
SUMMARY OF THE POWERS OF NATIONAL BANKS AND FEDERAL SAVINGS ASSOCIATIONS

August 31, 2011

This chart is intended to provide a summary of the basic powers of federal savings associations and national banks. It is not intended to be a complete inventory of the activities permitted for either type of charter. The chart should not be cited as precedent. The powers identified in this document are evolving and the statutes and regulations cited may be revised in the future. In addition, different facts than those presented in relevant precedent may lead to different results. Therefore, institutions should not engage in activities in reliance on this document and instead should review the authorities cited here and other relevant precedent before engaging in an activity.

The Office of Thrift Supervision (OTS) and the Office of the Comptroller of Currency (OCC) originally produced this chart in 1996. On July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act transferred all rulemaking and examination authority over Federal thrifts from the OTS to the OCC, together with a substantial portion of OTS staff. This chart was prepared by the combined OCC staff.

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SUMMARY OF THE POWERS OF NATIONAL BANKS AND FEDERAL SAVINGS ASSOCIATIONS

August 31, 2011

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
I. DEPOSITS		
1. Brokered Deposits	Well-capitalized FSAs may accept brokered deposits. Adequately capitalized institutions may accept brokered deposits if permitted by the FDIC on a case-by-case basis. 12 U.S.C. § 1831f.	Well capitalized NBs may accept brokered deposits. Adequately capitalized institutions may accept brokered deposits if permitted by the FDIC on a case-by-case basis. 12 U.S.C. § 1831f.
2. Demand Deposits (checking accounts), Negotiable Order of Withdrawal (NOW) Accounts, and Money Market Deposit Accounts	FSAs may offer interest and non-interest bearing demand accounts to all customers. FSA may also offer interest-bearing NOW accounts to individuals, non-profit organizations, and government entities. FSAs must reserve the right to require at least 7 days notice prior to withdrawal from NOW accounts. FSAs may offer money market deposit accounts provided they reserve the right to require at least 7 days prior notice of withdrawal or transfer and depositors are authorized to make no more than 6 transfers per month. 12 U.S.C. §§ 1464(b) and 1832; 12 C.F.R. Part 157; 12 C.F.R. §§ 161.16, 161.28 and 161.29.	NBs may offer interest and non-interest bearing demand accounts to all customers. NBs may also offer interest bearing NOW accounts to individuals, nonprofit organizations, and government entities. 12 U.S.C. §§ 24(Seventh) and 1832; 12 C.F.R. § 204.130.
3. Public Funds	FSAs may accept deposits of federal government funds and public money, serve as fiscal agents of the federal government, and give security in connection with these activities. 12 U.S.C. § 1464(k); 12 C.F.R. §§ 145.16 and 145.101. FSAs may also accept state and local government funds for deposit and give security to the extent state law requires security for such deposits. 12 U.S.C. § 1464(b)(1)(A); 12 C.F.R. § 145.16.	NBs may accept deposits of public money and may be employed as financial agents of the federal government. NBs may be required to provide security in connection with these activities. NBs may also accept, and provide security in connection with, the deposit of state or local government funds, as provided by the law of the state in which the NB is located, as well as of Indian tribal funds. 12 U.S.C. §§ 90 and 265.
4. Special Deposits (receipt of money, financial instruments, or other property for safe-keeping)	FSAs may accept special deposits from customers. 12 U.S.C. § 1464(b).	NBs may receive special deposits from customers. 12 U.S.C. § 24(Seventh); <i>First Natl. Bank of Carlisle v. Graham</i> , 100 U.S. 699 (1880), and <i>Colorado Natl. Bank of Denver v. Bedford</i> , 310 U.S. 41 (1940).

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
5. Time Deposits (CDs, savings accounts, and retirement accounts)	FSAs may offer and pay interest on time and savings deposits without significant restriction. 12 U.S.C. § 1464(b); 12 C.F.R. §§ 157.10; 157.14, and 161.9. FSAs may issue certificates of deposit with interest rates tied to a stock market index. FHLBB Op. Gen. Couns. (Oct. 26, 1987). FSAs may act as trustee for certain retirement accounts without obtaining trust powers. 12 U.S.C. § 1464(l); 12 C.F.R. § 150.580.	NBs may offer and pay interest on time and savings deposits without significant restrictions. 12 U.S.C. § 24(Seventh). NBs may purchase CDs or participations therein as agent for customers. OCC Interpretive Letter No. 385 (June 19, 1987). NBs may use CDs with interest rates tied to a stock market index. OCC Corporate Decision on the Request by Chase Manhattan Bank, N.A. to Offer the Chase Market Index Investment Deposit Account (August 8, 1988).
II. LENDING		
A. Commercial Loans		
1. Commercial Loans - In General (secured or unsecured)	FSAs may make commercial loans, subject to a limit of 20% of total assets and provided that amounts in excess of 10% of assets are used only for small business loans. 12 U.S.C. § 1464(c)(2)(A); 12 C.F.R. § 160.30. Small business loans include any loan to a small business (defined in 13 C.F.R. part 121) and any loan that does not exceed \$2 million and is for commercial, corporate, business, or agricultural purposes. 12 C.F.R. § 160.30.	NBs may make commercial loans without percent of assets restrictions. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.
2. Equity Kicker Loans	FSAs generally may make equity kicker loans under the general lending authorities, subject to safety and soundness considerations. See 12 U.S.C. § 1464(c); Joint Issuance on Leveraged Financing (Apr. 2001).	NBs may accept a share of profit, stock warrants, or stock dividends in lieu of interest, subject to certain limitations. NBs may also finance the acquisition or improvement of real property on which the borrower will operate its business and receive a percentage of the appreciation of the business's value as interest on the loan, subject to certain conditions. OCC Interpretive Letter No. 620 (July 15, 1992); 12 C.F.R. § 7.1006. A NB may acquire an indirect interest in real estate to the extent that this furthers its financing activities. OCC Interpretive Letter No. 1048 (December 21, 2005). A NB may accept a share of oil & gas production from a natural resource deposit as repayment on a loan. OCC Interpretive Letter No. 1117 (May 19, 2009).
3. Financial Institution,	FSAs may make these loans, provided such loans are secured	NBs may make these loans. 12 U.S.C. § 24(Seventh).

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
Broker and Dealer Loans	by assets in which FSAs may invest directly. There is no aggregate limit. The financial institution must be FDIC-insured. The broker or dealer must be registered with the SEC. 12 U.S.C. § 1464(c)(1)(L); 12 C.F.R. § 160.30.	
4. Letters of Credit and Standby Letters of Credit (Independent Undertakings)	FSAs may issue ordinary letters of credit and standby letters of credit. 12 C.F.R. §§ 160.50 and 160.120.	NBs may issue letters of credit and standby letters of credit. 12 C.F.R. § 7.1016.
5. Loan Participations	FSAs may generally engage in loan participations under the general lending authorities, subject to safety and soundness considerations. See 12 U.S.C. § 1464(c); Interagency Statement on Sales of 100% Loan Participations, OTS TB 70 (Apr. 30, 1997).	NBs may purchase participation interests in pooled loans. OCC Interpretive Letter No. 579 (Mar. 24, 1992).
6. Nonresidential Real Estate Secured Loans	FSAs may make these loans, subject to an aggregate limit of 400% of capital. FSAs may exceed the limit upon an OCC determination that increased authority poses no significant risk to safe and sound operation and is consistent with prudent operating practices. 12 U.S.C. § 1464(c)(2)(B); 12 C.F.R. § 160.30.	NBs may make these loans. 12 U.S.C. §§ 24(Seventh), 371(a); 12 C.F.R. Part 34.
7. Short-term Repurchase Agreements	FSAs may enter into short-term repurchase agreements, subject to prudent controls for the purchase and sale of the repurchase agreement, including lending limits and collateral requirements. FHLBB Op. by Smith (June 28, 1988).	This activity is generally permissible for NBs. 12 U.S.C. § 24(Seventh).
B. Consumer Loans		
1. Credit Card Loans	FSAs may make these loans. There is no aggregate limit. 12 U.S.C. § 1464(c)(1)(T); 12 C.F.R. §§ 160.3 and 160.30.	NBs may make these loans. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.
2. Deposit Account Secured Loans	FSAs may make these loans. There is no aggregate limit if the savings account or time deposit account is pledged to the FSA and the loan does not exceed withdrawable amount in the account. 12 U.S.C. § 1464(c)(1)(A); 12 C.F.R. § 160.30.	NBs may make these loans up to the limit of the amount of the deposit. 12 U.S.C. §§ 24(Seventh) and 84.
3. Education Loans	FSAs may make these loans. There is no aggregate limit. 12	NBs may make these loans. 12 U.S.C. § 24(Seventh);

