

to a bank in a transaction that is subject to § 563.22(b) of this chapter.

[54 FR 49517, Nov. 30, 1989, as amended at 55 FR 13512, Apr. 11, 1990; 57 FR 14342, Apr. 20, 1992; 59 FR 44623, Aug. 30, 1994]

### PART 550—TRUST POWERS OF FEDERAL SAVINGS ASSOCIATIONS

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1735f-7.

SOURCE: 54 FR 49518, Nov. 30, 1989, unless otherwise noted.

#### § 550.1 Definitions.

(a) *Account* means the trust, estate or other fiduciary relationship which has been established with a Federal savings association;

(b) *Custodian under a uniform gifts to minors act* means an account established pursuant to a state law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute and with respect to which the Federal savings association operating such account has established to the satisfaction of the Secretary of the Treasury that it has duties and responsibilities similar to the duties and responsibilities of a trustee or guardian.

(c) *Fiduciary* means a Federal savings association undertaking to act alone, through an affiliate, or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes trustee, ex-

ecutor, administrator, guardian, receiver, managing agent, registrar of stocks and bonds, escrow, transfer, or paying agent, trustee of employee pension, welfare and profit sharing trusts, and any other similar capacity;

(d) *Fiduciary records* means all matters which are written, transcribed, recorded, received or otherwise come into the possession of a Federal savings association and are necessary to preserve information concerning the actions and events relevant to the fiduciary activities of a Federal savings association;

(e) *Guardian* means the guardian, conservator, or committee by whatever name employed by local law, of the estate of an infant, an incompetent individual, an absent individual, or a competent individual over whose estate a court has taken jurisdiction, other than under bankruptcy or insolvency laws;

(f) *Investment authority* means the responsibility conferred by action of law or a provision of an appropriate governing instrument to make, select or change investments, review investment decisions made by others, or to provide investment advice or counsel to others;

(g) *Local law* means the law of the state or other jurisdiction governing the fiduciary relationship;

(h) *Managing agent* means the fiduciary relationship assumed by a Federal savings association upon the creation of an account which names the Federal savings association as agent and confers investment discretion upon the Federal savings association;

(i) *State-chartered corporate fiduciary* means any state bank, trust company, or other corporation which comes into competition with Federal savings associations and is permitted to act in a fiduciary capacity under the laws of the state in which the Federal savings association is located;

(j) *Trust department* means that group or groups of officers and employees of a Federal savings association or of an affiliate of a Federal savings association to whom are assigned the performance of fiduciary services by the Federal savings association;

(k) *Trust powers* means the power to act in any fiduciary capacity authorized by section 403 of the Depository

Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221, 94 Stat. 132, 12 U.S.C. 1464(n). Under the Act, a Federal savings association may be authorized to act, when not in contravention of local law, as trustee, executor, administrator, guardian, receiver, managing agent, registrar of stocks and bonds, escrow, transfer, and paying agent, trustee of employee pension, welfare, and profit-sharing trusts, or in any other fiduciary capacity which state-chartered corporate fiduciaries exercise under local law: *Provided, That* the granting to, and exercise of, such powers shall not be deemed to be in contravention of state or local law whenever the laws of such state authorize or permit the exercise of any or all of the foregoing powers by state banks, trust companies, or other corporations which compete with Federal savings associations.

#### § 550.2 Applications.

(a) A Federal savings association desiring to exercise fiduciary powers, either through a trust department or through an affiliate, shall file, in accordance with § 516.1(c) of this chapter, an application indicating which trust services it wishes to offer and providing the information necessary to make the determinations under paragraph (b) of this section.

(b) In addition to any other facts or circumstances deemed proper, the Office, in passing upon an application to exercise trust powers, will give consideration to the following:

(1) The financial condition of the Federal savings association, provided that in no event shall trust powers be granted to a Federal savings association if its financial condition is such that the Federal savings association does not meet the financial standards required by state laws of State-chartered corporate fiduciaries;

(2) The needs of the community for fiduciary services and the probable volume of such fiduciary business available to the Federal savings association;

(3) The general character and ability of the management of the Federal savings association;

(4) The nature of the supervision to be given to the fiduciary activities, including the qualifications, experience

and character of the proposed officer or officers of the trust department; and

(5) Whether the Federal savings association has available legal counsel to advise and pass upon fiduciary matters wherever necessary.

