

§ 500.30

office of the Department of the Treasury. Its functions are to charter, supervise, regulate and examine Federal savings associations and to supervise, regulate and examine all savings associations. It is directed by a Director, who is appointed by the President and confirmed by the Senate to a five-year term. The Director directs and carries out the mission of the OTS with the assistance of offices reporting directly to him. One of these offices oversees the direct examination and supervision of savings associations by regulatory staff to ensure the safety and soundness of the industry.

[57 FR 14335, Apr. 20, 1992, as amended at 60 FR 66869, Dec. 27, 1995]

Subpart C—Procedures

§ 500.30 General statement concerning procedures and forms.

(a) Rules and procedures of the Office are published in chapter V of title 12 of the Code of Federal Regulations and in supplementary material published in the FEDERAL REGISTER. The statutes administered by the Office and the rules and regulations promulgated pursuant to such statutes prescribe the course and method of the formal procedures to be followed in proceedings of the Office. These are supplemented where practicable by informal procedures designed to aid the public and facilitate the execution of the Office's functions. The informal procedures of the Office consist principally in the rendering of advice and assistance to members of the public dealing with the Office. Opinions expressed by members of the staff do not constitute an official expression of the views of the Office, but do represent views of persons working with the provisions of the statute or regulation involved. The Director may, for good cause and to the extent permitted by statute, waive the applicability of any provision of this chapter.

(b) Information with respect to procedures, forms, and instructions of the Office is available to the public at the headquarters of the Office. Forms of concern to the public consist principally of periodic financial reports and of applications to the Office. The Office may from time to time require the

12 CFR Ch. V (1-1-18 Edition)

completion by individuals or savings associations of miscellaneous forms, questionnaires, reports, or other papers. In each instance, the individual or savings association is given actual and timely notice of the scope and contents of the papers in question.

[54 FR 49440, Nov. 30, 1989, as amended at 59 FR 53570, Oct. 25, 1994]

PART 502—ASSESSMENTS AND FEES

Sec.

502.5 Who must pay assessments and fees?

Subpart A—Assessments

SAVING ASSOCIATIONS—CALCULATION OF ASSESSMENTS

- 502.10 How does OTS calculate the semi-annual assessment for savings associations?
502.15 How does OTS determine my size component?
502.20 How does OTS determine my condition component?
502.25 How does OTS determine my complexity component?

SAVINGS AND LOAN HOLDING COMPANIES—CALCULATION OF ASSESSMENTS

- 502.26 How does OTS calculate the semi-annual assessment for savings and loan holding companies?
502.27 How does OTS determine the risk/complexity component for a savings and loan holding company?
502.28 How does OTS determine the organizational form component for a savings and loan holding company?
502.29 How does OTS determine the condition component for a savings and loan holding company?

PAYMENT OF ASSESSMENTS

- 502.30 When must I pay my assessment?
502.35 How do I pay my assessment?
502.40 Will OTS refund or prorate my assessment?
502.45 What will happen if I do not pay my assessment on time?

Subpart B—Fees

- 502.50 What fees does OTS charge?
502.55 Where can I find OTS's fee schedule?
502.60 When will OTS adjust, add, waive, or eliminate a fee?
502.65 When is an application fee due?
502.70 How must I pay an application fee?
502.75 What if I do not pay my fees on time?

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

SOURCE: 63 FR 65670, Nov. 30, 1998, unless otherwise noted.

Office of Thrift Supervision, Treasury**§ 502.15****§ 502.5 Who must pay assessments and fees?**

(a) *Authority.* Section 9 of the HOLA, 12 U.S.C. 1467, authorizes the Director to charge assessments to recover the costs of examining savings associations and their affiliates, to charge fees to recover the costs of processing applications and other filings, and to charge fees to cover OTS's direct and indirect expenses in regulating savings associations and their affiliates.

(b) *Assessments.* If you are a savings association or a responsible savings and loan holding company, and OTS regulates you on the last day of January or on the last day of July of each year, you must pay a semi-annual assessment due on that day. Subpart A of this part describes OTS's assessment procedures and requirements.

