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the Internal Revenue Code of 1954 (26 U.S.C. 401(d)).

(b) Trustee or custodian of a Individual Retirement Account within the meaning of section 408(a) of the Internal Revenue Code of 1954 (26 U.S.C. 408(a)).

(c) Trustee of a fiduciary account that involves no active fiduciary duties provided that the applicable law authorizes the savings association to act in this capacity.

§ 550.590 What standards must I observe when acting in exempt fiduciary capacities?

You must observe principles of sound fiduciary administration, including those related to recordkeeping and segregation of assets.

§ 550.600 How may I invest funds when acting in exempt fiduciary capacities?

If you act in an exempt fiduciary capacity under § 550.580, you may invest the funds of the fiduciary account in only the following:

(a) Your accounts, deposits, obligations, or securities.

(b) Other assets as the customer may direct, provided you do not exercise any investment discretion and do not directly or indirectly provide any investment advice for the fiduciary account.

§ 550.610 What disclosures must I make when acting in exempt fiduciary capacities?

If you act in an exempt fiduciary capacity under § 550.580 and fiduciary investments are not limited to accounts or deposits insured by the FDIC, you must include the following language in bold type on the first page of any contract documents:

> Funds invested pursuant to this agreement are not insured by the Federal Deposit Insurance Corporation (''FDIC'') merely because the trustee or custodian is a Federal savings association the accounts of which are covered by such insurance. Only investments in the accounts of a Federal savings association are insured by the FDIC, subject to its rules and regulations.

§ 550.620 May I receive compensation for acting in exempt fiduciary capacities?

You may receive reasonable compensation.

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

Sec.

552.2–1 Procedure for organization of Federal stock association.
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552.13 Combinations involving Federal stock associations.
552.14 Dissenter and appraisal rights.
552.15 Supervisory combinations.
552.16 Effect of subsequent charter or bylaw change.

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

SOURCE: 54 FR 49523, Nov. 30, 1989, unless otherwise noted.

§ 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 are subject to this section and to § 543.3 of this chapter. Recommendations by employees of the OTS regarding applications for permission to organize are privileged, confidential, and subject to § 510.5 (b) and (c) of this chapter. The processing of an application under this

section shall be subject to the following procedures:

(1) *Publication*. (i) The applicant shall publish a public notice of the application to organize in accordance with the procedures specified in subpart B of part 516 of this chapter.

(ii) Promptly after publication of the public notice, the applicant shall transmit copies of the public notice and publisher's affidavit of publication to the OTS in the same manner as the original filing.

(iii) Any person may inspect the application and all related communications at the Regional Office during regular business hours, unless such information is exempt from public disclosure.

(2) *Notification to interested parties*. The OTS shall give notice of the application to the State official who supervises savings associations in the State in which the new association is to be located.

(3) *Submission of comments*. Commenters may submit comments on the application in accordance with the procedures specified in subpart C of part 516 of this chapter.

(4) *Meetings*. The OTS may arrange informal or formal meetings in accordance with the procedures specified in subpart D of part 516 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) [Reserved]

(3) Approvals of applications will be conditioned on the following:

(i) Receipt by the Office of written confirmation from the Federal Deposit Insurance Corporation that the accounts of the association will be insured by the Federal Deposit Insurance Corporation;

(ii) The sale of a minimum amount of fully-paid capital stock of the association prior to commencing business;

(iii) The submission of a statement that:

(A) The applicants have incurred no expense in organization which is chargeable to the association, and that no such expense will be incurred, and

(B) No funds will be accepted for deposit by the association until organization has been completed;

(iv) Compliance with all applicable laws, rules, and regulations; and

(v) The satisfaction of any other requirement or condition the Director or his or her designee may impose.

(c) *Issuance of charter*. Upon approval of an application, the Office shall issue to the association a charter for a Federal stock savings association or for a Federal stock savings bank, as requested by the applicants, which shall be in the form provided in this part. Issuance of the charter shall be subject to the condition subsequent that the organization of the association is completed pursuant to this section.

