

Part IV

Office of the Comptroller of the Currency

A. Overview

The OCC charters, regulates, and supervises national banks to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States. In order to carry out this mission, the OCC seeks to promote an environment where risk is prudently managed by banks and appropriately monitored by the OCC, without imposing unnecessary regulatory burdens that undermine the ability of banks to operate efficiently, compete vigorously, and provide credit and other financial products and services to the public.

The OCC has a strong, continuing commitment to reduce unnecessary regulatory burden and improve the efficiency of its supervision. Efficient supervision means that the OCC focuses its regulations and its supervisory resources on those bank activities and products that present the greatest risk to safety and soundness or that most directly affect the other aspects of the national banking system's mission. The OCC's Regulation Review Program, discussed in the 1996 report and completed in 1996, reviewed all OCC's rules and eliminated or revised provisions that did not contribute significantly to maintaining the safety and soundness of national banks, facilitate equitable access to banking services for all consumers, or accomplish the OCC's other statutory responsibilities.

The OCC initiated its Regulation Review Program in mid-1993, and the project was substantially complete by the time the agencies issued the 1996 report. Rules revised pursuant to the Program as of submission of the 1996 report include the following; in this list, rules issued jointly with the other Federal banking agencies are indicated with an asterisk (*):

- *Parts 4, 10, 11, and 18 -- Public Information and Technical Amendments.* The revised rules facilitate the OCC's ability to intervene in judicial proceedings to protect national banks' reports of examination, where appropriate, during the discovery phase of litigation; and permit a bank to give non-public information to consultants without prior OCC approval provided certain, well-defined conditions are satisfied.

- *Part 7 -- Interpretive Rulings.* Part 7 was updated, revised, and reorganized in areas including: national banks' activities conducted through electronic means; clarification of the charges that fall within the Federal definition of "interest," as that term is used in 12 U.S.C. sec. 85; national banks' ability to lease excess office space; and clarification of the circumstances under which a national bank's lending activities must be undertaken at an approved main office or branch office of the bank.
- *Part 8 -- Assessments.* The OCC revised its assessment structure and reduced the assessments imposed on national banks.
- *Part 16 -- Securities Offering Disclosure Rules.* Through its revisions to Part 16, the OCC reduced burden on national banks by: incorporating and cross-referencing provisions of the Securities Act of 1933 as well as provisions of a number of the SEC's rules; making available to national banks the small issuer exemption from registration requirements; and making available to national banks an optional, abbreviated registration system for offers and sales of large denomination investment grade debt to sophisticated purchasers.
- *Parts 20 and 28 -- International Operations; Federal Branches and Agencies.* The final rule reduced burden on national banks by eliminating certain duplicative filing requirements and by consolidating into a single, comprehensive regulation the substantive requirements governing international banking operations supervised by the OCC.
- *Part 21 -- Reports of Crimes and Suspected Crimes and Bank Secrecy Act Compliance.** Among other changes, this regulation significantly reduced the number of suspicious activity reports that banks must file by raising the dollar thresholds for mandatory reporting of potential criminal violations.
- *Part 22 -- Flood Insurance.** This regulation implemented the National Flood Insurance Act of 1994 in a way that was responsive to the need to reduce burden on national banks. For example, the rule did not require national banks to review all pre-existing loans to determine whether flood insurance coverage was adequate. The rule also clarified that national banks have the authority to "force place" flood insurance on behalf of a borrower when collateral securing a loan lacks adequate coverage and authorized national banks to charge a reasonable fee for determining whether security property is located in a flood hazard area.

