

language of the model or optional bylaws in OTS's Application Processing Handbook, if adopted without change, and filed with OTS within 30 days after adoption, are effective upon adoption.

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## PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

3. The authority citation for part 552 continues to read as follows:

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

4. Section 552.5 is amended by revising paragraph (b)(1)(iii) to read as follows:

### § 552.5 Bylaws.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) Bylaw provisions that adopt the language of the model or optional bylaws in OTS's Application Processing Handbook, if adopted without change, and filed with OTS within 30 days after adoption, are effective upon adoption.

\* \* \* \* \*

Dated: October 25, 2000.

By the Office of Thrift Supervision.

**Ellen Seidman,**

*Director.*

[FR Doc. 00-27841 Filed 11-1-00; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

12 CFR Parts 516, 517, 543, 544, 545, 550, 552, 555, 559, 560, 562, 563, 563b, 563f, 565, 567, 574, 575, 584

[No. 2000-94]

RIN 1550-AB14

### Application Processing

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** As part of its ongoing effort to review and streamline its regulations, the Office of Thrift Supervision (OTS) proposes to revise its application processing guidelines and procedures. The proposed changes would update the rules to reflect existing practices and procedures; provide more predictable procedures for applicants; and provide greater flexibility to OTS in processing applications. OTS has also applied "plain language" drafting techniques, which should make the application processing rules easier to understand.

**DATES:** Comments must be received on or before January 2, 2001.

### ADDRESSES:

**Mail:** Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, Attention Docket No. 2000-94.

**Delivery:** Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street NW., from 9 a.m. to 4 p.m. on business days, Attention Docket No. 2000-94.

**Facsimiles:** Send facsimile transmissions to FAX Number (202) 906-7755, Attention Docket No. 2000-94; or (202) 906-6956 (if comments are over 25 pages).

**E-Mail:** Send e-mails to "public.info@ots.treas.gov", Attention Docket No. 2000-94, and include your name and telephone number.

**Public Inspection:** Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906-5900 from 9 a.m. until 5 on business days. Comments and the related index will also be posted on the OTS Internet Site at "www.ots.treas.gov".

### FOR FURTHER INFORMATION CONTACT:

Lane Langford, Regulatory Analyst, Office of Examination and Supervision, (202) 906-7027; Celeste Anderson, Program Analyst, Compliance Policy & Specialty Examinations, (202) 906-7990; Robyn Dennis, Manager, (202) 906-5751 and Josephine Battle, Program Analyst Trainee, (202) 906-6870, Supervision Policy Division; John P. Harootunian, Senior Counsel for Special Transactions, Business Transactions Division, (202) 906-6415; and Koko Ives, Counsel (Banking and Finance) Regulations and Legislation Division, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

### SUPPLEMENTARY INFORMATION:

#### I. Background

OTS application processing guidelines and procedures are found in 12 CFR part 516. In today's proposed rulemaking, OTS proposes to revise these rules to update the rules to reflect existing practices and procedures; to provide more predictable procedures for applicants; and to provide greater flexibility to OTS in processing

applications. OTS has also applied "plain language" drafting techniques.<sup>1</sup>

The intent of today's proposed rulemaking is to improve the clarity and the efficiency of the OTS application processing procedures. These improvements will make the rules easier for applicants to understand. That is, applicants will know what to expect from OTS and what OTS expects from applicants in processing an application. The applicants should also benefit from a more expeditious review and processing of applications.

Most changes in today's proposed rulemaking clarify existing procedures. OTS has, for example, presented current information in user-friendly charts; explained how it computes time periods; and explained how an applicant may determine whether an application should be filed with the Region and Headquarters. OTS would also add a new proposed provision permitting an applicant to designate portions of an application as confidential to reflect current policy.

In addition, OTS proposes to remove some technical requirements from the existing regulations and incorporate this information into individual application forms. OTS is currently revising its forms and application-processing handbook to reflect these changes. This regulation will not be issued in its final form until those forms and handbooks are in place.

OTS proposes only a few substantive changes to the existing rules. These include new provisions: addressing pre-filing procedures for complex applications in order to expedite processing of these applications, permitting OTS to extend certain processing time frames, and allowing OTS to deem certain long-pending applications to have been withdrawn. OTS believes that these changes will provide greater efficiency and flexibility in the processing of applications. The section-by-section analysis below specifically discusses all of the proposed changes.

#### II. Section-by-Section Analysis

Today's proposal would replace existing §§ 516.1, 516.2, and 516.3 with two new subparts to part 516. Revised subpart A would prescribe pre-filing and filing procedures. New subpart E

<sup>1</sup>In 1997, OTS added three new subparts to part 516. 62 FR 64138 (Dec. 4, 1997). These new subparts were also drafted using "plain language" drafting techniques. OTS is proposing to redraft the remainder of part 516 consistent with section 722 of Gramm-Leach-Bliley Act (the G-L-B Act or Act) which requires OTS to use "plain language" in all proposed and final rules published after January 1, 2000.

would describe OTS review procedures. Today's proposal would make minor revisions to existing subparts B, C, and D, which govern publication requirements, public comment procedures, and meeting procedures.

In addition, this proposed rule includes conforming amendments revising and updating numerous cross-references to part 516 contained in other OTS regulations. These changes are not separately discussed in this preamble.

#### *Section 516.1 What Does This Part Do?*

Proposed § 516.1 sets out the purpose of part 516. Proposed § 516.1(a) states that the pre-filing and filing procedures and OTS review process in subparts A and E would apply whenever an OTS regulation requires any person to file an application with OTS. The publication, public comment, and meeting procedures at subparts B, C, and D, however, would apply only when an OTS regulation incorporates those procedures or when otherwise required by OTS.

Like current rule § 516.2, proposed § 516.1(b) would state that part 516 does not apply to: (1) An application related to a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823(c) (assistance to insured depository institutions) or 1823(k) (emergency acquisitions); (2) a request for reconsideration, modification, or appeal of a final OTS action; (3) a request related to litigation, an enforcement proceeding, a supervisory directive, or supervisory agreement; or (4) an application filed under an OTS regulation that prescribes other application processing procedures and time frames for the approval of applications, such as applications under part 563b which refers to mutual to stock conversions.<sup>2</sup> Where an OTS regulation provides some application processing procedures, or time frames, OTS will apply part 516 to the extent necessary to process the application. Thus, the general rule is if a regulation governing a specific type of application provides conflicting procedures, the underlying regulation will govern.

#### *Section 516.5 Do the Same Procedures Apply to All Applications Under This Part?*

OTS currently processes applications under part 516 using two procedures—expedited treatment and standard treatment. Generally, expedited

treatment allows an applicant to file a notice with OTS before engaging in an activity, while standard treatment requires an applicant to file an application and obtain formal OTS approval before engaging in an activity. Proposed § 516.5 would provide a simplified chart for determining which treatment applies to a filing. This chart incorporates existing criteria, except as discussed below. The chart would also update terminology to reflect current OTS usage.

Under the current rule, the decision to process an application under expedited treatment is based, in part, on the association's condition, as reflected in the composite Uniform Financial Institutions Rating System (UFIRS) rating, the Community Reinvestment Act (CRA) performance rating, and the compliance rating received during its most recent examination. The proposed rule would continue to use these rating systems, but would revise the current rule to utilize ratings that are assigned by any federal banking regulator. The proposed rule also clarifies that an applicant without any prior composite, CRA, or compliance ratings would receive standard treatment. Thus, an application received from a start-up institution before its first examination would receive standard treatment.

OTS assesses an association's condition using other rating systems, including the Uniform Rating System for Data Processing Operations and the Uniform Interagency Trust Rating System. OTS does not currently consider these ratings when determining whether expedited or standard treatment is appropriate. OTS believes that ratings under these systems may be germane to certain types of institutions and certain types of applications. OTS requests comment on whether it should revise the proposed rule to incorporate these ratings in the decision to process applications under the expedited treatment.

#### *Section 516.10 How Does OTS Compute Time Periods Under This Part?*

OTS proposes to add a new provision explaining how OTS computes time periods under part 516. To conform to current practices, proposed § 516.10 would state that OTS would not include the day of the act or event that commences the time period. Separately, the proposed rule would state when the last day of a time period is a Saturday, Sunday, or Federal holiday, the period would run until the end of the next day that is not a Saturday, Sunday, or Federal holiday. This provision would modify current OTS practice.

#### *Subpart A—Pre-Filing and Filing Procedures*

Subpart A would describe pre-filing and filing procedures for applications under the standard and expedited treatment.

#### **Pre-Filing Procedures**

##### *Section 516.15 Must I Meet With OTS Before I File My Application?*

Proposed § 516.15 is new. This section would require certain applicants to meet with OTS at least 30 calendar days before filing an application. These pre-filing meetings would permit OTS and the applicant to identify any legal or policy issues at the pre-filing stage, and would enable the applicant to address these issues early in the process. By identifying and addressing issues early in the application process, OTS believes that pre-filing meetings should expedite the processing of complex applications.

Based on OTS's experience, certain intricate applications containing novel or complex issues would benefit from the additional review a pre-filing meeting would provide. OTS proposes to require a pre-filing meeting for the following types of applications:

- An application for permission to organize a *de novo* federal savings association.
- An application to convert an existing financial institution or credit union to a federal savings association. OTS generally would not, however, require a pre-filing meeting where a state-chartered savings association regulated by OTS or a state-chartered savings bank regulated by the Federal Deposit Insurance Corporation (FDIC) seeks to convert to a federal association. The range of activities that commercial banks and credit unions may conduct can differ significantly from savings associations' activities. In contrast, state-chartered savings banks engage in activities that federal thrifts may conduct (with some exceptions). As a result, these applications are typically less complex, which alleviates the need to require a pre-filing meeting. As with any application, however, OTS or an applicant may always request a pre-filing meeting to expedite the review.

- An application to acquire control of a savings association filed by an insurance company, an investment company, a securities firm, a commodities firm, or a pension fund.

OTS may require, or any applicant may request, a pre-filing meeting for other types of applications or applicants if a meeting will help resolve issues or expedite the process. OTS specifically requests comment on whether other

<sup>2</sup>On July 12, 2000, OTS published in the **Federal Register** the notice of proposed rulemaking and accompanying Interim Final Rule revising part 563b, which governs application procedures for conversions of mutual savings associations to stock associations.

specific types of applications or applicants should also be subject to the pre-filing meeting requirement.

The proposed rule does not prescribe a format for the pre-filing meeting. Rather, OTS expects the Regional Office to select a format that addresses the needs of the particular applicant and the issues presented by the proposed application. Depending on the circumstances, OTS may conduct a pre-filing meeting by telephone, through video conferencing, in person, or through any other reasonable means. Similarly, the proposed rule does not indicate who must attend the pre-filing meeting. Key personnel should attend the meeting. OTS will issue additional guidance in its handbooks regarding pre-filing meetings.

*Section 516.20 What Information Must I Provide to OTS Before the Pre-Filing Meeting?*

This new proposed section, § 516.20(a), requires applicants to provide OTS with a draft business plan for the savings association at least seven calendar days before a required pre-filing meeting. This submission should assist OTS in identifying potential issues and other concerns in preparation for the pre-filing meeting. At this stage, OTS will review, but will not approve, the draft business plan.

