V. Paperwork Reduction Act

The FDIC has determined that, in comparison to the existing risk-based capital treatment of low level recourse transactions, this final rule will not increase the regulatory paperwork burden of FDIC-supervised banks pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State nonmember banks.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 325 of title 12 of the Code of Federal Regulations as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for Part 325 is revised to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, 2386 (12 U.S.C. 1828 note).

2. Section II.D.1. of appendix A to part 325 is amended by removing the sixth paragraph and adding in its place two new paragraphs to read as follows:

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

II. * * *

D. * * *

1. * * *

Sale and repurchase agreements and *asset sales with recourse*, if not already included on the balance sheet, are also converted at 100 percent. For risk-based capital purposes, the definition of sales of assets with recourse, including the sale of one-to-four family residential mortgages, is consistent with the definition contained in the instructions for the preparation of the Consolidated Reports of Condition and Income. Accordingly, except as noted below, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of one-to-four family residential mortgages, is to be converted at 100 percent and assigned to the risk weight category appropriate to the obligor or, if relevant, the guarantor or the nature of the collateral. The terms of a transfer of assets with recourse may contractually limit the amount of the bank's liability to an amount less than the effective risk-based capital requirement for the assets being transferred with recourse. If such a transaction (including one that, in accordance with the instructions for the preparation of the Consolidated Reports of Condition and Income, is reported as a financing, *i.e.*, the assets are not removed from the balance sheet) meets the criteria for sale treatment under generally accepted accounting principles, the amount of total capital required is equal to the maximum amount of loss possible under the recourse provision. If the transaction is also treated as a sale in accordance with the instructions for the preparation of the Consolidated Reports of Condition and Income, then the required amount of capital may be reduced by the balance of any associated noncapital liability account established pursuant to generally accepted accounting principles to cover estimated probable losses under the recourse provision. So-called ''loan strips'' (that is, short-term advances sold under long-term commitments without direct recourse) are defined in the instructions for the preparation of the Consolidated Reports of Condition and Income and for risk-based capital purposes as assets sold with recourse.

In addition, a 100 percent conversion factor applies to forward agreements. Forward agreements are legally binding contractual obligations to purchase assets with drawdown which is certain at a specified future date. These obligations include forward purchases, forward deposits placed, and partly paid shares and securities, but do not include forward foreign exchange rate contracts or commitments to make residential mortgage loans.

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 21st day of March, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 95–7535 Filed 3–27–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 95–55]

RIN 1550–AA78

Loans to one Borrower

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Interim final rule with request for comments.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its lending limits regulation, also known as the loans to one borrower (LTOB) rule, to reflect recent changes to the Office of the Comptroller of the Currency's (OCC's) lending limits regulation. Section 5(u) of the Home Owners' Loan Act requires that savings association lending limits parallel those applicable to national banks. This interim final rule amends OTS's LTOB regulation so that thrifts, like national banks, will use regulatory capital as the starting point for determining ''unimpaired capital and unimpaired surplus'' for LTOB purposes, removing the need for a separate calculation. It also removes other outdated or redundant provisions.

DATES: The interim final rule is effective March 28, 1995. Written comments on this interim final rule must be received on or before April 27, 1995.

ADDRESSES: Send comments to Director, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552, Attention Docket No. 95–55. These submissions may be hand-delivered to 1700 G Street, NW., from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755. Comments will be available for inspection at 1700 G Street, NW., from 1 p.m. until 4 p.m. on business days. Visitors will be escorted to and from the Public Reading Room at established intervals.

