

will hold the securities for the protection of private or court trusts to the same extent as if the securities had been deposited with State authorities.

### Subpart D—Terminating Fiduciary Activities

#### RECEIVERSHIP OR LIQUIDATION

#### **§ 550.520 What happens if I am placed in receivership or voluntary liquidation?**

If the OTS appoints a conservator or receiver for you under part 558 of this chapter, or if you place yourself in voluntary liquidation, the receiver, conservator, or liquidating agent must promptly close or transfer all fiduciary accounts to a substitute fiduciary, in accordance with OTS instructions and the orders of the court having jurisdiction.

#### SURRENDER OF FIDUCIARY POWERS

#### **§ 550.530 How do I surrender fiduciary powers?**

If you want to surrender your fiduciary powers, you must file a certified copy of a resolution of your board of directors evidencing that intent. You must file the resolution with the OTS under § 516.1 of this chapter.

#### **§ 550.540 When will the OTS terminate my fiduciary powers?**

If, after appropriate investigation, the Regional Director is satisfied that you have been discharged from all fiduciary duties, the Regional Director will issue a written notice indicating that you are no longer authorized to exercise fiduciary powers.

#### **§ 550.550 May I recover my deposit from State authorities?**

Upon issuance of the OTS written notice under § 550.540, you may recover any securities deposited with State authorities, or a Federal Home Loan Bank, under subpart C of this part.

#### REVOCATION OF FIDUCIARY POWERS

#### **§ 550.560 When may the OTS revoke my fiduciary powers?**

The OTS may revoke your fiduciary powers if it determines that you have done any of the following:

- (a) Exercised those fiduciary powers unlawfully or unsoundly.
- (b) Failed to exercise those fiduciary powers for five consecutive years.
- (c) Otherwise failed to follow the requirements of this part.

#### **§ 550.570 What procedures govern the revocation?**

The procedures for revocation of fiduciary powers are set forth in 12 U.S.C. 1464(n)(10). The OTS will conduct the hearing required under 12 U.S.C. 1464(n)(10)(B) under part 509 of this chapter.

### Subpart E—Activities Exempt From This Part

#### **§ 550.580 When may I act in a fiduciary capacity without obtaining OTS approval?**

You do not need OTS approval under subpart B if you act in one of the following fiduciary capacities:

- (a) Trustee of a trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan qualifying for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954 (26 U.S.C. 401(d)).
- (b) Trustee or custodian of a Individual Retirement Account within the meaning of section 408(a) of the Internal Revenue Code of 1954 (26 U.S.C. 408(a)).
- (c) Trustee of a fiduciary account that involves no active fiduciary duties provided that the applicable law authorizes the savings association to act in this capacity.

#### **§ 550.590 What standards must I observe when acting in exempt fiduciary capacities?**

You must observe principles of sound fiduciary administration, including those related to recordkeeping and segregation of assets.

#### **§ 550.600 How may I invest funds when acting in exempt fiduciary capacities?**

If you act in an exempt fiduciary capacity under § 550.580, you may invest the funds of the fiduciary account in only the following:

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(a) Your accounts, deposits, obligations, or securities.

(b) Other assets as the customer may direct, provided you do not exercise any investment discretion and do not directly or indirectly provide any investment advice for the fiduciary account.

**§ 550.610 What disclosures must I make when acting in exempt fiduciary capacities?**

If you act in an exempt fiduciary capacity under § 550.580 and fiduciary investments are not limited to accounts or deposits insured by the FDIC, you must include the following language in bold type on the first page of any contract documents:

Funds invested pursuant to this agreement are not insured by the Federal Deposit Insurance Corporation ("FDIC") merely because the trustee or custodian is a Federal savings association the accounts of which are covered by such insurance. Only investments in the accounts of a Federal savings association are insured by the FDIC, subject to its rules and regulations.

**§ 550.620 May I receive compensation for acting in exempt fiduciary capacities?**

You may receive reasonable compensation.

**PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS**

- Sec.
- 552.2-1 Procedure for organization of Federal stock association.
- 552.2-2 Procedures for organization of interim Federal stock association.
- 552.2-3 Federal stock association created in connection with an association in default or in danger of default.
- 552.2-6 Conversion from stock form depository institution to Federal stock association.
- 552.2-7 Conversion to National banking association or State bank.
- 552.3 Charters for Federal stock associations.
- 552.4 Charter amendments.
- 552.5 Bylaws.
- 552.6 Shareholders.
- 552.6-1 Board of directors.
- 552.6-2 Officers.
- 552.6-3 Certificates for shares and their transfer.

- 552.6-4 [Reserved]
- 552.9 [Reserved]
- 552.10 Annual reports to stockholders.
- 552.11 Books and records.
- 552.12 [Reserved]
- 552.13 Combinations involving Federal stock associations.
- 552.14 Dissenter and appraisal rights.
- 552.15 Supervisory combinations.
- 552.16 Effect of subsequent charter or bylaw change.

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

SOURCE: 54 FR 49523, Nov. 30, 1989, unless otherwise noted.

**§ 552.2-1 Procedure for organization of Federal stock association.**

(a) *Application for permission to organize.* Applications for permission to organize a Federal stock association are subject to this section and to § 543.3 of this chapter. Recommendations by employees of the OTS regarding applications for permission to organize are privileged, confidential, and subject to § 510.5 (b) and (c) of this chapter. The processing of an application under this section shall be subject to the following procedures:

(1) *Publication.* (i) The applicant shall publish a public notice of the application to organize in accordance with the procedures specified in subpart B of part 516 of this chapter.

(ii) Promptly after publication of the public notice, the applicant shall transmit copies of the public notice and publisher's affidavit of publication to the OTS in the same manner as the original filing.

(iii) Any person may inspect the application and all related communications at the Regional Office during regular business hours, unless such information is exempt from public disclosure.

(2) *Notification to interested parties.* The OTS shall give notice of the application to the State official who supervises savings associations in the State in which the new association is to be located.

(3) *Submission of comments.* Commenters may submit comments on the application in accordance with the procedures specified in subpart C of part 516 of this chapter.