

RESCINDED

OCC 2013-1

Subject: Lending Limits

Date: January 4, 2013

**To: Chief Executive Officers of All National
Banks and Federal Savings Associations,
Department and Division Heads, All Examining
Personnel, and Other Interested Parties**

Transmittal

Description: Compliance Extension Final Rule

The Office of the Comptroller of the Currency (OCC) has issued a final rule that extends from January 1, 2013, to July 1, 2013, the temporary exception for the application of its lending limits rule, 12 CFR 32, to certain credit exposures arising from derivative transactions and securities financing transactions.

Section 610 of the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 revised, for purposes of the lending limits, the statutory definition of loans and extensions of credit to include certain credit exposures arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction. In June 2012, the OCC issued an interim final rule implementing this statutory change and integrating the OCC's lending limits rules for national banks and federal and state savings associations into part 32. This rule was effective July 21, 2012.¹ The rule gave institutions until January 1, 2013, to comply with the rule's requirements as to derivative transactions and securities financing transactions. The OCC provided this short-term exception under its lending limits authority to allow time for these institutions to comply with the new standard.

Based on the comments received on the interim final rule, the OCC finds that the January 1 deadline should be extended. This deadline did not provide sufficient time for institutions to develop and implement appropriate policies and procedures to comply with the rule's section 610-related provisions. Therefore, in advance of finalizing the interim final rule, the OCC has amended 12 CFR 32 to extend this temporary exception to July 1, 2013. Although the agency previously provided public notice of its intention to extend the exception to April 1, 2013,² the OCC has since determined that it is more appropriate to extend the exception an additional three months to July 1. The agency expects to issue a final lending limits rule in the first quarter of 2013.

The OCC notes that, notwithstanding this extension, it retains the ability to address credit exposures that present undue concentrations on a case-by-case basis through its existing safety and soundness authorities.

Further information

Please direct questions and comments to any of the following OCC officials: Jonathan Fink, Assistant Director, Bank Activities and Structure Division, (202) 649-5593; Heidi M. Thomas, Special Counsel, Legislative and Regulatory Activities Division, (202) 649-5490; or Kurt Wilhelm, Director for Financial Markets, (202) 649-6437.

Karen Solomon
Acting Chief Counsel

¹ 77 FR 37265 (June 21, 2012).

² OCC Bulletin 2012-36, "Lending Limits: Notice of Compliance Extension," November 14, 2012.

Related Link:

- [Final Rule](#) (PDF)

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(d) Principle of conservatism.

Notwithstanding the requirements of this appendix, a bank may choose not to apply a provision of this appendix to one or more exposures, provided that:

(1) The bank can demonstrate on an ongoing basis to the satisfaction of the OCC that not applying the provision would, in all circumstances, unambiguously generate a risk-based capital requirement for each such exposure greater than that which would otherwise be required under this appendix;

(2) The bank appropriately manages the risk of each such exposure;

(3) The bank notifies the OCC in writing prior to applying this principle to each such exposure; and

(4) The exposures to which the bank applies this principle are not, in the aggregate, material to the bank.

* * * * *

[FR Doc. 2012-31485 Filed 12-28-12; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 32

[Docket ID OCC-2012-0007]

RIN 1557-AD59

Lending Limits

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its lending limits rule to extend the rule's temporary exception for credit exposures arising from a derivative transaction or securities financing transaction from January 1, 2013 to July 1, 2013.

