

RESCINDED

Office of Thrift Supervision
Department of the Treasury

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Transmittal TR-247

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Number TR-247

The Office of Thrift Supervision (OTS) issued the attached final rule in an effort to make application processing more predictable and easier to understand.

OTS revised its application processing guidelines to reflect existing practices, provide more predictable procedures for applicants, and to provide greater flexibility to the agency and to applicants in processing applications. The majority of the revisions seek to make existing procedures easier to understand by:

- Presenting current information in user-friendly charts.
- Explaining how OTS computes time periods.
- Re-writing the rules in “plain language”.

The more substantive changes include:

- New pre-filing procedures for certain complex applications.
- More flexibility to extend certain filing timeframes.
- The ability to withdraw certain long-pending applications.

OTS also announced that a revised Application Processing Handbook and application forms will be available on the agency web site when the final rule becomes effective April 1. The revised forms contain a few technical requirements that have been removed from the final rule.

The final rule was published in the March 2, 2001, edition of the Federal Register, Vol. 66, No. 42, pp. 12993-13010 and is effective April 1, 2001, except 12 CFR 516.290, which is effective July 1, 2001.

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Attachment

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 516, 517, 543, 544, 545, 550, 552, 555, 559, 560, 562, 563, 563b, 563f, 565, 567, 574, 575, 584

[No. 2001-11]

RIN 1550-AB14

Application Processing

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is revising its application processing guidelines and procedures. These changes update OTS rules to reflect existing practices; to provide more predictable procedures for applicants; and to provide greater flexibility to OTS and applicants in the processing of applications. OTS has also rewritten the rules in "plain language" to make them easier to understand.

EFFECTIVE DATE: April 1, 2001, except 12 CFR 516.290, which is effective July 1, 2001.

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SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2000, OTS proposed to revise its OTS application processing guidelines and procedures at 12 CFR part 516.¹ The proposed rule was intended to make the processing of applications more efficient, more expeditious, and easier to understand.²

Most of the proposed changes clarified existing procedures. The proposed rules, for example, presented current information in user-friendly charts; explained how OTS computes time periods; and explained how an applicant may determine whether an application should be filed with the Regional Office and OTS headquarters. OTS also proposed to add a new provision codifying OTS's policy protecting confidential information.

In addition, OTS proposed to remove some technical requirements from the existing regulations and to incorporate this information into individual application forms. OTS has revised its forms and application-processing handbook to reflect these changes. These forms and the handbook will be available on the effective date of today's final rule.

OTS proposed only a few substantive changes to the existing rules. These included new provisions that address pre-filing procedures for certain complex applications, permit OTS to extend certain processing time frames, and allow OTS to deem certain long-pending applications to be withdrawn.

The comment period on the proposed rule closed on January 2, 2001. OTS received five comments from two community organizations, one law firm representing financial institutions, one federal savings bank, and one trade association. Generally, the commenters supported the proposed rule, but objected to certain provisions. These issues are summarized in the following analysis.

¹ See 65 FR 66118 (Nov. 2, 2000).

² In 1997, OTS added three new subparts to part 516. 62 FR 64138 (Dec. 4, 1997). These new subparts were drafted using plain language drafting techniques. OTS has redrafted the remainder of part 516 consistent with section 722 of Gramm-Leach-Bliley Act (the G-L-B Act or Act), which requires OTS to use "plain language" in all proposed and final rules published after January 1, 2000.

II. Analysis of the Comments

A. Pre-Filing Procedures

As noted above, the proposed rule included new pre-filing procedures. Proposed § 516.15 would have required applicants to meet with OTS and submit a draft business plan before filing certain complex applications. These applications included:

- An application for permission to organize a de novo savings association.
- An application to convert an existing financial institution or credit union (other than a state-chartered savings association regulated by OTS or a state-chartered savings bank that is regulated by the FDIC) to a federal savings association.
- An application to acquire control of a savings association filed by an insurance company, an investment company, a securities firm, a commodities firm or a pension fund.

Several commenters addressed these pre-filing procedures. One commenter agreed that pre-filing meetings could be useful in expediting application processing under certain conditions. The commenter, however, argued that a pre-filing meeting might not always be necessary. Instead, the commenter suggested that OTS should require pre-filing meetings on a case-by-case basis at the discretion of the Regional Offices or upon the request of the applicant.³ One commenter supported discussing, but not submitting, a business plan with OTS at the pre-filing stage.

OTS has reconsidered whether it should require a pre-filing meeting and draft business plan for all applications that fall within the three categories described in the proposed rule. Based on the types of issues that are commonly presented by these applications, OTS has revised the final rule to impose different requirements for each category of applications.

OTS believes that a pre-filing meeting and draft business plan are essential for an application for permission to organize a *de novo* federal savings association. These applications involve the creation of a new organization that has not previously operated as an insured depository institution. As a

³ This commenter noted that FDIC does not require a pre-filing meeting for any applications, and that OCC requires consultations only for certain types of applications. See 12 CFR 5.24(d)(2)(i) and 12 CFR 303.161.

result, these applications often involve operational, compliance and other issues that could benefit from the additional pre-filing review. For these reasons, OTS will require *de novo* applicants to meet with OTS and to file a draft business plan. This process will permit applicants to identify legal or policy issues before the application is filed and enable them to address these issues early in the process.

Conversion applications filed by a commercial bank or credit union may involve significant changes to the way the institution conducts business. A credit union, for example, is not FDIC-insured, will probably have a different asset mix than a typical savings association, may not be familiar with savings associations' asset limitations, Qualified Thrift Lender (QTL) requirements and Community Reinvestment Act (CRA) requirements, will not have previously paid taxes, and will have focused on serving a particular group or community, rather than the general public. Similarly, commercial banks typically may not be familiar with QTL requirements, asset limitations applicable to savings associations, and other restrictions that apply to savings associations. For these reasons, OTS believes that it is appropriate to require credit unions and commercial banks to meet with the Regional Office before they may file a conversion application. On the other hand, these applications involve existing entities that have conducted banking operations, are generally familiar with safe and sound banking practices, and have previously been supervised by another banking regulator. Accordingly, OTS does not believe that a draft business plan must always be required for these applications. The final rule provides the Regional Office with discretion to determine whether a conversion applicant must submit a draft business plan or other relevant information before the pre-filing meeting.

Change of control applications may or may not involve significant modifications to the way the institution conducts business, and may or may not raise other major issues.⁴ Accordingly,

⁴ The proposed rule would have required a pre-filing meeting whenever an insurance company, an investment company, a securities firm, a commodities firm or a pension firm sought to acquire control of a savings association. Upon reconsideration, OTS has concluded that all acquisition applications, regardless of the nature of the acquirer, potentially may raise significant issues. Accordingly, the final rule requires all companies or individuals who intend to file a holding company application or a change in control notice to contact OTS and discuss whether OTS will require a pre-filing meeting.

the final rule provides the Regional Office with discretion to determine whether a change of control applicant must meet with OTS before it files its application and whether an applicant must submit a draft business plan or other relevant information before this meeting. In exercising this discretion, the Regional Offices will review each proposal on a case-by-case basis and will consider a number of factors. These factors will include the complexity of the legal and policy issues presented by the proposal and the level of assistance required by a particular applicant. For example, it may be beneficial for OTS to meet with an applicant the first time that it applies to control an association. However, it may not be necessary to hold a pre-filing meeting when that applicant seeks to acquire control of a second association with similar operating characteristics. Similarly, a pre-filing meeting and draft business plan may not be necessary, for example, where an application involves a simple reorganization of a holding company's corporate structure.

The proposed rule would have permitted a Regional Office to require, or an applicant to request, a pre-filing meeting for any type of application if doing so would help resolve issues or expedite the process. The final rule continues to encourage all applicants to contact the Regional Office before filing an application. This process will allow the Regional Office and the applicant to determine whether a meeting and the submission of information will help expedite the application review process. Even where no pre-filing meeting is conducted or information submitted, these contacts will serve to expedite processing by providing an opportunity to discuss the application before it is filed.

1. *Contacting Regional Office.* Final § 516.15(b) requires applicants within the three categories to contact the Regional Office to ascertain how OTS will exercise its discretion regarding the pre-filing meeting and the submission of other relevant information. This rule also addresses scheduling.

The proposed rule indicated that the applicant must meet with OTS at least 30 days before it files an application. Several commenters asserted that the proposed 30-day time frame was too inflexible. These commenters noted that 30 days may be sufficient in some instances, but that a shorter or longer time period may be appropriate for other transactions.

Rather than establish a fixed time period for the meeting, the final rule provides the Regional Office with discretion regarding scheduling. OTS

anticipates that the Regional Office will consider such factors as the nature of the application, the parties' schedules, expected review time, and staff resources. OTS notes that it is up to the applicant to contact the Regional Office a reasonable period in advance of the filing. If the applicant fails to do so, the filing of the application may be delayed.⁵

2. *Contents of the business plan.* Under proposed § 516.20(a), the draft business plan, at a minimum, would have been required to: (1) Identify the projected operations and activities; (2) include financial projections for at least three years; (3) describe the risks associated with the transaction and the impact of the transaction on any existing activities; (4) identify all proposed directors and senior executive officers of the savings association and demonstrating that these individuals have the expertise to prudently manage the operations and activities described in the plan; and (5) demonstrate how applicable requirements regarding serving the credit and lending needs of the savings association's market areas will be met.

Two commenters considered the business plan requirements too detailed. They argued that it is unrealistic to expect applicants to submit much of this information at the pre-filing stage. Specifically, the commenters noted that a description of the projected operations of the savings association, including financial projections for a minimum of three years, may not be available for some transactions at the pre-filing stage. One of the two commenters would require financial projections and capital matters only when a complete application is filed. One commenter argued that the draft business plan should address only the proposed management and the board, the applicant's proposed operating strategy, and its compliance with relevant laws. Another commenter urged OTS to develop a description of the draft business plan that is more flexible. Such a business plan might include an overview of the general areas such as operations, risks, management, and service to community.

