for public comment are unnecessary. Therefore, the amendment is adopted in final form.

List of Subjects in 12 CFR Part 203

Banks, Banking, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

■ 1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

■ 2. In Supplement I to part 203, under section 203.2 Definitions, *2(e) Financial Institution*, paragraph 2. is revised.

Supplement I to Part 203—Staff Commentary

* * * * *

Section 203.2—Definitions
2(e) Financial Institution

* * * * *

2. *Adjustment of exemption threshold for depository institutions.* For data collection in 2008, the asset-size exemption threshold is $37 million. Depository institutions with assets at or below $37 million as of December 31, 2007 are exempt from collecting data for 2008.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, December 14, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–24612 Filed 12–19–07; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 584

[Docket ID OTS–2007–0007]

RIN 1550–AC10

Permissible Activities of Savings and Loan Holding Companies

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is revising its regulations, at 12 CFR 584.2 and 584.2–2, to expand the permissible activities of savings and loan holding companies (SLHCs) to the full extent permitted under the Home Owners' Loan Act (HOLA). In addition, OTS is amending 12 CFR 584.4 to conform the regulation to the statute that it is intended to implement, and to set forth standards that OTS will use to evaluate applications submitted pursuant to the statutory application requirement.

DATES: This rule is effective April, 2008.

FOR FURTHER INFORMATION CONTACT: Donald W. Dwyer, Director, Applications, Examination and Supervision—Operations, (202) 906–6414; or Kevin A. Corcoran, (202) 906–6962, Deputy Chief Counsel for Business Transactions, Office of Chief Counsel; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 27, 2007, OTS published a notice of proposed rulemaking (NPR) that proposed certain changes to the OTS Holding Company Regulations.[1] In the NPR, OTS proposed to expand the activities permissible for SLHCs. In addition, OTS proposed to revise its regulations at 12 CFR 584.4 to: (i) Conform to the statute it implements by providing that OTS may approve acquisitions by SLHCs of more than five percent of the voting shares of a savings association that is not a subsidiary of the acquiring SLHC, or more than five percent of the voting shares of a SLHC that is not a subsidiary of the acquiring SLHC; (ii) provide approval standards for applications submitted under the regulation; and (iii) reorganize the regulation.

A. Holding Company Activities

With respect to holding company activities, under section 10(c)(9) of the HOLA,[2] SLHCs generally are permitted to engage only in activities that are permissible for financial holding companies under section 4(k) of the Bank Holding Company Act (BHCA),[3] or activities that are listed in section 10(c)(2) of the HOLA.[4] Section 10(c)(2)(F)(i) permits SLHCs to engage in activities:

> which the Board of Governors of the Federal Reserve System, by regulation, has determined to be permissible for bank holding companies under section 1843(c) of this title, unless the Director, by regulation, prohibits or limits any such activity for savings and loan holding companies. * * *[5]

As authorized by the statute, OTS limited the activities permitted for SLHCs under section 10(c)(2)(F)(i) of the HOLA. OTS regulations implementing section 10(c)(2)(F)(i) have limited the activities that are permissible under this authority to activities that the Board of Governors of the Federal Reserve System (FRB) has permitted for bank holding companies under regulations implementing section 4(c)(8) of the BHCA.[6]

In the NPR, OTS observed that the regulatory scheme for SLHCs has changed significantly since the regulations were first promulgated in 1987. In 1987, most SLHCs were excepted from activities restrictions. After the passage of the Gramm-Leach-Bliley Act[7] in 1999, all new SLHCs have been, with limited exceptions, subject to activities restrictions.

In addition, since 1987 many foreign entities have acquired, or have expressed interest in acquiring, a savings association. To the extent that sections 4(c)(9) and 4(c)(13) of the BHCA, and regulations that the FRB has promulgated thereunder, authorize bank holding companies with foreign operations to engage in certain activities, it would appear appropriate to provide the same authority to SLHCs.

