

■ 6. In § 630.1102, add the definitions of *committed relationship*, *domestic partner*, *parent*, and *son or daughter* in alphabetical order to read as follows:

§ 630.1102 Definitions.

* * * * *

Committed relationship has the meaning given that term in subpart I of this part.

* * * * *

Domestic partner has the meaning given that term in subpart I of this part.

* * * * *

Parent has the meaning given that term in subpart I of this part.

Son or daughter has the meaning given that term in subpart I of this part.

* * * * *

[FR Doc. 2010-14252 Filed 6-11-10; 8:45 am]

BILLING CODE 6325-39-P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

7 CFR Part 3430

[0524-AA61]

Competitive and Noncompetitive Nonformula Federal Assistance Programs—Administrative Provisions for Biomass Research and Development Initiative

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: The National Institute of Food and Agriculture (NIFA), formerly the Cooperative State Research, Education, and Extension Service (CSREES), is publishing a set of specific administrative requirements for the Biomass Research and Development Initiative (BRDI) to supplement the Competitive and Noncompetitive Nonformula Federal Assistance Programs—General Award Administrative Provisions for this program. The BRDI is authorized under section 9008 of the Farm Security and Rural Investment Act of 2002 (FSRIA), as amended by the Food, Conservation, and Energy Act of 2008(FCEA).

DATES: This interim rule is effective on June 14, 2010. The Agency must receive comments on or before October 12, 2010.

ADDRESSES: You may submit comments, identified by 0524-AA61, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: policy@NIFA.usda.gov. Include Regulatory Information Number (RIN) number 0524-AA61 in the subject line of the message.

Fax: 202-401-7752.

Mail: Paper, disk or CD-ROM submissions should be submitted to National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2299; 1400 Independence Avenue, SW., Washington, DC 20250-2299.

Hand Delivery/Courier: National Institute of Food and Agriculture; U.S. Department of Agriculture; Room 2258, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024.

Instructions: All comments submitted must include the agency name and the RIN for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

Carmela Bailey, National Program Leader, Plant and Animal Systems, National Institute of Food and Agriculture, U.S. Department of Agriculture, STOP 3356, 1400 Independence Avenue, SW., Washington, DC 20250-2299; Voice: 202-401-6443; Fax: 202-401-4888; e-mail: cbailey@NIFA.usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Summary

Authority

Section 9008 of the Farm Security and Rural Investment Act of 2002 (FSRIA), Public Law 107-171 (7 U.S.C. 8108), as amended by section 9001 of the Food, Conservation, and Energy Act of 2008 (FCEA), Public Law 110-246, provides authority to the Secretary of Agriculture and the Secretary of Energy, to establish and carry out a joint Biomass Research and Development Initiative (BRDI) under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on and development and demonstration of biofuels and biobased products; and the methods, practices, and technologies for the production of biofuels and biobased products. Should the Secretaries of USDA and DOE decide to make competitive Federal assistance awards under this authority, the rules contained within subpart K apply. Activities authorized under BRDI are carried out in consultation with the Biomass Research and Development Board, established in section 9008(c) of FSRIA and the Biomass Research and

Development Technical Advisory committee established in section 9008(d) of FSRIA. The USDA authority to carry out this program has been delegated to NIFA through the Under Secretary for Research, Education, and Economics.

Purpose

The objectives of BRDI are to develop (a) technologies and processes necessary for abundant commercial production of biofuels at prices competitive with fossil fuels; (b) high-value biobased products (1) to enhance the economic viability of biofuels and power, (2) to serve as substitutes for petroleum-based feedstocks and products, and (3) to enhance the value of coproducts produced using the technologies and processes; and (c) a diversity of economically and environmentally sustainable domestic sources of renewable biomass for conversion to biofuels, bioenergy, and biobased products.