OTS has not significantly revised the content requirements for the draft business plan in the final rule. For example, the final rule continues to require an applicant to provide financial projections for a minimum of three

⁵ The proposed rule required the applicant to submit the business plan seven calendar days before the pre-filing meeting. The final rule has been revised to permit the Regional Office to set an appropriate schedule for the submission of required information. See § 516.15(b).

years. These financial projections assist the Regional Office in determining how well the applicant has planned and analyzed its proposed operations and how well the applicant understands the underlying statutory and regulatory requirements. OTS notes that while the final rule lays out a common structure and sets out minimum standards for a draft business plan, it also provides considerable flexibility in applying those minimum standards. For example, while all draft business plans must clearly and completely describe projected operations and activities, the Regional Office may, depending on the circumstances, merely require an overview of operations, or may require more detailed discussions.

OTS has made one minor adjustment to one of the proposed business plan requirements. Proposed § 516.20(b)(3) would have required the applicant to identify all proposed directors and senior executive officers of the savings association and demonstrate that these individuals have the expertise to prudently manage the operations and activities described in the plan. OTS recognizes that an applicant may not have identified all of its directors and senior executive officers before submitting the proposed business plan. Accordingly, the final rule requires draft business plan to include this information for only a majority of the proposed directors and for key senior executive officers.

One commenter mistakenly believed that OTS approval of the business plan at a pre-filing meeting is a precondition of an accepted application and opposed this concept. As stated in the preamble to the proposed rule, OTS will review in certain circumstances, but will not approve, the business plan at the pre-filing stage.

3. Public attendance at pre-filing meeting. One commenter argued that the public should be permitted to witness the pre-filing meeting or that OTS should make transcripts of the meeting available to the public. If this public access is not possible, the commenter requested that OTS delete the pre-filing meeting requirement.

OTS does not believe that it is appropriate to allow the public to attend or review discussions that take place at the pre-filing meeting. The purpose of the pre-filing meeting requirement is to permit OTS and the applicant to identify legal or policy issues before the application is filed, and to enable the applicant to address these issues early in the process. For this process to work effectively, the applicant must be free to discuss all aspects of the application with OTS staff, including protected

business information and confidential information about potential securities filings.⁶ Although members of the public will not be able to attend a pre-filing meeting, they can comment on applications during the comment period and may request informal and formal meetings with the applicant and OTS. See 12 CFR part 516, subparts C and D.

B. Contents of Application

Proposed part 516 did not impose substantive requirements regarding the content of applications. Some commenters urged OTS to codify application requirements relating to antitrust matters, CRA issues, management issues and fair lending matters in the final rule. Commenters argued that these requirements would help the general public to make informed comments. The commenters urged OTS to state that an inadequate CRA plan would result in an OTS determination that the application is materially deficient and ineligible for further review.

OTS has not changed the final rule to codify requirements relating to these matters. Specific application requirements are contained in substantive regulations and in other guidance affecting particular notices and applications, appropriate forms, and instructions. Applicants may obtain guidance affecting particular notices and applications from any OTS Regional Office or, as of April 1, 2001, the OTS web site at www.ots.treas.gov. See § 516.30. Although OTS will not codify specific requirements in part 516, the applicant still must comply with the applicable underlying substantive regulation and guidance. An inadequate discussion of required items could result in requests for additional information. In addition, OTS may deem an application containing an inadequate discussion of CRA factors or other required items to be materially deficient and not process it further. See §§ 516.210(a)(3) and 516.220(a)(1)(iii).

C. Confidentiality

Proposed § 516.35 is new, but would restate current OTS policy protecting

⁶ This commenter expressed concern that the pre-filing meeting could lead to abuses. Specifically, the commenter was concerned that OTS and applicants would discuss "how to resolve issues so that OTS can issue speedy approvals rather than how to submit an application that addresses the significant legal and policy issues." The pre-filing meeting is intended to help applicants to submit the most complete application possible by identifying and addressing problematic legal and policy issues at the earliest possible date. While this may result in the speedier approval of some applications, the complete consideration and resolution of all legal and policy issues remains of paramount importance.

confidential information. Under this proposed section, OTS would make submissions under part 516 available to the public. An applicant, however, may request that OTS keep portions of the application confidential consistent with the standards of the Freedom of Information Act (5 U.S.C. 552 et seq.) (FOIA) and OTS regulations implementing FOIA.⁷ In the proposed rule, OTS would not grant confidential treatment for those portions of the application describing the applicant's CRA objectives.

Several commenters agreed that CRA plans should not be confidential. One commenter observed that other parts of the application may address management issues or antitrust considerations that may relate to a CRA plan. The commenter urged OTS to make *all* parts of the application publicly available, "unless the applicant can clearly establish any breach of privacy or competitive harm resulting from public availability." In contrast, another commenter asserted that it is imperative that certain portions of the applications remain confidential for competitive reasons and that OTS should respect an applicant's judgments regarding confidentiality.

The FOIA requires OTS to disclose information to the public, unless the information falls within certain exempt categories. While the FOIA does not prohibit OTS from publicly disclosing any information, various other laws may do so. See Trade Secrets Act, 18 U.S.C. 1905; Privacy Act of 1974, 5 U.S.C. 552a. Even when these laws do not prohibit the disclosure of information, OTS believes that the policy considerations that support the protection of particular information, including the policy considerations that underlie the FOIA exemptions, weigh against OTS routinely disclosing matters that are exempt under FOIA.

Under the final rules, an applicant may request confidential treatment for those portions of the application that the applicant believes would be exempt from disclosure if OTS were asked for the information under FOIA. 5 U.S.C. 552. The FOIA exemptions most likely to apply to portions of an application are Exemption (4) and Exemption (6). Exemption (4) may protect from disclosure "privileged or confidential" material consisting of "trade secrets and commercial or financial information." 5 U.S.C. 552(b)(4). If the applicant requests confidential treatment of a portion of the application based on FOIA Exemption (4), the applicant must describe how it will suffer competitive

⁷ 12 CFR part 505.

harm if the information were released. Exemption (6) protects against disclosure of information that if released "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6). If an applicant has requested confidential treatment for a portion of the application and OTS does not have sufficient information to determine whether confidential treatment is appropriate, OTS will ask the applicant for additional information before determining whether to disclose the information in response to a FOIA request.

Under proposed § 516.35(c), OTS would advise an applicant before disclosing to the public information for which the applicant has requested confidential treatment consistent with paragraph (b) of this section. One commenter urged OTS to adopt pre-disclosure notice requirements that are consistent with OCC rules governing confidential commercial information. See 12 CFR 4.16. Specifically, the commenter urged OTS to notify an applicant that it has 10 business days to object to a request for disclosure of confidential commercial information filed with OTS. The commenter would also require OTS to provide an applicant with notice of any decision to disclose confidential commercial information over the applicant's objection. OTS would provide this notice at least 10 business days before it intends to disclose the information.

OTS complies with FOIA regulations issued by the Department of the Treasury (Treasury) at 31 CFR part 1, subpart A, and OTS supplemental FOIA regulations at 12 CFR part 505.⁸ The Treasury regulations provide substantively identical guidance for advance notice as those contained in OCC rules. Therefore, it is unnecessary to make the requested change.

OTS has made a technical change to the text of 12 CFR 574.6(f)(4), which addresses the procedural requirements for disclosure of confidential information contained in an application for acquisition of control of a savings association. Under existing § 574.6(f)(4), OTS must give the applicant five business days notice of its intent to disclose information for which confidential treatment has been requested. The technical change will conform § 574.6(f)(4) to § 516.35. OTS

will comply with the advance notice required under the FOIA regulations.

Under proposed § 516.35(d), if OTS issues a public statement with its decision on the application, the agency may comment on confidential submissions in the application without notifying the applicant. OTS has decided to delete § 516.35(d) as unnecessary. It is not OTS practice to comment on confidential submissions in the application in a public statement without first notifying the applicant.

D. Filing Amendments or Supplemental Information

The final rule adds § 516.47 to clarify how an applicant may amend or supplement an application. Under the final rule, an applicant must file the amendment or supplemental information at the appropriate OTS office(s) along with the number of copies required under § 516.40. Any amendment or supplemental information must also be appropriately captioned and meet the exhibit requirements at § 516.30(b).

E. Comment Procedures

OTS proposed only minor revisions to the publication and comment procedures at existing subpart B and C. The proposed rule made two revisions to existing § 516.130, which governs where commenters should file their comments on an application. Proposed § 516.130 would require commenters to file their comments with the appropriate OTS Regional Office and, where an application involves a significant issue of law or policy, with OTS headquarters. In addition, commenters would also be required to simultaneously provide a copy of the comment directly to the applicant.

OTS has decided that it is too burdensome to require a commenter to determine whether an application involves a significant issue of law or policy in order to file its comments properly. Instead, the final rule merely requires a commenter to file its comment with the appropriate Regional Office. The Regional Office will forward a copy of the comment to OTS headquarters where appropriate.

Several commenters urged OTS to delete the proposed requirement that commenters must send their comments directly to the applicant. These commenters noted that the other banking agencies do not require this submission.⁹ The commenters also

asserted that this requirement may intimidate community groups.

OTS disagrees. All comments are public information and, in the past, OTS has forwarded copies of comments to applicants to permit them to address the concerns raised. As a result, applicants know the substance of all comments and the identity of the commenters. Requiring commenters to provide comments directly to the applicant is therefore unlikely to intimidate community groups. OTS acknowledges that providing a copy to the applicant may impose costs on commenters. If providing a copy of a comment to an applicant imposes a significant burden on the commenter, OTS may on a case-by-case basis waive the requirement and forward the comment on the commenter's behalf.

Under existing § 516.140, commenters must file comments with OTS within 25 calendar days after the application is filed. OTS will consider a late-filed comment, if within the comment period, the commenter demonstrates good cause for the untimely comment, and OTS determines that the comment addresses a significant regulatory concern and will assist in the disposition of the application. OTS is changing § 516.140 to permit OTS greater flexibility in accepting late-filed comments. The final rule will allow OTS to consider late-filed comments if the commenter demonstrates good cause within the comment period for the untimely comment or OTS concludes that the comment addresses a significant regulatory concern and will assist in the disposition of the application.

F. Meeting Procedures

OTS did not propose changes to the formal and informal meeting procedures in Subpart D, but sought comment on how these meeting procedures are operating in practice.