- *Part 25 -- Community Reinvestment Act.** The OCC and the other Federal banking agencies comprehensively revised their regulations implementing the CRA. The agencies' post-1996 implementation efforts are discussed in Part I of this report.
- *Part 26 -- Management Interlocks.** The OCC revised its management interlocks rule to reduce burden consistent with the statute as in effect at that time. As indicated in Part I of this report, the interlocks statute has recently been amended and the OCC and the other agencies are revising their rules to reflect these changes.
- *Part 30 -- Standards for Safety and Soundness.** The OCC implemented the standards required by the Federal Deposit Insurance Act of 1991 by using guidelines, rather than "hard-wired" regulatory requirements, so as to avoid the imposition of unnecessary regulatory burden. The guidelines cover operational and managerial standards, including standards with respect to internal controls, loan documentation, credit underwriting, interest rate risk exposure, and asset growth.
- *Part 32 -- Lending Limits.* The OCC's revised lending limits rule reduced burden on national banks by conforming the definition of "capital and surplus" with the definition of that term as used in the Call Report. The new rule also permitted banks to advance funds to a troubled borrower for certain purposes, subject to safety and soundness considerations, in order to preserve the bank's interest in the collateral securing that borrower's loan. Other changes to Part 32 that were pending at the time the 1996 report was issued are summarized at the end of this narrative.
- *Part 34 -- Real Estate Lending.* Among other changes, the revised real estate lending rule provides additional flexibility by permitting a national bank to suspend the running of the divestiture period for other real estate owned (OREO) (including property formerly used as bank premises) by entering into non-coterminous sub-leases.
- *Part 35 -- Agricultural Loan Loss Amortization.* The OCC eliminated this regulation because it was no longer necessary.

Summaries of those regulations that were finalized after the 1996 report are provided at the end of this narrative.

In 1997 the OCC undertook a follow-up project to evaluate the effectiveness of its Regulation Review Program (Program). This study involved focus group discussions with nearly 180 bankers, banking lawyers, community group representatives, and OCC staff. Focus group participants were asked to grade the Program on such matters as how well it had reduced burden, fostered competition, promoted public participation, and produced regulations that were accessible and clear. Overall, participants gave the Program high marks and indicated that the Program was a positive step in reducing burden and resulted in meaningful improvements in the OCC's regulations.

More recently, the OCC is embarking on a program to improve the quality of our supervision of community banks. As part of that program, we are conducting a community bank-focused review of our regulations that will enable us to identify and to change rules that are particularly onerous for community banks. As a first step in this project, on May 12, 1999 the OCC published an advance notice of proposed rulemaking soliciting public comment and suggestions for addressing the regulatory burdens that especially impact community banks. The comment period for this ANPR closed on July 12, 1999.

We also continue to make refinements to our Supervision by Risk program, which we reported on in the 1996 report. To consistently integrate risk-based supervision into all aspects of the supervisory process, the OCC has implemented a supervisory policy structure consisting of the following three components:

- *Core Knowledge* — the database of information that defines a bank's risk culture, risk tolerance, and other internal and external factors. Examiners use this information to conduct a risk assessment of the bank and determine which supervisory activities to conduct.
- *Core Assessment* — standards or procedures that guide examiners in reaching conclusions regarding both risk and CAMELS ratings. Examiners must reach these conclusions during the course of each supervisory cycle, in accordance with the full-scope, on site-examination requirements.
- *Optional Procedures* — detailed guidance that explains how to examine specific activities or products that warrant extra attention beyond the core assessment. These procedures are found in various booklets of the *Comptroller's Handbook*.

This three-part structure allows the OCC to tailor examination activities to the level of risk within any given examination area. This structure was introduced with the 1998 publications of the revised "Community Bank Supervision" and "Large Bank Supervision" booklets of the *Comptroller's Handbook*.

The OCC continues to periodically review its various issuances to revise or eliminate those that are outdated or no longer needed. A complete review of all OCC issuances and bulletins has been recently completed and will result in the rescission of approximately 160 bulletins or issuances that are either out-dated or have been incorporated into regulations or the *Comptroller's Handbook*.

