

§ 509.200

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]

Subpart C—Special Rules

SOURCE: 70 FR 10023, Mar. 2, 2005, unless otherwise noted.

§ 509.200 Scope.

The rules and procedures in subpart C of this part and those rules and procedures in subparts A and B of this part that are identified in subpart C of this part shall apply to any proceedings under section 10(a)(2)(D) of the HOLA (12 U.S.C. 1467a(a)(2)(D)) to determine for purposes of section 10 of the HOLA, other than subsections (c), (d), (f), (h)(2), (m), (n), (q) and (s), whether any company that owns at least one percent but no more than 10 percent of the outstanding shares of a savings association or savings and loan holding company directly or indirectly exercises a controlling influence over the management or policies of such savings association or savings and loan holding company.

§ 509.201 Definitions.

The definitions contained in § 509.3 of this part shall apply to this subpart.

12 CFR Ch. V (1–1–06 Edition)

§ 509.202 Commencement of proceedings and contents of notice.

(a) *Commencement of proceedings.* The Director commences a proceeding by issuing a notice and having it served on the respondent in the manner provided for service by the Director in § 509.11 of this part;

(b) *Contents of notice.* The notice must set forth: (1) The legal authority for the proceeding and for the Office's jurisdiction over the proceeding;

(2) A statement of the matters of fact or law showing the Office is entitled to issue an Order finding, for purposes of section 10 of the HOLA, other than subsections (c), (d), (f), (h)(2), (m), (n), (q) and (s), the respondent to be directly or indirectly exercising a controlling influence over the management or policies of a savings association or savings and loan holding company;

(3) A proposed Order;

(4) A statement that the respondent must file an answer and, if it so desires, request a hearing within 20 days of service of the notice; and

(5) The time and place of the hearing if one is properly requested by the respondent.

§ 509.203 Answer, consequences of failure to answer, and consent.

(a) *Content of answer.* (1) An answer must specifically respond to each paragraph or allegation of fact contained in the notice and must admit, deny, or state that the party lacks sufficient information to admit or deny each allegation of fact. A statement of lack of information has the effect of a denial. Denials must fairly meet the substance of each allegation of fact denied; general denials are not permitted. When a respondent denies part of an allegation, that part must be denied and the remainder specifically admitted. Any allegation of fact in the notice which is not denied in the answer must be deemed admitted for purposes of the proceeding. A respondent is not required to respond to the portion of a notice that constitutes a prayer for relief or proposed Order.

(2) If a respondent does not contest the allegations in a notice, the respondent may file an answer that contains only a statement that the respondent consents to the entry of the

proposed Order. At any time thereafter, the proposed Order may be issued as a final Order.

(b) *Default.* Failure of a respondent to file an answer within the time provided constitutes a waiver of its right to appear and contest the allegations in the notice. If a timely answer is not filed, a default Order may be entered. A respondent that believes that there was good cause for it to not file an answer within the time allowed may request that the Office exercise its discretion to vacate such a default Order. A default Order based upon a respondent's failure to answer is deemed to be a final Order issued upon consent.

§509.204 Hearing Procedure.

(a) (1) The Director shall preside at the hearing and enter the final decision of the agency, provided that no party seeks discovery or proffers any oral testimony;

(2) Respondents shall provide two copies of any pleadings and other filings to the Office of the Chief Counsel, Business Transactions Division. The Office of the Chief Counsel, Business Transactions Division shall serve in the manner provided in §509.11 of this part, each respondent separately represented with a copy of any pleading or other filing made by the Office.

(b) If any party seeks discovery or proffers any oral testimony, the procedures in subparts A and B of this part shall apply from that time until the conclusion of the proceeding.

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 order 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; 70 FR 76675, Dec. 28, 2005]

§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