percentage-of-capital investment limitation only to the extent they are sold with recourse.

(c) A Federal savings association may make a loan secured by an assignment of loans to the extent that it could, under applicable law and regulations, make or purchase the underlying assigned loans.

§ 560.32 Pass-through investments.

(a) A federal savings association ("you") may make pass-through investments. A pass-through investment occurs when you invest in an entity ("company") that engages only in activities that you may conduct directly and the investment meets the requirements of this section. If an investment is authorized under both this section and some other provision of law, you may designate under which authority or authorities the investment is made. When making a pass-through investment, you must comply with all the statutes and regulations that would apply if you were engaging in the activity directly. For example, your proportionate share of the company's assets will be aggregated with the assets you hold directly in calculating investment limits (*e.g.*, no more than 400% of total capital may be invested in nonresidential real property loans).

(b) You may make a pass-through investment without prior notice to OTS if all of the following conditions are met:

(1) You do not invest more than 15% of your total capital in one company;

(2) The book value of your aggregate pass-through investments does not exceed 50% of your total capital after making the investment;

(3) Your investment would not give you direct or indirect control of the company;

(4) Your liability is limited to the amount of your investment; and

(5) The company falls into one of the following categories:

(i) A limited partnership;

(ii) An open-end mutual fund;

(iii) A closed-end investment trust;

(iv) A limited liability company; or

(v) An entity in which you are investing primarily to use the company's services (*e.g.*, data processing).

(c) If you want to make other pass-through investments, you must provide OTS with 30 days' advance notice. If within that 30-day period OTS notifies you that an investment presents supervisory, legal, or safety and soundness concerns, you must apply for and receive OTS prior written approval under the standard treatment processing procedures at part 516, subparts A and E of this chapter before making the investment. Notices under this section are deemed to be applications for purposes of statutory and regulatory references to "applications." Any conditions that OTS imposes on any pass-through investment shall be enforceable as a condition imposed in writing by the OTS in connection with the granting of a request by a savings association within the meaning of 12 U.S.C. 1818(b) or 1818(i).

[61 FR 66578, Dec. 18, 1996, as amended at 66 FR 13007, Mar. 2, 2001]

§ 560.33 Late charges.

A Federal savings association may include in a home loan contract a provision authorizing the imposition of a late charge with respect to the payment of any delinquent periodic payment. With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, no late charge, regardless of form, shall be assessed or collected by a Federal savings association, unless any billing, coupon, or notice the Federal savings association may provide regarding installment payments due on the loan discloses the date after which the charge may be assessed. A Federal savings association may not impose a late charge more than one time for late payment of the same installment, and any installment payment made by the borrower shall be applied to the longest outstanding installment due. A Federal savings association shall not assess a late charge as to any payment received by it within fifteen days after the due date of such payment. No form of such late charge permitted by this paragraph shall be considered as interest to the Federal savings association and the Federal savings association shall not deduct late charges from the regular periodic installment payments on the