

Part V

Office of Thrift Supervision

Regulatory Burden Reduction Initiatives

OTS is the federal banking agency responsible for the examination, supervision, and regulation of all federally chartered thrifts and state chartered savings associations. The OTS reduces regulatory burden on savings associations whenever possible, consistent with statutory requirements, safety and soundness and consumer protection.

Outreach and Feedback

OTS continues to solicit guidance and industry opinion on regulatory burden reduction initiatives. We receive responses from thrift executives during industry meetings held by the Director and Regional Directors of OTS. In these meetings, we specifically ask thrift executives for comments on regulations and policy statements they consider outmoded, duplicative, or confusing. OTS holds focus group meetings with industry and association representatives to solicit information on how the industry uses regulations as well as the strengths and weaknesses of the regulations.

Regulatory Efforts to Reduce Regulatory Burden

OTS continues to supervise the thrift industry through risk-focused, efficient, and proactive regulation. OTS is moving away from regulations that micromanage thrift operations toward a more streamlined regulatory structure. OTS also, whenever possible, tailors regulations to risks posed by particular institutions to provide additional flexibility and latitude to well-capitalized institutions.

In 1996, after a page-by-page review, we identified several areas that would benefit from an in-depth, substantive review. We identified regulations that:

- Have a significant impact on thrift operations.
- Are not being developed on an interagency basis.
- Have not been comprehensively reviewed for many years.

The 1996 initiatives, listed at the end of this narrative, represent 105 pages or 25 percent of all OTS regulations. In addition, OTS completed several other initiatives

not identified in the 1996 report. These regulations represent 120 pages, or 29 percent of all OTS regulations and are also listed at the end of this narrative.

We plan to continue to streamline and modify OTS regulations and policies to improve efficiency, reduce unnecessary costs, eliminate unwarranted constraints on credit availability, and remove inconsistent, outmoded and duplicative requirements. Since September 1994 we eliminated or rewrote a total of 255 pages, or 60 percent of all OTS regulations.

Plain Language

Since 1996, OTS has used plain language drafting techniques promoted by the Vice President's Partnership for Reinventing Government and new guidance in the Federal Register Document Drafting Handbook. The primary goal of plain language drafting is to make documents more readily understandable. Plain language drafting enhances clarity. This decreases industry frustration, inadvertent violations, the need to seek clarification in correspondence and phone calls, and the amount of time savings associations must devote to understanding the regulations. Plain language drafting emphasizes the following techniques:

- Informative headings (often written as a question).
- Non-technical language (including the use of "you" and other pronouns).
- The active voice.

The industry and other regulators have complimented OTS's use of plain language. Many of OTS's regulations are in plain language. In addition, the agency is rewriting its existing non-regulatory guidance in plain language to comply with the President's June 1, 1998, memorandum "Plain Language in Government Writing."

Non-regulatory Efforts to Reduce Regulatory Burden

Regulatory Handbooks

We issued several updates to our Thrift Activities Regulatory Handbook as we shifted from specific and detailed regulations to a more flexible, guidance-oriented approach. We incorporated the helpful guidance removed from the regulations into Regulatory Handbooks. We also incorporated into OTS handbooks changes to interagency policy statements that occurred as part of the interagency Section 303 review. Since the 1996 report, OTS issued the following nine regulatory bulletins with 30 updates to the Thrift Activities Handbook:

- RB 32-6 Information Technology, October 15, 1997
- RB 32-7 Thrift Activities Regulatory Handbook Update, May 28, 1998
- RB 32-8 Thrift Activities Regulatory Handbook Update, September 18, 1998
- RB 32-9 Thrift Activities Regulatory Handbook Update, January 28, 1999
- RB 32-10 Thrift Activities Regulatory Handbook Update, March 17, 1999
- RB 32-11 Thrift Activities Regulatory Handbook Update, April 19, 1999
- RB 32-12 Thrift Activities Regulatory Handbook Update, June 18, 1999
- RB 32-13 Thrift Activities Regulatory Handbook Update, June 28, 1999
- RB 32-14 Thrift Activities Regulatory Handbook Update, July 12, 1999

We also issued several updates to our Compliance Activities Regulatory Handbook since the 1996 report. The updates reflect statutory and regulatory changes that affect the conduct of compliance examinations by OTS examiners. OTS issued the most recent update in September of 1997.