For many years, bank holding companies have been permitted to engage in the activities described in section 4(c) of the BHCA, consistent with the regulations of the FRB. OTS is not aware of any safety and soundness or other reason why SLHCs should not be permitted to engage in the same activities.

Accordingly, OTS proposed to revise its regulations to enable SLHCs to engage in activities that the FRB has permitted under any regulation that the FRB has promulgated under section 4(c) of the BHCA.

B. Approval Requirement for Certain Acquisitions by SLHCs

Section 10(e)(1)(A)(iii) of HOLA prohibits SLHCs from directly or indirectly acquiring, without OTS approval, more than five percent of the voting shares of a savings association that is not a subsidiary of the acquiring SLHC, or more than five percent of the voting shares of a SLHC that is not a subsidiary of the acquiring SLHC.[8]

[1] 72 FR 14246 (Mar. 27, 2007).

[2] 12 U.S.C. 1467a(c)(9).

[3] 12 U.S.C. 1843(k).

[4] 12 U.S.C. 1467a(c)(2). SLHCs that were SLHCs on May 4, 1999, and meet certain other requirements, are excepted from the activities limitations of section 10(c)(9) of the HOLA. See 12 U.S.C. 1467a(c)(9)(C).

[5] 12 U.S.C. 1467a(c)(2)(F)(i).

[6] 12 U.S.C. 1843(c)(8).

[7] Pub. L. 106–102, 113 Stat. 338, section 401.

[8] 12 U.S.C. 1467a(e)(1)(A)(iii). The statute establishes eight exceptions from the approval

Continued

The Holding Company Regulations, at 12 CFR 584.4, implement section 10(e)(1)(A)(iii) of HOLA. The American Homeownership and Economic Opportunity Act of 2000 [9] (AHEO Act) amended section 10(e)(1)(A)(iii) to replace the former absolute prohibition on SLHCs acquiring more than five percent of the voting shares of a savings association or SLHC not a subsidiary of the acquiring SLHC (subject to the exceptions noted above), with a regulatory approval requirement. In the NPR, OTS proposed to replace the absolute prohibition in the regulation with an approval requirement, to make the regulation consistent with the statute.

In addition, although the AHEO Act established a regulatory approval requirement for the acquisitions in question, the statute did not establish approval standards for applications submitted as a result of the approval requirement. OTS proposed to amend the regulation to set forth approval standards for applications submitted under section 10(e)(1)(A)(iii) and § 584.4.

Finally, in light of the amendments to § 584.4 proposed above, OTS proposed to reorganize § 584.4.

II. Public Comments

OTS received six comments regarding the NPR. Three were from trade associations in which savings associations are members, one was from a savings association, one was from an SLHC, and one was from a trade association in which credit unions are members.

All of the comments except one expressed support for the proposed amendments. The comment that did not support the proposed amendments did not object to the expansion of permissible holding company activities or the revisions to section 584.4, but asserted that the proposed regulation would provide ''insufficient transparency'' because the provisions relating to permissible holding company activities did not provide for public comment in the event an application was required.[10]

OTS has considered the comment and has decided not to require public notice and comment for applications required under the holding company activities regulations. The application provisions of the holding company activities regulations have been in place since the 1980s, and have not required publication. OTS is not aware of any negative consequences that have resulted from the lack of a publication requirement. Moreover, the relevant statute, section 10(c)(4) of HOLA, does not require publication. Also, no public comment is required for SLHCs to engage in financial holding company activities, which generally are broader than bank holding company activities. Finally, in the event that OTS concludes that public comment is appropriate in a particular case, OTS may require public notice and comment.

Four of the remaining comments made specific suggestions regarding the proposed regulation.

One commenter requested that OTS clarify that any SLHC that seeks to exercise powers that the FRB has provided to bank holding companies pursuant to sections 4(c)(9) or 4(c)(13) of the BHCA must comply with the terms and conditions that the FRB has applied to bank holding companies under FRB regulations, including the Qualifying Foreign Banking Organization (QFBO) test, and 12 CFR 211.602.