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	U.S.C. § 1464(c)(1)(U); 12 C.F.R. § 160.30.	12 C.F.R. Part 32.
4. Native American Organization Loans	FSAs may make loans to Native American organizations without regard to the limitations and restrictions of certain federal statutes. 25 U.S.C. § 1489.	NBs may make these loans without regard to the limitations and restrictions of certain federal statutes. 25 U.S.C. § 1489.
5. Other Personal, Family, or Household Purpose Loans (i.e., consumer loans)	FSAs may make these loans, provided the aggregate amount does not exceed 35% of assets when combined with commercial paper and corporate debt securities. Amounts in excess of 30% of assets are subject to certain conditions. 12 U.S.C. § 1464(c)(2)(D); 12 C.F.R. § 160.30.	NBs may make these loans. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.
6. Overdraft Loans	FSAs may make these loans. However, overdraft credit relating to commercial demand accounts is subject to the commercial lending limit. 12 U.S.C. § 1464(c)(1)(A); 12 C.F.R. § 160.30.	NBs may make these loans. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.
7. Stock Secured Loans	Loans secured by stock are subject to either the commercial or consumer lending limits, depending upon the purpose of the loan. See 12 U.S.C. §1464(c)(2)(A) and (D); 12 C.F.R. § 160.30.	NBs may make these loans. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32. Loans to purchase stock are limited by Regulation U, 12 C.F.R. § 221.
C. Residential Loans		
1. Construction Loans for Residential Real Estate (unsecured)	FSAs may make these loans provided statutory conditions are met and subject to an aggregate limit equal to the greater of 5% of assets or 100% of capital. 12 U.S.C. § 1464(c)(3)(C); 12 C.F.R. § 160.30.	NBs may make these loans. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.
2. Home Improvement Loans (unsecured)	FSAs may make these loans. There is no aggregate limit. 12 U.S.C. § 1464(c)(1)(J); 12 C.F.R. § 160.30.	NBs may make these loans. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.
3. Residential Real Estate Secured Loans	FSAs may make, invest in, purchase, sell, participate in, or otherwise deal in loans secured by residential real estate, including reverse mortgages without limitations on percentage of assets. This includes loans on manufactured homes, subject to conditions. 12 U.S.C. § 1464(c)(1)(B), (E), and (R); 12 C.F.R. §§ 160.3, 160.30, and 160.101.	NBs may make, arrange, purchase, or sell loans or extensions of credit secured by liens on interests in real estate, including adjustable rate mortgages ("ARMs") and reverse mortgages. 12 U.S.C. §§ 24(Seventh) and 371; 12 C.F.R. Part 34.
4. Shared Appreciation Mortgage ("SAM") Loans	FSAs may make adjustable rate reverse mortgage loans that include an equity share feature, subject to certain conditions	NBs may make SAM loans to developers, subject to certain limitations, for the conversion of residential property into

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	including prompt sale. OTS Op. Ch. Couns., May 3, 1996.	condominium units and receive a fixed amount or percentage of the sales price of each unit sold as a share of the profit, income and earnings. NBs may also finance the acquisition or improvement of real property on which the borrower will operate its business and receive a percentage of the appreciation of the business's value as interest on the loan. OCC Interpretive Letter No. 244 (Jan. 26, 1982); OCC Interpretive Letter No. 620 (July 15, 1992); 12 C.F.R. § 7.1006.
5. Third-Party Loan Origination	No express precedential determination. ¹ See generally Thrift Bulletin 82a, "Third Party Arrangements" (Sept. 1, 2004).	NBs can compensate others for originating loans for them. 12 C.F.R. § 7.1004(a).
6. Manufactured Home Financing Loans	FSAs may make these loans. There is no aggregate limit. 12 U.S.C. § 1464(c)(1)(J); 12 C.F.R. § 160.30.	NBs may make these loans. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.
D. Leasing		
1. Leasing Real or Personal Property	<p>FSAs may engage in general leasing of tangible personal property, including investing in vehicles, manufactured homes, machinery, equipment or furniture for the purpose of leasing such property, subject to a limit of 10% of assets. 12 U.S.C. § 1464(c)(2)(C); 12 C.F.R. §§ 160.30 and 160.41(a) and (d).</p> <p>FSAs may engage in finance leasing activities that are the "functional equivalent of loans" made under various lending authorities, including commercial, business, corporate or agricultural loans, consumer loans and residential and nonresidential real estate loans. To qualify as the functional equivalent of a loan the lease must be: (1) a net, full pay-out lease representing a non-cancelable obligation of the lessee, notwithstanding possible early termination of the lease (a full pay out lease is one in which the scheduled payments provide at least 75% of the principal and interest payments that a lessor would receive if transaction were structured as a loan); (2)</p>	<p>NBs may engage in lease financing of personal property pursuant to 12 U.S.C. § 24(Tenth) ("CEBA leases"). CEBA leases must meet certain requirements: (1) they must be net leases; (2) they are subject to an aggregate investment limit of 10% of the NB's total consolidated assets; and (3) they must have a minimum lease period of 90 days. These leases are not subject to a maximum residual value. 12 C.F.R. Part 23, Subpart B.</p> <p>Pursuant to 12 U.S.C. § 24(Seventh), NBs may also engage in lease financing if the lease is the functional equivalent of a loan under 12 U.S.C. § 24(Seventh). The OCC has interpreted this to mean that § 24(Seventh) leases must be net, full-payout leases. 12 C.F.R. Part 23, <i>M & M Leasing Corp. v. Seattle First Natl. Bank</i>, 563 F.2d 1377 (9th Cir. 1977).</p> <p>The OCC has also permitted personal property lease financing</p>

¹ There are certain powers allowed under OCC statutes, regulations, or interpretations, for which the OTS has not issued a comparable determination for Federal savings associations. This does not mean that the agency would either approve or deny an FSA's request to engage in this activity; rather, it only means the agency has not previously issued a regulation or interpretation of this power.

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	<p>estimation of residual value of property must be reasonable in light of nature of leased property and circumstances so that recovery of investment depends primarily on creditworthiness of lessee, not residual value of property; and (3) at termination, the property must be liquidated. Financing leases are subject to the same investment limits as the corresponding loan categories (e.g., commercial leases must fit within commercial lending limits). 12 U.S.C. §§ 1464(c)(1)(B), (c)(2)(A), (c)(2)(B), and (c)(2)(D); 12 C.F.R. § 160.41(b) and (c).</p> <p>FSA service corporations may acquire and lease personal property to the general public without restriction. 12 C.F.R. § 159.4(c)(2). FSA service corporations may acquire real estate for leasing to others, for construction of improvements, and may acquire improved real estate or manufactured homes for rental or resale. 12 C.F.R. § 159.5(e)(1) and (2).</p>	<p>transactions with an incidental real estate component. See, e.g., OCC Interpretive Letter No. 770 (Feb. 10, 1997) and Corporate Decision No. 98-35 (June 10, 1998).</p> <p>NBs may own or construct a public facility and lease that facility to a municipal or other public authority, provided the lessee will own the facility at the expiration of the lease. 12 C.F.R. § 7.1000(d).</p>
<p>2. Residential Net Leasing Arrangements (Sharia-compliant Murabaha financing transactions)</p>	<p>No express precedential determination.²</p>	<p>NBs may enter into net leases or installment sales of real estate to serve the home finance needs of its customers who are prohibited by religious principles from paying interest and therefore from obtaining traditional mortgages. OCC Interpretive Letter No. 806 (Oct. 17, 1997) and OCC Interpretive Letter No. 867 (June 1, 1999).</p>
<p>III. INSURANCE AND ANNUITIES</p>		

² Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>1. Insurance Sales - In General</p>	<p>FSAs may sell credit-related insurance on an agency basis, without geographic restriction. FSAs selling insurance must comply with applicable state insurance laws. OTS Op. Acting Ch. Couns. (Oct. 17, 1994); OTS Op. Ch. Couns. (Feb. 12, 1996). FSAs may also underwrite or reinsure credit insurance through operating subsidiaries, and, with approval, through service corporations. FHLBB Op. Dep. Ch. Couns. (Feb. 29, 1988), FHLBB Res. No. 86-745 and OTS Op. Chief Couns. (Jan. 10, 1995).</p> <p>FSAs and their operating subsidiaries may sell credit insurance that covers unemployment and single interest property insurance. OTS Op. Ch. Couns. (Feb. 12, 1996).</p> <p>FSA service corporations may engage in the business of viatical financing. OTS Order No. 97-49 (May 20, 1997).</p> <p>FSA service corporations are preapproved to perform insurance brokerage or agency for liability, casualty, automobile, life, health, accident, or title insurance. 12 C.F.R. § 159.4(i).</p>	<p>NBs may sell, directly or through an operating subsidiary, all types of insurance from any office located in a community of 5,000 or less, even if the NB's main office is located in a town whose population exceeds 5,000 inhabitants. 12 U.S.C. § 92, 12 C.F.R. § 7.1001. There is no geographic restriction on the scope of the insurance business; banks may "solicit and serve insurance customers anywhere." See <i>NBD Bank, N.A. v. Bennett</i>, 67 F.3d 629 (7th Cir. 1995); <i>Independent Insurance Agents of America, Inc. v. Ludwig</i>, 997 F.2d 958 (D.C. Cir. 1993); <i>Shawmut Bank Connecticut v. Googins</i>, 965 F. Supp. 304 (D. Conn. 1997).</p> <p>Financial subsidiaries of national banks may sell all types of insurance in any State without regard to geographic restrictions. Financial subsidiaries may engage in activities that are "financial in nature." 12 U.S.C. § 24a(a)(2)(A)(i). Activities that are financial in nature are defined to include "insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death. . . and acting as. . . agent or broker. . . in any State." See 12 U.S.C. §§ 24a(b)(1)(A)(i) and 1843(k)(4)(B).</p> <p>Insurance activities of NBs are functionally regulated by State insurance regulators. 15 U.S.C. § 6711.</p>
<p>2. Annuities</p>	<p>FSAs may sell fixed annuities on an agency basis, without geographic restriction. OTS Op. Acting Ch. Couns. (Oct. 17, 1994); OTS Op. Ch. Couns. (Feb. 12, 1996).</p>	<p>NBs may sell annuities without regard to the place of 5,000 restriction in 12 U.S.C. § 92 on the sale of insurance products. <i>Nationsbank v. Variable Annuity Life Insurance Co.</i>, 513 U.S. 251 (1995).</p>
<p>3. Credit Insurance</p>	<p>FSAs may sell credit-related insurance on an agency basis, without geographic restriction. OTS Op. Acting Ch. Couns. (Oct. 17, 1994); OTS Op. Ch. Couns. (Feb. 12, 1996). FSAs may also underwrite or reinsure credit insurance through operating subsidiaries, and, with OCC approval, through service corporations. FHLBB Op. Dep. Ch. Couns. (Feb. 29, 1988), FHLBB Res. No. 86-745 and OTS Op. Chief Couns. (Jan. 10, 1995).</p>	<p>NBs may underwrite, reinsure, or act as agent in the sale of credit life, accident, disability and health ("credit related insurance products") in connection with consumer and mortgage loans made by the NB and affiliated and unaffiliated lenders. There is no geographic restriction on NB sales of insurance under this authority. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 2; OCC Interpretive Letter No. 866 (Mar. 27, 2000); Conditional Approval No. 334 (Oct. 30, 1999); Corporate Decision Nos. 98-31 (May 26, 1998); 98-28 (May 11, 1998); 97-92 (Oct. 17, 1997); Conditional Approval No. 259, Oct. 31,</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
		1997; <i>IBAA v. Heimann</i> , 613 F.2d 1164 (D.C. Cir. 1979), <i>cert. denied</i> , 449 U.S. 823 (1980).
4. Municipal Bond Insurance	No express precedential determination. ³	NBs may underwrite municipal bond insurance. OCC Interpretive Letter No. 338 (May 2, 1985); <i>American Insurance Association v. Clarke</i> , 656 F. Supp. 404 (D.D.C. 1987), <i>aff'd</i> , 865 F.2d 278 (D.C. Cir. 1989).
5. National Trust Companies - Sale of Insurance	No express precedential determination. ⁴	National trust companies may sell insurance pursuant to § 92 from a trust office that is located in a place of 5,000 if the office performs core fiduciary functions, including accepting fiduciary appointments, executing trust documents, and making decisions regarding the investment and distribution of fiduciary assets. OCC Interpretive Letter No. 877 (Dec. 13, 1999).
6. Reinsurance - Credit Insurance	FSAs may reinsure credit insurance through operating subsidiaries, and, with OCC approval, through service corporations. FHLBB Op. Dep. Ch. Couns. (Feb. 29, 1988), FHLBB Res. No. 86-745 and OTS Op. Chief Couns. (Jan. 10, 1995).	NB operating subsidiaries may provide reinsurance of credit life, accident, health and disability insurance written in connection with loans extended by a bank and affiliated and unaffiliated lenders under the "authorized product" exception of section 302 of the Gramm-Leach-Bliley Act. Corporate Decision No. 2001-10 (Apr. 23, 2001); Corporate Decision No. 2000-16 (Aug. 29, 2000).
7. Reinsurance - Mortgage Insurance	<p>FSAs may participate in a reciprocal mortgage guaranty reinsurance program. OTS Ops. Ch. Couns. (Mar. 11, 1999) and (May 13, 2004).</p> <p>FSA service corporations may reinsure private mortgage insurance on loans originated or purchased by the parent FSA's affiliate. Op. Ch. Couns. (Nov. 2, 1998). OCC will consider, on a case-by-case basis, FSA service corporation applications to engage in mortgage reinsurance activities. See OTS Op. BTD (Oct. 10, 1997) and OTS Order No. 97-107 (Oct. 10, 1997) (second tier FSA service corporation may reinsure a portion of private mortgage insurance issued by third party underwriters on loans originated by the FSA or its mortgage lending subsidiaries).</p>	<p>NBs may reinsure mortgage insurance on loans originated, purchased, or serviced by the bank, its subsidiaries, or its affiliates. 12 C.F.R. § 5.34; Corporate Decision No. 99-02 (Dec. 11, 1998). A NB's captive mortgage reinsurance subsidiary may enter a mortgage reinsurance agreement with a Cayman Island segregated portfolio company to reinsure private mortgage insurance on loans originated or purchased by the NB or one of its affiliates. OCC Interpretive Letter No. 862 (June 7, 1999).</p> <p>NBs may participate in a mortgage reinsurance exchange where the exchange will provide for the reinsurance of private mortgage insurance on loans originated or purchased by participating lenders. OCC Interp. Letter No. 828 (Apr. 6, 1998).</p>

³ Id.

⁴ Id.

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8. Safe Deposit Box Liability Insurance	No express precedential determination. ⁵	NBs may underwrite safe deposit box liability insurance for the safe deposit boxes of the NB and its affiliates. Corporate Decision No. 97-92 (Oct. 17, 1997).
9. Self Insurance	FSAs can self-insure mortgage loans with an LTV between 80% and 90%. Interagency Guidelines for Real Estate Lending Policies, 12 C.F.R. § 160.101 (Appendix).	<p>NBs may establish an operating subsidiary to serve as a captive insurance company for the purpose of underwriting insurance coverage on the operating risks of the parent bank and its affiliates. Corporate Decision No. 99-03 (Dec. 21, 1998); OCC Interpretive Letter No. 845 (Oct. 20, 1998).</p> <p>NBs may participate in a group to self-insure group members’ workers’ compensation obligations. OCC Interpretive Letter No. 1022 (February 15, 2005).</p>
10. Title Insurance	<p>FSAs may make pass-through investments in title insurance agencies and they have incidental authority to sell title insurance on an agency basis. OTS Op. Ch. Couns. (June 23, 2006).</p> <p>FSA service corporations may engage in title insurance brokerage or agency. 12 C.F.R. § 159.4(i).</p>	<p>NBs are prohibited from engaging in “any activity involving the underwriting or sale of title insurance” with 2 exceptions: (1) NBs may sell title insurance in a State where a State bank is permitted to sell title insurance, but only “in the same manner, to the same extent, and under the same restrictions” as the State bank; and (2) a NB and its subsidiaries may “conduct title insurance activities” that the NB or the subsidiary “was actively and lawfully conducting” before Nov. 12, 1999 (enactment date of Gramm-Leach-Bliley Act). 15 U.S.C. § 6713.</p> <p>A financial subsidiary of a NB may sell, but not underwrite, title insurance. 12 U.S.C. § 24a; See 12 C.F.R. § 5.39(e)(1)(ii). The OCC has opined that title insurance agency activities authorized for financial subsidiaries are not subject to the prohibition that applies to NBs under 15 U.S.C. § 6713(a), and that the State bank parity provision in 15 U.S.C. § 6713(b)(1) is not relevant to a financial subsidiary because it is not subject to the general prohibition. See OCC Corporate Decision No. 2000-14 (Sept. 2000).</p>

⁵ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>11. Underwriting of Insurance</p>	<p>FSAs may underwrite credit insurance through operating subsidiaries provided such insurance is issued in connection with loans made by the FSA or the FSA's subsidiaries and, with OCC approval, may do so through service corporations. FHLBB Op. Dep. Ch. Couns. (Feb. 29, 1988); FHLBB Res. No. 86-745; OTS Op. Ch. Couns. (Jan. 10, 1995).</p>	<p>NBs may continue to underwrite any insurance products being lawfully provided by NBs as of Jan. 1, 1999, or that were authorized in writing by the Comptroller as of that date. 15 U.S.C. § 6712.</p>
<p>IV. SECURITIES AND DERIVATIVES</p>		
<p>1. Asset Securitization</p>	<p>Generally, FSAs may use asset securitization to sell any type of loans or other credit receivables they are authorized to originate or purchase under their authority to invest in sell, or otherwise deal in such loans and investments. OTS Op. Chief Counsel (Sept. 14, 2004). However, once the joint regulation implementing DFA section 941(b) is adopted as a final rule, an FSA that acts as "securitizer" (or in some cases "originator") will be required to retain not less than 5% of the credit risk of any asset sold, conveyed or transferred through the issuance of an asset backed security, unless the assets in the securitization are qualified residential mortgages, meet specified underwriting standards or are otherwise exempt from the risk retention requirements of DFA section 941(b) and its implementing regulation. An FSA will be prohibited from directly or indirectly hedging or otherwise transferring the credit risk that it is required to retain. 15 U.S.C. § 78o-11.</p> <p>A FSA that engages directly in the sale of its securitized assets is exempt from SEC broker-dealer registration requirements if certain conditions are met. However, the public offering may be registered under the securities laws. 15 U.S.C. § 78c(a)(4)-(6).</p>	<p>A NB may securitize and sell assets that it holds, as part of its banking business. 12 C.F.R. § 1.3(g). However, once the joint regulation implementing DFA section 941(b) is adopted as a final rule, a NB that acts as "securitizer" (or in some cases "originator") will be required to retain not less than 5% of the credit risk of any asset sold, conveyed or transferred through the issuance of an asset backed security, unless the assets in the securitization are qualified residential mortgages, meet specified underwriting standards or are otherwise exempt from the risk retention requirements of DFA section 941(b) and its implementing regulation. A NB will be prohibited from directly or indirectly hedging or otherwise transferring the credit risk that it is required to retain. 15 U.S.C. § 78o-11.</p> <p>A NB that engages directly in the sale of its securitized assets is exempt from SEC broker-dealer registration requirements if certain conditions are met. However, the public offering may be registered under the securities laws. 12 U.S.C. §§ 24(Seventh) and 371(a); 15 U.S.C. § 78c(a)(4)-(6).</p> <p>For types of securitizations that banks may buy and sell, please see Section VI: Investments.</p>
<p>2. Brokerage of Securities</p>	<p>FSAs conducting broker and dealer activities are subject to SEC registration under the Securities Exchange Act of 1934 to the same extent as are banks conducting those activities. FSA subsidiaries that are not themselves FSAs are not considered "banks" for this purpose and are required to register with the SEC as broker-dealers. 15 U.S.C. § 78c(a)(4) and (6); 12</p>	<p>NBs directly and without registering with the SEC may engage in some types of securities broker-dealer activities, subject to certain conditions, including transactions for trust customers, private placements, issuance and sales of certain asset-backed securities, transactions for certain stock purchase plans, and transactions in "identified banking products" (including generally</p>