DATES: This final rule is effective December 31, 2012. The effective date of amendatory instruction 3a of the interim final rule published on June 21, 2012, 77 FR 37277, is delayed from January 1, 2013 to July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Jonathan Fink, Assistant Director, Bank Activities and Structure Division, (202) 649-5593; Heidi M. Thomas, Special Counsel, Legislative and Regulatory Activities Division, (202) 649-5490; or Kurt Wilhelm, Director for Financial Markets, (202) 649-6437, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Description of Final Rule

Section 5200 of the Revised Statutes, 12 U.S.C. 84, provides that the total loans and extensions of credit by a

national bank to a person outstanding at one time shall not exceed 15 percent of the unimpaired capital and unimpaired surplus of the bank if the loan or extension of credit is not fully secured, plus an additional 10 percent of unimpaired capital and unimpaired surplus if the loan is fully secured. Section 5(u)(1) of the Home Owners' Loan Act (HOLA), 12 U.S.C. 1464(u)(1), provides that section 5200 of the Revised Statutes "shall apply to savings associations in the same manner and to the same extent as it applies to national banks." In addition, section 5(u)(2) of HOLA, 12 U.S.C. 1464(u)(2), includes exceptions to the lending limits for certain loans made by savings associations. These HOLA provisions apply to both Federal and state-chartered savings associations.

Section 610 of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (Dodd-Frank Act) amended section 5200 of the Revised Statutes to provide that the definition of "loans and extensions of credit" includes any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between a national bank and that person. This amendment was effective July 21, 2012. By virtue of section 5(u)(1) of the HOLA, this new definition of "loans and extensions of credit" applies to all savings associations as well as to national banks.

On June 21, 2012, the OCC published in the **Federal Register** an interim final rule that, among other things, amended the OCC's lending limits regulation, 12 CFR part 32, by implementing section 610 of the Dodd-Frank Act.² Specifically, the interim final rule amended part 32 to provide national banks and savings associations with different options for measuring the appropriate credit exposures of derivatives transactions and securities financing transactions, including an internal model option. The interim final rule was effective on July 21, 2012. Because the OCC recognized that national banks and savings associations would need additional time to comply with these new provisions, the interim final rule provided at 12 CFR 32.1(d) that the requirements of part 32 only apply to a credit exposure arising from a derivative transaction or securities

financing transaction on or after January 1, 2013.³

Based on the public comments received on the interim final rule, the OCC concludes that institutions that wish to use an internal model method to determine credit exposure for derivative transactions and securities financing transactions may not have sufficient time to develop a model, receive approval for its use, and implement the model before the January 1, 2013 expiration of the temporary exception. Moreover, for many institutions with large portfolios, the other non-model methods to measure credit exposure provided by the rule often would not be optimal. For the foregoing reasons, the OCC is extending this exception to July 1, 2013,⁴ in advance of finalizing the interim final rule. As indicated in the preamble to the interim final rule, notwithstanding this extension, the OCC retains full authority to address credit exposures that present undue concentrations on a case-by-case basis through our existing safety and soundness authorities.

II. Notice and Comment

This final rule is effective on December 31, 2012. Pursuant to the Administrative Procedure Act (APA), at 5 U.S.C. 553(b)(B), notice and comment are not required prior to the issuance of a final rule if an agency, for good cause, finds that "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

This final rule extends the temporary exception from the lending limits rules for extensions of credit arising from derivative transactions or securities financing transactions from January 1, 2013 to July 1, 2013 in order to provide national banks and savings associations with additional time to comply with these provisions. The rule makes no substantive changes to the lending limits rule. Furthermore, on November 16, 2012, the OCC announced its intention to extend this temporary exception,⁵ thereby giving notice to

³ The interim final rule also removed from the lending limits rule the securities reverse repurchase provision, redesignated as § 32.2(q)(1)(vii), on January 1, 2013 to correspond to the expiration of the exception for the section 610-related provisions. This final rule changes the date of this removal to July 1, 2013 as a conforming change.

⁴ The OCC issued OCC Bulletin 2012-36 on November 16, 2012, to provide notice prior to finalizing the interim final rule of its intention to extend the exception to April 1, 2013 so that national banks and savings associations could adjust their preparations for compliance accordingly. Since then, the OCC has determined that it is more appropriate to extend the exception to July 1, 2013.

⁵ See OCC Bulletin 2012-36.

¹ Public Law 111-203, 124 Stat. 1376 (2010).

² 77 FR 37265 (June 21, 2012).

interested parties that the January 1, 2013 date would likely be extended. For these reasons, the OCC finds that prior notice and comment are unnecessary.

