

will exercise their enforcement authority regarding leveraged lending activities, does not establish a “binding norm,” and does not determine the outcome of any Agency examination of a financial institution. Rather, the Guidance expresses the regulators’ expectations regarding the sound risk management of leveraged lending activities. We agree with the Agencies that the Guidance is a general statement of policy. However, the issue presented here is whether this general statement of policy is a rule under CRA.

GAO has previously held that general statements of policy are rules under CRA. For example, in B-287557, May 14, 2001, we decided whether a “record of decision” (ROD) issued by the Fish and Wildlife Service in connection with a federal irrigation project was a rule under CRA. We found that the ROD was a general statement of policy regarding water flow and ecosystems issues in both the Trinity and Sacramento Rivers. The ROD modified prior policy in an attempt, in part, to restore fish habitat.

We cited to the APA definition of “rule,” which includes “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.” This definition includes three key components: (1) an agency statement, (2) of future effect, and (3) designed to implement, interpret, or prescribe law or policy. We stated that this definition is broad, and includes both rules requiring notice and comment rulemaking and those that do not, such as general statements of policy.

We noted that, since CRA adopts the definition of “rule” from APA, it too covers both those requiring notice and comment and general statements of policy, which do not. We decided that the ROD fell squarely within CRA as an agency action that constituted a “statement of general . . . applicability and future effect designed to implement, interpret or prescribe law or policy.” We also noted that Congress intended CRA to cover, not only formal rulemaking, but also rules requiring notice and comment under 5 U.S.C. 553(c), rules that are not subject to notice and comment requirements, including rules that must be published in the Federal Register before taking effect (5 U.S.C. 552(a)(1) and (2)), and other guidance documents. Since a general statement of policy is specifically included among the types of agency actions subject to the requirements of Sections 552(a)(1) (D) and (a)(2)(B), it is clear that CRA covers general statements of policy.

Additionally, in B-316048, April 17, 2008, we considered whether a letter issued by the Centers for Medicare and Medicaid Services (CMS) to state health officials concerning the State Children’s Health Insurance Program (SCHIP) was a rule under CRA. We concluded that the letter was subject to CRA because it was, in fact, a rule subject to notice and comment rulemaking requirements. However, in that decision we also discussed general statements of policy under CRA. CMS had argued that the letter was a general statement of policy “announcing the course which the agency intends to follow” in future adjudications, i.e., what the agency seeks to establish as policy. We explained that the definition of “rule” under both APA and CRA includes “a statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy.” As a device that provides information on the manner in which an agency will exercise its authority or what the agency will seek to propose as policy, we noted that a general statement of policy would appear to fit squarely within this definition of a rule subject to CRA.

In deciding that a general statement of policy is a rule for CRA purposes, our prior decisions cite to the legislative history of CRA, which confirms that rules subject to CRA requirements include general statements of policy. A principal sponsor of the legislation that became CRA made clear that general statements of policy are covered by CRA, stating that “[t]he committees intend [CRA] to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review.” The sponsor added that documents covered by CRA include “statements of general policy, interpretations of general applicability, and administrative staff manuals and instructions to staff that affect a member of the public.”

Additionally, in a floor statement during final consideration of the bill that became CRA, another principal sponsor of the legislation pointed out that rules subject to CRA include agency general statements of policy.

“Although agency interpretive rules, general statements of policy, guideline documents, and agency policy and procedure manuals may not be subject to the notice and comment provisions of section 553(c) of title 5, United States Code, these types of documents are covered under the congressional review provisions of the new chapter 8 of title 5.

“Under section 801(a) [CRA], covered rules, with very few exceptions, may not go into effect until the relevant agency submits a copy of the rule and an accompanying report to both Houses of Congress. Interpretive rules, general statements of policy, and analogous agency policy guidelines are covered without qualification because they meet the definition of a ‘rule’ borrowed from section 551 of title 5, and are not excluded from the definition of a rule.”

We note that legal commentators also support the conclusion that CRA’s requirements are applicable to general statements of policy. They have pointed out that federal agency actions fitting CRA’s definition of a rule include “such items as . . . general statements of policy,” and that “the legislative history of the Act . . . makes clear that this scope was understood and intended.”

Nonetheless, the Agencies assert that because the Guidance does not establish legally binding standards, is not certain or final, and does not substantially affect the rights or obligations of third parties, it is not a rule under CRA. They cite to our decisions in which we found that agency actions that imposed binding requirements that were “both certain and final” were rules for CRA purposes. However, while our decisions recognize those characteristics as indicative of certain types of rules subject to CRA requirements, they do not suggest that the absence of those characteristics requires a determination that an agency action is not a rule under CRA. Moreover, when GAO has examined the issue whether an agency’s action substantially affects the rights or obligations of third parties, it has been in the context of analyzing whether the action falls within the CRA exception for agency rules of practice or procedure, not in deciding whether it meets the definition of rule.

