

promote practical and uniform recordkeeping requirements consistent with the purpose of part 344.<sup>7</sup>

### III. Regulatory Analysis and Procedure

#### A. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the FDIC to use “plain language” in all proposed and final rules published after January 1, 2000. The FDIC invites comments on whether the proposal is clearly stated and effectively organized, and how the FDIC might make the proposed text easier to understand.

#### B. Regulatory Flexibility Act

In accordance with section 3(a) of the Regulatory Flexibility Act (“RFA”), 5 U.S.C. 603(a), the FDIC must publish an initial regulatory flexibility analysis with this rulemaking or certify that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA analysis or certification, financial institutions with total assets of \$165 million or less are considered to be “small entities.” For the reasons set forth below, the FDIC hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule would amend the FDIC’s rule to extend to 30-calendar days after the end of the calendar quarter the period of time for officers and certain employees of state nonmember banks to report their personal securities transactions. In effect, it would extend the existing time period to give these individuals more latitude to report their quarterly securities transactions and to allow state nonmember banks more time to comply with part 344. The proposed rule does not impose any new or different substantive requirements that are not already imposed under part 344. Accordingly, if adopted in final form, the proposed rule would not impose any additional burden or economic impact on small entities.

#### C. Paperwork Reduction Act

No new collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the proposed rule.

<sup>7</sup> See 60 FR 7111 (Feb. 7, 1995) (amending part 344 to include express waiver authority in order to tailor application of rule to promote practical compliance without undermining intent of part 344).

#### D. The Treasury and General Government Appropriations Act of 1999—Assessment of Federal Rules and Policies on Families

The FDIC has determined that this proposal will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

#### List of Subjects in 12 CFR Part 344

Banks, banking, Reporting and recordkeeping requirements, Securities, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board of Directors of the FDIC proposes to amend part 344 of title 12 of chapter III of the Code of Federal Regulations as set forth below:

#### PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

1. The authority citation for part 344 continues to read as follows:

**Authority:** 12 U.S.C. 1817, 1818, and 1819.

2. In § 344.9, revise paragraph (a)(3) to read as follows:

##### § 344.9 Personal securities trading reporting by bank officers and employees.

(a) \* \* \*

\* \* \* \* \*

(3) In connection with their duties, obtain information concerning which securities are being purchased or sold or recommend such action, must report to the bank, within 30-calendar days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales.

\* \* \* \* \*

By Order of the Board of Directors.

Dated at Washington, DC, the 19th day of June, 2007.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. E7–12239 Filed 6–26–07; 8:45 am]

**BILLING CODE 6714–01–P**

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Part 575

[No. OTS–2007–0012]

RIN 1550–AC15

#### Optional Charter Provisions in Mutual Holding Company Structures

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is proposing to amend its mutual holding company (MHC) regulations to permit certain MHC subsidiaries to adopt an optional charter provision that would prohibit any person from acquiring, or offering to acquire, beneficial ownership of more than ten percent of the MHC subsidiary’s minority stock (stock held by persons other than the subsidiary’s MHC).

**DATES:** Comments must be received on or before August 27, 2007.

**ADDRESSES:** You may submit comments, identified by OTS–2007–0012, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select “Office of Thrift Supervision” from the agency drop-down menu, then click submit. Select Docket ID “OTS–2007–0012” to submit or view public comments and to view supporting and related materials for this notice of proposed rulemaking. The “User Tips” link at the top of the page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- *Mail:* Regulation Comments, Chief Counsel’s Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: OTS–2007–0012.

- *Hand Delivery/Courier:* Guard’s Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel’s Office, Attention: OTS–2007–0012.

**Instructions:** All submissions received must include the agency name and docket number for this rulemaking. All comments received will be entered into the docket and posted on Regulations.gov without change, including any personal information provided. Comments, including attachments and other supporting

materials received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

*Viewing Comments Electronically:* Go to <http://www.regulations.gov>, select "Office of Thrift Supervision" from the agency drop-down menu, then click "Submit." Select Docket ID "OTS-2007-0012" to view public comments for this notice of proposed rulemaking.