One commenter noted that the informal and formal meetings are valuable opportunities to make views known to OTS and applicants. Another commenter, however, suggested several changes to these procedures. This commenter noted that the existing rules do not address the timing of the informal or formal meetings. The commenter argued that time is of the essence for many corporate transactions. Accordingly, this commenter asserted that the regulation should require all parties to be available to meet within 10 days after the submission of a comment.

OTS has decided not to impose these time frames in order to retain maximum flexibility in scheduling. It is, however, OTS's practice to schedule the meetings as soon as possible taking into account

⁸ Section 505.1(a) provides: "This part is issued by the Office of Thrift Supervision ("OTS") as a supplement to the Freedom of Information Act regulations of the Department of the Treasury, 31 CFR part 1, subpart A, which apply to the OTS as a component part of the Department of the Treasury."

⁹ See 12 CFR 5.10(OCC); 12 CFR 262.3(e)(FRB); and 12 CFR 303.9(FDIC).

the schedules of the parties and other factors.

Under § 516.170, OTS will conduct an informal meeting whenever a commenter requests such a meeting.¹⁰ One commenter argued that not all comments should result in an informal meeting. The commenter asserted that OTS should require that allegations have some merit before an informal meeting is arranged. The commenter also noted that under existing § 516.190, arranging an informal meeting will suspend the application processing time frames. The commenter argued that OTS should only suspend the time frames if OTS determines that there are extraordinary circumstances. Compare § 516.260 (OTS may suspend processing under § 516.260 only for extraordinary circumstances such as pending legislation or material litigation).

OTS has not revised the informal meeting process. This process ensures that all allegations of harm to individuals and communities are fully explored and that OTS may issue an informed decision on the merits of an application. While the commenter feared that some individuals or community groups may request an informal meeting solely to suspend the application processing time periods, OTS knows of no situation where this has occurred. In addition, the rules permit OTS to suspend processing time frames only for a limited time,¹¹ and allow OTS to select the type of meeting that is best suited to the issues raised. OTS may, for example, prescribe an informal meeting as simple as a telephone conference call. Under these circumstances, OTS does not believe that the delay caused by the suspension of processing will be significant.

If a meeting has been arranged, the application processing time periods will resume only when OTS determines that a record has been developed that sufficiently supports a determination on the issues raised by the commenters. See existing § 516.190. One commenter argued that OTS should establish a deadline for the completion of the meeting process. The commenter argued

that OTS should have a fixed time period following the conclusion of the meeting (e.g., two weeks) to create a record supporting the determinations regarding the issues raised by the commenters.

OTS believes that a fixed time frame would limit its ability to develop a thorough record. In some instances, two weeks may be insufficient to develop a record. Accordingly, OTS will resume the time periods when the record is developed. It will not impose a rigid time period that will unnecessarily inhibit its flexibility.

G. OTS Review

OTS processes applications under part 516 using two procedures—expedited treatment and standard treatment. Like the current rule, the proposed rule would base the decision to process an application under expedited treatment, in part, on the association's condition, as reflected in the composite Uniform Financial Institutions Rating System, the CRA performance rating, and the most recent compliance rating. See proposed § 516.5. The preamble noted that OTS also assesses an association's condition using other rating systems including the Uniform Rating System for Data Processing Operations and the Uniform Interagency Trust Rating System. OTS specifically requested comment on whether it should incorporate these ratings in its decision to process applications under expedited treatment.

One commenter asserted that OTS should not revise the proposed rule to incorporate these other ratings because such a change would be inconsistent with the other banking agencies' procedures. The commenter argued that any proposed changes to the criteria for expedited treatment of an application should be based on interagency consensus.

OTS has decided not to incorporate other ratings in its decision to process applications under expedited treatment. OTS monitors new developments for each thrift and updates the CAMELS rating, as needed, so that the rating is a current indicator of the institution's condition. As part of this monitoring, OTS examiners are authorized to make off-site changes to the management score (the M component) of the CAMELS rating to reflect the scores received under the other rating systems. As a result, the CAMELS rating used in § 516.5 determinations already reflect other ratings and considerations.

H. OTS Review Under Standard Treatment

OTS received the following comments on OTS review under standard treatment:¹²

1. *Review for completeness.* Under the proposed rule governing standard treatment, OTS will review each application for completeness within 30 calendar days after its filing date. If OTS determines that additional information is necessary to complete the application, OTS will notify the applicant of this fact and the applicant will have 30 calendar days to respond. See proposed §§ 516.210 and 516.220. Within 15 calendar days after the applicant files additional information, OTS will complete its review of the additional information.¹³ OTS may, however, extend this 15-day period by an additional 15 days, if OTS requires this additional time to review the response.

One commenter supported the proposed provision permitting OTS to extend its review period. Another commenter, however, argued that the rules should require OTS to explain why the extension is necessary. The final rule adds the requirement that OTS must briefly explain why the extension is necessary.

2. *Publishing a new public notice.* Under proposed § 516.250, OTS may require an applicant to publish a new public notice of the application if an applicant submits a revision to the application, the applicant submits new or additional information, or a major issue of law or change in circumstance arose after filing the application.

One commenter argued that OTS should always grant a new comment period when it requires the applicant to submit additional information. OTS disagrees. The purpose of the new comment period is to ensure that the public has adequate notice and opportunity to comment on applications that change substantially after the initial comment period. Not all revisions, new information, changes in circumstances, or issues of law are of a sufficient magnitude to merit the delays, expense, and burden inherent in the republication of a notice. Accordingly, OTS has left this provision unchanged in order to retain its discretion in

¹² OTS received no comments on OTS review under expedited treatment.

¹³ Under § 516.220(a)(2)(ii), OTS may deny an applicant's request for an extension of time to file additional information and may decide not to process the application further. If an applicant's request for more time is denied, but the applicant nonetheless files a timely response to all information requests, OTS will process the application under § 516.220(a)(1).

¹⁰ OTS will not arrange an informal meeting, however, where a request is clearly frivolous or clearly lacking a factual basis. With respect to formal meetings, OTS will conduct a formal meeting when a request is filed under § 516.170(e). A request under § 516.170(e) must demonstrate that material issues or facts have not been adequately addressed by the informal meeting and that a formal meeting is necessary to develop a record sufficient to support a determination on those facts or issues.

¹¹ Under § 516.190, processing is suspended only until OTS determines that a record has been developed that sufficiently supports a determination on the merits. By contrast, OTS may suspend processing indefinitely when it finds extraordinary circumstances under § 516.280.

determining when a new comment period is appropriate.

3. *Review criteria.* The proposed rule did not describe the standards that OTS will apply when it reviews applications. The preamble indicated that approval or disapproval would be based on the standards in the underlying regulation for the particular application.

The current rule, however, includes one standard governing the review of applications. See existing § 516.3(b)(2). That provision requires OTS to deny applications that are subject to standard treatment unless the applicant affirmatively demonstrates how the application will clearly improve its financial or managerial condition or improve its compliance with CRA or other consumer-related statutes without affecting its financial or managerial resources. OTS proposed to delete this provision.

Two commenters opposed this deletion, arguing that the change may lead regulators to discount or limit consideration of CRA factors. The final rule follows the proposed rule on this point. OTS continues to believe that the review standards in the applicable substantive statutes and regulations sufficiently address these matters. OTS will not limit or discount CRA or other consumer-related compliance requirements as a result of the deletion because an applicant is still subject to these underlying substantive statutes and regulations.

III. Miscellaneous Changes

OTS has made miscellaneous technical changes to the text of several rules. For example, OTS has revised the chart at § 516.40 to update the addresses of the OTS Regional Offices. The chart, however, does not reflect the new

address of the West Region Office, which is expected to move later this year. OTS will update the address in its end of the year technical amendments. OTS has also made other minor editorial changes to §§ 516.5, 516.15, 516.40, 516.45, 516.120, 516.220 and 516.230.

OTS has also made a technical change to 12 CFR 545.92(d)(2) to make the publication requirements for a branch office consistent with the publication requirements in subpart B of part 516. In 1997, OTS amended the application processing rules to consolidate the publication notice provisions in other OTS regulations in a single regulation under part 516. At that time, OTS intended to include the branching regulation in the amendment but inadvertently omitted this change.

IV. Derivation Chart for Revised Part 516

Revised provision	Former provision	Comments
§ 516.1(a)		Added.
§ 516.1(b)	§ 516.2(a)(1)	Modified.
§ 516.1(c)	§ 516.2(a)(2)	Modified.
§ 516.5(a)		Added.
§ 516.5(b)		Added.
§ 516.5(c)	§ 516.3(b)(1)(i)	Modified.
§ 516.5(d)	§ 516.3(b)(1)(ii)	Modified.
§ 516.5(e)	§ 516.3(B)(1)(iii)	Modified.
§ 516.5(f)	§ 516.3(b)(1)(iv)	Modified.
§ 516.5(g)	§ 516.3(b)(1)(v)	Modified.
§ 516.5(h)		Added.
§ 516.5(i)		Added.
§ 516.10		Added.
§ 516.15		Added.
§ 516.20		Added.
§ 516.25(a)	§ 516.3(a)(2)	Modified.
§ 516.25(b)	§§ 516.2(b)	Modified and Added.
§ 516.30(a)	§ 516.1(c)	Modified and Added.
§ 516.30(b)	§ 516.1(c)	Modified.
§ 516.35		Added.
§ 516.40(a)(1)	§ 516.1(c)	Modified and Added.
§ 516.40(a)(2)	§ 516.1(b)	Modified.
§ 516.40(b)	§ 516.1(a)&(c)	Modified.
§ 516.45(a)		Added.
§ 516.45(b)		Added.
§ 516.47		Added.
§ 516.55		Added.
§ 516.120	§ 516.120	Modified.
§ 516.130	§ 516.130	Modified.
§ 516.140	§ 516.140	Modified.
§ 516.150	§ 516.150	Modified.
§ 516.185		Added.
§ 516.190	§ 516.190	Modified.
§ 516.200(a)	§ 516.3(a)(2)	Modified and Added.
§ 516.200(b)	§ 516.3(a)(3)	Modified.
§ 516.200(c)		Added.
§ 516.200(d)		Added.
§ 516.210(a)	§ 516.2(c)(1)	Modified and Added.
§ 516.210(b)	§ 516.2(c)(1)	Modified.
§ 516.220(a)	§ 516.2(c)(2)–(5)	Modified and Added.
§ 516.220(b)	§ 516.2(e)	Modified.
§ 516.220(c)	§ 516.2(c)(4)	Modified.
§ 516.230		Added.
§ 516.240(a)	§ 516.2(c)(4)–(5)	Modified.
§ 516.240(b)	§ 516.2(c)(5)	Modified and Added.
§ 516.250		Added.
§ 516.260	§ 516.2(c)(7)	Modified and Added.
§ 516.270(a)	§ 516.2(d)(1)	Modified.

