

### § 560.130

outstanding direct investment in obligations under paragraph (b) of this section shall not exceed the amount of the savings association's total capital.

(c) Each state housing corporation in which a savings association invests under the authority of paragraph (b) of this section shall agree, before accepting any such investment (including any loan or loan commitment), to make available at any time to the Office such information as the Office may consider to be necessary to ensure that investments are properly made under this section.

### § 560.130 Prohibition on loan procurement fees.

If you are a director, officer, or other natural person having the power to direct the management or policies of a savings association, you must not receive, directly or indirectly, any commission, fee, or other compensation in connection with the procurement of any loan made by the savings association or a subsidiary of the savings association.

[61 FR 60178, Nov. 27, 1996]

### § 560.160 Asset classification.

(a)(1) Each savings association must evaluate and classify its assets on a regular basis in a manner consistent with, or reconcilable to, the asset classification system used by OTS in its Thrift Activities Handbook (Available at the address of Washington Headquarters Office at § 516.40(b) of this chapter).

(2) In connection with the examination of a savings association or its affiliates, OTS examiners may identify problem assets and classify them, if appropriate. The association must recognize such examiner classifications in its subsequent reports to OTS.

(b) Based on the evaluation and classification of its assets, each savings association shall establish adequate valuation allowances or charge-offs, as appropriate, consistent with generally accepted accounting principles and the practices of the federal banking agencies.

[61 FR 50971, Sept. 30, 1996, as amended at 66 FR 13007, Mar. 2, 2001]

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

### § 560.170 Records for lending transactions.

In establishing and maintaining its records pursuant to § 563.170 of this chapter, each savings association and service corporation should establish and maintain loan documentation practices that:

(a) Ensure that the institution can make an informed lending decision and can assess risk on an ongoing basis;

(b) Identify the purpose and all sources of repayment for each loan, and assess the ability of the borrower(s) and any guarantor(s) to repay the indebtedness in a timely manner;

(c) Ensure that any claims against a borrower, guarantor, security holders, and collateral are legally enforceable;

(d) Demonstrate appropriate administration and monitoring of its loans; and

(e) Take into account the size and complexity of its loans.

### § 560.172 Re-evaluation of real estate owned.

A savings association shall appraise each parcel of real estate owned at the earlier of in-substance foreclosure or at the time of the savings association's acquisition of such property, and at such times thereafter as dictated by prudent management policy; such appraisals shall be consistent with the requirements of part 564 of this chapter. The Regional Director or his or her designee may require subsequent appraisals if, in his or her discretion, such subsequent appraisal is necessary under the particular circumstances. The foregoing requirement shall not apply to any parcel of real estate that is sold and reacquired less than 12 months subsequent to the most recent appraisal made pursuant to this part. A dated, signed copy of each report of appraisal made pursuant to any provisions of this part shall be retained in the savings association's records.

### Subpart C—Alternative Mortgage Transactions

### § 560.210 Disclosures for variable rate transactions.

A savings association must provide the initial disclosures described at 12

CFR 226.19(b) and the adjustment notices described at 12 CFR 226.20(c) for variable rate transactions, as described in those regulations. The OTS administers and enforces those provisions for savings associations.

[63 FR 38463, July 17, 1998]

**§ 560.220 Alternative Mortgage Transaction Parity Act.**

(a) *Applicable housing creditors.* A housing creditor that is not a commercial bank, a credit union, or a federal savings association, may make an alternative mortgage transaction as defined at 12 U.S.C. 3802(1), by following the regulations identified in paragraph (b) of this section, notwithstanding any state constitution, law, or regulation. See 12 U.S.C. 3803.

(b) *Applicable regulations.* OTS identifies §§ 560.35 and 560.210 as appropriate and applicable for state housing creditors. All other OTS regulations are not identified, and are inappropriate and inapplicable for state housing creditors. State housing creditors engaged in credit sales should read the term “loan” as “credit sale” wherever applicable in applying these regulations.

[67 FR 60554, Sept. 26, 2002]

**PART 561—DEFINITIONS FOR REGULATIONS AFFECTING ALL SAVINGS ASSOCIATIONS**

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

SOURCE: 54 FR 49545, Nov. 30, 1989, unless otherwise noted.

**§ 561.1 When do the definitions in this part apply?**

The definitions in this part and in 12 CFR part 541 apply throughout this chapter, unless another definition is specifically provided.

[67 FR 78152, Dec. 23, 2002]

**§ 561.2 Account.**

The term *account* means any savings account, demand account, certificate account, tax and loan account, note account, United States Treasury general account or United States Treasury time deposit-open account, whether in the form of a deposit or a share, held by an accountholder in a savings association.

**§ 561.3 Accountholder.**

The term *accountholder* means the holder of an account or accounts in a savings association insured by the SAIF. The term does not include the holder of any subordinated debt security or any mortgage-backed bond issued by the savings association.

**§ 561.4 Affiliate.**

The term *affiliate* of a savings association, unless otherwise defined, means any corporation, business trust, association, or other similar organization: