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DEPARTMENT OF THE TREASURY

Office of the Secretary

12 CFR Chapter V

Removal of Office of Thrift Supervision Regulations

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is removing chapter V of title 12, Code of Federal Regulations (CFR), which contains regulations of the former Office of Thrift Supervision (OTS). The OTS, a Bureau of the Department of the Treasury, was abolished effective October 19, 2011, and its rulemaking authority and operative rules were transferred to other agencies pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act. Because those agencies have issued regulations that supersede chapter V, chapter V is no longer necessary.

DATES: Effective October 11, 2018.

FOR FURTHER INFORMATION CONTACT: Heidi Cohen, Senior Counsel for Regulatory Affairs, (202) 622-1142, Office of the Assistant General Counsel for General Law, Ethics & Regulation, Department of the Treasury, 1500 Pennsylvania, Avenue, NW, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

Description of Final Rule

The OTS, a Bureau of the Department of the Treasury, was abolished by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or Act)¹ on October 19, 2011. Titles III and X of the Act transferred the powers, authorities, rights, and duties of the OTS to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Consumer Financial Protection Bureau (collectively, the Agencies), effective July 21, 2011.

Chapter V of title 12 of the CFR sets out the OTS regulations. Several parts of chapter V relate to the administrative functions of the OTS. Because the OTS was abolished, those parts are inoperative. The remaining parts of chapter V concern the supervision and examination of savings associations and savings and loan holding companies. Since the abolishment of the OTS, the Agencies have republished those OTS regulations they will enforce in their own chapters of title 12.²

In order to eliminate the confusion that may arise from having inoperative and superseded regulations of an abolished agency published in the CFR, the Department of the Treasury is removing chapter V of title 12 of the CFR.

Notice and Comment

¹ Public Law 111-203, 124 Stat. 1376 (2010).

² See, e.g., 76 FR 48950 (August 9, 2011) (republishing regulations relating to savings associations in chapter I of title 12); 76 FR 47652 (August 5, 2011) (republishing regulations relating to State savings associations in chapter III of title 12); 76 FR 56508 (September 13, 2011) (republishing regulations relating to savings and loan holding companies in chapter II of title 12); 76 FR 44226 (July 22, 2011) (republishing regulations relating to the Alternative Mortgage Transaction Parity Act and the Truth in Lending Act in chapter X of title 12); 76 FR 78487 (December 19, 2011) (republishing regulations relating to the S.A.F.E. Mortgage Licensing Act in chapter X of title 12); 76 FR 79025 (December 21, 2011) (republishing regulations relating to privacy of consumer financial information in chapter X of title 12); and 76 FR 79308 (December 21, 2011) (republishing regulations relating to the Fair Credit Reporting Act in chapter X of title 12).

The Administrative Procedure Act (APA) generally requires public notice and an opportunity to comment before an agency issues a final rule.³ However, notice and comment are not required before issuing a final rule if the rulemaking relates to agency organization, procedure, or practice or if an agency, for good cause, finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

The Department of the Treasury finds that notice and comment are not required with respect to the removal of the parts of chapter V that govern the organization and administrative functions of the OTS because those parts have been inoperative since the OTS was abolished in 2011.

Furthermore, with respect to the removal of the parts of chapter V that govern savings associations and savings and loan holding companies, the Department of the Treasury finds that notice and comment under the APA are neither necessary nor in the public interest. As discussed above, titles III and X of the Dodd-Frank Act transferred the powers, authorities, rights, and duties of the OTS to the Agencies on July 21, 2011 and abolished the OTS on October 19, 2011. Since that time, the Agencies have issued rules that supersede the OTS regulations relating to savings associations and savings and loan holding companies. This final rule does not make any substantive changes to the regulations currently applicable to savings associations and savings and loan associations and does not substantively affect these regulated entities or the public. It simply removes obsolete provisions that are likely to be a source of confusion. For these reasons, advance notice and comment under the APA are unnecessary and not in the public interest.

Regulatory Flexibility Act Analysis

³ 5 U.S.C. 553(b)(B),

The Regulatory Flexibility Act⁴ (RFA) applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). Pursuant to the APA at 5 U.S.C. 553(b)(B), general notice and an opportunity for public comment are not required prior to the issuance of a final rule when an agency, for good cause, finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” As discussed above, the Department of the Treasury has determined for good cause that the APA does not require notice and public comment on this final rule and, therefore, it is not publishing a notice of proposed rulemaking. Thus, the RFA, pursuant 5 U.S.C. 601(2), does not apply to this final rule.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, adjusted for inflation.⁵ Because this final rule removes inoperative and superseded regulations, the Department of the Treasury has determined that there is no Federal mandate imposed by this rulemaking.

Executive Order 12866

This rule is not a significant regulatory action under Executive Order 12866, Regulatory Planning and Review.

12 CFR Chapter V [Removed]

⁴ (Pub. L. 96–354, Sept. 19, 1980)

⁵ Pub. L. 104–4 (2 U.S.C. 1532).

For the reasons set forth in the preamble and pursuant to titles III and X of the Dodd-Frank Act, amend title 12 of the Code of Federal Regulations by removing chapter V.

Dated: October 4, 2017.

Kody H. Kinsley
Assistant Secretary for Management
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