

(10) OTS Enforcement Counsel has the burden of proving a *prima facie* case that a person is prohibited from a position under section 19(e) of the FDIA. The applicant has the burden of proof on all other matters.

(11) The presiding officer must make recommendations to the Director, where possible, within 20 days after the last day for the parties to submit additions to the record.

(12) The presiding officer must forward his or her recommendation to the Director who shall promptly certify the entire record, including the presiding officer's recommendations. The Director's certification will close the record.

(b) *Decision.* After the certification of the record, the Director will notify the parties of his or her decision by issuing an order approving or denying the application.

(1) An approval order will require fidelity bond coverage for the position to the same extent as similar positions with the savings and loan holding company. The approval order may include such other conditions as may be appropriate.

(2) A denial order will include a summary of the relevant factors under 12 CFR 585.120(b).

PART 510—MISCELLANEOUS ORGANIZATIONAL REGULATIONS

Sec.

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1464; Pub. L. 101-410, 104 Stat. 890; Pub. L. 104-134, 110 Stat. 1321-358.

SOURCE: 54 FR 49456, Nov. 30, 1989, unless otherwise noted.

§ 510.2 Provisions related to regulations of the Office.

(a) *Amendments.* The Office expressly reserves the right to amend (including the right to alter or repeal) the regulations set forth in this chapter.

(b) *Waiver or relaxation of regulatory provisions with respect to disaster or emergency areas.* Whenever the President of the United States determines

that a major disaster or emergency exists, or declares an area a major disaster or emergency area, the Office may, to the extent not inconsistent with law, by order waive or relax any limitations pertaining to the operations of Federal savings associations and savings associations in any area or areas affected by such disaster or emergency so declared.

(c) *Bar on participation in notice and comment rulemaking by suspended or disbarred persons.* No person who has been suspended or debarred from practice before the Office in accordance with the provisions of part 513 of this chapter may submit to the Office, either directly or on behalf of an interested party, any written documents or petitions otherwise permitted by the Administrative Procedures Act.

[54 FR 49456, Nov. 30, 1989, as amended at 60 FR 66716, Dec. 26, 1995; 70 FR 76675, Dec. 28, 2005]

§ 510.4 Service of process.

(a) *Service of Process.* Service of process may be made upon the Office by delivering a copy of the summons and complaint to the U.S. Attorney for the district in which the action is brought or to an assistant U.S. Attorney or clerical employee designated by the U.S. Attorney in a writing filed with the clerk of the court, and by sending copies of the summons and of the complaint by registered or certified mail to the Attorney General of the United States, Washington, DC, and to the Secretary of the Office.

(b) *Subpoenas.* Any subpoena to obtain information maintained by Office shall be duly issued and served upon the Secretary of the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC, 20552.

§ 510.5 Release of unpublished OTS information.

(a) *Scope.* (1) This section applies to requests by the public for unpublished OTS information, such as requests for records or testimony from parties to lawsuits in which the OTS is not a party.

(2) Unpublished OTS information includes records created or obtained in connection with the OTS's performance of its responsibilities, such as records