

RESCINDED

Office of Thrift Supervision
Department of the Treasury

January 4, 2002

Transmittal
TR-268

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Federal Register, Vol. 66, No. 246, pp. 65817 - 65822

Number TR-268

The attached final rule regarding Technical Amendments was published in the Federal Register on December 21, 2001.

Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective December 11, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT:

Jennifer J. Johnson, Secretary of the Board, at (202)452-3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 1.5 percent to 1.25 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors stated that economic activity remains soft, with underlying inflation likely to edge lower from relatively modest levels. To be sure, weakness in demand shows signs of abating, but those signs are preliminary and tentative. The Committee continues to believe that, against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future. Although the necessary reallocation of resources to enhance security may restrain advances in productivity for a time, the long-term prospects for productivity growth and the economy remain favorable and should become evident once the unusual forces restraining demand abate.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth. The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201 —EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 C.F.R. part 201 continues to read as follows:

Authority: Authority: 12 U.S.C. 343 et seq., 347a, 347b, 347c, 347d, 348 et seq., 357, 374,374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	1.25	December 11, 2001
New York	1.25	December 11, 2001
Philadelphia ..	1.25	December 11, 2001
Cleveland	1.25	December 13, 2001
Richmond	1.25	December 13, 2001

Federal Reserve Bank	Rate	Effective
Atlanta	1.25	December 13, 2001
Chicago	1.25	December 11, 2001
St. Louis	1.25	December 12, 2001
Minneapolis ...	1.25	December 13, 2001
Kansas City ..	1.25	December 13, 2001
Dallas	1.25	December 13, 2001
San Francisco	1.25	December 11, 2001

By order of the Board of Governors of the Federal Reserve System.
December 17, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01-31433 Filed 12-20-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 500, 505, 506, 516, 517, 541, 543, 544, 545, 546, 552, 556, 560, 561, 563, 563d, 563g, 565, 568, 570, 573, 583, and 590

[No. 2001-84]

Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate a number of technical and conforming amendments. They include clarifications, updated statutory and other references, and corrections of typographical errors.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Marilyn K. Burton, Senior Paralegal (Regulations), (202) 906-6467, or Karen A. Osterloh, Assistant Chief Counsel, (202) 906-6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS is amending its regulations to incorporate a number of technical and conforming amendments. These changes are outlined below.

OTS is changing the headings for several parts to more accurately reflect the contents. The following chart illustrates the changes made by this rule:

Part	Old title	New title
500	Organization and Channeling of Functions	Agency Organization and Functions
516	Application Processing Guidelines and Procedures	Application Procedures Processing
517	The Minority, Women, and Individuals with Disabilities Outreach Program: Contracting for Goods and Services.	Contracting Outreach Programs
541	Definitions	Definitions for Regulations Affecting Federal Savings Associations
543	Incorporation, Organization, and Conversion of Federal Mutual Associations.	Federal Mutual Associations Savings—Incorporation, Organization, and Conversion
544	Charter and Bylaws	Federal Mutual Savings Associations—Charter and Bylaws
545	Operations	Federal Savings Associations—Operations
546	Merger, Dissolution, Reorganization, and Conversion	Federal Mutual Savings Associations—Merger, Dissolution, Reorganization, and Conversion
552	Incorporation, Organization, and Conversion of Federal Stock Associations.	Federal Stock Associations—Incorporation, Organization, and Conversion
561	Definitions	Definitions for Regulations Affecting All Savings Associations
563	Operations	Savings Associations—Operations
568	Security Procedures	Security Procedures under the Bank Protection Act
570	Submission and Review of Safety and Soundness Compliance Plans and Issuance of Orders to Correct Safety and Soundness Deficiencies.	Safety and Soundness Guidelines and Compliance Procedures
583	Definitions	Definitions for Regulations Affecting Savings and Loan Holding Companies

In addition, OTS makes the following miscellaneous changes:

- *Part 505—Freedom of Information Act (FOIA).* The final rule revises §§ 505.1 to 505.4, which describe the availability of materials under FOIA and the procedures for requests for records and administrative appeals. The final rule indicates that materials are available through the Dissemination Branch, General Law Division and the Public Reading Room, and that the Public Reading Room is available only by appointment. The final rule also provides that requests for records and administrative appeals of initial determinations to deny records must be submitted to the Dissemination Branch, General Law Division.

