

Press Releases

December 30, 1997

OTS 97-91 - OTS Issues Fiduciary Activities Regulation.

Office of Thrift Supervision

NEWS

FOR RELEASE at 10:00 a.m. EST

For further information

Tuesday, December 30, 1997

Contact: William Fulwider

OTS 97-91

202/906-6913

OTS Issues Fiduciary Activities - CRA Regulation

WASHINGTON, D.C., Dec. 30, 1997 -- Modernization of rules governing trust and other fiduciary activities of federal savings associations became final today.

The final rule, published in today's Federal Register and effective Jan. 1, 1998, is the first comprehensive update by the Office of Thrift Supervision (OTS) of its fiduciary rules since 1980, and reflects developments in the fiduciary activities of federal associations, OTS said. The final rule streamlines and clarifies the regulation and eliminates unnecessary regulatory burden.

The final rule consolidates all of OTS' fiduciary powers regulations into one part and incorporates significant interpretative opinions. It makes only minor changes from the version that was proposed on July 23, 1997. For example, it provides that OTS-regulated state-chartered savings associations must conduct their fiduciary operations in accordance with state law, but that OTS may restrict or prohibit activities that threaten an association's safety and soundness.

A federal thrift, under the rule, can offer any fiduciary service authorized for competing providers (including state or federally chartered banks) operating in the same state as the thrift's trust office. The rule notes that federal thrifts may provide trust services from offices in more than one state.

OTS also has amended its Community Reinvestment Act (CRA) regulations to exempt from CRA requirements certain special-purpose financial institutions that do not make loans or offer other commercial or retail banking services to the public in the ordinary course of business, other than as incident to their specialized operations. This exemption reflects the banking agencies' long-standing policy. Until now, the OTS rule differed from those of the other agencies because when the CRA rules were first adopted, OTS did not regulate any savings associations that could be considered special purpose institutions. This is no longer the case, since some OTS-regulated thrifts have organized solely to offer trust services locally or nationwide. Accordingly, the final rule makes the OTS CRA regulation consistent with those of other federal banking regulators.

OTS emphasized that when a special-purpose institution begins to take deposits or make commercial or retail banking services available to the public, it will be fully subject to CRA.

Currently, approximately 75 thrift institutions actively offer trust services to their customers. While the number of thrifts providing trust services has remained relatively small, the value of trust assets they administer has increased to nearly \$80 billion currently from \$7 billion in 1985.

Specific fiduciary activities covered by the regulation include: acting in traditional fiduciary capacities, such as trustee, executor, administrator, and guardian; acting in any capacity in which the institution possesses investment discretion on behalf of another; and providing investment advice for a fee, regardless of whether or not the customer follows that advice.

The revised OTS rule is consistent with changes adopted earlier in 1997 by the Office of the Comptroller of the Currency (OCC) for national banks. OTS said it intends to follow a proposed OCC interpretive ruling on investment advisors, which provides numerous examples of activities that do not entail providing investment advice for a fee.

###

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 call PubliFax at 202/906-5660, or visit the OTS web page at www.ots.treas.gov