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	<p>C.F.R. part 218; 17 C.F.R. part 247.</p> <p>Generally, debt or equity securities issued by the FSA or its affiliate may not be offered or sold on the premises of the FSA. Various exceptions apply, including if the securities are offered or sold by a third-party SEC-registered broker/dealer. 12 C.F.R. §§ 163.76 and 197.17.</p> <p>FSAs may enter into networking arrangements, such as contracts with registered broker-dealers for the provision of brokerage services to customers. See RB 32-34 (Jan. 7, 2004).</p> <p>FSA service corporations are preapproved to perform the following securities activities and related services: (1) execute securities transactions on an agency or riskless principal basis solely for the account of customers; (2) investment advice; (3) liquidity management; and (4) issuing notes, bonds, debentures, or other obligations or securities. 12 C.F.R. § 159.4(f)(2)-(4). FSAs must comply with any federal law that requires registration with the SEC for these activities.</p>	<p>deposit instruments, banker's acceptances, loan participations, and derivatives). 15 U.S.C. § 78c(a)(4)-(6).</p> <p>NB subsidiaries engaging in brokerage activities are required to register with the SEC as broker-dealers. 12 U.S.C. § 24(Seventh); 15 U.S.C. § 78c(a)(4)-(6).</p> <p>A NB may acquire an indirect non-controlling interest in an entity that will provide online securities trading and related services. OCC Interpretive Letter No. 889 (Apr. 24, 2000).</p> <p>NBs may engage in various lobby leasing and employee sharing arrangements that provide full service brokerage and investment advice to customers through use of third-party providers. 12 C.F.R. § 7.3001; OCC Interpretive Letter (June 4, 1985); OCC Interpretive Letter No. 407 (Aug. 4, 1987). 15 U.S.C. § 78(c)(a)(4)(B)(i).</p>
<p>3. Clearing and Execution Services</p>	<p>FSAs and their operating subsidiaries may conduct certain securities clearing and related activities. OTS Op. Ch. Couns. (Nov. 28, 2006). See also OTS Op. Ch. Couns. (June 13, 1994). FSA service corporations registered with the SEC are preapproved to execute securities transactions on an agency or riskless principal basis solely upon the order of and for the account of customers. 12 C.F.R. §159.4(f)(1).</p>	<p>NBs may execute and clear securities transactions. OCC Interpretive Letter No. 494 (Dec. 20, 1989).</p> <p>NBs may become members of certain clearinghouses to facilitate clearing activities. OCC Interpretive Letter No. 1113 (Mar. 4, 2009) (ICE US Trust); OCC Interpretive Letter No. 1122 (July 30, 2009) (ICE Europe).</p>
<p>4. Derivatives Activities</p>	<p>FSAs may engage in transactions involving a financial derivative (<i>i.e.</i>, futures, forward commitments, options, and swaps) if they are authorized to invest in the assets underlying the financial derivative, the transaction is safe and sound, and the FSA's board of directors and management oversees the activity as set forth in 12 C.F.R. § 163.172, including keeping records on that activity. In general, if the FSA engages in a transaction involving a financial derivative, it should do so to reduce its risk exposure. 12 C.F.R. § 163.172(b)(3).</p>	<p>NBs and their subsidiaries may engage in derivative activities (including swaps, futures, forwards, and options) as a financial intermediary or to manage or reduce risks. NBs and their subsidiaries may advise, structure, arrange, and execute transactions, as agent or principal, in connection with interest rate, basis rate, currency, currency coupon, and cash-settled commodity, commodity price index, equity and equity index swaps, and other related derivative products, such as caps, collars, floors, swaps, options, forward rate agreements, and other similar products commonly known as derivatives. NBs</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS ("NBs")
	<p>A FSA may act as principal in providing foreign currency exchange forward contracts to its commercial borrowers. OTS Op. Ch. Couns. (April 3, 2000).</p> <p>A FSA may act as principal in interest rate hedging transactions with its commercial loan customers, subject to conditions. OTS Op. Ch. Couns. (Dec. 30, 1999).</p>	<p>may originate, trade, and make markets in these products. NBs may provide financial advice and counseling for these activities as permissible incidental activities under 12 U.S.C. § 24(Seventh).</p> <p>A NB may purchase options on futures contracts on commodities to hedge the credit risk in its agricultural loan portfolio. OCC Interpretive Letter No. 896, Aug. 21, 2000. A NB may take positions in equity securities solely to hedge bank permissible equity derivative transactions originated by customers for their independent business purposes, subject to certain qualifications. The bank may not hold the securities for speculative purposes. OCC Interpretive Letter No. 892, Sept. 8, 2000.</p> <p>A NB may engage in certain equity derivatives transactions if the transactions are part of the bank’s customer-driven, non-proprietary financial intermediation business and if the bank has in place an appropriate risk measurement and management process. (OCC Interpretive Letter No. 949, Sept. 19, 2002)</p> <p>A NB may purchase and hold options on the shares of stock of a company when the bank has acquired shares in satisfaction of debt previously contracted (DPC) to hedge the market risk associated with changes in the value of the DPC shares. OCC Interpretive Letter No. 961, Mar. 17, 2003.</p> <p>A NB may engage in customer-driven commodity transactions that are physically settled, cash settled, and settled by transitory title transfer. These transactions may be hedged with matching transactions or hedged on a portfolio basis. See, e.g., OCC Interpretive Letters 937 (June 27, 2002), 962 (Apr. 21, 2003), 1039 (Sept. 13, 2005), 1040 (Sept. 15, 2005), 1060 (Apr. 26, 2006), 1065 (July 24, 2006), 1073 (Oct. 19, 2006).</p> <p>A NB may use below-investment grade debt to hedge risks arising from derivatives activities. OCC Interpretive Letters No. 935, May 14, 2002; 1051, February 15, 2006.</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS (“NBs”)
<p>5. Investment Advice</p>	<p>FSAs with trust powers may provide investment advice to any customer through a trust department. 12 C.F.R. § 150.30(j); OTS Op. Acting Ch. Couns. (Dec. 30, 1993).</p> <p>FSAs with trust powers may act as investment advisors to mutual funds. 12 C.F.R. § 150.30(j).</p> <p>An FSA must register when acting as an investment adviser to a mutual fund, unless those activities are conducted through a separately identifiable department or division (SIDD), and then only the SIDD must register. 15 U.S.C. §§ 80b-2(a)(11)(A) and 80b-2(a)(26).</p> <p>Financial advice or consulting for business clients or consumers is a preapproved activity for a FSA service corporation. 12 C.F.R. §§ 159.4(b)(4) & (d)(1).</p> <p>A FSA may engage in private placement of investment grade securities. OTS Order No. 2006-23 (June 1, 2006).</p> <p>A FSA may collect referral fees for referring its small business customers to a registered investment adviser for investment management services, subject to certain limitations. OTS Op. Chief Counsel (May 5, 2000).</p> <p>FSA service corporations are preapproved to execute securities transactions on an agency or riskless principal basis solely for the account of customers and may provide investment advice. Registration with SEC may be required. 12 C.F.R. § 159.4(f)(1).</p>	<p>After May 12, 2001, NBs must register when acting as an investment adviser to a mutual fund, unless those activities are conducted through a separately identifiable department or division (SIDD), and then only the SIDD must register. 15 U.S.C. §§ 80b-2(a)(11)(A) and 80b-2(a)(26). If the investment advisory services are conducted through a subsidiary, the subsidiary must register with the SEC under the Advisers Act. 12 U.S.C. §§ 24(Seventh) and 92a; 12 C.F.R. § 5.34(e)(5)(v)(I); 12 C.F.R. Part 9. See, e.g., OCC Interpretive Letter No. 365 (Aug. 11, 1986). A bank that provides investment advice for a fee may be acting in a fiduciary capacity. 12 C.F.R. § 9.101; OCC Interpretive Letter No. 769 (Jan. 28, 1997).</p> <p>A NB may establish an operating subsidiary to provide, as agent, private placement and related advisory services and to accept performance-linked compensation, including warrants, as the compensation for such services. Neither the NB nor its subsidiary may exercise any warrants, however. OCC Corporate Decision No. 2000-02 (Feb. 25, 2000). A NB may acquire a LLC as an operating subsidiary that serves as general partner to a limited partnership used as an investment vehicle for NB clients. The LLC serves as the sole general partner of a private equity fund (Fund). The NB has the sole membership interest in the LLC and has not guaranteed any of the liabilities of the LLC or the Fund. The LLC's investment in the Fund will be limited to the \$1,000 the LLC contributes to the Fund in order to serve as its general and tax matters partner. OCC Corporate Decision No. 2000-7 (May 10, 2000).</p> <p>A NB may acquire a non-controlling investment in a SEC registered investment advisory company when the investment advisory company owns limited equity interests in investment funds to which it provides investment advisory and related services. The limited interests are necessary for the company to engage in bank permissible investment advisory activities due to investor demands, industry practices, and competitive factors. OCC Interpretive Letter No. 897 (Oct. 23, 2000).</p> <p>A NB or its operating subsidiary may advise state, local and</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS (“NBs”)
		<p>foreign governments on financing projects and assist them in the marketing of their securities, pursuant to their incidental powers. OCC Interpretive Letter No. 122 (Aug. 1, 1979).</p> <p>A NB, in exchange for a finder’s fee, may agree to refer bank customers to a registered investment adviser with personnel on the bank’s premises, and the adviser may manage investment management accounts with the bank’s fiduciary customers under separate sub-adviser agreements with the bank. OCC Interpretive Letter No. 850 (Jan. 27, 1999).</p> <p>When necessary or useful for competitive reasons, a NB may acquire for limited periods of time, interests in private investment funds for which it serves as investment manager and the bank may accept, as compensation for its investment advice, interests in an investment fund for which the bank acts as investment advisor. OCC Interpretive Letter No. 940 (May 24, 2002). See also Conditional Approval No. 578 (February 27, 2003).</p> <p>A NB may issue financial warrantees in connection with its activities as a consultant and advisor to a principal protected mutual fund. 12 C.F.R. § 7.1017; OCC Interpretive Letter No. 1010 (Oct. 7, 2004).</p>
<p>6. Mutual Fund Activities</p>	<p>FSAs may (1) act as custodian, transfer agent, and investment adviser to a mutual fund (investment company), and (2) broker both proprietary and third party mutual funds. Subsidiaries must register with the SEC under the securities laws when engaging in securities brokerage activities or acting as an investment adviser to a mutual fund. 15 U.S.C. §§ 78(c)(4)-(6), 80b-2(a)(11). FSAs must register with the SEC when acting as an investment adviser to a mutual fund. 15 U.S.C. §§ 80b-2(a)(11)(A), 80b-2(a)(26).</p> <p>FSA service corporations may sponsor, advise, and distribute mutual funds, in addition to brokering both proprietary and third party mutual funds, with OCC approval. See FHLBB Res. No. 88-237.</p>	<p>NBs may: (1) act as custodian, transfer agent, and investment adviser to a mutual fund (investment company), and (2) broker both proprietary and third party mutual funds. Subsidiaries must register with the SEC under the securities laws when engaging in securities brokerage activities or acting as an investment adviser to a mutual fund. 12 U.S.C. § 24(Seventh); 15 U.S.C. §§ 78(c)(4)-(6), 80b-2(a)(11). NBs must register with the SEC when acting as an investment adviser to a mutual fund. 15 U.S.C. §§ 80b-2(a)(11)(A), 80b-2(a)(26).</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
7. Securities Lending	FSAs may engage in securities lending, including conduit lending, with respect to any type of security the FSA may invest in under 12 U.S.C. § 1464(c). OTS Op. Ch. Couns. (Nov. 28, 2006). <i>See also</i> OTS Op. Ch. Couns. (June 13, 1994).	NBs may engage in securities lending activities, including "conduit" lending, as part of their custody services. OCC Interpretive Letter No. 1026 (Apr. 27, 2005).
8. Sweeps	FSAs may establish sweep arrangements using government securities repurchases. FSAs may also sweep funds out of the thrift for investment in mutual funds overnight, subject to certain conditions. OTS Op. Ch. Couns. (Mar. 2, 1998). <i>See also</i> OTS Op. Ch. Couns. (Aug. 1, 2000) (FSA may provide one way sweep arrangements to commercial depositors).	NBs may sweep funds from a corporate demand deposit account to a proprietary money market account. OCC Interpretive Letter Nos. 760 (Nov. 14, 1996), and 688 (May 31, 1995).
9. Underwriting of Securities	<p>FSAs may underwrite without limitation Federal government and certain government-sponsored enterprise securities. 12 U.S.C. § 1464(c)(1)(C)-(F), 12 C.F.R. § 160.30. FSAs may, subject to certain restrictions, underwrite and deal in the following types of securities issued by states and their political subdivisions: (1) general obligation bonds; (2) municipal revenue bonds; and (3) municipal notes. FSAs may not invest more than 10% of capital in state or municipal non-general obligation securities of any one issuer. Additional supervisory limits and conditions may apply. 12 U.S.C. § 1464(c)(1)(H); 12 C.F.R. 160.30. OTS Op. Ch. Couns. (Oct. 29, 2001).</p> <p>FSAs and their operating subsidiaries may own, sell, underwrite, and deal in asset-backed securities because FSAs may engage in these activities either as an express power under HOLA or as an incidental power. OTS Op. Ch. Couns. (Sept. 14, 2004).</p> <p>FSA service corporations may underwrite and deal in municipal securities. OTS Op. Ch. Couns. (June 19, 2001).</p>	<p>NBs may underwrite without limitation general obligations of the U.S. and Canada and of the states, provinces, and political subdivisions thereof, as well as the obligations of certain government-sponsored entities. NBs may also underwrite certain other specialized obligations issued for housing, dormitory, and university purposes, subject to a limitation of 10% of capital and surplus. Well-capitalized banks also may underwrite municipal revenue bonds. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 1.3.</p> <p>Financial subsidiaries may engage in securities underwriting. 12 U.S.C. § 24a. <i>See also</i> OCC Interpretive Letter No. 351 (Jan. 28, 2000).</p>
V. TRUST AND OTHER FIDUCIARY SERVICES		

