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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 545, 556, 560, 563, 571

[No. 96-1]

RIN 1550-AA94

Lending and Investment

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 303 of the Community Development and Regulatory Improvement Act of 1994 (CDRIA) and the Regulatory Reinvention Initiative of the Vice President's National Performance Review, the Office of Thrift Supervision (OTS) has reviewed each of its lending and investment regulations and related policy statements set forth in the Code of Federal Regulations (CFR) to determine whether it is necessary, imposes the least possible burden consistent with safety and soundness, and is written in a clear, straightforward manner. As a result, the OTS today is proposing to update, reorganize, and substantially streamline its lending and investment regulations and policy statements.

DATES: Comments must be received on or before [insert date 90 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. 96-1. 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. Comments will be available for inspection at 1700 G Street, NW., from 9:00 P.M. until 4:00 P.M. on business days.

FOR FURTHER INFORMATION CONTACT: For general information contact: William J. Magrini, Project Manager, Supervision Policy (202) 906-5744; Ellen J. Sazzman, Counsel (Banking and Finance), (202) 906-7133; or Deborah Dakin, Assistant Chief Counsel, (202) 906-6445, Regulations and Legislation Division, Chief Counsel's Office. For information about preemption, contact Evelyne Bonhomme, Counsel (Banking and Finance), (202) 906-7052, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

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I. Background of the proposal

In a comprehensive review of the agency's regulations in the spring of 1995, the OTS identified numerous obsolete or redundant regulations that could be quickly repealed. On December 27, 1995, the OTS published a final rule in the Federal Register repealing these regulations.¹ This resulted in an eight percent reduction in OTS regulations.

As part of its review in the spring of 1995, the OTS also identified several key areas in its regulations for a more intensive, systematic regulatory burden review. These areas -- lending and investment authority, subsidiaries and equity investments, insurance and fees, and charter and bylaws -- were selected for intensive review because they are vital to thrift operations, had not been developed on an interagency basis, and had not been substantively reviewed in recent years.

Today's proposal presents the results of the review of the lending and investment regulations, the first of the subject areas the OTS has identified for intensive review. Today's proposal, if adopted in final form, will reduce the number of lending and investment regulations from 43 to 23, and result in a net reduction of 11 pages of CFR text.

We reviewed each lending and investment regulation under the following criteria:

- o Is the regulation current?
- o Can the regulation be eliminated without endangering safety and soundness, diminishing consumer protection, or violating statutory requirements?

¹ 60 FR 66866 (December 27, 1995).

- o Is the regulation's subject matter more suited for a policy statement or handbook guidance?
- o Is the regulation consistent with the regulations of the other federal banking agencies?
- o Can the regulation be easily understood?

Today's proposal reorganizes the lending and investment regulations into a more rational, user-friendly framework. The proposal removes unnecessary detail from loan documentation regulations in favor of general safety and soundness requirements, removes unnecessary restrictions on the lending and investment powers of federal savings associations (including restrictions on certain commercial loans and community development investments), minimizes inequities between federal and state associations, and eliminates redundant or obsolete provisions.

This proposal was developed in consultation with those who use the regulations on a daily basis: the agency's regional examination staff and representatives of the thrift industry. Regional staff made recommendations on the changes being considered. An industry focus group meeting among seven thrift representatives, an industry trade association, and OTS staff discussed staff's initial recommendations.

Both regional staff and industry representatives supported the overall approach presented. They raised some questions, however, that are addressed in the discussion below.