

§ 560.43

you must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity and determine that such investment is appropriate for your institution. You must also determine that the obligor has adequate resources and willingness to provide for all required payments on its obligations in a timely manner.

[66 FR 65826, Dec. 21, 2001]

§ 560.43 Foreign assistance investments.

Pursuant to HOLA section 5(c)(4)(C), a Federal savings association may make foreign assistance investments in an aggregate amount not to exceed one percent of its assets, subject to the following conditions:

(a) For any investment made under the Foreign Assistance Act, the loan agreement shall specify what constitutes an event of default, and provide that upon default in payment of principal or interest under such agreement, the entire amount of outstanding indebtedness thereunder shall become immediately due and payable, at the lender's option. Additionally, the contract of guarantee shall cover 100% of any loss of investment thereunder, except for any portion of the loan arising out of fraud or misrepresentation for which the party seeking payment is responsible, and provide that the guarantor shall pay for any such loss in U.S. dollars within a specified reasonable time after the date of application for payment.

(b) To make any investments in the share capital and capital reserve of the Inter-American Savings and Loan Bank, a Federal savings association must be adequately capitalized and have adequate allowances for loan and lease losses. The Federal savings association's aggregate investment in such capital or capital reserve, including the amount of any obligations undertaken to provide said Bank with reserve capital in the future (call-able capital), must not, as a result of such investment, exceed the lesser of one-quarter of 1% of its assets or \$100,000.

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

§ 560.50 Letters of credit and other independent undertakings—authority.

A Federal savings association may issue letters of credit and may issue such other independent undertakings as are approved by OTS, subject to the restrictions in § 560.120.

[64 FR 46565, Aug. 26, 1999]

§ 560.60 Suretyship and guaranty.

Pursuant to section 5(b)(2) of the HOLA, a Federal savings association may enter into a repayable suretyship or guaranty agreement, subject to the conditions in this section.

(a) *What is a suretyship or guaranty agreement?* Under a suretyship, a Federal savings association is bound with its principal to pay or perform an obligation to a third person. Under a guaranty agreement, a Federal savings association agrees to satisfy the obligation of the principal only if the principal fails to pay or perform.

(b) *What requirements apply to suretyship and guaranty agreements under this section?* A Federal savings association may enter into a suretyship or guaranty agreement under this section, subject to each of the following requirements:

(1) The Federal savings association must limit its obligations under the agreement to a fixed dollar amount and a specified duration.

(2) The Federal savings association's performance under the agreement must create an authorized loan or other investment.

(3) The Federal savings association must treat its obligation under the agreement as a loan to the principal for purposes of §§ 560.93 and 563.43 of this chapter.

(4) The Federal savings association must take and maintain a perfected security interest in collateral sufficient to cover its total obligation under the agreement.

(c) *What collateral is sufficient?* (1) The Federal savings association must take and maintain a perfected security interest in real estate or marketable securities equal to at least 110 percent of its obligation under the agreement, except as provided in paragraph (c)(2) of this section.