

(iii) Operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

(8) *Person* has the same meaning as set forth at 12 U.S.C. 1817(j)(8)(A).

§ 53.3 Notification.

A banking organization must notify the appropriate OCC supervisory office, or OCC-designated point of contact, about a notification incident through email, telephone, or other similar methods that the OCC may prescribe. The OCC must receive this notification from the banking organization as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred.

§ 53.4 Bank service provider notification.

(a) A bank service provider is required to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

(1) A bank-designated point of contact is an email address, phone number, or any other contact(s), previously provided to the bank service provider by the banking organization customer.

(2) If the banking organization customer has not previously provided a bank-designated point of contact, such notification shall be made to the Chief Executive Officer and Chief Information Officer of the banking organization customer, or two individuals of comparable responsibilities, through any reasonable means.

(b) The notification requirement in paragraph (a) of this section does not apply to any scheduled maintenance, testing, or software update previously communicated to a banking organization customer.

PARTS 54–99 [RESERVED]

PART 100—RULES APPLICABLE TO SAVINGS ASSOCIATIONS

AUTHORITY: 12 U.S.C. 1462a, 1463, 5412(b)(2)(B), 5414(b)(2).

SOURCE: 76 FR 48956, Aug. 9, 2011, unless otherwise noted.

§ 100.1 Certain regulations superseded.

Effective on July 21, 2011, section 312(b)(2)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376 (2010)) (12 U.S.C. 5412(b)(2)(B)) transferred rulemaking authority of the Office of Thrift Supervision (OTS) relating to all savings associations, both state and Federal to the OCC. The regulations set forth in parts 1 through 197 of this chapter I applying to Federal savings associations and state savings associations, as those terms are defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)), supersede corresponding regulations set forth in parts 500 through 591 of chapter V of the Code of Federal Regulations that were applicable to such entities prior to July 21, 2011.

[76 FR 48956, Aug. 9, 2011, as amended at 80 FR 28479, May 18, 2015]

§ 100.2 Waiver authority.

The Comptroller of the Currency may, for good cause and to the extent permitted by statute, waive the applicability of any provision of parts 1 through 197 of this chapter I, as applicable, with respect to Federal savings associations.

[76 FR 48956, Aug. 9, 2011, as amended at 80 FR 28479, May 18, 2015]

PART 101—COVERED SAVINGS ASSOCIATIONS

Sec.

- 101.1 Authority and purposes.
- 101.2 Definitions and computation of time.
- 101.3 Procedures.
- 101.4 Treatment of covered savings associations.
- 101.5 Nonconforming subsidiaries, assets, and activities.
- 101.6 Termination.
- 101.7 Reelection.
- 101.8 Evasion.

§ 101.1

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AUTHORITY: 12 U.S.C. 93a, 1462a, 1463, 1464, 1464a, and 5412(b)(2)(B).

SOURCE: 84 FR 24005, May 24, 2019, unless otherwise noted.

§ 101.1 Authority and purposes.

(a) *Authority.* This part is issued pursuant to sections 3, 4, 5, and 5A of the Home Owners' Loan Act (HOLA) (12 U.S.C. 1462a, 1463, 1464, and 1464a), section 5239A of the Revised Statutes (12 U.S.C. 93a), and section 312(b)(2)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5412(b)(2)(B)).

(b) *Purposes.* This part establishes standards and procedures for a Federal savings association to elect to operate as a covered savings association pursuant to section 5A of the HOLA and clarifies the requirements for the treatment of covered savings associations. It also establishes standards and procedures to terminate an election and to reelect to operate as a covered savings association.

§ 101.2 Definitions and computation of time.

(a) *Definitions.* As used in this part:

(1) *Covered savings association* means a Federal savings association that has made an election that is in effect in accordance with § 101.3(b).

(2) *Effective date of the election* means, with respect to a Federal savings association, the date on which the Federal savings association's election to operate as a covered savings association takes effect pursuant to § 101.3(b).

