

	Operating subsidiary	Service corporation
(p) What must be done to redesignate an operating subsidiary as a service corporation or a service corporation as an operating subsidiary?	(1) Before redesignating an operating subsidiary as a service corporation, you should consult with the OTS Regional Director for the Region in which your home office is located. You must maintain adequate internal records, available for examination by OTS, demonstrating that the redesignated service corporation meets all of the applicable requirements of this part and that your board of directors has approved the redesignation.	(2) Before redesignating a service corporation as an operating subsidiary, you should consult with the OTS Regional Director for the Region in which your home office is located. You must maintain adequate internal records, available for examination by OTS, demonstrating that the redesignated operating subsidiary meets all of the applicable requirements of this part and that your board of directors has approved the redesignation.
(q) What are the consequences of failing to comply with the requirements of this part?	(1) If an operating subsidiary, or any lower-tier entity in which the operating subsidiary invests pursuant to paragraph (f)(1) of this section fails to meet any of the requirements of this section, you must notify OTS. Unless otherwise advised by OTS, if the company cannot comply within 90 days with all of the requirements for either an operating subsidiary or a service corporation under this section, or any other investment authorized by 12 U.S.C. 1464(c) or part 560 of this chapter, you must promptly dispose of your investment.	(2) If a service corporation, or any lower-tier entity in which the service corporation invests pursuant to paragraph (f)(2) of this section, fails to meet any of the requirements of this section, you must notify OTS. Unless otherwise advised by OTS, if the company cannot comply within 90 days with all of the requirements for either an operating subsidiary or a service corporation under this section, or any other investment authorized by 12 U.S.C. 1464(c) or part 560 of this chapter, you must promptly dispose of your investment.

[61 FR 66571, Dec. 18, 1996, as amended at 62 FR 66262, Dec. 18, 1997; 63 FR 65683, Nov. 30, 1998; 66 FR 13006, Mar. 2, 2001; 67 FR 77916, Dec. 20, 2002; 67 FR 78152, Dec. 23, 2002; 68 FR 57796, Oct. 7, 2003]

§ 559.4 What activities are preapproved for service corporations?

This section sets forth the activities that have been preapproved for service corporations. Section 559.3(e)(2) of this part sets forth the procedures for engaging in a broader scope of activities on a case-by-case basis. You should read these two sections together to determine whether you must file a notice with OTS under § 559.11 of this part, or

whether you must file an application under part 516 of this chapter and receive prior written OTS approval for your service corporation to engage in a particular activity. To the extent permitted by § 559.3(e)(2) of this part, a service corporation may engage in the following activities:

- (a) Any activity that all federal savings associations may conduct directly, except taking deposits.

Office of Thrift Supervision, Treasury

§ 559.4

(b) Business and professional services. The following services are preapproved for service corporations only when they are limited to financial documents or financial clients or are generally finance-related:

- (1) Accounting or internal audit;
- (2) Advertising, marketing research and other marketing;
- (3) Clerical;
- (4) Consulting;
- (5) Courier;
- (6) Data processing;
- (7) Data storage facilities operation and related services;
- (8) Office supplies, furniture, and equipment purchasing and distribution;
- (9) Personnel benefit program development or administration;
- (10) Printing and selling forms that require Magnetic Ink Character Recognition (MICR) encoding;
- (11) Relocation of personnel;
- (12) Research studies and surveys;
- (13) Software development and systems integration; and
- (14) Remote service unit operation, leasing, ownership or establishment.

(c) Credit-related activities.

- (1) Abstracting;
 - (2) Acquiring and leasing personal property;
 - (3) Appraising;
 - (4) Collection agency;
 - (5) Credit analysis;
 - (6) Check or credit card guaranty and verification;
 - (7) Escrow agent or trustee (under deeds of trust, including executing and deliverance of conveyances, reconveyances and transfers of title); and
 - (8) Loan inspection.
- (d) Consumer services.
- (1) Financial advice or consulting;
 - (2) Foreign currency exchange;
 - (3) Home ownership counseling;
 - (4) Income tax return preparation;
 - (5) Postal services;
 - (6) Stored value instrument sales;
 - (7) Welfare benefit distribution;
 - (8) Check printing and related services; and
 - (9) Remote service unit operation, leasing, ownership, or establishment.

(e) Real estate related services.

(1) Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construc-

tion, or for use as manufactured home sites, in accordance with a prudent program of property development;

(2) Acquiring improved real estate or manufactured homes to be held for rental or resale, for remodeling, renovating, or demolishing and rebuilding for sale or rental, or to be used for offices and related facilities of a stockholder of the service corporation;

(3) Maintaining and managing real estate; and

(4) Real estate brokerage for property owned by a savings association that owns capital stock of the service corporation, the service corporation, or a lower-tier entity in which the service corporation invests.

(f) Securities activities, liquidity management, and coins.

(1) Execution of transactions in securities on an agency or riskless principal basis solely upon the order and for the account of customers or the provision of investment advice. The service corporation must register with the Securities and Exchange Commission and State securities regulators, as required by applicable Federal and State law and regulations.

(2) Liquidity management;

(3) Issuing notes, bonds, debentures, or other obligations or securities;

(4) Purchase or sale of coins issued by the U.S. Treasury.

(g) *Investments*. (1) Tax-exempt bonds used to finance residential real property for family units;

(2) Tax-exempt obligations of public housing agencies used to finance housing projects with rental assistance subsidies;

(3) Small business investment companies and new markets venture capital companies licensed by the U.S. Small Business Administration;

(4) Rural business investment companies; and

(5) Investing in savings accounts of an investing thrift.

(h) Community development and charitable activities:

(1) Investments in governmentally insured, guaranteed, subsidized or otherwise sponsored programs for housing, small farms, or businesses that are local in character;

(2) Investments designed primarily to promote the public welfare, including

§ 559.5

12 CFR Ch. V (1-1-06 Edition)

the welfare of low- and moderate-income communities or families (such as providing housing, services, or jobs);

(3) Investments in low-income housing tax credit and new markets tax credit projects and entities authorized by statute (e.g., community development financial institutions) to promote community, inner city, and community development purposes; and

(4) Establishing a corporation that is recognized by the Internal Revenue Service as organized for charitable purposes under 26 U.S.C. 501(c)(3) of the Internal Revenue Code and making a reasonable contribution to capitalize it, *provided* that the corporation engages exclusively in activities designed to promote the well-being of communities in which the owners of the service corporation operate.

(i) Activities conducted on behalf of a customer on an other than “as principal” basis.

(j) Activities reasonably incident to those listed in paragraphs (a) through (i) of this section if the service corporation engages in those activities.

[61 FR 66571, Dec. 18, 1996, as amended by 66 FR 13007, Mar. 2, 2001; 66 FR 65824, Dec. 21, 2001; 69 FR 68249, Nov. 24, 2004; 70 FR 76675, Dec. 28, 2005]

§ 559.5 How much may a savings association invest in service corporations or lower-tier entities?

The amount that a federal savings association (“you”) may invest in a service corporation or any lower-tier entity depends upon several factors. These include your total assets, your capital, the purpose of the investment, and your ownership interest in the service corporation or entity.

(a) Under section 5(c)(4)(B) of the HOLA, you may invest up to 3% of your assets in the capital stock, obligations, and other securities of service corporations. Any investment you make under this paragraph that would cause your investment, in the aggregate, to exceed 2% of your assets must serve primarily community, inner city, or community development purposes. You must designate the investments serving those purposes, which include:

(1) Investments in governmentally insured, guaranteed, subsidized or otherwise sponsored programs for housing,

small farms, or businesses that are local in character;

(2) Investments for the preservation or revitalization of either urban or rural communities;

(3) Investments designed to meet the community development needs of, and primarily benefit, low- and moderate-income communities; or

(4) Other community, inner city, or community development-related investments approved by OTS.

(b) In addition to the amounts you may invest under paragraph (a) of this section, and to the extent that you have authority under other provisions of section 5(c) of the HOLA and part 560 of this chapter, and available capacity within any applicable investment limits, you may make loans to any service corporation and any lower-tier entity, subject to the following conditions:

(1) You and your GAAP-consolidated subsidiaries may, in the aggregate, make loans of up to 15% of your capital as defined in § 567.5(c) of this chapter to each subordinate organization that does not qualify as a GAAP-consolidated subsidiary. All loans made under this paragraph (b)(1) may not, in the aggregate, exceed 50% of your total capital, as defined in § 567.5(c) of this chapter.

(2) The Regional Director may limit the amount of loans to a GAAP-consolidated subsidiary, or may adjust the limits set forth in paragraph (b)(1) of this section where safety and soundness considerations warrant such action.

(c) For purposes of this section, the terms “loans” and “obligations” include all loans and other debt instruments (except accounts payable incurred in the ordinary course of business and paid within 60 days) and all guarantees or take-out commitments of such loans or debt instruments.

Subpart B—Regulations Applicable to All Savings Associations

§ 559.10 How must separate corporate identities be maintained?

(a) Each savings association and subordinate organization thereof must be