

duties and internal review procedures. In addition, the minutes of the meeting of the board of directors shall set forth limits applicable to financial futures transactions, identify personnel authorized to engage in financial futures transactions, and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors shall review the position limit, all outstanding contract positions, and the unrealized gains and losses on those positions and matched items at each regular meeting of the board.

(e) *Notification.* A savings association engaging in financial futures transactions shall notify the Regional Director of the region in which its principal office is located immediately following authorization of its board of directors to engage in financial futures transactions.

(f) *Records retention.* A savings association engaging in financial futures transactions shall maintain records of such transactions sufficient to document how the transactions reduce the net interest-rate risk exposure of the savings association in accordance with the requirements of paragraphs (f)(1) through (f)(3) of this section.

(1) *Contract register.* The savings association shall maintain a contract register adequate to identify and control all financial futures contracts and including, at a minimum, the type and amount of each contract, the maturity date of each contract, the cost of each contract, the dollar amount and description of the asset or the liability with which the futures contract is matched, and the date and manner in which a contract is closed out. Such register shall be prepared in a manner sufficient to indicate at any time the savings association's total outstanding long and short financial futures positions.

(2) *Other documentation.* The savings association shall maintain, as part of the documentation of its financial futures activity, a schedule that describes the hedge objective of the futures contracts (individually or in groups as appropriate) and the hedge results.

(3) *Period covered.* The records designated in this paragraph (f) shall be maintained for all futures transactions

closed-out during at least the preceding ten years.

[54 FR 49552, Nov. 30, 1989, as amended at 57 FR 40092, Sept. 2, 1992]

§ 563.175 Financial options transactions.

(a) *Definitions.* As used in this section, the definitions in paragraphs (a)(1) through (a)(13) apply unless the context otherwise requires.

(1) The term *call* means an option which gives the holder the right to purchase a financial instrument at a specified price on or before the expiration date of the contract.

(2) The term *deliverable instrument* means a financial instrument whose terms satisfy the requirements for fulfilling delivery obligations of an option.

(3) The term *effective exercise price* means the yield equivalent price of an instrument whose coupon rate differs from the standard instrument specified in the option.

(4) The term *financial options contract* means an agreement (other than an optional delivery forward commitment contract to purchase and sell mortgages or mortgage-backed securities when used as part of the mortgage loan origination process) to make or take delivery of a financial instrument upon demand by the holder of the contract at any time prior to the expiration date specified in the agreement, under terms and conditions established either by:

(i) A board of trade designated as a contract market for the trading of option contracts by the Commodity Futures Trading Commission (CFTC) or a national securities exchange registered with the Securities Exchange Commission (SEC); or

(ii) The saving association and a "permissible counterparty" as defined in paragraph (a)(13) of this section, that are counterparties in an over-the-counter option transaction (other than an over-the-counter commodity option transaction subject to the jurisdiction of the CFTC that is not otherwise authorized under the Commodity Exchange Act and the regulations thereunder).

(5) The term *financial options transaction* means the purchase or sale of a financial options contract.

(6) The term *immediate exercise value* means the market value gained by exercising an option with the lowest cost deliverable instrument at its effective exercise price compared to purchasing (or selling) an identical instrument with the same coupon rate in the cash market.

(7) The term *long position* means the holding of a financial options contract with the option to make or take delivery of a financial instrument.

(8) The term *option commitment fee* means the option premium minus the immediate exercise value of the option.

(9) The term *option premium* means the price paid or received for establishing an option position.

(10) The term *put* means an option which gives the holder the right to sell a financial instrument at a price and on or before the expiration date specified in the financial options contract.

(11) The term *short position* means a commitment through a financial options contract to stand ready during the term of the contract to make or take delivery of a financial instrument.