Organization of 7 CFR Part 3430

A primary function of NIFA is the fair, effective, and efficient administration of Federal assistance programs implementing agricultural research, education, and extension programs. As noted above, NIFA has been delegated the authority to administer this program and will be issuing Federal assistance awards for funding made available for this program; and thus, awards made under this authority will be subject to the Agency's assistance regulations at 7 CFR part 3430. Competitive and Noncompetitive Non-formula Federal Assistance Programs—General Award Administrative Provisions. The Agency's development and publication of these regulations for its non-formula Federal assistance programs serve to enhance its accountability and to standardize procedures across the Federal assistance programs it administers while providing transparency to the public. NIFA published 7 CFR part 3430 with subparts A through F as an interim rule on August 1, 2008 [73 FR 44897-44909] and as a final rule on [September 4, 2009] [74 FR 45736-45752]. These regulations apply to all Federal assistance programs administered by NIFA except for the formula grant programs identified in 7 CFR 3430.1(f), the Small Business Innovation Research programs, with implementing regulations at 7 CFR part 3403, and the Veterinary Medicine Loan Repayment Program (VMLRP) authorized under section 1415A of the National Agricultural Research, Extension, and

Teaching Policy Act of 1977 (NARETPA).

NIFA organized the regulation as follows: Subparts A through E provide administrative provisions for all competitive and noncompetitive non-formula Federal assistance awards. Subparts F and thereafter apply to specific NIFA programs.

NIFA is, to the extent practical, using the following subpart template for each program authority: (1) Applicability of regulations, (2) purpose, (3) definitions (those in addition to or different from § 3430.2), (4) eligibility, (5) project types and priorities, (6) funding restrictions (including indirect costs), and (7) matching requirements. Subparts F and thereafter contain the above seven components in this order. Additional sections may be added for a specific program if there are additional requirements or a need for additional rules for the program (*e.g.*, additional reporting requirements). Through this rulemaking, NIFA is adding subpart K for the administrative provisions that are specific to the Federal assistance awards made under the BRDI authority.

Timeline for Implementing Regulations

NIFA is publishing this rule as an interim rule with a 120-day comment period and anticipates publishing a final rule by November 1, 2010. However, in the interim, these regulations apply to the Federal assistance awards made under the BRDI authority.

II. Administrative Requirements for the Proposed Rulemaking

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget. This interim rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; nor will it materially alter the budgetary impact of entitlements, grants, user fees, or loan programs; nor will it have an annual effect on the economy of \$100 million or more; nor will it adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way. Furthermore, it does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities or principles set forth in the Executive Order.

Regulatory Flexibility Act of 1980

This interim rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612. The Department concluded that the rule will not have a significant economic impact on a substantial number of small entities. The rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

Paperwork Reduction Act (PRA)

The Department certifies that this interim rule has been assessed in accordance with the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (PRA). The Department concludes that this interim rule does not impose any new information requirements; however, the burden estimates will increase for existing approved information collections associated with this rule due to additional applicants. These estimates will be provided to OMB. In addition to the SF–424 form families (*i.e.*, Research and Related and Mandatory), SF–425 Federal Financial Report, Financial Status Reports; NIFA has three currently approved OMB information collections associated with this rulemaking: OMB Information Collection No. 0524–0042, NIFA Current Research Information System (CRIS); No. 0524–0041, NIFA Application Review Process; and No. 0524–0026, Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance and Organizational Information.

Catalog of Federal Domestic Assistance

This interim regulation applies to the Federal assistance program administered by NIFA under the Catalog for Federal Domestic Assistance (CFDA) No. 10.1312, Biomass Research and Development Initiative.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

The Department has reviewed this interim rule in accordance with the requirements of Executive Order No. 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that

could result in increased expenditures by State, local, or tribal governments, or by the private sector, the Department has not prepared a budgetary impact statement.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has reviewed this interim rule in accordance with Executive Order 13175, and has determined that it does not have “tribal implications.” The interim rule does not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.”

