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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 543, 552, and 571

[No. 97-48]

RIN 1550-AA76

De Novo Applications For

A Federal Savings Association Charter

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing its final regulation describing the requirements for de novo applications for federal savings association charters. The term "de novo application" generally refers to any application to establish a new federal savings association, rather than applications from existing institutions that merely wish to convert to federal savings association charters. This final rule converts the agency's existing policy statement on de novo applications into a regulation, conforms the regulation to current law, and simplifies the regulatory requirements for establishing a de novo federal association, thereby reducing compliance costs.

EFFECTIVE DATE: July 1, 1997.

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SUPPLEMENTARY INFORMATION:

I. Background

The OTS is issuing a new regulation to revise and update its treatment of de novo applications for federal savings association charters.

The Federal Home Loan Bank Board (FHLBB), the OTS's predecessor agency, originally promulgated a policy statement (policy statement), which currently appears at 12 CFR 571.6, to explain its policies relating to the approval of applications for de

nov federal associations. When the policy statement was issued, the FHLBB was the operating head of the Federal Savings and Loan Insurance Corporation, the insurance fund for thrifts. At that time, de novo applications included not only applications for permission to organize and requests for a federal charter, but also applications for insurance of accounts.

Subsequently enacted statutes, including the Financial Institutions Reform, Recovery, and Enforcement Act of 1989¹ (FIRREA) and the Federal Deposit Insurance Corporation Improvement Act of 1991² (FDICIA), made significant changes in the federal regulatory structure for savings associations. Under FIRREA, the OTS succeeded to the chartering and supervisory functions of the FHLBB, but the insurance function was transferred to the Federal Deposit Insurance Corporation (FDIC). FIRREA and FDICIA also revised much of the law applicable to the de novo approval process.³ Accordingly, the OTS determined that revisions were needed to update and streamline the de novo application requirements.

¹ Pub. L. No. 101-73, 103 Stat. 183 (1989).

² Pub. L. No. 102-242, 105 Stat. 2236 (1991).

³ The preamble to the proposed rule included a detailed discussion of the statutory requirements regarding de novo applications. See 60 FR 12103 (March 6, 1995).

Accordingly, on March 6, 1995, the OTS published in the Federal Register a notice of proposed rulemaking revising these application requirements.⁴ The OTS proposed to codify the policy statement as a regulation, remove obsolete and duplicative provisions, revise minimum capitalization and business plan requirements, and update requirements on management officials.

The public comment period closed on May 5, 1995. The OTS did not receive any comments on the proposal. Accordingly, the final rule adopted today is substantially similar to the proposal, except for certain changes intended to further reduce regulatory burden and to enhance the clarity of the regulation. These changes are fully described below.

II. Description of the Final Rule

A. Recodification

The requirements governing de novo applications for federal savings association

⁴ Id.

ATTACHMENT IS AVAILABLE UPON REQUEST

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