Revised provision	Former provision	Comments
§ 561.270(b)	§ 516.2(d)(2)	Modified.
§ 516.270(c)(1)	§ 516.2(e)	Modified.
§ 516.270(c)(2)	§ 516.2(f)	Modified.
§ 516.280(a)	Added.
§ 516.280(b)	§ 516.2(d)(1)	Modified.
§ 516.290	Added.

V. Executive Order 12866

The Director of OTS has determined that this final regulation does not constitute a "significant regulatory action" for purposes of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this final regulation will not have a significant economic impact on a substantial number of small entities. The final rule generally restates the existing rule in plain language and clarifies existing procedures. These changes should make it easier for all applicants to file applications and for OTS to review applications expeditiously. These changes should, therefore, assist all potential applicants, including small businesses. While the final rule would make several minor changes, only two of these changes would impose additional burden on certain applicants. Under the final rule, certain applicants may be subject to a possible pre-filing meeting requirement and may be required to provide a draft business plan or other relevant information before the meeting. OTS believes that the pre-filing meeting is generally consistent with existing procedures and imposes only a minimal burden. Moreover, most applicants should already have drafted business plans to provide to the agency.

VII. Paperwork Reduction Act of 1995

The information collection requirements in this final rule have previously been approved by OMB under the substantive regulations or under the application forms; or involve technical changes that do not affect the overall burden of compliance. To the extent that this regulation imposes new burden, OTS has filed applications to update the information collection requirements in the underlying forms. These have been submitted under 1550-0005, 1550-00015, and 1550-0037.

VIII. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before

promulgating a rule that includes a federal mandate that may result in 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, section 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 final rule generally restates the existing application processing procedures in plain language and clarifies existing procedures. These changes should make it easier for all applicants to file applications and for OTS to review applications. While the final rule makes several minor changes, OTS has determined that the final rule will not result in expenditures by state, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, this final rulemaking is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 517

Government contracts, Individuals with disabilities, Minority businesses, Women.

12 CFR Part 543

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 544

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 550

Savings associations, Trusts and trustees.

12 CFR Part 552

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 555

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 559

Reporting and recordkeeping requirements, Savings associations, Subsidiaries.

12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 562

Accounting, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 563

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

12 CFR Part 563b

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 563f

Antitrust, Holding companies, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 567

Capital, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 575

Administrative practice and procedure, Capital, Holding companies Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 584

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision amends title 12, chapter V, of the Code of Federal Regulations as set forth below:

PART 516—APPLICATION PROCESSING GUIDELINES AND PROCEDURES

1. The authority citation for part 516 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*

§§ 516.1, 516.2, 516.3 [Removed]

2. Subpart A of part 516 (§§ 516.1, 516.2, 516.3) is removed.

§§ 516.1, 516.5, 516.10 [Added]

Subpart A [Added]

3. Sections 516.1, 516.5, and 516.10, and new subpart A, consisting of §§ 516.15 through 516.45, are added to read as follows:

Sec.

516.1 What does this part do?

- 516.5 Do the same procedures apply to all applications under this part?
- 516.10 How does OTS compute time periods under this part?

Subpart A—Pre-Filing and Filing Procedures

Pre-Filing Procedures

- 516.15 Must I meet with OTS before I file my application?
- 516.20 What information must I include in my draft business plan?

Filing Procedures

- 516.25 What type of application must I file?
- 516.30 What information must I provide with my application?
- 516.35 May I keep portions of my application confidential?
- 516.40 Where do I file my application?
- 516.45 What is the filing date of my application?
- 516.47 How do I amend or supplement my application?

§ 516.1 What does this part do?

(a) This part explains OTS procedures for processing applications, notices, or filings (applications). Except as provided in paragraph (b) of this section, subparts A and E of this part apply whenever an OTS regulation requires any person (you) to file an application with OTS. Subparts B, C, and D, however, only apply when an OTS regulation incorporates the procedures in the subpart or where otherwise required by OTS.

(b) This part does not apply to any of the following:

- (1) An application related to a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823(c) or (k).

(2) A request for reconsideration, modification, or appeal of a final OTS action.

(3) A request related to litigation, an enforcement proceeding, a supervisory directive or supervisory agreement. Such requests include a request seeking approval under, modification of, or termination of an order issued under part 508 or 509 of this chapter, a supervisory agreement, a supervisory directive, a consent merger agreement or a document negotiated in settlement of an enforcement matter or other litigation, unless an applicable OTS regulation specifically requires an application under this part.

(4) An application filed under an OTS regulation that prescribes other application processing procedures and time frames for the approval of applications.

(c) If an OTS regulation for a specific type of application prescribes some application processing procedures, or time frames, OTS will apply this part to the extent necessary to process the application. For example, if an OTS regulation for a specific type of application does not identify time periods for the processing of an application, the time periods in this part apply.

§ 516.5 Do the same procedures apply to all applications under this part?

OTS processes applications under this part using two procedures, expedited treatment and standard treatment. To determine which treatment applies, you may use the following chart:

If * * *	Then OTS will process your application under * * *
(a) The applicable regulation does not specifically state that expedited treatment is available	Standard treatment.
(b) You are not a savings association	Do.
(c) Your composite rating is 3, 4, or 5. The composite rating is the composite numeric rating that OTS or the other federal banking regulator assigned to you under the Uniform Financial Institutions Rating System ¹ or under a comparable rating system. The composite rating refers to the rating assigned and provided to you, in writing, as a result of the most recent examination.	Do.
(d) Your Community Reinvestment Act (CRA) rating is Needs to Improve or Substantial Noncompliance. The CRA rating is the Community Reinvestment Act performance rating that OTS or the other federal banking regulator assigned and provided to you, in writing, as a result of the most recent compliance examination. See, for example, § 563e.28 of this chapter.	Do.
(e) Your compliance rating is 3, 4, or 5. The compliance rating is the numeric rating that OTS or the other federal banking regulator assigned to you under OTS compliance rating system, or a comparable rating system used by the other federal banking regulator. The compliance rating refers to the rating assigned and provided to you, in writing, as a result of the most recent compliance examination.	Do.
(f) You fail any one of your capital requirements under part 567 of this chapter	Do.
(g) OTS has notified you that you are an association in troubled condition	Do.
(h) Neither OTS nor any other federal banking regulator has assigned you a composite rating, a CRA rating or a compliance rating.	Do.
(i) You do not meet any of the criteria listed in paragraphs (a) through (h) of this section	Expedited treatment.

¹ A savings association may obtain a copy of its composite rating from the appropriate Regional Office.

§ 516.10 How does OTS compute time periods under this part?

In computing time periods under this part, OTS does not include the day of the act or event that commences the time period. When the last day of a time period is a Saturday, Sunday, or Federal holiday, the time period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday.

Subpart A—Pre-filing and Filing Procedures

Pre-Filing Procedures

§ 516.15 Must I meet with OTS before I file my application?

(a) *Chart.* To determine whether you must attend a pre-filing meeting before

you file an application, please consult the following chart:

If you file * * *	Then * * *
(1) An application for permission to organize a <i>de novo</i> federal savings association.	You must meet with OTS before filing your application. You must submit a draft business plan before this meeting.
(2) An application to convert an existing insured depository institution (other than a state-chartered savings association or a state-chartered savings bank) or a credit union to a federal savings association.	You must meet with OTS before filing your application. OTS may require you to submit a draft business plan or other relevant information before this meeting.
(3) An application to acquire control of a savings association	OTS may require you to meet with OTS before filing your application and may require you to submit a draft business plan or other relevant information before this meeting.

(b) *Contacting the Regional Office.* (1) You must contact the appropriate Regional Office a reasonable time before you file an application described in paragraph (a) of this section. Unless paragraph (a) already requires a pre-filing meeting or a draft business plan, the Regional Office will determine whether it will require a pre-filing meeting, and whether you must submit a business plan or other relevant information before the meeting. The Regional Office will also establish a schedule for any meeting and the submission of any information.

(2) All other applicants are encouraged to contact the appropriate Regional Office to determine whether a pre-filing meeting or the submission of a draft business plan or other relevant information would expedite the application review process.

§ 516.20 What information must I include in my draft business plan?

If you must submit a draft business plan under § 516.15, your plan must:

- (a) Clearly and completely describe the savings association's projected operations and activities;
- (b) Describe the risks associated with the transaction and the impact of this transaction on any existing activities and operations of the savings association, including financial projections for a minimum of three years;
- (c) Identify the majority of the proposed board of directors and the key senior executive officers (as defined in § 563.555 of this chapter) of the savings association and demonstrate that these individuals have the expertise to prudently manage the activities and operations described in the savings association's draft business plan; and

(d) Demonstrate how applicable requirements regarding serving the credit and lending needs in the market areas served by the savings association will be met.

Filing Procedures

§ 516.25 What type of application must I file?

(a) *Expedited treatment.* If you are eligible for expedited treatment under § 516.5, you may file your application in the form of a notice that includes all information required by the applicable substantive regulation. If OTS has designated a form for your notice, you must file that form. Your notice is an application for the purposes of all statutory and regulatory references to "applications."

(b) *Standard treatment.* If you are subject to standard treatment under § 516.5, you must file your application following all applicable substantive regulations and guidelines governing the filing of applications. If OTS has a designated form for your application, you must file that form.

(c) *Waiver requests.* If you want OTS to waive a requirement that you provide certain information with the notice or application, you must include a written waiver request:

- (1) Describing the requirement to be waived and
- (2) Explaining why the information is not needed to enable OTS to evaluate your notice or application under applicable standards.

§ 516.30 What information must I provide with my application?

