

Rules and Regulations

Federal Register

Vol. 67, No. 96

Friday, May 17, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 02-04]

RIN 1557-AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-1085]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AC17

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[No. 2002-5]

RIN 1550-AB11

Risk-Based Capital Standards: Claims on Securities Firms

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision, Treasury (OTS).

ACTION: Final rule; correction.

SUMMARY: On April 9, 2002, the OCC, Board, FDIC, and OTS (collectively, the Agencies) published a final rule in the **Federal Register**. The final rule amended the Agencies' risk-based capital standards for banks, bank holding companies, and savings associations (collectively, institutions or banking organizations) with regard to

the risk weighting of claims on, and claims guaranteed by, qualifying securities firms. This document clarifies the effective date of the rule, corrects errors made in the Supplementary Information section and in the Board's Regulation Y, and makes technical changes to the footnote numbers in the instructions to and text of the FDIC's Part 325.

DATES: The corrections made in this document are effective July 1, 2002 (*i.e.*, the effective date of the final rule), but institutions may elect to apply the final rule before that date consistent with the discussion in the Supplementary Information section below.

FOR FURTHER INFORMATION CONTACT:

OCC: Margot Schwadron, Risk Expert (202/874-5070), Capital Policy Division; or Ron Shimabukuro, Counsel (202/874-5090), Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Norah Barger, Deputy Associate Director (202/452-2402), Barbara Bouchard, Assistant Director (202/452-3072), or John F. Connolly, Supervisory Financial Analyst (202/452-3621), Division of Banking Supervision and Regulation; or Mark E. Van Der Weide, Counsel (202/452-2263), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. For users of Telecommunications Device for the Deaf ("TDD") only, contact 202/263-4869.

FDIC: For supervisory issues, Stephen G. Pfeifer, Examination Specialist (202/898-8904), Accounting Section, Division of Supervision; for legal issues, Leslie Sallberg, Counsel, (202/898-8876), Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: David W. Riley, Project Manager, (202/906-6669), Supervision Policy; Teresa A. Scott, Counsel, Banking and Finance (202/906-6478), Regulations and Legislation Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION: This document clarifies the effective date of the rule and corrects errors in the joint final rule published in the **Federal Register** by the Agencies on April 9, 2002 (67 FR 16971). The language

regarding voluntary early application of the final rule is clarified in the **DATES** section. In addition, the phrase "or guaranteed by" is removed from one sentence in the Supplementary Information section. This same deletion is made from one sentence in the Board's Regulation Y amendment (12 CFR 225, Appendix A, III.C.2.d.) and a conforming edit is made in the same sentence. These deletions eliminate an inconsistency in the Supplementary Information section and in the Agencies' final rules. Additionally, a paragraph inadvertently duplicated in the Board's Regulation Y (12 CFR part 225, Appendix A, Attachment III, *Category 2: 20 Percent*) is removed. This document also revises references to certain footnote numbers in the **Federal Register** instructions to and text of the Federal Deposit Insurance Corporation's revisions to its regulatory capital rules (12 CFR part 325, Appendix A).

In the final rule FR Doc. 02-8142, published on April 9, 2002, (67 FR 16971) make the following corrections:

1. In the **DATES** section on page 16971, in the third column, revise the second sentence to read "The Agencies will not object if an institution wishes to apply the provisions of this final rule beginning with its March or June 2002 regulatory reports to the Agencies."

2. In the **SUPPLEMENTARY INFORMATION** section on page 16975, in the third complete sentence in the second column, remove the phrase " , or guaranteed by," after the phrase "a collateralized claim on".

Appendix A to Part 225 [Corrected]

3. On page 16978, in the first column, correct the third sentence of Section III.C.2.d. by removing the phrase "collateralized claims" and substituting the phrase "a collateralized claim" and by removing the phrase " , or guaranteed by," after the phrase "collateralized claims on".

4. On page 16978, at the top of the third column, remove paragraph 4.

Appendix A to Part 325—Statement of Policy on Risk-Based Capital [Corrected]

5. On page 16978, in the third column, correct amendatory instruction 2.b. by removing "Redesignate footnotes 27 through 47 as footnotes 30 through 50" and substituting "Redesignate footnotes 31 through 47 as footnotes 34 through 50."

6. On page 16978, in the third column, correct amendatory instruction 2.c. by removing "Add new footnotes 27 through 29" and substituting "Add new footnotes 31 through 33."

7. On page 16979, in the first column, under Category 2—20 Percent Risk Weight, remove the references to footnotes 27 and 28 in the rule text and footnotes and replace them with references to footnotes 31 and 32, respectively.

8. On page 16979, in the second column, under Category 2—20 Percent Risk Weight, remove the references to footnote 29 in the rule text and footnotes and replace them with references to footnote 33.

Dated: May 3, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, May 3, 2002.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 1st day of May, 2002.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: May 8, 2002.

By the Office of Thrift Supervision

Richard M. Riccobono,

Deputy Director.

