

## § 390.351

## 12 CFR Ch. III (1–1–12 Edition)

(1) By resolution authorized the transfer or maintenance and;

(2) Sent a certified copy of the resolution to the appropriate regional director for the region in which the principal office of the State savings association is located.

(e) *Use of data processing services for maintenance of records.* A State savings association which determines to maintain any of its records by means of data processing services shall so notify the appropriate regional director for the region in which the principal office of such State savings association is located, in writing, at least 90 days prior to the date on which such maintenance of records will begin. Such notification shall include identification of the records to be maintained by data processing services and a statement as to the location at which such records will be maintained. Any contract, agreement, or arrangement made by a State savings association pursuant to which data processing services are to be performed for such State savings association shall be in writing and shall expressly provide that the records to be maintained by such services shall at all times be available for examination and audit.

### § 390.351 Frequency of safety and soundness examination.

(a) *General.* The FDIC examines State savings associations pursuant to authority conferred by 12 U.S.C. 1463 and the requirements of 12 U.S.C. 1820(d). The FDIC is required to conduct a full-scope, on-site examination of every State savings association at least once during each 12-month period.

(b) *18-month rule for certain small institutions.* The FDIC may conduct a full-scope, on-site examination of a State savings association at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the following conditions are satisfied:

(1) The State savings association has total assets of less than \$500 million;

(2) The State savings association is well capitalized as defined in § 390.453;

(3) At its most recent examination, the FDIC—

(i) Assigned the State savings association a rating of 1 or 2 for manage-

ment as part of the State savings association's composite rating under the Uniform Financial Institutions Rating System (commonly referred to as CAM-ELS), and

(ii) Determined that the State savings association was in outstanding or good condition, that is, it received a composite rating, as defined in § 390.101(c), of 1 or 2;

(4) The State savings association currently is not subject to a formal enforcement proceeding or order by the FDIC; and

(5) No person acquired control of the State savings association during the preceding 12-month period in which a full-scope, on-site examination would have been required but for this section.

(c) *Authority to conduct more frequent examinations.* This section does not limit the authority of the FDIC to examine any State savings association as frequently as the agency deems necessary.

### § 390.352 Financial derivatives.

(a) *What is a financial derivative?* A financial derivative is a financial contract whose value depends on the value of one or more underlying assets, indices, or reference rates. The most common types of financial derivatives are futures, forward commitments, options, and swaps. A mortgage derivative security, such as a collateralized mortgage obligation or a real estate mortgage investment conduit, is not a financial derivative under this section.

(b) *May I engage in transactions involving financial derivatives?* (1) [Reserved]

(2) If you are a State savings association, you may engage in a transaction involving a financial derivative if your charter or applicable State law authorizes you to engage in such transactions, the transaction is safe and sound, and you otherwise meet the requirements in this section.

(3) In general, if you engage in a transaction involving a financial derivative, you should do so to reduce your risk exposure.

(c) *What are my board of directors' responsibilities with respect to financial derivatives?* (1) Your board of directors is responsible for effective oversight of financial derivatives activities.

(2) Before you may engage in any transaction involving a financial derivative, your board of directors must establish written policies and procedures governing authorized financial derivatives. Your board of directors should review Thrift Bulletin 13a, "Management of Interest Rate Risk, Investment Securities, and Derivatives Activities," and other applicable agency guidance on establishing a sound risk management program.

(3) Your board of directors must periodically review:

(i) Compliance with the policies and procedures established under paragraph (c)(2) of this section; and

(ii) The adequacy of these policies and procedures to ensure that they continue to be appropriate to the nature and scope of your operations and existing market conditions.

(4) Your board of directors must ensure that management establishes an adequate system of internal controls for transactions involving financial derivatives.

(d) *What are management's responsibilities with respect to financial derivatives?*

(1) Management is responsible for daily oversight and management of financial derivatives activities. Management must implement the policies and procedures established by the board of directors and must establish a system of internal controls. This system of internal controls should, at a minimum, provide for periodic reporting to the board of directors and management, segregation of duties, and internal review procedures.

(2) Management must ensure that financial derivatives activities are conducted in a safe and sound manner and should review Thrift Bulletin 13a, "Management of Interest Rate Risk, Investment Securities, and Derivatives Activities," and other applicable agency guidance on implementing a sound risk management program.

(e) *What records must I keep on financial derivative transactions?* You must maintain records adequate to demonstrate compliance with this section and with your board of directors' policies and procedures on financial derivatives.

### § 390.353 Interest-rate-risk-management procedures.

State savings associations shall take the following actions:

(a) The board of directors or a committee thereof shall review the State savings association's interest-rate-risk exposure and devise a policy for the State savings association's management of that risk.

(b) The board of directors shall formerly adopt a policy for the management of interest-rate risk. The management of the State savings association shall establish guidelines and procedures to ensure that the board's policy is successfully implemented.

(c) The management of the State savings association shall periodically report to the board of directors regarding implementation of the State savings association's policy for interest-rate-risk management and shall make that information available upon request to the FDIC.

(d) The State savings association's board of directors shall review the results of operations at least quarterly and shall make such adjustments as it considers necessary and appropriate to the policy for interest-rate-risk management, including adjustments to the authorized acceptable level of interest-rate risk.

### § 390.354 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

(a) *Purpose.* The purpose of this regulation is to require State savings associations (as defined by § 390.308 to establish and maintain procedures reasonably designed to assure and monitor compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, and the implementing regulations promulgated thereunder by the U.S. Department of Treasury, 31 CFR part 103.

(b) *Establishment of a BSA compliance program—(1) Program requirement.* Each State savings association shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements set forth in subchapter II of chapter 53 of title 31,