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OCC Rule Changes Ease Burdens on Community Banks

WASHINGTON -- The Office of the Comptroller of the Currency (OCC) will issue final rules tomorrow codifying a number of interpretive letters that make it easier for community banks to satisfy certain corporate requirements under the National Bank Act. These changes are the most recent steps taken by the agency to reduce the regulatory burden on community banks.

"I pledged to do all in my power to ensure that OCC supervision is responsive to the needs of community bankers," Comptroller John D. Hawke, Jr. said. "These regulatory changes reflect my commitment to that important goal."

One change to Part 7 of the OCC's regulations allows banks to more easily buy back their own stock and to pay cash for the acquired shares. This increased flexibility will make it easier for community banks to qualify for Subchapter S status. Under Internal Revenue Service rules, Subchapter S corporations are treated more like a partnership for tax purposes and are not subject to corporate taxes.

Another Part 7 rule change increases the number of ways bank directors can hold required stock interests, termed "qualifying shares," in the bank they serve. For example, under the final rule, directors may acquire qualifying shares under an agreement that would give the seller the right to repurchase the shares if the director ceases to serve on the board or seeks to transfer ownership to another. This change is designed to improve the ability of national banks to attract qualified directors.

The final rule also clarifies several issues about types of facilities that do not constitute "branches" under the National Bank Act. One provision states that, because automated teller machines and other remote service units are explicitly excluded from the definition of "branch" in federal law, they are not subject to state geographic restrictions, operational restrictions, or licensing laws. Another provision clarifies that a facility that combines the non-branch functions of a loan production office, deposit production office, and remote service unit is not a branch by virtue of that combination.

The final rule also clarifies the scope of the OCC's "visitorial" powers over national banks to reflect judicial precedents defining visitorial powers and the extent of the OCC's exclusive authority. This authority applies, for instance, to examination of a bank, inspection of a bank's books and records, regulation and supervision of activities authorized or permitted under federal banking law, and enforcing compliance with any applicable federal or state laws concerning those activities.

The rule changes announced today are a continuation of OCC

initiatives directed at community banks. In June, the OCC issued a notice of proposed rulemaking that would permit community banks with less than \$250 million in assets to self-certify all public welfare investments without OCC prior approval. In May, the OCC issued an advance notice of proposed rulemaking that called 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 rule changes will appear in the Federal Register on Thursday, November 4.

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The OCC charters, regulates and examines approximately 2,400 national banks and 59 federal branches and agencies of foreign banks in the United States, accounting for 58 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.