Department of the Treasury
Office of Thrift Supervision

Transmittal

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Attached is the FDIC's final rule on brokered deposits that applies to all thrifts. These regulatory changes were mandated by §301 of the 1991 Federal Deposit Insurance Corporation Improvement Act (FDICIA).

The new regulation provides for differential regulation on the basis of capital adequacy. Institutions are divided into categories of well capitalized, adequately capitalized, and undercapitalized condition. Only well capitalized institutions may continue to accept brokered deposits without restriction. Adequately capitalized institutions must now obtain a waiver from the FDIC in order to continue accepting brokered deposits. Undercapitalized institutions are prohibited from accepting brokered deposits.

Well capitalized institutions are defined in the regulation as those used in §38 of the Federal Deposit Insurance Act dealing with prompt corrective action. Since these standards have not been finalized, the FDIC has set forth interim standards until the final §38 standards become effective.

- A well capitalized institution:
  - Has a ratio of total capital to risk-weighted assets of not less than 10.0 percent;
  - Has a ratio of tier 1 capital to risk-weighted assets of not less than 6.0 percent;
  - Has a ratio of tier 1 capital to total assets of not less than 5.0 percent; and
  - Has not been notified by OTS that it is in troubled condition.
- An adequately capitalized institution is defined as neither well capitalized nor undercapitalized.
- An undercapitalized institution fails to meet minimum OTS regulatory capital requirements.

Adequately capitalized institutions must now apply to the FDIC for a waiver in order to continue accepting brokered deposits. If your institution needs a waiver, please contact your OTS Regional Office to coordinate filing the waiver application with the FDIC. The application procedures to obtain a waiver from the FDIC are contained in the regulation. A copy of the waiver application should be submitted to your OTS Regional Office.

The final rule is published in the *Federal Register*, Vol. 57, No. 109, pp. 23933-23944. It is effective June 16, 1992.

Director
Office of Thrift Supervision

Attachment