Professor Julie Hill was quoted in an article in the *American Banker* regarding the recent issuance of stricter bank orders.

**Worse than a Reg Order: Another, Tougher Order**  
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Saehan Bank has spent almost a quarter of its 20-year existence under some form of enforcement action. Even so, when its consent order was recently terminated, analysts were shocked at the level of detail and heightened requirements in a new, piggybacked order after it was closer to meeting the old one.

Saehan, of Los Angeles, is one of many chronic offenders nabbed by a more stringent reading of regulatory radar detectors.

Don Mann, an independent bank consultant and former Michigan state bank regulator, compared the situation to when "the police [stop] everyone on the freeway for going one mile over the speed limit - you're toast ... The regulators are saying that."

Follow-on actions issued by all bank regulators hit a high of 256 in 2010 among orders that were originally issued since 2008, based on data compiled by Foresight Analytics, a division of Trepp LLC. The actions, which are any order or action followed by another, rose almost 170% from the 95 reissued in 2009.

In general, orders can be revised or reissued if a bank's financial condition worsens or when it improves in some areas but regulators want further action taken elsewhere.

Industry observers said regulators are trying to prevent another financial crisis. Carla Brooks, a managing director at Commerce Street Capital, said regulators are "smart" to update orders because it "addresses the issues that continue to pop up and solidifies the things they want done."

Still, some expressed concern that placing a tighter grip on small banks will restrict both bank and economic growth in the long run.

"What we're seeing in Michigan is that the FDIC does not like commercial real estate lending," Mann said. "So bankers won't make loans to businesses [if it relates to commercial real estate], especially if they have a high volume already. And that's going to stop growth [for businesses], and that's going to stop employment growth."

The $590 million-asset Saehan has been meeting some of the requirements from the original consent order issued in December 2009, including a 10% Tier 1 leverage ratio, which it accomplished right at its deadline with a $60.6 million private placement in March 2010.

While problem loans triggered the original agreement, the goal at the time was to raise capital, Daniel Kim, Saehan's chief financial officer, said.
The newly issued order in January focuses largely on classified assets, requiring all "substandard" and "doubtful" assets not already charged off to make up less than 65% of Tier 1 capital, plus its allowance for loan losses. As with many new actions, Saehan's order restricts it from expanding into new lines of business.

Observers who are accustomed to seeing increased, and varied, standards, have been surprised by the order's specific details, such as higher-than-typical capital ratios and classified asset make-up.

"Once you hit the double digits in Tier 1 leverage, that's pretty impressive," Chip MacDonald, a partner at Jones Day, said. "This dispels the myth that if you raise capital, you won't have regulatory issues ... when you get these, it's a reflection of the riskier assets and what you're earning."

The weight of the risk is another reason one bank may be required to reach an 8% leverage ratio and another must have at least 10%. (Both exceed the official 5% regulatory requirement.) The average ratio in orders has been about 8%, said a recently released study of public enforcement actions by Julie Hill, an assistant professor of law at the University of Houston.

"It's fair to say that for the orders issued now, the average is higher than eight," Hill said. "Bankers think it's [the ratio] increased dramatically when in fact, it is inching up a little bit. There are just more banks with orders."

Hill said the spread in capital requirements is usually driven by an area's economic condition. There is also a general sense from the regulators that they are "not sure if the bank has correctly identified all the assets and are correctly adjusted for the risk," she said.

More often, orders were revised when a bank failed to meet the previous order in the allotted time frame, typically after a follow-up bank examination. For instance, Savoy Bank in New York has had a cease-and-desist order amended in October since regulators issued the first one in June 2009 - only one year after its inception.

Savoy's amended orders mostly pointed to management, reducing classified assets and raising capital ratios. The latest amendment also included a focus on liquidity and funds management.

A revised consent order can also mean that the bank has improved in some areas while needing to meet others. It is often viewed as less severe than being downgraded to a prompt corrective action.

Pacific Valley Bank in Salinas, Calif., was among a few banks recently to exit from two consent orders, in 2008 and again in 2009. The $172 million-asset bank had an order lifted in January after making financial improvements, though nonperforming assets were 6.1% of total assets at Dec. 31.

Saehan also had managed to get out from under a cease-and-desist in May 2004 after almost two years. The bank's goal is to reduce its 8.68% in noncurrent loans to total loans, and get down to
its peer-group average of 3.04%. The bank plans to do so mostly through asset sales this year.

Saehan is waiting for regulatory approval to have Dong Il Kim become permanent CEO, which would fill a post that has been vacant since predecessor Chung Hoon Youk resigned in October.

Daniel Kim said he is "very confident" Saehan will comply with the entire order by July and that the bank will become profitable later this year. He added, "We could tell many stories, but only as we execute our strategy are people really going to believe us."