

## § 500.30

is appointed by the President and confirmed by the Senate to a five-year term. The Director directs and carries out the mission of the OTS with the assistance of offices reporting directly to him. One of these offices oversees the direct examination and supervision of savings associations by regulatory staff to ensure the safety and soundness of the industry.

[57 FR 14335, Apr. 20, 1992, as amended at 60 FR 66869, Dec. 27, 1995]

### Subpart C—Procedures

#### § 500.30 General statement concerning procedures and forms.

(a) Rules and procedures of the Office are published in chapter V of title 12 of the Code of Federal Regulations and in supplementary material published in the FEDERAL REGISTER. The statutes administered by the Office and the rules and regulations promulgated pursuant to such statutes prescribe the course and method of the formal procedures to be followed in proceedings of the Office. These are supplemented where practicable by informal procedures designed to aid the public and facilitate the execution of the Office's functions. The informal procedures of the Office consist principally in the rendering of advice and assistance to members of the public dealing with the Office. Opinions expressed by members of the staff do not constitute an official expression of the views of the Office, but do represent views of persons working with the provisions of the statute or regulation involved. The Director may, for good cause and to the extent permitted by statute, waive the applicability of any provision of this chapter.

(b) Information with respect to procedures, forms, and instructions of the Office is available to the public at the headquarters of the Office. Forms of concern to the public consist principally of periodic financial reports and of applications to the Office. The Office may from time to time require the completion by individuals or savings associations of miscellaneous forms, questionnaires, reports, or other papers. In each instance, the individual or savings association is given actual

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and timely notice of the scope and contents of the papers in question.

[54 FR 49440, Nov. 30, 1989, as amended at 59 FR 53570, Oct. 25, 1994]

### PART 502—ASSESSMENTS

Sec.

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AUTHORITY: Secs. 3, 4, 9, 10 as added by sec. 301, 103 Stat. 278, 280, 316, 318 (12 U.S.C. 1462a, 1463, 1467, 1467a).

SOURCE: 55 FR 34529, Aug. 23, 1990, unless otherwise noted.

#### § 502.1 Asset-based assessments.

(a) *Assessment overview.* Each savings association shall pay to the Director of the Office of Thrift Supervision an asset-based assessment on all of its assets as reported on its most recent consolidated Thrift Financial Report available at the time of the billing notice sent in accordance with § 502.6(a) of this part, except as provided in paragraph (h) of this section. A troubled savings association as defined in paragraph (f) of this section shall pay a premium assessment at a rate no higher than that specified in paragraph (d) of this section; all other institutions shall pay a general assessment at a rate no higher than that specified in paragraph (c) of this section.

(b) *Computation of assessment.* Assessments due pursuant to this section shall be computed in the following manner: Each savings association falls into one of the seven asset-size brackets denoted by columns A and B. A savings association's assessment is composed of two parts. The first portion is an assessment on assets up to the lower endpoint (column A) of the bracket in which it falls; this portion of the assessment is shown in column C. The second portion is an assessment on the remaining assets, which are assessed at the rate shown in column D. This rate is applied only to the amount in excess of the lower endpoint of the bracket. The total assessment is the sum of the assets in column C plus the product of

the assets in excess of column E times the rate in column D. Each assessment is based upon the total consolidated assets shown in the savings association's most recent Thrift Financial Report preceding the payment date. Each savings association subject to the supervision of the Office on the date of the applicable Thrift Financial Report is subject to the full assessment for the next three-month period without proration for any reason.

(c) *General assessment.* The amount of the assessment paid by savings associations subject to this assessment schedule pursuant to paragraph (a) of this section is computed as follows:

If the saving association total assets (including consolidated subsidiaries) are:		The quarterly assessment is:		
Over—column A (million)	But not over—column B (million)	The amount—column C	Plus column D (percent)	Of excess over—column E (million)
0	\$67	0	0.01164	0
\$67	215	\$7,799	.00902	67
215	1000	21,148	.00611	215
1000	6030	69,112	.00430	1000
6030	18000	285,402	.00398	6030
18000	35000	761,808	.00363	18000
35000		1,378,908	.00308	35000

(d) *Premium assessment.* The amount of the assessment paid by troubled savings associations subject to this assessment schedule pursuant to paragraph (a) of this section is computed as follows:

If the savings association's total assets (including consolidated subsidiaries) are:		The quarterly assessment is:		
Over—column A (million)	But not over—column B (million)	The amount—column C	Plus column D (percent)	Of excess over—column E (million)
0	\$67	0	0.01746	0
\$67	215	\$11,699	0.1353	67
215	1000	31,722	.00917	215
1000	6030	103,668	.00645	1000
6030	18000	428,103	.00597	6030
18000	35000	1,142,712	.00545	18000
35000		2,068,362	.00462	35000

(e) *Frequency.* Assessments under this section shall be assessed either quarterly or semiannually as determined on an annual basis by the Director. Notice of any change in the frequency of the assessment shall be published in a

Thrift Bulletin at least thirty days before the beginning of the next calendar year. If assessments for a particular year are on a quarterly basis, such assessments shall be due on January 31, April 30, July 31, and October 31, representing the three month period beginning 30 days before such payment date. If assessments for a particular year are semiannual, such assessments shall be due on January 31 and July 31, representing the six month period beginning 30 days before such payment date. For calendar year 1990, assessments shall be paid quarterly, beginning with the October 31 assessment. If assessments for a later period are semiannual, those assessments shall be at rates published in the Thrift Bulletin announcing the change in the frequency of the assessment.

(f) *Definition.* For purposes of this section only, a troubled savings association shall be defined as a savings association with a CAMEL rating of 4 or 5 as of the most recent off-site CAMEL rating update (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified by report of examination via supervisory letter. This definition also includes savings associations in conservatorship so long as those associations require increased supervision and examination by the Office.

(g) *Director's authority to adjust rates.* The Director or his or her designee, may, in his or her sole discretion, reduce the assessment rates charged under paragraphs (c) and (d) of this section if he or she determines that the income generated by assessing savings associations at the rate set forth in those sections would generate revenues in excess of the Office's needs, including both its direct and indirect costs and the maintenance of an adequate working capital fund. If the Director so determines, he or she shall set uniformly lower rates for all savings associations at a level he determines appropriate. Those lower rates, and the period for which they shall be in effect, will be published as set forth in § 502.6 of this part at least thirty days before such lower assessment rates will be charged, except that for 1990 any lower

rates shall be effective upon publication in the Thrift Bulletin as set forth in § 502.6 of this part.

(h) *Exception to use of consolidated report for October 31, 1990 assessment.* For the October 31, 1990 assessment only, each savings association shall pay to the Director an asset-based assessment on all of its assets as reported on its most recent quarterly Thrift Financial Report.

**§ 502.2 Examination fees for affiliates.**

(a) The Office shall assess a fee to recover the costs of examinations of affiliates of savings associations, as defined in paragraph (d) of this section completed on or after this rule goes into effect.

(b) For calendar year 1990, a daily fee of \$480 shall be charged. The fee assessed under paragraph (a) of this section shall be determined by multiplying the daily fee by the number of days or portions thereof that employees of the Office devote to the examination or investigation of affiliates of savings associations as defined in paragraph (d) of this section including on-site and off-site examinations and related supervisory activities covering time spent after the examination in preparing the examination report among other items.

(c) The daily fee established in paragraph (b) of this section will be reviewed not less frequently than annually and published in a Thrift Bulletin as set forth in § 502.6 of this part. It shall be no higher than the amount determined by dividing the total budget for the expense of conducting examinations and investigations of affiliates of savings associations by the total number of days projected to be spent conducting such examinations and investigations as set forth in paragraph (b) of this section.