It is OTS's position that SLHCs that exercise powers pursuant to section 4(c)(9) of the BHCA must comply with the QFBO test, and that SLHCs that exercise powers pursuant to section 4(c)(13) of the BHCA must comply with 12 CFR 211.602. OTS believes that the regulation, as proposed, and as promulgated today, makes clear that SLHCs that propose to engage in activities that are permissible for bank holding companies under section 4(c) of the BHCA generally must do so pursuant to the conditions set forth in the FRB's regulations. In this regard, the regulation provides that ''the services and activities permissible for bank holding companies pursuant to regulations that the [FRB] has promulgated pursuant to section 4(c) of the [BHCA] are permissible for [SLHCs and their non-savings association subsidiaries].''

Another commenter asserted that, since 1999, the FRB has approved certain bank holding company activities that were not approved as of 1999 on an informal basis through the issuance of interpretations. The commenter urges OTS to confirm that if the ''activity has been approved by an interpretation of Section 4(c)(8) for bank holding companies, * * * the activity be considered approved for savings and loan holding companies.''

The HOLA and OTS regulations provide that if an activity has been permitted under the FRB's regulations, promulgated under section 4(c) of the BHCA, it is permissible for SLHCs. If the FRB has interpreted those regulations to permit certain activities, OTS would generally adhere to those interpretations. However, without knowing the facts and circumstances regarding a particular interpretation, OTS cannot confirm the commenter's position with respect to any particular interpretation.

The same commenter has requested that OTS clarify that OTS's procedures and requirements for SLHC activities remain separate and distinct from those of the FRB for bank holding companies. The commenter asserts that imposition of additional regulatory procedures and requirements for SLHCs would require further public notice and comment.

OTS regulations, at 12 CFR 584.2–2, set forth the procedures for filing with OTS for permission to engage in bank holding company activities.

As noted in the preamble to the NPR, Section 10(c)(4) of the HOLA generally requires prior OTS approval with respect to the activities described in section 10(c)(2)(F)(i) of the HOLA. Certain of these activities are already permitted under other OTS regulations without prior OTS approval, or are permitted under FRB regulations without prior FRB approval. In the preamble to the NPR, OTS proposed, in order to avoid imposing additional restrictions on currently permissible activities, and to provide for parity between bank holding companies and SLHCs to the extent possible, to provide in the regulation that activities that are authorized under section 10(c)(2)(F)(i) of HOLA, but are also permissible under

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requirement. See 12 U.S.C. 1467a(e)(1)(A)(iii)(I)–(VIII). In addition, section 10(e)(1)(A)(iii) prohibits multiple SLHCs from acquiring or retaining more than five percent of the voting shares of any company not a subsidiary that is engaged in any business activity other than the activities specified in section 10(c)(2) of HOLA.

[9] Pub. L. 106–569 (Dec. 27, 2000), at section 1202, 114 Stat. 3032.

[10] The same commenter also asserted that OTS should undertake greater efforts to ensure that information regarding SLHC activities and acquisitions is widely disseminated on a national basis to those in the financial services industry who are interested in following these activities. OTS considers this comment to be beyond the scope of the NPR. In any event, information regarding acquisitions of depository institutions by SLHCs is publicly available, and information regarding the activities of SLHCs with securities registered under the Securities Exchange Act of 1934 is publicly available.

The commenter also asserted that the OTS Application Processing Regulations should be revised to require a meeting to occur where a commenter raises an objection to a transaction. This comment also is beyond the scope of the NPR. OTS recently amended 12 CFR 516.170 to eliminate the requirement that a meeting be held under such circumstances, and state, instead, that OTS will grant a meeting request if it ''finds that written submissions are insufficient to address facts or issues raised in an application, or otherwise determines that a meeting will benefit the decision-making process.'' See 69 FR 68239, at 68242 (Nov. 24, 2004). The amendment revised the meeting provisions to conform more closely to those of the other banking agencies.

other provisions of section 10(c) of the HOLA or under FRB regulations without prior FRB approval are preapproved.

