Before publication of this interim rule, Michigan was designated in § 77.1 of the regulations as an accredited-free State. However, because tuberculosis has recently been confirmed in one beef herd within the State, the Administrator has determined that Michigan no longer meets the criteria for designation as an accredited-free State, but instead meets the criteria for designation as an accredited-free (suspended) State. Therefore, we are amending the regulations by removing Michigan from the list of accredited-free States in § 77.1 and adding it to the list of accredited-free (suspended) States in that section.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to change the regulations so that they accurately reflect the current tuberculosis status of Michigan as an accredited-free (suspended) State. This will provide prospective cattle and bison buyers with accurate and up-to-date information.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the tuberculosis regulations concerning the interstate movement of cattle and bison by reducing the designation of Michigan from an accredited-free State to an accredited-free (suspended) State. We are taking this action because tuberculosis has recently been confirmed in one beef herd in Michigan. This action is necessary to prevent the spread of tuberculosis in cattle and bison.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule will have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, 9 CFR part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, in the definition for *Accredited-free state,* paragraph (2) is amended by removing the word ''Michigan,''.

3. In § 77.1, in the definition for *Accredited-free* (suspended) State, paragraph (2) is amended by removing the word ''None'' and adding the word ''Michigan'' in its place.

Done in Washington, DC, this 7th day of August 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–21763 Filed 8–12–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98–018–2]

Brucellosis in Cattle; State and Area Classifications; Georgia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Georgia from Class A to Class Free. We have determined that Georgia meets the standards for Class Free status. The interim rule was necessary to relieve certain restrictions on the interstate movement of cattle from Georgia.

EFFECTIVE DATE: The interim rule was effective on April 21, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. R.T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–7709; or e-mail: rrollo@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on April 21, 1998 (63 FR 19652–19653, Docket No. 98–018–1), we amended the brucellosis regulations in 9 CFR part 78 by removing Georgia from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a).

Comments on the interim rule were required to be received on or before June 22, 1998. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 63 FR 19652–19653 on April 21, 1998.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 7th day of August 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–21762 Filed 8–12–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 98–76]

RIN 1550–AB16

Transactions With Affiliates; Reverse Repurchase Agreements

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing a final rule to revise its regulations on transactions with affiliates. The final rule clarifies that OTS will treat reverse repurchase agreements, with one limited exception, as loans or other extensions of credit for the purposes of section 11(a)(1)(A) of the Home Owners' Loan Act (HOLA). Therefore, a savings association generally may not enter into a reverse repurchase agreement with an affiliate that is engaged in non-bank-holding company activities.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Valerie J. Lithotomos, Counsel (Banking and Finance), (202) 906–6439; Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639, Regulations and Legislation Division, Chief Counsel's Office; or Donna Deale, Manager, (202) 906–7488, Supervision Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Section 11(a)(1) of the Home Owners' Loan Act (HOLA) applies the provisions of sections 23A and 23B of the Federal Reserve Act (FRA) to every savings association to the same extent as if the thrift were a member bank of the Federal Reserve System. Section 11(a)(1) also imposes several additional restrictions on a savings association's transactions with affiliates beyond those found in sections 23A and 23B of the FRA. Specifically, section 11(a)(1)(A) states that ''no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 10(c)(2)(F)(i) of the HOLA.'' These activities include activities approved for bank holding companies by regulation, 12 CFR 225.28, or by case-by-case order of the Federal Reserve Board, 12 CFR 225.23. Thus, under section 11(a)(1)(A), a thrift may not make a loan or other extension of credit to an affiliate engaged in non-bank holding company activities (non-banking affiliate).

OTS is aware that there may be situations where savings associations may wish to enter into reverse repurchase agreements with their non-banking affiliates.[1] These arrangements raise the question whether a reverse repurchase agreement is a loan or other extension of credit for the purposes of the prohibition in section 11(a)(1)(A) of the HOLA.

On April 13, 1998, OTS published a notice of proposed rulemaking that would treat most reverse repurchase agreements as loans or other extensions of credit.[2] OTS noted that section 11(a)(1)(A) does not define ''loan or other extension of credit,'' and does not compel a legal conclusion that reverse repurchase agreements are, or are not, prohibited by statute.[3] Section 11, however, focuses on prohibiting transactions with non-banking affiliates that transfer credit and other risks to the thrift. As a general matter, a reverse repurchase agreement with a non-banking affiliate bears many of the economic characteristics of a loan or extension of credit to such an affiliate.[4] On this basis, OTS concluded that it was appropriate to treat these transactions as loans or extensions of credit under section 11(a)(1)(4).

Credit and other risks may be ameliorated significantly under certain circumstances. For example, in one arrangement recently reviewed by OTS, a thrift planned to sell United States Treasury securities to its holding company, subject to the thrift's agreement to repurchase the securities after a pre-determined period, several years later. Using reverse repurchase agreements, the savings association would also purchase United States Treasury securities from the holding company, subject to the holding company's agreement to repurchase on an overnight (or next-business-day) basis. The holding company, in effect, would use the overnight purchases to manage its available cash. At all times,

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[1] A sale of assets subject to an agreement to repurchase is known as a ''reverse repurchase agreement'' when a bank or thrift is the purchaser of the assets. See M. Stigum, The Repo and Reverse Markets 4 (1989).

[2] 63 FR 17966 (April 13, 1998).

[3] In making this determination, OTS recognized that the definition of ''covered transaction'' under section 23A(b)(7) of the FRA lists ''a purchase of assets, including assets subject to an agreement to repurchase'' separately from ''a loan or extension of credit.'' *See* 12 U.S.C. 371c(b)(7)(A), (C). The fact that a reverse repurchase is considered to be an asset purchase, rather than an extension of credit under section 23A of the FRA, however, does not control the interpretation of section 11 of the HOLA.

Although section 23A and section 11(a)(1)(A) are both designed to prevent abuses by affiliates, the two statutes pursue this goal differently. Section 23A identifies a class of covered transactions that threaten prudent business relationships and places various restrictions on the transactions. Some restrictions apply to all transactions. Others apply only to certain types of covered transactions. (*E.g.*, loans and extensions of credit are subject to specific collateralization requirements. Purchases, including purchases that are subject to a repurchase agreement, are subject to a prohibition on the purchase of low quality assets.) Thus, to impose the appropriate restrictions, section 23A must distinguish between covered transactions that are reverse repurchase agreements and loans and covered transactions that are other extensions of credit.

Moreover, we note that section 11(a)(1)(A) of the HOLA does not specifically incorporate the definition of covered transaction under section 23A. In light of the numerous other cross-references to section 23A of the FRA that are contained in section 11 of the HOLA, it is reasonable to conclude that if Congress had intended to restrict ''loans or other extensions of credit'' only to those transactions that are loans and extensions of credit for the purposes of section 23A, it would have included a specific cross-reference to that statute.

[4] The savings association transfers funds to the affiliate, expecting to be repaid when the company repurchases the assets. The purchased assets essentially amount to collateral, since the savings association is required to return the assets at the time of repurchase. The savings association earns a pre-determined amount under the agreement. The principal risk to the savings association, its depositors and the deposit insurance fund is credit risk—the possibility that the affiliate will default on its obligation to make the repurchase. These types of agreements are generally considered the functional equivalent of a loan or extension of credit. *See* amendments to Federal Financial Institutions Examination Council Policy Statement on Repurchase Agreements of Depository Institutions with Securities Dealers and Others (''FFIEC Policy Statement''), 63 FR 6935 (February 11, 1998).