FOR FURTHER INFORMATION CONTACT: William J. Magrini, Project Manager, Policy, (202) 906–5744; Valerie J. Lithotomos, Counsel (Banking and Finance), (202) 906–6439; Deborah Dakin, Assistant Chief Counsel, (202) 906–6445, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Ties Between OCC and OTS Lending Limits

Both savings associations and national banks have statutory limits placed on the amount an institution can lend to one borrower. Since 1989, Section 5(u) of the Home Owners' Loan Act (HOLA) has provided that ''Section 5200 of the Revised Statutes applies to savings associations in the same manner and to the same extent as it applies to

national banks.''[1] Section 5200 establishes lending limits, measured as a percentage of an institution's capital and surplus, for national banks.[2] The OCC's implementing regulations appear at 12 CFR part 32. The OTS's LTOB rule references the lending limits set forth in the OCC rule and most lending limit definitions.[3] Therefore, as OCC amends those limits and definitions in Part 32, the new limits and definitions apply directly to savings associations, without further OTS action. However, section 563.93(b)(11) of the OTS LTOB rule currently defines the term ''unimpaired capital and unimpaired surplus'' by reference to another OCC regulation, 12 CFR 3.100. Any OCC changes to the use of that definition for lending limit purposes would require separate OTS regulatory action to clarify what definition thrifts should use in calculating lending limits.

B. Recent OCC Revisions to Lending Limits

As part of the OCC's Regulation Review Program, the OCC has recently published final revisions to the national bank lending limits regulation.[4] OCC's primary purpose in revising this regulation was to eliminate inefficient and unduly costly regulatory requirements for national banks and thereby better focus the lending limits rule on areas of significant safety and soundness concern.[5] The regulation also incorporates interpretations OCC has developed over the years. These changes will apply to savings associations upon the OCC's rule becoming effective.

One of the most important changes OCC's final rule makes is redefining ''capital and surplus.'' Before amendment, OCC's lending limit rule used a definition of ''capital and surplus'' at 12 CFR 3.100 that is calculated separately from the definitions of Tier 1 and Tier 2 capital used for determining capital adequacy. In its recent rulemaking, the OCC redefined ''capital and surplus'' as Tier 1 and Tier 2 capital included in calculating a bank's risk-based capital, plus the balance of its allowances for loan and lease losses (ALLL) not included in its Tier 2 capital. Thus, national banks no longer need to perform totally different calculations for calculating lending limits and capital adequacy, but can use the same Report of Bank Condition (Call Report) line items to calculate both.

The OCC's new definition included the balance of ALLL not already included in Tier 2 capital because the full amount of ALLL had long been included under section 3100. The preamble to the proposal that formed the basis for the recent final rule stated that ''The OCC believes it is inadvisable to constrict the lending limit base at a time when concerns about credit availability are widespread, and believes this proposed change will not impact credit availability.''[6]

C. Comparable OTS Revisions to Its Lending Limits Regulation

The OTS, in making conforming changes to its LTOB regulation, enables savings associations to realize a similar reduction in regulatory burden. Extensive revision is not necessary because nearly all of the OCC changes will become effective for savings associations by virtue of OTS's referencing of most of the OCC lending limits regulation. However, a few small changes are required.

First, section 563.93(c) is being amended today to remove an obsolete cross-reference to former section 32.7, which OCC removed.

Second, the OCC has changed its lending limits rule to allow national banks to calculate their lending limits quarterly, rather than every time a new loan is made. The OTS LTOB rule already incorporates periodic calculations at section 563.93(f)(1). That section is being modified only to remove an obsolete parenthetical reference to ''monthly or quarterly'' calculations.

Third, as discussed above, section 563.93(b)'s definition of ''unimpaired capital and unimpaired surplus'' currently incorporates 12 CFR 3.100. The OCC's lending limits regulation no longer refers to that definition but substitutes a definition based on the components national banks already use in calculating capital for capital adequacy purposes. This has created confusion about how this change applies to savings association calculation of ''unimpaired capital and unimpaired surplus.'' OTS also wants savings associations to have their regulatory calculation burden reduced as much as possible. Because of the structure of the OTS capital regulation, however, an extra step is required to reach the same result as the OCC revision.