Under § 516.20(b), the proposed rule would set out the requirements for the draft business plan. At a minimum, the draft business plan must:

- Clearly and completely describe the projected operations and activities of the savings association, including financial projections for a minimum of three years.
- Describe the risks associated with the transaction and the impact of the transaction on any existing activities and operations of the savings association.
- Identify all proposed directors and senior executive officers of the savings association,<sup>3</sup> and demonstrate that these individuals have the expertise to prudently manage the operations and activities described in the plan.
- Demonstrate how applicable requirements regarding serving the credit and lending needs of the savings association's market areas will be met.

Finally, proposed paragraph (c) would state that OTS may require an applicant to provide additional relevant information before the pre-filing meeting.

<sup>3</sup> See 12 CFR 563.555 for definitions of director and senior executive officer.

**Filing Procedures**

Under the Government Paperwork Elimination Act (GPEA),<sup>4</sup> Federal agencies are required, by October 21, 2003, to permit individuals to file information electronically as a substitute for paper, and to use electronic authentication to validate the identity of the sender and the integrity of the electronic content when practicable.

OTS is reviewing the issues related to the electronic filing of applications, with the goal of permitting some electronic filing before the GPEA target date. OTS seeks comment on all issues affecting your ability or desire to send electronic filings. Specifically, what do you see as the advantages and disadvantages of filing applications electronically rather than by paper? How can OTS make electronic filing of applications of most value and easy to use? What constraints should OTS keep in mind when implementing electronic procedures?

Although OTS would permit, not require, electronic filing, OTS also seeks input on whether filing electronically would disadvantage certain applicants.

Finally, OTS anticipates that it will be able to implement electronic filing only on a graduated basis. Commenters should identify which types of applications OTS should accept for electronic filing initially.

*Section 516.25 What Type of Application Must I File?*

Proposed § 516.25(a), like current § 516.3(a)(2), would permit applicants eligible for expedited treatment to file in the form of a notice that includes all information required under the applicable substantive regulation. The notice would be an application for purposes of all statutory and regulatory references to applications.

Proposed § 516.25(b) would require applicants subject to standard treatment to file an application following all applicable substantive regulations and guidelines governing the filing of applications.

Proposed § 516.25(c) would also clarify OTS current practices regarding the contents of a waiver request. If an applicant requests that OTS waive required information under the rules, the applicant must submit a written statement describing the waiver request and explain why the information is not needed for OTS to evaluate the filing under applicable standards.

<sup>4</sup> Title XVII of Pub. L. 105-277.

*Section 516.30 What Information Must I Provide With My Application?*

Proposed rule 516.30(a) advises applicants that they may obtain information about required certifications, other regulations and guidelines affecting particular notices and applications, appropriate forms, and instructions from any OTS Regional Office or OTS's web page at [www.ots.treas.gov](http://www.ots.treas.gov). The reference to the web page is new. OTS is currently reviewing and revising its applications forms and handbooks. The new versions will be available before these rules become final.

Proposed rule 516.30(b) clarifies current § 516.1(c), and would require the applicant to caption the original application and all copies with the type of filing. In addition, the applicant must include all exhibits and other pertinent documents with the original and the copies. This proposed rule does not require the applicant to provide original signatures on copies if the copy indicates that the original was signed.

The current regulation requires an applicant filing certain types of applications to include copies labeled for submission to certain other federal government agencies and to state supervisors.<sup>5</sup> See current § 516.1(c). OTS proposes to remove the labeling requirement for all filings.

*Section 516.35 May I Keep Portions of My Application Confidential?*

Proposed § 516.35 is new, but restates current OTS policy for protecting confidential information. As a general rule, OTS makes all submissions under part 516 available to the public. However, under proposed § 516.35(b)(1), the applicant may request OTS keep portions of the application confidential. The applicant would be required to explain in detail how the request is consistent with the standards under the Freedom of Information Act<sup>6</sup> (FOIA) and OTS regulations implementing FOIA.<sup>7</sup> For example, the applicant should explain how it will be substantially harmed by public disclosure. An applicant could provide a statement of the nature and extent of competitive business harm or personal privacy invasion it would experience as a result of public disclosure. The applicant must also separately bind and mark the portions of the application it considers confidential and the portions it considers non-confidential.

<sup>5</sup> Electronic filing issues are addressed below in the preamble discussion of § 516.40.

<sup>6</sup> U.S.C. 552.

<sup>7</sup> 12 CFR part 505.

Proposed § 516.35(b)(2) would state that OTS would not treat as confidential the portion of the application describing the applicant's plan to meet Community Reinvestment Act (CRA)<sup>8</sup> objectives since public commenters may need this information to address CRA issues. Some applicants have attempted to incorporate information contained in confidential portions of the application into the CRA submission by referencing it. As a result, public commenters cannot review the cross-referenced CRA materials from the application and are forced to obtain this information under FOIA. To insure that this necessary information is made available to public commenters in a timely manner, OTS would make all information in the applicant's CRA plan, including information "incorporated by reference," available to the public upon request.

Under proposed § 516.35(c), OTS would determine whether information designated as confidential must be made available to the public under FOIA and the implementing regulations at 12 CFR part 505. Before OTS discloses any information to the public that an applicant designates as confidential, OTS would advise the applicant.

Under proposed § 516.35(d), if OTS issues a public statement with its decision on an application, OTS may comment on confidential information in the public statement without notifying the applicant.

#### *Section 516.40 Where Do I File My Application?*

Proposed § 516.40 clarifies where an applicant must file an application. Proposed § 516.40(a)(1) directs all applicants to file the original application and required copies with, and to the attention of, the applications filing division of the appropriate OTS Regional Office. The proposed rule would delete all references to the number of required copies. Compare existing § 516.1(c). Instead, the proposed rule indicates that the applicant must file the number of copies required under the applicable form. If the form does not indicate the number of copies to be filed, or if OTS has not prescribed a form for a type of application, proposed § 516.40(a) would require applicants to submit an original and two copies. Proposed § 516.40(a)(2) provides the addresses of OTS Regional Offices and the states served by each Region in chart form.

Proposed § 516.40(b)(1) would require an applicant to also file additional copies with the applications filing

division at OTS Headquarters, if the application involves a significant issue of law or policy or if the form otherwise directs an applicant to file with OTS Headquarters. Again, the applicable form, rather than the proposed rule, would specify how many copies must be filed with OTS Headquarters. The applicant must submit three copies, if OTS has not prescribed a form or a prescribed form does not indicate the number of copies to file.

Proposed § 516.40(b)(2) advises applicants that significant issues of law or policy are identified in delegations of authority from OTS Headquarters to the Regions. These delegations may currently be accessed on the OTS web site at [www.ots.treas.gov](http://www.ots.treas.gov) under Director's Orders<sup>9</sup> or by contacting a Regional Office. The types of applications involving significant issues of law or policy currently include among others:

- Acquisitions by foreign acquirors (that have not previously received OTS approval), insurance or investment companies, credit unions, securities firms, or pension funds.
- Hostile acquisitions.
- Qualified stock issuances.
- Establishment of a mutual holding company.
- *De novo* charters.
- Service corporation activities that have not been previously approved by OTS.

The list is not exhaustive and OTS reserves the right to identify significant issues in a particular application, in which case it will advise the applicant. If OTS identifies such issues, the Regional Office will forward the appropriate number of copies to OTS Headquarters. As a result, the 30-day review period under §§ 516.200 or 516.210 will restart in its entirety. However, the filing date of the application will not change. See proposed § 516.45(c). Applicants requiring more information or seeking clarification on these issues may also contact the Office of Examination and Supervision at OTS Headquarters, which will provide copies of applicable delegations.

#### *Section 516.45 What Is the Filing Date of My Application?*

Proposed § 516.45 is new and identifies the application filing date.

<sup>9</sup>The primary delegation of authority to the Regional Directors is currently contained in Order No. 95-177, dated September 26, 1995, located on the web site under Director's Orders for 1995. The OTS is in the process of reviewing and updating both its delegations and its web site to make this and other application-related materials more accessible to applicants.

The identification of the filing date is important because much of the timing of the application's processing is based on this date. For example, under proposed § 516.200, if an applicant files a notice under expedited treatment, the applicant may engage in the proposed activity 30 calendar days after the filing date unless advised otherwise. For applications filed under standard treatment, OTS must take various actions within 30 calendar days after the filing date, such as deeming an application complete and beginning the review period, requesting additional information, or deeming an application deficient.

Proposed § 516.45(a) would explain that the filing date of an application is the date that an applicant completes three requirements. First, the applicant must comply with any pre-filing meeting requirement at § 516.15.

Second, the applicant must file the application and all required copies with OTS, as described under § 516.40. Because it is the applicant's responsibility to properly address its application, an application is not filed unless received by the proper office(s). If an applicant is required to file with a Regional Office and with OTS Headquarters, the applicant has not filed until it files with both offices. Similarly, an applicant has not filed with a Regional Office or OTS Headquarters until the application and the required number of copies is filed with that office. If an applicant files after the close of business established by the Regional Office or OTS Headquarters, the applicant has filed with that office on the next business day.

Finally, under proposed § 516.45(a)(3), an application is not filed until the applicant pays the applicable fee. An applicant has not paid a fee until it submits the fee to the appropriate Regional Office, or OTS waives the fee. Applicants may pay by check, money order, cashier's check or wire transfer payable to OTS.

OTS will continue its current practice of notifying an applicant promptly, in writing, of the filing date of the application. OTS's acknowledgment of receipt of the filing does not imply that the application is complete. Once an application is filed, OTS will list the application on the Applications Pending report on the web site at [www.ots.treas.gov](http://www.ots.treas.gov). This report lists the name of the depository institution, date the application was filed, and the type of application.

Under proposed § 516.45(b), OTS may notify an applicant that the agency has adjusted an application filing date if the

<sup>8</sup> 12 U.S.C. 2901.

applicant failed to meet any applicable publication requirements.

Under proposed § 516.45(c), if an applicant properly files an application with the Regional Office and OTS later determines that a significant issue of law or policy exists under § 516.40(b)(2)(ii), the filing date of the application remains the day the applicant filed with the Regional Office. However, the 30-day review period under §§ 516.200 or 516.210 of this part will restart in its entirety when the Regional Office forwards the appropriate number of copies to OTS Headquarters. OTS will notify the applicant when the new 30-day review period has begun.

#### *Subparts B, C, and D*

Today's proposal would make minor revisions to existing subparts B, C, and D, which govern publication requirements, public comment procedures, and meeting procedures. OTS does not believe that it is necessary to propose significant revisions to these subparts because they were last amended in 1997.<sup>10</sup>

In subpart B, OTS proposes to add a new § 516.55 to govern the content of the publication notice. This section would provide guidance to applicants preparing publication notices, and is based on FDIC's public notice requirements at 12 CFR 303.7. Specifically, proposed § 516.55 would require an applicant to include the following information in its public notice:

- The applicant's name and address.
- The type of application.
- The name of the depository

institution(s) that is the subject matter of the application.

