

Press Releases

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OTS 01-74 - OTS Proposes Revising Lending Rule To Enhance Thrift Flexibility, Clarifies Existing Lending Rule, Starts Pilot Program To Ease Disparities

Office of Thrift Supervision

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OTS Proposes Revising Lending Rule To Enhance Thrift Flexibility, Clarifies Existing Lending Rule, Starts Pilot Program To Ease Disparities

WASHINGTON - The Office of Thrift Supervision today proposed changing its lending and investment regulations to allow thrifts greater flexibility to provide low-cost credit to their customers and to invest in their communities while still operating safely and soundly. OTS also reminded thrifts of the lending and investment flexibility they already have under existing rules and announced a pilot program to alleviate competitive lending disparities for thrifts.

"In today's market, thrifts are competing with other mortgage lenders and are squeezed by secondary markets," said OTS Director Ellen Seidman. "The changes we are proposing today enhance the ability of both the thrift itself and its operating subsidiaries and service corporations to serve their communities through consumer and small business lending."

To assist thrifts with their small business lending authority, OTS proposes raising the dollar amount limit in the definition of small business loans under the Home Owners Loan Act from \$1 million to \$2 million and to farms from \$500,000 to \$2 million. The rule also proposes revising OTS regulations to reflect changes in the Consolidated Appropriations Act - FY 2001 that give thrifts the same authority that banks enjoy to invest in small business investment companies.

OTS proposes enhancing federal savings associations' ability to invest in state and local government obligations by lifting many of the current restrictions. Thrifts will be permitted unlimited investment in general obligations. Investment-quality, non-general obligation investments will be subject only to the legal 10 percent of total capital limit for investment in the obligations of any one issuer. Investments in low-quality municipal securities will be permitted only with the approval of an OTS Regional Director.

OTS also proposes raising the aggregate level that a thrift can invest directly in community development funds, community centers and economic development initiatives in its

communities from the greater of a quarter of one percent of its total capital or \$100,000 to one percent of its total capital or \$250,000.

OTS proposes modifying its definition of real estate loans to remove the requirement that the real estate be the primary security for a loan, and instead focus on whether the thrift "substantially relies upon a security interest in real estate given by the borrower as a condition of making the loan." OTS wishes to give thrifts greater flexibility within statutory limits by treating as a real estate loan only a loan that would not have been made in the same amount or on the same terms unless it was secured, in whole or in part, by real estate. This recognizes that loans may be secured by both real and personal property.

The agency would also modify a definition in its rules to make clear that a thrift's service corporation could have the same authority as banks have to make investments to promote the public welfare, and would allow for the preapproval of service corporation activities conducted on an agency basis. To expedite these changes, OTS announced a 30-day comment period on the proposal.

OTS announced last week that it would institute a three-year pilot program to address the competitive disparity that exists in states that have higher lending limits for state-chartered financial institutions than the federal limits available to thrifts.

Thrifts are generally allowed to lend no more than 15 percent of their capital and surplus to one borrower. Recognizing that many states have higher limits for the banks they charter, OTS has implemented the pilot program for 1-4 family residential real estate and small business loans, to allow approved thrifts to compete more effectively with state-chartered banks. OTS is instituting the pilot program under a provision of the Financial Institutions Reform Recovery and Enforcement Act that allows savings associations to parallel the lending limits offered by national banks. National banks began such a pilot program in June.

Thrifts with high supervisory ratings approved for the pilot program will be allowed to lend up to the state limit, but not more than 25 percent of capital, to single borrowers for small business loans and for loans secured by a perfected first-lien security interest in 1-4 family real estate in an amount that does not exceed 80 percent of the property's appraised value. The program is aimed primarily at small and mid-size thrifts.

OTS also issued a thrift bulletin clarifying that if a loan or other investment is authorized under more than one section of the Home Owner's Loan Act, a thrift has always had the flexibility to designate under which section the loan or investment has been made. The percentage limitations on different categories of loans and investments are not aggregated, and it is management's responsibility to appropriately classify assets to assure that they meet the legal standards.

Thrift Bulletins 78 and 79 and the proposed rule are available on the OTS website: www.ots.treas.gov.

Lending and Investment - Notice of Proposed Rulemaking - <http://www.occ.gov/static/news-issuances/ots/press-releases/ots-pr-2001-74a.pdf>

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The Office of Thrift Supervision (OTS), a bureau of the U.S. Treasury, regulates and supervises the nation's thrift industry. OTS's mission is to ensure the safety and soundness of thrift institutions and to support their role as home mortgage lenders

and providers of other community credit and financial services. For copies of news releases or other documents visit the OTS web page at www.ots.treas.gov.