

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Part 563**

[No. 97-127]

RIN 1550-AA72

Capital Distributions; Withdrawal of Proposed Rule**AGENCY:** Office of Thrift Supervision (OTS), Treasury.**ACTION:** Proposed rule; withdrawal.

SUMMARY: The OTS is withdrawing the proposed rule amending its capital distributions regulation originally published on December 5, 1994. Elsewhere in today's issue of the **Federal Register**, the OTS has published a new proposal making more extensive revisions to the regulation.

DATES: Proposed amendment to § 563.134 is withdrawn on January 7, 1998.

FOR FURTHER INFORMATION CONTACT: Edward J. O'Connell, III, Project Manager, (202) 906-5694; Robyn Dennis, Manager, (202) 906-5751, Supervision Policy; Evelyne Bonhomme, Counsel (Banking and Finance), (202) 906-7052; or Karen Osterloh, Assistant Chief Counsel, (202) 906-6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:**Background**

In 1990, the OTS adopted the current capital distributions rule at 12 CFR 563.134. The rule permits a savings association to make a capital distribution based on its level of capitalization. The regulation was originally intended to restrict capital distributions by savings associations that did not meet the capital requirements imposed in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

On December 5, 1994, the OTS issued a proposed rule revising the capital distributions regulation. 59 FR 62356. The proposed rule was designed to incorporate statutory changes contained in the prompt corrective action statute at 12 U.S.C. 1831o (PCA requirements) and to reflect the improved capital position of the thrift industry.

Section 303 of the CDRIA (12 U.S.C. 4803) requires the OTS to streamline and modify its regulations to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303 also

requires the OTS to remove inconsistencies and outmoded and duplicative requirements from its regulations.

Consistent with these requirements, elsewhere in today's **Federal Register** the OTS is proposing a new rule that updates, simplifies, and streamlines § 563.134. Like the 1994 proposal, today's proposed rule reflects PCA requirements. The new proposal also contains changes designed to simplify the rule and to conform OTS's capital distributions requirements with those that apply to banks. The proposal utilizes plain English drafting techniques to make the regulation easier to understand.

Withdrawal of the Proposed Rule

In light of the newly proposed revisions to § 563.134, the OTS withdraws its proposal published in the **Federal Register** on December 5, 1994 at 59 FR 62358.

Dated: December 10, 1997.

By the Office of Thrift Supervision.

Ellen S. Seidman,*Director.*

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DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Parts 563, 563b**

[No. 97-128]

RIN 1550-AA72

Capital Distributions**AGENCY:** Office of Thrift Supervision, Treasury.**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing amendments to its capital distributions regulation. Today's rule updates, simplifies, and streamlines this regulation to reflect OTS's implementation of the system of prompt corrective action (PCA) established under the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). The proposal is also designed to conform OTS's capital distribution requirements to those of the other banking agencies.

DATES: Comments must be received on or before March 9, 1998.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552,

Attention Docket No. 97-128. These submissions may be hand-delivered to 1700 G Street, N.W., 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, N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Edward J. O'Connell, III, Project Manager, (202) 906-5694; Robyn Dennis, Manager, (202) 906-5751, Supervision Policy; Evelyne Bonhomme, Counsel (Banking and Finance), (202) 906-7052; 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, D.C. 20552.

SUPPLEMENTARY INFORMATION:**I. Introduction**

The OTS is proposing to update, simplify, and streamline its capital distributions regulation. This proposal follows a detailed review of the regulation to determine whether it should be revised, reduces burden consistent with statutory requirements, and is written in a clear, straightforward style. 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 (CDRIA). Consistent with section 303, the proposed amendments would bring the OTS's capital distributions regulation into greater conformity with the requirements of the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB), and the Federal Deposit Insurance Corporation (FDIC).

The proposal reduces regulatory burden and compliance costs associated with some capital distributions. Under the existing rules, all savings associations must file a notice or an application for approval before making any capital distribution. Under the proposed rule, however, certain savings associations would not be required to file with the OTS. Specifically, for savings associations that would remain at least adequately capitalized following the capital distribution and meet other specified requirements, the OTS is proposing to eliminate any requirement