OTS, in preparing this final regulation, has carefully considered the provisions of section 10(c)(4) of the HOLA, and of OTS regulations. Section 10(c)(4) of HOLA requires that OTS, in reviewing an application by an SLHC to engage in a bank holding company activity under authority of section 10(c)(2)(F)(i) of the HOLA, consider whether the performance of the activity in question can reasonably be expected to produce benefits to the public that outweigh possible adverse effects of such activity, the managerial resources of the companies involved, and the adequacy of the financial resources, including capital, of the companies involved. [11]

Because the standard requires OTS to consider factors relating to the specific company and activity, OTS believes that preapproval of such activities is not appropriate for all SLHCs. [12] However, OTS conducts comprehensive consolidated supervision of SLHCs, including assessing financial and managerial resources at each holding company examination, and on a routine basis through ongoing offsite monitoring. OTS, therefore, believes that an SLHC that received a rating of satisfactory or above prior to January 1, 2008, or a composite rating of ''1'' or ''2'' thereafter, on its most recent examination, and is not deemed to be in a troubled condition [13] meets the statutory criteria pertaining to managerial and financial resources. In addition, OTS believes that, where an SLHC that has the requisite managerial and financial resources proposes to commence an activity *de novo*, the activity would not lead to undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices. [14]

Accordingly, OTS is amending the Holding Company Regulation to provide that where any SLHC that proposes to engage in an activity on a *de novo* basis is rated satisfactory or above and is not in a troubled condition, the activity is preapproved. [15]

Finally, one commenter, a savings association subsidiary of a mutual holding company (MHC), requested that OTS clarify one of the effects of the proposal on permissible activities for MHCs.

Under 12 CFR 575.11(a), an MHC may engage in any business activity specified in section 10(c)(2) or section 10(c)(9) of the HOLA. Because OTS previously limited the bank holding company activities that SLHCs may engage in under section 10(c)(2)(F)(i) to the section 4(c)(8) activities, activities described in other subsections of section 4(c) generally have not been permissible for MHCs.

Section 4(c)(6) of the BHCA permits bank holding companies to hold less than five percent of the outstanding shares of any company. Today's amendment to the holding company activities regulations results in § 575.11(a) authorizing mutual holding companies to engage in the activity of holding less than five percent of the stock of any entity.

The comment notes that a separate section of the MHC regulations, 12 CFR 575.10(a)(6), includes language that appears to contradict this result. Section 575.10(a)(6) provides that an MHC may make controlling or non-controlling investments in the stock of entities other than savings associations or SLHCs only under certain circumstances. One of the requirements is that the company in which the investment is made be engaged exclusively in activities that are permissible for MHCs pursuant to section 575.11(a), or that the stock may be purchased by a federal savings association under the OTS subordinate organization regulations or by a state savings association under the law of the relevant state.

The commenter's concern is that while § 10(c)(2) and § 575.11(a), by their terms, permit MHCs to hold up to five percent of the voting stock of any entity, § 575.10(a)(6) appears to indicate that even where the investment in a company's stock is less than five percent, the company's activities must be permissible under § 575.11.

Assume, for example, that an MHC proposes to acquire 3.9 percent of the stock of a retail store. The acquisition of the shares would be permissible under § 575.11(a), because section 10(c)(2) of HOLA (through the reference to section 4(c) of the BHCA, under section 10(c)(2)(F)(i)) allows an MHC to hold less than five percent of the voting stock of any company. The activity raises an issue under § 575.10(a)(6), because, while the MHC itself may be engaged in a permissible activity under § 575.11, certain language in § 575.10(a)(6) appears to require the company in which the investment is made to be engaged only in permissible activities. Since the company is engaged in retail activities, there is an issue as to whether the investment is outside the scope of § 575.10(a)(6).

