

§ 559.5

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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