For savings associations, the components calculated on their Thrift Financial Report for capital adequacy purposes are core and supplementary capital. These are substantially similar to Tier 1 and Tier 2 capital for banks. However, in calculating core capital for capital adequacy purposes, thrifts may not include investments in certain subsidiaries, commonly known as ''nonincludable subsidiaries.'' This requirement, imposed pursuant to section 5(t) of the HOLA, is designed to ensure that a thrift with investments in such subsidiaries holds enough capital to fully protect it against any risks such investments might pose. An ''includable subsidiary'' is one engaged solely in activities permissible for a national bank, with a few exceptions not relevant here.[7] A national bank may have subsidiaries, such as service corporations, that engage in activities not authorized for the bank itself.[8] Thus, a national bank may have a subsidiary, which, if held by a savings association, would be considered a ''nonincludable subsidiary'' and deducted in calculating core capital pursuant to section 5(t).

The section 5(t) deduction from capital has never affected savings associations' lending limit calculations under section 5(u). Section 5(u) does not require such a deduction in calculating capital and surplus for lending limits nor has the OCC required such a deduction. Under both 12 CFR 3.100 and new section 32.2(b), investments in subsidiaries are not deducted in calculating capital. Using the OTS section 5(t) capital definitions could thus cause a savings association with non-includable subsidiaries to have a lower lending limit than it currently has or would have if it were a national bank with the identical subsidiaries. Such a credit-limiting result would not be driven by safety or soundness concerns on the part of either the OTS or the OCC, but merely by a difference in capital components not relevant for lending limit purposes.

If section 3.100 still applied, or if OTS were to reference section 32.2(b), a savings association would not be required to deduct any of its investments in any of its subsidiaries in calculating capital and surplus. However, this approach would not allow savings associations to realize the benefit of being able to use the same basic components used for capital adequacy purposes in calculating lending limits. Unlike national banks, they would continue to have to

[1] 12 U.S.C. 1464(u)(1).

[2] 12 U.S.C. 84.

[3] 12 CFR 563.93(b), (c)(1994).

[4] *See* 60 FR 8526 (February 15, 1995).

[5] *Id.* at 8527.

[6] 59 FR 6593, 6595 (February 11, 1994).

[7] 12 CFR 567.1(l) (1994).

[8] 12 U.S.C. 1864(f) (bank service corporation may engage in any activity other than deposit taking permitted for a bank holding company, notwithstanding section 1864(d), which otherwise limits the activities of a bank service corporation in which a national bank is a shareholder to services authorized for a national bank).

complete a complex worksheet in order to determine their lending limit base of capital and surplus.

II. Description of Interim Final Rule

The OTS has therefore determined that unimpaired capital and unimpaired surplus is best defined as the sum of a savings association's core and supplementary capital included in total capital under 12 CFR part 567, plus the balance of its general valuation allowances for loan and lease losses or ALLL not included in its supplementary capital under part 567, plus its investments in subsidiaries that are not included in calculating core capital under part 567. Because the net worth certificates currently specifically included in section 563.93(b)(11) are included in supplementary capital, the new regulation removes this reference.

This definition neither raises nor lowers savings associations' lending limits. It will make it substantially easier for all savings associations to calculate their loan-to-one-borrower limitations because all of the components are already reported on the Thrift Financial Report. This definition eliminates the requirement that a savings association prepare a separate and complex worksheet to calculate its LTOB limit without itself raising or lowering savings associations' lending limits. Just as OCC found it appropriate to continue to include the full balance of the ALLL in its new definition of capital and surplus in order to avoid a credit-limiting result, so the OTS believes it is appropriate to continue to include both the full balance of loss allowances and savings association investments in subsidiaries in calculating unimpaired capital and unimpaired surplus to avoid a credit-limiting result.

The OTS is also removing an obsolete definition of ''qualifying association'' and an outdated provision in the Appendix to section 563.93 and correcting cross-references.

III. Need for an Interim Final Rule

The OTS believes that an immediately effective interim final rule is appropriate and necessary because of how closely the OTS lending limits regulation is tied to the OCC lending limits regulation. The OCC's final rule is effective March 17, 1995, 30 days after its publication in the **Federal Register**.[9]

The OTS's interim final rule will eliminate any potential confusion for savings associations that may result from the OCC's new lending limit requirements; it will also eliminate any possible lending limit disparities savings associations may have as compared to national banks. Additionally, immediate application of the OTS interim final rule will relieve unnecessary regulatory burdens and provide savings associations with the increased flexibility that national banks have been accorded by the OCC's final rule.