OTS concludes that it is appropriate to interpret § 575.10(a)(6) as not prohibiting an MHC from making non-controlling investments in another entity where that investment includes less than five percent of the entity's voting stock, regardless of the specific activities in which the entity engages. Otherwise, the ability of MHCs to engage in activities within the scope of section 4(c)(6) of the BHCA would be meaningless for MHCs. In addition, § 575.10(a) implements section 10(o)(5) of HOLA, which, by its terms, allows MHCs to engage in, among other things, the activities described in section 10(c)(2) of the HOLA. Furthermore, section 10(o)(7) of HOLA provides that, unless the context otherwise requires, an MHC is subject to the requirements of section 10 regarding SLHCs.

The commenter also requested that OTS confirm that no prior notice or application to OTS is required under the MHC regulations for an MHC to engage in activities that are authorized for bank holding companies under section 4(c) of the BHCA, including investments in less than five percent of the stock of another entity.

Section 10(o)(7) of the HOLA provides that, unless the context otherwise requires, MHCs are subject to the other requirements of section 10 of the HOLA regarding regulation of SLHCs. Accordingly, MHCs are subject to the filing requirements under section 10(c)(4) of the HOLA discussed above, regarding activities that are permissible under section 4(c) of the BHCA, which are set forth in section 584.2–2(a). Moreover, under section 575.11(a), MHCs are required to file with OTS to engage in any activity, and would be required to file under section 575.11(a) to engage in an activity, even when the

[11] 12 U.S.C. 1467a(c)(4)(B).

[12] The final regulation provides that if the activity is permissible for an SLHC under authority other than section 10(c)(2)(F)(i) of the HOLA, the application requirements of § 584.2–2 are inapplicable.

[13] ''Troubled condition'' is defined at 12 CFR 563.555. An SLHC is deemed to be in a troubled condition if it has an unsatisfactory rating under OTS's holding company rating system, or has been informed in writing by OTS that it has an adverse effect on its subsidiary savings association; is subject to a capital directive, a cease-and-desist order, a consent order, a formal written agreement, or a prompt corrective action directive relating to the safety and soundness or financial viability of the savings association; or is informed in writing by OTS that it is in troubled condition.

[14] OTS believes that the *de novo* activity would, by its nature, add a competitor to any relevant market, and also reduce the concentration of resources; also, where the SLHC meets the managerial and financial resources standards, it will have the means to avoid harmful conflicts, and unsound financial practices.

[15] This treatment of activities is consistent with section 10(c)(4)(C) of HOLA, which provides that: In prescribing any regulation or considering any application under this paragraph, the Director may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole, or in part, of a going concern.

activity is excepted from the holding company filing requirements under the proviso in section 584.2–2(a). OTS may reconsider this requirement in a subsequent rulemaking. Revisions to the MHC filing requirement, however, are beyond the scope of this rulemaking. Finally, OTS has informally taken the position that an application is not required under section 575.11(a) where an MHC proposes to hold less than five percent of the voting stock of another entity.

IV. Findings and Certifications

A. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995, OTS may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The proposed collection of information was submitted to OMB for review and approval (44 U.S.C. 3507(d)). None of the public comments suggested that the information collection should be modified. Any material modifications will be submitted to OMB for review and approval.

Estimated Number of Respondents: 4.

Estimated Burden Hours per Response: 2 hours.

Estimated Total Burden: 8 hours.

Rule section	Subject	Number of respondents	Number of responses per respondent	Average annual burden hours per response	Annual disclosure & recordkeeping burden
584.2–2	Application to engage in certain activities	2	1	2	4
584.4	Application by SLHC to acquire non-controlling interest exceeding five percent of non-subsidiary savings association or SLHC.	2	1	2	4

B. Executive Order 12866

The Director of OTS has determined that this final rule does not constitute a significant regulatory action for the purposes of Executive Order 12866.

C. Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act (RFA), the Director of OTS has certified that this final rule will not have a significant impact on a substantial number of small entities within the meaning of the RFA. 5 U.S.C. 603.

D. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires an agency to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. 2 U.S.C. 1532. OTS has determined that this final rule would not have such an impact. Rather, the rule would provide that nonexempt SLHCs have broader authority to engage in activities than are specified under current regulations. Accordingly, OTS has not prepared a budgetary impact statement for this rule or specifically addressed the regulatory alternatives considered.

List of Subjects in 12 CFR Part 584

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

■ For the reasons stated in the preamble, the Office of Thrift Supervision amends 12 CFR part 584 as follows:

PART 584—SAVINGS AND LOAN HOLDING COMPANIES

■ 1. The authority citation for part 584 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

■ 2. Revise the part heading for part 584 to read as shown above.

■ 3. Revise § 584.2(b)(6)(i) to read as follows:

§ 584.2 Prohibited activities.

* * * * *

(b) * * *

(6) * * *

(i) That the Board of Governors of the Federal Reserve System has permitted for bank holding companies pursuant to regulations promulgated under section 4(c) of the Bank Holding Company Act; or

* * * * *

■ 4. Revise § 584.2–2(a) to read as follows:

§ 584.2–2 Permissible bank holding company activities of savings and loan holding companies.

(a) *General.* For purposes of § 584.2(b)(6)(i) of this part, the services and activities permissible for bank holding companies pursuant to regulations that the Board of Governors of the Federal Reserve System has promulgated pursuant to section 4(c) of the Bank Holding Company Act are permissible for savings and loan holding companies, or subsidiaries thereof that are neither savings associations nor service corporation subsidiaries of subsidiary savings associations: *Provided,* That no savings and loan holding company shall commence any activity described in this paragraph (a) without the prior approval of this Office pursuant to paragraph (b) of this section, unless—

(1) The holding company received a rating of satisfactory or above prior to January 1, 2008, or a composite rating of ''1'' or ''2'' thereafter, in its most recent examination, and is not in a troubled condition as defined in § 563.555, and the holding company does not propose to commence the activity by an acquisition (in whole or in part) of a going concern; or

(2) The activity is permissible under authority other than section 10(c)(2)(F)(i) of the HOLA without prior notice or approval. Where an activity is within the scope of both § 584.2–1 of this part and this section, the procedures of § 584.2–1 of this part shall govern.

* * * * *

■ 5. Revise § 584.4 to read as follows:

§ 584.4 Certain acquisitions by savings and loan holding companies.

(a) *Acquisitions by a savings and loan holding company of more than five percent of a non-subsidiary savings association or savings and loan holding company.* No savings and loan holding company, directly or indirectly, or through one or more subsidiaries or through one or more transactions, shall, without prior written OTS approval, acquire by purchase or otherwise, or retain, more than five percent of the voting stock or shares of a savings association not a subsidiary, or of a savings and loan holding company not

a subsidiary. A savings and loan holding company seeking approval of an acquisition under this section must file an application under 12 CFR part 516, subpart A. Applications filed under this section are subject to the publication, public comment, and meeting provisions of 12 CFR part 516, subparts B, C, and D. OTS will review applications filed under this section under the review standards set forth for savings and loan holding company applications in section 10(e)(2) of the HOLA, § 574.7(c) of this chapter, and § 563e.29(a) of this chapter.

(b) *Certain acquisitions by multiple savings and loan holding companies.* No multiple savings and loan holding company (other than a savings and loan holding company described in § 584.2a(a)(1)(ii) of this part) may, directly or indirectly, or through one or more subsidiaries or through one or more transactions, acquire or retain more than five percent of the voting shares of any company that is not a subsidiary that is engaged in any business activity other than those specified in § 584.2(b) of this part.