(c) *Fees.* If you make a filing with OTS or use OTS services, the Director may require you to pay a fee to cover the costs of processing your submission or providing those services. The Director may charge a fee for any filing including notices, applications, and securities filings. The Director may charge a fee for any service including publications, seminars, certifications for official copies of agency documents, and records or services requested by other agencies. The Director also assesses fees for examining and investigating savings associations that administer trust assets of \$1 billion or less, and savings association affiliates. If OTS incurs extraordinary expenses related to examination, investigation, regulation, or supervision of a savings association or its affiliate, the Director may charge the savings association or

the affiliate a fee to fund those expenses. Subpart B of this part describes OTS's fee procedures and requirements.

[63 FR 65670, Nov. 30, 1998, as amended at 67 FR 78151, Dec. 23, 2002; 69 FR 30568, May 28, 2004]

Subpart A—Assessments

SOURCE: 69 FR 30568, May 28, 2004, unless otherwise noted.

SAVINGS ASSOCIATIONS—CALCULATION OF ASSESSMENTS**§ 502.10 How does OTS calculate the semi-annual assessment for savings associations?**

(a) If you are a savings association, OTS determines your semi-annual assessment by totaling three components: your size, your condition, and the complexity of your business. OTS determines the amounts of each component under §§ 502.15 through 502.25 of this part.

(b) OTS uses the September 30 Thrift Financial Report to determine amounts due at the January 31 assessment; and the March 31 Thrift Financial Report to determine amounts due at the July 31 assessment. For purposes of §§ 502.10 through 502.25 of this part, total assets are your total assets as reported on Thrift Financial Reports filed with OTS.

§ 502.15 How does OTS determine my size component?

(a) *Chart.* If you are a savings association, OTS uses the following chart to calculate your size component:

| If your total assets are: . . . | | Your size component is: | | |
|---------------------------------|--------------------|---|-------------------------|----------------------------|
| Over—* | But not over— | This amount— Base assessment amount | Plus—Mar- ginal rate | Of assets over—Class floor |
| Column A | Column B | | | |
| 0 | \$67 million | C1 | D1 | 0. |
| \$67 million | 215 million | C2 | D2 | \$67 million. |
| 215 million | 1 billion .. | C3 | D3 | 215 million. |
| 1 billion | 6.03 billion | C4 | D4 | 1 billion. |
| 6.03 billion | 18 billion | C5 | D5 | 6.03 billion. |
| 18 billion | 35 billion | C6 | D6 | 18 billion. |
| 35 billion | | C7 | D7 | 35 billion. |

§ 502.20

(b) *Calculation.* To calculate your size component, find the row in Columns A and B that describes your total assets. Reading across in that same row, find your base assessment amount in Column C, your marginal rate in Column D, and your class floor in Column E. Calculate how much your total assets exceed your Column E class floor. Multiply this number by your Column D marginal rate. Add this number to your Column C base assessment amount. The total is your size component. OTS will establish the base assessment amounts and the marginal rates in columns C and D in a Thrift Bulletin.

§ 502.20 How does OTS determine my condition component?

(a) If you are a savings association, OTS uses the following chart to determine your condition component:

| If your composite rating is: | Then your condition component is: |
|------------------------------|-------------------------------------|
| 1 or 2 | Zero. |
| 3 | 50 percent of your size component. |
| 4 or 5 | 100 percent of your size component. |

(b) For the purposes of this section, OTS uses the most recent composite rating, as defined in 12 CFR part 516, of which you have been notified in writing before an assessment's due date.

§ 502.25 How does OTS determine my complexity component?

If you are a savings association and your portfolio exceeds any of the thresholds in paragraph (a) of this section, OTS will calculate your complexity component according to paragraph (c) of this section. If your portfolio does not exceed any of the thresholds in paragraph (a) of this section, your complexity component is zero.

(a) *Thresholds for complexity component.* OTS uses three separate thresholds in calculating your complexity component. You exceed a threshold if you have more than \$1 billion in any of the following:

- (1) Trust assets that you administer.
- (2) The outstanding principal balances of assets that are covered, fully or partially, by your recourse obligations or direct credit substitutes.
- (3) The principal amount of loans that you service for others.