- A statement indicating that the public may submit comments to the appropriate OTS office.
- The address of the appropriate OTS office(s) where the public may submit comments.
- The date that the public comment period closes.
- A statement indicating that the nonconfidential portions of the application are on file in the Regional

Office, and are available for public inspection during regular business hours.

- Any other information that OTS requires the applicant to publish. Applicants may find the format for various publication notices in the appendix to the OTS application processing handbook.

Subpart C contains the procedures governing the submission of public comments on applications or notices pending before OTS. OTS drafted this subpart in 1997 using the "plain language" format, and used the word "you" to refer to any person submitting a written comment supporting or opposing an application. OTS is proposing to use the word "you" throughout part 516 to refer to any person filing an application with OTS. See proposed § 516.1(a). To avoid potential confusion, the proposal makes conforming technical changes to §§ 516.120–516.150 by removing the term "you" and instead referring to "commenters." In addition, OTS would revise the section heading of § 516.140, to reflect this change.

The proposed rule also makes two revisions to existing § 516.130, which governs where public comments are filed. First, this section currently states that public comments must be filed with the appropriate OTS Regional Office. It has been revised to clarify that public comments must also be filed with OTS Headquarters if an application involves a significant issue of law or policy under § 516.40(b).<sup>11</sup> Second, currently commenters must only provide their comments to the applicant if the commenter requests a meeting. The proposed rule would require commenters to provide a copy of their comments to the applicant.

Subpart D contains the procedures governing OTS formal and informal meeting procedures. OTS proposes to add a new § 516.185 entitled "Will OTS approve or disapprove an application at a meeting?" To codify current practices, proposed § 516.185 would clarify that OTS will not approve or deny an application at a formal or informal meeting. In addition, OTS proposes to revise cross-citations in § 516.190 to application processing time frames.

OTS is not proposing any significant changes to the formal and informal meeting procedures in Subpart D. However, it specifically solicits comments on how the formal and

informal meeting procedures are operating in practice.

#### *Subpart E—OTS Review*

Proposed subpart E would describe OTS's application review process. Proposed § 516.200 would describe the review under expedited treatment.

Proposed §§ 516.210 through 516.290 would describe the review under standard treatment.

#### **Expedited Treatment**

##### *Section 516.200 If I File a Notice Under Expedited Treatment, When May I Engage in the Proposed Activities?*

Proposed § 516.200 would describe OTS's review of notices under expedited treatment, and uses existing § 516.3(a)(2) and (3) as a base. This section would permit an applicant to engage in the proposed activities unless OTS takes one of four actions within 30 calendar days after filing the notice.

First, under proposed § 516.200(a), OTS may require the applicant to file additional information supplementing the notice. If the applicant is required to file additional information, the applicant may engage in the proposed activities within 30 calendar days after filing the additional information, unless OTS takes one of the three actions described below.

Under proposed § 516.200(b), an applicant may engage in the proposed activity unless, within 30 calendar days after the filing date, OTS notifies the applicant that the application is subject to standard treatment. OTS will subject an application to standard treatment if the application raises a supervisory concern, raises a significant issue of law or policy, or requires significant additional information. OTS would notify the applicant if it must pay an additional fee for standard treatment.

Under proposed §§ 516.200(c) and (d) respectively, an applicant may engage in the proposed activity unless OTS suspends the applicable time frames as a result of a formal or informal meeting under existing § 516.190, or OTS disapproves the notice.

#### **Standard Treatment**

##### *Section 516.210 What Will OTS Do After I File My Application?*

Proposed § 516.210(a) describes the actions that OTS will take within 30 calendar days after the filing of an application under standard treatment. Proposed § 516.210(a) would clarify existing § 516.2(c) and (d) by outlining the possible OTS actions in chart form.

Under the proposed rule, OTS will take one of four actions. First, OTS may notify the applicant that the application

<sup>10</sup> OTS regulations are unclear whether the publication requirements, public comment procedures and meeting procedures in part 516, subparts B, C, and D apply to applications by depository institutions seeking to convert to a Federal thrift charter. These procedures, however, clearly apply to applications for a new depository institution (see 12 CFR 543.2 and 552.2–1). In light of the business changes that may accompany conversions, OTS is proposing to clarify the applicable regulations at §§ 543.9 and 552.2–6 to apply the publication requirements, comment procedures and meeting procedures to these conversions as well. This clarification is consistent with current practices.

<sup>11</sup> If OTS identifies a significant issue that is not listed on its delegations, the commenter will not be required to file with OTS Headquarters. Rather, the Regional Office will forward the public comments to OTS Headquarters.

is complete. If OTS takes this action, the review period for the application would begin on the date that OTS deems the application complete.

Second, OTS may notify the applicant that it must submit additional information to complete the application. Proposed § 516.220, which is discussed below, would prescribe the procedures that govern the submission of additional information.

Third, OTS may notify the applicant that the application is materially deficient and OTS would not process the application further. An application may be materially deficient if, for example, the application fails to include required information regarding the manner in which a savings association will meet its CRA responsibilities, the application fails to include significant parties, or the applicant fails to provide key information required by an application form.

Finally, if OTS fails to act, the application would be deemed complete. The applicable review period would commence 30 calendar days after the application is submitted.

Proposed § 516.210(b) would address requests for a waiver of an information requirement. Under this proposed rule, if an applicant requests a waiver and OTS has not notified the applicant that it must submit additional information under proposed § 516.210(a)(2), the request for a waiver is granted. This provision of the proposed rule is consistent with the current rule at § 516.2(c)(1).

*Section 516.220 If OTS Requests Additional Information To Complete My Application, How Will It Process My Application?*

Proposed § 516.220(a) would chart the procedures governing the applicant's submission of additional information. Proposed § 516.220(a) would require the applicant to respond within 30 calendar days after OTS's request for additional information. OTS would take different actions depending on whether the applicant responds to the request, requests additional time, or fails to file a complete response.

Under § 516.220(a)(1), if the applicant responds to all information requests by OTS, OTS may take one of four actions within 15 calendar days after the filing date of the applicant's response. These actions parallel the four actions described under proposed § 516.210(a), except that OTS may request further additional information regarding matters derived from, or prompted by, information already furnished or additional information otherwise necessary to resolve the issues

presented in the application. OTS intends to utilize the "necessary to resolve issues" provision infrequently and generally not to address issues that OTS could have addressed previously.

Under proposed § 516.220(a)(2), applicants may request an extension of time to respond to an information request. If OTS grants an extension, the applicant would be required to respond fully within the extended time period specified by OTS. If OTS denies the extension request, OTS would not process the application further.

Proposed § 516.220(a)(3) would address an applicant's failure to respond to an information request. If an applicant fails to respond completely, OTS could notify the applicant that the application is withdrawn and OTS would not process it further. Alternatively, OTS could notify the applicant that the response is incomplete and extend the period to respond.

As noted above, OTS has 15 calendar days to respond to additional information submitted under paragraph (a)(1). Proposed § 516.220(b) is a new provision, which would permit OTS to extend this 15-day period by an additional 15 calendar days, if OTS requires more time to review the response. OTS would be required to notify the applicant of the extension before the initial 15-day period expires. Under the proposed rule, OTS could extend this time frame for any application. OTS does not, however, intend to extend this time period routinely, but only in those circumstances where additional time is necessary to evaluate the responses to the information OTS has requested.

Proposed § 516.220(c) would govern requests for waiver of an information requirement. An applicant's request for a waiver of an information requirement would be granted if OTS fails to act within 15 calendar days after the filing of the applicant's response, or until the end of the review period, if OTS has extended the review period under § 516.220(b).

*Section 516.230 Will OTS Conduct an Eligibility Examination?*

Section 516.230 clarifies existing practices governing eligibility examinations. Under proposed § 516.230(a), OTS may notify the applicant at any time before it deems the application complete that it will conduct an eligibility examination. If OTS decides to conduct an eligibility examination, it would not deem the application complete until it concludes the examination.

Proposed § 516.230(b) would permit OTS to request additional information as a result of the eligibility examination. The applicant would have to respond to the additional information request within the time period required by OTS. OTS would review the response under the procedures described in § 516.220.

*Section 516.240 What May OTS Require Me To Do After My Application Is Deemed Complete?*

Under current § 516.2(c)(5), OTS may request an applicant to supplement an application after it is deemed complete only under certain specific circumstances. OTS, for example, may request additional information of a material nature that was not reasonably available from the applicant, that was concealed at the time the application was deemed to be complete, or that pertained to developments subsequent to the time the application was deemed to be complete. Under proposed § 516.240(a), OTS could request any additional information that is necessary to resolve or clarify the issues presented by the application.

Under proposed § 516.240(b), if OTS determines that a major issue of law or a change in circumstance arose after the application was filed, and the issue or changed circumstances substantially affects the application, OTS may notify the applicant that the application is now incomplete and require the applicant to submit additional information to complete the application under the procedures at § 516.220. A major issue of law or a change in circumstance may arise after the application is deemed complete if, for example, significant litigation is initiated, major legislation is enacted, a new person or company acquires the applicant, or there is a major change in the business plan. OTS may also require the applicant to publish a new notice under § 516.250.

*Section 516.250 Will OTS Require Me To Publish a New Public Notice?*

Proposed § 516.250 is new. This section would ensure that the public has adequate notice and opportunity to comment on any application that changes substantially after the initial public comment period. Under this proposed section, if an applicant was subject to publication requirements, OTS may require an applicant to publish a new public notice if: (1) The applicant submitted a revision to the application, the applicant submitted new or additional information, or a major issue of law or a change in circumstances arose after the filing of the application; and (2) OTS determines that additional public comment on these

matters is appropriate because of the significance of the new information or circumstances.

Under proposed § 516.250(b), OTS would notify the applicant if a new public notice of a revised application must be published. Under proposed § 516.250(c), if the applicant must publish a new public notice of the revised application, the applicant must notify OTS after publishing the new public notice.

*Section 516.260 May OTS Suspend Processing of My Application?*

Proposed § 516.260 would permit OTS to suspend processing of an application indefinitely under certain circumstances. This provision uses existing § 516.2(c)(7) as a base. It would permit OTS to suspend processing if OTS, another governmental entity, or a self-regulatory trade or professional organization has initiated an investigation, examination, or administrative proceeding that is relevant to OTS's evaluation of the application. OTS may also suspend processing if the applicant requests the suspension or there are other extraordinary circumstances that have a significant impact on processing of the application. Such extraordinary circumstances may include pending legislation, material litigation, assessment of fees under 12 CFR 502.60(d), or other matters. OTS would promptly notify the applicant in writing of the suspension.

*Section 516.270 How Long Is the OTS Review Period?*

Proposed § 516.270(a) uses existing §§ 516.2(d)(1) and (2) as a base. It specifies the length of time OTS may review the application. Under this proposed rule, the applicable review period is 60 calendar days after the date the application is deemed complete, unless an applicable OTS regulation specifies a different review period.<sup>12</sup>

Proposed § 516.270(b) would set out the applicable review period for related applications. Under proposed § 516.270(b), if an applicant submits more than one application in connection with a proposed action, or if two or more applicants submit related applications, the review period for all applications would be the time frame for the application with the longest review period. *Compare* existing § 516.2(d)(2).