(c) The Regional Director, or his designee, is authorized to approve or disapprove any application filed under this section, that does not raise any significant issues of law or policy on which the Office has not taken a formal position. If each of the following conditions are not met, the Regional Director's (or his designee's) approval of such application must be made conditional upon each being met:

(1) The financial condition of the Federal savings association meets the financial standards prescribed for State-chartered corporate fiduciaries by the laws of each state in which the Federal savings association has offices from which it will offer the fiduciary services (the Regional Director may consider the regulatory capital of a Federal mutual savings association as equivalent to capital stock and surplus when state law prescribes minimum capital stock and surplus requirements) and the Regional Director has determined that the financial condition of the Federal savings association is sufficient to support the proposed trust operations;

(2) The Federal savings association has submitted a legal opinion from independent counsel certifying that the proposed trust powers are authorized for State-chartered corporate fiduciaries by the laws of each State in which the Federal savings association has offices from which it will offer fiduciary services;

(3) The Federal savings association's regulatory capital meets the Office's minimum requirements for that association under § 567.2 or § 567.3 of this chapter;

(4) Based on the most recent examination of the Federal savings association and any other available information, the Regional Director determines that any deficiencies with respect to the Federal savings association's management are minor;

(5) Based on the most recent examination of the Federal savings association and any other available information, the Regional Director determines that the overall performance of the Federal savings association is satisfactory;

(6) The proposed trust officer(s) who would be in charge of the trust operations must:

(i) Have been responsible for trust operations or fiduciary matters comparable to those proposed, for a period of at least two years during the previous five years; or

(ii) Have had two years of such experience prior to the last five years and successfully completed, during the previous year, an intensive course on trust operations comparable to those proposed;

(7) The Regional Director determines, based on the information available, that the proposed trust officer(s) is trustworthy and competent (the person's experience, education and other relevant factors may be considered) to be in charge of the proposed trust operations;

(8) The proposed trust department or service corporation has legal counsel available to provide advice with respect to fiduciary matters;

(9) The Regional Director has determined that there is sufficient need for the proposed trust activities in the communities to be served; and

(10) The approval of the appropriate Federal or State authorities has been obtained if the proposed fiduciary services are to be exercised through a state or Federally chartered service corporation.

(d) Approval by the Office or the Regional Director of an application under this section authorizes the applicant to exercise only those trust powers specified in the approval. Unless otherwise provided by the approval, fiduciary services based on those trust powers may be offered only in those offices listed in the application.

[54 FR 49518, Nov. 30, 1989, as amended at 55 FR 13512, Apr. 11, 1990; 57 FR 14342, Apr. 20, 1992; 60 FR 66717, Dec. 26, 1995]

**§ 550.3 Consolidation or merger of two or more Federal savings associations.**

Where two or more Federal savings associations consolidate or merge, and any one of such Federal savings associations has, prior to such consolidation or merger, received a permit from the Office to exercise trust powers which permit is in force at the time of the consolidation or merger, the rights existing under such permit pass to the resulting Federal savings association, and the resulting Federal savings association may exercise such trust powers in the same manner and to the same extent as the Federal savings association to which such permit was originally issued; and no new application to continue to exercise such powers is necessary. However, when the name or charter number of the resulting Federal savings association differs from that of the Federal savings association to which the right to exercise trust powers was originally granted, the Office Regional Director will issue a certificate to that Federal savings association showing its right to exercise the trust powers theretofore granted to any of the Federal savings associations participating in the consolidation or merger.

