

persons if the services constitute less than one half of the data processing services provided under paragraphs (a) and (b) of this section.

(3) *Facilities.* In conjunction with providing services pursuant to paragraphs (a) and (b) of this section, a Federal savings association may supply data processing software, documentation, and operating personnel. Any such facilities, as well as those used by the Federal savings association, must be designed and operated for the processing or transmission of permissible data.

(c) *By-products and excess capacity.* As an incident to providing data processing and data transmission services pursuant to paragraph (b) of this section, a Federal savings association may:

(1) Market by-products of such services (including software and compilations of data) to any person, only if the by-products are not designed, created, or substantially enhanced primarily for the purpose of such marketability, and

(2) Market excess capacity of its data processing facilities, provided that the involvement of the Federal savings association is limited to furnishing access to its facilities and providing the necessary operating personnel, and that the Federal savings association has not artificially created excess capacity by acquiring equipment or facilities whose capacity is substantially greater than that necessary to accommodate its present or expected future needs for providing permissible data processing services.

(d) *Controls.* A Federal savings association providing data processing services or marketing excess capacity to any person under this section shall establish internal and system controls for both hardware and software such that the integrity of its records and those of its depositors and customers are adequately protected. At a minimum, the controls shall be consistent with Generally Accepted Auditing Standards. Any agreement pursuant to which the Federal savings association provides data processing services shall contain a provision that generally describes the security measures so taken.

(e) *Contract and tying restrictions.* Any contract for data processing services authorized by this section shall incor-

porate the relevant limitations specified herein and state that the Federal savings association's facilities are to be used only for the processing and transmission of permissible data. A Federal savings association providing such services under this section shall comply with the anti-tying provisions of section 5(q) of the Act.

(f) *Participation.* A Federal savings association may participate with others in establishing or maintaining a data processing office: *Provided,* That the Federal savings association may participate in establishing or maintaining a data processing office controlled by an entity not subject to examination by a Federal agency regulating financial institutions only if such entity has agreed in writing with the Office that it will permit and pay for such examination of the office as the Office deems necessary, and that it will make available for such purposes any records in its possession relating to the operation of the Office.

#### § 545.139—545.140 [Reserved]

#### § 545.141 Remote Service Units (RSUs).

(a) *Definitions.* As used in this section—

(1) *Generic data* means statistical information which does not identify any individual accountholder.

(2) *Personal security identifier* (PSI) means any word, number, or other security identifier essential for an accountholder to gain access to an account.

(3) *Remote service unit* (RSU) means an information processing device, including associated equipment, structures and systems, by which information relating to financial services rendered to the public is stored and transmitted, instantaneously or otherwise, to a financial institution. Any such device not on the premises of a Federal savings association that, for activation and account access, requires use of a machine-readable instrument and PSI in the possession and control of an accountholder, is an RSU. The term includes, without limitation, point-of-sale terminals, merchant-operated terminals, cash-dispensing machines, and automated teller machines. It excludes automated teller machines on the

premises of a Federal savings association, unless shared with other financial institutions. An RSU is not a branch, satellite, or other type of facility or agency of a Federal savings association under § 545.92 *et seq.* of this part.

(4) *RSU account* means a savings or loan account or demand account that may be accessed through use of an RSU.

(b) *General.* Subject to the requirements of the Electronic Funds Transfer Act (15 U.S.C. 1693 *et seq.*) and Regulation E of the Federal Reserve Board (12 CFR 205.2), a Federal savings association may establish or use RSUs and participate with others in RSU operations, on an unrestricted geographic basis. No RSU may be used to open a savings account, a demand account or establish a loan account.

(c) *RSU access techniques.* A Federal savings association shall provide a PSI to each accountholder and require its use when accessing an RSU; it may not employ RSU access techniques that require the accountholder to disclose a PSI to another person. The savings association must inform each accountholder that the PSI is for security purposes and shall not be disclosed to third parties. Any device used to activate an RSU shall bear the words “Not transferable” or their equivalent. A passbook may not be such a device.

(d) [Reserved]

(e) *Security.* A Federal savings association shall protect electronic data against fraudulent alterations or disclosure. All RSUs shall meet the minimum security devices requirements of part 568 of this chapter.

(f) *Office supervision.* A Federal savings association may share an RSU controlled by a financial institution or another party not subject to examination by a Federal regulatory agency only if such financial institution or other party has agreed in writing that the RSU is subject to such examination by the Office as it deems necessary.

[54 FR 49492, Nov. 30, 1989, as amended at 59 FR 53571, Oct. 25, 1994]

#### § 545.142 Home banking services.

A Federal savings association may utilize any electronic technology to provide its customers with home banking services. Any such services pro-

vided under this section are subject to the Electronic Funds Transfer Act (15 U.S.C. 1693 *et seq.*) and Regulation E of the Federal Reserve Board (12 CFR 205.2) (as construed by Supplement II—Official Staff Interpretation, 2–23). “Home banking services” means the transfer of funds or financial information, or the performance of other transactions initiated by a customer by means of an electronic home terminal, such as a telephone, a home computer terminal, or a television set that is linked to a Federal savings association’s computer by telephone or cable television lines. A Federal savings association providing services authorized by this section shall adopt security measures adequate to prevent unauthorized access to its records or those of its customers or the use of a home terminal to defraud the Federal savings association or any of its customers.

### PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

Sec.

546.1 Definitions.

546.2 Procedure; effective date.

546.3 Transfer of assets upon merger or consolidation.

546.4 Voluntary dissolution.

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

SOURCE: 54 FR 49517, Nov. 30, 1989, unless otherwise noted.

#### § 546.1 Definitions.

The terms used in §§ 546.2 and 546.3 shall have the same meaning as set forth in §§ 552.13(b) and 563.22(g) of this chapter.

[59 FR 44622, Aug. 30, 1994]

#### § 546.2 Procedure; effective date.

(a) A Federal mutual savings association may combine with any depository institution, provided that:

(1) The combination is in compliance with, and receives all approvals required under, any applicable statutes and regulations;

(2) Any resulting Federal savings association meets the requirements for