12 CFR Ch. V (1-1-18 Edition)

(b) *Assessment rates.* OTS will establish one or more assessment rates for each of the types of activities listed in paragraph (a) of this section. OTS will publish those assessment rates in a Thrift Bulletin.

(c) *Calculation of complexity component.* OTS separately considers each of the thresholds in paragraph (a) of this section in calculating your complexity component. OTS first calculates the amount by which you exceed any of those thresholds. OTS multiplies the amount by which you exceed any thresholds in paragraph (a) of this section by the applicable assessment rate(s) under paragraph (b) of this section. OTS then totals the results. This total is your complexity component.

SAVINGS AND LOAN HOLDING COMPANIES—CALCULATION OF ASSESSMENTS

§ 502.26 How does OTS calculate the semi-annual assessment for savings and loan holding companies?

(a) OTS calculates the semi-annual assessment savings and loan holding companies as follows:

(1) OTS will assess a base assessment amount of \$3,500 on responsible savings and loan holding companies. The base assessment amount reflects OTS's estimate of the base costs of conducting on- and off-site supervision of a non-complex, low risk savings and loan holding company structure. OTS will periodically revise this amount to reflect changes in inflation based on a readily available index. OTS will establish the revised amount of the base assessment in a Thrift Bulletin.

(2) OTS will add three components to the base assessment amount to compute the amount of the semi-annual assessment for responsible savings and loan holding companies: a component based on the risk or complexity of the savings and loan holding company's business, a component based on its organizational form, and a component based on its condition. OTS determines the amount of each component under §§ 502.27 through 502.29 of this part.

(b) For purposes of the semi-annual assessment of savings and loan holding companies:

- (1) The *responsible holding company* is the registered holding company at the highest level of ownership in a holding

Office of Thrift Supervision, Treasury**§ 502.27**

company structure, unless OTS designates another savings and loan holding company in the holding company structure. OTS may designate an intermediate-tier holding company if the assessment of this entity would more accurately reflect OTS costs of supervising the holding company structure and:

(i) There are multiple top-tier holding companies in the holding company structure;

(ii) The top-tier holding company is organized outside of the United States, and is subject to the consolidated review of a foreign regulator; or

(iii) Other circumstances indicate that the assessment of the top-tier holding company is inappropriate.

(2) *Total consolidated holding company assets* are the total assets as reported on the Thrift Financial Report, Schedule HC. If Schedule HC is unavailable, OTS will use total assets reported on report H-(b)11. OTS uses information contained in the September 30 Schedule HC or report H-(b)11 to determine amounts due at the January 31 assessment; and the March 31 Schedule HC or report H-(b)11 to determine amounts due at the July 31 assessment.

[69 FR 30568, May 28, 2004, as amended at 74 FR 68665, Dec. 29, 2009]

§ 502.27 How does OTS determine the risk/complexity component for a savings and loan holding company?

(a) OTS computes the risk/complexity component for responsible savings and loan holding companies using schedules that set out charges based on OTS holding company risk/complexity classifications and total consolidated holding company assets. OTS will establish these schedules in a Thrift Bulletin.

(b) For the purposes of this section, the holding company risk/complexity classification is the most recent risk/complexity classification of which OTS notified the savings and loan holding

company in writing before an assessment's due date.

(1) OTS classifies holding companies as Category I (low risk, noncomplex holding company); Category II (complex or high risk holding company); or Category III (conglomerate).

(2) The OTS holding company risk/complexity classifications reflect OTS's assessment of a holding company's financial condition, financial independence of the savings association and other affiliates that are regulated financial entities, operational independence of the savings association and other affiliates that are regulated financial entities, reputational risks raised by affiliation with the holding company, and management experience of the holding company, savings association, and affiliates. The OTS holding company risk/complexity classification system is more fully described in the OTS Holding Company Handbook.

(3) A conglomerate is a holding company that: (i) is one of the most complex or highest risk holding companies under the holding company risk/complexity classification system; (ii) is made up of a number of different companies or legal enterprises that offer products from more than one financial sector (e.g., insurance, securities, and banking) or operate in diversified fields; and (iii) generally manages these companies and enterprises along functional lines, rather than as separate legal entities.

