

rehabilitation programs or affirmative lending programs, or because the cause of abandonment is unrelated to high risk. Proper underwriting considerations include the condition and utility of the improvements, and various physical factors such as street conditions, amenities such as parks and recreation areas, availability of public utilities and municipal services, and exposure to flooding and land faults. However, arbitrary decisions based on age or location are prohibited, since many older, soundly constructed homes provide housing opportunities which may be precluded by an arbitrary lending policy.

(8) *Fair Housing Act (title VIII, Civil Rights Act of 1968, as amended)*. Savings associations must comply with all regulations promulgated by the Department of Housing and Urban Development to implement the Fair Housing Act, found at 24 CFR parts 100 through 125, except that they shall use the Equal Housing Lender logo and poster prescribed by OCC regulations at 12 CFR 128.4 and 128.5 rather than the Equal Housing Opportunity logo and poster required by 24 CFR part 110.

(d) *Marketing practices*. Savings associations should review their advertising and marketing practices to ensure that their services are available without discrimination to the community they serve. Discrimination in lending is not limited to loan decisions and underwriting standards; a savings association does not meet its obligations to the community or implement its equal lending responsibility if its marketing practices and business relationships with developers and real estate brokers improperly restrict its clientele to segments of the community. A review of marketing practices could begin with an examination of an association's loan portfolio and applications to ascertain whether, in view of the demographic characteristics and credit demands of the community in which the institution is located, it is adequately serving the community on a nondiscriminatory basis. The OCC will systematically review marketing practices where evidence of discrimination in lending is discovered.

#### § 128.10 Supplementary guidelines.

The policy statement found at 12 CFR 128.9 supplements this part and should be read together with this part. Refer also to the HUD Fair Housing regulations at 24 CFR parts 100 through 125, Federal Reserve Regulation B at 12 CFR part 202, and Federal Reserve Regulation C at 12 CFR part 203.

#### § 128.11 Nondiscriminatory appraisal and underwriting.

(a) *Appraisal*. No savings association may use or rely upon an appraisal of a dwelling which the savings association knows, or reasonably should know, is discriminatory on the basis of the age or location of the dwelling, or is discriminatory per se or in effect under the Fair Housing Act of 1968 or the Equal Credit Opportunity Act.

(b) *Underwriting*. Each savings association shall have clearly written, nondiscriminatory loan underwriting standards, available to the public upon request, at each of its offices. Each association shall, at least annually, review its standards, and business practices implementing them, to ensure equal opportunity in lending.

NOTE TO §128.11: See also, §128.9(b), (c)(6), and (c)(7).

### PARTS 129–140 [RESERVED]

## PART 141—DEFINITIONS FOR REGULATIONS AFFECTING FEDERAL SAVINGS ASSOCIATIONS

Sec.

- 141.1 When do the definitions in this part apply?
- 141.2 [Reserved]
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- 141.25 Single-family dwelling.
- 141.26 Surplus.

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

SOURCE: 76 FR 48990, Aug. 9, 2011, unless otherwise noted.

## § 141.1

### § 141.1 When do the definitions in this part apply?

The definitions in this part and in 12 CFR part 161 apply throughout parts 100 through 199 of this chapter, unless another definition is specifically provided.

### § 141.2 [Reserved]

### § 141.5 Commercial paper.

The term *commercial paper* means any note, draft, or bill of exchange which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

### § 141.7 Corporate debt security.

The term *corporate debt security* means a marketable obligation, evidencing the indebtedness of any corporation in the form of a bond, note and/or debenture which is commonly regarded as a debt security and is not predominantly speculative in nature. A security is marketable if it may be sold with reasonable promptness at a price which corresponds reasonably to its fair value.

### § 141.8 [Reserved]

### § 141.10 Dwelling unit.

The term *dwelling unit* means the unified combination of rooms designed for residential use by one family, other than a single-family dwelling.

### § 141.11 Federal savings association.

The term *Federal savings association* means a Federal savings association or Federal savings bank chartered under section 5 of the Act.

### § 141.14 Home.

The term *home* means real estate comprising a single-family dwelling(s) or a dwelling unit(s) for four or fewer families in the aggregate.

