

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 516, 543, 545, 552, 556, 563

[NO. 97-30]

RIN 1550-AA83

APPLICATION PROCESSING

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: As a part of its ongoing effort to review and streamline its regulations, the Office of Thrift Supervision (OTS) is proposing to revise its regulations governing the comment procedures for certain specified applications and notices (collectively “applications”). In addition to reorganizing the regulations, the OTS proposes to amend the existing procedures to expand the comment period on these applications, prescribe the information that comments must contain in order to be considered by the OTS in its evaluation of applications, and remove existing provisions that require the OTS to conduct an oral argument on applications under certain circumstances and replace these provisions with discretionary conference procedures.

DATES: Comments must be received on or before [insert date 60 days from date of

publication in the Federal Register].

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552, Attention Docket No. 97-30. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 A.M. to 5:00 P.M. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days.

FOR FURTHER INFORMATION CONTACT: Catherine Shepard, Senior Attorney, Regulations and Legislation Division, (202) 906-7275, Kevin Corcoran, Assistant Chief Counsel, Business Transactions Division, (202) 906-6962, Office of Chief Counsel; or Diana L. Garmus, Director, Corporate Activities Division, (202) 906-5683, Office of Thrift Supervision, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION

I. Background

OTS regulations governing applications for permission to organize a federal stock or mutual savings association, to establish or relocate a branch office of a federal savings association, and to engage in a transaction that is subject to the Bank Merger Act require applicants to follow the public comment and review procedures at 12 CFR 543.2(e) and (f).

Currently, § 543.2 provides an opportunity for the public to submit communications in favor or in protest of applications, and permits the applicant to respond to any protest. Where a protest is timely submitted, meets specified criteria, and includes a request for oral argument, or if an applicant requests an oral argument, the regulation requires the OTS to conduct an oral argument on the merits of the application. The OTS may also hold an oral argument in the absence of any specific request, if it determines that additional proceedings are desirable.

Today, the OTS is proposing to revise these procedures. The proposed revisions, discussed more fully below, would consolidate the public comment procedures for the cited applications. The proposal would also expand existing public comment periods, prescribe the information that a comment must contain to be considered in the evaluation of applications, and delete existing provisions requiring the OTS to conduct an oral argument on applications under certain circumstances and replace these provisions with discretionary conference procedures. The OTS believes that these changes will make the application processing procedures easier to understand and apply. Additionally, the proposed discretionary conference procedures will conform OTS regulations more closely to those of the other federal banking agencies, in accordance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

II. Description of the Proposed Rule

The OTS proposes to relocate and revise the public comment and related procedures for the applications described above. Currently, these procedures may be found in 12 CFR 543.2, which governs applications to organize federal mutual associations. The proposed rule would relocate these provisions to 12 CFR Part 516, which prescribes application processing guidelines and procedures. This relocation should make it easier for applicants and others to find relevant regulations and to determine what procedures must be followed. The provisions of the revised section are discussed more fully below.

Comment Procedure -- Proposed § 516.5(a)(1)

Under this proposed paragraph, where a regulation incorporates the procedures set forth in § 516.5, public comments may be submitted only as provided by § 516.5(a), or as otherwise requested by the OTS. The proposed rule would further provide that the term "comment" includes any written submission that favors or opposes the application.

Comment Period -- Proposed § 516.5(a)(2)

Under current § 543.2(e), anyone may submit a communication in favor or protest of an application to the OTS within 10 days of publication of a public notice of

the filing of an application. This time period may be extended to 17 days after publication, if a request for extension is filed within the 10-day period. Applicants are permitted to file an answer to any protest until 10 days after the date for filing of such public comments.

The OTS believes that a longer comment period, without an automatic extension, would be less confusing and more workable. Accordingly, the proposed rule would extend the comment period to 25 days and would delete the automatic 7-day extension period. The OTS may still grant extensions on a case-by-case basis, where a comment addresses a significant regulatory concern and the commenter shows good cause why it was unable to submit the comment within the 25-day comment period. The length of any extension will also be determined on a case-by-case basis.

The proposed rule eliminates provisions permitting the applicant to file an answer to public comments within ten days of the close of the public comment period. The OTS will generally provide an appropriate opportunity for an applicant to respond to relevant comments by forwarding these comments to the applicant and requesting a response.

Comment Content Requirements -- Proposed § 516.5(a)(3)

Under the existing rules, a protest is considered substantial if it is submitted in writing within the comment period, and states a reason for the protest that is consistent with one of the regulatory bases for denying an application. Additionally, a

ATTACHMENT IS AVAILABLE UPON REQUEST

WRITE US AT:

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