PRESS RELEASE
Federal Deposit Insurance Corporation

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FDIC SEEKS COMMENT ON PROPOSED RULE GOVERNING REAL ESTATE AND SECURITIES ACTIVITIES

FOR IMMEDIATE RELEASE

The FDIC Board of Directors voted today to seek comment on a proposal that would allow insured state banks and thrifts meeting certain eligibility requirements to engage through subsidiaries in real estate and securities activities authorized under state law without filing formal applications.

The proposal would also establish safety and soundness standards for state bank subsidiaries that engage in real estate activities not permissible for national banks. In addition, it consolidates rules governing bank and thrift activities and investments into a single section - Part 362 of the FDIC's regulations - and provides similar treatment for state-chartered banks and thrifts.

"The regulation we are proposing will ensure that state-chartered banks engaging in activities authorized under state law operate in a safe and sound manner," said FDIC Chairman Andrew C. Hove, Jr. "At the same time, it streamlines the procedures for entering new business lines."

The proposal, which supersedes a more narrowly drafted notice of proposed rulemaking issued August 23, 1996, does not grant new powers. State- chartered banks or thrifts exercise powers authorized by the states that have also been granted to national banks. Under the Federal Deposit Insurance Corporation Improvement Act, the FDIC may also consent to additional powers authorized by the states for well-capitalized institutions if the agency finds no significant risk to the deposit insurance funds. The exceptions set forth in this proposal use that authority.

The rule establishes the concept of an "eligible depository institution." To qualify, a bank or thrift must:

- Be chartered and in operation for at least three years;
- Have a composite rating of 1 or 2 on the five-point CAMELS scale, with a 1 or 2 rating for the management component;
- Have a satisfactory or better CRA rating;
- Have a compliance rating of 1 or 2 on a five-point scale used by examiners; and
- Not be subject to any cease and desist order, a prompt corrective action directive, or any other administrative agreement with its regulator.

Under the proposal, eligible institutions would be able to undertake securities underwriting and distribution and real estate investment activities through majority-owned subsidiaries by filing notice with the FDIC. The activity would be deemed approved if the agency does not object within 30 days.

The proposal distinguishes between real estate subsidiaries in which an eligible institution has only a minimal investment - less then 2 percent of Tier 1 capital - and those in which it has a more substantial interest.

Subsidiaries in which institutions have invested more than 2 percent of their capital would be required, among other restrictions, to have a chief executive officer who is not employed by the bank, and a board controlled by directors who are not also directors or officers of the bank. Those restrictions would not apply to subsidiaries in which banks maintain investments of less than 2 percent.

Banks that do not meet all of the requirements for eligible depository institutions can obtain approval for new activities by filing an application. The content of the application does not differ from the documents used in the notice process. However, while notices are automatically approved in 30 days if the FDIC does not object, the agency has 60 days to consider an application, and it may extend that period for an additional 30 days if it chooses. An application must be formally approved.

The proposal would also set transaction limits on state banks with real estate subsidiaries that are similar to the 23 A and B restrictions that the Federal Reserve applies to holding company affiliates. However, the FDIC rule was specifically tailored to fit the relationship between a state bank and its subsidiaries.

Under the proposed rules, a bank could lend no more than 10 percent of its Tier 1 capital to any one such subsidiary. A bank could have more than one subsidiary conducting the same activity, but its loans to units engaged in the same activity would be capped at 20 percent.

The rule would require insured institutions to deduct their investment in equity securities of the real estate subsidiaries from Tier 1 capital. However, no deduction is required when applying the transaction limits.

Currently, the Office of the Comptroller of the Currency is considering an application that would allow a national bank to engage in real estate development through an operating subsidiary. If approved, state banks would be able to conduct the same activity through a subsidiary. However, the state institutions may not be bound by any safeguards established by the OCC. The proposed rule would ensure that appropriate safety and soundness standards apply to all FDIC-supervised institutions.

Anticipating future situations in which state banks would gain new powers that are granted national banks, the FDIC's proposed rule establishes safeguards to ensure that banks engaging in real estate activities operate in a safe and sound manner.

In addition to other capital, investment and transaction requirements, banks with subsidiaries engaged in securities underwriting would be subject to a number of other conditions. Among them are requirements that the subsidiary register with the Securities and Exchange Commission and that the bank establish procedures governing its participation in financing transactions underwritten or arranged by the underwriting unit. The proposed regulations governing the securities underwriting subsidiary are nearly identical to current rules. They are being relocated to Section 362 and rewritten for clarity without substantive changes.

The proposal continues to allow a majority-owned subsidiary of a state-chartered bank to purchase a controlling interest in a company that engages in activities which the Federal Reserve has found to be closely related to banking.

Subsidiaries of eligible institutions that remain well capitalized after the capital deduction would be able to purchase equity securities representing less than 10 percent of a company's outstanding voting shares. However, the bank would not be able to extend credit to the subsidiary or exercise control over the issuer of the securities purchased by the unit.

The proposal would outline standards for institutions that have grandfathered insurance underwriting activities conducted through a subsidiary. The rule does not allow non-grandfathered institutions to engage in insurance underwriting.

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