Comptroller of the Currency, Treasury

§ 170.3 Filing of safety and soundness compliance plan.

(a) Schedule for filing compliance plan— (1) In general. A Federal savings association shall file a written safety and soundness compliance plan with the OCC within 30 days of receiving a request for a compliance plan pursuant to §170.2(b), unless the OCC notifies the savings association in writing that the plan is to be filed within a different period.

(2) Other plans. If a savings association is obligated to file, or is currently operating under, a capital restoration plan submitted pursuant to section 38 of the FDI Act (12 U.S.C. 1831o), a cease-and-desist order entered into pursuant to section 8 of the FDI Act, a formal or informal agreement, or a response to a report of examination, it may, with the permission of the OCC, submit a compliance plan under this section as part of that plan, order, agreement, or response, subject to the deadline provided in paragraph (a)(1) of this section.

(b) Contents of plan. The compliance plan shall include a description of the steps the Federal savings association will take to correct the deficiency and the time within which those steps will be taken.

(c) Review of safety and soundness compliance plans. Within 30 days after receiving a safety and soundness compliance plan under this subpart, the OCC shall provide written notice to the Federal savings association of whether the plan has been approved or seek additional information from the savings association regarding the plan. The OCC...
may extend the time within which notice regarding approval of a plan will be provided.

(d) Failure to submit or implement a compliance plan. If a Federal savings association fails to submit an acceptable plan within the time specified by the OCC or fails in any material respect to implement a compliance plan, then the OCC shall, by order, require the savings association to correct the deficiency and may take further actions provided in section 39(e)(2)(B) of the FDI Act. Pursuant to section 39(e)(3), the OCC may be required to take certain actions if the savings association commenced operations or experienced a change in control within the previous 24-month period, or the savings association experienced extraordinary growth during the previous 18-month period.

(e) Amendment of compliance plan. A Federal savings association that has filed an approved compliance plan may, after prior written notice to and approval by the OCC, amend the plan to reflect a change in circumstance. Until such time as a proposed amendment has been approved, the savings association shall implement the compliance plan as previously approved.

§ 170.4 Issuance of orders to correct deficiencies and to take or refrain from taking other actions.

(a) Notice of intent to issue order—(1) In general. The OCC shall provide a Federal savings association prior written notice of the OCC’s intention to issue an order requiring the savings association to correct a safety and soundness deficiency or to take or refrain from taking other actions pursuant to section 39 of the FDI Act. The savings association shall have such time as a proposed amendment has been approved, the savings association shall implement the compliance plan as previously approved.

(b) Contents of notice. A notice of intent to issue an order shall include:

(1) A statement of the safety and soundness deficiency or deficiencies that have been identified at the Federal savings association;

(2) A description of any restrictions, prohibitions, or affirmative actions that the OCC proposes to impose or require;

(3) The proposed date when such restrictions or prohibitions would be effective or the proposed date for completion of any required action; and

(4) The date by which the savings association subject to the order may file with the OCC a written response to the notice.

(c) Response to notice—(1) Time for response. A Federal savings association may file a written response to a notice of intent to issue an order within the time period set by the OCC. Such a response must be received by the OCC within 14 calendar days from the date of the notice unless the OCC determines that a different period is appropriate in light of the safety and soundness of the savings association or other relevant circumstances.

(2) Contents of response. The response should include:

(i) An explanation why the action proposed by the OCC is not an appropriate exercise of discretion under section 39 of the FDI Act;

(ii) Any recommended modification of the proposed order; and

(iii) Any other relevant information, mitigating circumstances, documentation, or other evidence in support of the position of the savings association regarding the proposed order.