(12) The term *primary dealer in government securities* means any member of the Association of Primary Dealers in United States Government Securities and any parent, subsidiary, or affiliated entity of such primary dealer. Provided, that the member guarantees (to the satisfaction of the OTS) the over-the-counter financial options transactions between its parent, subsidiary, or affiliated entity with a savings association, and provided further, that the parent, subsidiary, or affiliated entity is substantially engaged in similar activities.

(13) The term *permissible counterparty* means any entity that is:

(i) A primary dealer as defined in paragraph (a)(12) of this section;

(ii) A bank subject to the regulation and supervision of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System and that is in compliance with applicable regulatory capital requirements;

(iii) A savings association that is subject to the regulation and supervision of the OTS and is in compliance with the applicable capital requirements contained in part 567 of this chapter;

(iv) A broker or dealer registered with the Securities and Exchange Commission (SEC) and subject to regulation and supervision by a Registered Securities Association (registered pursuant to section 15A of the Securities Exchange Act of 1934 (Exchange Act) or a National Securities Exchange (registered pursuant to sections 6 and 19(a) of the Exchange Act) and that is in compliance with applicable capital requirements;

(v) A government securities broker or dealer registered with the SEC that is subject to examination and supervision by a Registered Securities Association (registered pursuant to section 15A of the Exchange Act) or National Securities Exchange (registered pursuant to section 6 and 19(a) of the Exchange Act) and that is in compliance with applicable capital requirements;

(vi) A futures commission merchant registered with CFTC and that is in compliance with applicable capital requirements;

(vii) The Federal Home Loan Banks;

(viii) The Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association; or

(ix) Any other entity that the OTS, upon application, determines to be adequately regulated, capitalized, and audited or examined such that acting as a counterparty in an over-the-counter options transaction with a savings association would not entail substantial credit risks for the association. The OTS delegates the authority to consider and approve such applications to the Deputy Director for Regional Operations, with the concurrence of the Chief Counsel, or their respective designees.

(b) *Permitted transactions.* To the extent that it has legal power to do so, a savings association may engage in financial options transactions as provided in this paragraph (b).

(1) *Long positions.* A savings association may enter into long positions without numerical limit.

(2) *Short positions.* A savings association may enter into short call positions without numerical limit. A savings association may enter into short put options to the extent that the aggregate amount of its short put options and forward commitments to purchase securities does not exceed the limitations set forth in § 563.173(c)(2) of this part.

(c) *Authorized contracts.* A savings association may engage in financial options transactions using any financial options contracts either—

(1) Designated by the CFTC or approved by the SEC; or

(2) Entered into with a “permissible counterparty” (as defined in paragraph (a)(13) of this section) and based upon a financial instrument that the savings association has authority to invest in or to issue.

(d) *Board of directors’ authorization.* Prior to engaging in financial options transactions, a savings association’s board of directors must authorize such activity. In authorizing options, the board of directors shall consider any plan to engage in writing or purchasing financial options contracts, shall endorse specific written policies, and shall require the establishment of internal control procedures. For options positions that will be matched with cash or forward market positions, policy objectives must be specific enough to outline permissible options contract strategies, taking into account price and yield correlations between assets or liabilities and the financial options contracts; the relationship of the strategies to the savings association’s operations; the rationale for the ratio of the value of options positions to the value of the matched cash market positions; and how the options strategy reduces the savings association’s interest-rate risk exposure. For unmatched option positions, policy objectives must specify the relationship of the strategy to the savings association’s operations. Prudent business judgment shall be exercised by participating savings associations engaging in financial options transactions in order to maintain a safe and sound financial posi-

tion. Internal control procedures shall include, at a minimum, periodic reports to management, segregation of duties and internal review procedures. In addition, the minutes of the meeting of the board of directors shall set forth limits applicable to financial options transactions, identify personnel authorized to engage in financial options transactions, and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors shall review the position limit, all outstanding options contract positions, and the unrealized gains or losses on those positions at each regular meeting of the board.

