

§ 545.17

so by state law, either as an alternative condition or otherwise, regardless of the amount required. Any bond or security may be given and any substitution or increase thereof may be made under this section at any time.

(2) If state law requires as a condition of such deposit or investment that the Federal savings association or its bond or security, or any combination thereof, be surety for or with respect to other deposits or instruments, whether of that depositor or investor or of any other(s), and whether in the Federal savings association or in any other institution(s) having, when the investments or deposits were made, insurance by the Federal Deposit Insurance Corporation, the same shall become, or if the state law is self-executing shall be, such surety.

(c) *Depositaries and fiscal agents.* Subject to regulation of the United States Treasury Department, a Federal savings association may serve as a depository for Federal taxes, as a Treasury tax and loan depository, or as a depository of public money and fiscal agent of the Government or any other instrumentality thereof when designated for that purpose by such instrumentality and approved by the Office, and may satisfy any requirement in connection therewith, including maintaining accounts described in §§ 561.33, 561.52, 561.53, and 561.54 of this chapter; pledging collateral; and performing the services outlined in 31 CFR 202.3(b) or any section that supersedes or amends § 202.3(b).

§ 545.17 Funds transfer services.

A Federal savings association is authorized to transfer, with or without fee, its customers' funds from any account (including a line of credit) of the customer at the Federal savings association or at another financial intermediary to third parties or other accounts of the customer on the customer's order or authorization by any mechanism or device, including cashier's checks, conforming with applicable laws and established commercial practices.

§ 545.74 Securities brokerage.

(a) A service corporation may execute securities transactions on an

12 CFR Ch. V (1-1-04 Edition)

agency or riskless principal basis solely upon the order of and for the account of customers, and may provide standardized and individualized investment advice to individuals or entities, provided that the service corporation:

(1) Conducts securities brokerage and investment advisory activities in an area that is clearly identified and distinguished from the areas where the association's depository functions are performed;

(2) Distinguishes advertising by the service corporation from that of the association, such that advertising does not confuse securities transactions executed, securities purchased, or investment advice provided by the service corporation with federally-insured deposits; that the advertising indicates that the service corporation and broker-dealer, and not the association, is providing the securities brokerage or investment advisory services, identifies the broker-dealer in advertising, and does not use the logo of the parent association in the text of any advertisement prepared or distributed by the service corporation or the broker-dealer or in the text of any advertisement for specific securities products;

(3) Where the service corporation contracts with a third-party broker-dealer, has a written contract with the broker-dealer that provides that the broker-dealer agrees to indemnify fully the service corporation and the association for any liability arising from the negligence, recklessness, or intentional conduct of the broker-dealer or its employees, and that sets forth operating, marketing, compensation, and other relevant terms;

(4) Provides to the OTS an initial opinion of counsel or an opinion from the senior securities principal responsible for overseeing the subject brokerage program that the program has been established pursuant to operational procedures that are intended to ensure that the program is conducted in conformity with applicable securities laws and regulations and that such procedures include internal controls and supervisory systems that have been established and are to be applied to detect and prevent violations of federal securities statutes, the rules adopted