(3) *Nonconforming subsidiary, asset, or activity.* (i) With respect to a covered savings association:

(A) Means any subsidiary, asset, or activity that is not permissible for a covered savings association or, if permissible, is being operated, held, or conducted in a manner that exceeds the limit applicable to a covered savings association; and

(B) Includes an investment in a subsidiary or other entity that is not permissible for a covered savings association; and

(ii) With respect to a Federal savings association that has terminated an election to operate as a covered savings association:

(A) Means any subsidiary, asset, or activity that is not permissible for a Federal savings association or, if permissible, is being operated, held, or conducted in a manner that exceeds the limit applicable to a Federal savings association; and

(B) Includes an investment in a subsidiary or other entity that is not permissible for a Federal savings association.

(4) *Similarly located national bank* means, with respect to a covered savings association, a national bank that has its main office situated in the same location as the home office of the covered savings association.

(b) *Computation of time.* The OCC will compute a period of days for purposes of this part in accordance with 12 CFR 5.12.

§ 101.3 Procedures.

(a) *Notice—(1) Submission.* A Federal savings association that had total consolidated assets of \$20 billion or less as of December 31, 2017, as reported on the Federal savings association's Consolidated Reports of Condition and Income for December 31, 2017, may make an election to operate as a covered savings association by submitting a notice to the OCC.

(2) *Contents.* The notice shall:

(i) Be signed by a duly authorized officer of the Federal savings association; and

(ii) Identify and describe each nonconforming subsidiary, asset, or activity that the Federal savings association operates, holds, or conducts at the time it submits the notice, each of which must be divested, conformed, or discontinued pursuant to § 101.5.

(b) *Effective date of the election—(1) In general.* An election to operate as a covered savings association shall take effect on the date that is 60 days after the date on which the OCC receives the notice submitted under paragraph (a) of this section.

(2) *Earlier notice.* Notwithstanding paragraph (b)(1) of this section, the OCC may notify a Federal savings association in writing prior to the expiration of 60 days that it is eligible to make an election, and the election shall take effect on the date the OCC so

notifies the Federal savings association.

§ 101.4 Treatment of covered savings associations.

(a) *In general*—(1) *National bank activities.* Except as provided in this section, a covered savings association may engage in any activity that is permissible for a similarly located national bank to engage in as part of, or incidental to, the business of banking, or explicitly authorized by statute for a national bank, subject to the same authorization, terms, and conditions that would apply to a similarly located national bank, as determined by the OCC for purposes of this part.

(2) *Treatment as a Federal savings association.* A covered savings association shall continue to comply with the provisions of law that apply to Federal savings associations for purposes of:

(i) Governance (including incorporation, bylaws, boards of directors, shareholders, members, and distribution of dividends);

(ii) Consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership;

(iii) Provisions of law applicable only to Federal mutual savings associations;

(iv) Offers and sales of securities at an office of a Federal savings association;

(v) Savings bank activities authorized by section 5(i)(4) of HOLA;

(vi) Issuance of subordinated debt securities and mandatorily redeemable preferred stock;

(vii) Increases in permanent capital of a Federal stock savings association;

(viii) Rules of practice and procedure in adjudicatory proceedings;

(ix) Rules for investigative proceedings and formal examination proceedings;

(x) Removals, suspensions, and prohibitions where a crime is charged or proven;

(xi) Security procedures;

(xii) Maintenance of records and recordkeeping and confirmation requirements for securities transactions;

(xiii) Accounting and disclosure standards;

(xiv) Nondiscrimination; and

(xv) Advertising.

(b) *Existing branches.* A covered savings association may continue to operate any branch or agency that the covered savings association operated on the effective date of the election.

(c) *Assets greater than \$20 billion.* A covered savings association may continue to operate as a covered savings association if, after the effective date of the election, it has total consolidated assets greater than \$20 billion.

§ 101.5 Nonconforming subsidiaries, assets, and activities.

(a) *Divestiture, conformance, or discontinuation.* A covered savings association shall divest, conform, or discontinue a nonconforming subsidiary, asset, or activity at the earliest time that prudent judgment dictates but not later than two years after the effective date of the election. The OCC may require a covered savings association to submit a plan to divest, conform, or discontinue a nonconforming subsidiary, asset, or activity.

