

§ 502.2

12 CFR Ch. V (1-1-98 Edition)

most recent quarterly Thrift Financial Report.

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§ 502.2 Examination fees for affiliates.

(a) The Office shall assess a fee to recover the costs of examinations of affiliates of savings associations, as defined in paragraph (d) of this section completed on or after this rule goes into effect.

(b) For calendar year 1990, a daily fee of \$480 shall be charged. The fee assessed under paragraph (a) of this section shall be determined by multiplying the daily fee by the number of days or portions thereof that employees of the Office devote to the examination or investigation of affiliates of savings associations as defined in paragraph (d) of this section including on-site and off-site examinations and related supervisory activities covering time spent after the examination in preparing the examination report among other items.

(c) The daily fee established in paragraph (b) of this section will be reviewed not less frequently than annually and published in a Thrift Bulletin as set forth in § 502.6 of this part. It shall be no higher than the amount determined by dividing the total budget for the expense of conducting examinations and investigations of affiliates of savings associations by the total number of days projected to be spent conducting such examinations and investigations as set forth in paragraph (b) of this section.

(d) The term "affiliate" means an affiliate as defined in 12 U.S.C. 1462(9) (1989), except that for purposes of this part only, the term "affiliate" does not include any entity that is consolidated with a savings association for purposes of the Consolidated Statement of Condition of the Thrift Financial Report.

§ 502.3 Applications processing fees.

(a) Fees must accompany certain applications, filings, notices, and requests (hereafter collectively referred to as "applications") before applications will be accepted for processing by the Office. Except as provided in paragraph (d) of this section, such fees will be determined by the Office ac-

ording to the method set forth in paragraph (b) of this section, will be announced at least annually, and will be established at rates calculated to recover the Office's total direct and indirect costs of processing such applications during the ensuing calendar year after such fees are announced.

(b) The Office will determine fees for processing applications by:

(1) Calculating, based on historical data, the average time necessary to process each type of application;

(2) Identifying for the upcoming year the amount to be budgeted for processing applications;

(3) Dividing the amount identified in paragraph (b)(2) of this section by the total number of hours available for applications processing in the ensuing year to yield the average hourly cost for processing applications; and

(4) Multiplying the average hourly cost identified in paragraph (b)(3) of this section by the number of hours spent processing each type of application identified in paragraph (b)(1) of this section and rounding the result to the nearest increment of \$100, with a minimum fee of \$100. This will yield the amount of the application fee required to recover the cost of processing each type of application;

(5)(i) The Director, or his or her designee, may reduce any fees calculated as set forth above to adjust for any inequities or any efficiencies or changes in procedure which are projected to result in reduced processing costs and which have not been taken into account as a result of application of the formula set forth in paragraphs (b)(1) through (b)(4) of this section. The Director, or his or her designee, also may adjust downward any fees calculated pursuant to paragraphs (b)(1) through (b)(4) of this section if, in the Director's discretion, he or she determines that the amount of such fee will unduly or unjustifiably discourage applications of a particular type or applications for particular categories of transactions.

(ii) In the event the Office develops a new type of application, and thus has no historical basis on which to establish an application fee, the Director

may establish such fee based on a comparison with fees charged for processing similar types of applications or applications involving analysis of similar information, policies, and legal issues.

(c) The fees determined pursuant to paragraph (b) of this section will be published as set forth in § 502.6 of this part at least thirty days before such fees are effective, except that in 1990, such fees shall be effective ten days after publication in the Thrift Bulletin as set forth in § 502.6 of this part.

(d) The Director shall also charge fees to recover the Office's costs of processing filings with the Office made pursuant to 12 CFR parts 563b, 563d, and 563g. These fees will be published as set forth in § 502.6 of this part at least thirty days before such fees are effective, except that in 1990, such fees shall be effective ten days after publication in the Thrift Bulletin as set forth in § 502.6 of this part.

(e) In the event that the Office cannot complete its review of an application because it is found to be materially deficient and the Office accordingly refuses to accept the application for processing, the applicant must pay a new application fee at the time of filing any revised application.

(f) All application fees must be paid at the time of filing by check payable to the Office of Thrift Supervision. No part of a filing fee is refundable.

(g) When a transaction involves the filing of a number of different applications, the appropriate filing fees must be paid for each type of application filed, except as otherwise specifically provided in the Thrift Bulletin published pursuant to § 502.6 of this part.

(h) Each submission must be accompanied by a statement of the amount of the fee for each application and filing submitted and how the fee was calculated.

§ 502.4 Collection of fees and assessments.

(a) *Debit at Federal Home Loan Banks.* Each institution that is subject to fees and assessments under §§ 502.1 and 502.2 of this part and a member of a Federal Home Loan Bank, shall establish at its Federal Home Loan Bank a demand deposit account for the purpose of paying such fees and assessments. Each insti-

tution shall maintain funds in such account in sufficient amount to pay its obligations to the Office. Each Federal Home Loan Bank shall debit such account directly to effectuate payment of assessments and fees to the Office. The Director shall mail a payment notice to each such institution at least seven days prior to the date that any such account is to be debited to pay the member institution's obligations to the Office, which notice shall specify the date on which the debit is to occur. The Director shall also notify each Federal Home Loan Bank that such accounts are to be debited.

(b) *Direct billing of institutions.* As an alternative to the payment mechanism described in paragraph (a) of this section, the Director may collect assessments and fees by sending notice and demand for direct payment thereof to an assessed institution. In such case, the institution shall pay the assessment or fee not later than the date specified in the notice which shall be at least seven days after the date of such notice. This payment procedure shall be used to collect assessments and fees from assessed institutions that are not members of a Federal Home Loan Bank or are affiliates that are not savings associations.

(c) *Failure to Pay.* If any holding company, affiliate, or subsidiary of a savings association fails to pay any fee before the end of the 60-day period beginning on the date such fee is imposed, following the end of the 60-day period, the Director may assess such fee, including interest, against and collect it from such savings association. If any such entity is a holding company, subsidiary, or affiliate of more than one savings association, the fee may be levied against each such savings association in such proportion as the Director may prescribe.

(d) In the case of any savings association for which the Office has determined to appoint the Resolution Trust Corporation as conservator or receiver, the Office may obtain payment from such savings association for fees or assessments due and outstanding under § 502.1, 502.2 or 502.3 of this part by debiting its account at its local Federal Home Loan Bank or by direct billing