

(ii) The nature and extent of the member's interest in the Federal savings association at the time the information is given;

(iii) A copy of the proposed communication; and

(iv) If the communication is in connection with a meeting of the members, the date of the meeting;

(4) The Federal savings association shall reply to the request within either—

(i) Fourteen days;

(ii) Ten days, if the communication is in connection with the annual meeting; or

(iii) Three days, if the communication is in connection with a special meeting;

(5) The reply shall provide either—

(i) The number of the Federal savings association's members and the estimated reasonable cost to the Federal savings association of mailing to them the proposed communication; or

(ii) Notification that the Federal savings association has determined not to mail the communication because it is "improper", as defined in paragraph (c) of this section;

(6) After receiving the amount of the estimated costs of mailing and sufficient copies of the communication, the Federal savings association shall mail the communication to all members, by a class of mail specified by the requesting member, either—

(i) Within fourteen days;

(ii) Within seven days, if the communication is in connection with the annual meeting;

(iii) As soon as practicable before the meeting, if the communication is in connection with a special meeting; or

(iv) On a later date specified by the member;

(7) If the Federal savings association refuses to mail the proposed communication, it shall return the requesting member's materials together with a written statement of the specific reasons for refusal, and shall simultaneously send to the appropriate OCC licensing office two copies each of the requesting member's materials, the Federal savings association's written statement, and any other relevant material. The materials shall be sent within:

(i) Fourteen days,

(ii) Ten days if the communication is in connection with the annual meeting, or

(iii) Three days, if the communication is in connection with a special meeting, after the Federal savings association receives the request for communication.

(c) *Improper communication.* A communication is an "improper communication" if it contains material which:

(1) At the time and in the light of the circumstances under which it is made:

(i) Is false or misleading with respect to any material fact; or

(ii) Omits a material fact necessary to make the statements therein not false or misleading, or necessary to correct a statement in an earlier communication on the same subject which has become false or misleading;

(2) Relates to a personal claim or a personal grievance, or is solicitous of personal gain or business advantage by or on behalf of any party;

(3) Relates to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the Federal savings association or is not within the control of the Federal savings association; or

(4) Directly or indirectly and without expressed factual foundation:

(i) Impugns character, integrity, or personal reputation,

(ii) Makes charges concerning improper, illegal, or immoral conduct, or

(iii) Makes statements impugning the stability and soundness of the Federal savings association.

PART 145—FEDERAL SAVINGS ASSOCIATIONS—OPERATIONS

Sec.

145.1 General authority.

145.2 [Reserved]

145.16 Public deposits, depositaries, and fiscal agents.

145.17 Funds transfer services.

145.92 Branch offices.

145.101 Fiscal agency.

AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1828, 5412(b)(2)(B).

SOURCE: 76 FR 48999, Aug. 9, 2011, unless otherwise noted.

§ 145.1 General authority.

A Federal savings association may exercise all authority granted it by the Home Owners' Loan Act of 1933 ("Act"), 12 U.S.C. 1464, as amended, and its charter and bylaws, whether or not implemented specifically by OCC regulations, subject to the limitations and interpretations contained in this part.

§ 145.2 [Reserved]**§ 145.16 Public deposits, depositaries, and fiscal agents.**

(a) *Definitions.* As used in this section—

(1) *Moneys* includes *monies* and has the same meaning it has in applicable state law;

(2) *State law* includes actions by a governmental body which has a charter adopted under the constitution of the state with provisions respecting deposits of public money of that body;

(3) *Surety* means surety under real and/or personal suretyship, and includes guarantor; and

(4) Terms in paragraph (b) of this section have the meanings they have under applicable state law.

(b) *Authority to act as surety for public deposits.* (1) A Federal savings association that is a deposit association may give bond or security for deposit in it of public moneys or investment in it by a governmental unit if required to do so by state law, either as an alternative condition or otherwise, regardless of the amount required. Any bond or security may be given and any substitution or increase thereof may be made under this section at any time.

(2) If state law requires as a condition of such deposit or investment that the Federal savings association or its bond or security, or any combination thereof, be surety for or with respect to other deposits or instruments, whether of that depositor or investor or of any other(s), and whether in the Federal savings association or in any other institution(s) having, when the investments or deposits were made, insurance by the Federal Deposit Insurance Corporation, the same shall become, or if the state law is self-executing shall be, such surety.

(c) *Depositaries and fiscal agents.* Subject to regulation of the United States

Treasury Department, a Federal savings association may serve as a depository for Federal taxes, as a Treasury tax and loan depository, or as a depository of public money and fiscal agent of the Government or any other instrumentality thereof when designated for that purpose by such instrumentality and approved by the OCC, and may satisfy any requirement in connection therewith, including maintaining accounts described in §§ 161.33, 161.52, 161.53, and 161.54 of this chapter; pledging collateral; and performing the services outlined in 31 CFR 202.3(b) or any section that supersedes or amends § 202.3(b).

