



Office of Thrift Supervision
Department of the Treasury

Director

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June 3, 1994

MEMORANDUM FOR CHIEF EXECUTIVE OFFICERS

FROM: *JLF* Jonathan L. Fiechter
Acting Director

SUBJECT: Thrift Activities Handbook Section 640,
Securities Brokerage - Examination Procedures

Attached is an advance copy of the new Thrift Activities Regulatory Handbook Section 640, Securities Brokerage. The complete handbook will be published shortly.

This Handbook section contains the most recent guidance concerning the retail sale of nondeposit investment products, including examination guidelines for compliance with the interagency statement issued on February 15, 1994, by the four federal financial regulatory agencies. The Office of Thrift Supervision (OTS) issued this guidance as Thrift Bulletin (TB) 23-2.

This examiner guidance will be effective immediately for examinations where sales of retail nondeposit investment products occur on association premises or where the savings association receives a benefit from customer referrals. With the increase in such activity, it is important that examiners review this area fully and with extreme care. Examiners will pay particular attention to referral fee payments. Some brokers are operating sales programs with referral fees that are tied to sales activity. This type of referral fee program is not permitted.

We have received several questions asking whether "separate desks" are required to conduct sales activities. As indicated in the Handbook section, sales activities should be conducted in a location physically separated from the area where deposits are taken. While the interagency statement indicates that each agency has flexibility on this issue in the limited situation where physical considerations prevent sales from being conducted

in a distinct area, due to the requirements of the "Chubb" letter (see Appendix B of Handbook Section 640), OTS expects that all savings associations will adhere to the requirement that sales of nondeposit investment products be conducted in a physical location distinct from the area where retail deposits are taken. This prohibition includes teller windows and new account desks. An area may be physically separated in various ways, including the use of partitions, plants, and platforms. It is not acceptable to conduct investment sales activities in areas or from desks where retail deposits are routinely accepted.

The current guidance from the Securities and Exchange Commission is included in this Handbook Section in Appendix A and B and concerns the use of similar names and compensation issues (the "Chubb" letter). Also included in this Handbook Section is guidance concerning affiliated third parties and sales of an affiliate's securities contained in TB 23a and 12 C.F.R. Sections 563.41 and 563.42. Discussions concerning 12 C.F.R. Section 563.17 regarding dual employees, and 12 C.F.R. Section 545.32 concerning disclosure of customer information, were removed since these regulations were repealed. The interagency statement now addresses both these areas.

If you have any questions, please call Robyn Dennis, Program Manager, Thrift Policy, at (202) 906-5751.

Attachment

cc: Regional Directors