The Agencies also cite to language in certain court decisions to suggest that policy statements are not rules under APA. However, those decisions do not support such a conclusion. Indeed, the Supreme Court has recognized that rules under the APA include “substantive [legislative] rules” on the one hand” as well as “general statements of policy” and other non-legislative rules on the other.

We can readily conclude that the Guidance does not fall within any of the three exceptions in CRA. We note here that the Interagency Guidance is of general and not par-

ticular applicability, does not relate to agency management or personnel, and is not a rule of agency organization, procedure, or practice.

CONCLUSION

The Interagency Guidance is a general statement of policy designed to assist financial institutions in providing leveraged lending to creditworthy borrowers in a sound manner. As such, it is a rule subject to the requirements of CRA.

Sincerely yours,

SUSAN A. POLING,
General Counsel.

CHRISTENING OF THE USNS “HERSHEL ‘WOODY’ WILLIAMS”

Mrs. CAPITO. Mr. President, today I wish to celebrate the christening of the United States Navy’s T-ESB 4 Expeditionary Sea Base, USNS *Hershel “Woody” Williams* taking place on October 21, 2017. This vessel is named after the proud West Virginian and last surviving Medal of Honor recipient from the Pacific theater during World War II. This ship will serve as a flexible platform to support Special Forces helicopters and aircraft, as well as counterpiracy and mine countermeasures.

This ship could not have a better namesake than Woody Williams. Woody’s life is the embodiment of what it means to serve this country, both in his military service during World War II, and his service to veterans and Gold Star families in his civilian life. Corporal Williams’ actions on Iwo Jima are the definition of heroism. He went forward alone, facing deadly machine-gun fire from entrenched Japanese positions and fought bravely for 4 hours, taking out enemy positions one by one. His actions were crucial to his regiment’s success on Iwo Jima, wiping out a heavily defended Japanese position.

In addition to Woody’s wartime heroism, for which he received the Congressional Medal of Honor, he also has devoted his life to servicemembers, veterans, and their families. Through the Hershel Woody Williams Medal of Honor Foundation, he honors Gold Star families who have lost loved ones that bravely sacrificed their lives in defense of our freedom by seeking to establish Gold Star Families Memorial Monuments in all 50 States. His foundation also offers scholarships to Gold Star children and sponsors outreach programs that educate communities about Gold Star families and the sacrifice that they have made. To date, the foundation has established 26 Gold Star Families Memorial Monuments across the country, with 50 other monuments underway in 38 States. Woody also served our Nation’s veterans for 33 years as a veterans service representative in the Department of Veterans Affairs.

At 94 years old, Woody continues to be an energetic, unyielding force for good. I have had the privilege of knowing Woody Williams for many years, and the christening of this mobile sea base vessel is a testament to Woody’s

bravery, his dedication to our Nation's servicemembers, and his unwavering commitment to serving others. I am proud to rise today to recognize Mr. Williams and congratulate him on the christening of the USNS *Hershel "Woody" Williams*.

200TH ANNIVERSARY OF THE BIRTH OF BAHÁ'U'LLAH, THE FOUNDER OF THE BAHÁ'I FAITH

Mr. ALEXANDER. Mr. President, I am very pleased to draw attention today to the 200th anniversary of the birth of Baha'u'llah, the founder of the Baha'i Faith.

The Baha'i Faith has over 5 million followers around the world, including over 2,000 in Tennessee. Baha'is come from virtually every racial, ethnic, national, tribal, and linguistic background on the planet.

On October 22, 2017, Baha'i communities across the United States and around the world will commemorate the 200th anniversary of the birth of Baha'u'llah—the founder of the Baha'i Faith—and celebrate his life and his teachings.

Baha'u'llah was born to a noble family in 1817 in Persia, modern-day Iran. As a young man, he was known for his charity and service to others and was called the father of the poor. In 1844, he founded the Baha'i Faith, a new and independent religion with its own scriptures, laws, teachings, and practices.

Baha'u'llah proclaimed a message of justice, unity, and peace. This message called for, among other things, the equality of women and men, an end to racial prejudice, universal education, interfaith harmony, and international cooperation. As a result of his teachings, Baha'u'llah was imprisoned and exiled for over 40 years by the Persian and Ottoman empires.

Despite the injustice and oppression he faced throughout his life, Baha'u'llah continued to promote a message of peace and unity based upon harmony within the human race. In every place to which he was banished, he touched the lives of all those around him. Even some of his opponents, after meeting him, became his friends and admirers.

Today Baha'is in Iran are still persecuted for their faith, and human rights experts have called their situation one of the clearest and most severe cases of religious persecution in the world.