Finally, the OCC makes every effort to adopt rules and policies that are consistent with those adopted by the other agencies. The various task forces and subcommittees of the FFIEC, as well as other informal working groups are used to discuss and coordinate issues that arise in a variety of areas. These include, for instance, working groups to discuss questions and coordinate policies in the areas of Year 2000 remediation, bank technology and information systems, risk-based capital, appraisals, and CRA. In addition, if the OCC or another banking agency is contemplating amending one of its rules that has a counterpart in the other agencies' rules, the agencies will initiate a joint interagency rulemaking to ensure that the changes are uniform to the extent possible.

B. Summary Status Reports

Summaries of those regulations that were revised under the OCC's Regulation Review Program but were finalized after the 1996 report follow.

Revised Since the 1996 Report

Title: 12 CFR Part 1 -- Investment Securities

Subject Matter: This part sets forth the OCC's rules that prescribe the standards under which national banks may purchase, sell, deal in, and underwrite securities.

Action/Status: The NPRM referred to in the 1996 report was finalized on December 2, 1996 (61 FR 63972). The rule defines the five types of securities that national banks may invest in and prescribes the limits or conditions that apply to transactions involving securities of each type.

Title: 12 CFR Part 2 -- Disposition of Credit Life Insurance Income

Subject Matter: This rule sets forth the principles and standards that apply to a national bank's provision of credit life insurance and the limitations that apply to the receipt of income from sales of credit life insurance by certain individuals and entities associated with the bank.

Action/Status: The NPRM referred to in the 1996 report was finalized on October 4, 1996 (61 FR 51777). The final rule requires that income earned from credit life insurance sales to bank loan customers by bank officers be credited to bank earnings and not be paid to or retained by officers, directors or principal shareholders. The rule preserves banks' ability to offer bonus or incentive programs in connection with the sale of credit life insurance, subject to certain limits.

Title: 12 CFR Part 3 -- Minimum Capital Ratios

Subject Matter: This part sets forth the OCC's rules concerning minimum capital ratios.

Action/Status: The OCC and other banking agencies have completed several rulemakings amending their capital rules since the date of the last report. These rulemakings are summarized in Part I.B of this Report, captioned "Significant Accomplishments."

Revised Since the 1996 Report

Title: 12 CFR Part 5 --Rules, Policies, and Procedures for Corporate Activities

Subject Matter: This part sets forth the OCC's rules, policies, and procedures of the OCC for corporate activities and transactions involving national banks.

Action/Status: The NPRM referred to in the 1996 report was finalized on November 27, 1996 (61 FR 60342). The final rule contains a fundamental restructuring of the OCC's approach to the corporate application process by creating a new expedited review process for many types of applications submitted by healthy banks whose applications should entail low levels of risk. This new process enables the OCC to calibrate the extent of regulatory review an application receives to focus more resources on applications that are novel, are complex, or present potentially greater risk to the applicant bank. The rule also substantially revised the OCC's operating subsidiary rules by grouping operating subsidiary activities into three categories based on novelty and complexity and prescribing different levels of treatment for applications, depending on the category of the activity.

Title: 12 CFR Part 9 -- Fiduciary Activities

Subject Matter: This part sets forth the OCC's rules governing fiduciary activities of national banks.

Action/Status: The NPRM referred to in the 1996 report was finalized on December 30, 1996 (61 FR 68543). That rule was the first comprehensive revision of part 9 since 1963. Much about national banks' fiduciary business had changed since that time, including the nature and scope of the fiduciary services that banks offer and the structures and operational methods that banks use to deliver those services. The OCC's goal in revising part 9 was to accommodate those changes by removing unnecessary regulatory burden and facilitating the continued development of national banks' fiduciary business consistent with safe and sound banking practices and national banks' fiduciary obligations. The OCC has amended part 9 a second time since the date of the last report, to clarify the types of investment advisory activities that come within the scope of part 9. *See* 63 FR 6472 (Feb. 9, 1998).

Title: 12 CFR Part 12 -- Securities Recordkeeping and Confirmation Requirements

Subject Matter: This part sets forth the OCC's requirements applicable to national banks effecting securities transactions for customers, including recordkeeping and confirmation requirements.

