

Covered Savings Associations

Final Rule – 12 CFR Part 101

Published May 2019

Covered Savings Associations

- Enacted as section 206 of the Economic Growth, Regulatory Relief, and Consumer Protection Act
- A federal savings association with total consolidated assets equal to or less than \$20 billion, as reported as of December 31, 2017, may elect to operate as a covered savings association. 12 CFR 101.3(a)(1)
- OCC issued the final rule to implement the statute in May 2019.

Covered Savings Associations

- A covered savings association has the same rights and privileges as a national bank and is subject to the same duties and restrictions as a national bank
- A covered savings association retains its federal savings association charter and existing governance framework
- A covered savings association is not subject to the HOLA lending limitations

Covered Savings Associations

- The rule establishes streamlined standards and procedures for elections and clarifies requirements for covered savings associations
- Final Rule published in May 2019
- The Final Rule is effective on July 1, 2019

Supervisory Office Notice

- Notice/letter sent to OCC/appropriate supervisory office making the election
- Signed by a duly authorized officer of the federal savings association (12 CFR 101.3(a)(2)(i))
- Identify and describe each nonconforming subsidiary, asset, or activity that the federal savings association operates, holds, or conducts at the time it submits the notice, each of which must be divested, conformed, or discontinued (12 CFR 101.3(a)(2)(ii))

Effective Date of the Election

- The election to operate as a covered savings association shall take effect on the date that is 60 days after the date on which the OCC receives the notice, unless the OCC notifies the federal savings association that it is not eligible. 12 CFR 101.3(b)(1)
- The OCC may notify a federal savings association earlier than 60 days from the date the OCC receives the notice that it is eligible to operate as a covered savings association. 12 CFR 101.3(b)(2)

Eligibility

- Federal savings association with assets of \$20 billion or less as of December 31, 2017. 12 CFR 101.3(a)(1)

Treatment of Covered Savings Associations

A covered savings association may engage in any activity that is permissible for a similarly located national bank to engage in as part of, or incidental to, the business of banking, or explicitly authorized by statute for a national bank, subject to the same authorization, terms, and conditions that would apply to a similarly located national bank, as determined by the OCC for these purposes. 12 CFR 101.4(a)(1)

Treatment as a Federal Savings Association

The final rule includes a list of laws and regulations that apply to federal savings associations that would continue to apply to covered savings associations. 12 CFR 101.4(a)(2)

A covered savings association may continue to operate any branch or agency that the covered savings association operated on the effective date of the election. 12 CFR 101.4(b)

Nonconforming Subsidiaries, Assets, and Activities

A covered savings association shall divest, conform, or discontinue a nonconforming subsidiary, asset, or activity at the earliest time that prudent judgment dictates but not later than two years after the effective date of the election. The OCC may require a covered savings association to submit a plan to divest, conform, or discontinue a nonconforming subsidiary, asset, or activity. 12 CFR 101.5

Nonconforming Subsidiaries, Assets, and Activities

The OCC may grant a covered savings association extensions of not more than two years each up to a maximum of eight years if the OCC determines (12 CFR 101.5(b)):

- (1) The covered savings association has made a good faith effort to divest, conform, or discontinue the nonconforming subsidiary, asset, or activity;
- (2) Divestiture, conformance, or discontinuation would have a material adverse financial effect on the covered savings association; and
- (3) Retention or continuation of the nonconforming subsidiary, asset, or activity is consistent with the safe and sound operation of the covered savings association

Termination of Election

- A covered savings association may terminate its election to operate as a covered savings association, after an appropriate period of time as determined by the OCC, by submitting a notice to the OCC. 12 CFR 101.6(a)
- The process for terminating an election is the same as the process for making an election

Reelection

A federal savings association that has terminated its election to operate as a covered savings association may submit a notice to reelect to operate as a covered savings association, if at least five years have elapsed since the effective date of the termination. Upon determining that good cause exists, the OCC may permit a federal savings association to reelect to operate as a covered savings association prior to the expiration of the five-year period. 12 CFR 101.7(a)