with \* which agreement was renewable for two additional 3-year periods. Bank's accountants assured Bank that there was no problem in accounting for the OREO as leased property.

OREO constitutes a special type of bank-owned real estate. It is specifically referred to in Section 5(9) of the Illinois Banking Act, 205 ILCS 5/5(9) (1992), and a state bank's authority to retain title to OREO is clearly limited. Ordinarily, a state bank must dispose of OREO within 5 years following the date on which the bank acquired title. If a bank is not able to sell OREO within 5 years, the bank must apply to this Agency for an extension and must also document the bank's efforts in attempting to dispose of the OREO in compliance with Rule 354 issued by the Commissioner. "Administration of Assets Obtained in Collection of a Debt," 38 Ill. Admin. Code ' 354.20(d). Under Section 5(9) and Rule 354, a bank is not expected to retain long-term ownership of OREO.

The instructions for consolidated reports of condition and income published by the Federal Financial Institutions Examination Council (p. RC-4) provide that all real estate acquired in the collection of debts previously contracted, including real estate acquired by deed in lieu of foreclosure, must be accounted for as OREO on the statement of condition. There is no option in those instructions to account for OREO as leased property. We are of the opinion that the accounting treatment of OREO for regulatory reporting purposes applies equally as well to the preparation of a bank's statement of condition. The readers of a bank's financial statements must be as accurately informed as possible about each and every account category in the statements, including OREO. We therefore conclude that Bank must continue to account for the real estate parcel that it acquired by deed in lieu of foreclosure as OREO in its financial statements rather than as leased property.