

appraiser's State certification or licensing, professional education, and type of experience. An appraiser's membership in professional appraisal organizations may be considered consistent with the requirements of § 564.6

(3) Management shall review on an annual basis the performance of all approved appraisers used within the preceding 12-month period for compliance with (i) the savings association's appraisal policies and procedures; and (ii) the reasonableness of the value estimates reported.

(d) *Exemptions.* The requirements of § 564.4(b) through (d) shall not apply with respect to appraisals on nonresidential properties prepared on form reports approved by the Office and completed in accordance with the applicable instructional booklet.

[54 FR 49552, Nov. 30, 1989. Redesignated and amended at 55 FR 34549, Aug. 23, 1990; 55 FR 43440, Oct. 29, 1990; 59 FR 29503, June 7, 1994; 59 FR 53571, Oct. 25, 1994]

PART 565—PROMPT CORRECTIVE ACTION

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AUTHORITY: 12 U.S.C. 1831o.

SOURCE: 57 FR 44903, Sept. 29, 1992, unless otherwise noted.

§ 565.1 Authority, purpose, scope, other supervisory authority, and disclosure of capital categories.

(a) *Authority.* This part is issued by the OTS pursuant to section 38 (section 38) of the Federal Deposit Insurance Act (FDI Act) as added by section 131 of the Federal Deposit Insurance Cor-

poration Improvement Act of 1991 (Pub. L. 102-242, 105 Stat. 2236 (1991)) (12 U.S.C. 1831o).

(b) *Purpose.* Section 38 of the FDI Act establishes a framework of supervisory actions for insured depository institutions that are not adequately capitalized. The principal purpose of this part is to define, for savings associations, the capital measures and capital levels that are used for determining the supervisory actions authorized under section 38 of the FDI Act. This part also establishes procedures for submission and review of capital restoration plans and for issuance and review of directives and orders pursuant to section 38.

(c) *Scope.* This part implements the provisions of section 38 of the FDI Act as they apply to savings associations. Certain of these provisions also apply to officers, directors and employees of savings associations. Other provisions apply to any company that controls a savings association and to the affiliates of a savings association.

(d) *Other supervisory authority.* Neither section 38 nor this part in any way limits the authority of the OTS under any other provision of law to take supervisory actions to address unsafe or unsound practices, deficient capital levels, violations of law, unsafe or unsound conditions, or other practices. Action under section 38 of the FDI Act and this part may be taken independently of, in conjunction with, or in addition to any other enforcement action available to the OTS, including issuance of cease and desist orders, capital directives, approval or denial of applications or notices, assessment of civil money penalties, or any other actions authorized by law.

(e) *Disclosure of capital categories.* The assignment of a savings association under this part within a particular capital category is for purposes of implementing and applying the provisions of section 38. Unless permitted by the OTS or otherwise required by law, no savings association may state in any advertisement or promotional material its capital category under this subpart or that the OTS or any other federal banking agency has assigned the savings association to a particular category.