

## §516.2

(3) Central Regional Office, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606. (Region: Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin.)

(4) Midwest Regional Office, 122 W. John Carpenter Freeway, suite 600, Irving, Texas 75039. (Region: Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas.)

(5) West Regional Office, 1 Montgomery Street, Suite 400, San Francisco, California 94104. (Region: Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.)

(c) *Filings.* Applications, notices or other filings, as provided for in the OTS's regulations shall be submitted to the appropriate Regional Office, unless specifically noted otherwise in the procedures for a particular filing. The original and two conformed copies shall be filed for each application or notice. All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents. Application forms, notice forms and instructions are available from each Regional Office. Two additional conformed copies shall be filed with the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC, 20552 of any application, notice or other filing that raises a significant issue of law or policy, as defined by OTS order or other OTS guidance. Additional copies, in addition to the three required for every application are required for the following applications:

(1) Merger or branch purchase applications filed pursuant to §563.22 of this chapter or notices filed pursuant to §574.3(b) of this chapter involving a merger (including a merger involving an interim association) or applications filed on Form H-(e)3 require four additional copies of the application. The copies should be labeled, respectively, "Department of Justice Copy," "Comptroller Copy," "Federal Reserve Copy," and "FDIC Copy".

(2) Any acquiror filing a notice pursuant to §574.3(b) of this chapter shall file three additional copies of the notice, and shall label such copies "FDIC

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Copy," "Comptroller Copy," and "Federal Reserve Copy," respectively. In addition, any acquiror filing a notice pursuant to §574.3(b) of this chapter with respect to acquisition of a state-chartered association shall file an additional copy of the notice with the OTS labeled "State Supervisor Copy."

(3) In the case of an application filed on Form H-(e)2 (other than an application pursuant to §574.3(c)(1)(iv) of this chapter), the applicant shall file one additional copy of the application with the OTS and shall label such copy "Department of Justice Copy."

[57 FR 14336, Apr. 20, 1992, as amended at 58 FR 4312, Jan. 14, 1993; 60 FR 66717, Dec. 26, 1995]

### **§516.2 Applications processing guidelines.**

(a) *General.* (1) To ensure the timely processing of applications and notices, the OTS hereby sets forth guidelines for the processing of completed applications and notices (hereinafter collectively referred to as "applications") filed with the OTS. This section does not apply to applications or requests related to transactions pursuant to section 13 (c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823 (c), (k); or requests submitted in connection with cease-and-desist orders, temporary cease-and-desist orders, removal and/or prohibition orders, temporary suspension orders, supervisory agreements or directives, consent merger agreements, or documents negotiated in settlement of litigation (including requests for termination or modification of, or for approval pursuant to, such orders, agreements, or documents), or similar litigation or enforcement matters. Requests submitted in connection with cease-and-desist orders, removal and/or prohibition orders, supervisory agreements or directives, consent merger agreements, and other documents negotiated in settlement of litigation ("enforcement documents") are not covered by this section. However, the fact that a regulation involving an application may be mentioned in an enforcement document does not mean that this section does not apply to that application. Requests to engage in activities that are specifically restricted by enforcement

documents and requests for termination or modification of such documents are not covered by this section. Applications submitted pursuant to a regulatory requirement that the prior approval of the OTS be obtained before engaging in a proposed activity, however, are covered, whether or not mentioned in an enforcement document. If the application or request is unique to the enforcement document, then it is not covered by this section.

(2) Requests for reconsideration, modification, or appeal of final agency actions of the OTS are not covered by this section. In addition, where other regulations of the OTS establish specific procedures for processing of applications or set forth specific time periods for automatic approval of applications unless such applications are disapproved or objections are raised, the provisions of those regulations are controlling with respect to the matters to which they pertain. Where a regulation sets forth a procedure for processing an application but does not contain a time period pursuant to which such application is to be processed, the application will be processed under the procedure established by the regulation, but will be subject to the time periods contained in this section.

(b) *Applications submitted for review.* An application submitted to the OTS for processing shall be submitted on the designated form and shall comply with all applicable regulations and guidelines governing the filing of such applications. The OTS is required to notify an applicant in writing within 5 business days of receipt of an application.