[FR Doc. 02-12363 Filed 5-16-02; 8:45 am]

BILLING CODE 4810-33-P; 6210-01-P; 6714-01-P; 6720-01-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 7

[Docket No. 02-07]

RIN 1557-AB76

Electronic Activities

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulations in order to facilitate national banks' ability to conduct business using electronic technologies, consistent with safety and soundness. This final rule groups together new and revised regulations addressing: national banks' exercise of their Federally authorized powers through electronic means; the location, for purposes of the Federal banking laws, of a national bank that

engages in activities through electronic means; and the disclosures required when a national bank provides its customers with access to other service providers through hyperlinks in the bank's website or other shared electronic "space."

EFFECTIVE DATE: Section 7.5010 shall take effect on July 1, 2002. All other sections of this final rule shall take effect on June 17, 2002.

FOR FURTHER INFORMATION CONTACT:

Heidi M. Thomas, Special Counsel, Legislative and Regulatory Activities, (202) 874-5090; James Gillespie, Assistant Chief Counsel, (202) 874-5200; or Clifford Wilke, Director, Bank Technology, (202) 874-5920.

SUPPLEMENTARY INFORMATION: On July 2, 2001, the OCC published a notice of proposed rulemaking (NPRM) in the **Federal Register** requesting comments on a proposal to update our regulations to reflect national banks' use of new technologies and to provide simpler, clearer guidance to national banks engaging in electronic activities.¹ The proposal codified several positions that the OCC has taken previously in published interpretive letters to national banks. The proposal also created a new subpart E to part 7 of the OCC's regulations to house these and other OCC provisions related to the conduct of national bank activities through electronic means.²

Our proposal was the result of a focused review of our regulations with the goal of revising them in ways that would facilitate national banks' use of technology, consistent with safety and soundness. We initiated this review by publishing an advance notice of proposed rulemaking (ANPR).³ We developed the proposed rule, in large part, on the comments received on this ANPR.

Description of Proposal, Comments Received, and Final Rule

The OCC received 22 comment letters on the proposal.⁴ These comments include 10 from national banks, bank

subsidiaries, and bank holding companies; 5 from financial services trade associations; 4 from credit card banks or lenders; 1 from a State regulatory group; and 2 from other interested parties. The majority of commenters supported adoption of an electronic banking regulation in the form we proposed.

Some commenters, however, suggested modifications or articulated concerns with certain aspects of this proposal. In light of these comments, we have modified certain provisions of the proposed rule. The most significant comments, and our responses, are discussed in the following section-by-section analysis. As in the preamble to the proposal, this section-by-section description is divided into three categories: national bank powers; "location" with respect to the conduct of electronic activities; and, safety and soundness requirements for shared electronic "space."

A. National Bank Powers

1. National Bank Finder Authority (Revised § 7.1002)

As we described in the proposal, the OCC has long permitted a national bank to act as a finder to bring together buyers and sellers of financial and non-financial products and services. Under our current rules, a national bank acting as a finder may identify potential parties, make inquiries as to interest, introduce or arrange meetings of interested parties, and otherwise bring parties together for a transaction that the parties themselves negotiate and consummate.⁵ Recently, national banks have used the finder authority to engage in new activities made possible by technological developments, especially the Internet.⁶

⁵ See 12 CFR 7.1002.

⁶ See OCC Conditional Approval No. 369 (Feb. 25, 2000) (national bank may host a virtual mall consisting of a web page with links to third-party merchants arranged according to product or service offered; OCC Interpretive Letter No. 875, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-369 (Oct. 31, 1999) (the components of Internet services package that involve hosting of commercial web sites, registering merchants with search engines and obtaining URLs, and electronic storage and retrieval of the data set for a merchant's on-line catalog are permissible finders activities authorized for national banks pursuant to 12 U.S.C. 24(Seventh)); OCC Conditional Approval No. 221 (Dec. 4, 1996) (national banks, in the exercise of their finder authority, may establish hyperlinks between their home pages and the Internet pages of third-party providers so that bank customers will be able to access those non-bank web sites from the bank site); Letter from Julie L. Williams, Chief Counsel (Oct. 2, 1996) (unpublished) (national bank as finder may use electronic means to facilitate contacts between third-party providers and potential buyers); OCC Interpretive Letter No. 611, *reprinted in* [1992-1993 Transfer Binder] Fed.

¹ 66 FR 34855 (July 2, 2001).

² The OCC notes that it has established a website that contains information relating to electronic banking activities. See <http://www.occ.treas.gov/netbank/netbank.htm>. This site includes a listing of opinions, approval letters, supervisory guidance, and other issuances on this subject and provides links to many of the documents listed in this preamble.

³ 65 FR 4895 (Feb. 2, 2000).

⁴ The OCC received four other letters commenting on a study of banking regulations regarding the online delivery of financial services conducted by the Federal banking agencies pursuant to section 729 of the Gramm-Leach-Bliley Act, Pub. L. 106-102, 113 Stat. 1338, 1476 (Nov. 12, 1999) ("GLBA"), codified at 12 U.S.C. 4801.