- *Part 506—Information Collection Requirements under the Paperwork Reduction Act (PRA).* The final rule updates the table displaying the OMB control numbers assigned to various OTS regulations under the PRA by inserting additional references to the control numbers and by correcting minor typographical errors. See 12 CFR 506.1(b).

- *Part 516—Application Processing Guidelines and Procedures.* The final rule updates § 516.40 to include current addresses for OTS Regional Offices.

- *Part 556—Statements of Policy.* This final rule moves the statement of policy on branching at 12 CFR 556.5 to 12 CFR 545.93. This provision will now directly follow OTS rules on branch offices and branch office applications at 12 CFR 545.92. The only remaining provision in part 556 is the policy statement on receipt of interest

expressed as a percentage of other income. See 12 CFR 556.13. This policy statement has limited applicability and is adequately addressed in various OTS legal opinions. See Op. Chief Counsel (May 3, 1996). OTS has concluded that it is unnecessary to continue to include this policy statement in its rules. Accordingly, this final rule deletes part 556.

- *Part 560—Lending and Investment.* The final rule corrects the indentation in the supervisory loan-to-value limits chart in the Appendix to § 560.101.

- *Part 563d—Securities of Savings Associations and Part 563g—Securities Offerings.* The final rule updates the filing requirements at §§ 563d.1, 563d.2, 563g.5, and 563g.18.

- *Part 565—Prompt Corrective Action.* The final rule corrects a statutory citation in § 565.4(b)(1)(iv).

- *Part 568—Security Procedures.* The final rule corrects the authority citation for this part.

- *Part 573—Privacy of Consumer Financial Information.* The final rule adds a phrase that was inadvertently omitted from § 573.15(a)(7)(ii). This change conforms this section to the text of the rule published on 65 FR 35162 (June 1, 2000).

- *Part 590—Preemption of State Usury Laws.* OTS is correcting a grammatical error in § 590.3(c).

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

OTS finds that there is good cause to dispense with prior notice and comment on this final rule and with the 30-day

delay of effective date mandated by the Administrative Procedure Act.¹ OTS believes that these procedures are unnecessary and contrary to public interest because the rule merely corrects and clarifies existing provisions. Because the amendments in the rule are not substantive, these changes will not detrimentally affect savings associations.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 provides that regulations that impose additional reporting, disclosure, or other new requirements may not take effect before the first day of the quarter following publication.² This section does not apply because this final rule imposes no additional requirements and makes only technical changes to existing regulations.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,³ the OTS Director certifies that this technical corrections regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a “significant regulatory action” for purposes of Executive Order 12866.

¹ 5 U.S.C. 553.

² Pub. L. 103-325, 12 U.S.C. 4802.

³ Pub. L. 96-354, 5 U.S.C. 601.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects*12 CFR Part 500*

Organization and functions (Government agencies).

12 CFR Part 505

Freedom of information.

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 517

Government contracts, Individuals with disabilities, Minority businesses, Women.

12 CFR Parts 541, 556, and 561

Savings associations.

12 CFR Parts 543, 544, and 546

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Parts 552 and 563g

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 563d

Authority delegations (Government agencies), Reporting and recordkeeping

requirements, Savings associations, Securities.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 568

Reporting and recordkeeping requirements, Savings associations, Security measures.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

12 CFR Part 573

Consumer protection, Privacy, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 583

Holding Companies, Savings associations.

12 CFR Part 590

Banks, banking, Loan programs—housing and community development, Manufactured homes, Mortgages, Savings associations.

Accordingly, the Office of Thrift Supervision hereby amends title 12, chapter V of the Code of Federal Regulations, as set forth below.

PART 500—AGENCY ORGANIZATION AND FUNCTIONS

1. Revise the part heading for part 500 to read as shown above.

2. The authority citation for part 500 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

PART 505—FREEDOM OF INFORMATION ACT

3. The authority citation for part 505 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1462a, 1463, 1464.

4. Revise the third sentence of § 505.1(b) to read as follows:

§ 505.1 Basis and Scope.

* * * * *

(b) * * * Procedures for requests for records are set forth in § 505.3 of this part. * * *

5. Revise § 505.2 to read as follows:

§ 505.2 Public Reading Room.

OTS will make materials available for review on an ad hoc basis when necessary. Contact the Dissemination

Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or you may visit the Public Reading Room at 1700 G Street, NW., by appointment only. To make an appointment for access, call (202) 906-5922, send an E-mail to publicinfo@ots.treas.gov, or send a facsimile transmission to (202) 906-7755. (Please identify the materials you would like to inspect, to assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

6. Revise the first two sentences of § 505.3 to read as follows:

§ 505.3 Requests for records.

