

RB 19 was rescinded 4/18/01 - Obsolete

# Regulatory Bulletin

Handbook: Application Processing  
Subject: Subordinated Debt

Section: 770  
RB 19

October 13, 1989

## Guidelines for Supervisory Objection to Inclusion of Subordinated Debt as Regulatory Capital

**RESCINDED**

*Summary:* This Bulletin is being issued to provide guidance as to when supervisory objection should be taken to the issuance or inclusion of subordinated debt as a component of capital. Prior approval is required for inclusion of such debt in a savings association's capital. Subordinated debt may not be included in core capital. Under these guidelines, subordinated debt may only be included as Tier 2 capital, up to one-third of total capital. The Director of the Office of Thrift Supervision has modified the subordinated debt regulation, 12 C.F.R. Section 563.8-1 (Resolution 89-2345), delegating to the District Offices authority to approve or deny most applications for inclusion of subordinated debt in meeting capital requirements. Matters of law or policy, and appeals, must be forwarded to the Corporate Activities or Industry Rehabilitation Division of the Office of Supervision/Operations, as appropriate.

*For Further Information Contact:*

The Office of Thrift Supervision District Office in which you are located or the Industry Rehabilitation Division of OTS, Washington, DC.

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General Policy

These guidelines are successor criteria to those previously contained in 12 C.F.R Section 563.8-1(b)(2). Generally, it is the policy of the Office of Thrift Supervision to take supervisory objection when the following circumstances exist, unless the District Director, or appropriate Washington office finds compelling reasons to otherwise approve an application. Non-standard conditions should be kept to a minimum. To insure uniform application of the guidelines, the District Directors should consult with the Corporate Activities or Industry Rehabilitation Division, as appropriate, prior to referring an application to Washington for processing.

Standard Guidelines for Supervisory Objection

Generally, supervisory objection should be taken where:

- 1) The proposed issue fails to transfer risk away from the SAIF and onto the debenture holders. For example, a SAIF-insured savings association's purchase of subordinated debt issued by another SAIF-insured savings association is objectionable because such a transaction would increase the probability of linked failures in the deposit insurance system.
- 2) Information submitted in connection with the application or otherwise available to the Office of Thrift Supervision indicates that the savings association will not be able to service the proposed debt. Evaluation of the issuer's ability to service debt should be prospective, based upon the issuer's business plan.
- 3) The savings association has submitted a capital plan that is unrealistic or otherwise unacceptable.
- 4) The ratio of subordinated debt included as capital to the savings association's risk-based capital requirement exceeds one-third, after giving effect to the proposed issue.
- 5) The proposed deployment of the proceeds of the proposed issue is

contrary to the savings association's business plan, is unrealistic in its assumptions, or is inconsistent with the principles of safety and soundness.

6) The issuer has failed to comply with the terms and conditions imposed upon previous subordinated debt issuances or has failed to comply with any outstanding enforcement action, written agreement or any other significant supervisory requirements.

7) The proposed issue fails to comply with the standard conditions concerning retail subordinated debt issuances contained in Thrift Bulletin 23.

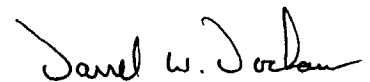
Procedures

The Director of the Office of Thrift Supervision expects the above criteria will be used as the bases for supervisory objections to any application for inclusion of subordinated debt as capital. In those cases where an application raises issues of law or policy, or a denial is proposed to be based on factors other than the foregoing, the District Directors are expected to consult with the Corporate Activities or Industry Rehabili-

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tation Divisions, whichever division is assigned the application, for guidance concerning the application of the guidelines. If an applicant submits an appeal to the Director of the Office of Thrift Supervision, the District Director should provide the appropriate Washington division with a written explanation justifying a denial within 30 days after denying the application.



— Darrel W. Dochow  
Senior Deputy Director, Supervision/Operations