(c) *Accepting applications for processing.* (1) Within 30 calendar days of receipt of a properly submitted application for processing, the OTS shall:

(i) Request in writing any additional information necessary to complete the application;

(ii) Deem the application to be complete; or

(iii) Decline to further process the application if it is deemed by the OTS to be materially deficient and/or substantially incomplete.

Failure by the OTS to act as described in paragraph (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this section within 30 cal-

endar days of receipt of an application for processing shall result in the filed application's being deemed complete, thereby commencing the period for review. If an application includes a request for a waiver of an application requirement that certain information be supplied, the waiver request shall be deemed granted, unless within 30 calendar days of receipt of a properly submitted application for processing, the OTS requests in writing additional information about the waiver request, or denies the waiver request in writing.

(2) Failure by an applicant to respond fully to a written request by the OTS for additional information within 30 calendar days of the date of such request may be deemed to constitute withdrawal of the application or may be treated as grounds for denial or disapproval of the application. If an application is deemed withdrawn, the application may be resubmitted for processing, but it will be deemed a new filing under the applicable statute or regulation.

(3) An applicant may request in writing a brief extension of the 30-day period for responding to a request for additional information described in paragraph (c)(2) of this section prior to the expiration of the 30-day time period. The OTS, at its option, may grant an applicant a limited extension of time in writing. Failure by an applicant to respond fully to a written request for additional information by the expiration of the extended period permitted by the OTS may be deemed to constitute withdrawal of the application or may be treated as grounds for denial or disapproval of the application.

(4) The period for review by the OTS of an application will commence on the date that the application is deemed complete. The OTS shall notify an applicant in writing as to whether the application is deemed complete within 15 calendar days after the timely filing of any additional information furnished in response to any initial or subsequent request by the OTS for additional information. If the OTS fails to notify an applicant in writing within such time, the application shall be deemed to be complete as of the expiration of such 15-day period. If additional information

furnished in response to a written request by the OTS for additional information includes a request for a waiver of an application requirement that certain information be supplied, the waiver request shall be deemed granted, unless within 15 calendar days after the timely filing of such additional information the OTS:

- (i) Request in writing additional information about the waiver request; or
- (ii) Denies the waiver request in writing.

(5) After additional information has been requested and supplied, the OTS may request additional information only with respect to matters derived from or prompted by information already furnished, or information of a material nature that was not reasonably available from the applicant at the time of the application, was concealed, or pertains to developments subsequent to the time of the OTS's initial request for additional information. With regard to information of a material nature that was not reasonably available from the applicant, was concealed at the time an application was deemed to be complete, or pertains to developments subsequent to the time an application was deemed to be complete, the OTS may request in writing such additional information as it considers necessary and, at its option, may deem the application not to be complete until such additional information is furnished. Upon receipt of such additional information, the OTS shall:

- (i) Request in writing further additional information to complete the application;
- (ii) Deem the application to be complete and commence a new review period of the completed application; or
- (iii) Deem the application to be materially deficient and/or substantially incomplete and return it to the applicant. In the case of an application that raises a significant issue of policy or law, actions taken by the Region shall not commence any of the periods for review of a completed application described in paragraph (d) of this section.

(6) [Reserved]

(7) The OTS, at its discretion, may deem an application to be materially deficient and/or substantially incom-

plete in the event that the applicant or an affiliate of the applicant is or becomes subject to an investigation, examination, administrative proceeding by a federal or state or municipal court, department, agency or commission or other governmental entity, or a self-regulatory trade or professional organization, or intra-governmental inquiry, that is pertinent to the standards applicable to the OTS's evaluation of the application or relates to a determination the OTS is required to make in connection with the application under the applicable statute or regulation.

