

Office of Thrift Supervision, Treasury

§ 557.12

file a notice describing your activity by February 1, 1999.

[63 FR 65682, Nov. 30, 1998, as amended at 66 FR 13006, Mar. 2, 2001]

PART 557—DEPOSITS

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

SOURCE: 62 FR 54764, Oct. 22, 1997, unless otherwise noted.

Subpart A—General

§ 557.1 What does this part do?

This part applies to the deposit activities of savings associations. If you are a federal savings association, subpart B of this part applies to your deposit activities. Subpart C of this part applies to the deposit activities of all federal and state-chartered savings associations.

Subpart B—Deposit Activities of Federal Savings Associations

§ 557.10 What authorities govern the issuance of deposit accounts by a federal savings association?

A federal savings association (“you”) may raise funds through accounts and may issue evidence of accounts under section 5(b)(1) of the HOLA (12 U.S.C. 1464(b)(1)), your charter, and this part.

Additionally, 12 CFR parts 204 and 230 apply to your deposit activities.

§ 557.11 To what extent does Federal law preempt deposit-related State laws?

(a) Under sections 4(a), 5(a), and 5(b) of the HOLA, 12 U.S.C. 1463(a), 1464(a), and 1464(b), OTS is authorized to promulgate regulations that preempt state laws affecting the operations of federal savings associations when appropriate to:

(1) Facilitate the safe and sound operations of federal savings associations;

(2) Enable federal savings associations to operate according to the best thrift institutions practices in the United States; or

(3) Further other purposes of HOLA.

(b) To further these purposes without undue regulatory duplication and burden, OTS hereby occupies the entire field of federal savings associations’ deposit-related regulations. OTS intends to give federal savings associations maximum flexibility to exercise deposit-related powers according to a uniform federal scheme of regulation. Federal savings associations may exercise deposit-related powers as authorized under federal law, including this part, without regard to state laws purporting to regulate or otherwise affect deposit activities, except to the extent provided in § 557.13. State law includes any statute, regulation, ruling, order, or judicial decision.

[62 FR 54764, Oct. 22, 1997, as amended at 63 FR 71212, Dec. 24, 1998; 64 FR 69184, Dec. 10, 1999; 67 FR 78152, Dec. 23, 2002]

§ 557.12 What are some examples of preempted state laws affecting deposits?

The OTS preempts state laws that purport to impose requirements governing the following:

- (a) Abandoned and dormant accounts;
- (b) Checking accounts;
- (c) Disclosure requirements;
- (d) Funds availability;
- (e) Savings account orders of withdrawal;
- (f) Service charges and fees;
- (g) State licensing or registration requirements; and
- (h) Special purpose savings services.

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§ 557.13 What State laws affecting deposits are not preempted?

(a) The OTS has not preempted the following types of state law, to the extent that the law only incidentally affects your deposit-related activities or is otherwise consistent with the purposes of § 557.11:

- (1) Contract and commercial law;
- (2) Tort law; and
- (3) Criminal law.

(b) The OTS will not preempt any other state law if the OTS, upon review, finds that the law:

- (1) Furthers a vital state interest; and
- (2) Either only incidentally affects your deposit-related activities or is not otherwise contrary to the purposes expressed in § 557.11.

§ 557.14 What interest rate may I pay on savings accounts?

(a) You may pay interest at any rate or anticipated rate of return on savings accounts, either in deposit or in share form, as provided in your charter and the account's terms.

(b) You may pay fixed or variable rates. If you pay a variable rate, you must base it on a schedule, index, or formula that you specify in the account's terms.

§ 557.15 Who owns a deposit account?

You may treat the holder of record as the account owner, even if you receive contrary notice, until you transfer the account on your records.

Subpart C—Deposit Activities of All Savings Associations

§ 557.20 What records should I maintain on deposit activities?

All federal and state chartered savings associations (“you”) should establish and maintain deposit documentation practices and records that demonstrate that you appropriately administer and monitor deposit-related activities. Your records should adequately evidence ownership, balances, and all transactions involving each account. You may maintain records on deposit activities in any format that is consistent with standard business practices.

12 CFR Ch. V (1–1–09 Edition)

PART 558—POSSESSION BY CONSERVATORS AND RECEIVERS FOR FEDERAL AND STATE SAVINGS ASSOCIATIONS

Sec.

558.1 Procedure upon taking possession.

558.2 Notice of appointment.

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

§ 558.1 Procedure upon taking possession.

(a) The conservator or receiver for a Federal or state savings association shall take possession of the savings association by taking possession of the principal office of the Federal or state savings association in accordance with the terms of the Director's appointment.

(b) Upon taking possession, the conservator or receiver shall immediately:

(1) Take possession of the savings association's books, records and assets.

(2) Notify in writing, served personally or by registered mail or telegraph, all persons and entities that the conservator or receiver knows to be holding or in possession of assets of the savings association, that the conservator or receiver has succeeded to all rights, titles, powers and privileges of the savings associations.

(3) File with the Corporate Secretary a statement that possession was taken, including the time of the taking, which statement shall be conclusive evidence thereof.

(4) Post a notice on the door of the principal and other offices of the savings association in the form prescribed by the Director of the OTS.

(5) By operation of law and without any conveyance or other instrument, act or deed, succeed to the rights, titles, powers and privileges of the savings association, and to the rights, powers, and privileges of its stockholders, members, accountholders, depositors, officers, and directors. No stockholder, member, accountholder, depositor, officer or director shall thereafter have or exercise any right,