Action/Status: The NPRM referred to in the 1996 report was finalized on December 2, 1996 (61 FR 63958). The final rule reorganizes the OCC's regulation by placing related subjects together, clarifies areas where the rule was confusing, incorporates significant OCC interpretive positions, and updates various provisions to address market developments and regulatory changes by other regulators that affect requirements for recordkeeping and confirmation of securities transactions by national banks.

Revised Since the 1996 Report

Title: 12 CFR Part 13 -- Government Securities Sales Program

Subject Matter: This part addresses the responsibilities of banks that are government securities brokers or dealers with respect to sales practices concerning government securities.

Action/Status: The NPRM referred to in the 1996 report was finalized on March 19, 1997 (62 FR 13275). The final rule, which was issued as a joint rule along with the FRB and FDIC, requires a bank that is a government securities broker or dealer to comply with rules that are substantively identical to the NASD Business Conduct and Suitability Rules and the NASD Suitability Interpretation.

Title: 12 CFR Part 23 -- Leasing

Subject Matter: This part sets forth the OCC's rules governing the personal property lease financing transactions of national banks.

Action/Status: The NPRM referred to in the 1996 report was finalized on Dec. 18, 1996 (61 FR 66560). This final rule made several changes to part 23 that were designed to improve clarity and to provide additional flexibility. For example, the rule codifies the OCC's interpretation that national banks may engage in activities incidental to leasing under both 12 U.S.C. § 24(Seventh) or CEBA but retains a case-by-case review process for approving particular activities pursuant to this authority.

Title: 12 CFR Part 24 -- Community Development Corporations

Subject Matter: This part implements 12 U.S.C. § 24(Eleventh), which authorizes national banks to make investments that are designed primarily to promote the public welfare, including the welfare of low- and moderate-income families and communities (such as through the provision of housing, services, or jobs), consistent with safe and sound banking practices.

Action/Status: The final rule that was described in the 1996 report was published on Sept. 23, 1996 (61 FR 49660). The new part 24 provides more flexible criteria for the OCC's review of community development and other projects to promote the public welfare. It also streamlines and simplifies the procedures national banks must use to obtain prior approval, or to self-certify the eligibility of part 24 investments. On June 10, 1999 (64 FR 31160) the OCC proposed additional modifications to part 24 designed to encourage national banks to make public welfare investments by making it easier to comply with applicable procedures.

Revised Since the 1996 Report

Title: 12 CFR Part 31 -- Extension of Credit to National Bank Insiders

Subject Matter: This regulation imposes limits on the amount of credit a national bank may extend to its officers, directors, and principal shareholders.

Action/Status: The NPRM referred to in the 1996 report was finalized on October 21, 1996 (61 FR 54533). To simplify the rule and eliminate unnecessary burden, the final rule states that national bank insiders are to comply with the insider lending rules contained in the Federal Reserve Board's Regulation O (12 CFR Part 215). The final rule also contains an appendix that discusses some of the significant differences between the insider lending rules and the loans-to-one-borrower rules.

Title: 12 CFR Part 32 -- Lending Limits

Subject Matter: This part sets forth the OCC's rules establishing the limits on the amount of credit that a national bank may extend to any one borrower.

Action/Status: The NPRM referred to in the 1996 report was finalized on April 1, 1998 (63 FR 15744). As noted in the previous report, the OCC adopted a final rule amending Part 32 in 1995 (60 FR 8526). Some of the changes adopted in 1995 changes prompted requests for (a) extension of the exemption for funds advanced to preserve and maintain collateral to loans secured by personal property as well as loans secured by real property; and (b) clarification of the date on which a national bank must recalculate its capital and surplus. The final rule adopted in 1998 did not adopt the exemption from the lending limit for additional funds advanced to preserve and maintain collateral to loans secured by personal property, but did adopt the proposal's other changes, including several technical amendments to the rule.