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>1. Trust and Other Fiduciary Services</p>	<p>With OCC approval, FSAs may exercise trust powers in any state that authorizes state banks, trust companies, or other corporations that compete with FSAs, to act as fiduciaries to the same extent as those fiduciaries are authorized to act. 12 U.S.C. § 1464(n); 12 C.F.R. Part 150; OTS Ops. Ch. Couns. (May 5, 1995); (Mar. 28, 1996); and (Oct. 28, 2004).</p> <p>FSAs may market trust services interstate without regard to state laws that prohibit foreign fiduciaries from marketing. 12 C.F.R. § 150.130(b)(1); OTS Op. Ch. Couns. (June 21, 1996).</p> <p>FSAs may perform ancillary services pursuant to serving as testamentary trustee or holding real estate in trust without being deemed located in states where incidental services are provided. OTS Op. Ch. Couns. (Aug. 8, 1996). See OTS Op. Ch. Couns. (July 1, 1998) (incidental services to pre-need funeral trusts); OTS Op. Ch. Couns. (Dec. 21, 1998) (FSAs may pay referral fees to third parties for referral of trust business); OTS Op. Ch. Couns. (Oct. 17, 1995) (FSA may provide ministerial support services as agent for unaffiliated trust company); OTS Op. Ch. Couns. (Nov. 22, 1995) (FSAs with trust powers, in conducting trust activities, may contract with affiliate to provide management and advisory services).</p> <p>FSAs may establish or utilize an office in any state to perform activities that are ancillary to the FSA's fiduciary business. Ancillary activities include advertising, marketing, or soliciting fiduciary business, contacting customers, answering questions and providing information. FSAs may exercise trust powers through agency offices located in any state that authorizes state banks or other companies to act as fiduciaries. 12 C.F.R. §§ 150.70, 130.130(b)(2), and 150.136(a); OTS Op. Ch. Couns. (Mar. 28, 1996).</p> <p>FSAs may act in a variety of fiduciary capacities that involve securities, including registrar of stocks and bonds, transfer agent, and acting in any capacity in which the association has investment discretion. 12 C.F.R. § 150.30.</p>	<p>Upon the approval of the OCC, NBs may act in a fiduciary capacity to the same extent as state banks, trust companies or other local competitors are permitted to act under the laws of the state in which the NB is located. NBs may establish trust companies as operating subsidiaries in any state without regard to the branching restrictions of 12 U.S.C. §§ 24(Seventh), 36, and 92a; 12 C.F.R. Part 9 and § 5.26; OCC Interpretive Letter No. 695 (Dec. 8, 1995). NBs with fiduciary powers may serve trust customers nationwide, including at trust representative offices where the bank performs services for trust customers but does not conduct any core activities that would deem it to be a branch (<i>i.e.</i>, receive deposits, pay checks, or lend money) without regard to state requirements that restrict entry, offices, marketing, or otherwise attempt to limit the exercise of lawful NB fiduciary business, including licensing requirements. OCC Interpretive Letter Nos. 866 (Oct. 8, 1999); 872 (Oct. 28, 1999); and 1106 (Oct. 10, 2008).</p> <p>NBs also may operate as limited purpose trust banks and need not engage in all banking functions. 12 U.S.C. § 27.</p> <p>NBs may invest fiduciary assets in collective investment funds (CIFs). 12 C.F.R. § 9.18. NBs may charge a different management fee to CIF participants, commensurate with the amount and types of services it provides to participants. OCC Interpretive Letter No. 829 (Apr. 9, 1998). NBs may invest assets of tax-exempt employee benefit accounts held by the bank "in any capacity (including agent)" in Part 9 collective investment funds, provided the fund itself is exempt from federal taxation. OCC Interpretive Letter No. 884 (Jan. 13, 2000). A NB may pool individual fiduciary accounts and self-deposit them in a short-term investment fund. See 12 C.F.R. §§ 9.10(b) and 9.12.</p> <p>NBs with fiduciary powers may engage in certain real estate brokerage and related activities as a fiduciary (<i>e.g.</i>, management of real property as agent or trustee for its customers). OCC Interpretive Letter No. 265 (July 14, 1983). NBs are not subject to state laws that require this business to</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
	<p>FSAs with trust powers may provide investment advice to customers for a fee. 12 CFR 150.30.</p> <p>FSAs may pay referral fees to third parties that refer trust business to the FSA. OTS Op. Ch. Couns. (Dec. 21, 1988); TB 76a-1 (Feb. 20, 2008).</p>	<p>be performed in a particular structure.</p> <p>A bank that provides investment advice for a fee may be acting in a fiduciary capacity. 12 C.F.R. § 9.101; OCC Interpretative Letter No. 769 (Jan. 28, 1997).</p>
VI. INVESTMENTS		
1. Agricultural Cooperatives	No express precedential determination. ⁶	Under Part 24, a NB may purchase common stock in an agricultural cooperative, where the bank's liability was limited to the amount of its equity investment. Approval Letter (Sept. 4, 2001), National Bank Community Development Investments 2001 Directory.
2. Agricultural Credit Corporations	FSAs may purchase stock of the Federal Agricultural Mortgage Corporation (Farmer Mac) in nominal amounts necessary to enable the FSA to sell agricultural loans to Farmer Mac and to participate in Farmer Mac's secondary market programs. OTS Op. Ch. Couns. (Oct. 14, 1997).	NBs may purchase stock of a corporation organized to make loans to farmers and ranchers for agricultural purposes. An investment in such an agricultural credit corporation may not exceed 20 percent of a NB's capital and surplus, unless the NB owns at least 80 percent. 12 U.S.C. § 24(Seventh).
3. Asset-Backed Securities	FSAs and operating subsidiaries may own, sell, underwrite, and deal in asset-backed securities either as an express power under HOLA or as an incidental power. FSAs may use asset securitization to sell any type of loan or other credit receivable they are authorized to originate or purchase. Assets typically securitized include: (1) credit card receivables; (2) automobile receivable paper; (3) commercial and residential first mortgages; (4) commercial loans; (5) home equity loans; and (6) student loans. Further, unrated ABS such as interests in loans or pools of loans that a FSA may invest in directly, are not prohibited by 12 U.S.C. § 1831e. Eligibility to invest and aggregate limit on investment depends upon type of asset securitized. There is no aggregate limit for mortgage-backed securities. OTS Op. Ch. Couns. (Sept. 14, 2004); 12 C.F.R § 160.30.	NBs may invest up to 25% of capital and surplus in marketable investment grade securities that are fully secured by interests in a pool of loans to numerous obligors and in which a NB may invest directly. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 1. The 25% limit does not necessarily apply to securities derived from securitizations of a bank's own originated loans. OCC Interpretive Letter No. 1035 (July 21, 2005).