[54 FR 49518, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995]

**§ 550.4 Deposit of securities with State authorities.**

Whenever local law requires a corporation acting as a fiduciary to deposit securities with State authorities for the protection of private or court trusts, Federal savings associations in that state authorized to exercise trust powers shall, before undertaking to act in any fiduciary capacity, make a similar deposit with the state authorities. If the state authorities refuse to accept such a deposit, the securities shall be deposited with the Federal Home Loan Bank of which the Federal savings association is a member, and such securities shall be held for the protection of private or court trusts with like effect as though the securities had been deposited with the State authorities.

**§ 550.5 Administration of trust powers.**

(a)(1) *Responsibility of the board of directors.* The board of directors is responsible for the proper exercise of fiduciary powers by the Federal savings association. All matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees utilized by the Federal savings association in the exercise of its fiduciary powers, are the responsibility of the board. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of such of the Federal savings association's trust powers as it may consider proper to assign to such director(s), officer(s), employee(s), or committee(s) as it may designate.

(2) *Administration of accounts.* No fiduciary account shall be accepted without the prior approval of the board, or of the director(s), officer(s), or committee(s) to whom the board may have assigned the performance of that responsibility. A written record shall be made of such acceptances and of the relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the Federal savings association has investment responsibilities, a prompt review of the assets shall be made. The board shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in or held for each fiduciary account for which the Federal savings association has investment responsibilities are reviewed to determine the advisability of retaining or disposing of such assets. The board of directors should act to ensure that all investments have been made in accordance with the terms and purposes of the governing instrument.

(b) *Use of other Federal savings association personnel.* The trust department may utilize personnel and facilities of other departments of the Federal savings association, and other departments of the Federal savings association may utilize personnel and facilities of the trust department only to the extent not prohibited by law.

(c) *Compliance with Federal securities laws.* Every Federal savings association exercising trust powers shall adopt written policies and procedures to ensure that the Federal securities laws are complied with in connection with any decision or recommendation to purchase or sell any security. Such policies and procedures, in particular, shall ensure that the Federal savings association's trust departments shall not use material inside information in connection with any decision or recommendation to purchase or sell any security.

(d) *Legal counsel.* Every Federal savings association exercising fiduciary powers shall designate, employ, or retain legal counsel who shall be readily available to pass upon fiduciary matters and to advise the Federal savings association and its trust department.

(e) *Bonding.* In addition to the minimum bond coverage required by §563.190 of this chapter, directors, officers, and employees of a Federal savings association engaged in the operation of a trust department shall acquire such additional bond coverage as the office may require.

**§ 550.6 Books and accounts.**

(a) *General.* Every Federal savings association exercising trust powers shall keep its fiduciary records separate and distinct from other records of the Federal savings association. All fiduciary records shall be so kept and retained for such time as to enable the Federal savings association to furnish such information or reports with respect thereto as may be required by the office. The fiduciary records shall contain full information relative to each account.

(b) *Record of pending litigation.* Every Federal savings association shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of trust powers.

**§ 550.7 Audit of trust department.**

(a) A committee of directors of the Federal savings association who are independent of its management shall make, or cause to be made, a suitable audit of the association's trust department annually. The audit shall, at a

minimum, ascertain whether the department has internal control policies and procedures in place to provide reasonable assurance that:

(1) Fiduciary activities are administered in accordance with applicable laws and regulations, governing trust instruments, and sound fiduciary principles;

(2) Fiduciary assets are properly safeguarded; and

(3) Transactions are accurately recorded in the appropriate accounts in a timely manner.

(b) The audit shall be conducted in accordance with generally accepted standards for attestation engagements and any other standards established by the OTS. The audit may be conducted by internal auditors, external auditors or other qualified persons who are responsible only to the board of directors.

