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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 509

[No. 96-30]

RIN 1550-AA79

Uniform Rules of Practice and Procedure

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its Rules of Practice and Procedure in Adjudicatory Proceedings. The final rule is intended to clarify certain provisions and to increase the efficiency and fairness of administrative hearings.

EFFECTIVE DATE: [Insert 30 days from date of publication in the Federal Register.]

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SUPPLEMENTARY INFORMATION:

A. Background

Section 916 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Pub. L. 101-73, 103 Stat. 183 (1989), required the OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) (agencies) to develop uniform rules and procedures for administrative hearings. The agencies each adopted final Uniform Rules in August, 1991.¹ Based on their experience in using the rules since then, the agencies have identified sections of the Uniform Rules that should be modified. Accordingly, the agencies proposed amendments to the Uniform Rules on

¹ The agencies issued a joint notice of proposed rulemaking on Monday, June 17, 1991 (56 FR 27790). The agencies promulgated their final rules on the following dates: OCC on August 9, 1991 (56 FR 38024); Board on August 9, 1991 (56 FR 38052); FDIC on August 9, 1991 (56 FR 37975); OTS on August 12, 1991 (56 FR 38317); and NCUA on August 8, 1991 (56 FR 37767).

June 23, 1995 (60 FR 32882). These changes affect OTS Uniform Rules at 12 CFR Part 509 (Subpart A). The OTS also proposed amendments to its agency-specific procedural rules at 12 CFR Part 509 (Subpart B) (Local Rules).

The OTS received one comment which expressed general approval of the proposal and suggested specific improvements. The OTS has also considered comments submitted to the other agencies on the proposed rule.

The final rule implements the proposal with minor changes. The following section-by-section analysis summarizes the final rule and highlights the changes that the OTS has made after considering the commenters' suggestions.

The OCC, FDIC, Board and NCUA are publishing separate final rules that are substantively identical to the OTS's final rule. Each of these agencies' rules appears elsewhere in this Federal Register.

B. Section-by-Section Summary and Discussion of Amendments to the Uniform Rules

§ 509.1 Scope.

The proposal added two statutory provisions to the list of civil money penalty provisions to which the Uniform Rules apply. The two provisions were enacted by the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), Pub. L. 103-325, 108 Stat. 2160.

The first provision, CDRI section 406, amended the Bank Secrecy Act (BSA) (31 U.S.C. 5321) to require the Secretary of the Treasury to delegate authority to the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) to impose civil money penalties for BSA violations.

The second provision, CDRI section 525, amended section 102 of the Flood Disaster Protection Act of 1973 (FDPA) (42 U.S.C. 4012a) to give each "Federal entity for lending regulation" authority to assess civil money penalties against a regulated lending institution if the institution has a pattern or practice of committing violations of the FDPA or the notice requirements of the National Flood Insurance