

in making determinations on such motions.

(d) *Notification of submission of proceeding to the Director.* Upon the expiration of the time for filing any exceptions, any replies to such exceptions or any motions and any ruling thereon, and after receipt of certified record, the Office shall notify the parties within ten days of the submission of the proceeding to the Director for final determination.

(e) *Extensions of time for final determination.* The Director may, *sua sponte*, extend the time for final determination by signing an order of extension of time within the 90 day time period and notifying the parties of such extension thereafter.

(f) *Service upon the Office.* Service of any document upon the Office shall be made by filing with the Secretary, in addition to the individuals and/or offices designated by the Office in its Notice issued pursuant to §509.18 of this part, or such other means reasonably suited to provide notice of the person and/or office designated to receive filings.

(g) *Filings with the Director.* An additional copy of all materials required or permitted to be filed with or referred to the administrative law judge pursuant to subpart A and B of this part shall be filed with the Secretary. This rule shall not apply to the transcript of testimony and exhibits adduced at the hearing or to proposed exhibits submitted in advance of the hearing pursuant to an order of the administrative law judge under §509.32 of this part. Materials required or permitted to be filed with or referred to the Director pursuant to subparts A and B of this part shall be filed with the Director, to the attention of the Secretary.

(h) *Presence of cameras and other recording devices.* The use of cameras and other recording devices, other than those used by the court reporter, shall be prohibited and excluded from the proceedings.

[56 FR 38306, Aug. 12, 1991, as amended at 58 FR 4311, Jan. 14, 1993; 61 FR 20356, May 6, 1996]

PART 510—MISCELLANEOUS ORGANIZATIONAL REGULATIONS

Sec.

510.2 Provisions related to regulations of the Office.

510.4 Service of process.

510.5 Release of unpublished OTS information.

AUTHORITY: 12 U.S.C. 1462a, 1463, 1464; Pub. L. 101-410, 104 Stat. 890; Pub. L. 104-134, 110 Stat. 1321-358.

SOURCE: 54 FR 49456, Nov. 30, 1989, unless otherwise noted.

§510.2 Provisions related to regulations of the Office.

(a) *Amendments.* The Office expressly reserves the right to amend (including the right to alter or repeal) the regulations set forth in this chapter.

(b) *Waiver or relaxation of regulatory provisions with respect to disaster or emergency areas.* Whenever the President of the United States determines that a major disaster or emergency exists, or declares an area a major disaster or emergency area, the Office may, to the extent not inconsistent with law, by resolution waive or relax any limitations pertaining to the operations of Federal savings associations and savings associations in any area or areas affected by such disaster or emergency so declared.

(c) *Bar on participation in notice and comment rulemaking by suspended or disbarred persons.* No person who has been suspended or debarred from practice before the Office in accordance with the provisions of part 513 of this chapter may submit to the Office, either directly or on behalf of an interested party, any written documents or petitions otherwise permitted by the Administrative Procedures Act.

[54 FR 49456, Nov. 30, 1989, as amended at 60 FR 66716, Dec. 26, 1995]

§510.4 Service of process.

(a) *Service of Process.* Service of process may be made upon the Office by delivering a copy of the summons and complaint to the U.S. Attorney for the district in which the action is brought or to an assistant U.S. Attorney or clerical employee designated by the U.S. Attorney in a writing filed with the clerk of the court, and by sending

copies of the summons and of the complaint by registered or certified mail to the Attorney General of the United States, Washington, DC, and to the Secretary of the Office.

(b) *Subpoenas.* Any subpoena to obtain information maintained by Office shall be duly issued and served upon the Secretary of the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC, 20552.

§510.5 Release of unpublished OTS information.

(a) *Scope.* (1) This section applies to requests by the public for unpublished OTS information, such as requests for records or testimony from parties to lawsuits in which the OTS is not a party.

(2) Unpublished OTS information includes records created or obtained in connection with the OTS's performance of its responsibilities, such as records concerning supervision, regulation, and examination of savings associations, their holding companies, and affiliates, and records compiled in connection with the OTS's enforcement responsibilities. Unpublished OTS information also includes information that current and former employees, officers, and agents obtained in their official capacities. Examples of unpublished information include:

(i) Information in the memory of a current or former employee, officer, or agent of the OTS (or the Federal Home Loan Bank Board, the predecessor agency of the OTS), by testimony or informal interview, that was acquired in the course of performing official duties or because of the employee's, officer's or agent's official status;

(ii) Reports of examination, supervisory correspondence, internal agency memoranda and investigatory files compiled in connection with an investigation, whether such records are in the possession of the OTS or some other individual or entity; and

(iii) Unpublished OTS records obtained by or in the possession of third parties, including other government agencies.

(3) This section does not apply to:

(i) Requests for records or testimony in proceedings in which the OTS is a party;

(ii) Requests for information by other government agencies, except when specifically provided; and

(iii) Requests for records that are required to be disclosed under the Freedom of Information Act, *see* 5 U.S.C. 552, and 31 CFR 1.1-1.6.

(b) *Purpose.* The purposes of this section are:

(1) To afford an orderly mechanism for the OTS to expeditiously process requests for unpublished OTS information and, where appropriate, for the OTS to assert evidentiary privileges in litigation;

(2) To balance the need for confidentiality of unpublished OTS information with the private party's interest in obtaining disclosure of that information;

(3) To ensure that the time of OTS employees is utilized in the most efficient manner consistent with the OTS's statutory mission;

(4) To prevent undue burdens on the OTS;

(5) To limit the expenditure of the OTS's funds for private purposes; and

(6) To maintain the impartiality of the OTS among private litigants.

(c) *Procedure*—(1) *Requests for records and testimony in general.* A request for unpublished OTS information must be in writing, furnish the caption of the lawsuit if the request arises in the course of litigation, and support the requester's claim that the information sought is highly relevant to the purpose for which it is sought. In demonstrating that the information is highly relevant, the requester must explain in detail how the requested OTS information relates to the issues in the case or the matter.

(i) For requests arising in lawsuits, the submission also must include:

(A) A copy of the complaint or equivalent document in the case and any other pleadings necessary to show relevance;

(B) A description of any prior decisions or pending motions in the case that may bear on the asserted relevance of the information being sought from the OTS; and

(C) The names, addresses and phone numbers of counsel to all other parties in the case.

(ii) In all instances, in addition to demonstrating that the information