The Manager, Dissemination Branch or a designated official will make the initial determination under 31 CFR 1.5(g) whether to grant a request for OTS records. Requests may be mailed to: Freedom of Information Act Request, Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or marked "FOIA" and delivered in person to the Public Reading Room, Dissemination Branch, General Law Division, 1700 G Street, NW., Washington, DC 20552. * * *

7. Revise the first and third sentences of § 505.4 to read as follows:

§ 505.4 Administrative appeal of initial determination to deny records.

The Deputy Chief Counsel for General Law or a designated official will make appellate determinations under 31 CFR 1.5(h) with respect to OTS records. * * * Appeals may be delivered personally to the Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. * * *

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

8. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

9. Amend § 506.1(b) by revising the entry for part 516, removing the entry for § 516.1(c), adding new entries for §§ 533.4, 533.6 and 533.7 in numerical order, and revising the entry for § 545.92 to read as follows:

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

12 CFR part or section where identified and described	Current OMB control No.	12 CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *	* * * * *	* * * * *
Part 516	1550-0056	545.92	1550-0004 and 1550-0006
* * * * *	* * * * *	* * * * *	* * * * *
533.4	1550-0105		
533.6	1550-0105		
533.7	1550-0105		

PART 516—APPLICATION PROCESSING PROCEDURES

10. Revise the part heading for part 516 to read as shown above.

11. The authority citation for part 516 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*

12. Revise § 516.40(a)(2) to read as follows:

§ 516.1 Where do I file my application?

(a) * * *

(2) The addresses of each Regional Office and the states covered by each office are:

Region	Office address	States served
Northeast	Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey, 07302.	Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.
Southeast	Office of Thrift Supervision, 1475 Peachtree Street, NE., Atlanta, Georgia 30309. Mail to: PO Box 105217, Atlanta, Georgia 30348-5217.	Alabama, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina, Virginia, the Virgin Islands
Central	Office of Thrift Supervision, One South Wacker Drive, Suite 2000, Chicago, Illinois 60606.	Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin
Midwest	Office of Thrift Supervision, 225 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062-2326. Mail to: PO Box 619027, Dallas/Ft. Worth, Texas 75261-9027.	Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas
West	Office of Thrift Supervision, Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, California, 94014-1976. Mail to: PO Box 7165, San Francisco, California 94120-7165.	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, Utah, Washington, Wyoming

* * * * *

PART 517—CONTRACTING OUTREACH PROGRAMS

13. Revise the part heading for part 517 to read as shown above.

14. The authority citation for part 517 continues to read as follows:

Authority: 12 U.S.C. 1833(e); 42 U.S.C. 12101 *et seq.*

PART 541—DEFINITIONS FOR REGULATIONS AFFECTING FEDERAL SAVINGS ASSOCIATIONS

15. Revise the part heading for part 541 to read as shown above.

16. The authority citation for part 541 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

PART 543—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

17. Revise the part heading for part 543 to read as shown above.

18. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 544—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—CHARTER AND BYLAWS

19. Revise the part heading for part 544 to read as shown above.

20. The authority citation for part 544 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 545—FEDERAL SAVINGS ASSOCIATIONS—OPERATIONS

21. Revise the part heading for part 545 to read as shown above.

22. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

23. Revise § 545.92(d)(2) to read as follows:

§ 545.92 Branch offices.

* * * * *

(d) * * *

(2) *Submission of application or notice.* A Federal savings association must comply with § 545.93 of this part and must file its application or notice within the time frame in § 516.60 of this chapter.

* * * * *

PART 546—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

24. Revise the part heading for part 546 to read as shown above.

25. The authority citation for part 546 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 552—FEDERAL STOCK ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

26. Revise the part heading for part 552 to read as shown above.

27. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

PART 556—STATEMENTS OF POLICY [REMOVED]

§ 556.5 [Redesignated as § 545.93]

28. Redesignate § 556.5 as § 545.93.

Part 556 [Removed]

28a. Remove part 556.

PART 560—LENDING AND INVESTMENT

29. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j-3, 1828, 3803, 3806; 42 U.S.C. 4106.

30. Amend the Appendix to § 560.101 by revising the Supervisory Loan-to-Value Limits table to read as follows:

§ 560.101 Real estate lending standards.