[59 FR 60303, Nov. 23, 1994]

**§ 550.8 Funds awaiting investment or distribution.**

(a) *General.* Funds held in a fiduciary capacity by a Federal savings association awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

(b) *Use by Federal savings association in regular business.* (1) Funds held in trust by a Federal savings association, including managing agency accounts, awaiting investment or distribution may, unless prohibited by the instrument creating the trust or by local law, be deposited in other departments of the Federal savings association, provided that the Federal savings association shall first set aside under control of the trust department as collateral security:

(i) Direct obligations of the United States, or other obligations fully guaranteed by the United States as to principal and interest;

(ii) Readily marketable securities of the classes in which state-chartered corporate fiduciaries are authorized or permitted to invest trust funds under the laws of the state in which such Federal savings association is located; or

(iii) Other readily marketable securities as the Office may determine.

(2) Collateral securities or securities substituted therefor as collateral shall at all times be at least equal in face value to the amount of trust funds so deposited, but such security shall not be required to the extent that the funds so deposited are insured by the Federal Deposit Insurance Corporation. The requirements of this paragraph (b)(2) are met when qualifying assets of the Federal savings association are pledged to secure a deposit in compliance with local law, and no duplicate pledge shall be required in such case.

(3) Any funds held by a Federal savings association as fiduciary awaiting investment or distribution and deposited in other departments of the Federal savings association shall be made productive.

**§ 550.9 Investment of funds held as fiduciary.**

(a) *Private trusts.* Funds held by a Federal savings association in a fiduciary capacity shall be invested in accordance with the instrument establishing the fiduciary relationship and local law. When such instrument does not specify the character or class of investments to be made and does not vest in the Federal savings association, its directors, or its officers investment discretion in the matter, funds held pursuant to such instrument shall be invested in any investment in which state-chartered corporate fiduciaries may invest under local law.

(b) *Court trusts.* If, under local law, corporate fiduciaries appointed by a court are permitted to exercise discretion in investments, or if a Federal savings association acting as fiduciary under appointment by a court is vested with discretion in investments by an order of such court, funds of such accounts may be invested in any investments which are permitted by local law. Otherwise, a Federal savings association acting as fiduciary under appointment by a court must make all investments of funds in such accounts under an order of that court. Such orders in either case shall be preserved with the fiduciary records of the Federal savings association.

(c) *Collective investment of trust funds.* The collective investment of funds received or held by a Federal savings association as fiduciary is governed by § 550.13 of this part.

**§ 550.10 Self-dealing.**

(a) *Purchase of obligations, etc., from Federal savings association.* Unless lawfully authorized by the instrument creating the relationship, or by court order or local law, funds held by a Federal savings association as fiduciary shall not be invested in stock or obligations of, or property acquired from, the Federal savings association or its directors, officers, or employees, or individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the exercise of the best judgment of the Federal savings association in acquiring the property, or in stock or obligations of, or property acquired from, affiliates of the Federal savings association or their directors, officers or employees.

(b) *Sale or transfer of trust assets to Federal savings association.* Property held by a Federal savings association as fiduciary shall not be sold or transferred, by loan or otherwise, to the Federal savings association or its directors, officers, or employees, or to individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the exercise of the best judgment of the Federal savings association in selling or transferring such property, or to affiliates of the Federal savings association or their directors, officers or employees, except:

(1) When lawfully authorized by the instrument creating the relationship or by court order or by local law;

(2) In cases in which the Federal savings association has been advised by its counsel in writing that it has incurred as fiduciary a contingent or potential liability and desires to relieve itself from such liability, in which case such a sale or transfer may be made with the approval of the board of directors and the Regional Director, *provided, That* in all such cases the Federal savings association, upon the consummation of the sale or transfer, shall make

reimbursement in cash at no loss to the account;

(3) As provided in the laws and regulations governing collective investments; and

(4) When required by the Office.

(c) *Investment in stock of Federal savings association.* Except as provided in § 550.8(b) of this part, funds held by a Federal savings association as fiduciary shall not be invested by the purchase of stock or obligations of the Federal savings association or its affiliates unless authorized by the instrument creating the relationship or by court order or by local law: *Provided, that* if the retention of stock or obligations of the Federal savings association or its affiliates is authorized by the instrument creating the relationship or by court order or by local law, it may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata to stockholders, unless such exercise is forbidden by local law. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired. In elections of directors, a Federal savings association's share held by the Federal savings association as sole trustee, whether in its own name as trustee or in the name of its nominee, may not be voted by the registered owner unless, under the terms of the trust, the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and the donor or beneficiary actually directs how the shares will be voted.