(c) OTS uses the following chart to compute the risk/complexity component under this section. OTS will establish the amounts in column C and D in the Thrift Bulletin for each holding company risk/complexity classification. The amounts established for column C and D that are applicable to conglomerates will be three times the amounts established for column C and D for complex or higher risk holding company enterprises of the same asset size.

| If your total consolidated assets are . . . | | Your risk/complexity component is . . . | | |
|---|---------------------|---|-------------------------------|----------------------|
| Over . . . | But not over . . . | This amount . . . | Plus—this marginal rate . . . | Of assets over . . . |
| Column A | Column B | Column C | Column D | Column E |
| \$0 | \$150 Million | C1 | D1 | \$0 |
| 150 Million | 250 Million | C2 | D2 | 150 Million |

§ 502.28**12 CFR Ch. V (1-1-18 Edition)**

| If your total consolidated assets are . . . | | Your risk/complexity component is . . . | | |
|---|--------------------|---|-------------------------------|----------------------|
| Over . . . | But not over . . . | This amount . . . | Plus—this marginal rate . . . | Of assets over . . . |
| Column A | Column B | Column C | Column D | Column E |
| 250 Million | 500 Million | C3 | D3 | 250 Million |
| 500 Million | 1 Billion | C4 | D4 | 500 Million |
| 1 Billion | 5 Billion | C5 | D5 | 1 Billion |
| 5 Billion | 50 Billion | C6 | D6 | 5 Billion |
| 50 Billion | 100 Billion | C7 | D7 | 50 Billion |
| 100 Billion | 300 Billion | C8 | D8 | 100 Billion |
| Over 300 Billion | | C9 | D9 | 300 Billion |

(d) To compute your risk/complexity component, find the row in the appropriate schedule that describes your total consolidated assets by referring to the amounts in Columns A and B. In that row, calculate how much your total consolidated assets exceed the class floor (Column E); multiply this number by your marginal rate (Column D); and add the product to the amount in Column C. The total is your risk/complexity component.

§ 502.28 How does OTS determine the organizational form component for a savings and loan holding company?

OTS will include an organizational form component if you are a responsible savings and loan holding company that OTS regulates under section 10(l) of the HOLA. OTS will compute your organizational form component by adding the base assessment to your risk/complexity component, and multiplying this amount by 25 percent.

§ 502.29 How does OTS determine the condition component for a savings and loan holding company?

(a) If the most recent examination rating assigned to the responsible savings and loan holding company (or most recent examination rating assigned to any savings and loan holding company in the holding company structure) is a composite rating of 4 or 5, OTS will assess a charge under the condition component. The amount of the condition component is equal to 100 percent of the sum of the base assessment amount, the risk/complexity component, and any organizational form component.

(b) For the purposes of this section, examination ratings are the ratings that OTS assigns under the OTS hold-

ing company rating system. OTS uses the most recent rating of which the savings and loan holding company has been notified in writing before an assessment's due date.

[69 FR 30568, May 28, 2004, as amended at 74 FR 68665, Dec. 29, 2009]

PAYMENT OF ASSESSMENTS

§ 502.30 When must I pay my assessment?

OTS will bill you semi-annually for your assessments. Assessments are due January 31 and July 31 of each year, unless that date is a Saturday, Sunday, or Federal holiday. If the due date is a Saturday, Sunday or Federal holiday, your assessment is due on the first day preceding the due date that is not a Saturday, Sunday or Federal holiday. At least seven days before your assessment is due, the Director will mail you a notice that indicates the amount of your assessment, explains how OTS calculated the amount, and specifies when payment is due.

§ 502.35 How do I pay my assessment?

(a) *Savings associations.* (1) If you are a member of a Federal Home Loan Bank that offers demand deposit accounts which permit direct debits, you must maintain a demand deposit account at your Federal Home Loan Bank with sufficient funds to pay your assessment when due. OTS will notify your Federal Home Loan Bank of the amount of your assessment. OTS will debit your account for your assessments.

(2) If paragraph (a)(1) of this section does not apply to you, OTS will directly debit an account you must maintain at your association.