Minority Owned Institutions

OTS has provided technical assistance to the minority owned thrift industry since the 1970's, and has had a policy statement in effect since 1990. But with the passage of time, and changes in both the regulatory structure and the thrift industry, that statement had become outdated. During 1998, OTS began an effort to update its Minority Owned Institutions Policy Statement. This effort included consultation with OTS Regional Offices and with the American League of Financial Institutions (ALFI), the trade association for minority owned thrifts. The revised policy statement, issued in May 1999, reflects an increased focus on the minority owned thrifts in general, and on those with problems that warrant monitoring and corrective action in particular.

Community Development Investment Authority Handbook

In December 1998, OTS published the second edition of its Community Development Investment Authority Handbook. This updated and revised edition is a guide to federal laws and regulations governing community development related lending and investment activities of savings associations. It includes useful appendices on the Qualified Thrift Lender Test, capital treatment for various lending and investment options, Community Reinvestment Act considerations, and community development services that can complement an institution's lending and investment activities.

Periodic Review of Guidance

OTS rescinds outdated or superseded guidance to reduce the regulatory burden on thrift institutions. OTS incorporates certain existing guidance into the Regulatory Handbook series, or rescinds the guidance after determining that it is no longer applicable for various reasons.

OTS maintains a comprehensive listing of the disposition of all Thrift Regulatory Bulletins so a historical record is available.

Examination Process

In 1997, OTS implemented a new system to create and submit examination reports. The new system provides core financial data enabling the examiners to perform financial analyses and include relevant tables and charts in the report. We automated the following tools so examiners can better evaluate risks to institutions:

- Workpapers.
- Pre-examination information requests.
- Electronic loan data sampling.
- Analytical worksheets.

OTS designed all of these electronic tools to increase the examiners' efficiency and effectiveness thereby reducing the examination burden on institutions. The industry tells OTS that when examiners use electronic data the examination is more efficient and less disruptive.

Financial Reporting

Over the past several years, the Financial Reporting Division initiated several changes in the data collection process to enhance the efficiency of the financial process. One of the first steps in automating the financial reporting data collection was to no longer process regulatory reports filed in either hard-copy or diskette. Since January 1993, all savings associations must file electronically all financial reports including the Thrift Financial Report (TFR), Consolidated Rate and Maturity (CMR), Branch Office Survey and Cost of Funds Report. To facilitate the industry's conversion to electronic filing, OTS contracted with a single software vendor to provide software to the industry. This was the first major step by OTS in using technology to accomplish the following objectives:

- Modernize our financial reporting process.
- Reduce reporting burden.
- Increase customer service.
- Reduce the costs associated with regulatory reporting for both the industry and OTS.

In January 1998, OTS made available to the thrift industry a Windows version of the electronic filing software. The Windows software helps to move the industry to more modern technology. OTS is now exploring the use of the Internet for preparation and transmission of regulatory reports. The Internet will give OTS the ability to make readily available in electronic format the Interest Rate Risk Report, Uniform Thrift Performance Report and data outputs and thus eliminate the need for paper copy mailings.

Training for the Industry

In response to requests from the industry, OTS will provide training in 1999 on preparation of the Thrift Financial Report. OTS prepared a one-day training session specifically targeted for the employee(s) directly responsible for preparing and transmitting regulatory reports. The training covers the following topics:

- Overview of the OTS organization and mission.
- Thrift Financial Report preparation.
- Use of electronic filing software.
- Researching reporting questions on the Internet.

OTS expects that the training will reduce the number of incorrectly filed Thrift Financial Reports and reduce the amount of time the Financial Reporting Division spends with individuals answering preparation questions.

1996 Initiatives

Title: Lending and Investment

Subject Matter: Part 560 groups all lending-related regulations together, and includes a chart that conveniently shows the statutory authority and any restrictions on the use of each lending and investment power.

Action/Status: Final rule issued September 30, 1996 [61 FR 50951 (1996)]. The OTS rule consolidates and reduces from 43 to 23, the number of lending and investment regulations, a net reduction of 11 pages in the Code of Federal Regulations.

OTS replaced some detailed rules formerly included in the regulations with more general rules that give institutions greater flexibility. These include loan documentation, classifying assets based on the soundness of loans, and establishing appropriate valuation allowances to cover potential losses. The agency's handbooks and bulletins, as less formal guidance, now contain the more detailed provisions. OTS emphasized, however, that institutions must continue to conduct these operations safely and soundly. The rule also codified OTS's position on preemption of state laws affecting federal thrifts' lending operations.

