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590.4(h)	1550-0078.

[60 FR 66716, Dec. 26, 1995, as amended by 61 FR 65178, Dec. 11, 1996; 62 FR 54764, Oct. 22, 1997; 62 FR 66261, Dec. 18, 1997; 63 FR 71211, Dec. 24, 1998; 65 FR 78901, Dec. 18, 2000; 66 FR 15017, Mar. 15, 2001; 66 FR 65819, Dec. 21, 2001; 67 FR 76298, Dec. 12, 2002; 67 FR 77916, Dec. 20, 2002; 67 FR 78151, Dec. 23, 2002; 68 FR 75109, Dec. 30, 2003; 69 FR 68246, Nov. 24, 2004; 69 FR 76602, Dec. 22, 2004]

PART 507—RESTRICTIONS ON POST-EMPLOYMENT ACTIVITIES OF SENIOR EXAMINERS

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AUTHORITY: 12 U.S.C. 1462a, 1463 and 1820(k).

SOURCE: 70 FR 69640, Nov. 17, 2005, unless otherwise noted.

§ 507.1 What does this part do?

This part implements section 10(k) of the Federal Deposit Insurance Act (FDIA), which prohibits senior examiners from accepting compensation from certain companies following the termination of their employment. See 12 U.S.C. 1820(k). Except where otherwise provided, the terms used in this part have the meanings given in section 3 of the FDIA (12 U.S.C. 1813).

§ 507.2 Who is a senior examiner?

An individual is a senior examiner for a particular savings association or savings and loan holding company if—

- (a) The individual is an officer or employee of OTS (including a special government employee) who has been authorized by OTS to conduct examinations or inspections of savings associations or savings and loan holding companies;
- (b) The individual has been assigned continuing, broad and lead responsibility for the examination or inspection of that savings association or savings and loan holding company; and
- (c) The individual’s responsibilities for examining, inspecting, or supervising that savings association or savings and loan holding company:

(1) Represent a substantial portion of the individual's assigned responsibilities at OTS; and

(2) Require the individual to interact on a routine basis with officers and employees of the savings association, savings and loan holding company, or its affiliates.

§ 507.3 What post-employment restrictions apply to senior examiners?

(a) *Prohibition.* (1) Senior examiner of savings association. An individual who serves as a senior examiner of a savings association for two or more of the last 12 months of his or her employment with OTS may not, within one year after the termination date of his or her employment with OTS, knowingly accept compensation as an employee, officer, director, or consultant from—

(i) The savings association; or

(ii) A savings and loan holding company, bank holding company, or any other company that controls the savings association.

(2) *Senior examiner of a savings and loan holding company.* An individual who serves as a senior examiner of a savings and loan holding company for two or more of the last 12 months of his or her employment with OTS may not, within one year after the termination date of his or her employment with OTS, knowingly accept compensation as an employee, officer, director, or consultant from—

(i) The savings and loan holding company; or

(ii) Any depository institution that is controlled by the savings and loan holding company.

(b) *Effective date.* The post-employment restrictions in paragraph (a) of this section do not apply to any senior examiner who terminated his employment at OTS before December 17, 2005.

(c) *Definitions.* For the purposes of this section—

(1) *Consultant.* An individual acts as a consultant for a savings association or other company only if he or she directly works on matters for, or on behalf of, the savings association or company.

(2) *Control.* Control has the same meaning given in part 574 of this chapter.

§ 507.4 When will OTS waive the post-employment restrictions?

The post-employment restriction in § 507.3 of this part will not apply to a senior examiner if the Director certifies in writing and on a case-by-case basis that a waiver of the restriction will not affect the integrity of OTS's supervisory program.

§ 507.5 What are the penalties for violating the post-employment restrictions?

(a) *Penalties.* A senior examiner who violates § 507.3 shall, in accordance with 12 U.S.C. 1820(k)(6), be subject to one or both of the following penalties:

(1) An order—

(i) Removing the person from office or prohibiting the person from further participating in the conduct of the affairs of the relevant depository institution, savings and loan holding company, bank holding company or other company for up to five years, and

(ii) Prohibiting the person from participating in the affairs of any insured depository institution for up to five years.

(2) A civil money penalty not to exceed \$250,000.

(b) *Scope of prohibition orders.* Any senior examiner who is subject to an order issued under paragraph (a)(1) of this section shall be subject to 12 U.S.C. 1818(e)(6) and (7) in the same manner and to the same extent as a person subject to an order issued under 12 U.S.C. 1818(e).

(c) *Procedures.* 12 U.S.C. 1820(k) describes the procedures that are applicable to actions under paragraph (a) of this section and the appropriate Federal banking agency authorized to take the action, which may be an agency other than OTS. Where OTS is the appropriate Federal banking agency, it will conduct administrative proceedings under 12 CFR part 509.

(d) *Other penalties.* The penalties under this section are not exclusive. A senior examiner who violates the restriction in § 507.3 may also be subject to other administrative, civil, or criminal remedy or penalty as provided by law.