⁶ Id.

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4. Auction-Rate Securities	No express precedential determination. ⁷	NBs may invest in auction-rate securities, where the underlying assets are municipal bonds, student loans, or auction-rate preferred securities. OCC Interpretive Letter No. 1124 (Nov. 3, 2009).
5. Bank Service Companies	<p>FSAs may invest up to 10% of their capital and surplus or 5% of their assets (whichever is lower) in service corporations engaged in: (1) correspondent banking services without geographic limitation; (2) any activity except for deposit-taking that NBs can engage in, but subject to the branching restrictions that apply to the NB in the state where it is located; and (3) with FRB approval and subject to branching restrictions, any activity other than deposit-taking that bank holding companies can engage in under § 4(c)(8) of the BHCA. 12 U.S.C. § 1861 et seq.</p> <p>The HOLA provides separate authority for FSAs to make service corporation investments under 12 U.S.C. § 1464(c)(4)(B). Please see Section X. Activities Conducted Through Affiliates: 6. Service Corporations.</p>	NBs may invest in bank service companies if the amount invested does not exceed 10 percent of the bank's capital and surplus and all investments in bank service companies do not exceed 5 percent of the NB's assets. 12 U.S.C. § 1862; 12 C.F.R. § 5.35.
6. Bank's Own Stock	No express precedential determination. ⁸	NBs may purchase treasury stock to fulfill a legitimate corporate purpose, including in connection with an employee stock purchase plan, directors qualifying shares, or a reverse stock split. 12 U.S.C. § 83; 12 C.F.R. § 7.2020; OCC Interpretive Letter No. 825 (Mar. 16, 1998); OCC Interpretive Letter No. 786 (June 9, 1997); OCC Interpretive Letter No. 660 (Dec. 19, 1994).
7. Banker's Acceptances	FSAs may invest in banker's acceptances issued by other nonaffiliated institutions without investment limit 12 U.S.C. § 1464(c)(1)(M).	NBs may invest in banker's acceptances created by other nonaffiliated banks without limit, if the banker's acceptances are created in accordance with 12 U.S.C. § 372, and are thus "eligible" for discount with a Federal Reserve Bank. However, § 372(b), (c) and (d) restrict investment in the aggregate amount of banker's acceptances created by any one bank. Holdings of "ineligible" banker's acceptances must be included in the purchasing bank's lending limit to the accepting bank. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 32.

⁷ Id.

⁸ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
8. Bankers' Banks	<p>FSAs may purchase shares in bankers' banks, or their holding companies that have depository institutions or depository institution holding companies as investors, in an amount of up to 10% of the FSA's capital stock and unimpaired surplus. In addition, each FSA may not hold more than 5% of the voting securities of the bankers' bank/holding company. 12 U.S.C. § 1464(c)(4)(E); 12 C.F.R. § 160.30.</p>	<p>NBs may invest in banker's banks, or their holding companies, in an amount of up to 10% of the NB's capital stock and unimpaired surplus. In addition, NBs may not hold more than 5% of the voting securities of a bankers' bank or holding company. 12 U.S.C. § 24(Seventh). A bankers' bank may be organized as a NB and the OCC may waive requirements that are applicable to NBs in general if the requirements are inappropriate for a national bankers' bank and would impede the provision of its services. 12 U.S.C. § 27(b); 12 C.F.R. § 5.20.</p>
9. Commercial Mortgage-Related Securities	<p>FSAs may invest in, sell, or otherwise deal in certain high quality real estate mortgage-backed securities. No statutory or regulatory investment limit applies. 12 U.S.C. § 1464(c)(1)(R); 12 C.F.R. § 160.30.</p>	<p>NBs may invest in certain commercial real estate mortgage-backed securities without investment limit. 12 U.S.C. § 24(Seventh); 15 U.S.C. § 78c(a)(41)(A)(I); 12 C.F.R. Part 1.</p>
10. Commercial Paper	<p>FSAs may invest in, sell, or hold commercial paper subject to certain requirements and limits (<i>i.e.</i>, ratings, lending limits, information retention, percent of asset limitations, appropriate underwriting). 12 U.S.C. § 1464(c)(2)(D); 12 C.F.R. §§ 160.30, 160.40 and 160.93(d)(5).</p> <p>These investments are subject to the aggregate limit of 35% of total assets, which applies to investments in commercial paper, corporate debt securities, and consumer loans. Amounts in excess of 30% are subject to additional conditions. 12 U.S.C. § 1464(c)(2)(D); 12 C.F.R. § 160.30 n.2.</p> <p>These investments are subject to a per issuer limit of 10% of the FSA's unimpaired capital and unimpaired surplus. 12 C.F.R. § 160.93(d)(5).</p> <p>Total investments in the commercial paper and corporate debt securities of any one issuer, or issued by any one person or entity affiliated with the issuer, together with loans, must not exceed the general lending limit. 12 C.F.R. § 160.40(a)(3).</p> <p>See also "Corporate Debt Securities/Bonds" below.</p>	<p>NBs may purchase as investment securities commercial paper that is rated in one of the four highest commercial paper ratings by national statistical rating organizations. NBs may hold commercial paper as loans, subject to the lending limits and loan underwriting safety and soundness standards. 12 U.S.C. §§ 24(Seventh) and 84; 12 C.F.R. Parts 1 and 32.</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>11. Community Development/Public Welfare Investments</p>	<p>FSAs may make investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 <i>et seq.</i>). Community development investments and loans are limited to 5% of total assets, provided that equity investments in real property may not exceed 2% of total assets. 12 U.S.C. § 1464(c)(3)(A); 12 C.F.R. § 160.30. This authority encompasses residential and commercial community development investments. See OTS Ops. Ch. Couns. (Nov. 22, 1996); (May 10, 1995); and (Feb. 9, 2004).</p> <p>FSAs may form community partnerships with community development financial institutions. 12 U.S.C. § 4705. FSAs may invest in the aggregate up to the greater of 1% of their total capital or \$250,000 in community development investments of the type permitted for NBs under 12 C.F.R. Part 24; 12 C.F.R. § 160.36.</p> <p>FSAs may invest in:</p> <ul style="list-style-type: none"> - the development of a commercial industrial building that OCC determines is a bona fide community development investment, provided certain conditions are met. OCC will do a case-by-case review for commercial community development investments. OTS Op. Ch. Couns. (July 20, 1999). See also Community Development Investment Authority: A Guide to the Federal Laws & Regulations Governing Community Development Activities of Savings Associations, OTS (Dec. 1998). - generally, in business development credit corporations chartered in their home state to the same extent as state-chartered FSAs in the state, subject to an aggregate limit of the lesser of 0.5% of total outstanding loans or \$250,000. 12 U.S.C. § 1464(c)(4)(A); 12 C.F.R. § 160.30. - low-income housing tax credit partnerships, under limited 	<p>NBs have express authority to invest, directly or indirectly (including through subsidiaries), an amount not to exceed 5% of their unimpaired capital stock and 5% of their unimpaired surplus fund in investments that promote the public welfare by benefitting primarily low- and moderate-income communities or families, provided the investments do not expose the NB to unlimited liability. The OCC may increase this investment authority to a total not to exceed 15% of unimpaired capital and surplus for NBs that are at least adequately capitalized if the OCC determines that the higher investment will pose no significant risk to the deposit insurance funds. NBs are also authorized to invest in various HUD-insured loans and obligations issued by government housing projects. NBs may also form community partnerships with community development financial institutions. 12 U.S.C. §§ 24(Seventh), (Eighth), and (Eleventh), and 4705; 12 C.F.R. Part 24. A NB may be a member of a partnership formed to build or rehabilitate low- and moderate-income housing. 12 U.S.C. § 24(Seventh) and 42 U.S.C. § 3931, <i>et seq.</i></p>