The Baha'i Faith first arrived in the U.S. over 120 years ago. Baha'is now live in every State of the Union, including Tennessee, where the community has grown to over 2,000 members.

Wherever they live, Baha'is champion the principles that Baha'u'llah proclaimed. They strive to build a better world by being good citizens, serving their communities, and working side by side with others to promote the common good.

On this important occasion, I congratulate the Baha'i community of

Tennessee and across the United States on the bicentennial of the birth of Baha'u'llah.

REMEMBERING EVELYNE J. VILLINES

Mr. GRASSLEY. Mr. President, today I wish to recognize the passing of disability rights pioneer and my longtime friend, Ms. Evelyn Villines. Ever since I first met Evelyn during my early years in the Iowa House of Representatives, I knew her to be a fierce advocate on behalf of those with disabilities. She had an outstanding work ethic and never stopped campaigning for those with disabilities to be recognized for their abilities and not by what others saw as their limitations.

Thanks to people like Evelyn, our society has made a lot of progress in this area. Evelyn's tireless work earned her recognition on both the State and national levels as an inductee into the Iowa Women's Hall of Fame and the national Hall of Fame for Persons with Disabilities. Evelyn's efforts were recognized as paving the way for passage for the American with Disabilities Act of 1990.

She served on numerous commissions and joined the board of SourceAmerica in its infancy, leading the company to become one of the largest employers of people with disabilities in the Nation. Evelyn's advocacy and resulting accomplishments have opened the doors of opportunity for people with disabilities.

I am honored to stand before you in recognizing Evelyn for her lifelong commitment to service. Evelyn's legacy will live on for years to come through the countless individuals who will continue to benefit from her life's work.

TRIBUTE TO ROBERT HIGDON, JR.

Mr. TILLIS. Mr. President, today I wish to recognize Robert Higdon, Jr., and congratulate him on his appointment as the U.S. Attorney for the Eastern District of North Carolina.

Bobby earned both his law degree and undergraduate degree from Wake Forest University and has a decorated career in public service and in private practice. Prior to law school, he worked for then-Secretary of Transportation Elizabeth Dole and for Senator John East. Upon graduating from law school, Bobby served as a law clerk to Judge Eugene H. Phillips on the North Carolina Court of Appeals. After working for several years in private practice, he began a successful career as a Federal prosecutor.

From 1991 until 2015, Bobby served in the U.S. Attorney's Office and the U.S. Department of Justice in a number of roles, including chief of the criminal division in the Eastern District of North Carolina. He has vast experience investigating, prosecuting, and advising on criminal cases, ranging from violent crime and drug trafficking to white collar and public integrity crimes.

Aside from his sterling legal career, Bobby is an active member of his community, inspiring and helping others. He serves his church as a volunteer and a Sunday School teacher, and he has mentored the next generation of lawyers by coaching in various mock trial competitions. His example reminds us that our roles as public servants extend beyond the office.

It was an honor to recommend Bobby Higdon to President Trump. Anyone who works with him knows he is a dedicated professional who has extensive legal knowledge and expertise. In addition, he is widely respected in the law enforcement community, and these relationships will be incredibly valuable as he takes on this important role. Bobby understands the challenges and issues facing North Carolina, and I know that he will continue to lead the U.S. Attorney's Office with dignity and respect.

ADDITIONAL STATEMENTS

TRIBUTE TO NORMAN JOSEPH

• Mr. COCHRAN. Mr. President, I am pleased to commend Norman Joseph of Jackson, a leader in Mississippi athletics, on his induction into the Belhaven University Sports Hall of Fame this month. Coach Joseph is a Vicksburg native who played quarterback and defensive back at Mississippi State University. As a coach in the nearly four decades since, he has delivered a tradition of excellence, success, and Christian character to student-athletes in Mississippi and across the country.

Norman Joseph has coached on every level of 4-year college football. Starting and rebuilding teams became a hallmark of his career. He built the Belhaven University football program from the ground up and served as its inaugural head coach. Coach Joseph launched Belhaven's recruiting program, designed its uniforms, and consulted on the creation of practice facilities and a new athletic complex. Under his leadership, the football program experienced immediate success and achieved a Top 25 ranking for 6 consecutive weeks during its second season.

Coach Joseph has coached at three Jackson-area colleges. In addition to Belhaven, he served as quarterbacks coach at Millsaps College and head coach at Mississippi College in Clinton for nine seasons.

At Mississippi College, Coach Joseph took a program in decline and established a winning culture. Under his guidance, the team had an eight-win season in only 3 years. Within 5 years, the team won the conference championship and went to the second round of the Division III playoffs. Coach Joseph took his team to NCAA Top 25 National Rankings in scoring offense, total offense, passing offense, rushing