

PART 545—FEDERAL SAVINGS ASSOCIATIONS—OPERATIONS

Sec.

- 545.1 General authority.
- 545.2 Federal preemption.
- 545.16 Public deposits, depositaries, and fiscal agents.
- 545.17 Funds transfer services.
- 545.91 Home office.
- 545.92 Branch offices.
- 545.93 Application and notice requirements for branch and home offices.
- 545.95 What processing procedures apply to my home or branch office application or notice?
- 545.96 Agency office.
- 545.101 Fiscal agency.
- 545.121 Indemnification of directors, officers and employees.

AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1828.

SOURCE: 54 FR 49492, Nov. 30, 1989, unless otherwise noted.

§ 545.1 General authority.

A Federal savings association may exercise all authority granted it by the Home Owners' Loan Act of 1933 ("Act"), 12 U.S.C. 1464, as amended, and its charter and bylaws, whether or not implemented specifically by Office regulations, subject to the limitations and interpretations contained in this part.

§ 545.2 Federal preemption.

The regulations in this part 545 are promulgated pursuant to the plenary and exclusive authority of the Office to regulate all aspects of the operations of Federal savings associations, as set forth in section 5(a) of the Act. This exercise of the Office's authority is preemptive of any state law purporting to address the subject of the operations of a Federal savings association.

§ 545.16 Public deposits, depositaries, and fiscal agents.

(a) *Definitions.* As used in this section—

(1) *Moneys* includes *monies* and has the meaning it has in applicable state law;

(2) *State law* includes actions by a governmental body which has a charter adopted under the constitution of the state with provisions respecting deposits of public money of that body;

(3) *Surety* means surety under real and/or personal suretyship, and includes guarantor; and

(4) Terms in paragraph (b) of this section have the meanings they have under applicable state law.

(b) *Authority to act as surety for public deposits.* (1) A Federal savings association that is a deposit association may give bond or security for deposit in it of public moneys or investment in it by a governmental unit if required to do so by state law, either as an alternative condition or otherwise, regardless of the amount required. Any bond or security may be given and any substitution or increase thereof may be made under this section at any time.

(2) If state law requires as a condition of such deposit or investment that the Federal savings association or its bond or security, or any combination thereof, be surety for or with respect to other deposits or instruments, whether of that depositor or investor or of any other(s), and whether in the Federal savings association or in any other institution(s) having, when the investments or deposits were made, insurance by the Federal Deposit Insurance Corporation, the same shall become, or if the state law is self-executing shall be, such surety.

(c) *Depositaries and fiscal agents.* Subject to regulation of the United States Treasury Department, a Federal savings association may serve as a depository for Federal taxes, as a Treasury tax and loan depository, or as a depository of public money and fiscal agent of the Government or any other instrumentality thereof when designated for that purpose by such instrumentality and approved by the Office, and may satisfy any requirement in connection therewith, including maintaining accounts described in §§ 561.33, 561.52, 561.53, and 561.54 of this chapter; pledging collateral; and performing the services outlined in 31 CFR 202.3(b) or any section that supersedes or amends § 202.3(b).

§ 545.17 Funds transfer services.

A Federal savings association is authorized to transfer, with or without fee, its customers' funds from any account (including a line of credit) of the

customer at the Federal savings association or at another financial intermediary to third parties or other accounts of the customer on the customer's order or authorization by any mechanism or device, including cashier's checks, conforming with applicable laws and established commercial practices.

§ 545.91 Home office.

(a) All operations of a Federal savings association ("you") are subject to direction from the home office.

(b) You must notify the appropriate OTS Regional Office if the permanent address of your home office changes, unless you have submitted an application or notice regarding the change under §§ 545.93 and 545.95 of this chapter.

[69 FR 68248, Nov. 24, 2004]

§ 545.92 Branch offices.

(a) *Definition.* A branch office of a Federal savings association ("you") is any office other than your home office, agency office, administrative office, data processing office, or an electronic means or facility under part 555 of this chapter.

(b) *Branching.* Subject to the application and notice requirements at §§ 545.93 and 545.95 of this chapter, you may branch in any State or States of the United States and its territories unless the location would violate:

(1) Section 5(r) of the HOLA (12 U.S.C. 1464(r));

(2) Section 10(e)(3) of the HOLA (12 U.S.C. 1467a(e)(3)); or

(3) Section 13(k)(4) of the FDIA (12 U.S.C. 1823(k)(4)).

(c) *Preemption.* This exercise of OTS authority is preemptive of any State law purporting to address the subject of branching by a Federal savings association.

[69 FR 68248, Nov. 24, 2004]

§ 545.93 Application and notice requirements for branch and home offices.

(a) *Application and notice requirements.* A Federal savings association ("you") must file an application or notice and receive OTS approval or non-objection under § 545.95 before you change the

permanent location of, or establish a new, home or branch office, except as provided in this section.

(b) *Exceptions.* You are not required to submit an application or notice and receive OTS approval or non-objection under § 545.95 under the following circumstances:

(1) *Drive-in or pedestrian offices.* You may establish a drive-in or pedestrian office that is located within 500 feet of a public entrance to your existing home or branch office, provided the functions performed at the office are limited to functions that are ordinarily performed at a teller window.

(2) *Short-distance relocation.* You may change the permanent location of an existing home or branch office to a site that is within the market area and short-distance location area of the existing home or branch office. The short-distance relocation area of an existing office is the area that is within:

(i) A 1000-foot radius of an existing office that is within a Principal City in a Metropolitan Statistical Area (MSA) designated by the U.S. Department of Commerce;

(ii) A one-mile radius of an existing office that is within an MSA, but is not within a Principal City; or

(iii) A two-mile radius of an existing office that is not in an MSA.

(3) *Highly-rated Federal savings associations.* You may change the permanent location of, or establish a new, branch or home office if you meet all of the following requirements:

(i) You are eligible for expedited treatment under § 516.5 of this chapter. For the purposes of that section, you must meet the capital requirements under part 567 of this chapter before and immediately after you change the location of your home or branch office or establish a new branch office.

(ii) You published a notice of your intent to change the location of your home or branch office or establish a new branch office. To satisfy this publication requirement, you must follow the procedures in subpart B of part 516 of this chapter except that:

(A) Under § 516.55(d) and (e) of this chapter, your public notice must state that the public may submit comments to you and to the appropriate OTS office(s), and must provide addresses for