(a) *Required information.* You may obtain information about required certifications, other regulations and guidelines affecting particular notices and applications, appropriate forms,

and instructions from any OTS Regional Office. You may also obtain forms and instructions on OTS's web page at www.ots.treas.gov.

(b) *Captions and exhibits.* You must caption the original application and required copies with the type of filing, and must include all exhibits and other pertinent documents with the original application and all required copies. You are not required to include original signatures on copies if you include a copy of the signed signature page or the copy otherwise indicates that the original was signed.

§ 516.35 May I keep portions of my application confidential?

(a) *Confidentiality.* OTS makes submissions under this part available to the public, but may keep portions of your application confidential based on the rules in this section.

(b) *Confidentiality request.* (1) You may request OTS to keep portions of your application confidential. You must submit your request in writing with your application and must explain in detail how your request is consistent with the standards under the Freedom of Information Act (5 U.S.C. 552) and part 505 of this chapter. For example, you should explain how you will be substantially harmed by public disclosure of the information. You must separately bind and mark the portions of the application you consider confidential and the portions you consider non-confidential.

(2) OTS will not treat as confidential the portion of your application describing how you plan to meet your Community Reinvestment Act (CRA) objectives. OTS will make information in your CRA plan, including any information incorporated by reference

from other parts of your application, available to the public upon request.

(c) *OTS determination on confidentiality.* OTS will determine whether information that you designate as confidential may be withheld from the public under the Freedom of Information Act (5 U.S.C. 552) and part 505 of this chapter. OTS will advise you before it makes information you

designate as confidential available to the public.

§ 516.40 Where do I file my application?

(a) *Regional Office.* (1) You must file the original application and the number of copies indicated on the applicable form with the applications filing division of the appropriate OTS Regional Office. You should address the

filings to “Attn: Applications Filing Room” at the Regional address listed in paragraph (a)(2) of this section. If the form does not indicate the number of copies you must file or if OTS has not prescribed a form for your application, you must file the original application and two copies.

(2) The address and the states served for each Regional Office are:

Region	Office address	States served
Northeast	Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07303.	Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.
Southeast	Office of Thrift Supervision, 1475 Peachtree Street, N.E., Atlanta, Georgia 30309.	Alabama, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, District of Columbia, Puerto Rico, Virgin Islands.
Central	Office of Thrift Supervision, One South Wacker Drive, Suite 2000, Chicago, Illinois 60606.	Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin.
Midwest	Office of Thrift Supervision, 225 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062-2731. Mail to: P.O. Box 619027, Dallas/Ft. Worth, Texas 75261-9027.	Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Mississippi, North Dakota, Nebraska, New Mexico, Oklahoma, South Dakota, Texas.
West	Office of Thrift Supervision, Pacific Telesis Tower, 1 Montgomery Street, San Francisco, California, 94104-4533. Mail to: P.O. Box 7165, San Francisco, California 94120-7165.	Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, Guam, Northern Mariana Islands.

(b) *Additional filings with OTS Headquarters.* (1) In addition to filing in the Regional Office, if your application involves a significant issue of law or policy or if an applicable regulation or form directs you to file with OTS Headquarters, you must also file copies of your application with the Applications Filing Room at OTS headquarters, 1700 G Street, NW., Washington, DC 20552. You must file the number of copies indicated on the applicable form. If the form does not indicate the number of copies you must file or if OTS has not prescribed a form for your application, you must file three copies.

(2)(i) You may obtain a list of applications involving significant issues of law or policy at the OTS website at www.ots.treas.gov or by contacting a Regional Office.

(ii) OTS reserves the right to identify significant issues of law or policy in a particular application. OTS will advise you, in writing, if it makes this determination.

§ 516.45 What is the filing date of my application?

(a) Your application’s filing date is the date that you complete all of the following requirements.

(1) You attend a pre-filing meeting and submit a draft business plan or relevant information, if OTS requires you to do so under § 516.15.

(2) You file your application and all required copies with OTS, as described under § 516.40.

(i) If you are required to file with a Regional Office and with OTS Headquarters, you have not filed with OTS until you file with both offices.

(ii) You have not filed with a Regional Office or OTS Headquarters until you file the application and the required number of copies with that office.

(iii) If you file after the close of business established by a Regional Office or OTS Headquarters, you have filed with that office on the next business day.

(3) You pay the applicable fee. You have not paid the fee until you submit the fee to the appropriate Regional Office, or OTS waives the fee. You may pay by check, money order, cashier’s check or wire transfer payable to OTS.

(b) OTS may notify you that it has adjusted your application filing date if you fail to meet any applicable publication requirements.

(c) If, after you properly file your application with the Regional Office, OTS determines that a significant issue of law or policy exists under § 516.40(b)(2)(ii), the filing date of your application is the day you filed with the Regional Office. The 30-day review period under §§ 516.200 or 516.210 of this part will restart in its entirety when the Regional Office forwards the appropriate number of copies of your application to OTS Headquarters.

§ 516.47 How do I amend or supplement my application?

To amend or supplement your application, you must file the

amendment or supplemental information at the appropriate OTS office(s) along with the number of copies required under § 516.40. Your amendment or supplemental information also must meet the caption and exhibit requirements at § 516.30(b).

4. Section 516.55 is added to read as follows:

§ 516.55 What information must I include in my public notice?

Your public notice must include the following:

- (a) Your name and address.
- (b) The type of application.
- (c) The name of the depository institution(s) that is the subject matter of the application.
- (d) A statement indicating that the public may submit comments to the appropriate OTS office(s).
- (e) The address of the appropriate OTS offices where the public may submit comments.
- (f) The date that the comment period closes.
- (g) A statement indicating that the nonconfidential portions of the application are on file in the Regional Office, and are available for public inspection during regular business hours.
- (h) Any other information that OTS requires you to publish. You may find the format for various publication notices in the appendix to OTS application processing handbook.

§ 516.110 [Amended]

5. Section 516.110 is amended by removing the phrase “(you)”.

6. Section 516.120 is revised to read as follows:

§ 516.120 What information should a comment include?

(a) A comment should recite relevant facts, including any demographic, economic, or financial data, supporting the commenter’s position. A comment opposing an application should also:

(1) Address at least one of the reasons why OTS may deny the application under the relevant statute or regulation;

(2) Recite any relevant facts and supporting data addressing these reasons; and;

(3) Address how the approval of the application could harm the commenter or any community.

(b) If a commenter wishes to request an informal meeting under § 516.170, the commenter must file a request with the comment. The commenter should describe the nature of the issues or facts to be discussed and the reasons why written submissions are insufficient to adequately address these facts or issues.

7. Section 516.130 is revised to read as follows:

§ 516.130 Where are comments filed?

A commenter must file with the appropriate OTS Regional Office (See table at § 516.40(a)(2)). The commenter must simultaneously send a copy of the comment to the applicant.

8. Section 516.140 is revised to read as follows:

§ 516.140 How long is the comment period?

(a) *General.* Except as provided in paragraph (b) of this section, a commenter must file a written comment with OTS within 25 calendar days after the application is filed with OTS.

(b) *Late-filed comments.* OTS will consider a late-filed comment if:

(1) Within the comment period, the commenter demonstrates to OTS good cause why the commenter could not submit a timely comment; or

(2) OTS concludes that the comment addresses a significant regulatory

concern and will assist in the disposition of the application.

9. Section 516.150 is revised to read as follows:

§ 516.150 Will there be additional opportunities to discuss the application?

OTS may provide the commenter with additional opportunities to discuss the application in informal or formal meetings under subpart D of this part.

10. Section 516.185 is added to read as follows:

§ 516.185 Will OTS approve or disapprove an application at a meeting?

OTS will not approve or deny an application at a formal or informal meeting under this subpart.

11. Section 516.190 is revised to read as follows:

§ 516.190 Will a meeting affect application processing time frames?

If OTS has arranged a meeting, it will suspend applicable application processing time frames, including the time frames for deeming an application complete and the applicable approval time frames specified in subpart E of this part. The time period will resume when OTS determines that a record has been developed that sufficiently supports a determination on the issues raised in the comments.

12. Subpart E, consisting of §§ 516.200 through 516.280, is added to read as follows:

Subpart E—OTS Review

Expedited Treatment

Sec.

516.200 If I file a notice under expedited treatment, when may I engage in the proposed activities?

Standard Treatment

516.210 What will OTS do after I file my application?

516.220 If OTS requests additional information to complete my application, how will it process my application?

516.230 Will OTS conduct an eligibility examination?

516.240 What may OTS require me to do after my application is deemed complete?

516.250 Will OTS require me to publish a new public notice?

516.260 May OTS suspend processing of my application?

516.270 How long is the OTS review period?

516.280 How will I know if my application has been approved?

516.290 What will happen if OTS does not approve or disapprove my application within two calendar years after the filing date?

Subpart E—OTS Review

Expedited Treatment

§ 516.200 If I file a notice under expedited treatment, when may I engage in the proposed activities?

If you are eligible for expedited treatment and you have appropriately filed your notice with OTS, you may engage in the proposed activities upon the expiration of 30 days after the filing date of your notice, unless OTS takes one of the following actions before the expiration of that time period:

(a) OTS notifies you in writing that you must file additional information supplementing your notice. If you are required to file additional information, you may engage in the proposed activities upon the expiration of 30 calendar days after the date you file the additional information, unless OTS takes one of the actions described in paragraphs (b) through (d) of this section before the expiration of that time period;

(b) OTS notifies you in writing that your notice is subject to standard treatment under this subpart. OTS will subject your notice to standard treatment if it raises a supervisory concern, raises a significant issue of law or policy, or requires significant additional information;

(c) OTS notifies you in writing that it is suspending the applicable time frames under § 516.190; or

(d) OTS notifies you that it disapproves your notice.

Standard Treatment

§ 516.210 What will OTS do after I file my application?

(a) *OTS action.* Within 30 calendar days after the filing date of your application, OTS will take one of the following actions:

If OTS * * *	Then * * *
(1) Notifies you, in writing, that your application is complete * * *	The applicable review period will begin on the date that OTS deems your application complete.
(2) Notifies you, in writing, that you must submit addition information to complete your application * * *.	You must submit the required additional information under § 516.220.
(3) Notifies you, in writing, that your application is materially deficient * * *.	OTS will not process your application.
(4) Takes no action * * *	Your application is deemed complete. The applicable review period will begin on the day the 30-day time period expires.

(b) *Waiver requests.* If your application includes a request for waiver of an information requirement under § 516.25(b), and OTS has not notified you that you must submit additional information under paragraph

(a)(2) of this section, your request for waiver is granted.

§ 516.220 If OTS requests additional information to complete my application, how will it process my application?

(a) You may use the following chart to determine the procedure that applies to your submission of additional information under § 516.210(a)(1):

If, within 30 calendar days after the date of OTS's request for additional information * * *	Then, OTS may * * *.	And * * *.
(1) You file a response to all information requests * * *.	(i) Notify you in writing within 15 days after the filing date of your response that your application is complete * * * applicable to all response that your application is complete * * *. (ii) Notify you in writing within 15 calendar days after the filing date of your response that you must submit additional information regarding matters derived from or prompted by information already furnished or any additional information necessary to resolve the issues presented in your application * * *. (iii) Notify you in writing within 15 calendar days after the filing date of your response that your application is materially deficient * * *. (iv) Take no action within 15 calendar days after the filing date of your response * * *.	The applicable review period will begin on the date that OTS deems your application complete. You must respond to the additional information request within the time period required by OTS. OTS will review your response under the procedures described in this section. OTS will not process your application. Your application is deemed complete. The applicable review period will begin on the day that the 15-day time period expires.
(2) You request an extension of time to file additional information * * *.	(i) Grant an extension, in writing, specifying the number of days for the extension * * *. (ii) Notify you in writing that your extension request is disapproved * * *.	You must fully respond within the extended time period specified by OTS. OTS will review your response under the procedures described under this section. OTS will not process your application further. You may resubmit the application for processing as a new filing under the applicable regulation.
(3) You fail to respond completely * * *	(i) Notify you in writing that your application is deemed withdrawn * * *. (ii) Notify you, in writing, that your response is incomplete and extend the response period, specifying the number of days for the respond extension * * *.	OTS will not process your to respond application further. You may resubmit the application for processing as a new filing under the applicable regulation. You must fully respond within the extended time period specified by OTS. OTS will review your response under the procedures described under this section.

(b) OTS may extend the 15-day period referenced in paragraph (a)(1) of this section by up to 15 calendar days, if OTS requires the additional time to review your response. OTS will notify you that it has extended the period before the end of the initial 15-day period and will briefly explain why the extension is necessary.

(c) If your response filed under paragraph (a)(1) of this section includes a request for a waiver of an informational requirement, your request for a waiver is granted if OTS fails to act on it within 15 calendar days after the filing of your response, unless OTS extends the review period under paragraph (b). If OTS extends the review period under paragraph (b), your request is granted if OTS fails to act on it by the end of the extended review period.

§ 516.230 Will OTS conduct an eligibility examination?

(a) *Eligibility examination.* OTS may notify you at any time before it deems your application complete that it will conduct an eligibility examination. If OTS decides to conduct an eligibility examination, it will not deem your application complete until it concludes the examination.

(b) *Additional information.* OTS may, as a result of the eligibility examination, notify you that you must submit additional information to complete your application. If so, you must respond to the additional information request within the time period required by OTS. OTS will review your response under the procedures described in § 516.220.

§ 516.240 What may OTS require me to do after my application is deemed complete?

After your application is deemed complete, but before the end of the applicable review period,

(a) OTS may require you to provide additional information if the information is necessary to resolve or clarify the issues presented by your application.

(b) OTS may determine that a major issue of law or a change in circumstances arose after you filed your application, and that the issue or changed circumstances will substantially effect your application. If OTS identifies such an issue or changed circumstances, it may:

(1) Notify you, in writing, that your application is now incomplete and require you to submit additional information to complete the application

under the procedures described at § 516.220; and

(2) Require you to publish a new public notice of your application under § 516.250.

§ 516.250 Will OTS require me to publish a new public notice?

(a) If your application was subject to a publication requirement, OTS may require you to publish a new public notice of your application if:

(1) You submitted a revision to the application, you submitted new or additional information, or a major issue of law or a change in circumstances arose after the filing of your application; and

(2) OTS determines that additional comment on these matters is appropriate because of the significance of the new information or circumstances.

(b) OTS will notify you in writing if you must publish a new public notice of your revised application.

(c) If you are required to publish a new public notice of your revised application, you must notify OTS after you publish the new public notice.

§ 516.260 May OTS suspend processing of my application?

(a) *Suspension.* OTS may, at any time, indefinitely suspend processing of your application if:

(1) OTS, another governmental entity, or a self-regulatory trade or professional organization initiates an investigation, examination, or administrative proceeding that is relevant to OTS's evaluation of your application;

(2) You request the suspension or there are other extraordinary circumstances that have a significant impact on the processing of your application.

(b) *Notice.* OTS will promptly notify you, in writing, if it suspends your application.

§ 516.270 How long is the OTS review period?

(a) *General.* The applicable OTS review period is 60 calendar days after the date that your application is deemed complete, unless an applicable OTS regulation specifies a different review period.

(b) *Multiple applications.* If you submit more than one application in connection with a proposed action or if two or more applicants submit related applications, the applicable review period for all applications is the review period for the application with the longest review period, subject to statutory review periods.

(c) *Extensions.* (1) OTS may extend the review period for up to 30 calendar

days beyond the period described in paragraph (a) or (b) of this section. OTS must notify you in writing of the extension and the duration of the extension. OTS must issue the written extension before the end of the review period.

(2) OTS may also extend the review period as needed until it acts on the application, if the application presents a significant issue of law or policy that requires additional time to resolve. OTS must notify you in writing of the extension and the general reasons for the extension. OTS must issue the written extension before the end of the review period, including any extension of that period under paragraph (c)(1) of this section. This section applies to applications and notices filed under § 575.3(b) and part 574 of this chapter.

§ 516.280 How will I know if my application has been approved?

(a) *OTS approval or denial.* (1) OTS will approve or deny your application before the expiration of the applicable review period, including any extensions of the review period.

(2) OTS will promptly notify you in writing of its decision to approve or deny your application.

(b) *No OTS action.* If OTS fails to act under paragraph (a)(1) of this section, your application is approved.

§ 516.290 What will happen if OTS does not approve or disapprove my application within two calendar years after the filing date?

(a) *Withdrawal.* If OTS has not approved or denied your pending application within two calendar years after the filing date under § 516.45, OTS will notify you, in writing, that your application is deemed withdrawn unless OTS determines that you are actively pursuing a final OTS determination on your application. You are not actively pursuing a final OTS determination if you have failed to timely take an action required under this part, including filing required additional information, or OTS has suspended processing of your application under § 516.260 based on circumstances that are, in whole or in part, within your control and you have failed to take reasonable steps to resolve these circumstances.

(b) *Effective date.* This section is effective July 1, 2001.

PART 517—THE MINORITY, WOMEN, AND INDIVIDUALS WITH DISABILITIES OUTREACH PROGRAM: CONTRACTING FOR GOODS AND SERVICES

13. The authority citation for part 517 continues to read as follows:

Authority: 12 U.S.C. 1833(e); 42 U.S.C. 12101 *et seq.*

14. Section 517.6 is amended by revising paragraph (b) to read as follows:

§ 517.6 Certification.

* * * * *

(b) Self-certify ownership status by filing with the OTS Outreach Program Advocate a completed and signed ABELS Registration/Certification Form, as prescribed by the U.S. Department of Commerce's Minority Business Development Agency and available from the Outreach Program Advocate at the headquarters address of the OTS listed in § 516.40(b) of this chapter.

* * * * *

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

15. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

16. Section 543.9 is amended by revising paragraph (a) to read as follows:

§ 543.9 Application for conversion to Federal mutual charter.

(a)(1) *Filing.* Any depository institution that proposes to convert to a Federal mutual association as provided in § 543.8 must, after approval by its board of directors, file an application on forms obtained from OTS. The applicant must submit any financial statements or other information OTS may require.

(2) *Procedures.* An application for conversion filed under this section is subject to the procedures for organization of a federal mutual association at § 543.2(d) through (f) of this chapter.

* * * * *

PART 544—CHARTER AND BYLAWS

17. The authority citation for part 544 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

18. Section 544.2 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 544.2 Charter amendments.

* * * * *

(c) * * * Such request for reissuance should be filed with the Corporate Secretary at the Washington Headquarters Office at the address listed at § 516.40(b) of this chapter and contain signatures required under § 544.1 of this part, together with such supporting documents as may be needed to demonstrate that the amendments were properly adopted.

19. Section 544.5 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 544.5 Federal mutual savings association bylaws.

* * * * *

(c) * * * (1) * * *

(ii) Applications submitted under paragraph (c)(1)(i) of this section are subject to standard treatment processing procedures at part 516, subparts A and E of this chapter.

PART 545—OPERATIONS

20. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

21. Section 545.92 is amended by revising paragraphs (b) and (d)(2), and by removing the first sentence of paragraph (f) and adding two new sentences in its place, to read as follows:

§ 545.92 Branch offices.

* * * * *

(b) *Eligibility.* Federal savings associations eligible for expedited treatment under § 516.5 of this chapter may establish a branch office subject to the procedures in paragraph (f) of this section. A Federal savings association subject to standard treatment under § 516.5 of this chapter must not establish a branch office without prior approval subject to the procedures in paragraph (e) of this section.

* * * * *

(d) * * *

(2) *Submission of application or notice.* A Federal savings association must comply with § 556.5 of this chapter and must file its application or notice within the time frame in § 516.60.

* * * * *

(f) *Approval of branch notice.* A notice filed by a Federal savings association that qualifies for expedited treatment must be deemed to be approved 30 days after its filing with OTS, unless OTS takes one of the actions described at § 516.200 of this chapter. OTS will apply the review

standards set forth in paragraph (e)(1) of this section; or OTS determines to process the filing as an application under § 516.200(b) of this chapter.

* * * * *

PART 550—FIDUCIARY POWERS OF SAVINGS ASSOCIATIONS

22. The authority citation for part 550 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

23. Section 550.80 is revised to read as follows:

§ 550.80 How do I obtain OTS approval?

You must file an application under part 516, subparts A and E of this chapter.

