

Securities" where it appears in the first, third, and fourth sentences, and by adding in lieu thereof the phrase "Business Transactions"; and by removing the word "District", and the phrases "District Office", "District Offices", and "District Director" where they appear, and by adding in lieu thereof the word "Region", and the phrases "Regional Office", "Regional Offices", and "Regional Director", respectively.

PART 565—PROMPT CORRECTIVE ACTION

53. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

§ 565.9 [Amended]

54. Section 565.9 is amended by removing the phrase "section 565.8" in paragraph (a) and by adding in lieu thereof the phrase "§ 565.7".

PART 566—LIQUIDITY

55. The authority citation for part 566 is revised to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1465, 1467a; 15 U.S.C. 1691, 1691a.

§ 566.2 [Amended]

56. Section 566.2 is amended in paragraph (c) by removing the phrase "§ 566.1, and § 566.3", and by adding in lieu thereof the phrase "and § 566.1".

PART 567—CAPITAL

57. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

58. Section 567.3 is amended by:

- a. revising paragraph (a);
- b. removing, in paragraph (b)(5), the phrase "§ 563.131 of this chapter or other Office regulations", and by adding in lieu thereof the phrase "other Office regulations or other guidance";
- c. revising paragraph (d)(1);
- d. removing, in paragraphs (d)(2) and (d)(3), the phrases "District Director" and "District Director's" each place they appear, and by adding in lieu thereof the phrases "OTS" and "OTS's", respectively;
- e. revising the fourth and fifth sentences of paragraph (d)(3), and removing the third sentence of paragraph (d)(3); and
- f. revising paragraph (d)(5). The revisions read as follows:

§ 567.3 Individual minimum capital requirements.

(a) *Purpose and scope.* The rules and procedures specified in this section

apply to the establishment of an individual minimum capital requirement for a savings association that varies from the requirement that would otherwise apply to the savings association under § 567.2 of this part. Pursuant to 12 U.S.C. 1464(s), the OTS may establish such individual minimum capital requirements for savings associations as it deems necessary or appropriate on a case-by-case basis in light of the particular circumstances of each savings association.

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(d) Procedures—(1) Notification.

When the OTS determines that a minimum capital requirement different from that set forth in § 567.2 of this part is necessary or appropriate for a particular savings association, it shall notify the savings association in writing of its proposed individual minimum capital requirement; the schedule for compliance with the new requirement; and the specific causes for determining that the higher individual minimum capital requirement is necessary or appropriate for the savings association. The OTS shall forward the notifying letter to the appropriate state supervisor if a state-chartered savings association would be subject to an individual minimum capital requirement.

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(3) * * * The OTS shall provide the savings association and the appropriate state supervisor (if a state-chartered savings association is involved) with a written decision on the individual minimum capital requirement, addressing the substantive comments made by the savings association and setting forth the decision and the basis for that decision. Upon receipt of this decision by the savings association, the individual minimum capital requirement becomes effective and binding upon the savings association. *

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(5) *Change in circumstances.* If, after a decision is made under paragraph (d)(3) of this section, there is a change in the circumstances affecting the savings association's capital adequacy or its ability to reach its required minimum capital level by the specified date, OTS may amend the individual minimum capital requirement or the savings association's schedule for such compliance. The OTS may decline to consider a savings association's request for such changes that are not based on a significant change in circumstances or that are repetitive or frivolous. Pending the OTS's reexamination of the original decision, that original decision and any compliance schedule established

thereunder shall continue in full force and effect.

59. Section 567.4 is amended by:

- a. removing, in paragraph (a)(1) introductory text, the phrase "after referral of an appropriate case by a District Director and based on a recommendation of the Office's Office of Enforcement developed in coordination with the Deputy Director for Regional Operations";
- b. revising paragraph (a)(2) introductory text;
- c. revising the second and fifth sentences in paragraph (a)(3)(i) introductory text;
- d. removing, in paragraph (a)(3)(i) introductory text the word "Enforcement" each place it appears, and adding in lieu thereof the phrase "the Office"; and in paragraphs (a)(3)(i)(A) and (C), (a)(3)(ii), (a)(4), and (a)(5)(ii), by removing the words "of Enforcement" each place it appears;
- e. removing, in paragraph (a)(4), the phrase "based on a recommendation from the Office developed in coordination with the Deputy Director for Regional Operations,";
- f. revising paragraph (a)(6); and
- g. removing in paragraph (b)(1) the phrase "(such as an application under § 563.131 of this chapter, or an application for approval to exceed its applicable equity risk investment threshold pursuant to § 563.98(g) of this chapter)".

The revisions read as follows:

§ 567.4 Capital directives.

(a) * * *

(2) *Notice of intent to issue capital directive.* The OTS will determine whether to initiate the process of issuing a capital directive. The OTS will notify a savings association in writing by registered mail of its intention to issue a capital directive. If a state-chartered savings association is involved, the OTS will also notify and solicit comment from the appropriate state supervisor. The notice will state:

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(3) *Response to notice of intent.* (i) * * * The response should also include any information that the savings association wishes the OTS to consider in deciding whether to issue a capital directive. * * * Such responses shall be submitted in accordance with § 516.1(c) of this chapter. * * *

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(6) *Change in circumstances.* Upon a change in circumstances, a savings association may submit a request to the OTS to reconsider the terms of the capital directive or consider changes in the savings association's capital plan