<sup>12</sup> OTS rules outlining the substantive requirements for various applications occasionally impose unique review periods. In these instances, OTS will apply the review period in the substantive regulation. *See, e.g.*, 12 CFR 563.22(f).

Proposed § 516.270(c) would govern extensions of the OTS review period. Under the proposed rule, OTS could extend the review period for up to 30 calendar days for any reason. To do so, OTS would be required to notify the applicant in writing of the extension before the end of the initial review period. This proposal differs from the current rule that requires OTS to notify the applicant at least 10 days before the end of the review period. *Compare* existing § 516.2(e).

Proposed § 516.270(c)(2) would permit OTS to extend the review period of any application that presents a significant issue of law or policy until such time as OTS acts on the application. Under proposed § 516.270(c)(2), OTS must notify an applicant in writing of this extension and the general reasons for the extension. OTS must issue this written extension before the review period expires, including any extension granted under proposed § 560.260(c)(1).

*Section 516.280 How Will I Know if My Application Has Been Approved?*

Proposed § 516.280(a) would require OTS to approve or deny an application before the expiration of the applicable review period, including any extensions. Under proposed § 516.280(b), an application would be approved if OTS fails to act within this period. *See* existing § 516.2(d)(1).

The proposed rule does not describe the standards that OTS will apply when it reviews applications. Rather, OTS's approval or disapproval would be based on the standards in the underlying regulation for the particular application. The current rule includes one standard governing the review of applications. In existing § 516.3(b)(2), OTS must deny applications that are subject to standard treatment unless the association affirmatively demonstrates how the application will clearly improve its financial or managerial condition or improve its compliance with the CRA or other consumer-related statutes without affecting its financial or managerial resources. The proposed rule would delete this section because the review standards in the applicable substantive regulations sufficiently address these matters.

*Section 516.290 What Will Happen if OTS Does Not Approve or Disapprove My Application Within Two Calendar Years?*

Proposed § 516.290 is new. Proposed § 516.290(a) would permit OTS to address those applications that have been pending for a lengthy period and that are not making significant progress

to a final approval or disapproval. Under this provision, if OTS has not approved or denied an applicant's pending application within two calendar years after the filing date, OTS will notify the applicant in writing that the application is withdrawn, unless the agency determines that the applicant is actively pursuing a final OTS determination. An applicant would not be actively pursuing a final OTS determination if the applicant fails to timely take an action required under the proposed part, including filing required additional information, or OTS suspends processing the application under § 516.260 based on circumstances that are, in whole or in part, within the applicant's control and the applicant fails to take reasonable steps to resolve these circumstances.

Proposed § 516.290(b) would give applicants with pending applications a reasonable opportunity to avoid the withdrawal of their application. This section would not become effective until 90 days after the effective date of the final rule.

**III. Derivation Chart for Revised Part 516**

Revised provision	Former provision	Comments
§ 516.1(a)		Added.
§ 516.1(b)	§ 516.2(a)(1)	Modified.
§ 516.1(c)	§ 516.2(a) (2)	Modified.
§ 516.5(a)		Added.
§ 516.5(b)		Added.
§ 516.5(c)	§ 516.3(b)	Modified.
	(1)(i)	
§ 516.5(d)	§ 516.3(b)	Modified.
	(1)(ii)	
§ 516.5(e)	§ 516.3(b)	Modified.
	(1)(iii)	
§ 516.5(f)	§ 516.3(b)	Modified.
	(1)(iv)	
§ 516.5(g)	§ 516.3(b)	Modified.
	(1)(v)	
§ 516.5(h)		Added.
§ 516.5(i)		Added.
§ 516.10		Added.
§ 516.15		Added.
§ 516.20		Added.
§ 516.25(a)	§ 516.3(a)(2)	Modified.
§ 516.25(b)	§ 516.2(b)	Modified and Added.
§ 516.30(a)	§ 516.1.(c)	Modified and Added.
§ 516.30(b)	§ 516.1.(c)	Modified.
§ 516.35		Added.
§ 516.40(a)(1)	§ 516.1(c)	Modified and Added.
§ 516.40(a)(2)	§ 516.1(b)	Modified.
§ 516.40(b)	§ 516.1(a)&(c)	Modified.
§ 516.45(a)		Added.
§ 516.45(b)		Added.
§ 516.55		Added.
§ 516.120	§ 516.120	Modified.
§ 516.130	§ 516.130	Modified.
§ 516.140	§ 516.140	Modified.
§ 516.150	§ 516.150	Modified.

Revised provision	Former provision	Comments
§ 516.185		Added.
§ 516.190	§ 516.190	Modified.
§ 516.200(a)	§ 516.3(a)(2)	Modified and Added.
§ 516.200(b)	§ 516.3(a)(3)	Modified.
§ 516.200(c)		Added.
§ 516.200(d)		Added.
§ 516.210(a)	§ 516.2(c)(1)	Modified and Added.
§ 516.210(b)	§ 516.2(c)(1)	Modified.
§ 516.220(a)	§ 516.2(c)(2)–(5)	Modified and Added.
§ 516.220(b)	§ 516.2(e)	Modified.
§ 516.220(c)	§ 516.2(c)(4)	Modified.
§ 516.230		Added.
§ 516.240(a)	§ 516.2(c)(4)–(5)	Modified.
§ 516.240(b)	§ 516.2(c)(5)	Modified and Added.
§ 516.250		Added.
§ 516.260	§ 516.2(c)(7)	Modified and Added.
§ 516.270(a)	§ 516.2(d)(1)	Modified.
§ 561.270(b)	§ 516.2(d)(2)	Modified.
§ 516.270(c)(1)	§ 516.2(e)	Modified.
§ 516.270(c)(2)	§ 516.2(f)	Modified.
§ 516.280(a)		Added.
§ 516.280(b)	§ 516.2(d)(1)	Modified.
§ 516.290		Added.

#### IV. Plain Language Requirement

Section 722 of the GLB Act (12 U.S.C.A. 4809) requires federal banking agencies to use “plain language” in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposed rule easier to understand. For example:

- (1) Have we organized the material to suit your needs?
- (2) Are the requirements in the rule clearly stated?
- (3) Does the rule contain technical language or jargon that isn't clear?
- (4) Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- (5) Would more (but shorter) sections be better?
- (6) What else could we do to make the rule easier to understand?

#### V. Executive Order 12866

The Director of OTS has determined that this proposed regulation does not constitute a “significant regulatory action” for purposes of Executive Order 12866.

#### VI. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

The proposed rule generally restates the existing rule in plain language and clarifies existing procedures. These changes should make it easier for all applicants to file applications and for OTS to expeditiously review applications. These changes should, therefore, assist all potential applications, including small businesses. While the proposed rule would make several minor changes, only two of these changes would impose additional burden on applicants. Under the proposed rule, certain applicants would be subject to a pre-filing meeting requirement and would be required to provide a draft business plan before the meeting. OTS believes that the pre-filing meeting is generally consistent with existing procedures and imposes only a minimal burden. Moreover, most applicants should already have drafted business plans to provide to the agency.

#### VII. Paperwork Reduction Act of 1995

The information collection requirements in this proposal have previously been approved by OMB under the substantive regulations or under the application forms; or involve technical changes that do not affect the overall burden of compliance. To the extent that this regulation imposes new burden, OTS has filed applications to update the information collection requirements in the underlying forms. These have been submitted under 1550–0005, 1550–00015, and 1550–0037.

#### VIII. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The proposed rule generally restates the existing application processing procedures in plain language and clarifies existing procedures. These changes should make it easier for all applicants to file applications and for OTS to review applications. While the proposed rule would make several minor changes, OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, this

proposed rulemaking is not subject to section 202 of the Unfunded Mandates Act.

#### List of Subjects

##### 12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

##### 12 CFR Part 517

Government contracts, Individuals with disabilities, Minority businesses, Women.

##### 12 CFR Part 543

Reporting and recordkeeping requirements, Savings associations.

##### 12 CFR Part 544

Reporting and recordkeeping requirements, Savings associations.

##### 12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

##### 12 CFR Part 550

Savings associations, Trusts and trustees.

##### 12 CFR Part 552

Reporting and recordkeeping requirements, Savings associations, Securities.

##### 12 CFR Part 555

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

##### 12 CFR Part 559

Reporting and recordkeeping requirements, Savings associations, Subsidiaries.

##### 12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

##### 12 CFR Part 562

Accounting, Reporting and recordkeeping requirements, Savings associations.

##### 12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 563b

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 563f

Antitrust, Holding companies, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 567

Capital, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 575

Administrative practice and procedure, Capital, Holding companies Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 584

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision proposes to amend title 12, chapter V, of the Code of Federal Regulations as set forth below:

**PART 516—APPLICATION PROCESSING GUIDELINES AND PROCEDURES**

1. The authority citation for part 516 continues to read as follows:

**Authority:** 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*

**§§ 516.1, 516.2, 516.3 [Removed]**

2. Subpart A of part 516 (§§ 516.1, 516.2, 516.3) is removed.

**§§ 516.1, 516.5, 516.10 [Added]**

**Subpart A [Added]**

3. Sections 516.1, 516.5, and 516.10, and subpart A, consisting of §§ 516.15 through 516.40, are added to read as follows:

Sec.

516.1 What does this part do?

516.5 Do the same procedures apply to all applications under this part?

516.10 How does OTS compute time periods under this part?

**Subpart A—Pre-Filing and Filing Procedures**

*Pre-Filing Procedures*

516.15 Must I meet with OTS before I file my application?

516.20 What information must I provide to OTS before the pre-filing meeting?

*Filing Procedures*

516.25 What type of application must I file?

516.30 What information must I provide with my application?

516.35 May I keep portions of my application confidential?

516.40 Where do I file my application?

516.45 What is the filing date of my application?

**516.1 What does this part do?**

(a) This part explains OTS procedures for processing applications, notices, or filings (applications). Except as provided in paragraph (b) of this section, subparts A and E of this part apply whenever an OTS regulation requires any person (you) to file an application with OTS. Subparts B, C, and D, however, only apply when an OTS regulation incorporates the

procedures in the subpart or where otherwise required by OTS.

(b) This part does not apply to any of the following:

(1) An application related to a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823(c) or (k).

(2) A request for reconsideration, modification, or appeal of a final OTS action.

(3) A request related to litigation, an enforcement proceeding, a supervisory directive or supervisory agreement. Such requests include a request seeking approval under, modification of, or termination of an order issued under part 508 or 509 of this chapter, a supervisory agreement, a supervisory directive, a consent merger agreement or a document negotiated in settlement of an enforcement matter or other litigation, unless an applicable OTS regulation specifically requires an application under this part.

(4) An application filed under an OTS regulation that prescribes other application processing procedures and time frames for the approval of applications.

(c) If an OTS regulation prescribes some application processing procedures, or time frames, OTS will apply this part to the extent necessary to process the application. For example, if an OTS regulation does not specify time periods for the processing of an application, the time periods in this part apply.

**§ 516.5 Do the same procedures apply to all applications under this part?**

OTS processes applications under this part using two procedures, expedited treatment and standard treatment. To determine which treatment applies, you may use the following chart:

If—	Then OTS will process your application under—
(a) The applicable regulation does not specifically state that expedited treatment is available .....	Standard treatment.
(b) You are not a savings association .....	Standard treatment.
(c) OTS or another federal banking regulator assigned you a composite rating of 3, 4, or 5. The composite rating is the composite numeric rating that OTS or the other federal banking regulator assigned to you under the Uniform Financial Institutions Rating System <sup>1</sup> or under a comparable rating system. The composite rating refers to the rating assigned and provided to you, in writing, as a result of the most recent examination.	Standard treatment.
(d) OTS or another federal banking regulator assigned you a Community Reinvestment Act (CRA) rating of Needs to Improve or Substantial Noncompliance. The CRA rating is the Community Reinvestment Act performance rating that OTS or the other federal banking regulator assigned and provided to you, in writing, as a result of the most recent compliance examination. See, for example, § 563e.28 of this chapter.	Standard treatment.

If—	Then OTS will process your application under—
(e) OTS or another federal banking regulator assigned you a compliance rating of 3, 4, or 5. The compliance rating is the numeric rating that OTS or the other federal banking regulator assigned to you under OTS compliance rating system, or a comparable rating system used by the other federal banking regulator. The compliance rating refers to the rating assigned and provided to you, in writing, as a result of the most recent compliance examination.	Standard treatment.
(f) You fail any one of your capital requirements under part 567 of this chapter .....	Standard treatment.
(g) OTS has notified you that you are an association in troubled condition .....	Standard treatment.
(h) Neither OTS nor any other federal banking regulator has assigned you a composite rating, a CRA rating or a compliance rating.	Standard treatment.
(i) You do not meet any of the criteria listed in paragraphs (a) through (h) of this section .....	Expedited treatment.

<sup>1</sup> A savings association may obtain a copy of its composite rating from the appropriate Regional Office.

#### § 516.10 How does OTS compute time periods under this part?

In computing time periods under this part, OTS does not include the day of the act or event that commences the time period. When the last day of a time period is a Saturday, Sunday, or Federal holiday, the time period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday.

#### Subpart A—Pre-Filing and Filing Procedures

##### Pre-Filing Procedures

#### § 516.15 Must I meet with OTS before I file my application?

(a) *Meeting requirement.* (1) You must meet with OTS at least 30 calendar days before you may file:

(i) An application for permission to organize a *de novo* federal savings association;

(ii) An application to convert an existing financial institution (other than a state-chartered savings association regulated by OTS or a state-chartered savings bank that is regulated by the FDIC) or a credit union to a federal savings association; or

(iii) An application to acquire control of a savings association, if you are an insurance company, an investment company, a securities firm, a commodities firm, or a pension fund.

(2) OTS may require, or the applicant may request, a pre-filing meeting for other types of applications or applicants, if doing so will help resolve issues or expedite the process.

(3) Applications for mutual to stock conversions are subject to the pre-filing meeting requirements under 12 CFR part 563b.

(b) *Scheduling the pre-filing meeting.* If you are required to meet with OTS under paragraph (a) of this section, you must contact the appropriate Regional Office to request the pre-filing meeting.

#### § 516.20 What information must I provide to OTS before the pre-filing meeting?

(a) *Draft business plan.* If you are required to meet with OTS under § 516.15, you must provide a draft business plan for the savings association to OTS at least seven calendar days before the pre-filing meeting.

(b) *Contents of plan.* At a minimum, your draft business plan should:

(1) Clearly and completely describe the savings association's projected operations and activities;

(2) Describe the risks associated with the transaction and the impact of this transaction on any existing activities and operations of the savings association, including financial projections for a minimum of three years;

(3) Identify all proposed directors and senior executive officers (as defined in § 563.555 of this chapter) of the savings association and demonstrate that these individuals have the expertise to prudently manage the activities and operations described in the savings association's draft business plan; and

(4) Demonstrate how applicable requirements regarding serving the credit and lending needs in the market areas served by the savings association will be met.

(c) *Additional information.* OTS may require you to provide additional relevant information before the pre-filing meeting.

##### Filing Procedures

#### § 516.25 What type of application must I file?

(a) *Expedited treatment.* If you are eligible for expedited treatment under § 516.5, you may file your application in the form of a notice that includes all information required by the applicable substantive regulation. If OTS has designated a form for your notice, you must file that form. Your notice is an application for the purposes of all

statutory and regulatory references to "applications."

(a) *Standard treatment.* If you are subject to standard treatment under § 516.5, you must file your application following all applicable substantive regulations and guidelines governing the filing of applications. If OTS has a designated form for your application, you must file that form.

(b) *Waiver requests.* If you want OTS to waive a requirement that you provide certain information with the notice or application, you must include a written waiver request:

(1) Describing the requirement to be waived; and

(2) Explaining why the information is not needed to enable OTS to evaluate your notice or application under applicable standards.

#### § 516.30 What information must I provide with my application?

(a) *Required information.* You may obtain information about required certifications, other regulations and guidelines affecting particular notices and applications, appropriate forms, and instructions from any OTS Regional Office. You may also obtain forms and instructions on OTS's web page at [www.ots.treas.gov](http://www.ots.treas.gov).

(b) *Captions and exhibits.* You must caption the original application and required copies with the type of filing, and must include all exhibits and other pertinent documents with the original application and all required copies. You are not required to include original signatures on copies if you include a copy of the signed signature page or the copy otherwise indicates that the original was signed.

#### § 516.35 May I keep portions of my application confidential?

(a) *Confidentiality.* OTS makes submissions under this part available to the public, but may keep portions of

your application confidential based on the rules in this section.

(b) *Confidentiality request.* (1) You may request OTS to keep portions of your application confidential. You must submit your request in writing with your application and must explain in detail how your request is consistent with the standards under the Freedom of Information Act (5 U.S.C. 552) and part 505 of this chapter. For example, you should explain how you will be substantially harmed by public disclosure of the information. You must separately bind and mark the portions of the application you consider confidential and the portions you consider non-confidential.

(2) OTS will not treat as confidential the portion of your application

describing how you plan to meet your Community Reinvestment Act (CRA) objectives. OTS will make information in your CRA plan, including any information incorporated by reference from other parts of your application, available to the public upon request.

(c) *OTS determination on confidentiality.* OTS will determine whether information that you designate as confidential must be made available to the public under the Freedom of Information Act (5 U.S.C. 552) and part 505 of this chapter. OTS will advise you before it makes information you designate as confidential available to the public.

(d) *OTS public statement.* If OTS issues a public statement with its decision on an application, it may

comment on confidential submissions in the public statement without notifying you.

**§ 516.40 Where do I file my application?**

(a) *Regional Office.* (1) You must file the original application and the number of copies indicated on the applicable form with, and to the attention of, the applications filing division of the appropriate OTS Regional Office. If the form does not indicate the number of copies you must file or if OTS has not prescribed a form for your application, you must file the original application and two copies.

(2) The address and the states served for each Regional Office are:

Region	Office address	States served
Northeast .....	Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07303.	Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.
Southeast .....	Office of Thrift Supervision, 1475 Peachtree Street, N.E., Atlanta, Georgia 30309.	Alabama, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, District of Columbia, Puerto Rico, Virgin Islands.
Central .....	Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.	Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin.
Midwest .....	Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75261-9027.	Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Mississippi, North Dakota, Nebraska, New Mexico, Oklahoma, South Dakota, Texas.
West .....	Office of Thrift Supervision, Pacific Telesis Tower, 1 Montgomery Street, San Francisco, California 94104-4533. Mail to: P.O. Box 7165, San Francisco, California 94120-7165.	Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, Guam, Northern Mariana Islands.

(b) *Additional filings with OTS Headquarters.* (1) In addition to filing in the Regional Office, if your application involves a significant issue of law or policy or if an applicable regulation or form directs you to file with OTS Headquarters, you must also file copies of your application with the Applications Filing Room at OTS headquarters, 1700 G Street NW, Washington, DC 20552. You must file the number of copies indicated on the applicable form. If the form does not indicate the number of copies you must file or if OTS has not prescribed a form for your application, you must file three copies.

(2) (i) Significant issues of law or policy are described in delegations of authority from OTS Headquarters to the Regional Offices. You may obtain these delegations on the OTS website at [www.ots.treas.gov](http://www.ots.treas.gov) or by contacting a Regional Office.

(ii) OTS reserves the right to identify significant issues of law or policy in a particular application. OTS will advise

you, in writing, if it makes this determination.

**§ 516.45 What is the filing date of my application?**

(a) Your application's filing date is the date that you complete all of the following requirements.

(1) You comply with the pre-filing meeting requirement at § 516.15, including the submission of a business plan.

(2) You file your application and all required copies with OTS, as described under § 516.40.

(i) If you are required to file with a Regional Office and with OTS Headquarters, you have not filed with OTS until you file with both offices.

(ii) You have not filed with a Regional Office or OTS Headquarters until you file the application and the required number of copies with that office.

(iii) If you file after the close of business established by a Regional Office or OTS Headquarters, you have filed with that office on the next business day.

(3) You pay the applicable fee. You have not paid the fee until you submit the fee to the appropriate Regional Office, or OTS waives the fee. You may pay by check, money order, cashier's check or wire transfer payable to OTS.

(b) OTS may notify you that it has adjusted your application filing date if you fail to meet any applicable publication requirements.

(c) If, after you properly file your application with the Regional Office, OTS determines that a significant issue of law or policy exists under § 516.40(b)(2)(ii), the filing date of your application is the day you filed with the Regional Office. The 30-day review period under §§ 516.200 or 516.210 of this part will restart in its entirety when the Regional Office forwards the appropriate number of copies of your application to OTS Headquarters.

4. Section 516.55 is added to read as follows:

**§ 516.55 What information must I include in my public notice?**

Your public notice must include the following:

(a) Your name and address.  
 (b) The type of application.  
 (c) The name of the depository institution(s) that is the subject matter of the application.

(d) A statement indicating that the public may submit comments to the appropriate OTS office(s).

(e) The address of the appropriate OTS offices where the public may submit comments.

(f) The date that the public comment period closes.

(g) A statement indicating that the nonconfidential portions of the application are on file in the Regional Office, and are available for public inspection during regular business hours.

(h) Any other information that OTS requires you to publish. You may find the format for various publication notices in the appendix to OTS application processing handbook.

5. Section 516.110 is amended by removing the phrase "(you)".

6. Section 516.120 is revised to read as follows:

**§ 516.120 What information should a comment include?**

(a) A comment should recite relevant facts, including any demographic, economic, or financial data, supporting the commenter's position. A comment opposing an application should also:

(1) Address at least one of the reasons why OTS may deny the application under the relevant regulations;

(2) Recite any relevant facts and supporting data addressing these reasons; and

(3) Address how the approval of the application could harm the commenter or any community.

(b) If a commenter wishes to request an informal meeting under § 516.170, the commenter must file a request with the comment. The commenter should describe the nature of the issues or facts to be discussed and the reasons why written submissions are insufficient to adequately address these facts or issues.

7. Section 516.130 is revised to read as follows:

**§ 516.130 Where are comments filed?**

A commenter must file with the appropriate OTS Regional Office and, where an application involves a significant issue of law or policy under § 516.40(b), with OTS headquarters. The commenter must simultaneously send a copy of the comment to the applicant.

8. Section 516.140 is revised to read as follows:

**§ 516.140 How long is the comment period?**

(a) *General.* Except as provided in paragraph (b) of this section, a commenter must file a written comment with OTS within 25 calendar days after the application is filed with OTS.

(b) *Late-filed comments.* OTS will consider a late-filed comment if:

(1) Within the comment period, the commenter demonstrates to OTS good cause why the commenter could not submit a timely comment; and

(2) OTS concludes that the comment addresses a significant regulatory concern and will assist in the disposition of the application.

9. Section 516.150 is revised to read as follows:

**§ 516.150 Will there be additional opportunities to discuss the application?**

OTS may provide the commenter with additional opportunities to discuss the application in informal or formal meetings under subpart D of this part.

10. Section 516.185 is added to read as follows:

**§ 516.185 Will OTS approve or disapprove an application at a meeting?**

OTS will not approve or deny an application at a formal or informal meeting under this subpart.

11. Section 516.190 is revised to read as follows:

**§ 516.190 Will a meeting affect application processing time frames?**

If OTS has arranged a meeting, it will suspend applicable application processing time frames, including the time frames for deeming an application complete and the applicable approval time frames specified in subpart E of this part. The time period will resume when OTS determines that a record has been developed that sufficiently supports a determination on the issues raised in the comments.

12. Subpart E, consisting of §§ 516.200 through 516.280, is added to read as follows:

**Subpart E—OTS Review**

*Expedited Treatment*

Sec.

516.200 If I file a notice under expedited treatment, when may I engage in the proposed activities?

*Standard Treatment*

516.210 What will OTS do after I file my application?

516.220 If OTS requests additional information to complete my application, how will it process my application?

516.230 Will OTS conduct an eligibility examination?

516.240 What may OTS require me to do after my application is deemed complete?

516.250 Will OTS require me to publish a new public notice?

516.260 May OTS suspend processing of my application?

516.270 How long is the OTS review period?

516.280 How will I know if my application has been approved?

516.290 What will happen if OTS does not approve or disapprove my application within two calendar years?

**Subpart E—OTS Review**

*Expedited Treatment*

**§ 516.200 If I file a notice under expedited treatment, when may I engage in the proposed activities?**

If you are eligible for expedited treatment and you have appropriately filed your notice with OTS, you may engage in the proposed activities upon the expiration of 30 days after the filing date of your notice, unless OTS takes one of the following actions before the expiration of that time period:

(a) OTS notifies you in writing that you must file additional information supplementing your notice. If you are required to file additional information, you may engage in the proposed

activities upon the expiration of 30 calendar days after the date you file the additional information, unless OTS takes one of the actions described in paragraphs (b) through (d) of this section before the expiration of that time period;

(b) OTS notifies you in writing that your notice is subject to the standard treatment under this subpart. OTS will subject your notice to the standard treatment if it raises a supervisory concern, raises a significant issue of law or policy, or requires significant additional information;

(c) OTS notifies you in writing that it is suspending the applicable time frames under § 516.190; or

(d) OTS notifies you that it disapproves your notice.

*Standard Treatment*

**§ 516.210 What will OTS do after I file my application?**

(a) *OTS action.* Within 30 calendar days after the filing date of your application, OTS will take one of the following actions:

If OTS—	Then—
(1) Notifies you, in writing, that your application is complete .....	The applicable review period will begin on the date that OTS you, in deems your application complete.
(2) Notifies you, in writing, that you must submit additional information to complete your application.	You must submit the required additional information under §516.220.
(3) Notifies you, in writing, that your application is materially deficient ...	OTS will not process your application.
(4) Takes no action .....	Your application is deemed complete. The applicable review period will begin on the day the 30-day time period expires.

(b) *Waiver requests.* If your application includes a request for waiver of an information requirement under § 516.25(b), and OTS has not notified you that you must submit additional information under paragraph

(a)(2) of this section, your request for waiver is granted.

**§ 516.220 If OTS requests additional information to complete my application, how will it process my application?**

(a) You may use the following chart to determine the procedure that applies to your submission of additional information under § 516.210(a)(1):

If, within 30 calendar days after the date of OTS request for additional information—	Then, OTS may—	And—
(1) File a response to all information requests.	(i) Notify you in writing within 15 calendar days after the filing of your response that your application is complete. (ii) Notify you in writing within 15 calendar days after the filing date of your response that you must submit additional information regarding matters derived from or prompted by already furnished or any additional information necessary to resolve the issues presented in your application. (iii) Notify you in writing within 15 calendar days after the filing date of your response that your application is materially deficient. (iv) Take no action within 15 calendar days after the filing date of your response.	The applicable review period will begin on the date that OTS deems your application complete.  You must respond to the additional information request within the time period required by OTS. OTS will review your response under the procedures described in this section.  OTS will not process your application.  Your application is deemed complete. The applicable review period will begin on the day that the 15-day time period expires.
(2) Request an extension of time to file additional information.	(i) Grant an extension, in writing, specifying the number of days for the extension. (ii) Notify you in writing that your extension request is disapproved.	You must fully respond within the extended time period specified by OTS. OTS will review your response under the procedures described under this section. OTS will not process your application further. You may resubmit the application for processing as a new filing under the applicable regulation.
(3) Fail to respond completely.	(i) Notify you in writing that your application is withdrawn. (ii) Notify you, in writing, that your response is incomplete and extend the response period, specifying the number of days for the extension.	OTS will not process your application further. You may resubmit the application for processing as a new filing under the applicable regulation. You must fully respond within the extended time period specified by OTS. OTS will review your response under the procedures described under this section.

(b) OTS may extend the 15-day period referenced in paragraph (a)(1) of this section by up to 15 calendar days, if OTS requires the additional time to review your response. OTS will notify you that it has extended the period before the end of the initial 15-day period.

(c) If your response filed under paragraph (a)(1) of this section includes a request for a waiver of an informational requirement, your request for a waiver is granted if OTS fails to act on it within 15 calendar days after the filing of your response, unless OTS extends the review period under paragraph (b). If OTS extends the review period under paragraph (b), your request

is granted if OTS fails to act on it by the end of the extended review period.

**§ 516.230 Will OTS conduct an eligibility examination?**

(a) *Eligibility examination.* OTS may notify you at any time examination. If OTS decides to conduct an eligibility examination, it will not deem your application complete until it concludes the examination.

(b) *Additional information.* OTS may, as a result of the eligibility examination, notify you that you must submit additional information to complete your application. If so, you must respond to the additional information request within the time period required by OTS.

OTS will review your response under the procedures described in § 516.220.

**§ 516.240 What may OTS require me to do after my application is deemed complete?**

After your application is deemed complete, but before the end of the applicable review period,

(a) OTS may require you to provide additional information if the information is necessary to resolve or clarify the issues presented by your application.

(b) OTS may determine that a major issue of law or a change in circumstances arose after you filed your application, and that the issue or changed circumstances will substantially effect your application. If

OTS identifies such an issue or changed circumstances, it may:

(1) Notify you, in writing, that your application is now incomplete and require you to submit additional information to complete the application under the procedures described at § 516.220; and

(2) Require you to publish a new public notice of your application under § 516.250.

**§ 516.250 Will OTS require me to publish a new public notice?**

(a) If your application was subject to a publication requirement, OTS may require you to publish a new public notice of your application if:

(1) You submitted a revision to the application, you submitted new or additional information, or major issue of law or a change in circumstances arose after the filing of your application; and

(2) OTS determines that additional public comment on these matters is appropriate because of the significance of the new information or circumstances.

(b) OTS will notify you in writing if you must publish a new public notice of your revised application.

(c) If you are required to publish a new public notice of your revised application, you must notify OTS after you publish the new public notice.

**§ 516.260 May OTS suspend processing of my application?**

(a) *Suspension.* OTS may, at any time, indefinitely suspend processing of your application if:

(1) OTS, another governmental entity, or a self-regulatory trade or professional organization initiates an investigation, examination, or administrative proceeding that is relevant to OTS's evaluation of your application;

(2) You request the suspension or there are other extraordinary circumstances that have a significant impact on the processing of your application.

(b) *Notice.* OTS will promptly notify you, in writing, if it suspends your application.

**§ 516.270 How long is the OTS review period?**

(a) *General.* The applicable OTS review period is 60 calendar days after the date that your application is deemed complete, unless an applicable OTS regulation specifies a different review period.

(b) *Multiple applications.* If you submit more than one application in connection with a proposed action or if two or more applicants submit related applications, the applicable review period for all applications is the review

period for the application with the longest review period, subject to statutory review periods.

(c) *Extensions.* (1) OTS may extend the review period for up to 30 calendar days beyond the period described in paragraph (a) or (b) of this section. OTS must notify you in writing of the extension and the duration of the extension. OTS must issue the written extension before the end of the review period.

(2) OTS may also extend the review period as needed until it acts on the application, if the application presents a significant issue of law or policy that requires additional time to resolve. OTS must notify you in writing of the extension and the general reasons for the extension. OTS must issue the written extension before the end of the review period, including any extension of that period under paragraph (c)(1) of this section. This section applies to applications and notices filed under § 575.3(b) and part 574 of this chapter.

**§ 516.280 How will I know if my application has been approved?**

(a) *OTS approval or denial.* (1) OTS will approve or deny your application before the expiration of the applicable review period, including any extensions of the review period.

(2) OTS will promptly notify you in writing of its decision to approve or deny your application.

(b) *No OTS action.* If OTS fails to act under paragraph (a)(1) of this section, your application is approved.

**§ 516.290 What will happen if OTS does not approve or disapprove my application within two calendar years?**

(a) *Withdrawal.* If OTS has not approved or denied your pending application within two calendar years after the filing date under § 516.45, OTS will notify you, in writing, that your application is deemed withdrawn unless OTS determines that you are actively pursuing a final OTS determination on your application. You are not actively pursuing a final OTS determination if you have failed to timely take an action required under this part, including filing required additional information, or OTS has suspended processing of your application under § 516.260 based on circumstances that are, in whole or in part, within your control and you have failed to take reasonable steps to resolve these circumstances.

(b) *Effective date.* This section is effective 90 days after the effective date of the final rule.

**PART 517—THE MINORITY, WOMEN, AND INDIVIDUALS WITH DISABILITIES OUTREACH PROGRAM: CONTRACTING FOR GOODS AND SERVICES**

13. The authority citation for part 517 continues to read as follows:

**Authority:** 12 U.S.C. 1833(e); 42 U.S.C. 12101 *et seq.*

14. Section 517.6 is amended by revising paragraph (b) to read as follows:

**§ 517.6 Certification.**

\* \* \* \* \*

(b) Self-certify ownership status by filing with the OTS Outreach Program Advocate a completed and signed ABELS Registration/Certification Form, as prescribed by the U.S. Department of Commerce's Minority Business Development Agency and available from the Outreach Program Advocate at the headquarters address of the OTS listed in § 516.40(b) of this chapter; or

\* \* \* \* \*

**PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS**

15. The authority citation for part 543 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

16. Section 543.9 is amended by revising paragraph (a) to read as follows:

**§ 543.9 Application for conversion to Federal mutual charter.**

(a)(1) *Filing.* Any depository institution that proposes to convert to a Federal mutual association as provided in § 543.8 must, after approval by its board of directors, file an application on forms obtained from OTS. The applicant must submit any financial statements or other information OTS may require.

(2) *Procedures.* An application for conversion filed under this section is subject to the procedures for organization of a federal mutual association at § 543.2(d) through (f) of this chapter.

\* \* \* \* \*

**PART 544—CHARTER AND BYLAWS**

17. The authority citation for part 544 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

18. Section 544.2 is amended by revising the last sentence of paragraph (c) to read as follows:

**§ 544.2 Charter amendments.**

\* \* \* \* \*

(c) \* \* \* Such request for reissuance should be filed with the Corporate Secretary at the Washington Headquarters Office at the address listed at § 516.40(b) of this chapter and contain signatures required under § 544.1 of this part, together with such supporting documents as may be needed to demonstrate that the amendments were properly adopted.

19. Section 544.5 is amended by revising paragraph (c)(1)(ii) to read as follows:

\* \* \* \* \*

§ 544.5 Federal mutual savings association bylaws.

(c) \* \* \*
(1) \* \* \*

(ii) Applications submitted under paragraph (c)(1)(i) of this section are subject to standard treatment processing procedures at part 516, subparts A and E of this chapter.

\* \* \* \* \*

PART 545—OPERATIONS

20. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

21. Section 545.92 is amended by revising paragraphs (b), (d)(2), and the first sentence of paragraph (f) to read as follows:

§ 545.92 Branch offices.
\* \* \* \* \*

(b) Eligibility. Federal savings associations eligible for expedited treatment under § 516.5 of this chapter may establish a branch office subject to the procedures in paragraph (f) of this section. A Federal savings association subject to standard treatment under § 516.5 of this chapter must not establish a branch office without prior approval subject to the procedures in paragraph (e) of this section.

\* \* \* \* \*

(d) \* \* \*

(2) Submission of application or notice. A Federal savings association must comply with § 556.5 of this chapter and must file the application required under § 516.25(b) of this chapter or the notice required under § 516.25(a) of this chapter within three days after the publication of the public notice under paragraph (d)(1) of this section.

\* \* \* \* \*

(f) Approval of branch notice. A notice filed by a Federal savings association that qualifies for expedited treatment must be deemed to be approved 30 days after its filing with

OTS, unless OTS takes one of the actions described at § 516.200 of this chapter. OTS will apply the review standards set forth in paragraph (e)(1) of this section; or OTS determines to process the filing as an application under § 516.200(b) of this chapter.

\* \* \*
\* \* \* \* \*

PART 550—FIDUCIARY POWERS OF SAVINGS ASSOCIATIONS

22. The authority citation for part 550 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

23. Section 550.80 is revised to read as follows:

§ 550.80 How do I obtain OTS approval?

You must file an application under part 516, subparts A and E of this chapter.

24. Section 550.260 is amended by revising the first sentence of paragraph (b)(2) to read as follows:

§ 550.260 How may I invest funds of a fiduciary account?

\* \* \* \* \*

(b) \* \* \*

(2) If you must file a document with the Comptroller of the Currency under 12 CFR 9.18, you must also file that document with the appropriate Regional Office at § 516.40(a) of this chapter.

\* \* \* \* \*

25. Section 550.530 is amended by revising the last sentence to read as follows:

§ 550.530 How do I surrender fiduciary powers?

\* \* \* You must file the resolution with the appropriate Regional Office at the address listed in § 516.40(a) of this chapter.

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

26. The authority citation for part 552 continues to read as follows:

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

27. Section 552.2–6 is amended by adding the following sentence to the end of the section to read as follows:

§ 552.2–6 Conversion from stock form depository institution to Federal stock association.

\* \* \* An application for conversion filed under this section is subject to the procedures for organization of a federal stock organization at § 552.2–1.

28. Section 552.4 is amended by revising the last sentence of paragraph (d) to read as follows:

§ 552.4 Charter amendments.

\* \* \* \* \*

(d) \* \* \* Such requests for reissuance should be filed with the Corporate Secretary at Washington Headquarters Office at the address listed in § 516.40(b) of this chapter, and contain signatures required under § 552.3 of this part, together with such supporting documents as needed to demonstrate that the amendments were properly adopted.

29. Section 552.5 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 552.5 Bylaws.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) Applications submitted under paragraph (b)(1)(i) of this section are subject to standard treatment processing procedures at part 516, subparts A and E of this chapter.

\* \* \* \* \*

PART 555—ELECTRONIC OPERATIONS

30. The authority citation for part 555 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

31. In § 555.310, the first sentence of the introductory text of paragraph (a) is revised to read as follows:

§ 555.310 How do I notify OTS?

(a) Notice requirement. You must file a written notice with the appropriate Regional Office listed at § 516.40(a) of this chapter at least 30 days before you establish a transactional website. \* \* \*

\* \* \* \* \*

PART 559—SUBORDINATE ORGANIZATIONS

32. The authority citation for part 559 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828.

§ 559.3 [Amended]

33. Section 559.3 is amended by:
a. Removing, in paragraph (e)(2)(i), the phrases “§ 516.3(a) of this chapter” and “§ 516.1 of this chapter”, and by adding in lieu thereof the phrases “§ 516.5 of this chapter” and “standard treatment processing procedures at part 516, subparts A and E of this chapter”; and

b. Removing, in paragraph (e)(2)(ii), the phrases “§ 516.3(b) of this chapter”

and “§ 516.1 of this chapter”, and by adding in lieu thereof the phrases “§ 516.5 of this chapter” and, “standard treatment processing procedures at part 516, subparts A and E of this chapter” respectively.

34. Section 559.4 is amended by revising the third sentence of the introductory text to read as follows:

**§ 559.4 What activities are preapproved for service corporations?**

\* \* \* You should read these two sections together to determine whether you must file a notice with OTS under § 559.11 of this part, or whether you must file an application subject to standard treatment processing procedures at part 516, subparts A and E of this chapter to request prior written OTS approval in order for your service corporation to engage in a particular activity. \* \* \*

\* \* \* \* \*

35. Section 559.11 is amended by revising the first sentence and the last sentence to read as follows:

**§ 559.11 What notices are required to establish or acquire a new subsidiary or engage in new activities through an existing subsidiary?**

When required by section 18(m) of the Federal Deposit Insurance Act, a savings association (“you”) must file a notice (“Notice”) under part 516, subpart A of this chapter at least 30 days before establishing or acquiring a subsidiary or engaging in new activities in a subsidiary. \* \* \* If OTS notifies you within 30 days that the Notice presents supervisory concerns, or raises significant issues of law or policy, you must apply for and receive OTS’s prior written approval under the standard treatment processing procedures at part 516, subpart A and E of this chapter before establishing or acquiring the subsidiary or engaging in new activities in the subsidiary.

36. Section 559.13 is amended by revising paragraph (b) to read as follows:

**§ 559.13 How may a savings association exercise its salvage power in connection with a service corporation or lower-tier entities?**

\* \* \* \* \*

(b) If OTS notifies you within 30 days that the Notice presents supervisory concerns, or raises significant issues of law or policy, you must apply for and receive OTS’s prior written approval under the standard treatment processing procedures at part 516, subparts A and E of this chapter before making a salvage investment.

\* \* \* \* \*

**PART 560—LENDING AND INVESTMENT**

37. The authority citation for part 560 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806; 42 U.S.C. 4106.

**§ 560.30 [Amended]**

38. Section 560.30, footnote 3 is amended by removing the phrase “§ 516.1(a) of this chapter”, and by adding in lieu thereof the phrase “§ 516.40(b) of this chapter”.

39. Section 560.32 is amended by revising the second sentence of paragraph (c) to read as follows:

**§ 560.32 Pass-through investments.**

\* \* \* \* \*

(c) \* \* \* 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. \* \* \*

40. Section 560.35 is amended by revising paragraph (d)(3) to read as follows:

**§ 560.35 Adjustments to home loans.**

\* \* \* \* \*

(d) \* \* \*

(3) A Federal savings association may use an index not satisfying the requirements of paragraph (d)(2) of this section 30 days after filing a notice unless, within that 30-day period, OTS has notified the association that the notice presents supervisory concerns or raises significant issues of law or policy. If OTS notifies the association of such concerns or issues, the Federal savings association may not use such an index unless it applies for and receives OTS’s prior written approval under the standard treatment processing procedures at part 516, subparts A and E of this chapter.

41. Section 560.93 is amended by revising the second and third sentences of paragraph (d)(3)(iii) to read as follows:

**§ 560.93 Lending limitations.**

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(iii) \* \* \* A savings association that meets the requirements of paragraphs (d)(3)(i), (ii), (iv) and (v) of this section and that meets the requirements for “expedited treatment” under § 516.5 of this chapter may use the higher limit set forth under this paragraph (d)(3) if the savings association has filed a notice

with OTS that it intends to use the higher limit at least 30 days prior to the proposed use. A savings association that meets the requirements of paragraphs (d)(3)(i), (ii), (iv), and (v) of this section and that meets the requirements for “standard treatment” under § 516.5 of this chapter may use the higher limit set forth under this paragraph (d)(3) if the savings association has filed an application with OTS and OTS has approved the use the higher limit;

\* \* \* \* \*

42. Section 560.160 is amended by revising paragraph (a)(1) to read as follows:

**§ 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).

\* \* \* \* \*

**PART 562—REGULATORY REPORTING STANDARDS**

43. The authority citation for part 562 continues to read as follows:

**Authority:** 12 U.S.C. 1463.

44. Section 562.4 is amended by revising paragraph (b)(1) to read as follows:

**§ 562.4 Audit of savings associations and savings association holding companies.**

\* \* \* \* \*

(b) \* \* \*

(1) If a savings association has received a composite rating of 3, 4 or 5, as defined at § 516.5(c) of this chapter; or

\* \* \* \* \*

**PART 563—OPERATIONS**

45. The authority citation for part 563 continues to read as follows:

**Authority:** 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 3806; 42 U.S.C. 4106.

46. Section 563.22 is amended by revising paragraphs (b)(1)(ii), (b)(2), (d)(4), (f)(1), and (h)(2) to read as follows:

**§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.**

\* \* \* \* \*

(b)(1) \* \* \*

(ii) In the case of a savings association that meets the conditions for expedited treatment under § 516.5 of this chapter,

convert, directly or indirectly, to a national or state bank.

(2) A savings association that does not meet the conditions for expedited treatment under § 516.5 of this chapter may not, directly or indirectly, convert to a national or state bank without prior application to and approval of OTS, as provided in paragraph (h)(2)(ii) of this section.

\* \* \* \* \*

(d) \* \* \*

(4) Applications filed under section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) and paragraph (a) of this section must be processed in accordance with the time frames set forth in §§ 516.220 through 516.290 of this chapter, provided that the period for review may be extended only if the Office determines that the applicant has failed to furnish all requested information or that the information submitted is substantially inaccurate, in which case the review period may be extended for up to 30 days.

\* \* \* \* \*

(f) \* \* \*

(1) The acquiring savings association does not meet the criteria for expedited treatment under § 516.5 of this chapter;

\* \* \* \* \*

(h) \* \* \*

(2) *Other transfer transactions*—(i) *Expedited treatment.* A notice in conformity with § 516.25(a) of this chapter may be submitted to OTS under § 516.40 of this chapter for any transaction under paragraph (c) of this section, provided all constituent savings associations meet the conditions for expedited treatment under § 516.5 of this chapter. Notices submitted under this paragraph must be deemed approved automatically by OTS 30 days after receipt, unless OTS advises the applicant in writing prior to the expiration of such period that the proposed transaction may not be consummated without OTS's approval of an application under paragraphs (h)(2)(ii) or (h)(2)(iii) of this section.

(ii) *Standard treatment.* An application in conformity with § 516.25(b) of this chapter and paragraph (d) of this section must be submitted to OTS under § 516.40 by each savings association participating in a transaction under paragraph (b)(2) or (c) of this section, where any constituent savings association does not meet the conditions for expedited treatment under § 516.5 of this chapter, except as provided in paragraph (h)(2)(iii) of this section. Applications under this paragraph must be processed in

accordance with the procedures in part 516, subparts A and E of this chapter.

(iii) *Standard treatment for transactions under section 5(d)(3) of the Federal Deposit Insurance Act.* An application in conformity with § 516.25(b) of this chapter and paragraph (d) of this section must be submitted to OTS under § 516.40 by each savings association which will survive any transaction under both section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) and paragraph (c) of this section, where any constituent savings association does not meet the conditions for expedited treatment under § 516.5 of this chapter. Applications under this paragraph must be processed in accordance with the procedures in part 516, subparts A and E of this chapter, provided that the period for review may be extended only if OTS determines that the applicant has failed to furnish all requested information or that the information submitted is substantially inaccurate, in which case the review period may be extended for up to 30 days.

47. Section 563.41 is amended by revising paragraph (e)(2)(ii)(A) to read as follows:

**§ 563.41 Loans and other transactions with affiliates and subsidiaries.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(A) Has a composite rating of 4 or 5, as defined in § 516.5(c) of this chapter;

\* \* \* \* \*

48. Section 563.81 is amended by revising the first sentence in paragraphs (a)(1), (a)(2), and (c) to read as follows:

**§ 563.81 Issuance of subordinated debt securities and mandatorily redeemable preferred stock.**

(a) *General*—(1) *Savings associations receiving standard treatment.* No savings association subject to standard treatment of its applications under § 516.5 of this chapter may issue subordinated debt securities or mandatorily redeemable preferred stock includable in regulatory capital pursuant to this section or amend the terms of such securities unless it has obtained the written approval of OTS

\* \* \*

(2) *Savings associations receiving expedited treatment.* No savings association eligible for expedited treatment under § 516.5 of this chapter may issue subordinated debt securities or mandatorily redeemable preferred stock pursuant to this section for inclusion in regulatory capital or amend the terms of such securities unless it

provides notice to OTS, and such notice contains a statement of the association's intent to include such securities in regulatory capital. \* \* \*

\* \* \* \* \*

(c) *Form of application or notice; supporting information.* Applications subject to standard treatment or notices eligible for expedited treatment under § 516.5 of this chapter must be in the form prescribed by OTS. \* \* \*

\* \* \* \* \*

49. Section 563.143 is amended by revising the heading and the first sentence of paragraph (a)(1) to read as follows:

**§ 563.143 Must I file with OTS?**

(a) \* \* \*

(1) You are not eligible for expedited treatment under § 516.5 of this chapter.

\* \* \* \* \*

50. Section 563.171 is amended by revising paragraph (b)(4) to read as follows:

**§ 563.171 Frequency of safety and soundness examination.**

\* \* \* \* \*

(b) \* \* \*

(4) At its most recent examination, OTS determined that the savings association was in outstanding or good condition, that is, it received a composite rating of 1 or 2, as composite rating defined in § 516.5(c) of this chapter;

\* \* \* \* \*

51. Section 563.180 is amended by revising paragraph (d)(11) to read as follows:

**§ 563.180 Suspicious Activity Reports and other reports and statements.**

\* \* \* \* \*

(d) \* \* \*

(11) *Obtaining SARs.* A savings association or service corporation may obtain SARs and the instructions from the appropriate OTS Regional Office listed in § 516.40(a) of this chapter.

\* \* \* \* \*

52. Section 563.183 is amended by revising paragraph (c)(1) to read as follows:

**§ 563.183 Reports of change in chief executive officer or director; other reports; form and filing of such reports.**

\* \* \* \* \*

(c) *Form and filing of reports.* (1)

Unless otherwise specified by OTS, a report required by § 563.181 of this part or this § 563.183 must comply with § 516.30 and must be submitted to the appropriate Regional Office listed in § 516.40(a) of this chapter.

\* \* \* \* \*

53. Section 563.555 is amended by revising paragraph (1) of the definition of “troubled condition” to read as follows:

**§ 563.555 What definitions apply to this subpart?**

\* \* \* \* \*

*Troubled condition means:*

(1) A savings association that has a composite rating of 4 or 5, as composite rating is defined in § 516.5(c) of this chapter.

\* \* \* \* \*

54. Section 563.565 is revised to read as follows:

**§ 563.565 What procedures govern the filing of my notice?**

The procedures found in part 516, subpart A of this chapter govern the filing of your notice under § 563.560.

**PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM**

55. The authority citation for part 563b continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901; 15 U.S.C. 78c, 78l, 78m, 78n, 78w.

**§ 563b.27 [Amended]**

56. Section 563b.27 is amended in paragraph (e), footnote 1, by removing the phrase “§ 516.1(a) of this chapter”, and by adding in lieu thereof “§ 516.40(b) of this chapter”.

**PART 563f—MANAGEMENT OFFICIAL INTERLOCKS**

57. The authority citation for part 563f continues to read as follows:

**Authority:** 12 U.S.C. 3201–3208.

58. Section 563f.6 is amended by revising the last sentence of paragraph (a) to read as follows:

**§ 563f.6 General exemption.**

(a) \* \* \* A depository organization may apply to OTS for an exemption under part 516, subpart E, of this chapter.

**PART 565—PROMPT CORRECTIVE ACTION**

59. The authority citation for part 565 continues to read as follows:

**Authority:** 12 U.S.C. 1831o.

**§ 565.4 [Amended]**

60. Section 565.4 is amended as follows:

a. Section 565.4(b)(2)(iii)(B) is amended by removing the phrase “as defined in 516.3(c)” and adding in lieu thereof “as composite rating is defined in § 516.5(c)” and

b. Section 565.4(b)(3)(iii)(B) is amended by removing the phrase “as defined in § 516.3(c)” and adding in lieu thereof “as composite rating is defined in § 516.5(c)” and

c. Section 565.4(c)(2), footnote 1, is amended by removing the phrase “§ 516.1 of this chapter”, and by adding in lieu thereof “§ 516.40 of this chapter”.

**PART 567—CAPITAL**

61. The authority citation for part 567 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1828 (note).

62. Section 567.3 is amended by revising the third sentence in paragraph (d)(2)(i) introductory text, to read as follows:

**§ 567.3 Individual minimum capital requirements.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \* (i) \* \* \* Such response must be filed in accordance with §§ 516.30 and 516.40 of this chapter.

\* \* \*

\* \* \* \* \*

63. Section 567.4 is amended by revising the fifth sentence of paragraph (a)(3)(i) to read as follows:

**§ 567.4 Capital directives.**

(a) \* \* \*

(3) \* \* \* (i) \* \* \* Such responses must be filed in accordance with §§ 516.30 and 516.40 of this chapter.

\* \* \*

\* \* \* \* \*

64. Section 567.7 is amended by revising paragraph (f) to read as follows:

**§ 567.7 Interest-rate risk component.**

\* \* \* \* \*

(f) OTS will provide, upon request, manuals describing the OTS Model and guidance at the address set forth in § 516.40(b) of this chapter.

**PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS**

65. The authority citation for part 574 continues to read as follows:

**Authority:** 12 U.S.C. 1467a, 1817, 1831i.

66. Section 574.4 is amended by revising the second sentence of paragraph (f)(2) to read as follows:

**§ 574.4 Control.**

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \* Certifications provided for in this paragraph must be filed with OTS in accordance with §§ 516.30 and 516.40 of this chapter.

**PART 575—MUTUAL HOLDING COMPANIES**

67. The authority citation for part 575 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

68. Section 575.3 is amended by revising paragraph (b)(2) introductory text to read as follows:

**§ 575.3 Mutual holding company reorganizations.**

\* \* \* \* \*

(b) \* \* \*

(2) Sixty days have passed since OTS received the Reorganization Notice and deemed it complete under § 516.210 or § 516.220 of this chapter, and OTS has not:

\* \* \* \* \*

69. Section 575.13 is amended by revising the third sentence of paragraph (a)(1), paragraph (b), the first sentence of paragraph (c)(2), and the first and last sentences of paragraph (e), to read as follows:

**§ 575.13 Procedural requirements.**

(a) \* \* \* (1) \* \* \* Proxies and proxy statements must be filed in accordance with § 563b.5(e) of this chapter and must be addressed to the Business Transactions Division, Chief Counsel’s Office, Office of Thrift Supervision, at the address set forth in § 516.40(b) of this chapter. \* \* \*

\* \* \* \* \*

(b) *Applications under this part.*

Except as provided in paragraph (c) of this section, any application, notice or certification required to be filed with OTS under this part must be filed in accordance with part 516, subpart A of this chapter.

(c) \* \* \*

(2) *Filing instructions.* Any Reorganization Notice submitted under § 575.3(b) of this part must be filed in accordance with part 516, subpart A of this chapter. \* \* \*

\* \* \* \* \*

(e) *Time-frames.* All Reorganization Notices and applications filed pursuant to this part must be processed in accordance with standard treatment processing procedures at part 516, subparts A and E. \* \* \* The review by OTS of proxy solicitation materials, including forms of proxy and proxy statements, and of any other materials used in connection with the issuance of stock under § 575.7 of this part must not be subject to the applications processing time-frames set forth in §§ 516.210 through 516.290 of this chapter.

\* \* \* \* \*

**PART 584—REGULATED ACTIVITIES**

70. The authority citation for part 584 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

73. Section 584.2-2 is amended by revising the last sentence of paragraph (b) to read as follows:

**§ 584.2-2 Permissible bank holding company activities of savings and loan holding companies.**

\* \* \* \* \*

(b) \* \* \* OTS must act upon such application under the guidelines in part 516, subpart E of this chapter.

\* \* \* \* \*

Dated: October 26, 2000.

By the Office of Thrift Supervision.

**Ellen Seidman,**

*Director.*

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