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office of the Department of the Treasury. Its functions are to charter, supervise, regulate and examine Federal savings associations and to supervise, regulate and examine all savings associations. It is directed by a Director, who 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

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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 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 AND FEES

Sec.

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1467, 1467a.

SOURCE: 63 FR 65670, Nov. 30, 1998, unless otherwise noted.

§ 502.5 Who must pay assessments and fees?

(a) Authority. Section 9 of the HOLA, 12 U.S.C. 1467, authorizes the Director to charge assessments to recover the costs of examining savings associations and their affiliates, to charge fees to recover the costs of processing applications and other filings, and to charge fees to cover OTS 's direct and indirect expenses in regulating savings associations and their affiliates.

(b) Assessments. If you are a savings association that OTS regulates on the last day of January or on the last day of July of each year, you must pay a semi-annual assessment due on that

day. Subpart A of this part describes OTS's assessment procedures and requirements.

(c) *Fees.* Whether or not you are a savings association, if you make any filings with OTS or use OTS services, the Director may require you to pay a fee to cover the costs of processing your submission or providing those services. The filings for which the Director may charge a fee include notices, applications, and securities filings. Among the services for which the Director may charge a fee are publications, seminars, certifications for official copies of agency documents, and records or services requested by other agencies. The Director also assesses fees for examining and investigating savings associations that administer trust assets of \$1 billion or less, and affiliates of savings associations. If you are a savings association and you or any of your affiliates cause OTS to incur extraordinary expenses related to your examination, investigation, regulation, or supervision, the Director may charge you a fee to fund those expenses. Subpart B of this part describes OTS's fee procedures and requirements.

**Subpart A—Assessments**

**§ 502.10 How does OTS calculate my assessment?**

OTS determines your semi-annual assessment by totaling three components: your size, your condition, and the complexity of your business. For the size and complexity components, OTS uses the September 30 Thrift Financial Report to determine amounts due at the January 31 assessment; and the March 31 Thrift Financial Report to determine amounts due at the July 31 assessment. For purposes of this subpart, total assets are your total assets as reported on Thrift Financial Reports filed with OTS. For the condition component, OTS uses the most recent composite rating, as defined in 12 CFR part 516, of which you have been notified in writing before an assessment's due date.

**§ 502.15 How does OTS determine my size component?**

(a) *General.* (1) Unless you are a qualifying savings association under paragraph (b) of this section, OTS uses the following chart to calculate your size component:

| If your total assets are: |                    | Your size component is:                   |                        |                                |
|---------------------------|--------------------|---|------------------------|--------------------------------|
| Over—                     | But not over—      | This amount—<br>Base assessment<br>amount | Plus—<br>Marginal rate | Of assets over—<br>Class floor |
| Column A                  | Column B           | Column C                                  | Column D               | Column E                       |
| 0 .....                   | \$67 million ..... | C1  | D1                     | 0.                             |
| \$67 million .....        | 215 million .....  | C2  | D2                     | \$67 million.                  |
| 215 million .....         | 1 billion .....    | C3  | D3                     | 215 million.                   |
| 1 billion .....           | 6.03 billion ..... | C4  | D4                     | 1 billion.                     |
| 6.03 billion .....        | 18 billion .....   | C5  | D5                     | 6.03 billion.                  |
| 18 billion .....          | 35 billion .....   | C6  | D6                     | 18 billion.                    |
| 35 billion .....          | .....              | C7  | D7                     | 35 billion.                    |

(2) To calculate your size component, find the row in Columns A and B that describes your total assets. Reading across in that same row, find your base assessment amount in Column C, your marginal rate in Column D, and your class floor in Column E. Calculate how much your total assets exceed your Column E class floor. Multiply this number by your Column D marginal rate. Add this number to your Column C base assessment amount. The total is

your size component. OTS will establish the base assessment amounts and the marginal rates in columns C and D in a Thrift Bulletin.

(b) *Special size component calculation for qualifying savings associations.* If you meet all of the criteria set forth in paragraph (b)(1) of this section, you are a qualifying savings association and OTS will calculate your size component in accordance with paragraph (b)(2) of this section.

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(1) *Criteria for qualifying savings association status.* (i) You were a savings association as of January 1, 1999.

(ii) Your total assets have never exceeded \$100 million at the end of any quarter.

(2) *Size component for qualifying savings associations.* If you are a qualifying savings association, your size component is the lesser of:

(i) Your size component calculated under paragraph (a) of this section; or

(ii) Your assessment calculated using the general assessment table at 12 CFR 502.1(c) as contained in the 12 CFR, parts 500 to 599, edition revised as of January 1, 1998, as implemented in Thrift Bulletin 48-9, dated December 21, 1992.

**§ 502.20 How does OTS determine my condition component?**

OTS uses the following chart to determine your condition component:

|                              |                                    |
|------------------------------|------------------------------------|
| If your composite rating is: | Then your condition component is:  |
| 1 or 2 .....                 | zero.                              |
| 3 .....                      | 25 percent of your size component. |
| 4 or 5 .....                 | 50 percent of your size component. |

**§ 502.25 How does OTS determine my complexity component?**

If your portfolio exceeds any of the thresholds in paragraph (a) of this section, OTS will calculate your complexity component according to paragraph (c) of this section. If your portfolio does not exceed any of the thresholds in paragraph (a) of this section, your complexity component is zero.

(a) *Thresholds for complexity component.* OTS uses three separate thresholds in calculating your complexity component. You exceed a threshold if you have more than \$1 billion in any of the following:

- (1) Trust assets you administer.
- (2) The outstanding principal balance of assets covered, fully or partially, by your recourse obligations or direct credit substitutes.
- (3) The principal amount of loans that you service for others.