Clarity of This Regulation

Executive Order 12866 and the President's Memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department invites comments on how to make this interim rule easier to understand.

List of Subjects in 7 CFR Part 3430

Administrative practice and procedure, Agricultural Research, Education, Extension, Federal assistance.

■ Accordingly, title 7 part 3430 of the Code of Federal Regulations is amended as set forth below:

PART 3430—COMPETITIVE AND NONCOMPETITIVE NON-FORMULA FEDERAL ASSISTANCE PROGRAMS—GENERAL AWARD ADMINISTRATIVE PROVISIONS

■ 1. The authority for part 3430 continues to read as follows:

Authority: 7 U.S.C. 3316; Pub. L. 106–107 (31 U.S.C. 6101 note).

■ 2. Add a new subpart K, to read as follows:

Subpart K—Biomass Research and Development Initiative

Sec.

3430.700	Applicability of regulations.
3430.701	Purpose.
3430.702	Definitions.
3430.703	Eligibility.
3430.704	Project types and priorities.
3430.705	Funding restrictions.
3430.706	Matching requirements.
3430.707	Administrative duties.
3430.708	Review criteria.
3430.709	Duration of awards.

Subpart K—Biomass Research and Development Initiative

§ 3430.700 Applicability of regulations.

The regulations in this subpart apply to the Federal assistance awards made

under the program authorized under section 9008 of the Farm Security and Rural Investment Act of 2002, as amended by section 9001 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246).

§ 3430.701 Purpose.

In carrying out the program, NIFA, in cooperation with the Department of Energy, is authorized to make competitive awards under section 9008(e) of FSRIA to develop:

- (a) Technologies and processes necessary for abundant commercial production of biofuels at prices competitive with fossil fuels;
- (b) High-value biobased products—
 - (1) To enhance the economic viability of biofuels and power,
 - (2) To serve as substitutes for petroleum-based feedstocks and products, and
 - (3) To enhance the value of coproducts produced using the technologies and processes; and
- (c) A diversity of economically and environmentally sustainable domestic sources of renewable biomass for conversion to biofuels, bioenergy, and biobased products.

§ 3430.702 Definitions.

The definitions specific to BRDI are from the authorizing legislation, the National Program Leadership of NIFA, and the Department of Energy. The definitions applicable to the program under this subpart include:

Advanced Biofuel means fuel derived from renewable biomass other than corn kernel starch, including:

- (1) Biofuel derived from cellulose, hemicellulose, or lignin;
- (2) Biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);
- (3) Biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;
- (4) Diesel-equivalent fuel derived from renewable biomass, including algal oils, oil seed crops, re-claimed vegetable oils and animal fat;
- (5) Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;
- (6) Butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
- (7) Other fuel derived from cellulosic biomass.

Advisory Committee means the Biomass Research and Development Technical Advisory Committee established by section 9008(d)(1) of FSRIA.

Biobased Product means:

- (1) An industrial product (including chemicals, materials, and polymers) produced from biomass; or
- (2) A commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.

Bioenergy means power generated in the form of electricity or heat using biomass as a feedstock.

Biofuel means a fuel derived from renewable biomass.

Biomass Conversion Facility means a facility that converts or proposes to convert renewable biomass into:

- (1) Heat;
- (2) Power;
- (3) Biobased products; or
- (4) Advanced biofuels.

Biorefinery means a facility (including equipment and processes) that—

- (1) Converts renewable biomass into biofuels and biobased products; and
- (2) May produce electricity.

Board means the Biomass Research and Development Board established by section 9008(c) of the FSRIA of 2002 (7 U.S.C. 8108(c)).

BRDI means the Biomass Research and Development Initiative.

Cellulosic Biofuel means renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass and that has lifecycle greenhouse gas emissions, as determined by the Administrator of the Environmental Protection Agency, that are at least 60 percent less than the baseline lifecycle greenhouse gas emissions.

