

Regulatory Bulletin

RB 3a-1 was rescinded 11/26/96 by RB 3b. Click [HERE](#) to link to RB 3b

Handbook: Thrift Activities
Subjects: Capital; Asset/Liability Structure

Sections: 320; 410
RB3a-1

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Policy Statement on Growth for Savings Associations

RESCINDED

Summary: This Bulletin rescinds and replaces Regulatory Bulletin 3a (RB 3a), which established supervisory policy with respect to growth policies for undercapitalized or insolvent savings associations. The purpose of this Bulletin is to conform OTS's growth policies with the new capital standards required by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") and Thrift Bulletin 36, which provides guidelines on FIRREA capital plans, exemptions and exceptions.

For Further Information Contact: The District Office in which you are located or the Supervision Policy Division of OTS, Washington, D.C.

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Background

Regulatory Bulletin 3a (RB 3a) was issued on September 7, 1988 and established supervisory policy with respect to the growth of undercapitalized and insolvent savings associations.

Since the publication of the Bulletin, the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) amended the Home Owners' Loan Act of 1933 by adding section 5(t) requiring the Office of Thrift Supervision (OTS) to adopt minimum regulatory capital standards for savings associations. The OTS published its regulatory capital regulations implementing FIRREA on November 8, 1989. The effective date of these regulations was December 7, 1989.

The Office of Thrift Supervision has also published Thrift Bulletin 36 (TB 36), dated November 6, 1989, in order to provide guidelines for the FIRREA-required filing of capital plans.

It is necessary to rescind Regulatory Bulletin 3a and issue Regulatory Bulletin 3a-1 in order to conform OTS's growth policies with the new capital standards and TB 36.

General Policy

It is the general policy of the Office of Thrift Supervision to ensure that asset and liability growth of savings associations is prudent, adequately capitalized and conducted in a manner that is consistent with safety and soundness and the interests of the insurance fund. District Directors are responsible for implementing and monitoring this policy.

Excessive asset growth by any association, as determined by the District Director on the basis of the association's management and asset quality, capital adequacy, interest rate risk profile and operating controls and procedures, is an unsafe and unsound practice. As a general rule, associations "requiring more than normal supervision" or "subject to greater restrictions" will be permitted little to no growth under this policy, subject to District Director discretion and waiver authority.

In addition, all associations except those whose regulatory capital already exceeds the "fully phased-in" requirement¹ must increase their tangible, core and total capital by the capital requirements applicable at the time to support the growth at the time the assets are increased. Associations that meet the "fully phased-in" capital requirements must ensure that proposed growth will not cause them to fall below those requirements in the future. On a case-by-case basis, where appro-

priate, District Directors retain the authority and flexibility to impose more stringent growth restrictions than outlined below for associations with capital plans pending or that are otherwise of supervisory concern.

Associations "Requiring More than Normal Supervision"

For purposes of this Bulletin, associations "requiring more than normal supervision" are defined as those with a composite MACRO rating of 4 or 5, associations failing any one of their minimum regulatory capital requirements, or associations otherwise identified as in need of more than normal supervision by supervisory personnel.

Without the prior written approval of the District Director, any association requiring more than normal supervision shall not increase its total assets² during any quarter in excess of an amount equal to net interest credited on deposit liabilities (or earnings credited on share accounts) during the quarter. If on the date an association becomes subject to RB 3a or RB 3a-1, it has outstanding loans-in-process obligations or legally binding loan commitments that require disbursements during the quarter in excess of an amount equal to net interest credited, the association should not engage in any further growth beyond that necessary to fund the loans-in-process and legal-

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ly binding loan commitments without the prior written approval of the District Director.

Beginning January 1, 1991, Section 5(t)(6)(B)(i) of the Home Owners' Loan Act of 1933 prohibits any asset growth for an association not in compliance with its capital standards. This Section also permits a limited growth exception only up to the level of net interest credited upon approval by the Director. Thus, capital plans submitted by associations requiring more than normal supervision may not be approved if they envision growth above that level after January 1, 1991.

Associations "Subject to Greater Restrictions"

The following savings associations are defined as associations "subject to greater restrictions" and may not make any new loans or investments except with the prior written approval of the District Director:

- a) All associations that had previously been prohibited from making any new loans or investments under RB 3a prior to December 7, 1989;
- b) All associations failing any minimum capital standard as of December 7, 1989 that have not submitted a capital plan to their District Director by January 8, 1990;
- c) All associations subsequently falling out of compliance with any minimum capital standard that have not submitted a capital plan within 60 days of their failure to comply with the capital standards;
- d) All associations that have submitted capital plans that are rejected by their District Director;

- e) All associations that have had their capital plans approved, but subsequently fall out of compliance with the targets or requirements of the plan that either do not submit a revised capital plan within 30 days of the notice of intent to terminate (or any shorter time frame deemed appropriate by the District Director) or have their revised capital plans rejected; and
- f) All associations that are insolvent³ during the time between their submission of a capital plan and its approval or rejection by their District Director.

In the event of writedowns on assets, the subsequent asset balance will become the new balance on which to base the approval or disapproval of further growth for associations requiring more than normal supervision and associations subject to greater restrictions.

Except as noted below, District Director approval for such savings associations to make new loans or investments should only be granted when it is clearly documented to be reasonable in the context of the association's operations and does not significantly increase the risk profile of the association. Limited and controlled growth for associations subject to greater restrictions may be approved to maintain an association's "franchise value" if such growth is put on in a safe and sound manner. Moreover, growth may be approved only up to an amount equal to or less than the level of net interest credited on deposit liabilities (or earnings credited to share accounts).

The association's franchise value is typically determined by core retail

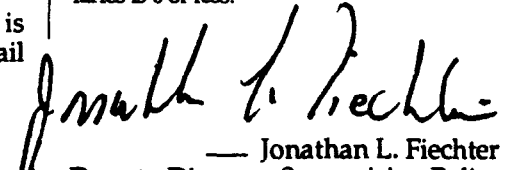
deposits that enhance the attractiveness of a firm to an acquirer and help lower the costs of resolution to the deposit insurance fund. Another case where limited growth may be appropriate is to maintain the viability of such an association's mortgage lending operation. The District Director is authorized to issue a blanket waiver to an association subject to greater restrictions to engage in controlled low-risk growth to maintain the association's franchise value with such growth not to exceed the level of net interest credited on deposit liabilities (or earnings credited to share accounts).

In the case of a savings association that is deemed an association "subject to greater restrictions" because it is insolvent and has submitted a capital plan that has not been approved or rejected, the District Director may temporarily permit growth up to the level of net interest credited upon determining that such growth is capitalized according to the requirements of the capital regulation, poses no significant risk and is appropriate under the individual circumstances.

1. The fully phased-in capital requirement is that amount of capital that an association will be required to hold on December 31, 1994 when the risk-based capital requirements will be fully phased-in and certain assets will be fully deducted in calculating an association's capital position.

2. For these purposes, "total assets" are defined as consolidated total assets as reported on the association's quarterly thrift financial report.

3. For the purpose of this guidance, an association is "insolvent" when its core capital (as defined in 12 C.F.R. 567.5(a)(1)) plus other preferred stock that counts as supplementary capital less qualifying supervisory goodwill and minority interests in consolidated subsidiaries is 0 or less.


— Jonathan L. Fiechter
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