

## § 544.6

be filed pursuant to paragraph (c)(1) of this section.

[54 FR 49486, Nov. 30, 1989, as amended at 55 FR 13511, Apr. 11, 1990; 57 FR 14339, Apr. 20, 1992; 61 FR 64016, Dec. 3, 1996; 62 FR 66262, Dec. 18, 1997; 66 FR 13006, Mar. 2, 2001; 66 FR 15020, Mar. 15, 2001]

### § 544.6 Effect of subsequent charter or bylaw change.

Notwithstanding any subsequent change to its charter or bylaws, the authority of a Federal mutual savings association to engage in any transaction shall be determined only by the association's charter or bylaws then in effect.

#### AVAILABILITY

### § 544.7 In association offices.

A Federal mutual savings association shall make available to its members at all times in its offices a true copy of its charter and bylaws, including any amendments, and shall deliver such a copy to any member on request.

### § 544.8 Communication between members of a Federal mutual savings association.

(a) *Right of communication with other members.* A member of a Federal mutual savings association has the right to communicate, as prescribed in paragraph (b) of this section, with other members of the Federal savings association regarding any matter related to the Federal savings association's affairs, except for "improper" communications, as defined in paragraph (c) of this section. The association may not defeat that right by redeeming a savings member's savings account in the Federal mutual savings association.

(b) *Member communication procedures.* If a member of a Federal mutual savings association desires to communicate with other members, the following procedures shall be followed:

(1) The member shall give the Federal mutual savings association a written request to communicate;

(2) If the proposed communication is in connection with a meeting of the Federal savings association's members, the request shall be given at least thirty days before the annual meeting or 10 days before a special meeting;

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(3) The request shall contain—

(i) The member's full name and address;

(ii) The nature and extent of the member's interest in the Federal savings association at the time the information is given;

(iii) A copy of the proposed communication; and

(iv) If the communication is in connection with a meeting of the members, the date of the meeting;

(4) The Federal savings association shall reply to the request within either—

(i) Fourteen days;

(ii) Ten days, if the communication is in connection with the annual meeting; or

(iii) Three days, if the communication is in connection with a special meeting;

(5) The reply shall provide either—

(i) The number of the Federal savings association's members and the estimated reasonable cost to the Federal savings association of mailing to them the proposed communication; or

(ii) Notification that the Federal savings association has determined not to mail the communication because it is "improper", as defined in paragraph (c) of this section;

(6) After receiving the amount of the estimated costs of mailing and sufficient copies of the communication, the Federal savings association shall mail the communication to all members, by a class of mail specified by the requesting member, either—

(i) Within fourteen days;

(ii) Within seven days, if the communication is in connection with the annual meeting;

(iii) As soon as practicable before the meeting, if the communication is in connection with a special meeting; or

(iv) On a later date specified by the member;

(7) If the Federal savings association refuses to mail the proposed communication, it shall return the requesting member's materials together with a written statement of the specific reasons for refusal, and shall simultaneously send to the Regional Director two copies each of the requesting member's materials, the Federal savings association's written statement, and any

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other relevant material. The materials shall be sent within:

- (i) Fourteen days,
- (ii) Ten days if the communication is in connection with the annual meeting, or
- (iii) Three days, if the communication is in connection with a special meeting,

after the Federal savings association receives the request for communication.

(c) *Improper communication.* A communication is an “improper communication” if it contains material which:

(1) At the time and in the light of the circumstances under which it is made:

(i) Is false or misleading with respect to any material fact; or

(ii) Omits a material fact necessary to make the statements therein not false or misleading, or necessary to correct a statement in an earlier communication on the same subject which has become false or misleading;

(2) Relates to a personal claim or a personal grievance, or is solicitous of personal gain or business advantage by or on behalf of any party;

(3) Relates to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the Federal savings association or is not within the control of the Federal savings association; or

(4) Directly or indirectly and without expressed factual foundation:

(i) Impugns character, integrity, or personal reputation,

(ii) Makes charges concerning improper, illegal, or immoral conduct, or

(iii) Makes statements impugning the stability and soundness of the Federal savings association.

[54 FR 49492, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995. Redesignated at 61 FR 64018, Dec. 3, 1996.]

### PART 545—FEDERAL SAVINGS ASSOCIATIONS—OPERATIONS

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1828.

SOURCE: 54 FR 49492, Nov. 30, 1989, unless otherwise noted.

#### § 545.1 General authority.

A Federal savings association may exercise all authority granted it by the Home Owners’ Loan Act of 1933 (“Act”), 12 U.S.C. 1464, as amended, and its charter and bylaws, whether or not implemented specifically by Office regulations, subject to the limitations and interpretations contained in this part.

#### § 545.2 Federal preemption.

The regulations in this part 545 are promulgated pursuant to the plenary and exclusive authority of the Office to regulate all aspects of the operations of Federal savings associations, as set forth in section 5(a) of the Act. This exercise of the Office’s authority is preemptive of any state law purporting to address the subject of the operations of a Federal savings association.

#### § 545.16 Public deposits, depositaries, and fiscal agents.

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

(1) *Moneys* includes *monies* and has the meaning it has in applicable state law;

(2) *State law* includes actions by a governmental body which has a charter adopted under the constitution of the state with provisions respecting deposits of public money of that body;

(3) *Surety* means surety under real and/or personal suretyship, and includes guarantor; and

(4) Terms in paragraph (b) of this section have the meanings they have under applicable state law.

(b) *Authority to act as surety for public deposits.* (1) A Federal savings association that is a deposit association may give bond or security for deposit in it of public moneys or investment in it by a governmental unit if required to do