(b) *Extension.* The OCC may grant a covered savings association extensions of not more than two years each up to a maximum of eight years if the OCC determines that:

(1) The covered savings association has made a good faith effort to divest, conform, or discontinue the nonconforming subsidiary, asset, or activity;

(2) Divestiture, conformance, or discontinuation would have a material adverse financial effect on the covered savings association; and

(3) Retention or continuation of the nonconforming subsidiary, asset, or activity is consistent with the safe and sound operation of the covered savings association.

(c) *Applicable law.* Until a covered savings association divests, conforms, or discontinues a nonconforming subsidiary, asset, or activity, the nonconforming subsidiary, asset, or activity shall continue to be subject to the same provisions of law that applied to the nonconforming subsidiary, asset, or activity on the day before the effective date of the election, including any amendments to those provisions of law.

§ 101.6

§ 101.6 Termination.

(a) *Termination.* A covered savings association may terminate its election to operate as a covered savings association, after an appropriate period of time as determined by the OCC, by submitting a notice to the OCC.

(b) *Procedures.* A covered savings association wishing to terminate its election shall comply with, and shall be subject to, the provisions of §§101.2, 101.3, and 101.5, except that:

(1) The provisions of §§101.3 and 101.5 shall be applied by substituting “covered savings association” for “Federal savings association” and “Federal savings association” for “covered savings association” each place those terms appear in those sections;

(2) Section 101.3(a)(1) shall not apply; and

(3) Sections 101.3 and 101.5 shall be applied by substituting “effective date of the termination” for “effective date of the election.”

(c) *Applicable law.* On and after the effective date of the termination, a Federal savings association that has terminated its election to operate as a covered savings association shall be subject to the same provisions of law as a Federal savings association that has not made an election under this part.

§ 101.7 Reelection.

(a) *Reelection.* A Federal savings association that has terminated its election to operate as a covered savings association may submit a notice to reelect to operate as a covered savings association, if at least five years have elapsed since the effective date of the termination. Upon determining that good cause exists, the OCC may permit a Federal savings association to reelect to operate as a covered savings association prior to the expiration of the five-year period.

(b) *Procedures and treatment.* A Federal savings association reelecting to operate as a covered savings association shall comply with, and shall be subject to, the provisions of this part as if it were making an election for the first time.

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§ 101.8 Evasion.

The OCC may disapprove any notice submitted pursuant to this part if the OCC determines that the notice is made for the purpose of evading §101.5, including as that section applies to a covered savings association terminating an election.

PARTS 102–127 [RESERVED]

PART 128—NONDISCRIMINATION REQUIREMENTS

Sec.

- 128.1 Definitions.
- 128.2 Nondiscrimination in lending and other services.
- 128.3 Nondiscrimination in applications.
- 128.4 Nondiscriminatory advertising.
- 128.5 Equal Housing Lender Poster.
- 128.6 Loan application register.
- 128.7 Nondiscrimination in employment.
- 128.8 Complaints.
- 128.9 Guidelines relating to nondiscrimination in lending.
- 128.10 Supplementary guidelines.
- 128.11 Nondiscriminatory appraisal and underwriting.

AUTHORITY: 12 U.S.C. 1464, 5412(b)(2)(B).

SOURCE: 76 FR 48978, August 9, 2011, unless otherwise noted.

§ 128.1 Definitions.

As used in this part 128—

(a) *Application.* For purposes of this part, an application for a loan or other service is as defined in Regulation C, 12 CFR 203.2(b).

(b) *Savings association.* The term “savings association” means any Federal savings association as defined in 12 U.S.C. 1813(b)(2).

(c) *Dwelling.* The term “dwelling” means a residential structure (whether or not it is attached to real property) located in a state of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico. The term includes an individual condominium unit, cooperative unit, or mobile or manufactured home.

§ 128.2 Nondiscrimination in lending and other services.

(a) No savings association may deny a loan or other service, or discriminate in the purchase of loans or securities or