(d) The term “affiliate” means an affiliate as defined in 12 U.S.C. 1462(9) (1989), except that for purposes of this part only, the term “affiliate” does not include any entity that is consolidated with a savings association for purposes of the Consolidated Statement of Condition of the Thrift Financial Report.

**§ 502.3 Applications processing fees.**

(a) Fees must accompany certain applications, filings, notices, and requests (hereafter collectively referred to as “applications”) before such applications will be accepted for processing by the Office. Except as provided in paragraph (d) of this section, such fees will be determined by the Office according to the method set forth in paragraph (b) of this section, will be announced at least annually, and will be established at rates calculated to recover the Office’s total direct and indirect costs of processing such applications during the ensuing calendar year after such fees are announced.

(b) The Office will determine fees for processing applications by:

(1) Calculating, based on historical data, the average time necessary to process each type of application;

(2) Identifying for the upcoming year the amount to be budgeted for processing applications;

(3) Dividing the amount identified in paragraph (b)(2) of this section by the total number of hours available for applications processing in the ensuing year to yield the average hourly cost for processing applications; and

(4) Multiplying the average hourly cost identified in paragraph (b)(3) of this section by the number of hours spent processing each type of application identified in paragraph (b)(1) of this section and rounding the result to the nearest increment of \$100, with a minimum fee of \$100. This will yield the amount of the application fee required to recover the cost of processing each type of application;

(5)(i) The Director, or his or her designee, may reduce any fees calculated as set forth above to adjust for any inequities or any efficiencies or changes in procedure which are projected to result in reduced processing costs and which have not been taken into account as a result of application of the formula set forth in paragraphs (b)(1) through (b)(4) of this section. The Director, or his or her designee, also may adjust downward any fees calculated pursuant to paragraphs (b)(1) through (b)(4) of this section if, in the Director’s discretion, he or she determines

that the amount of such fee will unduly or unjustifiably discourage applications of a particular type or applications for particular categories of transactions.

(ii) In the event the Office develops a new type of application, and thus has no historical basis on which to establish an application fee, the Director may establish such fee based on a comparison with fees charged for processing similar types of applications or applications involving analysis of similar information, policies, and legal issues.

(c) The fees determined pursuant to paragraph (b) of this section will be published as set forth in § 502.6 of this part at least thirty days before such fees are effective, except that in 1990, such fees shall be effective ten days after publication in the Thrift Bulletin as set forth in § 502.6 of this part.

(d) The Director shall also charge fees to recover the Office's costs of processing filings with the Office made pursuant to 12 CFR parts 563b, 563d, and 563g. These fees will be published as set forth in § 502.6 of this part at least thirty days before such fees are effective, except that in 1990, such fees shall be effective ten days after publication in the Thrift Bulletin as set forth in § 502.6 of this part.

(e) In the event that the Office cannot complete its review of an application because it is found to be materially deficient and the Office accordingly refuses to accept the application for processing, the applicant must pay a new application fee at the time of filing any revised application.

(f) All application fees must be paid at the time of filing by check payable to the Office of Thrift Supervision. No part of a filing fee is refundable.

(g) When a transaction involves the filing of a number of different applications, the appropriate filing fees must be paid for each type of application filed, except as otherwise specifically provided in the Thrift Bulletin published pursuant to § 502.6 of this part.

(h) Each submission must be accompanied by a statement of the amount of the fee for each application and filing submitted and how the fee was calculated.

#### **§ 502.4 Collection of fees and assessments.**

(a) *Debit at Federal Home Loan Banks.* Each institution that is subject to fees and assessments under §§ 502.1 and 502.2 of this part and a member of a Federal Home Loan Bank, shall establish at its Federal Home Loan Bank a demand deposit account for the purpose of paying such fees and assessments. Each institution shall maintain funds in such account in sufficient amount to pay its obligations to the Office. Each Federal Home Loan Bank shall debit such account directly to effectuate payment of assessments and fees to the Office. The Director shall mail a payment notice to each such institution at least seven days prior to the date that any such account is to be debited to pay the member institution's obligations to the Office, which notice shall specify the date on which the debit is to occur. The Director shall also notify each Federal Home Loan Bank that such accounts are to be debited.

(b) *Direct billing of institutions.* As an alternative to the payment mechanism described in paragraph (a) of this section, the Director may collect assessments and fees by sending notice and demand for direct payment thereof to an assessed institution. In such case, the institution shall pay the assessment or fee not later than the date specified in the notice which shall be at least seven days after the date of such notice. This payment procedure shall be used to collect assessments and fees from assessed institutions that are not members of a Federal Home Loan Bank or are affiliates that are not savings associations.

(c) *Failure to Pay.* If any holding company, affiliate, or subsidiary of a savings association fails to pay any fee before the end of the 60-day period beginning on the date such fee is imposed, following the end of the 60-day period, the Director may assess such fee, including interest, against and collect it from such savings association. If any such entity is a holding company, subsidiary, or affiliate of more than one savings association, the fee may be levied against each such savings association in such proportion as the Director may prescribe.

(d) In the case of any savings association for which the Office has determined to appoint the Resolution Trust Corporation as conservator or receiver, the Office may obtain payment from such savings association for fees or assessments due and outstanding under § 502.1, 502.2 or 502.3 of this part by debiting its account at its local Federal Home Loan Bank or by direct billing pursuant to paragraph (b) of this section.

**§ 502.5 Interest.**

For all institutions, overdue examination fees and asset-based assessments shall bear interest. Such interest shall be calculated at a rate (to be determined quarterly) equal to 150 percent of the average of the bond-equivalent rates of 13-week Treasury bills auctioned during the preceding calendar quarter. Asset-based assessment payments shall be considered delinquent if received after the time for payment specified in § 502.1 of this part as updated by the most recent applicable Thrift Bulletin issues pursuant to § 502.6 of this part. Examination and investigation fees will be considered delinquent if not received within 30 days of the invoice date.

**§ 502.6 Notice of fees.**

(a) A Thrift Bulletin shall be published in the last quarter of each year setting forth all fees to be charged by the Office for the next calendar year. Thrift Bulletins, providing updated fee schedules, in the Director’s discretion, may be published from time to time throughout the year as necessary. Such Thrift Bulletins may set forth application fees to be charged by the Office for new types of applications developed by the Office in the period between publication of the annual Thrift Bulletins setting forth the fee schedule for the ensuing year.

(b) Notwithstanding paragraph (a) of this section, fees to cover the costs of processing applications received by this Office beginning ten days following the publication of the first Thrift Bulletin in 1990 pursuant to paragraph (a) of this section shall be payable immediately.

**§ 502.7 Other charges.**

The Director, or his or her designee, may impose additional charges to cover the cost of providing various services, including, but not necessarily limited to, publications, seminars, certifications for official copies of agency documents and records and services performed at the request of other agencies.

**PART 503—PRIVACY ACT**

Sec.

503.1 Scope and procedures.

503.2 Exemptions of records containing investigatory material compiled for law enforcement purposes.

AUTHORITY: 5 U.S.C. 552a; 12 U.S.C. 1462a, 1463, 1464.

CROSS REFERENCE: See 31 CFR part 1, subpart C.

**§ 503.1 Scope and procedures.**

(a) *In general.* The Privacy Act regulations of the Department of the Treasury, 31 CFR part 1, subpart C, apply to the Office as a component part of the Department of the Treasury. This part 503 sets forth, for the Office, specific notification and access procedures with respect to particular systems of records, and identifies the officials designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This part 503 also sets forth the specific procedures for requesting amendment of records and identifies the officials designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officials designated to grant extensions of time on appeal, the officials with whom “Statements of Disagreement” may be filed, the official designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in “Privacy Act Issuances.”

(b) *Requests for notification and access to records and accountings of disclosures.*