

RESCINDED



February 7, 1997

Number: 166

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In the attached final rule, the Office of Thrift Supervision (OTS) has changed all references to the CAMEL rating system in its regulations to refer to the Uniform Financial Institutions Rating System (UFIRS), the supervisory rating system developed by the Federal Financial Institutions Examination Council (FFIEC).

UFIRS is used by OTS and other FFIEC-member agencies to evaluate the soundness of depository institutions. Until recently, UFIRS used five components commonly known as CAMEL ratings.

In the December 19, 1996 issue of the *Federal Register*, the FFIEC added a sixth element to evaluate sensitivity to market risk and made other modifications to the UFIRS rating system.

Many OTS regulations referred to CAMEL ratings, but these references are now obsolete since CAMEL is now CAMELS. To avoid having to make regulatory changes if the rating system is modified in the future, OTS now has made its regulations refer simply to the UFIRS as it may be amended from time to time.

The final rule was adopted without substantial modification from the one proposed by OTS on July 23, 1996.

The final rule was published in the January 27, 1997, edition of the *Federal Register*, Vol. 62, No. 17, pp. 3779-3781.

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Attachment

EFFECTIVE DATE: February 26, 1997.
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SUPPLEMENTARY INFORMATION:

I. Background

The UFIRS is a supervisory rating system used by the OTS and other agencies represented on the FFIEC to evaluate the soundness of depository institutions on a uniform basis. The agencies have implemented the UFIRS through CAMEL ratings. Under CAMEL, the agencies have organized the relevant UFIRS factors into five major areas (Capital Adequacy, Asset Quality, Management, Earnings, and Liquidity). In the July 18, 1996 issue of the *Federal Register*, the FFIEC proposed to add a sixth component to the UFIRS system, Sensitivity to Market Risk. Currently, market risk is evaluated within other rating areas. The FFIEC also proposed to reformat and clarify the rating descriptions; to revise the rating system to emphasize risk management processes; and to make other changes. The FFIEC published a notice of the final text of the UFIRS in the December 19, 1996 issue of the *Federal Register*.

Under OTS regulations, CAMEL ratings are currently used: (1) To define "troubled savings association" for purposes of OTS assessments, 12 CFR 502.1; (2) to determine if a savings association is eligible for expedited or standard treatment under the application processing guidelines, 12 CFR part 516; (3) to determine when an independent audit is required for safety and soundness purposes and to determine whether the Director may waive this independent audit requirement, 12 CFR 562.4; (4) to determine when the OTS may require a savings association and its subsidiaries to provide notification before entering into transactions with affiliates, 12 CFR 563.41; (5) to define "adequately capitalized" and "undercapitalized" under the prompt corrective action regulation, 12 CFR part 565; (6) to determine whether a savings association should be reclassified based on supervisory criteria other than capital for the purposes of the prompt corrective action regulation, 12 CFR Part 565; and (7) to define a savings association in "troubled condition" under rules requiring prior notice of the

addition of any individual to the board of directors or the employment of any individual as senior executive officer, 12 CFR 574.9.

Most of these regulations currently refer to "CAMEL" ratings. Because the proposed changes to UFIRS would make these references obsolete, the OTS proposed revisions to its regulations on July 23, 1996.¹ The OTS proposed to revise its regulations to refer more generally to the UFIRS as it may exist from time to time or to any comparable rating system that the OTS may adopt in lieu of UFIRS.

Two other minor changes were also proposed. First, for the sake of consistency and to prevent confusion, the OTS proposed to revise each regulation that will cross reference UFIRS to indicate that the OTS will use the most recent rating (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing. Currently, some of the cited regulations include this provision, while others do not.

Additionally, the OTS proposed to clarify 12 CFR 562.4. Currently, that regulation requires, *inter alia*, all institutions receiving a rating of 3, 4 or 5 to obtain an independent audit unless the Director "determines that an audit would not address the safety and soundness issues that caused the (low) examination rating." The OTS proposed to modify § 562.4 to better reflect when OTS may waive the audit requirement. As proposed, a waiver may be granted if an audit "would not provide further information on safety and soundness issues relevant to the examination rating."

Summary of Comments and Description of the Final Rule

The OTS received one comment on the proposed rule changes. This commenter suggested that the OTS delay changing references to a rating system until the FFIEC determines whether the existing rating system should be modified and designates a new acronym. The commenter supported all other clarifying changes to the OTS rules.

As noted above, FFIEC has finalized its changes to the UFIRS system. In any event, under the OTS proposal, the regulations would refer generally to the UFIRS as it may exist from time to time, or to a comparable rating system that the

¹ 61 FR 38114 (July 23, 1996).

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 502, 516, 562, 563, 565, 574

[No. 97-6]

RIN 1550-AA99

Regulatory Citations to Uniform Financial Institutions Rating System

AGENCY: Office of Thrift Supervision, Treasury (OTS).

ACTION: Final rule.

SUMMARY: In the December 19, 1996 issue of the *Federal Register*, the Federal Financial Institutions Examination Council (FFIEC) published changes to the Uniform Financial Institutions Rating System (UFIRS). The OTS is making conforming changes to OTS regulations that cross-reference the UFIRS, confirming that these regulations are intended to refer to the UFIRS as it is revised from time to time.

OTS may adopt in lieu of UFIRS. The proposed rule did not refer specifically to the then-existing UFIRS system (i.e., CAMEL) or to the proposed rating system then under consideration by FFIEC (i.e., CAMELS). By referring to UFIRS, rather than acronyms adopted from time to time to describe UFIRS, the proposed rule would obviate the need to make regulatory amendments if the FFIEC or the OTS proposes changes to the rating system in the future.