§ 145.17 Funds transfer services.

A Federal savings association is authorized to transfer, with or without fee, its customers' funds from any account (including a line of credit) of the customer at the Federal savings association or at another financial intermediary to third parties or other accounts of the customer on the customer's order or authorization by any mechanism or device, including cashier's checks, conforming with applicable laws and established commercial practices.

§ 145.92 Branch offices.

(a) *Definition.* A branch office of a Federal savings association ("you") is any office other than your home office, agency office, administrative office, data processing office, or an electronic means or facility under part 155 of this chapter.

(b) *Branching.* Subject to the application and notice requirements at § 5.31 of this chapter, you may branch in any state or states of the United States and its territories unless the location would violate:

(1) Section 5(r) of the HOLA (12 U.S.C. 1464(r));

(2) Section 10(e)(3) of the HOLA (12 U.S.C. 1467a(e)(3)); or

(3) Section 13(k)(4) of the FDIA (12 U.S.C. 1823(k)(4)).

(c) *Preemption.* This exercise of the OCC's authority is preemptive of any state law purporting to address the

§ 145.101

subject of branching by a Federal savings association.

[76 FR 48999, Aug. 9, 2011, as amended at 80 FR 28480, May 18, 2015]

§ 145.101 Fiscal agency.

A Federal savings association designated fiscal agent by the Secretary of the Treasury or with OCC approval by another instrumentality of the United States, shall, as such, perform such reasonable duties and exercise only such powers and privileges as the Secretary of the Treasury or such instrumentality may prescribe.

PARTS 146–149 [RESERVED]

PART 150—FIDUCIARY POWERS OF FEDERAL SAVINGS ASSOCIATIONS

Sec.

150.10 What regulations govern the fiduciary operations of Federal savings associations?

150.20 What are fiduciary powers?

150.30 What fiduciary capacities does this part cover?

150.40 When do I have investment discretion?

150.50 What is a fiduciary account?

150.60 What other definitions apply to this part?

Subpart A—Obtaining Fiduciary Powers

150.70 Must I obtain OCC approval or file a notice before I exercise fiduciary powers?

Subpart B—Exercising Fiduciary Powers

150.130 How may I conduct multi-state operations?

150.135 How do I determine which state's laws apply to my operations?

150.136 To what extent do state laws apply to my fiduciary operations?

150.140 Must I adopt and follow written policies and procedures in exercising fiduciary powers?

FIDUCIARY PERSONNEL AND FACILITIES

150.150 Who is responsible for the exercise of fiduciary powers?

150.160 What personnel and facilities may I use to perform fiduciary services?

150.170 May my other departments or affiliates use fiduciary personnel and facilities to perform other services?

150.180 May I perform fiduciary services for, or purchase fiduciary services from, another association or entity?

12 CFR Ch. I (1–1–25 Edition)

150.190 Must fiduciary officers and employees be bonded?

REVIEW OF A FIDUCIARY ACCOUNT

150.200 Must I review a prospective account before I accept it?

150.210 Must I conduct another review of an account after I accept it?

150.220 Are any other account reviews required?

CUSTODY AND CONTROL OF ASSETS

150.230 Who must maintain custody or control of assets in a fiduciary account?

150.240 May I hold investments of a fiduciary account off-premises?

150.245 When is a fiduciary not required to maintain custody or control of fiduciary assets?

150.250 Must I keep fiduciary assets separate from other assets?

INVESTING FUNDS OF A FIDUCIARY ACCOUNT

150.260 How may I invest funds of a fiduciary account?

FUNDS AWAITING INVESTMENT OR DISTRIBUTION

150.290 What must I do with fiduciary funds awaiting investment or distribution?

150.300 Where may I deposit fiduciary funds awaiting investment or distribution?

150.310 What if the FDIC does not insure the deposits?

150.320 What is acceptable collateral for uninsured deposits?

RESTRICTIONS ON SELF DEALING

150.330 Are there investments in which I may not invest funds of a fiduciary account?

150.340 May I exercise rights to purchase additional stock or fractional shares of my stock or obligations or the stock or obligations of my affiliates?

150.350 May I lend, sell, or transfer assets of a fiduciary account if I have an interest in the transaction?

150.360 May I make a loan to a fiduciary account that is secured by an interest in the assets of the account?

150.370 May I sell assets or lend money between fiduciary accounts?

COMPENSATION, GIFTS, AND BEQUESTS

150.380 May I earn compensation for acting in a fiduciary capacity?

150.390 May my officer or employee retain compensation for acting as a co-fiduciary?

150.400 May my fiduciary officer or employee accept a gift or bequest?

RECORDKEEPING REQUIREMENTS

150.410 What records must I keep?