(e) *Notification, reporting, and approval.* (1) A savings association shall notify the Regional Director of the region in which its principal office is located immediately following authorization of its board of directors to engage in financial options transactions; and

(2) A savings association shall not engage in over-the-counter financial option transactions with any permissible counterparty unless such counterparty agrees to notify the Regional Director of the region in which the principal office of the savings association is located immediately following the entering into such transaction. A savings association shall not continue to engage in over-the-counter financial options transactions with any permissible counterparty that has failed to so notify the appropriate Regional Director with respect to previous over-the-counter financial option transactions with that savings association. Notwithstanding the foregoing, no savings association shall engage in a long over-the-counter financial option transaction with a specific permissible counterparty, without obtaining the prior approval of its Regional Director, whenever the aggregate exercise value of all long over-the-counter financial option positions with the counterparty exceeds the limitations contained in § 563.93(c)(1) of this part. A Regional Director may approve any financial option transaction whenever he determines that such transaction does not subject the SAIF to undue risk. In making such determinations, the Regional Director shall consider:

(i) The creditworthiness of the specific counterparty;

(ii) The savings association's experience with such counterparty and with transacting in financial option and futures contracts generally;

(iii) The nature of the subject contracts (e.g., matched or unmatched); and

(iv) Any other circumstances deemed relevant by the Regional Director. An application to enter into a financial option transaction under paragraph (e)(2) of this section shall be deemed approved if the Regional Director does not deny such application within 10 calendar days from the date the application was filed.

(f) *Records retention.* A savings association engaging in financial options transactions shall maintain records of such transactions in accordance with the requirements of paragraphs (f)(1) through (f)(3) of this section.

(1) *Contract register.* The savings association shall maintain a contract register adequate to identify and control all financial options contracts and sufficient to indicate at any time the amounts of financial options contracts required to be reported on its monthly report. At a minimum, the register shall list the type, amount, expiration date and the cost of or income from each contract.

(2) *Other documentation.* The savings association shall maintain, as part of the documentation of its financial options activity, a schedule of any cash market or forward commitment position with which the option is matched, the objective for each contract (or group of contracts), and the results.

(3) *Period covered.* The records designated in this paragraph (f) shall be maintained for all financial options closed out during the preceding ten years.

[54 FR 49552, Nov. 30, 1989, as amended at 57 FR 40093, Sept. 2, 1992]

§ 563.176 Interest-rate-risk-management procedures.

Savings associations shall take the following actions:

(a) The board of directors or a committee thereof shall review the savings association's interest-rate-risk expo-

sure and devise a policy for the savings association's management of that risk.

(b) The board of directors shall formerly adopt a policy for the management of interest-rate risk. The management of the savings association shall establish guidelines and procedures to ensure that the board's policy is successfully implemented.

(c) The management of the savings association shall periodically report to the board of directors regarding implementation of the savings association's policy for interest-rate-risk management and shall make that information available upon request to the Office.

(d) The savings association's board of directors shall review the results of operations at least quarterly and shall make such adjustments as it considers necessary and appropriate to the policy for interest-rate-risk management, including adjustments to the authorized acceptable level of interest-rate risk.

[54 FR 49552, Nov. 30, 1989, as amended at 58 FR 45813, Aug. 31, 1993; 59 FR 53571, Oct. 25, 1994]

§ 563.177 Procedures for monitoring Bank Secrecy Act compliance.

(a) *Purpose.* The purpose of this regulation is to require savings associations (as defined by § 561.43 of this chapter) to establish and maintain procedures reasonably designed to assure and monitor compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, and the implementing regulations promulgated thereunder by the U.S. Department of Treasury, 31 CFR part 103.

(b) *Compliance procedure.* On or before April 27, 1987, each savings association shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements set forth in subchapter II of chapter 53 of title 31, United States Code, and the implementing regulations promulgated thereunder by the Department of Treasury, 31 CFR part 103. The compliance program shall be reduced to writing, approved by the savings association's board of directors, and reflected in the minutes of the savings association.