

**§ 545.92 Branch offices.**

(a) *Definition.* A branch office of a Federal savings association (“you”) is any office other than your home office, agency office, administrative office, data processing office, or an electronic means or facility under part 555 of this chapter.

(b) *Branching.* Subject to the application and notice requirements at §§ 545.93 and 545.95 of this chapter, you may branch in any State or States of the United States and its territories unless the location would violate:

(1) Section 5(r) of the HOLA (12 U.S.C. 1464(r));

(2) Section 10(e)(3) of the HOLA (12 U.S.C. 1467a(e)(3)); or

(3) Section 13(k)(4) of the FDIA (12 U.S.C. 1823(k)(4)).

(c) *Preemption.* This exercise of OTS authority is preemptive of any State law purporting to address the subject of branching by a Federal savings association.

[69 FR 68248, Nov. 24, 2004]

**§ 545.93 Application and notice requirements for branch and home offices.**

(a) *Application and notice requirements.* A Federal savings association (“you”) must file an application or notice and receive OTS approval or non-objection under § 545.95 before you change the permanent location of, or establish a new, home or branch office, except as provided in this section.

(b) *Exceptions.* You are not required to submit an application or notice and receive OTS approval or non-objection under § 545.95 under the following circumstances:

(1) *Drive-in or pedestrian offices.* You may establish a drive-in or pedestrian office that is located within 500 feet of a public entrance to your existing home or branch office, provided the functions performed at the office are limited to functions that are ordinarily performed at a teller window.

(2) *Short-distance relocation.* You may change the permanent location of an existing home or branch office to a site that is within the market area and short-distance location area of the existing home or branch office. The

short-distance relocation area of an existing office is the area that is within:

(i) A 1000-foot radius of an existing office that is within a Principal City in a Metropolitan Statistical Area (MSA) designated by the U.S. Department of Commerce;

(ii) A one-mile radius of an existing office that is within an MSA, but is not within a Principal City; or

(iii) A two-mile radius of an existing office that is not in an MSA.

(3) *Highly-rated Federal savings associations.* You may change the permanent location of, or establish a new, branch or home office if you meet all of the following requirements:

(i) You are eligible for expedited treatment under § 516.5 of this chapter. For the purposes of that section, you must meet the capital requirements under part 567 of this chapter before and immediately after you change the location of your home or branch office or establish a new branch office.

(ii) You published a notice of your intent to change the location of your home or branch office or establish a new branch office. To satisfy this publication requirement, you must follow the procedures in subpart B of part 516 of this chapter except that:

(A) Under § 516.55(d) and (e) of this chapter, your public notice must state that the public may submit comments to you and to the appropriate OTS office(s), and must provide addresses for you and for the appropriate OTS office(s) where the public may submit comments;

(B) Section 516.55(g) of this chapter, which addresses public inspections of filings with OTS, does not apply; and

(C) Under § 516.60 of this chapter, you must publish the public notice at least 35 days before you take the proposed action. If you publish a public notice more than 12 months before you take the proposed action, the publication is invalid.

(iii) If you intend to change the location of an existing office, you posted a notice of your intent in a prominent location in the existing office to be relocated. You must post the notice for 30 days from the date of publication of the initial public notice described in paragraph (b)(3)(i) of this section.