*Viewing Comments On-Site:* You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to [public.info@ots.treas.gov](mailto:public.info@ots.treas.gov), or send a facsimile transmission to (202) 906-6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

**FOR FURTHER INFORMATION CONTACT:**

Donald W. Dwyer, (202) 906-6414, Director, Applications, Examinations and Supervision—Operations; or David A. Permut, (202) 906-7505, Senior Attorney, Business Transactions Division, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under the MHC Regulations, a subsidiary MHC, or, where there is no subsidiary MHC, the former mutual savings association that reorganized into an MHC structure (collectively, Subsidiary Company), may sell less than 50 percent of its voting stock to parties other than the top-tier MHC.<sup>1</sup>

Under OTS's current regulations, a Subsidiary Company may adopt a charter provision that prohibits any person from acquiring, or offering to acquire, beneficial ownership of more than 10 percent of the Subsidiary Company's stock during the five years after a minority stock issuance.<sup>2</sup> The purpose of this provision, as is the case with fully converted associations, is to lessen the vulnerability of the entity to attempts to take unfair advantage of the results of the offering, to protect the integrity of the offering, and to ensure

that the offering is completed in a manner that strengthens the issuer.<sup>3</sup>

OTS has recently become aware of several situations in which minority stockholders have acquired positions in the minority stock of Subsidiary Companies, and have taken actions that appear intended to influence management to engage in stock repurchases or in a sale of the institution. Because a top-tier MHC is required to retain more than 50 percent of the stock of any Subsidiary Company, holders of minority stock (minority stockholders) cannot control the outcome of most issues presented to the stockholders of the Subsidiary Company. However, there are circumstances where OTS's regulations provide that a majority of the minority stock must approve a proposal.<sup>4</sup>

Minority stockholders may acquire a significant percentage of the minority stock without involving either the OTS Acquisition of Control Regulations or the charter provision discussed above, both of which are triggered by an acquisition of more than ten percent of the *outstanding* stock. For example, if a Subsidiary Company issues thirty percent of its stock in a public offering, a minority stockholder could acquire a third of those shares without implicating either the Control Regulations or the charter provision. In such a case, the minority stockholder may obtain a significant amount of influence, based on its ability to vote on the issues that must be presented separately to minority stockholders.

OTS believes that such a result would be contrary to the purposes of the restrictions addressing post-offering acquisitions of stock in the context of conversions and minority stock offerings, that is, lessening the vulnerability of the entity to attempts to take unfair advantage of the results of the offering, to protect the integrity of the offering, and to ensure that the offering is completed in a manner that strengthens the issuer. Therefore, OTS is proposing to add a provision to the MHC Regulations, which could be adopted only by companies in the MHC structure, that would provide that no entity, or person or group acting in concert could acquire more than ten percent of the outstanding minority stock of a Subsidiary Company during the five years after a Minority Stock Issuance. If a stockholder violated this charter provision, the stockholder would not be permitted to vote any

stock the stockholder acquired in excess of the limit.

OTS proposes that the charter provision would not limit the stockholdings of the parent MHC, because the parent MHC, under the Home Owners' Loan Act, must own more than fifty percent of the Subsidiary Company. In addition, OTS proposes that the charter provision except stock held by the Subsidiary Company's Employee Stock Ownership Plan (ESOP) from this limitation, because ESOP acquisitions do not present the concerns that have resulted in OTS limiting post-conversion acquisitions of stock.<sup>5</sup>

**II. Solicitation of Comments**

*A. Solicitation of Comments on the Proposed Amendments*

OTS is requesting comment on all aspects of the proposed regulation. Specifically OTS seeks comment on:

- (1) Does the proposed regulation accomplish its stated purposes?
- (2) Does the proposed regulation create any ambiguities that were not present in the current regulation?
- (3) Does the proposed regulation impose unnecessary regulatory burdens?

*B. Solicitation of Comments Regarding the Use of Plain Language*

Section 722 of GLBA requires federal banking agencies to use "plain language" in all proposed and final rules published after January 1, 2000. OTS invites comments on how to make this proposed rule easier to understand. For example:

- (1) Have we organized the material to suit your needs? If not, how could we better organize it?
- (2) Do we clearly state the requirements in the rule? If not, how could we state the rule more clearly?
- (3) Does the rule contain technical language or jargon that is not clear? If so, what language requires clarification?
- (4) Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?

**III. Regulatory Findings**

*A. Paperwork Reduction Act*

OTS has determined that this proposed rule does not involve a change to collections of information previously approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

<sup>1</sup> See, 12 CFR 575.7 and 575.14(b) (2006). See also 12 U.S.C. 1467a(o)(8)(B).

<sup>2</sup> See 12 CFR 552.4(b)(8) and 575.14(c)(2) (2006).

<sup>3</sup> See, e.g., Federal Home Loan Bank Board Order No. 84-90 (Feb. 23, 1984).

<sup>4</sup> See 12 CFR 563b.500(a)(7), 563b.555, 575.11(i) and 575.12(a)(3) (2006).

<sup>5</sup> See 12 CFR 563b.525(c)(4)(2006), and the optional charter provision at section 552.4, both of which except ESOPs from the post-conversion acquisition restrictions of section 563b.525.

**B. Executive Order 12866**

The Director of OTS has determined that this proposed rule does not constitute a "significant regulatory action" for purposes of Executive Order 12866.

