

acquisition of control filing. An application for such supervisory approval under paragraphs (b)(2) and (b)(3) of this section shall set forth all information determined sufficient for supervisory purposes and shall substantiate why the requested capital distribution should be permitted under the applicable criteria for its tier.

(2) The requirements of this section shall supersede the provisions of agreements or conditions to approved applications controlling associations' capital distributions that were less stringent than the restrictions imposed under this rule.

(3) An association subject to restrictions under an agreement or application condition that are more stringent than the restrictions imposed by this rule may submit a written notice to OTS seeking to be subject to this rule. The Office within 30 days of receipt of the notice will evaluate the notice and make a determination of whether the facts initially warranting imposition of the more stringent agreement or condition warrant the continuation of those restrictions or if the provisions of this section should apply to the association.

[55 FR 27196, July 2, 1990, as amended at 57 FR 14347, Apr. 20, 1992; 57 FR 33438, July 29, 1992; 60 FR 66718, Dec. 26, 1995; 62 FR 66263, Dec. 18, 1997]

Subpart F—Financial Management Policies

§ 563.161 Management and financial policies.

(a) For the protection of its account holders and other savings associations each savings association and service corporation thereof shall maintain safe and sound management and shall pursue financial policies that are safe and consistent with economical home financing and the purposes of federal savings associations and are appropriate to their respective types of operations; in implementing this regulation the Office will take into consideration that service corporations may be authorized to engage in activities which involve a higher degree of risk than do activities permitted to savings associations.

(b) Compensation to officers, directors, and employees of each savings as-

sociation and its service corporations shall not be in excess of that which is reasonable and commensurate with their duties and responsibilities. Former officers, directors, and employees of savings association or its service corporation who regularly perform services therefor under consulting contracts are employees thereof for purposes of this paragraph (b).

§ 563.170 Examinations and audits; appraisals; establishment and maintenance of records.

(a) *Examinations and audits.* Each savings association and affiliate thereof shall be examined periodically, and may be examined at any time, by the Office, with appraisals when deemed advisable, in accordance with general policies from time to time established by the Office. The costs, as computed by the Office, of any examinations made by it, including office analysis, overhead, per diem, travel expense, other supervision by the Office, and other indirect costs, shall be paid by the savings associations examined, except that in the case of service corporations of Federal savings associations the cost of examinations, as determined by the Office, shall be paid by the service corporations. Payments shall be made in accordance with a schedule of annual assessments based upon each savings association's total assets and of rates for examiner time in amounts determined by the Office.

(b) *Appraisals.* (1) Unless otherwise ordered by the Office, appraisal of real estate by the Office in connection with any examination or audit of a savings association, affiliate, or service corporation shall be made by an appraiser, or by appraisers, selected by the Office's Regional Director of the Region in which such savings association is located. The cost of such appraisal shall promptly be paid by such savings association, affiliate, or service corporation direct to such appraiser or appraisers upon receipt by the savings association, affiliate, or service corporation of a statement of such cost as approved by such Regional Director. A copy of the report of each appraisal made by the Office pursuant to any of the foregoing provisions of this section

shall be furnished to the savings association, affiliate, or service corporation, as appropriate within a reasonable time, not to exceed 90 days, following the completion of such appraisals and the filing of a report thereof by the appraiser, or appraisers, with such Regional Director.

(2) The Office may obtain at any time, at its expense, such appraisals of any of the assets, including the security therefor, of a savings association, affiliate, or service corporation as the Office deems appropriate.

(c) *Establishment and maintenance of records.* To enable the Office to examine savings associations and affiliates and audit savings associations, affiliates, and service corporations pursuant to the provisions of paragraph (a) of this section, each savings association, affiliate, and service corporation shall establish and maintain such accounting and other records as will provide an accurate and complete record of all business it transacts. This includes, without limitation, establishing and maintaining such other records as are required by statute or any other regulation to which the savings association, affiliate, or service corporation is subject. The documents, files, and other material or property comprising said records shall at all times be available for such examination and audit wherever any of said records, documents, files, material, or property may be.

(d) *Change in location of records.* A savings association shall not transfer the location of any of its general accounting or control records, or the maintenance thereof, from its home office to a branch or service office, or from a branch or service office to its home office or to another branch or service office unless prior to the date of transfer its board of directors has:

- (1) By resolution authorized the transfer or maintenance and;
- (2) Sent a certified copy of the resolution to the Regional Director of the OTS Region in which the principal office of the savings association is located.

(e) *Use of data processing services for maintenance of records.* A savings association which determines to maintain any of its records by means of data

processing services shall so notify the Regional Director of the Region in which the principal office of such savings association is located, in writing, at least 90 days prior to the date on which such maintenance of records will begin. Such notification shall include identification of the records to be maintained by data processing services and a statement as to the location at which such records will be maintained. Any contract, agreement, or arrangement made by a savings association pursuant to which data processing services are to be performed for such savings association shall be in writing and shall expressly provide that the records to be maintained by such services shall at all times be available for examination and audit.

[54 FR 49552, Nov. 30, 1989, as amended at 55 FR 34547, Aug. 23, 1990; 57 FR 14335, Apr. 20, 1992; 57 FR 40092, Sept. 2, 1992; 58 FR 28348, May 13, 1993; 59 FR 29502, June 7, 1994; 59 FR 53571, Oct. 25, 1994; 59 FR 60304, Nov. 23, 1994; 60 FR 66718, Dec. 26, 1995; 61 FR 50984, Sept. 30, 1996]

§ 563.171 Frequency of examination.

(a) *General.* The OTS examines savings associations pursuant to authority conferred by 12 U.S.C. 1463 and the requirements of 12 U.S.C. 1820(d). The OTS is required to conduct a full-scope, on-site examination of every savings association at least once during each 12-month period.

(b) *18-month rule for certain small institutions.* The OTS may conduct a full-scope, on-site examination of a savings association at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the following conditions are satisfied:

- (1) The savings association has total assets of \$250 million or less;
- (2) The savings association is well capitalized as defined in § 565.4 of this chapter;
- (3) At its most recent examination, the OTS found the savings association to be well managed;
- (4) At its most recent examination, the OTS assigned the savings association a composite rating of 1 or 2, as defined in § 516.3(c) of this chapter;