

Press Releases

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OTS 99-64 - New Rules Adopted for Employment With More Than One Thrift or Bank

Office of Thrift Supervision

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New Rules Adopted For Employment With More Than One Thrift or Bank

WASHINGTON, D.C., Sept. 23, 1999 - The Office of Thrift Supervision and the other federal banking regulators have adopted a revised management interlocks rule to reflect changes in the law that expand the situations in which individuals may serve as officers or directors of two unaffiliated depository institutions or their holding companies.

The rule raises institution size thresholds making it easier for management officials to serve more than one depository organization or institution, and it creates new exemptions that facilitate certain management interlocks. The exemptions are intended to enlarge the pool of management talent upon which depository organizations draw, resulting in more competitive, better-managed organizations without causing significant anticompetitive effects.

The final regulation, scheduled to be published in the Sept. 24, 1999, edition of the Federal Register, and effective Jan. 1, 2000, is substantially unchanged from the August 11, 1998, proposed version.

Whether interlock arrangements are permitted under the new rule depends on several factors such as the size and location of the organizations, including thrifts, banks and holding companies. For example, management interlocks are generally prohibited if both depository organizations have offices in the same community. On a larger map, persons cannot serve two unaffiliated depository organizations that have offices in the same Relevant Metropolitan Statistical Area (RMSA) if both have assets of \$20 million or more. And under the "major assets" test, two large depository organizations, regardless of location, cannot retain the same official.

The 1996 Depository Institution Management Interlocks Act (DIMIA) raised the "major assets" thresholds to allow a management official serving at a depository organization with assets of less than \$2.5 billion also to serve as a management official with a depository organization having assets of less than \$1.5 billion. The final rule raises the thresholds to conform with the

law and establishes a mechanism to periodically adjust those thresholds based on changes in the Consumer Price Index.

The rule mirrors the modified law by eliminating two exemptions, the "regulatory standards" and "management consignment" exemptions, and by establishing two new exemptions under the broad general authority of the modified DIMIA.

Under a new general exemption, a depository organization may apply to its federal regulator for an exemption based upon a finding that the interlock would not result in a monopoly or a substantial lessening of competition.

Federal banking regulators have established certain presumptions that favor approval of the general exemption request where organizations are deemed to be inherently less threatening to competition. Otherwise prohibited interlocks would be presumed to be allowed if at least one depository organization applying for the exemption:

- primarily serves low- or moderate-income areas, or
- is controlled or managed by members of a minority group or women, or
- is a thrift or bank that has been chartered for less than two years, or
- is deemed to be in a troubled condition.

The second provision, called the small market share exemption, allows interlocks for depository organizations (including their depository institution affiliates) that together control less than 20 percent of the deposits in a community or Relevant Metropolitan Statistical Area (RMSA), provided that the interlock does not violate the major assets prohibition. No application is required for this exemption, but depository organizations must retain records sufficient to support an exemption claim.

Joint Final Rule

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The Office of Thrift Supervision (OTS), a bureau of the U.S. Treasury, regulates and supervises the nation's thrift industry. OTS' mission is to ensure the safety and soundness of thrift institutions and to support their role as home mortgage lenders and providers of other community credit and financial services. For copies of news releases or other documents visit the OTS web page at www.ots.treas.gov.