(d) *Interim board of directors and officers*. Upon approval of the application and the issuance of the charter, the applicants shall constitute the interim board of directors of the association until the board of directors of the association are elected by its stockholders at the organizational meeting required by paragraph (g) of this section, and the interim officers of the association shall be those persons set forth in the application for permission to organize.

(e) *Sale of capital stock*. Upon the issuance of the charter, the association shall proceed to offer and sell its capital stock pursuant to the requirements of part 563g of this chapter.

(f) *Bank membership and insurance of accounts*. Promptly upon the issuance of the charter, a Federal stock association must qualify as a member of the appropriate Federal Home Loan Bank

and meet all requirements necessary to obtain insurance of accounts by the Federal Deposit Insurance Corporation.

(g) *Organizational meeting.* Promptly upon the completion of the sale of its capital stock, the association shall provide notice, pursuant to § 552.6(b), of a meeting of its stockholders to elect a board of directors. Immediately following such election, the directors shall meet to elect the officers of the association and to undertake any other action necessary under the charter or bylaws to complete corporate organization.

(h) *Completion of organization.* Organization of a Federal stock association shall be deemed complete for the purposes of this part when:

(1) The association has obtained Federal Home Loan Bank membership and insurance of its accounts from the Federal Deposit Insurance Corporation;

(2) It has completed the sale of and received full payment for its capital stock;

(3) It has complied with all requirements of part 563g of this chapter;

(4) It has held its organizational meeting for the election of directors and all directors have been elected;

(5) Its officers have been elected and bonded; and

(6) It has met the requirements and conditions imposed by the Office in connection with approval of the application.

(i) *Failure of completion.* If organization of a Federal stock association is not completed within six months after the OTS approves the application, or within such additional period as the OTS for good cause may grant, the charter shall become null and void and all subscriptions to capital stock shall be returned.

[54 FR 49523, Nov. 30, 1989, as amended at 57 FR 14342, Apr. 20, 1992; 62 FR 27181, May 19, 1997; 62 FR 64146, Dec. 4, 1997]

§ 552.2–2 Procedures for organization of interim Federal stock association.

(a) Applications for permission to organize an interim Federal savings association are not subject to subparts B, C and D of part 516 of this chapter or § 552.2–1(b)(3) of this part.

(b) Approval of an application for permission to organize an interim Federal stock association shall be conditioned upon approval by the Office of an application to merge the interim Federal stock association, or upon approval by the Office of other transaction which the interim was chartered to facilitate. Applications for permission to organize an interim Federal stock association shall be submitted in the same manner as the related filing(s). In evaluating the application, the Office will consider the purpose for which the association will be organized, the form of any proposed transactions involving the association, the effect of the transactions on existing associations involved in the transactions, and the factors specified in § 552.1(b)(1) to the extent relevant.

(c) If a merger or other transaction facilitated by the existence of the interim Federal stock association has not been approved within six months of the approval of the application for permission to organize, unless extended by OTS for good cause shown, the charter shall be void and all subscriptions for capital stock shall be returned.

[54 FR 49523, Nov. 30, 1989, as amended at 55 FR 13513, Apr. 11, 1990; 57 FR 14342, Apr. 20, 1992; 62 FR 64146, Dec. 4, 1997]

§ 552.2–3 Federal stock association created in connection with an association in default or in danger of default.

Sections 552.2–1 and 552.2–2 of this part do not apply to a Federal stock association which is proposed by the Federal Deposit Insurance Corporation, or the Resolution Trust Corporation under section 5(p) of the Home Owner's Loan Act of 1933, section 11(c) of the Federal Deposit Insurance Act, or section 21A of the Federal Home Loan Bank Act, or is otherwise chartered by the Office in connection with an association in default or in danger of default. Incorporation and organization of such associations are complete when and under such conditions as the Director or his or her designee so determines.