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OCC Proposes Streamlined Approach for National Banks To Engage in New Activities through Financial Subsidiaries

WASHINGTON, D.C. -- The Office of the Comptroller of the Currency will publish in tomorrow's Federal Register a proposed rule implementing the financial subsidiary provisions of the Gramm-Leach-Bliley Act (GLBA).

"We are proposing a streamlined approach for national banks that undertake new activities in a financial subsidiary," said Comptroller of the Currency John D. Hawke, Jr.

"We intend to have a final rule in place as soon as the new law becomes effective," the Comptroller added. The effective date of the financial subsidiary provisions of the GLBA is March 11, 2000.

Under the Gramm-Leach-Bliley Act, national banks are permitted to own a new type of entity -- a financial subsidiary -- that may engage in a variety of expanded financial activities, including securities underwriting, that are not permissible for the parent bank.

The OCC's proposed rule would establish an expedited filing process for national banks that seek to acquire a financial subsidiary or engage in expanded activities through one. The rule would give national banks two options.

Under the first option, a national bank could certify in advance that both it and its depository institution affiliates are well capitalized and managed. Thereafter, the bank would file a notice with the OCC when it acquires a financial subsidiary, or begins a type of expanded financial activity permitted in a financial subsidiary. The notice would describe the activities of the financial subsidiary, assert that the bank's certification remains valid and that the conditions set forth in the Gramm-Leach-Bliley Act for a financial subsidiary are met.

The second option would permit national banks to file a combined certification and notice for a financial subsidiary at the same time, at least five days prior to acquiring a financial subsidiary or beginning an expanded financial activity in a financial subsidiary. The information required would be the same as under the first option.

The financial modernization law also established conditions a national bank must meet to acquire or hold an interest in a financial subsidiary. Among the conditions set out in the law, the parent national bank and its depository institution affiliates must be well-capitalized and well-managed. In addition, the assets of all of a national bank's financial subsidiaries may not exceed the lesser of 45 percent of the parent bank's consolidated assets or $50 billion.

Prudential safeguards also apply to financial subsidiaries. These include a requirement that a national bank deduct its equity investment in a financial subsidiary from the assets and tangible equity of the bank.

In addition to financial subsidiaries, national banks will continue to have the option of using operating subsidiaries to conduct bank-permissible activities. Operating subsidiaries may engage in activities that are part of, or incidental to, the business of banking or that are otherwise authorized by statute for the parent national bank.

The OCC seeks comments on today's proposed rule. In particular, as part of its ongoing community bank initiative, the OCC requests comments on the impact of the proposal on community banks, including the impact of the proposal on community bank resources and on the availability of personnel with the needed expertise. The OCC also seeks comments on whether federal branches or agencies of foreign banks should have the same authority as national banks to invest in financial and operating subsidiaries. Comments are due by February 14.

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