

RESCINDED



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Notice

On the same day that the *Federal Register* published OTS' final Lending and Investment regulation, Congress passed the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The Act contains numerous regulatory burden reduction provisions, some of which expand thrifts' lending authority beyond that provided in OTS' new regulation.

For example, section 2303 of the Act significantly expands the authority of federal thrifts to make consumer and commercial loans. The primary lending changes in the law are:

- HOLA Sec. 5 is amended to confirm that credit card loans can be made without investment limit, as OTS has long maintained. In addition, the QTL test is amended to permit credit card loans to count as qualified thrift investments without restriction.
- HOLA Sec. 5 is amended to permit education loans to be made without investment restriction. This replaces the current 5 percent-of-asset investment limit. In addition, the QTL test is amended to permit education loans to count as qualified thrift investments without restriction.

- HOLA Sec. 5 is amended to increase the current 10 percent-of-assets limit on commercial loans to 20 percent, provided that any loans in excess of 10 percent must be invested in small businesses. In addition, the QTL test is amended to permit small business loans to count as qualified thrift investments without restriction.
- The QTL test is amended to expand the amount of consumer loans — other than credit card and education loans (see above) — that constitute qualified thrift investments. Until now, consumer loans have counted only up to 10 percent of portfolio assets. Now they can count up to 20 percent of portfolio assets. (Certain other loans must be aggregated with consumer loans for purposes of computing the 20 percent cap.)
- The QTL test is amended to give thrifts a choice of tests. A thrift can either qualify by meeting the traditional QTL test (amended as indicated above) or by meeting the tax code domestic building and loan association test (DBLA test). Given the new amendments to the QTL test, it appears that the QTL test will be less onerous to meet than the DBLA test.

OTS intends to issue guidance to thrifts in the near future concerning the new law. The regulation is summarized below.

Attached is a final regulation that substantially shortens and simplifies OTS lending and investment regulations, effective October 30, 1996.

After reviewing comments on a proposed rule issued in January 1996, OTS changed some provisions of the final regulation. For example, OTS beefed up a section of the final rule to confirm and clarify that OTS lending regulations, and their underlying federal law, continue to pre-empt state laws.

Additional changes in the final rule have been made to the section dealing with letters of credit to

better reflect current industry practices. Thrifts that wish to engage in a broader variety of transactions that are the fundamental equivalent of letters of credit may now do so with prior approval from OTS.

The final rule virtually cuts in half — from 43 to 22 — the number of lending and investment regulations and eliminates 11 pages from the Code of Federal Regulations, making OTS regulations more consistent with those of the other banking agencies.

Some detailed rules formerly included in the regulations have been replaced with more general rules that will give institutions greater flexibility. These in-

clude loan documentation, classifying assets based on the soundness of loans, and establishing appropriate valuation allowances to cover potential losses. More detailed provisions have been incorporated into the agency's handbooks and bulletins as less formal guidance. OTS emphasized, however, that institutions must continue to conduct these operations safely and soundly.

To make the rules easier to locate, and to coordinate related regulations have been grouped together (in new part 560), which includes a chart that clearly presents the changes. Another chart conveniently shows for each lending and investment power its statutory authority and any restrictions on its use.

Other changes in the final regulation:

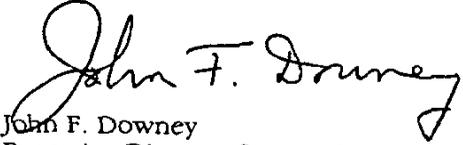
- Modestly increase thrifts' commercial lending authority through their service corporations by no longer requiring that commercial loans made by a service corporation be aggregated with those of the parent thrift. Thus, commercial loans by a service corporation are no longer subject to the thrift's commercial lending limit of 10 percent of assets.
- Eliminate limits on the amount of a loan relative to the value of the collateral and the length of payback periods on loans for manufactured housing, including mobile homes and pre-fabricated structures. The change emphasizes OTS policy requiring thrifts to establish their

own prudent underwriting standards under OTS supervision.

- Modify the requirement for selecting indices used to set interest rates on adjustable-rate loans to bring rules for thrifts in line with those of other mortgage lenders.
- Narrow the scope of OTS' regulation establishing disclosure requirements for adjustable-rate mortgages to apply primarily to those loans for which disclosure is required under Regulation Z.
- Relax restrictions on federal thrifts' ability to invest in state housing authorities and government obligations. Instead of being permitted to invest only in housing authorities in the institution's home state, federal thrifts would be able to invest in housing authorities in any state in which they have an office. Federal thrifts would be able to invest in government obligations in excess of the current 1 percent of assets limit if OTS approves the obligation for investment.
- Relax limits on leasing and mortgage finance leasing and general leasing rule into one regulation.

The final rule was published in the September 30, 1996, edition of the *Federal Register*, Vol. 61, No. 190, pp. 50951-50984, and is effective October 30, 1996.

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