

(2) An obligation that finances the construction or improvement of facilities used by a hospital may be eligible as a Type II security, if the hospital is a department or a division of a university, or otherwise provides a nexus with university purposes, such as an affiliation agreement between the university and the hospital, faculty positions of the hospital staff, and training of medical students, interns, residents, and nurses (e.g., a "teaching hospital").

(c) *Obligation issued for housing purposes.* An obligation issued for housing purposes may qualify as a Type II security if the security otherwise meets the criteria for a Type II security.

PART 7—INTERPRETIVE RULINGS

3. The authority citation for part 7 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a.

§ 7.7570 [Removed]

4. Section 7.7570 is removed.

Dated: December 14, 1995.

Eugene A. Ludwig,
Comptroller of the Currency.

[FR Doc. 95-30969 Filed 12-20-95; 8:45 am]

BILLING CODE 4810-33-P

12 CFR Parts 9 and 19

[Docket No. 95-32]

RIN 1557-AB12

Fiduciary Activities of National Banks; Rules of Practice and Procedure

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) proposes to revise its rules that govern the fiduciary activities of national banks. The OCC also proposes to relocate provisions concerning disciplinary sanctions imposed by clearing agencies to its rules of practice and procedure. This proposal is another component of the OCC's Regulation Review Program, which is intended to update and streamline OCC regulations and to reduce unnecessary regulatory costs and other burdens.

DATES: Comments must be received by February 20, 1996.

ADDRESSES: Comments should be directed to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219, Attention: Docket No. 95-32. Comments will be available for public inspection and photocopying at the same location. In

addition, comments may be sent by facsimile transmission to FAX number (202) 874-5274 or by electronic mail to REG.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT:

Andrew T. Gutierrez, Attorney, Legislative and Regulatory Activities Division, (202) 874-5090; Donald N. Lamson, Assistant Director, Securities and Corporate Practices Division, (202) 874-5210; Lisa Lintecum, Director, Fiduciary Activities, (202) 874-5419; Dean Miller, Special Advisor, Fiduciary Activities, (202) 874-4852; Aida M. Plaza, Director for Compliance, Multinational Banking, (202) 874-4610.

SUPPLEMENTARY INFORMATION:

Background

The OCC proposes to revise 12 CFR part 9, which governs the fiduciary activities of national banks, as a component of its Regulation Review Program. One goal of the Regulation Review Program is to review all of the OCC's rules with a view toward eliminating provisions that do not contribute significantly to maintaining the safety and soundness of national banks or to accomplishing the OCC's other statutory responsibilities, including the oversight of national banks' fiduciary activities. Another goal of the Program is to improve clarity of the OCC's regulations.

This rulemaking is the OCC's first comprehensive revision of the rule since 1963.¹ Much about national banks' fiduciary business has changed since that time, including the nature and scope of the fiduciary services that banks offer and the structures and operational methods that banks use to deliver those services. The OCC's particular goal in revising part 9 is to accommodate those changes by lifting unnecessary regulatory burden and facilitating the continued development of national banks' fiduciary business consistent with safe and sound banking practices and national banks' fiduciary obligations. Three principal themes have emerged from the OCC's review of part 9.

First, bank organizational structures, particularly with respect to the geographic structure of banking organizations, have changed significantly since Congress created the basic framework for national banks'

¹ National banks have been authorized to exercise fiduciary powers since 1913. In 1962, the responsibility for the oversight of their fiduciary activities was transferred from the Board of Governors of the Federal Reserve System to the OCC. See 12 U.S.C. 92a. Following the transfer of oversight responsibilities, the OCC promulgated 12 CFR part 9 in 1962 (27 FR 9764), and revised it soon thereafter in 1963 (28 FR 3309).

fiduciary operations. These changes strongly suggest that part 9 should be adjusted so that its requirements are more workable for both large, multistate fiduciary banking organizations and small banks that conduct fiduciary activities primarily on a local basis.

Second, national banks' fiduciary activities, in many respects, are subject to state law. In some cases, however, the OCC has the flexibility either to prescribe a uniform Federal standard or to direct national banks to follow state law.

Third, over the years, part 9 has been applied to a wide variety of investment advisory activities and related services, not all of which involve the bank's exercise of investment discretion. In some cases, banks engaged in these activities are subject to different standards than other types of entities that conduct the same type of business, raising the question of whether the OCC should narrow the range of investment advisory activities to which part 9 applies.

These three themes form the basis for requests for comment on specific provisions and issues described in detail in the remainder of this preamble discussion.

More generally, the proposal revises part 9 in its entirety. The proposal updates, clarifies, and streamlines part 9, incorporates significant interpretive positions, and eliminates unnecessary regulatory burden wherever possible to promote more efficient operation and supervision of national banks' fiduciary activities. The proposal adds headings for ease of reference, but, for the most part, retains the numbering system used in the current regulation. Commenters are invited to address all aspects of the proposal, including recommending further improvements to its organization, structure, and content.

Section-by-Section Description of the Proposal

Authority, Purpose, and Scope (Proposed § 9.1)

The proposal adds a new provision that explicitly sets forth the statutory authority for, and the purpose and scope of, part 9. In addition to standards found in part 9, the OCC provides guidance (including policies, procedures, precedents, circulars, and bulletins) regarding the fiduciary activities of national banks in the "Comptroller's Handbook for Fiduciary Activities." The OCC currently is revising the guidance contained in the "Comptroller's Handbook for Fiduciary Activities." The OCC anticipates that the revised fiduciary guidance will consist of a