(d) *Failure by the OTS to approve or deny an application or to disapprove a notice.* (1) If, upon expiration of the applicable period for review of any complete application to which this section applies, or any extension of such period, the OTS has failed to approve or deny such application (or, in the case of a notice, to disapprove such notice), the application shall, without further action, be deemed to be approved, or, in the case of a notice, not disapproved by the OTS. For purposes of the previous sentence, the period for review of all applications shall be 60 calendar days beginning from the application's deemed complete date, including any application or notice submitted pursuant to § 575.3(b) or part 574 of this chapter.

(2) In the event that more than one application is being submitted in connection with a proposed transaction or other action, the applicable period for review of all such applications shall be the review period for the application having the longest period for review, subject to any applicable statutory periods.

(e) *Extension of time for review.* The period for review of an application deemed to be complete may be extended by the OTS for 30 days beyond the time period for review set forth in paragraph (d) of this section. The OTS shall notify an applicant at least 10 days prior to the expiration of the period for review of a complete application that such review period is being extended for 30 days and shall state the general reason(s) therefor.

(f) *Extension of time for OTS's review of applications raising significant issues of*

*law or policy.* In those situations in which an application presents a significant issue of law or policy, the applicable period for review of such application also may be extended by the OTS beyond the time period for review set forth in paragraph (d) of this section or any extension thereof pursuant to paragraph (e) of this section until such time as the OTS acts upon the application. In such cases, written notice shall be provided to an applicant not later than the expiration of the time period set forth in paragraph (d) of this section or any extension thereof pursuant to paragraph (e) of this section that the period for review is being extended in accordance with this paragraph (f), which notice shall also state the general reason(s) therefor.

[57 FR 14336, Apr. 20, 1992, as amended at 58 FR 44114, Aug. 19, 1993; 62 FR 64143, Dec. 4, 1997]

### § 516.3 Definitions.

(a) *Expedited treatment.* (1) A savings association is eligible for expedited treatment by the OTS if all of the following conditions exist:

- (i) The savings association has a composite rating of 1 or 2;
- (ii) The savings association has a Community Reinvestment Act (CRA) rating of satisfactory or better;
- (iii) The savings association has a Compliance rating of 1 or 2;
- (iv) The savings association is meeting all of its capital requirements under part 567 of this chapter; and
- (v) The savings association has not been notified by supervisory personnel that it is a problem association or an association in troubled condition.

(2) Where specified by regulation, a savings association that qualifies for expedited treatment under paragraph (a)(1) of this section may engage in activities upon filing a notice with the OTS together with any necessary certifications. For these activities, a notice will be all that is required and an association may engage in the activity unless the OTS objects within 30 days. Such notices are deemed to be applications for purposes of statutory and regulatory references to "applications."

(3) The OTS may require complete applications from savings associations that otherwise qualify for expedited

treatment in situations raising supervisory concern or a significant issue of law or policy and may request additional information from such associations when necessary. In these circumstances, the OTS may determine that such applications no longer qualify for expedited treatment.

(b) *Standard treatment.* (1) A savings association will receive standard treatment if any of the following conditions exist:

- (i) The savings association has a composite rating of 3, 4 or 5;
- (ii) The savings association has a less than satisfactory CRA rating;
- (iii) The savings association has a Compliance rating of 3, 4, or 5;
- (iv) The savings association has inadequate capital, including failing any one of its capital requirements under part 567 of this chapter; or
- (v) The savings association has otherwise been notified by supervisory personnel as being a problem association or an association in troubled condition.

(2) Savings associations receiving standard treatment shall be required to file complete applications under the applicable regulations of this chapter with the OTS. Such applications will be denied unless the association affirmatively demonstrates how the application will clearly improve its financial and/or managerial condition or improve its compliance with the CRA or other consumer-related statutes without adversely affecting its financial or managerial resources.

(c) *Composite rating.* Composite rating means the composite numerical rating assigned to the savings association by the OTS under the Uniform Financial Institutions Rating System<sup>1</sup> or an equivalent rating under a comparable rating system adopted by the OTS, and refers to the most recent rating (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing.

(d) *CRA rating.* Through June 30, 1989, savings associations received one of five CRA ratings: Outstanding (1), Good

<sup>1</sup>Copies are available at the address specified in § 516.1 of this part.