

RESCINDED

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Transmittal – See OCC 2020-11

Industrial and Commercial Metals: Final Rule

Summary

The Office of the Comptroller of the Currency (OCC) has issued a final rule prohibiting national banks and federal savings associations (FSA) from dealing or investing in “industrial or commercial metal.” Under the final rule, the term “industrial or commercial metal” means metal (including an alloy) in a physical form primarily suited to industrial or commercial use, for example, copper cathodes. The effective date of the final rule is April 1, 2017. The final rule includes a divestiture period, which provides that national banks and FSAs must dispose of industrial or commercial metal acquired through dealing or investing activities as soon as practicable, but not later than five years from the effective date.¹ The final rule supersedes a prior OCC interpretation which permitted national banks to trade copper.²

To

Chief Executive Officers of All National Banks, Federal Branches and Agencies, and Federal Savings Associations; Department and Division Heads; and All Examining Personnel

Note for Community Banks

The OCC expects that this rule will have minimal or no impact on community banks because they generally do not deal or invest in industrial or commercial metals.

Highlights

The final rule applies to both national banks and FSAs. The section of the final rule applicable to national banks states that industrial or commercial metal is not “exchange, coin, and bullion” under 12 USC 24(Seventh). It also states that buying and selling industrial or commercial metal for the purpose of dealing or investing in that metal is not part of or incidental to the business of banking. The final rule also includes a section prohibiting FSAs from dealing or investing in industrial or commercial metals. Both provisions have the same effect.

The final rule sets forth certain instances in which buying and selling industrial or commercial metal is permitted because it is not dealing or investing. For example, national banks and FSAs may foreclose on loan collateral that is industrial or commercial metal and then sell the metal to mitigate loan losses.

Further Information

Please contact Casey Scott Laxton, Counsel, or Margo Dey, Counsel, Securities and Corporate Practices Division, at (202) 649-5510; or Carl Kaminski, Special Counsel, Legislative and Regulatory Activities Division, at (202) 649-5490.

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¹ The five years include an initial one-year divestiture period and up to four one-year extensions that the OCC may grant for individual institutions.

² Interpretive Letter 693 (November 14, 1995).

Related Link

- [“Final Rule: Industrial and Commercial Metals”](#)

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