(c)(1) *Exception for certain acquisitions of voting shares of savings associations and savings and loan holding companies.* Paragraphs (a) and (b) of this section do not apply to voting shares of a savings association or of a savings and loan holding company—

(i) Held as a *bona fide* fiduciary (whether with or without the sole discretion to vote such shares);

(ii) Held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

(iii) Held in an account solely for trading purposes or over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

(iv) Acquired in securing or collecting a debt previously contracted in good faith, for two years after the date of acquisition or for such additional time (not exceeding three years) as the Office may permit if, in the Office's judgment, such an extension would not be detrimental to the public interest;

(v) Acquired under section 13(k)(1)(A)(i) of the Federal Deposit Insurance Act (or section 408(m) of the National Housing Act as in effect immediately prior to the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989);

(vi) Held by any insurance companies as defined in section 2(a)(17) of the Investment Company Act of 1940: *Provided,* That all shares held by all insurance company affiliates of such savings association or savings and loan holding company may not, in the aggregate, exceed five percent of all outstanding shares or of the voting power of the savings association or savings and loan holding company, and such shares are not acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company; and

(vii) Acquired pursuant to a qualified stock issuance if such a purchase is approved pursuant to § 574.8 of this chapter.

(2) The aggregate amount of shares held under this paragraph (c) (other than pursuant to paragraphs (c)(1)(i) through (iv) and (c)(1)(vi) may not exceed 15 percent of all outstanding shares or the voting power of a savings association or savings and loan holding company.

(d) *Acquisitions of uninsured institutions.* No savings and loan holding company may, directly or indirectly, or through one or more subsidiaries or through one or more transactions, acquire control of an uninsured institution or retain, for more than one year after the date any savings association subsidiary becomes uninsured, control of such association.

Dated: December 14, 2007.

By the Office of Thrift Supervision

John M. Reich,

Director.

[FR Doc. E7–24676 Filed 12–19–07; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM04–7–003; 121 FERC ¶ 61,260]

Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities

Issued December 14, 2007.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Order Clarifying Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is clarifying: the effective date for compliance with the requirements of Order No. 697; which entities are required to file updated market power analyses for the Commission's regional review; the data required for the horizontal market power analyses; and what constitute ''seller-specific terms and conditions'' that sellers may list in their market-based rate tariffs in addition to the standard provisions listed in Appendix C to Order No. 697.

FOR FURTHER INFORMATION CONTACT: Paige C. Bullard, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6462.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Suedeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

Order Clarifying Final Rule

I. Introduction

1. On June 21, 2007, the Commission issued Order No. 697,[1] in which the Commission revised and codified its market-based rate policy for public utilities. In the instant order, we make several clarifications. First, we clarify that, notwithstanding that Order No. 697 did not require market-based rate sellers to make immediate compliance filings amending their market-based rate tariffs, the Commission intended that all requirements and limitations applicable to market-based rate sellers set forth in Order No. 697 should become effective on September 18, 2007. Second, we clarify that transmission-owning utilities with market-based rate authority and their affiliates with market-based rate authority must file updated market power analyses for the Commission's regional review as discussed herein. Third, we clarify the data to be used in submitting the horizontal market power indicative screens and the Delivered Price Test (DPT) analysis.

This requirement will apply to new applications for market-based rate authorization and updated market power analyses, including the updated market power analyses that must be submitted for the Commission's regional review. As discussed below, for purposes of the market power analyses to be submitted in December 2007, we will extend the date for filing such analyses until 30 days after the date of issuance of this order. Fourth, we clarify that ''seller-specific terms and conditions'' that go beyond the standard provisions required in Appendix C of Order No. 697, and that sellers are permitted to list in their market-based rate tariffs, are those tariff provisions that are commonly found in power sales agreements, such as creditworthiness, force majeure, dispute resolution, billing, and payment provisions.

[1] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, 72 FR 39904 (July 20, 2007), FERC Stats. & Regs. ¶ 31,252 (2007).