Title: Conflicts of Interest, Corporate Opportunity, and Hazard Insurance

Subject Matter: The rule clarifies conflicts of interest regulations and provides specific examples of prohibited conflicts for directors and officers of savings associations. The corporate opportunity section now contains a "safe harbor" provision.

Action/Status: Final rule issued November 27, 1996 [61 FR 60173 (1996)]. The rule reduces the number of regulations and policy statements dealing with these subjects from eight to three, cutting more than five pages from the Code of Federal Regulations. The final rule uses plain language to improve conciseness and clarity; the new language also eliminates duplication and overlap in regulations. For example, OTS dropped the policy statement under which associations must require hazard insurance on mortgaged property because the Interagency Real Estate Lending Guidelines cover this item.

Title: Corporate Governance

Subject Matter: The rule updates and streamlines the corporate governance regulations

Action/Status: Final rule issued December 3, 1996 [61 FR 64007 (1996)]. The rule amended outdated or duplicative regulations, modified certain provisions to provide greater flexibility and added new clarifying language responsive to recurring questions from the industry. In addition, the model bylaws moved from the regulations to the Applications Processing Regulatory Handbook. This reflects OTS's determination that model bylaws serve as guidance, not binding norms. As a result of these changes the number of charter and bylaw rules and policy statements on this subject decreased from 33 to 21, a 36 percent reduction.

1996 Initiatives

Title: Subsidiaries

Subject Matter: OTS completely overhauled its regulations dealing with setting up, investing in, and operating a savings association's subordinate organizations such as operating subsidiaries and service corporations.

Action/Status: Final rule issued December 18, 1996 [61 FR 66561 (1996)]. The rule draws together in a new part 559 of the Code of Federal Regulations provisions that previously appeared throughout the code.

The rule reorganized several rules into a chart to facilitate the comparison of the requirements applicable to different types of subordinate organizations; streamlined application and notice procedures; and revised the list of preapproved service corporation activities. In addition, the regulation clarified the calculation of federal savings associations' investment limits in their service corporations and standardized in Part 560 the requirements for pass-through investments.

Title: Deposits

Subject Matter: A new Part 557 in the Code of Federal Regulations consolidates all remaining deposit rules, except definitions, to make deposit-related rules easier to locate.

Action/Status: Final rule issued October 22, 1997 [62 FR 54759 (1997)]. The new streamlined regulation eliminates duplicative provisions and rules that previously acted to micromanage thrifts' deposit operations. A general provision that gives overall guidance necessary to ensure safety and soundness replaces several specific record-keeping requirements. The rule also codifies OTS's position on preemption of state laws affecting deposit-taking activities. The OTS deleted eight existing regulations in their entirety and removed substantial portions of three other rules.

In addition, the agency removed several long-standing duplicative deposit regulations. These regulations duplicated laws, such as the Truth in Savings Act, and Federal Reserve Board Regulations D (Reserve Requirements) and DD (Truth in Savings). These regulations apply to thrifts as well as banks. The OTS rule includes cross references to Regulations D and DD.

1996 Initiatives

Title: Capital Distributions

Subject Matter: OTS issued a rule that updates, simplifies, and streamlines OTS's capital distributions regulation.

Action/Status: Final rule issued January 19, 1999 [64 FR 2805 (1999)]. The rule conforms OTS's capital distributions requirements more closely to those of the other banking agencies and reflects the implementation of prompt corrective action established under the Federal Deposit Insurance Corporation Improvement Act in 1991. The regulation exempts well capitalized, highly rated thrifts from providing notice of dividends under certain circumstances. This is consistent with reducing unnecessary regulatory burden.

Other Regulatory Initiatives

Title: Liquidity

Subject Matter: OTS reduced the liquidity provision to the minimums prescribed by statute.

Action/Status: Final rule issued November 24, 1997 [62 FR 62509 (1997)]. OTS lowered liquidity requirements for savings associations from five to four percent of the institution's liquidity base. This is the lowest level permitted by the current law. The rule also eliminates a separate limit that required thrifts to hold assets equal to one percent of a thrift's liquidity base in cash or short term liquid assets. OTS also made the following changes:

- Streamlined the calculations used to measure compliance with liquidity requirements.
 - Expanded the types of investments considered to be liquid assets to conform with provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).
 - Reduced the liquidity base by modifying the definition of net withdrawable account to exclude accounts with maturities exceeding one year.
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Title: Application Processing

Subject Matter: OTS established new rules for processing applications to open a federal savings association branch, organize a new federal association, or engage in various other transactions.