**C. Regulatory Flexibility Act**

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601), the Director certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule would permit Subsidiary Companies to adopt an optional charter provision. Accordingly, OTS has determined that a Regulatory Flexibility Analysis is not required.

**D. Unfunded Mandates Reform Act of 1995**

OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of \$100 million or more and that a budgetary impact statement is not required under Section 202 of the Unfunded Mandates Reform Act of 1995, Publication Law 104-4 (Unfunded Mandates Act). The proposed rule would permit Subsidiary Companies to adopt an optional charter provision. The proposed rule changes should not have a significant impact on small institutions. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act.

**List of Subjects in 12 CFR Part 575**

Administrative practice and procedure, Capital, Holding companies, Reporting and recordkeeping requirements, Savings Associations, Securities.

**Authority and Issuance**

For the reasons set forth in the preamble, the Office of Thrift Supervision proposes to amend Chapter V of title 12 of the Code of Federal Regulations, as set forth below:

**PART 575—MUTUAL HOLDING COMPANIES**

1. The authority citation for 12 CFR part 575 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

2. Amend § 575.9 by redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

**§ 575.9 Charters and bylaws for mutual holding companies and their savings association subsidiaries.**

\* \* \* \* \*

(c) *Optional charter provision following minority stock issuance.* A federal resulting association or federal acquiree association may, during the five years immediately following a minority stock issuance that such association conducts in accordance with the purchase priorities set forth in 12 CFR part 563b, include in its charter the following provision (for purposes of this charter provision, the definitions set forth at § 552.4(b)(8) of this chapter apply):

*Beneficial Ownership Limitation.* No person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of the outstanding stock of any class of voting stock of the association held by persons other than the association's mutual holding company. This limitation does not apply to a transaction in which an underwriter purchases stock in connection with a public offering, or the purchase of stock by an employee stock ownership plan or other tax-qualified employee stock benefit plan that is exempt from the approval requirements under § 574.3(c)(1)(iv) of the Office's regulations.

In the event a person acquires stock in violation of this section, all stock beneficially owned by such person in excess of 10 percent of the stock held by stockholders other than the mutual holding company shall be considered "excess shares" and shall not be counted as stock entitled to vote and shall not be voted by any person or counted as voting stock in connection with any matters submitted to the stockholders for a vote.

\* \* \* \* \*

3. In § 575.14, redesignate paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5), respectively, and add a new paragraph (c)(3) to read as follows:

**§ 575.14 Subsidiary holding companies.**

\* \* \* \* \*

(c) \* \* \*  
(3) *Optional charter provision following minority stock issuance.* A subsidiary holding company may, during the five years immediately following a minority stock issuance that such subsidiary holding company conducts in accordance with the purchase priorities set forth in 12 CFR part 563b, include in its charter the provision set forth below (for purposes of this charter provision, the definitions set forth at § 552.4(b)(8) of this chapter apply):

*Beneficial Ownership Limitation.* No person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of the outstanding stock of any class of voting stock of the association held by persons other than the subsidiary holding company's mutual

holding company parent. This limitation does not apply to a transaction in which an underwriter purchases stock in connection with a public offering, or the purchase of stock by an employee stock ownership plan or other tax-qualified employee stock benefit plan which is exempt from the approval requirements under § 574.3(c)(1)(iv) of the Office's regulations.

In the event a person acquires stock in violation of this section, all stock beneficially owned in excess of 10 percent shall be considered "excess stock" and shall not be counted as stock entitled to vote and shall not be voted by any person or counted as voting stock in connection with any matters submitted to the stockholders for a vote.

\* \* \* \* \*

Dated: May 25, 2007.

By the Office of Thrift Supervision.

**John M. Reich,**

*Director.*

[FR Doc. E7-12172 Filed 6-26-07; 8:45 am]

**BILLING CODE 6720-01-P**

**NATIONAL CREDIT UNION ADMINISTRATION****12 CFR Part 701**

**RIN 3133-AD37**

**Purchase, Sale, and Pledge of Eligible Obligations**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** NCUA proposes to amend its rule governing the purchase, sale, and pledge of eligible obligations, as a result of recommendations from its annual regulatory review process, by adding a conflict of interest provision substantially similar to the conflict of interest provision in NCUA's general lending rule. This addition is intended to help ensure that a federal credit union's (FCU) decisions regarding the purchase, sale, and pledge of eligible obligations are made with the FCU's best interests in mind.

**DATES:** Comments must be received on or before August 27, 2007.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *NCUA Web Site:* <http://www.ncua.gov/>

- *Regulations Opinions Laws/ proposed\_regs/proposed\_regs.html.*

Follow the instructions for submitting comments.

- *E-mail:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include "[Your