



NEWS RELEASE

Comptroller of the Currency
Administrator of National Banks

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OCC Seeks Comment on Package of Rules Dealing with AHEOA, Fiduciary Activities, Real Estate Lending and Visitorial Powers

WASHINGTON -- The Office of the Comptroller of the Currency proposed regulations today implementing provisions of the American Homeownership and Economic Opportunity Act of 2000 (AHEOA), revising and updating other provisions of its rules, and clarifying its existing rule concerning the agency's exclusive visitorial powers to examine, supervise and regulate national banks.

The [proposed regulation](#) would implement several sections of AHEOA, which enables national banks to undertake certain corporate organizational structures more efficiently than under previous law, and also provides for more modern corporate governance mechanisms for national banks. The sections of AHOEA implemented by the proposal are:

- Section 1204, which permits national banks to reorganize directly to become a subsidiary of a holding company;
- Section 1205, which increases the maximum term of service for national bank directors, permits a national bank to adopt bylaws allowing for staggered terms for directors in accordance with OCC regulations, and permits national banks to apply for permission to have more than 25 directors; and
- Section 1206, which permits national banks to merge with one or more of their nonbank affiliates, subject to OCC approval.

The proposal also provides clarification of the OCC's current regulation concerning the scope of the agency's "visitorial powers" over national banks. "Visitorial powers" refers to the authority to examine, supervise, regulate, require information from and take enforcement action against a bank. Addressing questions that have arisen concerning the scope of this exclusive authority, the rule provides that the OCC's visitorial powers over national banks are exclusive with respect to activities that are expressly authorized or recognized as permissible for national banks under Federal law, including the OCC's regulations and interpretations. The proposed rule also provides that, while courts can exercise visitorial powers by issuing orders or writs compelling the production of

information or witnesses, this exception cannot be used by the states as a means of inspecting, regulating or supervising national bank activities.

The proposal notes that Congress reaffirmed the OCC's exclusive visitorial powers in the Riegle-Neal Interstate Branching Act of 1994. Although Congress said that a host state's laws might apply to interstate branches of national banks to the same extent they applied to branches of state banks, unless the state law was preempted by federal law, the statute went on to say that, even in cases where state law would apply to national banks, it must be enforced by the OCC.

The package of proposed regulations also includes amendments to several other OCC regulations. The proposal revises several provisions of the corporate procedures and the bank activities regulations to make clarifying changes or updates based on recent developments in the law. It amends the fiduciary activities rules to modify the required timing of valuation for certain collective investment funds. Finally, it revises a provision of the real estate lending rules, which address the OCC's authority with respect to real estate lending for national banks, to conform with a change that was made to the underlying statute.

The OCC will accept comments on the proposed rules for 60 days after publication in the Federal Register.

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The OCC charters, regulates and examines approximately 2,100 national banks and 52 federal branches of foreign banks in the U.S., accounting for more than 55 percent of the nation's banking assets. Its mission is to ensure a safe and sound and competitive national banking system that supports the citizens, communities and economy of the United States.