Action/Status: Final rule issued December 4, 1997 [62 FR 64138 (1997)]. OTS adopted a rule that, besides reorganizing the regulations made the following changes:

- Expands the comment period on applications.
 - Prescribes the information the comments should contain.
 - Facilitates a dialogue between commenters and applicants.
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Title: Mutual Holding Companies

Subject Matter: The rule allows mutual holding companies to set up a modified corporate structure with an intermediate stock holding company subsidiary.

Status/Action: Final rule issued March 9, 1998 [63 FR 11361 (1998)]. This structure provided greater flexibility for the intermediate holding company to repurchase stock in the open market.

The subsidiary is a stock holding company, sandwiched between the mutual holding company and its savings association in a three-level corporate structure, that holds all the stock of the savings association. The subsidiary holding company can sell up to 49.9 percent of its stock to the public, but the controlling interest in the subsidiary holding company must reside with the parent mutual holding company. The mutual holding company, in turn, is owned by depositors at the savings association.

Other Regulatory Initiatives

Title: Electronic Operations

Subject Matter: The rule updated OTS rules regarding electronic operations and permits federal savings associations to use, or participate with others to use, electronic means or facilities to perform any function, or provide any product or service as part of an authorized activity.

Action/Status: Final rule issued November 30, 1998 [63 FR 65673 (1998)]. The rule eliminates restriction that prevent federal savings associations from engaging in prudent innovation using emerging technologies. The OTS kept the regulatory requirements applicable to electronic operations to a minimum. However, due to the security, privacy, and compliance risks of transactional Internet websites, the OTS requires savings associations to notify OTS before it begins these activities.

Title: Assessments

Subject Matter: The OTS revised its regulations to ensure that it imposes assessments more equitably on savings associations.

Action/Status: Final rule issued November 30, 1998 [63 FR 65663 (1998)]. The rule correlates OTS assessments more closely to the costs of supervising associations, while keeping assessment rates as low as possible.

Title: Financial Management Policies

Subject Matter: OTS replaced with a single rule on financial derivatives, three outmoded regulations on forward commitments, futures transactions, and financial options transactions that remained virtually unchanged since they were first adopted during the period from 1979 to 1982.

Action/Status: Final rule issued December 1, 1998 [63 FR 66348 (1998)]. OTS also adopted comprehensive guidance to aid savings associations in managing their risk. The guidance consolidates information on interest rate risk, investment securities, and the use of financial derivatives into a single comprehensive bulletin -- Thrift Bulletin 13a -- which replaces seven existing OTS thrift bulletins. The new rule establishes general requirements applicable to all derivative instruments, and OTS designed it to work with the bulletin, which provides the type of specific guidance formerly contained in the regulations.

Title: Fiduciary Powers

Other Regulatory Initiatives

Subject Matter: The OTS updated regulations governing the fiduciary powers of federal savings associations for the first time since 1980.

Action/Status: Final rule issued December 30, 1997 [62 FR 67696 (1997)]. The rule updates, streamlines and clarifies prior regulations. It reflects the changes that Federal savings associations and their fiduciary operations have undergone since 1980, incorporates significant interpretative opinions and is consistent with changes adopted in 1997 by the Office of the Comptroller of the Currency for national banks. The rule also provides that OTS-regulated, state-chartered savings associations must conduct their fiduciary operations according to state law, but that OTS may restrict or prohibit activities that threaten an association's safety and soundness.

Minor Regulatory Initiatives

OTS issued a number of other minor rules designed to reduce regulatory burden:

On July 17, 1998, replaced adjustable rate mortgage disclosure rules that duplicate the Federal Reserve Board's requirements in Regulation Z with a cross reference [63 FR 38461 (1998)].

On August 27, 1997, OTS issued a rule that permits direct conversions of all types of mutual depository institutions into federal mutual savings associations [62 FR 45307 (1997)]. On August 31, 1998, OTS issued a rule that allows charters with one member/one vote provisions [63 FR 46159 (1998)].

On February 10, 1999, promoted regulatory compliance by eliminating three outdated or unused regulatory definitions: consumer credit classified as a loss, slow consumer credit, and slow loans [64 FR 6502 (1999)].
