

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 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 12 CFR 565.4;
- (3) At its most recent examination, the OTS found the savings association to be well managed;
- (4) At its most recent examination, the OTS determined that the savings association was in outstanding or good condition, that is, it received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating

System (Copies are available at the addresses specified in § 516.1 of this chapter);

(5) The savings association currently is not subject to a formal enforcement proceeding or order; and

(6) No person acquired control of the savings association during the preceding 12-month period in which a full-scope on-site examination would have been required but for this section.

(c) *Authority to conduct more frequent examinations.* This section does not limit the authority of the OTS to examine any savings association as frequently as the agency deems necessary.

[62 FR 6453, Feb. 12, 1997]

§ 563.173 Forward commitments.

(a) *Definitions*—(1) *Forward commitment.* The term “forward commitment” means an oral or written contract to buy securities 30 or more days after the contract date; such a commitment is a standby commitment if delivery is optional with the seller and a firm commitment if both buyer and seller are obligated to perform on the agreed date.

(2) *Securities.* The term “securities” means assets in which the savings association is authorized to invest (except financial futures or financial options contracts entered into pursuant to § 563.174 or § 563.175 of this part).

(3) *Commitment fee.* The term “commitment fee” means any consideration received directly or indirectly by a savings association for a forward commitment.

(b) *Authorized personnel.* The minutes of the board of directors of the savings association shall set out the names, duties, responsibilities, and current limits of authority of the savings association’s personnel authorized to engage in forward commitment transactions for the savings association; the brokerage firms through which authorized personnel may conduct forwards activity; and the dollar limit on transactions with each such firm.

(c) *Limitations*—(1) *General.* A savings association may make forward commitments to purchase securities, subject to the limits in paragraph (c)(2) of this section, if that activity is conducted in a safe and sound manner. An example of an unsafe and unsound

practice which may preclude further investment under this section is an inability to fund commitments when due. No savings association may sell a forward commitment or security under agreement to purchase another forward commitment or security at a price other than actual market value.

(2) *Percent of assets.* A savings association’s outstanding forward commitments to purchase securities plus short put options entered into pursuant to § 563.175 of this part may not exceed an amount equal to 5 percent of its assets if total capital is 3 percent or less of assets, 10 percent of its assets if total capital is over 3 percent but less than 5 percent of assets, or 15 percent of its assets if total capital is 5 percent or more of assets.

(d) *Disposal before settlement.* All profit or loss related to disposal or modification of a forward commitment before settlement shall be recognized on the savings association’s books at the time of disposal or modification.

(e) *Recordkeeping requirements.* A savings association engaging in forward commitments shall establish and maintain the following:

(1) A current register of all outstanding forward commitments, including the type (firm or standby), commitment date, amount, rate, price to be paid at settlement, market price at date of commitment, settlement date, commitment fees received, date and manner of disposal, sales price and market value at disposal if disposition is made on or prior to settlement date other than through funding, and seller’s identity and confirmation; and

(2) Documentation of the savings association’s ability to fund all outstanding forward commitments when due.

[54 FR 49552, Nov. 30, 1989, as amended at 57 FR 33438, July 29, 1992; 57 FR 40091, Sept. 2, 1992]

§ 563.174 Futures transactions.

(a) *Definitions.* As used in this section, the definitions in paragraphs (a)(1) through (a)(6) apply unless the context otherwise requires.

(1) The term *forward commitment* means a written commitment to make, purchase or issue mortgage loans or mortgage related securities at a price