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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 566

[No. 97-44]

RIN 1550-AA77

LIQUIDITY

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to update, simplify, and streamline its liquidity regulation. This proposal follows a detailed review of the regulation to determine whether it is necessary, imposes the least possible burden consistent with statutory requirements and safety and soundness, and is written in a clear, straightforward manner. Today's proposal is made pursuant to the Regulatory Reinvention Initiative of the Vice President's National Performance Review and section 303 of the Community Development and Regulatory Improvement Act of 1994.

DATES: Comments on this proposed rule must be received on or before

[Insert date 60 days from date of publication in Federal Register.]

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention Docket No. 97-44. These submission may also be hand delivered to 1700 G Street, NW, from 9:00 A.M. to 5:00 P.M. on business days; they may be sent by facsimile transmission to FAX number (202) 906-7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW, from 9:00 A.M. until 4:00 P.M. on business days.

FOR FURTHER INFORMATION CONTACT: Francis Raue, Program Analyst, (202) 906-5750, Robyn Dennis, Manager, Thrift Policy, (202) 906-5751, Supervision Policy, or Susan Miles, Senior Attorney, (202) 906-6798, Karen Osterloh, Assistant Chief Counsel, (202) 906-6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background and Objectives of the Proposal

In a comprehensive review of the agency's regulations in the spring of 1995, OTS identified numerous obsolete or redundant regulations that could be quickly repealed. OTS also identified several key regulatory areas for a more

intensive, systematic regulatory burden review. The first areas reviewed - lending and investment authority, subsidiaries and equity investments, corporate governance, conflicts of interest, corporate opportunity and hazard insurance - were selected because they have a significant impact on thrift operations, and had not been developed on an interagency basis or been comprehensively reviewed for many years. OTS has issued comprehensive final regulations in all of these areas.¹

Today's proposal is a part of the next phase of OTS's review of its regulations. The proposed liquidity rule follows an intensive review of the relevant statute and regulation, legal interpretations, and requirements of other federal banking agencies. Like other OTS reinvention efforts, this proposal was prepared in consultation with those who use the regulation on a daily basis, including the agency's regional examination staff.

Both the industry and OTS regulatory staff have consistently cited the liquidity requirement and attendant calculations as an unnecessary burden. Consequently, the review process has led to a consensus that the statutory

¹ 61 FR 50951 (September 30, 1996) (Lending and Investment); 61 FR 66561 (December 18, 1996) (Subsidiaries and Equity Investments); 61 FR 60173 (November 27, 1996) (Conflicts of Interest, Corporate Opportunity and Hazard Insurance); 61 FR 64007 (December 3, 1996) (Corporate Governance).

liquidity requirement no longer serves any useful purpose and should be eliminated. The OTS has in the past recommended legislative action to repeal this requirement.

In the interim, OTS has reviewed its current liquidity regulation and has identified modifications that would reduce the burden of compliance to the maximum extent possible, consistent with the requirements of the statute and safety and soundness considerations. Specifically, the burden of compliance with the liquidity regulation would be decreased by: (1) reducing the liquidity base by excluding withdrawable accounts payable in more than one year from the definition of the term "net withdrawable accounts"; (2) streamlining the calculations used to measure compliance with the liquidity requirement; (3) reducing the liquidity requirement from five percent of net withdrawable accounts and short-term borrowings to four percent; (4) removing the one percent short-term liquidity requirement; and (5) expanding the categories of liquid assets that may count toward satisfying a savings association's liquidity requirement. In addition, a general requirement that thrifts maintain a safe and sound level of liquidity would be added to the regulation. Each of these changes is discussed in full below.

OTS believes that these proposed changes will significantly reduce regulatory burden with respect to the statutory liquidity requirement. While some thrifts may choose to modify their systems to take advantage of the new rule, thrifts need not change any systems they have in place to comply with the current rule.

II. Historical Overview of Current Liquidity Regulation

A. Statutory Requirement and Current Regulation

Section 6 of the Home Owners' Loan Act (HOLA)² requires savings associations to meet a liquidity requirement by holding liquid assets in an amount prescribed by the Director of OTS. The Director may, by regulation, vary the amount of the liquidity requirement, but only within pre-established statutory limits. The requirement must be no less than 4 percent and no greater than 10 percent of "the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less."³ The law identifies the assets that are suitable for liquidity purposes. The Director, however, has express authority to issue regulations defining the terms

² 12 U.S.C. 1465.

³ 12 U.S.C. 1465(b)(2).

ATTACHMENT IS AVAILABLE UPON REQUEST

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