

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 502, 516, 562, 563, 565, 574

[No. 96-114]

RIN 1550-AA99

Regulatory Citations to Uniform Financial Institutions Rating System

AGENCY: Office of Thrift Supervision, Treasury (OTS).

ACTION: Final Rule.

SUMMARY: In the December 19, 1996 issue of the Federal Register, the Federal Financial Institutions Examination Council (FFIEC) published changes to the Uniform Financial Institutions Rating System (UFIRS). The OTS is making conforming changes to OTS regulations that cross-reference the UFIRS, confirming that these regulations are intended to refer to the UFIRS as it is revised from time to time.

EFFECTIVE DATE: [insert date 30 days from date of publication in the Federal Register].

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SUPPLEMENTARY INFORMATION:

I. Background

The UFIRS is a supervisory rating system used by the OTS and other agencies represented on the FFIEC to evaluate the soundness of depository institutions on a uniform basis. The agencies have implemented the UFIRS through CAMEL ratings. Under CAMEL, the agencies have organized the relevant UFIRS factors into five major areas (Capital Adequacy, Asset Quality, Management, Earnings, and Liquidity).

In the July 18, 1996 issue of the Federal Register, the FFIEC proposed to add a sixth component to the UFIRS system, Sensitivity to Market Risk. Currently, market risk is evaluated within other rating areas. The FFIEC also proposed to reformat and clarify the rating descriptions; to revise the rating system to emphasize risk management processes; and to make other changes. The FFIEC published a notice of the final text of the UFIRS in the December 19, 1996 issue of the Federal Register.

Under OTS regulations, CAMEL ratings are currently used: (1) to define "troubled savings association" for purposes of OTS assessments, 12 CFR 502.1; (2) to determine if a savings association is eligible for expedited or standard treatment under the application processing guidelines, 12 CFR Part 516; (3) to determine when an

independent audit is required for safety and soundness purposes and to determine whether the Director may waive this independent audit requirement, 12 CFR 562.4; (4) to determine when the OTS may require a savings association and its subsidiaries to provide notification before entering into transactions with affiliates, 12 CFR 563.41; (5) to define "adequately capitalized" and "undercapitalized" under the prompt corrective action regulation, 12 CFR Part 565; (6) to determine whether a savings association should be reclassified based on supervisory criteria other than capital for the purposes of the prompt corrective action regulation, 12 CFR Part 565; and (7) to define a savings association in "troubled condition" under rules requiring prior notice of the addition of any individual to the board of directors or the employment of any individual as senior executive officer, 12 CFR 574.9.

Most of these regulations currently refer to "CAMEL" ratings. Because the proposed changes to UFIRS would make these references obsolete, the OTS proposed revisions to its regulations on July 23, 1996.¹ The OTS proposed to revise its regulations to refer more generally to the UFIRS as it may exist from time to time or to any comparable rating system that the OTS may adopt in lieu of UFIRS.

Two other minor changes were also proposed. First, for the sake of consistency and to prevent confusion, the OTS proposed to revise each regulation that

¹ 61 FR 38114 (July 23, 1996).

will cross reference UFIRS to indicate that the OTS will use the most recent rating (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing. Currently, some of the cited regulations include this provision, while others do not.

Additionally, the OTS proposed to clarify 12 CFR 562.4. Currently, that regulation requires, inter alia, all institutions receiving a rating of 3, 4 or 5 to obtain an independent audit unless the Director “determines that an audit would not address the safety and soundness issues that caused the [low] examination rating.” The OTS proposed to modify § 562.4 to better reflect when OTS may waive the audit requirement. As proposed, a waiver may be granted if an audit “would not provide further information on safety and soundness issues relevant to the examination rating.”

II. Summary of Comments and Description of the Final Rule

The OTS received one comment on the proposed rule changes. This commenter suggested that the OTS delay changing references to a rating system until the FFIEC determines whether the existing rating system should be modified and designates a new acronym. The commenter supported all other clarifying changes to the OTS rules.

As noted above, FFIEC has finalized its changes to the UFIRS system. In any event, under the OTS proposal, the regulations would refer generally to the UFIRS as it may exist from time to time, or to a comparable rating system that the OTS may adopt in lieu of UFIRS. The proposed rule did not refer specifically to the then-existing UFIRS system (*i.e.*, CAMEL) or to the proposed rating system then under consideration by FFIEC (*i.e.*, CAMELS). By referring to UFIRS, rather than acronyms adopted from time to time to describe UFIRS, the proposed rule would obviate the need to make regulatory amendments if the FFIEC or the OTS proposes changes to the rating system in the future.

The proposed rule is therefore adopted without substantial modifications.² Since the publication of the proposed regulation, the OTS has removed former § 563.170(c)(10) as part of its Lending and Investments regulation,³ obviating the need for the proposed UFIRS change to that section.

² The OTS previously proposed a revision to the capital distributions regulation at 12 CFR 563.134 that would define "troubled condition" by reference to the examination rating system. 59 FR 62356 (December 5, 1994). When that regulation is finalized, it will also include appropriate references to the revised UFIRS system.

³ 61 FR 50951 (September 30, 1996).

III. Paperwork Reduction Act

Reporting and recordkeeping requirements in this final rule are currently found in 12 CFR 563.41(e) and 574.9. These requirements are addressed in the following OMB approved packages: Control Nos. 1550-0078 and 1550-0047. The reporting burden under this package remains unchanged under the rule.

IV. Executive Order 12866

The Director of the OTS has determined that this final rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

V. Unfunded Mandates Act of 1995

The OTS has determined that the requirements of this final rule will not result in expenditures by state, local, or tribal governments or by the private sector of more than \$100 million. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

VI. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The OTS does not anticipate that the application of the revised UFIRS rating system will result in a change in composite ratings assigned to depository

institutions. Today's rule will merely reduce confusion by updating the terminology used in the OTS regulations to reflect the current rating system.

VII. Effective Date

Section 302 of CDRIA delays the effective date of regulations promulgated by the Federal banking agencies that impose additional reporting, disclosure, or new requirements to the first day of the first calendar quarter following publication of the final rule. OTS believes that CDRIA does not apply to this final rule because it imposes no new burden. The revisions will merely reduce confusion by updating the terminology used in the OTS regulations to reflect the current rating system.

List of Subjects

12 CFR Part 502

Assessments, Federal Home Loan Banks.

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 562

Accounting, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 563

Accounting, Advertising, Conflicts of Interest, Corporate Opportunity, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Authority and Issuance

Accordingly, the Office of Thrift Supervision amends chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 502 - ASSESSMENTS

1. The authority citation for part 502 is amended to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1467, 1467a.

ATTACHMENT IS AVAILABLE UPON REQUEST

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