24. Section 550.260 is amended by revising the first sentence of paragraph (b)(2) to read as follows:

§ 550.260 How may I invest funds of a fiduciary account?

* * * * *

(b) * * *

(2) If you must file a document with the Comptroller of the Currency under 12 CFR 9.18, you must also file that document with the appropriate Regional Office at § 516.40(a) of this chapter.

* * * * *

* * * * *

25. Section 550.530 is amended by revising the last sentence to read as follows:

§ 550.530 How do I surrender fiduciary powers?

* * * You must file the resolution with the appropriate Regional Office at the address listed in § 516.40(a) of this chapter.

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

26. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

27. Section 552.2–6 is amended by adding the following sentence to the end of the section to read as follows:

§ 552.2–6 Conversion from stock form depository institution to Federal stock association.

* * * An application for conversion filed under this section is subject to the procedures for organization of a federal stock organization at § 552.2–1.

28. Section 552.4 is amended by revising the last sentence of paragraph (d) to read as follows:

§ 552.4 Charter amendments.

* * * * *

(d) * * * Such requests for reissuance should be filed with the Corporate Secretary at Washington Headquarters Office at the address listed in § 516.40(b) of this chapter, and contain signatures required under § 552.3 of this part, together with such supporting documents as needed to demonstrate that the amendments were properly adopted.

29. Section 552.5 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 552.5 Bylaws.

* * * * *

(b) * * * (1) * * *

(ii) Applications submitted under paragraph (b)(1)(i) of this section are subject to standard treatment processing procedures at part 516, subparts A and E of this chapter.

* * * * *

PART 555—ELECTRONIC OPERATIONS

30. The authority citation for part 555 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

31. In section 555.310, the first sentence of the introductory text of paragraph (a) is revised to read as follows:

§ 555.310 How do I notify OTS?

(a) *Notice requirement.* You must file a written notice with the appropriate Regional Office listed at § 516.40(a) of this chapter at least 30 days before you establish a transactional website. * * *

* * * * *

PART 559—SUBORDINATE ORGANIZATIONS

32. The authority citation for part 559 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828.

§ 559.3 [Amended]

33. Section 559.3 is amended by:

a. Removing, in paragraph (e)(2)(i), the phrases “§ 516.3(a) of this chapter” and “§ 516.1 of this chapter”, and by adding in lieu thereof the phrases “§ 516.5 of this chapter” and “standard treatment processing procedures at part 516, subparts A and E of this chapter”; and

b. Removing, in paragraph (e)(2)(ii), the phrases “§ 516.3(b) of this chapter” and “§ 516.1 of this chapter”, and by adding in lieu thereof the phrases “§ 516.5 of this chapter” and, “standard

treatment processing procedures at part 516, subparts A and E of this chapter” respectively.

34. Section 559.4 is amended by revising the third sentence of the introductory text to read as follows:

§ 559.4 What activities are preapproved for service corporations?

* * * You should read these two sections together to determine whether you must file a notice with OTS under § 559.11 of this part, or whether you must file an application subject to standard treatment processing procedures at part 516, subparts A and E of this chapter to request prior written OTS approval in order for your service corporation to engage in a particular activity. * * *

* * * * *

35. Section 559.11 is amended by revising the first sentence and the last sentence to read as follows:

§ 559.11 What notices are required to establish or acquire a new subsidiary or engage in new activities through an existing subsidiary?

When required by section 18(m) of the Federal Deposit Insurance Act, a savings association (“you”) must file a notice (“Notice”) under part 516, subpart A of this chapter at least 30 days before establishing or acquiring a subsidiary or engaging in new activities in a subsidiary. * * * If OTS notifies you within 30 days that the Notice presents supervisory concerns, or raises significant issues of law or policy, you must apply for and receive OTS’s prior written approval under the standard treatment processing procedures at part 516, subpart A and E of this chapter before establishing or acquiring the subsidiary or engaging in new activities in the subsidiary.

36. Section 559.13 is amended by revising paragraph (b) to read as follows:

§ 559.13 How may a savings association exercise its salvage power in connection with a service corporation or lower-tier entities?

* * * * *

(b) If OTS notifies you within 30 days that the Notice presents supervisory concerns, or raises significant issues of law or policy, you must apply for and receive OTS’s prior written approval under the standard treatment processing procedures at part 516, subparts A and E of this chapter before making a salvage investment.

* * * * *

PART 560—LENDING AND INVESTMENT

37. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806; 42 U.S.C. 4106.

38. Section 560.32 is amended by revising the second sentence of paragraph (c) to read as follows:

§ 560.32 Pass-through investments.

* * * * *

(c) * * * If within that 30-day period OTS notifies you that an investment presents supervisory, legal, or safety and soundness concerns, you must apply for and receive OTS prior written approval under the standard treatment processing procedures at part 516, subparts A and E of this chapter before making the investment. * * *

39. Section 560.35 is amended by revising paragraph (d)(3) to read as follows:

§ 560.35 Adjustments to home loans.

* * * * *

(d) * * *

(3) A Federal savings association may use an index not satisfying the requirements of paragraph (d)(2) of this section 30 days after filing a notice unless, within that 30-day period, OTS has notified the association that the notice presents supervisory concerns or raises significant issues of law or policy. If OTS notifies the association of such concerns or issues, the Federal savings association may not use such an index unless it applies for and receives OTS’s prior written approval under the standard treatment processing procedures at part 516, subparts A and E of this chapter.

40. Section 560.93 is amended by revising the second and third sentences of paragraph (d)(3)(iii) to read as follows:

§ 560.93 Lending limitations.

* * * * *

(d) * * *

(3) * * *

(iii) * * * A savings association that meets the requirements of paragraphs (d)(3)(i), (ii), (iv) and (v) of this section and that meets the requirements for “expedited treatment” under § 516.5 of this chapter may use the higher limit set forth under this paragraph (d)(3) if the savings association has filed a notice with OTS that it intends to use the higher limit at least 30 days prior to the proposed use. A savings association that meets the requirements of paragraphs (d)(3)(i), (ii), (iv), and (v) of this section

and that meets the requirements for “standard treatment” under § 516.5 of this chapter may use the higher limit set forth under this paragraph (d)(3) if the savings association has filed an application with OTS and OTS has approved the use the higher limit;

* * * * *

41. Section 560.160 is amended by revising paragraph (a)(1) to read as follows:

§ 560.160 Asset classification.

(a)(1) Each savings association must evaluate and classify its assets on a regular basis in a manner consistent with, or reconcilable to, the asset classification system used by OTS in its Thrift Activities Handbook (Available at the address of Washington Headquarters Office at § 516.40(b) of this chapter).

* * * * *

PART 562—REGULATORY REPORTING STANDARDS

42. The authority citation for part 562 continues to read as follows:

Authority: 12 U.S.C. 1463.

43. Section 562.4 is amended by revising paragraph (b)(1) to read as follows:

§ 562.4 Audit of savings associations and savings association holding companies.

* * * * *

(b) * * *

(1) If a savings association has received a composite rating of 3, 4 or 5, as defined at § 516.5(c) of this chapter; or

* * * * *

PART 563—OPERATIONS

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

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 3806; 42 U.S.C. 4106.

45. Section 563.22 is amended by revising paragraphs (b)(1)(ii), (b)(2), (d)(4), (f)(1), and (h)(2) to read as follows:

§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.

* * * * *

(b)(1) * * *

(ii) In the case of a savings association that meets the conditions for expedited treatment under § 516.5 of this chapter, convert, directly or indirectly, to a national or state bank.

(2) A savings association that does not meet the conditions for expedited treatment under § 516.5 of this chapter

may not, directly or indirectly, convert to a national or state bank without prior application to and approval of OTS, as provided in paragraph (h)(2)(ii) of this section.

* * * * *

(d) * * *

(4) Applications filed under section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) and paragraph (a) of this section must be processed in accordance with the time frames set forth in §§ 516.220 through 516.290 of this chapter, provided that the period for review may be extended only if the Office determines that the applicant has failed to furnish all requested information or that the information submitted is substantially inaccurate, in which case the review period may be extended for up to 30 days.

* * * * *

(f) * * *

(1) The acquiring savings association does not meet the criteria for expedited treatment under § 516.5 of this chapter;

* * * * *

(h) * * *

(2) *Other transfer transactions*—(i) *Expedited treatment.* A notice in conformity with § 516.25(a) of this chapter may be submitted to OTS under § 516.40 of this chapter for any transaction under paragraph (c) of this section, provided all constituent savings associations meet the conditions for expedited treatment under § 516.5 of this chapter. Notices submitted under this paragraph must be deemed approved automatically by OTS 30 days after receipt, unless OTS advises the applicant in writing prior to the expiration of such period that the proposed transaction may not be consummated without OTS's approval of an application under paragraphs (h)(2)(ii) or (h)(2)(iii) of this section.

(ii) *Standard treatment.* An application in conformity with § 516.25(b) of this chapter and paragraph (d) of this section must be submitted to OTS under § 516.40 by each savings association participating in a transaction under paragraph (b)(2) or (c) of this section, where any constituent savings association does not meet the conditions for expedited treatment under § 516.5 of this chapter, except as provided in paragraph (h)(2)(iii) of this section. Applications under this paragraph must be processed in accordance with the procedures in part 516, subparts A and E of this chapter.

(iii) *Standard treatment for transactions under section 5(d)(3) of the Federal Deposit Insurance Act.* An application in conformity with

§ 516.25(b) of this chapter and paragraph (d) of this section must be submitted to OTS under § 516.40 by each savings association which will survive any transaction under both section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) and paragraph (c) of this section, where any constituent savings association does not meet the conditions for expedited treatment under § 516.5 of this chapter. Applications under this paragraph must be processed in accordance with the procedures in part 516, subparts A and E of this chapter, provided that the period for review may be extended only if OTS determines that the applicant has failed to furnish all requested information or that the information submitted is substantially inaccurate, in which case the review period may be extended for up to 30 days.

46 Section 563.41 is amended by revising paragraph (e)(2)(ii)(A) to read as follows:

§ 563.41 Loans and other transactions with affiliates and subsidiaries.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A) Has a composite rating of 4 or 5, as defined in § 516.5(c) of this chapter;

* * * * *

47. Section 563.81 is amended by revising the first sentence in paragraphs (a)(1), (a)(2), and (c) to read as follows:

§ 563.81 Issuance of subordinated debt securities and mandatorily redeemable preferred stock.

