

## Corporate & Financial Weekly Digest

December 16, 2011 by [Jeffrey M. Werthan](#)

### **OCC Issues Bulletin Announcing Common Supervisory Policies To Be Set For Banks, Thrifts**

On December 8, the Office of the Comptroller of the Currency (OCC), announced via Bulletin OCC 2011-47 (the Bulletin) that it intends to fully integrate the Office of Thrift Supervision (OTS) policy guidance documents into a common set of supervisory policies that applies to both national banks and federal savings associations.

On December 8, the Office of the Comptroller of the Currency (OCC), announced via Bulletin OCC 2011-47 (the Bulletin) that it intends to fully integrate the Office of Thrift Supervision (OTS) policy guidance documents into a common set of supervisory policies that applies to both national banks and federal savings associations. Pursuant to Title III of the Dodd–Frank Wall Street Reform and Consumer Protection Act, all functions of OTS relating to federal savings associations and the rulemaking authority of the OTS relating to all federal savings associations were transferred to the OCC on July 21, 2011 (the transfer date). The legislation continues all OTS orders, resolutions, determinations, agreements, regulations, interpretive rules, other interpretations, guidelines, procedures, and other advisory materials in effect the day before the transfer date. The legislation also allows the OCC to administer these documents with respect to federal savings associations, until the documents are modified, terminated, set aside, or superseded by the OCC, by a court, or by operation of law.

On July 21, 2011, the OCC issued an interim final rule with request for comments that republished, with nomenclature and other technical changes, the OTS regulations formerly found in Chapter V of Title 12 of the Code of Federal Regulations. These republished regulations became effective on July 21, 2011, and will in a future volume be codified in Chapter I at Parts 100 through 197. Now the OCC is embarking on a "comprehensive rulemaking project to integrate, when possible, these former OTS rules with OCC rules applicable to national banks." According to the Bulletin, "[t]he goal is to produce a consistent supervisory approach and integrated policy platform for national banks and federal savings associations, while recognizing differences anchored in statute."

## **Process**

To achieve its objective, the OCC will group "to the extent possible, rescission notifications and other announcements related to the integration of OTS guidance, according to the two-phased process outlined in the following paragraphs," though the OCC also indicated that "particular topics or issues... may warrant immediate action and, therefore, will be addressed separately." Additionally, the OCC stated that it will rescind outdated guidance issued to national banks. The process involves two phases:

**Phase I:** This phase involves rescinding a significant number of documents. The documents rescinded in this phase will include OTS documents that:

- Transmitted or summarized rules, interagency guidance, or Examination Handbook sections (not the conveyed guidance or rule itself);
- Are no longer useful because of the elimination of the OTS or the passage of time; and/or
- Duplicate existing OCC guidance

OCC bulletins will announce these rescissions. To minimize confusion, documents will be watermarked as rescinded on the OCC Web site or former OTS Web site, as applicable.

**Phase II:** This phase focuses on guidance that requires further review, substantive revision, or a combination, or is considered unique to federal savings associations. Guidance that is linked to regulatory or statutory requirements will be coordinated closely with the concurrent integration of OCC and former OTS regulations. In many cases, guidance cannot be revised or combined until the revisions to the rules on which the guidance is based have been finalized. Prioritization of the work will be influenced by feedback from the OCC's supervision staff as it encounters policy differences in the day-to-day supervision of national banks and federal savings associations.

Former OTS policies and guidance remain applicable to federal savings associations until rescinded, superseded, or revised. In some cases, the OCC may amend an OTS rule, policy, or practice that is cross-referenced in more than one document or affects only a portion of a document. If overlapping guidance exists, any guidance or regulation issued by the OCC after July 21, 2011, that specifically includes federal savings associations in its scope, will prevail. If a document has not been rescinded, but a portion of the content no longer applies, the superseded portion will be grayed out electronically. Users should check the OCC Web site for current versions of all guidance.

For more information, click [here](#).

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