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### § 141.15–141.19 [Reserved]

### § 141.20 Loans.

The term *loans* means obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

### § 141.21 Nonresidential real estate.

The terms *nonresidential real estate* or *nonresidential real property* mean real estate that is not *residential real estate*, as that term is defined in § 141.23 of this part.

### § 141.22 [Reserved]

### § 141.23 Residential real estate.

The terms *residential real estate* or *residential real property* mean:

(a) Homes (including a dwelling unit in a multi-family residential property such as a condominium or a cooperative);

(b) Combinations of homes and business property (*i.e.*, a home used in part for business);

(c) Other real estate used for primarily residential purposes other than a home (but which may include homes);

(d) Combinations of such real estate and business property involving only minor business use (*i.e.*, where no more than 20 percent of the total appraised value of the real estate is attributable to the business use);

(e) Farm residences and combinations of farm residences and commercial farm real estate;

(f) Property to be improved by the construction of such structures; or

(g) Leasehold interests in the above real estate.

### § 141.25 Single-family dwelling.

The term *single-family dwelling* means a structure designed for residential use by one family, or a unit so designed, whose owner owns, directly or through a non-profit cooperative housing organization, an undivided interest in the underlying real estate, including property owned in common with others which contributes to the use and enjoyment of the structure or unit.

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**§ 144.8**

**§ 141.26 Surplus.**

The term *surplus* means undistributed earnings held as unallocated reserves for general corporate use.

**PART 142 [RESERVED]**

**PART 143—FEDERAL SAVINGS ASSOCIATIONS—GRANDFATHERED AUTHORITY**

AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1467a, 2901 *et seq.*, 5412(b)(2)(B).

SOURCE: 76 FR 48991, Aug. 9, 2011, unless otherwise noted.

**§ 143.12 Grandfathered authority.**

(a) A Federal savings bank formerly chartered or designated as a mutual savings bank under state law may exercise any authority it was authorized to exercise as a mutual savings bank under state law at the time of its conversion from a state mutual savings bank to a Federal or other state charter. Except to the extent such authority may be exercised by Federal savings associations not enjoying grandfathered rights hereunder, such authority may be exercised only to the degree authorized under state law at the time of such conversion. Unless otherwise determined by the OTS prior to July 21, 2011 or by the OCC an association, in the exercise of grandfathered authority, may continue to follow applicable state laws and regulations in effect at the time of such conversion.

(b) A Federal savings association that acquires, or has acquired, a Federal savings bank by merger or consolidation may itself exercise any grandfathered rights enjoyed by the disappearing institution, whether such rights were obtained directly through conversion or through merger or consolidation. The extent of the grandfathered rights of a Federal savings association that disappeared prior to the effective date of this section shall be determined exclusively pursuant to this section.

(c) This section shall not be construed to prevent the exercise by a Federal savings association enjoying grandfathered rights hereunder of authority that is available under the ap-

plicable state law only upon the occurrence of specific preconditions, such as the attainment of a particular future date or specified level of regulatory capital, which have not occurred at the time of conversion from a state mutual savings bank, provided they occur thereafter.

(d) This section shall not be construed to permit the exercise of any particular authority on a more liberal basis than is allowable under the most liberal construction of either state or Federal law or regulation.

**PART 144—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—COMMUNICATION BETWEEN MEMBERS**

AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1467a, 2901 *et seq.*, 5412(b)(2)(B).

SOURCE: 76 FR 48995, Aug. 9, 2011, unless otherwise noted.

**§ 144.8 Communication between members of a Federal mutual savings association.**

(a) *Right of communication with other members.* A member of a Federal mutual savings association has the right to communicate, as prescribed in paragraph (b) of this section, with other members of the Federal savings association regarding any matter related to the Federal savings association's affairs, except for "improper" communications, as defined in paragraph (c) of this section. The association may not defeat that right by redeeming a savings member's savings account in the Federal mutual savings association.

(b) *Member communication procedures.* If a member of a Federal mutual savings association desires to communicate with other members, the following procedures shall be followed:

(1) The member shall give the Federal mutual savings association a written request to communicate;

(2) If the proposed communication is in connection with a meeting of the Federal savings association's members, the request shall be given at least thirty days before the annual meeting or 10 days before a special meeting;

(3) The request shall contain—

(i) The member's full name and address;