Section 553 of the Administrative Procedure Act[10] requires separate findings for good cause, first, that notice and comment are impracticable, unnecessary, or contrary to the public interest when an agency determines to issue a rule without prior notice and comment and second, when it determines to make a rule effective without a 30-day delay. Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994[11] requires that a regulation that imposes new requirements take effect on the first day of the quarter following publication of the final rule. That section provides, however, that an agency may determine that the rule should take effect earlier upon a finding of good cause.

Under existing section 563.93, savings associations are already bound by the lending limits of the new OCC rule. Allowing 12 CFR 563.93(b)'s outdated cross-reference to 12 CFR 3.100 to remain in place during notice and comment rulemaking and a delayed effective date could lead to considerable confusion and result in savings associations performing unnecessary calculations. Additionally, the OTS believes (as does the OCC with respect to its rule) that this rule relieves burden by eliminating inefficient and unduly costly regulatory requirements and better focusing the lending limit rules on areas of significant safety and soundness concern.[12] For these reasons, the OTS believes there is good cause to make this rule effective immediately upon publication.

IV. Comment Solicitation

Because OTS application of the OCC's new limits is statutorily mandated, this interim final rulemaking does not seek comments on the substance of the OCC's revisions that are referenced in the OTS LTOB rule. However, interested parties are invited to submit written comments on the interim final rule as to the amendments adopted here. A 30-day comment period is provided.

V. Regulatory Flexibility Act

This regulation simplifies lending limit calculations for all savings associations. Other alternatives might result in some smaller savings associations having lower lending limits.

VI. Executive Order 12866

It has been determined that this document is not a significant regulatory action. It will benefit savings associations by simplifying their lending limit calculations. It is not expected to raise or lower savings association lending limits themselves.

List of Subjects in 12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Accordingly, the Office of Thrift Supervision hereby amends part 563, chapter V, title 12 of the Code of Federal Regulations as set forth below.

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

1. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 42 U.S.C. 4106.

2. Section 563.93 is amended by:

a. Removing the phrase ''*See* 2 CFR part 32.'' from the introductory text of paragraph (b) and by adding in lieu thereof the phrase ''*See* 12 CFR Part 32.'';

b. revising paragraphs (b)(6) and (b)(11);

c. removing the phrase ''12 CFR 541.20'' from paragraph (b)(9) and by adding in lieu thereof the phrase ''12 CFR 541.25'';

d. removing the phrase '', but not including 12 CFR 32.7'' from the introductory text of paragraph (c);

e. removing the phrase ''paragraph (b)(11)'' from paragraph (d)(3)(ii) and by adding in lieu thereof the phrase ''paragraph (b)(6)'';

f. removing the phrase ''(monthly or quarterly)'' from paragraph (f)(1); and

g. in the appendix to § 563.93, by removing section 563.93–102.

§ 563.93 Lending limitations.

* * * * *

(b) * * *

(6) The term *fully phased-in capital standards* means the capital standards that will be in effect at the expiration of

[9] 60 FR 8526 (February 15, 1995).

[10] 5 U.S.C. 553.

[11] 12 U.S.C. 4802.

[12] *See* 60 FR at 8531.

all statutory and regulatory phase-in requirements set forth in 12 U.S.C. 1464(t) and 12 CFR 567.2, 567.5, and 567.9.

* * * * *

(11) *Unimpaired capital and unimpaired surplus* means—(i) A savings association's core capital and supplementary capital included in its total capital under part 567 of this chapter; plus

(ii) The balance of a savings association's general valuation allowances for loan and lease losses not included in supplementary capital under part 567 of this chapter; plus

(iii) The amount of a savings association's loans to, investments in, and advances to subsidiaries not included in calculating core capital under part 567 of this chapter.

* * * * *

Dated: March 14, 1995.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 95–7589 Filed 3–27–95; 8:45 am]

BILLING CODE 6720–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

Delegation of Authority

AGENCY: Small Business Administration (SBA).