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	<p>circumstances. OTS Op. Act. Ch. Couns. (Nov. 10, 1994).</p> <ul style="list-style-type: none"> - National Housing Partnership Corporation, partnership, and joint venture stock or ownership units issued by a corporation authorized to be created under 42 U.S.C. § 3932 to build, rehabilitate, acquire, and finance housing and related facilities for low- and moderate income families and individuals, and in any partnership, limited partnership, or joint venture formed under 42 U.S.C. § 3937(a) or (c) for developing low- and moderate-income housing. 12 U.S.C. § 1464(c)(1)(N). - stock, obligations, or other securities of any New Markets Venture Capital company (defined in 15 U.S.C. § 689), up to 5% in the aggregate of the FSA's capital and surplus. 12 U.S.C. § 1464(c)(4)(F). - rural business investment companies, or any entity established solely to invest in rural business investment companies, up to 5% of total capital. 7 U.S.C. § 2009cc-9; 12 C.F.R. § 160.30. <p>FSA service corporations are preapproved to make certain community development and public welfare investments. 12 C.F.R. §§ 159.4(g) & (h).</p>	
<p>12. Convertible Securities</p>	<p>A FSA may invest in convertible securities. Generally, they must be investment grade and marketable. The purchase of securities convertible into stock at the option of the issuer is prohibited. At the time of purchase, the cost of the securities must be written down to an amount that represents the investment value of the securities considered independently of the conversion feature. The FSA is prohibited from exercising the conversion feature. 12 C.F.R. §§ 160.30 n.3, 160.40.</p> <p>Limits described above under "Commercial Paper" apply.</p>	<p>NBs may purchase securities convertible into stock, provided that convertibility is not at the option of the issuer. 12 C.F.R. § 1.6.</p>
<p>13. Corporate Debt Securities/Bonds</p>	<p>FSAs may invest in, sell, or hold corporate debt securities subject to certain requirements and limits (<i>i.e.</i>, marketability requirements, ratings, lending limits, information retention, percent of asset limitations, appropriate underwriting). 12 U.S.C. §§ 1464(c)(2)(D) and 1831e(d); 12 C.F.R. §§ 160.30 and</p>	<p>NBs may invest in any corporate debt security that meets the following requirements: (1) the security can be sold with reasonable promptness at its fair market value; (2) the security is of investment grade; and (3) total investments in any one issuer do not exceed 10% of the NB's capital and surplus. 12</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
	<p>160.40, and 160.93(d)(5). There is a per issuer limit of 10% of unimpaired capital and surplus and aggregate limit of 35% of total assets, combined with commercial paper and consumer loans. These limits are described more fully above in connection with commercial paper. Amounts in excess of 30% are subject to additional conditions.</p> <p>Debt securities that do not meet regulatory investment requirements generally may not be purchased pursuant to lending authority because a FSA may not acquire or retain, directly or through a subsidiary, a corporate debt security that is not of investment grade or, as of July 21, 2012, does not meet the FDIC's standards of credit-worthiness. This limitation does not apply to securities of certain government-sponsored enterprises, however. In the case of a mutual FSA, a subsidiary other than an insured depository institution is not subject to this prohibition if the FSA's investments in and extensions of credit to the subsidiary are deducted from the FSA's capital. 12 U.S.C. § 1831e(d).</p> <p>With OCC approval, a FSA may invest in corporate debt securities of another savings association in connection with the purchase or sale of a branch office or in connection with a supervisory merger or acquisition. 12 C.F.R. § 160.40(b).</p>	<p>U.S.C. § 24(Seventh); 12 C.F.R. Part 1. Fixed rate annuities are treated as a debt security. OCC Interpretive Letter No. 1021 (February 17, 2005).</p> <p>A Federal branch may purchase bonds convertible into equity as permissible investments under Part 1 if the bonds are the credit equivalent of investment grade and marketable. The subsequent sale of a call option on a bond does not affect its marketability. In addition, a NB can purchase bonds convertible into equity where it does not exercise the conversion feature. Debt securities should be assigned their own separate credit rating. Alternatively, this purchase is permissible under the branch's lending authority if the branch complies with BC-181. OCC Interpretive Letter No. 930 (Mar. 11, 2002)</p> <p>A NB has the authority to acquire and hold the preferred stock of an unaffiliated company under its authority in 12 U.S.C. 24(Seventh). OCC Interpretive Letter No. 941 (June 11, 2002); and No. 1086 (Aug. 23, 2007).</p>
14. Deposit Accounts	<p>FSAs may invest in the deposit accounts of any insured depository institution, without investment limit. 12 U.S.C. § 1464(c)(1)(G); 12 C.F.R. § 160.30.</p>	<p>NBs may make deposits in other depository institutions, provided total deposits in any non-Federal Reserve member institution do not exceed 10% of the NB's capital and surplus. 12 U.S.C. § 463.</p>
15. Foreign Government Securities	<p>FSAs may invest in securities of foreign governments, subject to the commercial lending limit and safety and soundness. 12 U.S.C. § 1464(c)(2)(A); OTS Op. Acting Ch. Couns. (June 18, 1993).</p> <p>FSAs may issue debt securities and warrants to purchase debt securities denominated in foreign currencies. OTS Op. Ch. Couns. (Feb. 1, 2000).</p> <p>FSAs may make certain foreign assistance investments, not to</p>	<p>NBs may deal in, underwrite, or invest in securities of Canada and political subdivisions of Canada. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 1.2(i). NBs may also invest in the securities of other foreign governments, provided that the securities are marketable debt obligations that are not predominantly speculative in nature and no more than 10 percent of a NB's capital and surplus is invested in the securities of any one foreign government. 12 C.F.R. § 1.2(e), (j).</p>

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	exceed 1% of total assets. 12 U.S.C. § 1464(c)(4)(C); 12 C.F.R. § 160.30.	
16. Insurance Company Products; Investment Funds	No express precedential determination. ⁹	<p>A NB subsidiary may hold various insurance company products and investment funds containing bank ineligible securities in order to hedge, on a dollar-for-dollar basis, the subsidiary's obligations to make payments to employees under certain deferred compensation plans. OCC Interpretive Letter No. 878 (Dec. 12, 1999).</p> <p>When necessary or useful for competitive reasons, a NB may acquire for limited periods of time, interests in private investment funds for which it serves as investment manager and the bank may accept, as compensation for its investment advice, interests in an investment fund for which the bank acts as investment advisor. OCC Interpretive Letter No. 940 (May 24, 2002).</p>
17. Life Insurance (BOLI)	FSAs may purchase life insurance for business needs. OTS Reg, Bul. 32-26 (July 31, 2002); Examination Handbook, Section 250, Appendix A; Thrift Bulletin 84 (Dec. 14, 2004).	NBs may purchase life insurance for business needs. 12 U.S.C. § 24(Seventh), OCC Interpretive Letter No. 848 (Nov. 23, 1998). OCC Bulletin 2004-56 (Dec. 7, 2004).
18. Money Market Preferred Stock	No express precedential determination. ¹⁰	NBs may invest in money market preferred stock as Type III investment securities, provided the investment is marketable and not predominantly speculative in nature. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 1; OCC Interpretive Letter No. 781 (Apr. 9, 1997).
19. Mutual Fund Shares	FSAs may purchase for their own accounts, without investment limit, shares of any registered open-end mutual fund that invests exclusively in assets that FSAs may hold without investment limit. The underlying assets in the fund would be aggregated with other investments made by the FSA in calculating investment limits. 12 U.S.C. § 1464(c)(1)(Q); 12 C.F.R. § 160.30 n.15. Pursuant to pass-through investment authority, a FSA may also make investments in an open-end mutual fund or closed-end investment trust that invests solely in assets	NBs may purchase for their own accounts, shares of any "investment company," with certain limitations. Shares of investment companies whose portfolios contain investments that are subject to the limits of 12 U.S.C. § 24 may only be held in an amount not in excess of either: (1) the amount equal to the appropriate investment limit for each security in the investment company or applied to the aggregate amount of the bank's pro rata holdings of that security in the investment company and the NB's direct holding of that security; or (2) the

⁹ Id.