Demonstration means demonstration of technology in a pilot plant or semi-works scale facility, including a plant or facility located on a farm. A biorefinery demonstration is a system capable of processing a minimum of 50 tons/day of biomass feedstock.

DOE means the Department of Energy.

Institutions of higher education has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

Intermediate Ingredient or Feedstock means a material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials, that are subsequently used to make a more complex compound or product.

Life cycle assessment means the comprehensive examination of a product's environmental and economic aspects and potential impacts throughout its lifetime, including raw material extraction, transportation, manufacturing, use, and disposal.

Life cycle cost means the amortized annual cost of a product, including capital costs, installation costs, operating costs, maintenance costs, and disposal costs discounted over the lifetime of the product.

Pilot Plant is an integrated chemical processing system that includes the processing units necessary to convert biomass feedstock into biofuels/bioenergy/biobased products at a minimum feed rate of 1 ton/day of biomass feedstock.

Private sector entities include companies, corporations, farms, ranches, cooperatives, and others that compete in the marketplace.

Recovered materials means waste materials and by-products that have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (42 U.S.C. 6903 (19)).

Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion.

Renewable Biomass means:

- (1) Materials, pre-commercial thinnings, or invasive species from National Forest System land (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that—

- (i) Are byproducts of preventive treatments that are removed to reduce hazardous fuels; to reduce or contain disease or insect infestation; or to restore ecosystem health;

- (ii) Would not otherwise be used for higher-value products; and

- (iii) Are harvested in accordance with applicable law and land management plans; and the requirements for—

- (A) Old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); and

- (B) Large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

- (2) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe

that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

(i) Renewable plant material, including feed grains; other agricultural commodities; other plants and trees; and algae; and

(ii) Waste material, including crop residue; other vegetative waste material (including wood waste and wood residues); animal waste and byproducts (including fats, oils, greases, and manure); and food waste and yard waste.

Research and development (R&D) projects means a research project only, a development project only, or a combination of research and development project; however, an R&D project may not be submitted including a demonstration project or vice versa.

Semi-works is a combination of chemical processing units that constitute a subset of the fully integrated system and are used to develop process flow diagrams and mass and energy balances for the purposes of scaling up to a demonstration scale facility.

Transportation fuel means fuel for use in motor vehicles, motor vehicle engines, non-road vehicles, or non-road engines (except for ocean-going vessels).

§ 3430.703 Eligibility.

To be eligible to receive an award under this subpart, the recipient shall be—

- (a) An institution of higher education (as defined in § 3430.702);
- (b) A National Laboratory;
- (c) A Federal research agency;
- (d) A State research agency;
- (e) A private sector entity (as defined in § 3430.702 of this part);
- (f) A nonprofit organization; or
- (g) A consortium of two or more entities listed in paragraphs (a) through (f) of this section.

§ 3430.704 Project types and priorities.

(a) *Technical Topic Areas.* Biomass Research and Development Initiative (BRDI) awards shall be directed (in consultation with the Biomass Research and Development Board, the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies) in the following three primary technical topic areas:

(1) *Feedstocks Development.* Research, development, and demonstration activities regarding feedstocks and feedstock logistics (including the harvest, handling, transport, preprocessing, and storage) relevant to production of raw materials

for conversion to biofuels and biobased products.

(2) *Biofuels and Biobased Products Development.* Research, development, and demonstration activities to support—

(i) The development of diverse cost-effective technologies for the use of cellulosic biomass in the production of biofuels and biobased products; and

(ii) Product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that potentially can increase the feasibility of fuel production in a biorefinery.

(3) *Biofuels Development Analysis—*

(i) *Strategic Guidance.* The development of analysis that provides strategic guidance for the application of renewable biomass technologies to improve sustainability and environmental quality, cost effectiveness, security, and rural economic development.

(ii) *Energy and Environmental Impact.* Development of systematic evaluations of the impact of expanded biofuel production on the environment (including forest land) and on the food supply for humans and animals, including the improvement and development of tools for life cycle analysis of current and potential biofuels.