(b) *Savings and loan holding companies.* You may establish an account at

Office of Thrift Supervision, Treasury**§ 502.60****Subpart B—Fees****§ 502.50 What fees does OTS charge?**

(a) The Director assesses fees for examining or investigating savings associations that administer trust assets of \$1 billion or less, and saving association affiliates. Because OTS recovers the ordinary costs of examining and investigating savings and loan holding companies through the semi-annual assessment under §§ 502.25 through 502.29 of this part, the Director will not generally charge an examination fee to a savings and loan holding company. “Affiliate” has the meaning in 12 U.S.C. 1462(9), except that, for this part only, “affiliate” does not include any entity that is consolidated with a savings association on the Consolidated Statement of Condition of the Thrift Financial Report.

(b) The Director assesses fees for processing notices, applications, securities filings, and requests, and for providing other services.

[69 FR 30571, May 28, 2004]

§ 502.55 Where can I find OTS's fee schedule?

OTS will periodically publish a schedule of its fees in a Thrift Bulletin. OTS will publish these fees at least 30 days before they are effective.

§ 502.60 When will OTS adjust, add, waive, or eliminate a fee?

Under unusual circumstances, the Director may deem it necessary or appropriate to adjust, add, waive, or eliminate a fee. For example, the Director may:

(a) Reduce any fee to adjust for any inequities, efficiencies, or changed procedures that OTS projects will reduce its applications processing costs but that OTS did not consider in determining its fees;

(b) Reduce or waive any fee if OTS determines that the fee would unduly or unjustifiably discourage particular types of applications or applications for particular categories of transactions;

(c) Add a fee for a new type of application;

(d) Increase a fee for an application that presents unusual or particularly

§ 502.65

complex issues of law or policy or otherwise causes the agency to incur unusually high processing costs; or

(e) Charge a fee to recover extraordinary expenses related to examination, investigation, regulation, or supervision of savings associations or their affiliates.

§ 502.65 When is an application fee due?

(a) You must pay the application fee when you file an application. OTS will not process your application if you do not include the required fee.

(b) If OTS cannot complete its review of your application because the application is materially deficient and it refuses to accept your application for processing, you must pay a new application fee upon filing a revised application.

(c) If a transaction involves multiple applications, you must pay the appropriate fee for each application, unless OTS specifies otherwise by Thrift Bulletin.

§ 502.70 How must I pay an application fee?

You must pay an application fee to the Office of Thrift Supervision. You must include a statement of the fee and how you calculated the fee.

§ 502.75 What if I do not pay my fees on time?

(a) *Interest.* An examination or investigation fee is delinquent if OTS does not receive the fee within 30 days of the date specified in a bill. The Director will charge interest on a delinquent examination or investigation fee. Interest will accrue at a rate (that OTS will determine quarterly) equal to 150 percent of the average of the bond-equivalent rates of 13-week Treasury bills auctioned during the preceding calendar quarter.

(b) *Failure to pay.* If you are a savings association and your holding company, affiliate, or subsidiary fails to pay any fee within 60 days of the date specified in a bill, the Director may assess and collect that fee, with interest, from you. If the holding company, affiliate, or subsidiary is related to more than one savings association, the Director may assess the fee against and collect

12 CFR Ch. V (1-1-18 Edition)

it from each savings association as the Director may prescribe.

[63 FR 65670, Nov. 30, 1998, as amended at 69 FR 30571, May 28, 2004]

PART 503—PRIVACY ACT

Sec.

503.1 Scope and procedures.

503.2 Exemptions of records containing investigatory material compiled for law enforcement purposes.

AUTHORITY: 5 U.S.C. 552a; 12 U.S.C. 1462a, 1463, 1464.

CROSS REFERENCE: See 31 CFR part 1, subpart C.

§ 503.1 Scope and procedures.

(a) *In general.* The Privacy Act regulations of the Department of the Treasury, 31 CFR part 1, subpart C, apply to the Office as a component part of the Department of the Treasury. This part 503 sets forth, for the Office, specific notification and access procedures with respect to particular systems of records, and identifies the officials designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This part 503 also sets forth the specific procedures for requesting amendment of records and identifies the officials designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officials designated to grant extensions of time on appeal, the officials with whom “Statements of Disagreement” may be filed, the official designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in “Privacy Act Issuances.”

(b) *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Office,