The proposed rule is therefore adopted without substantial modifications.² Since the publication of the proposed regulation, the OTS has removed former § 563.170(c)(10) as part of its Lending and Investments regulation,³ eliminating the need for the proposed UFIRS change to that section.

III. Paperwork Reduction Act

Reporting and recordkeeping requirements in this final rule are currently found in 12 CFR 563.41(e) and 574.9. These requirements are addressed in the following OMB approved packages: Control Nos. 1550-0078 and 1550-0047. The reporting burden under this package remains unchanged under the rule.

IV. Executive Order 12866

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

V. Unfunded Mandates Act of 1995

The OTS has determined that the requirements of this final rule will not result in expenditures by state, local, or tribal governments or by the private sector of more than \$100 million. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

VI. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The OTS does not anticipate that the application of the revised UFIRS rating system will result in a change in composite ratings assigned to depository institutions. Today's rule will merely

reduce confusion by updating the terminology used in the OTS regulations to reflect the current rating system.

VII. Effective Date

Section 302 of CDRIA delays the effective date of regulations promulgated by the Federal banking agencies that impose additional reporting, disclosure, or new requirements to the first day of the first calendar quarter following publication of the final rule. OTS believes that CDRIA does not apply to this final rule because it imposes no new burden. The revisions will merely reduce confusion by updating the terminology used in the OTS regulations to reflect the current rating system.

List of Subjects

12 CFR Part 502
Assessments, Federal Home Loan Banks.

12 CFR Part 516
Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 562
Accounting, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 563
Accounting, Advertising, Conflicts of Interest, Corporate Opportunity, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 565
Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 574
Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Authority and Issuance
Accordingly, the Office of Thrift Supervision amends chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 502—ASSESSMENTS

1. The authority citation for part 502 is revised to read as follows:

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

2. Section 502.1 is amended by revising paragraph (f) to read as follows:

§ 502.1 Asset-based assessments.

(f) *Definition.* For purposes of this section only, a troubled savings association shall be defined as a savings association with a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter. A troubled savings institution also includes a savings association in conservatorship so long as the association requires increased supervision and examination by the Office.

PART 516—APPLICATION PROCESSING GUIDELINES AND PROCEDURES

3. 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.

4. Section 516.3 is amended by revising paragraphs (a)(1)(i), (b)(1)(i), and (c) to read as follows:

§ 516.3 Definitions.

- (a) * * *
- (1) * * *
- (i) The savings association has a composite rating of 1 or 2;
- (b) * * * (1) * * *
- (i) The savings association has a composite rating of 3, 4 or 5;

(c) *Composite rating.* Composite rating means the composite numerical rating assigned to the savings association by the OTS under the Uniform Financial Institutions Rating System¹ or an equivalent rating under a comparable rating system adopted by the OTS, and refers to the most recent rating (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing.

PART 562—REGULATORY REPORTING STANDARDS

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

Authority: 12 U.S.C. 1463.

6. Section 562.4 is amended by revising paragraphs (b)(1) and (c)(2) to read as follows:

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

- (b) * * *

¹ Copies are available at the address specified in § 516.1 of this part.

² The OTS previously proposed a revision to the capital distributions regulation at 12 CFR 563.134 that would define "troubled condition" by reference to the examination rating system. 59 FR 62356 (December 5, 1994). When that regulation is finalized, it will also include appropriate references to the revised UFIRS system.

³ 61 FR 50951 (September 30, 1996).

(1) If a savings association has received a composite rating of 3, 4 or 5, as defined at § 516.3(c) of this chapter; or

* * * * *

(c) * * *

(2) The Director may waive the independent audit requirement described at paragraph (b)(1) of this section, if the Director determines that an audit would not provide further information on safety and soundness issues relevant to the examination rating.

* * * * *

PART 563—OPERATIONS

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

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

8. 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 § 516.3(c) of this chapter;

* * * * *

PART 565—PROMPT CORRECTIVE ACTION

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

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

10. Section 565.4 is amended by revising paragraphs (b)(2)(iii)(B), (b)(3)(iii)(B), and (c)(2) to read as follows:

§ 565.4 Capital measures and capital category definitions.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(B) A leverage ratio of 3.0 percent or greater if the savings association is assigned a composite rating of 1, as defined in § 516.3(c) of this chapter; and

* * * * *

(3) * * *

(iii)(A) * * *

(B) Has a leverage ratio that is less than 3.0 percent if the savings association is assigned a composite rating of 1, as defined in § 516.3(c) of this chapter.

* * * * *

(c) * * *

(2) *Unsafe or unsound practice.* The OTS has determined, after notice and an opportunity for hearing pursuant to § 565.8(a) of this part, that the savings association received a less-than-satisfactory rating for any rating category (other than in a rating category specifically addressing capital adequacy) under the Uniform Financial Institutions Rating System,¹ or an equivalent rating under a comparable rating system adopted by the OTS; and has not corrected the conditions that served as the basis for the less than satisfactory rating. Ratings under this paragraph (c)(2) refer to the most recent ratings (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

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

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

12. Section 574.9 is amended by revising paragraph (a)(5)(i)(A) to read as follows:

§ 574.9 Additions of directors and employment of senior executive officers of savings associations and savings and loan holding companies.

(a) * * *

(5) * * *

(i) * * *

(A) Has a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter;

* * * * *

Dated: January 15, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97-1811 Filed 1-24-97; 8:45 am]

BILLING CODE 6720-01-P

¹ Copies are available at the address specified in § 516.1 of this chapter.