ACTION: Notice delegating loan approval to specific agency field personnel.

SUMMARY: This notice delegates authority to a specific SBA field person to approve SBA guaranteed export loans. This authority is based upon the education, training, and experience of such person and is meant to expedite Agency action is processing loan applications.

EFFECTIVE DATE: This notice is effective March 28, 1995.

FOR FURTHER INFORMATION CONTACT: John R. Cox, Associate Administrator for Financial Assistance, 409 Third Street, SW., Washington, DC 20416, Tel. (202) 205–6490.

SUPPLEMENTARY INFORMATION: On December 19, 1991, SBA published in the **Federal Register**, a final rule amending § 101.3–2 of part 101, Title 13, Code of Federal Regulations, which set forth a clarified standard delegation of authority to conduct program activities in SBA field offices (56 FR 65821). Previously, § 101.3–2 had set forth the standard delegation of authority to SBA field personnel as well as all deviations from the standard based upon education, experience and/or training. The December 19, 1991 publication eliminated all deviations in favor of a standard delegation of authority. In addition, the rule provided authority by which SBA might, as it deemed appropriate, increase, decrease or set the level of authority for any individual SBA field official in a regional, district or branch office, based upon education, training or experience, by publication of a notice in the **Federal Register**.

The Agency believes that, when appropriate, delegating increased levels of authority to field personnel yields increased benefits for program participants and SBA. The Agency is authorized to guarantee up to 90% of a loan depending upon total loan amount. It is essential that SBA have qualified loan officers available to process expeditiously and accurately the applications submitted. Agency officials in the field who are delegated greater levels of authority because of their additional education, training or experience allow SBA to process an increased number of loan applications. The loan applicant and the lender are both served with quicker and more accurate processing, while SBA is served by quality lending and better relations with participating lenders.

This notice delegates authority to a specific SBA official to approve or decline guaranteed loan applications, as well as to undertake other loan related activities based upon experience. In the United States Export Assistance Center (USEAC) in Long Beach, California, the SBA USEAC Director has successfully completed training courses offered by the Agency. Such training in conjunction with his extensive experience justifies delegating loan approval authority.

No standard delegated authority to approve SBA guaranteed loans exists for a USEAC. This notice establishes the authority to approve SBA guaranteed export loans at $750,000 for the SBA Director at the USEAC in Long Beach, CA and only for that person.

This delegation of authority is specific to the incumbent and continues only so long as he remains in such position.

Dated: March 22, 1995.

John R. Cox,

Associate Administrator for Financial Assistance.

[FR Doc. 95–7455 Filed 3–27–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–14; Amendment 39–9183; AD 95–07–01]

Airworthiness Directives; Textron Lycoming O–360, LO–360, HO-360, HIO–360, TIO–360, LIO–360, AEIO–360, O–540, IO–540, TIO–540, LTIO–540, IVO–540, AEIO–540, TIO–541, and IO–720 Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 95–07–01 that was sent previously to all known U.S. owners and operators of Textron Lycoming O–360, LO–360, HO–360, HIO–360, TIO–360, LIO–360, AEIO–360, O–540, IO–540, TIO–540, LTIO–540, IVO–540, AEIO–540, TIO–541, and IO–720 series reciprocating engines by individual letters. This AD requires removal prior to further flight of suspect unapproved connecting rod bolts and replacement with serviceable connecting rod bolts. This amendment is prompted by reports of connecting rod bolt failures. The actions specified by this AD are intended to prevent engine failure due to connecting rod bolt failure, which could result in damage to or loss of the aircraft.

DATES: Effective April 12, 1995, to all persons except those persons to whom it was made immediately effective by priority letter AD 95–07–01, issued on March 17, 1995, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before May 30, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–14, 12 New England Executive Park, Burlington, MA 01803–5299.

FOR FURTHER INFORMATION CONTACT: Richard D. Karanian, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; telephone (817) 222–5195, fax (817) 222–5959; or Locke Easton, Aerospace Engineer, Engine and Propeller Standards Staff, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA