

## § 557.12

provided in § 557.13. State law includes any statute, regulation, ruling, order, or judicial decision.

[62 FR 54764, Oct. 22, 1997, as amended at 63 FR 71212, Dec. 24, 1998; 64 FR 69184, Dec. 10, 1999; 67 FR 78152, Dec. 23, 2002]

### § 557.12 What are some examples of preempted state laws affecting deposits?

The OTS preempts state laws that purport to impose requirements governing the following:

- (a) Abandoned and dormant accounts;
- (b) Checking accounts;
- (c) Disclosure requirements;
- (d) Funds availability;
- (e) Savings account orders of withdrawal;
- (f) Service charges and fees;
- (g) State licensing or registration requirements; and
- (h) Special purpose savings services.

### § 557.13 What State laws affecting deposits are not preempted?

(a) The OTS has not preempted the following types of state law, to the extent that the law only incidentally affects your deposit-related activities or is otherwise consistent with the purposes of § 557.11:

- (1) Contract and commercial law;
  - (2) Tort law; and
  - (3) Criminal law.
- (b) The OTS will not preempt any other state law if the OTS, upon review, finds that the law:
- (1) Furthers a vital state interest; and
  - (2) Either only incidentally affects your deposit-related activities or is not otherwise contrary to the purposes expressed in § 557.11.

### § 557.14 What interest rate may I pay on savings accounts?

(a) You may pay interest at any rate or anticipated rate of return on savings accounts, either in deposit or in share form, as provided in your charter and the account's terms.

(b) You may pay fixed or variable rates. If you pay a variable rate, you must base it on a schedule, index, or formula that you specify in the account's terms.

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### § 557.15 Who owns a deposit account?

You may treat the holder of record as the account owner, even if you receive contrary notice, until you transfer the account on your records.

## Subpart C—Deposit Activities of All Savings Associations

### § 557.20 What records should I maintain on deposit activities?

All federal and state chartered savings associations ("you") should establish and maintain deposit documentation practices and records that demonstrate that you appropriately administer and monitor deposit-related activities. Your records should adequately evidence ownership, balances, and all transactions involving each account. You may maintain records on deposit activities in any format that is consistent with standard business practices.

## PART 558—POSSESSION BY CONSERVATORS AND RECEIVERS FOR FEDERAL AND STATE SAVINGS ASSOCIATIONS

Sec.

558.1 Procedure upon taking possession.

558.2 Notice of appointment.

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

### § 558.1 Procedure upon taking possession.

(a) The conservator or receiver for a Federal or state savings association shall take possession of the savings association by taking possession of the principal office of the Federal or state savings association in accordance with the terms of the Director's appointment.

(b) Upon taking possession, the conservator or receiver shall immediately:

(1) Give notice of the appointment to any officer or employee in the principal office who appears to be in charge of that office.

(2) Serve a copy of the order of appointment upon the savings association or upon its conservator or receiver by:

(i) Leaving a certified copy of the order of appointment at the principal office of the savings association; or

(ii) Handing a certified copy of the order of appointment to the previous conservator, receiver or other legal custodian of the savings association, or to the officer or employee of the savings association or of the previous conservator, receiver or other legal custodian in the principal office of the savings association who appears to be in charge.

(3) Take possession of the savings association's books, records and assets.

(4) Notify in writing, served personally or by registered mail or telegraph, all persons and entities that the conservator or receiver knows to be holding or in possession of assets of the savings association, that the conservator or receiver has succeeded to all rights, titles, powers and privileges of the savings associations.

(5) File with the Corporate Secretary a statement that possession was taken, including the time of the taking, which statement shall be conclusive evidence thereof.

(6) Post a notice on the door of the principal and other offices of the savings association in the form prescribed by the Director of the OTS.

(7) By operation of law and without any conveyance or other instrument, act or deed, succeed to the rights, titles, powers and privileges of the savings association, and to the rights, powers, and privileges of its stockholders, members, accountholders, depositors, officers, and directors. No stockholder, member, accountholder, depositor, officer or director shall thereafter have or exercise any right, power, or privilege, or act in connection with any of the savings association's assets or property.

[58 FR 4312, Jan. 14, 1993, as amended at 59 FR 53571, Oct. 25, 1994]

#### § 558.2 Notice of appointment.

If the Director of the OTS appoints a conservator or receiver under this part, notice of the appointment shall be filed immediately for publication in the FEDERAL REGISTER.

[59 FR 53571, Oct. 25, 1994]

## PART 559—SUBORDINATE ORGANIZATIONS

Sec.

559.1 What does this part cover?

559.2 Definitions.

### Subpart A—Regulations Applicable to Federal Savings Associations

559.3 What are the characteristics of, and what requirements apply to, subordinate organizations of Federal savings associations?

559.4 What activities are preapproved for service corporations?

559.5 How much may a savings association invest in service corporations or lower-tier entities?

### Subpart B—Regulations Applicable to All Savings Associations

559.10 How must separate corporate identities be maintained?

559.11 What notices are required to establish or acquire a new subsidiary or engage in new activities through an existing subsidiary?

559.12 How may a subsidiary of a savings association issue securities?

559.13 How may a savings association exercise its salvage power in connection with its service corporation or lower-tier entities?

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

SOURCE: 61 FR 66571, Dec. 18, 1996, unless otherwise noted.

#### § 559.1 What does this part cover?

(a) OTS is issuing this part 559 pursuant to its general rulemaking and supervisory authority under the Home Owners' Loan Act, 12 U.S.C. 1462 *et seq.*, and its specific authority under section 18(m) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(m). Subpart A of this part 559 applies to subordinate organizations of federal savings associations. Subpart B of this part applies to subordinate organizations of all savings associations. OTS may, at any time, limit a savings association's investment in any of these entities, or may limit or refuse to permit any activities of any of these entities for supervisory, legal, or safety and soundness reasons.

(b) Notices under this part are applications for purposes of statutory and