(d) *Transactions between accounts.* (1) A Federal savings association may sell assets held by it as fiduciary in one account to itself as fiduciary in another account if the transaction is fair to both accounts and if such transaction is not prohibited by the terms of any governing instrument or by local law.

(2) A Federal savings association may make a loan to an account from the funds belonging to another such account, when the making of such loans to a designated account is authorized by the instrument creating the account from which such loans are made, and is not prohibited by local law, and the

terms of the transaction are fair to all accounts.

(3) A Federal savings association may make a loan to an account and may take as security therefor assets of the account, provided such transaction is fair to such account and is not prohibited by local law.

[54 FR 49518, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995]

**§ 550.11 Custody of investments.**

(a) *Segregation of trust assets and joint custody.* The investments of each account shall be kept separate from the assets of the Federal savings association, and shall be placed in the joint custody or control of not fewer than two of the officers or employees of the Federal savings association designated for that purpose either by the board of directors of the Federal savings association or by one or more officers designated by the board of directors of the Federal savings association, and all such officers and employees shall be adequately bonded. To the extent permitted by law, a Federal savings association may permit the investments of a fiduciary account to be deposited elsewhere.

(b) *Segregation of accounts.* The investments of each account shall be either:

(1) Kept separate from those of all other accounts, except as provided in § 550.13 of this part; or

(2) Adequately identified as the property of the relevant account.

**§ 550.12 Compensation of Federal savings association.**

(a) *General.* If the amount of the compensation for acting in a fiduciary capacity is not regulated by local law or provided for in the instrument creating the fiduciary relationship or otherwise agreed to by the parties, a Federal savings association acting in such capacity may charge or deduct a reasonable compensation for its services. When the Federal savings association is acting in a fiduciary capacity under appointment by a court, it shall receive such compensation as may be allowed or approved by that court or by local law.

(b) *Officer or employee of Federal savings association as co-fiduciary.* No Fed-

eral savings association shall, except with the specific approval of its board of directors, permit any of its officers or employees, while serving as such, to retain any compensation for acting as a co-fiduciary with the Federal savings association in the administration of any account undertaken by it.

(c) *Bequests or gifts to trust officers and employees.* No Federal savings association shall permit an officer or employee engaged in the operation of its trust department to accept a bequest or gift of trust assets unless the bequest or gift is directed or made by a relative or is approved by the board of directors of the Federal savings association.

**§ 550.13 Collective investment.**

(a) When not in contravention of local law, funds held by a Federal savings association as fiduciary may be held in:

(1) A common trust fund maintained by the Federal savings association exclusively for the collective investment and reinvestment of moneys contributed thereto by the Federal savings association in its capacity as trustee, executor, administrator, guardian, or custodian under a Uniform Gifts to Minors Act; or

(2) A fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from Federal income taxation under the Internal Revenue Code.

(b) Collective investments of funds or other property by a Federal savings association under paragraph (a) of this section shall be administered in accordance with Comptroller of the Currency Regulation 9.18, 12 CFR 9.18: *provided, That* any documents required to be filed with the Comptroller of the Currency under that regulation shall also be filed in accordance with the filing instructions in § 516.1(c) of this chapter and that the OTS may review such documents for compliance with these and other laws and regulations.

(c) As used in this section, the term Federal savings association shall include two or more Federal savings associations which are members of the same affiliated group with respect to any fund established pursuant to § 550.13 of this part of which any of such

affiliated Federal savings associations is trustee, or of which two or more of such affiliated Federal savings associations are co-trustees.

[54 FR 49518, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995]

**§ 550.14 Surrender of trust powers.**

(a) Any Federal savings association which has been granted the right to exercise trust powers and which desires to surrender such rights shall file a certified copy of the resolution of its board of directors signifying such desire. Such resolution shall be filed in accordance with § 516.1(c) of this chapter.

