

## § 163.41

the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(3) and (g)(1)), the association's obligations under the contract shall be suspended as of the date of service unless stayed by appropriate proceedings. If the charges in the notice are dismissed, the association may in its discretion (i) pay the officer or employee all or part of the compensation withheld while its contract obligations were suspended, and (ii) reinstate (in whole or in part) any of its obligations which were suspended.

(3) If the officer or employee is removed and/or permanently prohibited from participating in the conduct of the association's affairs by an order issued under section 8(e)(4) or (g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(4) or (g)(1)), all obligations of the association under the contract shall terminate as of the effective date of the order, but vested rights of the contracting parties shall not be affected.

(4) If the savings association is in default (as defined in section 3(x)(1) of the Federal Deposit Insurance Act), all obligations under the contract shall terminate as of the date of default, but this paragraph (b)(4) shall not affect any vested rights of the contracting parties: *Provided*, that this paragraph (b)(4) need not be included in an employment contract if prior written approval is secured from the Comptroller or his or her designee.

(5) All obligations under the contract shall be terminated, except to the extent determined that continuation of the contract is necessary for the continued operation of the association;

(i) By the Comptroller, or his or her designee, at the time the Federal Deposit Insurance Corporation enters into an agreement to provide assistance to or on behalf of the association under the authority contained in 13(c) of the Federal Deposit Insurance Act; or

(ii)(A) By the Comptroller or his or her designee, at the time the Comptroller, or his or her designee approves a supervisory merger to resolve problems related to operation of the association or when the association is determined by the Comptroller to be in an unsafe or unsound condition.

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(B) Any rights of the parties that have already vested, however, shall not be affected by such action.

### § 163.41 Transactions with affiliates.

For applicable rules, see regulations of the Board of Governors of the Federal Reserve System.

### § 163.43 Loans by savings associations to their executive officers, directors and principal shareholders.

For applicable rules, see Regulation O of the Board of Governors of the Federal Reserve System.

### § 163.47 Pension plans.

(a) *General.* No Federal savings association or service corporation thereof shall sponsor an employee pension plan which, because of unreasonable costs or any other reason, could lead to material financial loss or damage to the sponsor. For purposes of this section, an employee pension plan is defined in section 3(2) of the Employee Retirement Income Security Act of 1974, as amended. The prospective obligation or liability of a plan sponsor to each plan participant shall be stated in or determinable from the plan, and, for a defined benefit plan, shall also be based upon an actuarial estimate of future experience under the plan.

(b) *Funding.* Actuarial cost methods permitted under the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954, as amended, shall be used to determine plan funding.

(c) *Plan amendment.* A plan may be amended to provide reasonable annual cost-of-living increases to retired participants: *Provided*, That

(1) Any such increase shall be for a period and amount determined by the sponsor's board of directors, but in no event shall it exceed the annual increase in the Consumer Price Index published by the Bureau of Labor Statistics; and

(2) No increase shall be granted unless:

(i) Anticipated charges to net income for future periods have first been found by such board of directors to be reasonable and are documented by appropriate resolution and supporting analysis; and