§ 564.5 Appraiser independence.

(a) Staff appraisers. If an appraisal is prepared by a staff appraiser, that appraiser must be independent of the lending, investment, and collection functions and not involved, except as an appraiser, in the federally related transaction, and have no direct or indirect interest, financial or otherwise, in the property. If the only qualified persons available to perform an appraisal are involved in the lending, investment, or collection functions of the regulated institution, the regulated institution shall take appropriate steps to ensure that the appraisers exercise independent judgment and that the appraisal is adequate. Such steps include, but are not limited to, prohibiting an individual from performing an appraisal in connection with federally related transactions in which the appraiser is otherwise involved and prohibiting directors and officers from participating in any vote or approval involving assets on which they performed an appraisal.

(b) Fee appraisers. (1) If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transaction.

(2) A regulated institution also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if:

(i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and

(ii) The regulated institution determines that the appraisal conforms to the requirements of this part and is otherwise acceptable.


§ 564.6 Professional association membership; competency.

(a) Membership in appraisal organizations. A State certified appraiser or a State licensed appraiser may not be excluded from consideration for an assignment for a federally related transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(b) Competency. All staff and fee appraisers performing appraisals in connection with federally related transactions must be State certified or licensed, as appropriate. However, a State certified or licensed appraiser may not be considered competent solely by virtue of being certified or licensed. Any determination of competency shall be based upon the individual’s experience and educational background as they relate to the particular appraisal assignment for which he or she is being considered.

[55 FR 34549, Aug. 23, 1990]

§ 564.7 Enforcement.

Institutions and institution-affiliated parties, including staff appraisers and fee appraisers, who violate this part may be subject to removal and/or prohibition orders, cease and desist orders, and the imposition of civil money penalties pursuant to the Federal Deposit Insurance Act, 12 U.S.C. 1811 et seq., as amended, or other applicable law.

[55 FR 34549, Aug. 23, 1990]

§ 564.8 Appraisal policies and practices of savings associations and subsidiaries.

(a) Introduction. The soundness of a savings association’s mortgage loans and real estate investments, and those of its service corporation(s), depends to a great extent upon the adequacy of the loan underwriting used to support these transactions. An appraisal standard is one of several critical components of a sound underwriting policy because appraisal reports contain estimates of the value of collateral held or assets owned. This section sets forth
the responsibilities of management to
develop, implement, and maintain appraiser standards in determining com-
pliance with the appraisal require-
ments of § 563.170 of this chapter.

(b) *Definition.* For purposes of this section, management means: the direc-
tors and officers of a savings associa-
tion, or service corporation of such savings association, as those terms are de-
defined in §§ 561.18 and 561.33 of this chapter respectively.

(c) *Responsibilities of management.* An appraisal is a critical component of the loan underwriting or real estate investment decision. Therefore, management shall develop, implement, and main-
tain appraisal policies to ensure that appraisals reflect professional com-
petence and to facilitate the reporting of estimates of market value upon which savings associations may rely to make lending decisions. To achieve these results:

(1) Management shall develop written appraisal policies, subject to formal adoption by the savings association’s board of directors, that it shall imple-
ment in consultation with other appro-
priate personnel. These policies shall ensure that adequate appraisals are ob-
tained and proper appraisal procedures are followed consistent with the re-
quirements of this part 564.

(2) Management shall develop and adopt guidelines and institute pro-
cedures pertaining to the hiring of appraiser to perform appraisal services for the savings association consistent with the requirements of this part 564. These guidelines shall set forth specific factors to be considered by manage-
ment including, but not limited to, an appraiser’s State certification or li-
censing, professional education, and type of experience. An appraiser’s mem-
bership in professional appraisal organizations may be considered con-
sistent with the requirements of § 564.6.

(3) Management shall review on an annual basis the performance of all app-
proved appraisers used within the pre-
ceding 12-month period for compliance with (i) the savings association’s appraiser policies and procedures; and (ii) the reasonableness of the value esti-
mates reported.

(d) *Exceptions.* The requirements of § 564.4(b) through (d) shall not apply with respect to appraisals on nonresi-
dential properties prepared on form re-
ports approved by the Office and com-
pleted in accordance with the applicable instructional booklet.


PART 565—PROMPT CORRECTIVE ACTION

Sec. 565.1 Authority, purpose, scope, other supervisory authority, and disclosure of capital categories.

565.2 Definitions.

565.3 Notice of capital category.

565.4 Capital measures and capital category definitions.

565.5 Capital restoration plans.

565.6 Mandatory and discretionary supervisory actions under section 38.

565.7 Directives to take prompt corrective action.

565.8 Procedures for reclassifying a savings association based on criteria other than capital.

565.9 Order to dismiss a director or senior executive officer.

565.10 Enforcement of directives.

AUTHORITY: 12 U.S.C. 1831o.

SOURCE: 57 FR 44903, Sept. 29, 1992, unless otherwise noted.

§ 565.1 Authority, purpose, scope, other supervisory authority, and disclosure of capital categories.

(a) *Authority.* This part is issued by the OTS pursuant to section 38 (section 38) of the Federal Deposit Insurance Act (FDI Act) as added by section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236 (1991)) (12 U.S.C. 1831o).

(b) *Purpose.* Section 38 of the FDI Act establishes a framework of supervisory actions for insured depository institu-
tions that are not adequately capital-
lized. The principal purpose of this part is to define, for savings associations, the capital measures and capital levels that are used for determining the su-
ervisory actions authorized under section 38 of the FDI Act. This part also establishes procedures for submission and review of capital restoration plans.