(b) Upon receipt of such resolution, the Regional Director shall make an investigation and if it is satisfied that the Federal savings association has been discharged from all fiduciary duties which it has undertaken, it shall issue a certificate to such Federal savings association certifying that it is no longer authorized to exercise fiduciary powers.

(c) Upon issuance of such a certificate by the Regional Director, a Federal savings association:

(1) Shall no longer be subject to the provisions of these regulations,

(2) Shall be entitled to have returned to it any securities which it may have deposited with state authorities or a Federal Home Loan Bank under § 550.4 of this part, and

(3) Shall not exercise thereafter any of the powers granted by this part 550 without first applying for and obtaining new authorization to exercise such powers.

[54 FR 49518, Nov. 30, 1989, as amended at 55 FR 13513, Apr. 11, 1990; 60 FR 66717, Dec. 26, 1995]

**§ 550.15 Effect on trust accounts of appointment of conservator or receiver or voluntary dissolution of association.**

(a) *Appointment of conservator or receiver.* Whenever a conservator or receiver is appointed for a Federal savings association under part 558 of this chapter, such receiver or conservator shall, pursuant to the instructions of the Office and the orders of the court having jurisdiction, proceed to close such of the Federal savings associa-

tion's trust accounts as can be closed promptly and transfer all other such accounts to substitute fiduciaries.

(b) *Voluntary dissolution.* Whenever a Federal savings association exercising trust powers is placed in voluntary dissolution, the liquidating agent shall, in accordance with local law, proceed at once to liquidate the affairs of the trust department as follows:

(1) All trusts and estates over which a court is exercising jurisdiction shall be closed or disposed of as soon as practicable in accordance with the order or instructions of such court; and

(2) All other accounts which can be closed promptly shall be closed as soon as practicable and final accounting made therefor, and all remaining accounts shall be transferred by appropriate legal proceedings to substitute fiduciaries.

[54 FR 49518, Nov. 30, 1989, as amended at 60 FR 66718, Dec. 26, 1995]

**§ 550.16 Revocation of trust powers.**

(a) In addition to the other sanctions available, if, in the opinion of the Office, a Federal savings association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this part 550 or otherwise fails or has failed to comply with the requirements of this part 550, the Office may issue and serve upon the Federal savings association a notice of intent to revoke the authority of the Federal savings association to exercise the powers granted by this part 550. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should be issued against the Federal savings association.

(b) Such hearing shall be conducted in accordance with the provisions of part 509 of this chapter, and shall be fixed for a date not earlier than thirty days and not later than sixty days after service of such notice unless an earlier or later date is set by the Office

at the request of the Federal savings association so served.

(c) Unless the Federal savings association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent or if, upon the record made at any such hearing, the Office shall find that any allegation specified in the notice of charges has been established, the Office may issue and serve upon the Federal savings association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this part 550 except that such order shall permit the Federal savings association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(d) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the Federal savings association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Office or a reviewing court.

**PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS**

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**§ 552.2-1 Procedure for organization of Federal stock association.**

(a) *Application for permission to organize.* Applications for permission to organize a Federal stock association shall be subject to the provisions of paragraphs (a) through (f) of § 543.2 of this chapter.

(b) *Conditions of approval.* The OTS will decide all applications for permission to organize a Federal stock association.

(1) Factors that will be considered on all applications for permission to organize a Federal stock association are:

(i) Whether the applicants are persons of good character and responsibility;

(ii) Whether a necessity exists for such association in the community to be served;

(iii) Whether there is a reasonable probability of the association's usefulness and success;

(iv) Whether the association can be established without undue injury to properly conducted existing local thrift and home financing institutions; and

(v) Whether the association will perform a role of providing credit for housing consistent with safe and sound operation of a Federal savings association.

(2) Once an application has been approved, the Office shall promptly send a copy of that application, together with the certificate of approval specified at section 5(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)(2)), to the Federal Deposit Insurance Corporation.