

NR 99-55
FOR IMMEDIATE RELEASE
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June 14, 1999

OCC Rule Proposals Would Ease Burdens on Community Banks

WASHINGTON -- Rule changes being proposed today by the Office of the Comptroller of the Currency (OCC) would codify a number of previously issued interpretations that ease burdens on community banks by providing flexibility for national banks to satisfy various corporate requirements under the National Bank Act.

Changes to Part 7 of the OCC's regulations would make it easier for a bank to acquire outstanding shares of its stock and to pay cash to shareholders for their stock interests. These rule changes would make it easier for community national banks to reduce the number of their shareholders and thereby qualify for Subchapter S treatment. IRS Subchapter S rules permit corporations with 75 or fewer shareholders to forego corporate taxes and instead treat the business more like a partnership for tax purposes.

Another Part 7 rule change would increase the number of ways bank directors can hold required stock interests, termed "qualifying shares," in the bank they serve. Under the proposal, directors may acquire qualifying shares from an existing shareholder under a buyback agreement that would give the selling shareholder the right to buy back the shares if the director ceases to serve on the board or seeks to transfer ownership to another. This change is designed to attract qualified directors while maintaining the right of an ownership group to retain long-term control of the bank's stock.

"These changes will eliminate unnecessary burdens and allow national banks to become more competitive," said Comptroller of the Currency John D. Hawke, Jr. "They will be especially beneficial to community banks where competition in the financial services industry is very intense and resources are at a premium."

These proposals follow a series of actions taken by the OCC to deliver regulatory relief to community banks. In May, the OCC issued a call for additional suggestions to decrease regulatory burdens for community banks, including ways to streamline the regulatory approval process, simplify capital requirements and increase credit to small businesses. These proposals are in line with Comptroller Hawke's promise "to do everything in my power to ensure that OCC supervision is responsive to the needs of community bankers."

The OCC also proposed clarifying several issues about types of facilities that constitute branches under the National Bank Act. One proposal deals with the treatment of messenger services.

Other proposed rule changes clarify the treatment of loan production offices, deposit production offices and remote service units.

The OCC also proposed clarifying the scope of its "visitorial" powers over national banks to reflect judicial precedents defining visitorial powers and the extent of the OCC's exclusive authority.

These and other proposed OCC rule changes appeared in today's Federal Register. Comments are due August 13.

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The OCC charters, regulates and examines approximately 2,500 national banks and 61 federal branches and agencies of foreign banks in the United States, accounting for 59 percent of the nation's banking assets. Its mission is to ensure a safe, sound and competitive national banking system that supports the citizens, communities and economy of the United States.