* * * * *

Appendix to § 560.101—Interagency Guidelines for Real Estate Lending Policies

* * * * *

Supervisory Loan-to-Value Limits

* * * * *

Loan category	Loan-to-value limit (percent)
Raw land	65
Land development	75
Construction:	
Commercial, multifamily, ¹ and other nonresidential	80
1- to 4-family residential	85
Improved property	85
Owner-occupied 1- to 4-family and home equity	(²)

¹ Multifamily construction includes condominiums and cooperatives.

² A loan-to-value limit has not been established for permanent mortgage or home equity loans on owner-occupied, 1- to 4-family residential property. However, for any such loan with a loan-to-value ratio that equals or exceeds 90 percent at origination, an institution should require appropriate credit enhancement in the form of either mortgage insurance or readily marketable collateral.

* * * * *

PART 561—DEFINITIONS FOR REGULATIONS AFFECTING ALL SAVINGS ASSOCIATIONS

31. Revise the part heading for part 561 to read as shown above.

32. The authority citation for part 561 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

PART 563—SAVINGS ASSOCIATIONS—OPERATIONS

33. Revise the part heading for part 563 to read as shown above.

34. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831o, 3806; 42 U.S.C. 4106.

PART 563d—SECURITIES OF SAVINGS ASSOCIATIONS

35. The authority citation for part 563d continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78w, 78d-1.

36. Revise the fourth sentence of § 563d.1 to read as follows:

§ 563d.1 Requirements under certain sections of the Securities Exchange Act of 1934.

* * * All filings with respect to securities issued by savings associations required by those rules and regulations to be made with the Commission shall be made with the Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by submitting such filings to the Securities Filing Desk at the above address, except as noted in § 563d.2 of this part. * * *

37. Revise the third sentence of § 563d.2 to read as follows:

§ 563d.2 Mailing requirements for securities filings.

* * * The originally-signed copy and all remaining copies of each filing shall be sent to the Business Transactions Division by submitting such filings to the Securities Filing Desk at the address specified in § 563d.1 of this part. * * *

PART 563g—SECURITIES OFFERINGS

38. The authority citation for part 563g continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78n, 78p, 78w.

39. Revise § 563g.5(b)(1) introductory text, (b)(1)(i), and (b)(2) to read as follows:

§ 563g.5 Filing and signature requirements.

* * * * *

(b) * * * (1) Unless otherwise required, any filing under this part shall include nine copies of the document to be filed with the Business Transactions Division, Chief Counsel's Office, as follows:

(i) Seven copies, which shall include one manually signed copy with exhibits, three conformed copies with exhibits, and three conformed copies without exhibits, to the Securities Filing Desk, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; and * * * * *

(2) Within five days after the effective date of an offering circular or the commencement of a public offering after the effective date, whichever occurs later, nine copies of the offering circular used shall be filed with OTS, as follows: seven copies to the Securities Filing

Desk, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and two copies to the Regional Director. * * * * *

40. Revise the last sentence of § 563g.18(a) to read as follows:

§ 563g.18 Current and periodic reports.

(a) * * * The duty to file under this section shall also be automatically suspended as to any fiscal year, other than the fiscal year within which such offering circular became effective, if, at the beginning of such fiscal year, the securities of each class to which the offering circular relates are held of record by less than three hundred persons and upon the filing of a Form 15. * * * * *

PART 565—PROMPT CORRECTIVE ACTION

41. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

42. Revise § 565.4(b)(1)(iv) is revised to read as set forth:

§ 565.4 Capital measures and capital category definitions.

* * * * *

(b) * * *

(1) * * *

(iv) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by OTS under section 8 of the FDI Act, the International Lending Supervision Act of 1983 (12 U.S.C. 3907), the Home Owners' Loan Act (12 U.S.C. 1464(t)(6)(A)(ii)), or section 38 of the FDI Act, or any regulation thereunder, to meet and maintain a specific capital level for any capital measure. * * * * *

PART 568—SECURITY PROCEDURES UNDER THE BANK PROTECTION ACT

43. Revise the part heading for part 568 to read as shown above.

44. Revise the authority citation for part 568 to read as follows:

Authority: Secs. 2-5, 82 Stat. 294-295 (12 U.S.C. 1881-1884).

PART 570—SAFETY AND SOUNDNESS GUIDELINES AND COMPLIANCE PROCEDURES

45. Revise the part heading for part 570 to read as shown above.

46. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p-1.

PART 573—PRIVACY OF CONSUMER FINANCIAL INFORMATION

47. The authority citation for part 573 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828; 15 U.S.C. 6801 *et seq.*

48. Revise § 573.15 (a)(7)(ii) to read as follows:

§ 573.15 Other exceptions to notice and opt out requirements.