(iii) *Assessment of Federal Land.* Assessments of the potential of Federal land resources to increase the production of feedstocks for biofuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

(b) *Additional Considerations.* Within the technical topic areas described in § 3430.704(a)(3), NIFA, in cooperation with DOE, shall support research and development to—

(1) Create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices;

(2) Maximize the environmental, economic, and social benefits of production of biofuels and derived biobased products on a large scale; and

(3) Facilitate small-scale production and local and on-farm use of biofuels, including the development of smallscale gasification technologies for production of biofuel from cellulosic feedstocks.

§ 3430.705 Funding restrictions.

(a) *Facility costs.* Funds made available under this subpart shall not be used for the planning, repair,

rehabilitation, acquisition, or construction of a building or facility.

(b) *Indirect costs.* Subject to § 3430.52 of this part, indirect costs are allowable for Federal assistance awards made by NIFA.

(c) *Minimum allocations.* After consultation with the Board, NIFA in cooperation with DOE, shall require that each of the three technical topic areas described in § 3430.704 of this part receive not less than 15 percent of funds made available to carry out BRDI.

§ 3430.706 Matching requirements.

(a) *Requirement for Research and/or Development Projects.* The non-Federal share of the cost of a research or development project under BRDI shall be not less than 20 percent of the total Federal funds awarded. NIFA may reduce the non-Federal share of a research or development project if the reduction is determined to be necessary and appropriate.

(b) *Requirement for Demonstration and Commercial Projects.* The non-Federal share of the cost of a demonstration or commercial project under BRDI shall be not less than 50 percent of the total Federal funds awarded.

(c) *Indirect costs.* Use of indirect costs as in-kind matching contributions is subject to § 3430.52 of this part.

§ 3430.707 Administrative duties.

(a) After consultation with the Board, NIFA, in cooperation with DOE, shall:

(1) Publish annually one or more joint requests for proposals for Federal assistance under BRDI; and

(2) Require that Federal assistance under BRDI be awarded based on a scientific peer review by an independent panel of scientific and technical peers.

(b) NIFA, in cooperation with DOE, shall ensure that applicable research results and technologies from the BRDI are:

(1) Adapted, made available, and disseminated, as appropriate; and

(2) Included in the best practices database established under section 1672C(e) of the Food, Agriculture, Conservation, and Trade Act of 1990.

§ 3430.708 Review criteria.

(a) *General.* BRDI peer reviews of applications are conducted in accordance with requirements found in section 9008 of the Farm Security and Rural Investment Act of 2002 (FSRIA), Public Law 107-171 (7 U.S.C. 8101 *et seq.*); section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and regulations found in title 7 of the Code

of Federal Regulations, sections 3430.31 through 3430.37.

(b) *Additional Considerations.* Special consideration will be given to applications that—

(1) Involve a consortium of experts from multiple institutions;

(2) Encourage the integration of disciplines and application of the best technical resources; and

(3) Increase the geographic diversity of demonstration projects.

§ 3430.709 Duration of awards.

The term of a Federal assistance award made for a BRDI project shall not exceed 5 years. No-cost extensions of time beyond the maximum award terms will not be considered or granted.

Signed at Washington, DC, on June 4, 2010.

Roger Beachy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2010-14159 Filed 6-11-10; 8:45 am]

BILLING CODE 3410-22-P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 4280

Rural Microentrepreneur Assistance Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Interim rule; correction.

SUMMARY: The Agency published a document in the **Federal Register** of May 28, 2010, establishing a technical and financial assistance program for qualified microenterprise development organizations to support microentrepreneurs in the development and ongoing success of rural microenterprises. This document corrects the Office of Management and Budget (OMB) control number assigned to the collection of information approved by OMB for the interim rule.

DATES: Effective on June 28, 2010.

FOR FURTHER INFORMATION CONTACT: Lori Washington, (202) 720-9815.