(b) *Assessment rates.* OTS will establish one or more assessment rates for each of the types of activities listed in paragraph (a) of this section. OTS will publish those assessment rates in a Thrift Bulletin.

(c) *Calculation of complexity component.* OTS separately considers each of the thresholds in paragraph (a) of this section in calculating your complexity component. OTS first calculates the amount by which you exceed any of those thresholds. OTS multiplies the amount by which you exceed any threshold in paragraph (a) of this section by the applicable assessment rate(s) under paragraph (b) of this section. OTS then totals the results. This total is your complexity component.

**§ 502.30 When must I pay my assessment?**

OTS will bill you semiannually for your assessments. Assessments are due January 31 and July 31 of each year. At least seven days before your assessment is due, the Director will mail you a notice that indicates the amount of your assessment, explains how OTS calculated the amount, and specifies when payment is due.

**§ 502.35 How must I pay my assessment?**

(a) *Debit at Federal Home Loan Banks.* If you are a member of a Federal Home Loan Bank, you must maintain a demand deposit account at your Federal Home Loan Bank with sufficient funds to pay your assessment when due. OTS will notify your Federal Home Loan Bank of the amount of your assessment. OTS will debit your account for your assessments.

(b) *Direct billing.* If you are not a member of a Federal Home Loan Bank, OTS will directly debit an account you must maintain at your association.

**§ 502.40 Can I get a refund or proration of my assessment?**

OTS will not refund or prorate your assessment, even if you cease to be a savings association. If you are a savings association for whom a conservator or receiver has been appointed, you must continue to pay assessments in accordance with this part. OTS will not increase or decrease your assessment based on events that occur after the date of the Thrift Financial Report upon which your assessment is based.

**§ 502.45 What if I do not pay my assessment on time?**

The Director will charge interest on delinquent assessments. Interest will accrue at a rate (that OTS will determine quarterly) equal to 150 percent of the average of the bond-equivalent rates of 13-week Treasury bills auctioned during the preceding calendar quarter. Assessments under this subpart A are delinquent if you do not pay them when required by § 502.30.

**Subpart B—Fees****§ 502.50 What fees does OTS charge?**

(a) The Director assesses fees for examining or investigating savings associations that administer trust assets of \$1 billion or less, and savings association affiliates. “Affiliate” has the meaning in 12 U.S.C. 1462(9), except that, for this part only, “affiliate” does not include any entity that is consolidated with a savings association on the Consolidated Statement of the Thrift Financial Report.

(b) The Director assesses fees for processing notices, applications, securities filings, and requests, and for providing other services.

**§ 502.55 Where can I find OTS’s fee schedule?**

OTS will periodically publish a schedule of its fees in a Thrift Bulletin. OTS will publish these fees at least 30 days before they are effective.

**§ 502.60 When will OTS adjust, add, waive, or eliminate a fee?**

Under unusual circumstances, the Director may deem it necessary or appropriate to adjust, add, waive, or eliminate a fee. For example, the Director may:

(a) Reduce any fee to adjust for any inequities, efficiencies, or changed procedures that OTS projects will reduce its applications processing costs but that OTS did not consider in determining its fees;

(b) Reduce or waive any fee if OTS determines that the fee would unduly or unjustifiably discourage particular types of applications or applications for particular categories of transactions;

(c) Add a fee for a new type of application;

(d) Increase a fee for an application that presents unusual or particularly complex issues of law or policy or otherwise causes the agency to incur unusually high processing costs; or

(e) Charge a fee to recover extraordinary expenses related to examination, investigation, regulation, or supervision of savings associations or their affiliates.

**§ 502.65 When is an application fee due?**

(a) You must pay the application fee when you file an application. OTS will not process your application if you do not include the required fee.

(b) If OTS cannot complete its review of your application because the application is materially deficient and it refuses to accept your application for processing, you must pay a new application fee upon filing a revised application.

(c) If a transaction involves multiple applications, you must pay the appropriate fee for each application, unless OTS specifies otherwise by Thrift Bulletin.

**§ 502.70 How must I pay an application fee?**

You must pay an application fee to the Office of Thrift Supervision. You must include a statement of the fee and how you calculated the fee.

**§ 502.75 What if I do not pay my fees on time?**

(a) *Interest.* An examination or investigation fee is delinquent if OTS does not receive the fee within 30 days of the date specified in a bill. The Director will charge interest on a delinquent examination or investigation fee. Interest will accrue at a rate (that OTS will determine quarterly) equal to 150 percent of the average of the bond-equivalent rates of 13-week Treasury bills auctioned during the preceding calendar quarter.

(b) *Failure to pay.* If your holding company, affiliate, or subsidiary fails to pay any examination or investigation fee within 60 days of the date specified in a bill, the Director may assess that fee, with interest, against you and

collect it from you. If any such entity is a holding company, affiliate, or subsidiary of more than one savings association, the Director may assess the fee against and collect it from each savings association as the Director may prescribe.

## 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.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and ac-

countings of disclosures for the Office, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in “Privacy Act Issuances” published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Office of Congressional Relations and Communications, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

(c) *Requests for amendment of records.* Initial determinations under 31 CFR 1.27(a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed to: Privacy Act Amendment Request, Office of Congressional Relations and Communications, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

(d) *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Office will be made by the Director of the Office of Thrift Supervision (“Director”) or Chief Counsel or the delegate of the Director or Chief Counsel. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Office of Congressional Relations and Communications, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

(e) *Statements of disagreement.* “Statements of Disagreement” under 31 CFR 1.27(e)(4)(i) shall be filed with the Deputy Director for Washington Operations at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

(f) *Service of process.* Service of process will be received by the Chief Counsel’s Office or the delegate of such official and shall be delivered to the following location: Chief Counsel’s Office,