- (a) * * *
- (7) * * *

(ii) To comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by Federal, State, or local authorities; or
* * * * *

PART 583—DEFINITIONS FOR REGULATIONS AFFECTING SAVINGS AND LOAN HOLDING COMPANIES

49. Revise the part heading for part 583 to read as shown above.

50. The authority citation for part 583 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

PART 590—PREEMPTION OF STATE USURY LAWS

51. The authority citation for part 590 continues to read as follows:

Authority: 12 U.S.C. 1735f-7a.

52. Revise 590.3(c) to read as follows:

§ 590.3 Operation.

* * * * *

(c) Nothing in this section preempts limitations in state laws on prepayment charges, attorneys' fees, late charges or other provisions designed to protect borrowers.

Dated: December 11, 2001.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 01-31053 Filed 12-20-01; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 559 and 560

[No. 2001-82]

RIN 1550-AB37

Lending and Investment

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision ("OTS") is revising and clarifying its lending and investment regulations to give savings associations greater flexibility in a changing marketplace. Today's regulatory amendments are intended to help thrifts take better advantage of the flexibility available under the Home Owners' Loan Act ("HOLA"), to provide low-cost credit to their customers, and to invest in their communities while still operating safely and soundly.

EFFECTIVE DATE: This rule is effective on January 1, 2002.

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SUPPLEMENTARY INFORMATION:

I. Background

OTS periodically reviews its lending and investment regulations to ensure that they enhance safe and sound lending, implement statutory requirements, protect consumers, minimize regulatory burden, and are clearly written. OTS lending and investment regulations have been considerably modified over time as savings associations, their markets, their competition, and the economy have changed. For the most part, OTS has taken a contract and market-based approach to provide flexibility for thrifts and their customers and to encourage innovations in lending to help make credit more available.

OTS last substantively revised its lending regulations and subordinate organizations regulations in 1996.¹ Since that time, the markets in which thrifts operate have changed substantially. In the primary market, savings associations now compete with other mortgage lenders to offer potential borrowers a wide variety of options besides the traditional 30-year fixed-rate purchase money mortgage. The secondary market continues to narrow the interest-rate spread on high quality mortgages.

As the residential mortgage market has evolved, thrifts have increasingly begun to explore offering other types of credit needed in their communities, including consumer lending and small business lending. A variety of community-related investment opportunities offer thrifts new ways to

serve and to participate in the economic development of their communities. Thrifts have asked whether and how such loans and investments may be made by either the thrift itself or through an operating subsidiary or service corporation.

This evolving environment made it appropriate for OTS to again re-examine and update its lending and investment and subordinate organizations regulations. Accordingly, on November 1, 2001, OTS published a proposed rule intended to help thrifts take better advantage of the flexibility available under the Home Owners' Loan Act ("HOLA"), to provide low-cost credit to their customers, and to invest in their communities while still operating safely and soundly. 66 FR 55131 (Nov. 1, 2001).

II. Analysis of Comments

OTS received eight public comments from three Federal savings associations, three trade associations, a community group, and an individual. Seven commenters supported the rule, but recommended modifications. The commenter opposing the rule incorrectly believed that the rule applied to institutions with a common bond (*i.e.*, credit unions), rather than thrifts. The remaining comments are summarized below.

Small Business Loans

Existing § 560.3 provides two alternatives for determining whether a particular loan qualifies as a small business loan.² First, a loan of any size qualifies if the loan is made to a business that meets the size standards established by the Small Business Administration. Second, a loan qualifies if a savings association makes a loan to a business and the amount of the loan is less than \$1 million, or makes a loan to a farm and the amount of the loan is less than \$500,000. OTS proposed to raise this safe harbor amount to \$2 million for both small business and farm loans.

Most commenters supported the increase. One commenter, however, noted that the existing definition is more consistent with an emphasis on serving the smallest businesses and farms and with the Community Reinvestment Act (CRA) definition of small business and farm loan. This commenter feared that the proposed increase could cause thrifts to neglect the smallest businesses.

² Sections 5(c)(2)(A) and 10(m)(4)(E) specifically authorize the Director to define the terms "small business loans" and "small business" for purposes of HOLA investment limits and the Qualified Thrift Lender test, respectively.

¹ See Lending and Investment Final Rule, 61 FR 50951 (Sept. 30, 1996); Subsidiaries and Equity Investments, 61 FR 66561 (Dec. 18, 1996).