

§ 390.251 Definitions.

For purposes of this subpart:

Control has the same meaning as in part 391, subpart E.

GAAP-consolidated subsidiary means an entity in which a State savings association has a direct or indirect ownership interest and whose assets are consolidated with those of the savings association for purposes of reporting under Generally Accepted Accounting Principles (GAAP). Generally, these are entities in which a State savings association has a majority ownership interest.

Lower-tier entity includes any company in which a subsidiary has a direct or indirect ownership interest.

Ownership interest means any equity interest in a business organization, including stock, limited or general partnership interests, or shares in a limited liability company.

Subordinate organization means any corporation, partnership, business trust, association, joint venture, pool, syndicate, or other similar business organization in which a State savings association has a direct or indirect ownership interest, unless that ownership interest qualifies as a pass-through investment and is so designated by the investing State savings association.

Subsidiary means any subordinate organization directly or indirectly controlled by a State savings association.

§ 390.252 How must separate corporate identities be maintained?

(a) Each State savings association and subordinate organization thereof must be operated in a manner that demonstrates to the public that each maintains a separate corporate existence. Each must operate so that:

(1) Their respective business transactions, accounts, and records are not intermingled;

(2) Each observes the formalities of their separate corporate procedures;

(3) Each is adequately financed as a separate unit in light of normal obligations reasonably foreseeable in a business of its size and character;

(4) Each is held out to the public as a separate enterprise; and

(5) Unless the parent State savings association has guaranteed a loan to the subordinate organization, all bor-

rowings by the subordinate organization indicate that the parent is not liable.

(b) The FDIC regulations that apply both to State savings associations and subordinate organizations shall not be construed as requiring a State savings association and its subordinate organizations to operate as a single entity.

§ 390.253 What notices are required to establish or acquire a new subsidiary or engage in new activities through an existing subsidiary?

When required by section 18(m) of the Federal Deposit Insurance Act, a State savings association ("you") must file a notice ("Notice") with the FDIC before establishing or acquiring a subsidiary or engaging in new activities in a subsidiary. The Notice must contain all of the information the required under 12 CFR 362.15. If the FDIC notifies you within 30 days that the Notice presents supervisory concerns, or raises significant issues of law or policy, you must apply for and receive the FDIC's prior written approval before establishing or acquiring the subsidiary or engaging in new activities in the subsidiary.

§ 390.254 How may a subsidiary of a State savings association issue securities?

(a) A subsidiary may issue, either directly or through a third party intermediary, any securities that its parent State savings association ("you") may issue. The subsidiary must not state or imply that the securities it issues are covered by federal deposit insurance. A subsidiary may not issue any security the payment, maturity, or redemption of which may be accelerated upon the condition that you are insolvent or have been placed into receivership.

(b) You must file a notice with the FDIC in accordance with § 390.253 at least 30 days before your first issuance of any securities through an existing subsidiary or in conjunction with establishing or acquiring a new subsidiary. If the FDIC notifies you within 30 days that the notice presents supervisory concerns or raises significant issues of law or policy, you must receive the FDIC's prior written approval before issuing securities through your subsidiary.