SUPPLEMENTARY INFORMATION: As published, the interim rule references the OMB control number assigned for the collection of information as 0570-XXXX under the Paperwork Reduction Act section and in § 4280.400. The correct reference should read: 0570-0062.

In the **Federal Register** of May 28, 2010 (75 FR 30114), in FR Doc. 2010-11931, make the correction in the following places:

1. On page 30115, column 1, under the heading “Paperwork Reduction Act,” lines 8 and 21, revise the reference “0570-XXXX” to read “0570-0062”; and

2. On page 30158, column 3, line 6, under “§ 4280.400,” revise the reference “0570-XXXX” to read “0570-0062”.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2010-14160 Filed 6-11-10; 8:45 am]

BILLING CODE 3410-XY-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 561

[Docket ID OTS-2010-0011]

RIN 1550-AC40

Definitions for Regulations Affecting All Savings Associations; Money Market Deposit Accounts

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision is amending its regulations to eliminate restrictions on certain kinds of transfers from money market deposit accounts for savings associations. The Board of Governors of the Federal Reserve System (the FRB) has already amended its regulations (“Regulation D”) to eliminate these restrictions for member banks. Because this change is ministerial, the OTS has determined for good cause that public notice and comment is unnecessary under the Administrative Procedure Act (APA) and is implementing this change by means of a final rule without notice and comment.

DATES: *Effective Date:* The rule is effective June 14, 2010.

FOR FURTHER INFORMATION CONTACT: Suzanne McQueen, Consumer Regulation Analyst, Compliance and Consumer Protection (202) 906-6451, Marvin L. Shaw, Senior Attorney, Regulations and Legislation Division, Office of the Chief Counsel, (202) 906-6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION

I. Background

A. Federal Reserve Board Amendments to Regulation D

On May 29, 2009, the Board of Governors of the Federal Reserve System (FRB) issued final amendments

to 12 CFR part 204, “Reserve Requirements of Depository Institutions (Regulation D).”¹ Among other changes, the amendments eliminate restrictions on certain types of transfers that consumers can make from savings deposits. The changes became effective on July 2, 2009. In the definition for savings deposit, Regulation D lists several types of savings deposit accounts, including Money Market Deposit Accounts.

Prior to the FRB amendments, Regulation D limited the number of “convenient” transfers and withdrawals from savings deposits to not more than six per month. Within this overall limit of six, not more than three transfers or withdrawals could be made by check, debit card, or similar order by the depositor and payable to third parties (the three transfer sublimit). Under the FRB final amendments to Regulation D, the permissible monthly number of transfers or withdrawals from savings deposits by check, debit card, or similar order payable to third parties has been increased from three to six. In other words, while the FRB has decided to retain the overall six-transfer limit for savings deposits, it has eliminated the three transfer sublimit within the overall limit that applied to transfers or withdrawals from savings deposits by check, debit card, or similar order payable to third parties. The FRB decided to eliminate the three transfer sublimit because distinctions between such transfers and other types of pre-authorized or automatic transfers subject to the six-per-month limit were no longer logical in light of technological advances.

B. OTS Regulations Addressing Savings Accounts

Pursuant to its authority under the Home Owners’ Loan Act (HOLA),² OTS issued regulations addressing limits on certain types of savings accounts known as Money Market Deposit Accounts (MMDAs) at 12 CFR 561.28. A second provision—12 CFR 557.10—which addresses OTS’s authority under HOLA to raise funds through accounts, further specifies that “12 CFR parts 204 [Regulation D] and 230 apply to your deposit accounts.”

OTS has received inquiries from savings associations about whether the agency is planning to amend its definition of MMDA to make it consistent with the FRB and FDIC³ regulations. The savings associations stated that without such an amendment

¹ 74 FR 25629.

² 12 U.S.C. 1462, 1463, 1464.

³ 74 FR 47050 (September 15, 2009).