(a) *General*—(1) *Savings associations receiving standard treatment.* No savings association subject to standard treatment of its applications under § 516.5 of this chapter may issue subordinated debt securities or mandatorily redeemable preferred stock includable in regulatory capital pursuant to this section or amend the terms of such securities unless it has obtained the written approval of OTS.

(2) *Savings associations receiving expedited treatment.* No savings association eligible for expedited treatment under § 516.5 of this chapter may issue subordinated debt securities or mandatorily redeemable preferred stock pursuant to this section for inclusion in regulatory capital or amend the terms of such securities unless it provides notice to OTS, and such notice contains a statement of the association's intent to include such securities in regulatory capital. * * *

* * * * *

(c) *Form of application or notice; supporting information.* Applications subject to standard treatment or notices eligible for expedited treatment under § 516.5 of this chapter must be in the form prescribed by OTS. * * *

* * * * *

48. Section 563.143 is amended by revising the heading and the first sentence of paragraph (a)(1) to read as follows:

§ 563.143 Must I file with OTS?

* * * * *

(a) * * *

(1) You are not eligible for expedited treatment under § 516.5 of this chapter.

* * * * *

49. Section 563.171 is amended by revising paragraph (b)(4) to read as follows:

§ 563.171 Frequency of safety and soundness examination.

* * * * *

(b) * * *

(4) At its most recent examination, OTS determined that the savings association was in outstanding or good condition, that is, it received a composite rating of 1 or 2, as composite rating defined in § 516.5(c) of this chapter;

* * * * *

50. Section 563.180 is amended by revising paragraph (d)(11) to read as follows:

§ 563.180 Suspicious Activity Reports and other reports and statements.

* * * * *

(d) * * *

(11) *Obtaining SARs.* A savings association or service corporation may obtain SARs and the instructions from the appropriate OTS Regional Office listed in § 516.40(a) of this chapter.

* * * * *

51. Section 563.183 is amended by revising paragraph (c)(1) to read as follows:

§ 563.183 Reports of change in chief executive officer or director; other reports; form and filing of such reports.

* * * * *

(c) *Form and filing of reports.* (1)

Unless otherwise specified by OTS, a report required by § 563.181 of this part or this § 563.183 must comply with § 516.30 and must be submitted to the appropriate Regional Office listed in § 516.40(a) of this chapter.

* * * * *

52. Section 563.555 is amended by revising paragraph (1) of the definition of "troubled condition" to read as follows:

§ 563.555 What definitions apply to this subpart?

* * * * *

Troubled condition means:

(1) A savings association that has a composite rating of 4 or 5, as composite rating is defined in § 516.5(c) of this chapter.

* * * * *

53. Section 563.565 is revised to read as follows:

§ 563.565 What procedures govern the filing of my notice?

The procedures found in part 516, subpart A of this chapter govern the filing of your notice under § 563.560.

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

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

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901; 15 U.S.C. 78c, 78l, 78m, 78n, 78w.

§ 563b.27 [Amended]

55. Section 563b.27 is amended in paragraph (e), footnote 1, by removing the phrase “§ 516.1(a) of this chapter”, and by adding in lieu thereof “§ 516.40(b) of this chapter”.

PART 563f—MANAGEMENT OFFICIAL INTERLOCKS

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

Authority: 12 U.S.C. 3201–3208.

57. Section 563f.6 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 563f.6 General exemption.

(a) * * * A depository organization may apply to OTS for an exemption under part 516, subpart E, of this chapter.

* * * * *

PART 565—PROMPT CORRECTIVE ACTION

58. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

§ 565.4 [Amended]

59. Section 565.4 is amended as follows:

a. Section 565.4(b)(2)(iii)(B) is amended by removing the phrase “as defined in § 516.3(c)” and adding in lieu thereof “as composite rating is defined in § 516.5(c)”;

b. Section 565.4(b)(3)(iii)(B) is amended by removing the phrase “as

defined in § 516.3(c)” and adding in lieu thereof “as composite rating is defined in § 516.5(c)”;

c. Section 565.4(c)(2), footnote 1, is amended by removing the phrase “§ 516.1 of this chapter”, and by adding in lieu thereof “§ 516.40 of this chapter”.

PART 567—CAPITAL

60. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828 (note).

61. Section 567.3 is amended by revising the third sentence in paragraph (d)(2)(i) introductory text, to read as follows:

§ 567.3 Individual minimum capital requirements.

* * * * *

(d) * * *

(2) * * * (i) * * * Such response must be filed in accordance with §§ 516.30 and 516.40 of this chapter.

* * *

* * * * *

62. Section 567.4 is amended by revising the fifth sentence of paragraph (a)(3)(i) to read as follows:

§ 567.4 Capital directives.

(a) * * *

(3) * * * (i) * * * Such responses must be filed in accordance with §§ 516.30 and 516.40 of this chapter.

* * *

* * * * *

63. Section 567.7 is amended by revising paragraph (f) to read as follows:

§ 567.7 Interest-rate risk component.

* * * * *

(f) OTS will provide, upon request, manuals describing the OTS Model and guidance at the address set forth in § 516.40(b) of this chapter.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

64. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817, 1831i.

65. Section 574.4 is amended by revising the second sentence of paragraph (f)(2) to read as follows:

§ 574.4 Control.

* * * * *

(f) * * *

(2) * * * Certifications provided for in this paragraph must be filed with OTS in accordance with §§ 516.30 and 516.40 of this chapter.

(ii)(B) is amended by removing the phrase “as defined in § 516.3(c)” and adding in lieu thereof “as composite rating is defined in § 516.5(c)”;

b. Section 565.4(b)(3)(iii)(B) is amended by removing the phrase “as defined in § 516.3(c)” and adding in lieu thereof “as composite rating is defined in § 516.5(c)”;

c. Section 565.4(c)(2), footnote 1, is amended by removing the phrase “§ 516.1 of this chapter”, and by adding in lieu thereof “§ 516.40 of this chapter”.

PART 567—CAPITAL

60. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828 (note).

61. Section 567.3 is amended by revising the third sentence in paragraph (d)(2)(i) introductory text, to read as follows:

§ 567.3 Individual minimum capital requirements.

* * * * *

(d) * * *

(2) * * * (i) * * * Such response must be filed in accordance with §§ 516.30 and 516.40 of this chapter.

* * *

* * * * *

62. Section 567.4 is amended by revising the fifth sentence of paragraph (a)(3)(i) to read as follows:

§ 567.4 Capital directives.

(a) * * *

(3) * * * (i) * * * Such responses must

66. Section 574.6 is amended by revising the second sentence of paragraph (f)(4) to read as follows:

§ 574.6 Procedural requirements.

* * * * *

(f) * * *

(4) * * * If the Office receives a request for the information under the Freedom of Information Act, OTS will advise the filing party before it discloses material for which confidential treatment has been requested.

* * * * *

PART 575—MUTUAL HOLDING COMPANIES

67. The authority citation for part 575 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

68. Section 575.3 is amended by revising paragraph (b)(2) introductory text to read as follows:

§ 575.3 Mutual holding company reorganizations.

* * * * *

(b) * * *

(2) Sixty days have passed since OTS received the Reorganization Notice and deemed it complete under § 516.210 or § 516.220 of this chapter, and OTS has not:

* * * * *

69. Section 575.13 is amended by revising the third sentence of paragraph (a)(1), paragraph (b), the first sentence of paragraph (c)(2), and the first and last sentences of paragraph (e), to read as follows:

§ 575.13 Procedural requirements.

(a) * * * (1) * * * Proxies and proxy statements must be filed in accordance with § 563b.5(e) of this chapter and must be addressed to the Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, at the address set forth in § 516.40(b) of this chapter. * * *

* * * * *

(b) *Applications under this part.* Except as provided in paragraph (c) of this section, any application, notice or certification required to be filed with OTS under this part must be filed in accordance with part 516, subpart A of this chapter.

(c) * * *

(2) *Filing instructions.* Any Reorganization Notice submitted under § 575.3(b) of this part must be filed in accordance with part 516, subpart A of this chapter. * * *

* * * * *

(e) *Time-frames.* All Reorganization Notices and applications filed pursuant to this part must be processed in accordance with standard treatment processing procedures at part 516, subparts A and E. * * * The review by OTS of proxy solicitation materials, including forms of proxy and proxy statements, and of any other materials used in connection with the issuance of stock under § 575.7 of this part must not be subject to the applications processing time-frames set forth in §§ 516.210 through 516.290 of this chapter.

* * * * *

PART 584—REGULATED ACTIVITIES

70. The authority citation for part 584 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

71. Section 584.2-2 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 584.2-2 Permissible bank holding company activities of savings and loan holding companies.

* * * * *

(b) * * * OTS must act upon such application under the guidelines in part 516, subpart E of this chapter.

* * * * *

Dated: February 23, 2001.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 01-4996 Filed 3-1-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NE-24-AD; Amendment 39-12129; AD 2001-04-10]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney Canada (PWC) Model PW305 and PW305A Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney Canada (PWC) Models PW305 and PW305A turbofan engines, that requires removing stage 4 low pressure turbine (LPT) disks from service before exceeding new, lower cyclic life limits. This amendment is prompted by the results of a spin pit test analysis which indicate that the stage 4 LPT disk does not have full published life. The actions specified by this AD are intended to prevent LPT disk failure resulting from premature cracking of the LPT disks, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective date April 6, 2001.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone: (781) 238-7152; fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to PWC Models PW305 and PW305A turbofan engines, was published in the **Federal Register** on November 16, 2000 (65 FR 69258). That action proposed to require

removing stage 4 LPT disks from service before exceeding new, lower cyclic life limits.

No Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Impact

There are currently 358 engines in the domestic fleet containing the affected stage 4 LPT disks, part numbers (P/N's) 30A1457 and 30A1499, and a total of 484 engines in the worldwide fleet. The total cost to the domestic fleet to remove and replace these disks at the new life limit of 4000 cycles-in-service (CIS), rather than the former life limit of 5000 CIS, is estimated to be \$6,331,015.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the