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Wednesday, June 8, 2011

OTS and OCC Synchronizing

On May 25, 2011, the Office of the Comptroller of the Currency (OCC) issued a proposed rule implementing several provisions of the Dodd-Frank Act (Dodd-Frank), including the transfer of functions from the Office of Thrift Supervision (OTS) and changes to national bank preemption and the OCC's visitorial authority.

Under Dodd-Frank, the OCC is required to assume responsibility for the ongoing examination, supervision, and regulation of Federal savings associations on July 21, 2011.

This Notice of Proposed Rulemaking (NPR) is the first step in the OCC's review of its own regulations and those of the OTS to determine what changes are needed to facilitate a smooth regulatory transition. The NPR was published in the Federal Register on May 26, 2011.

Comments Due: June 27, 2011

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REVISIONS

The NPR would:

- Revise OCC rules that are central to internal agency functions and operations immediately upon the transfer of supervisory jurisdiction for Federal savings associations, including rules related to OCC organization, the availability and release of information, and post-employment restrictions for senior examiners.
- Amend the OCC's assessment fee rule to include Federal savings associations. Following a transition period, the proposal provides a single assessment schedule for both national banks and Federal savings associations. Banks and thrifts would be subject to identical assessment methodologies, rates, fees, and payment due dates.

Fee Schedule

As part of the transition of Federal thrift supervision from the OTS to the OCC, the OCC would compute assessment fees under both the OCC and OTS schedules for assessments charged in September 2011 and March 2012, and Federal savings associations will pay the lesser of the two fees.

Beginning with assessments charged in September 2012, the OCC will assess institution fees based on a single fee schedule regardless of charter.

Transfer Date

As part of the integration of the aforementioned OTS functions into the OCC, the OCC also plans to issue an Interim Final Rule with a request for comments, effective on the transfer date, that republishes those OTS regulations the OCC has the authority to promulgate and enforce as of the transfer date, renumbered and issued as new OCC rules, with nomenclature and other technical amendments to reflect OCC supervision of Federal thrifts.

The OCC will consider more comprehensive substantive amendments to these regulations, as appropriate, after the transfer date.

Preemption and Non-Preempted State Laws

Included in the NPR are changes to the OCC's regulations necessary to implement certain revisions to the banking laws that took effect on the enactment of Dodd-Frank.

These changes include implementation of a moratorium on changes in control of credit card banks and trust banks, revisions to Federal branch and agency rules to reflect the permanent increase in deposit insurance coverage, and amendments to OCC rules pertaining to preemption and visitorial powers.

These preemption-related amendments would:

- Eliminate preemption for national bank operating subsidiaries.

- Apply national bank and national bank subsidiary preemption standards, as well as the visitorial powers standards applicable to national banks, to Federal thrifts and their subsidiaries.
- Eliminate any ambiguity concerning the preemption standards in OCC regulations by removing language from OCC rules that provides that state laws that "obstruct, impair or condition" a national bank's powers are preempted.
- Revise the OCC's visitorial powers rule to conform to the holding of the Supreme Court's Cuomo decision, as incorporated by Dodd-Frank, recognizing the ability of state attorneys general to bring enforcement actions in court to enforce non-preempted state laws against national banks.

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Office of the Controller of the Currency (OCC):
Office of Thrift Supervision Integration (OTS)
(Dodd-Frank Act Implementation)
Federal Register - Vol. 76, No. 102
May 26, 2011



Labels: [Department of Treasury](#), [Dodd-Frank Act](#), [Non-Preempted State Laws](#), [OCC](#), [Office of the Comptroller of the Currency](#), [Office of Thrift Supervision](#), [OTS](#), [Preemption](#), [Visitorial Authority](#)

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