III. Effective Date

This interim final rule is effective on December 31, 2012. A final rule may be effective without 30 days advance publication in the **Federal Register** if an agency finds good cause and publishes such with the final rule.⁶ The purpose of a delayed effective date is to permit regulated entities to adjust their behavior before the final rule takes effect. As described above, national banks and savings associations are currently excepted from the lending limits rules for extensions of credit arising from derivative transactions or securities financing transactions until January 1, 2013. This final rule extends this exception through July 1, 2013 in order to provide national banks and savings associations with additional time to comply with these provisions. The rule makes no substantive changes to the lending limits rule. Because the current exception will expire less than 30 days from the date of this rule's publication, it is necessary to make this rule effective immediately. Not doing so would result in national banks and savings associations having to comply with these provisions for a limited amount of time before the July 1, 2013 exception is effective. For these reasons, the OCC finds good cause to dispense with a delayed effective date.

IV. Regulatory Analysis

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA),⁷ 5 U.S.C. 603, an agency must prepare a regulatory flexibility analysis for all proposed and final rules that describe the impact of the rule on small entities, unless the head of an agency certifies that the rule will not have "a significant economic impact on a substantial number of small entities." However, the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).⁸ Pursuant to the APA at 5 U.S.C. 553(b)(B), general notice and an opportunity for public comment are not required prior to the issuance of a final rule when an agency, for good cause, finds that "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." For the reasons discussed above, the OCC did not publish a notice

of proposed rulemaking. Therefore, the RFA does not apply to this final rule.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, § 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that there is no Federal mandate imposed by this rulemaking that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, final rule is not subject to § 202 of the Unfunded Mandates Act.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521), the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule amends rules, which contain information collection requirements under the PRA, that have been previously approved by OMB under OMB Control No. 1557-0221. The amendments in this final rule do not introduce any new collections of information into the rules, nor do they amend the rules in a way that modifies the collection of information that OMB has previously approved for part 32. Therefore, no Paperwork Reduction Act submission to OMB is required.

List of Subjects in 12 CFR Part 32

National banks, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 12 CFR part 32 is amended as follows:

PART 32—LENDING LIMITS

■ 1. The authority citation for part 32 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 84, 93a, 1462a, 1463, 1464(u), and 5412(b)(2)(B).

§ 32.1 [Amended]

■ 2. Section 32.1(d) is amended by removing "January 1, 2013" and adding in its place "July 1, 2013".

Dated: December 21, 2012.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2012-31267 Filed 12-26-12; 11:15 am]

BILLING CODE 4810-33-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 34 and 45

[Docket No.: FAA-2012-1333; Amendment Nos. 34-5 and 45-28]

RIN 2120-AK15

Exhaust Emissions Standards for New Aircraft Gas Turbine Engines and Identification Plate for Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action amends the emission standards for turbine engine powered airplanes to incorporate the standards promulgated by the United States Environmental Protection Agency (EPA) on June 18, 2012. This amendment fulfills the FAA's requirements under the Clean Air Act Amendments of 1970 to issue regulations ensuring compliance with the EPA standards. This action revises the standards for oxides of nitrogen and test procedures for exhaust emissions based on International Civil Aviation Organization standards, and for the identification and marking requirements for engines.

DATES: Effective December 31, 2012. Affected parties, however, are not required to comply with the information collection requirement in § 45.11 until the Office of Management and Budget (OMB) approves the collection and assigns a control number under the Paperwork Reduction Act of 1995. The FAA will publish in the **Federal Register** a notice of the control number assigned by the Office of Management and Budget (OMB) for this information collection requirement.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of December 31, 2012.

Submit comments on or before March 1, 2013.

ADDRESSES: You may send comments identified by Docket Number FAA-

⁶ 5 U.S.C. 553(d)(3).

⁷ Public Law 96-354, Sept. 19, 1980.

⁸ 5 U.S.C. 603(a), 604(a).