¹⁰ Id.

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	<p>permissible for a FSA. SEC registration is not an express requirement of pass-through authority. 12 C.F.R. § 160.32.</p>	<p>most stringent investment limitation that would apply to any of the securities in the investment company's portfolio if those securities were purchased directly by the NB. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 1.</p>
<p>20. Non-controlling Minority Interests (including limited liability companies)</p>	<p>FSAs may make pass-through investments in entities that engage only in activities that the FSA may conduct directly, subject to certain requirements. 12 C.F.R. § 160.32.</p> <p>FSAs may make pass-through investments without prior notice if (1) not more than 15% of the FSA's total capital is invested in one company; (2) aggregate pass-through investments do not exceed 50% of the FSA's total capital; (3) the investment does not give the FSA control of the company; (4) the FSA's liability is limited to the amount of the investment; and (5) the company is a limited partnership, an open-end mutual fund, a closed-end investment trust, a limited liability company, or an entity in which the FSA is investing primarily to use the company's services. 12 C.F.R. § 160.32(b).</p> <p>Pass-through investments that do not meet the foregoing criteria require prior notice to the OCC, and if the OCC determines that an investment presents supervisory, legal, or safety and soundness concerns, the FSA must apply for and receive OCC's prior approval before making the investment. 12 C.F.R. § 160.32(c).</p> <p>FSAs may invest in service corporations that they may or may not control, but only savings associations with the same home State may be owners of a first-tier service corporation. 12 C.F.R. §§ 159.3(b)(2)(& (c)(2).</p>	<p>NBs, either directly or through operating subsidiaries, may acquire noncontrolling minority investments in business entities if: (1) the entities engage in activities that are limited to those that are part of or incidental to the business of banking (or otherwise authorized for a NB), (2) the NB can prevent the company from engaging in activities that are not part of, or incidental to, the business of banking or be able to withdraw its investment, (3) the NB's loss exposure is limited as a legal matter and the bank does not have unlimited liability for the obligations of the enterprise; and (4) the investment is convenient or useful to the bank in carrying out its business and is not a mere passive investment unrelated to that NB's banking business. 12 C.F.R. § 5.36.</p> <p>An NB that is well-managed and well-capitalized may make noncontrolling equity investments in an enterprise under certain conditions, and provided the enterprise only engages in certain specified activities or one substantively the same as those published in OCC precedent. 12 C.F.R. §§ 5.34(e)(5)(v) and 5.36(e).</p> <p>Also, a well-capitalized and well-managed NB that also has well-capitalized and well-managed affiliated depository institutions may make a minority or non-controlling investment in a financial subsidiary that is controlled by one or more NBs as provided in 12 U.S.C. § 24a; 12 C.F.R. § 5.39.</p>
<p>21. Private Investment Fund or Private Equity Fund</p>	<p>FSAs may not make these investments once 12 U.S.C. § 1851 comes into effect.</p>	<p>Under certain restrictions, NBs may own less than 25% of a private equity fund for which the NB serves as investment manager. OCC Interpretive Letter No. 940; Conditional Approval Nos. 578, 643, and 755. However, such activities will be restricted once Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act come into effect. NBs will be prohibited from making these investments once 12 U.S.C. § 1851 comes into effect.</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>22. Real Estate (FSA/NB Premises)</p>	<p>FSAs may invest in improved or unimproved real estate to be used for their own offices and related facilities and for reasonable future expansion, provided such investments are made and maintained under a prudent program of property acquisition to meet present needs or reasonable future needs for office space and related facilities. The outstanding book value of all investments for office space and related facilities when aggregated with the amount of service corporation investments in real estate maintained for offices and related facilities may not exceed a FSA's total capital. 12 C.F.R. § 160.37.</p> <p>Generally 25% FSA occupancy is required for a building to be considered FSA premises. OTS Examination Handbook Section 252.</p>	<p>NBs may invest in bank premises without OCC approval if: (1) the aggregate amount of the investment is less than or equal to the NB's capital stock; or (2) the aggregate amount of the investment is less than or equal to 150% of the NB's capital and surplus, and the NB is well-capitalized and has a CAMELS rating of 1 or 2, provided that the bank provides the OCC notice 30 days after this investment. Prior OCC approval is required for investments in bank premises that do not meet the above criteria, but the application may be deemed approved after 30 days unless the OCC notifies the bank otherwise. 12 U.S.C. §§ 29 and 371d; 12 C.F.R. §§ 5.37 and 7.1000; Conditional Approval No. 298 (Dec. 15, 1998).</p> <p>NBs may own or lease bank premises larger than their current needs dictate. However, generally 20% bank occupancy is required for a building to be considered bank premises. Excess space acquired in furtherance of banking operations may be leased to third parties. OCC Interpretive Letters No. 1053; 1034 (Apr. 1, 2005); Conditional Approval No. 298 (Dec. 15, 1998).</p>
<p>23. Real Estate (Other)</p>	<p>FSAs may hold and convey real estate mortgaged to them or conveyed to them as security for or in satisfaction of debts previously contracted, and as purchased at sales under judgments, decrees, or mortgages held by the FSA to secure debts due to it (REO). Generally, a FSA may not hold REO for longer than 5 years, unless approved by OCC. Thrift Activities Regulatory Handbook § 251.</p> <p>FSA service corporations may hold real estate for construction and development purposes. 12 C.F.R. §§ 160.30 and 159.4(e).</p> <p>FSAs may invest in real estate to further community development subject to an aggregate limit of 2% of assets. 12 U.S.C. § 1464(c)(3)(A).</p>	<p>NBs may purchase, hold and convey real estate as mortgaged to them or conveyed as security for or in satisfaction of debts previously contracted, and as purchased at sales under judgments, decrees or mortgages held by a bank or to secure debts due to it (REO). A NB may not hold real estate conveyed to it to satisfy debts previously contracted for longer than 5 years, unless a period of up to an additional 5 years is approved by the OCC. NBs may also make limited expenditures to preserve REO or make it marketable for sale. 12 U.S.C. § 29; 12 C.F.R. §§ 34.82 and 34.86; 12 C.F.R. § 7.1000. Under certain conditions, NBs may also hold REO through an LLC set up specifically to hold, manage, and dispose of such property within the 5-year disposal timeframe. OCC Interpretive Letter Nos. 1118 (Feb. 2, 2009); and 1123 (Sept. 18, 2009).</p> <p>Aside from property necessary for the transaction of its business and REO, the authority of NBs to acquire interests in real property is limited. Permissible examples include purchasing and leasing municipal buildings and residences of</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
		<p>certain bank employees who have been transferred. 12 C.F.R. § 7.1000.</p> <p>In certain instances, NBs have been permitted to acquire circumscribed interests in real property as part of an otherwise permissible bank transaction. For example, NBs may serve as exchange accommodation titleholders for customers engaging in reverse like-kind exchange transactions. As part of this service, banks may acquire a severely circumscribed interest in real estate being exchanged. Conditional Approval No. 706 (Oct. 6, 2005). See also OCC Interpretive Letter No. 966 (May 12, 2003).</p>
24. Residential Mortgage-Related Securities	<p>FSAs may generally invest in mortgage-related securities that convey an interest in mortgage loans or a mortgage loan product without investment limit. 12 U.S.C. § 1464(c)(1)(B) and OTS Op. Ch. Couns. (Mar. 28, 1996). There is no aggregate limit. 12 C.F.R. § 160.30.</p>	<p>NBs may invest in certain investment grade residential mortgage-related securities without investment limit. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 1.</p>
25. Retention of Certain Equity Interests	<p>No express precedential determination¹¹</p>	<p>A NB may retain stock received in the IPO of MasterCard, Inc., because it is a byproduct of permissible membership in MasterCard. Interpretive Letter No. 1075 (Nov. 14, 2006). A NB may retain stock received as a policyholder of a demutualizing insurance company. Interpretive Letter No. 905 (January 29, 2001). In limited circumstances, a NB may hold stock in a company when necessary or useful to facilitate its banking business. Interpretive Letter No. 421 (March 14, 1988).</p>
26. Small Business Investments	<p>FSAs may invest in small business-related securities, as defined in 15 U.S.C. § 78c(a)(53), without investment limit. 12 U.S.C. § 1464(c)(1)(S); 12 C.F.R. § 160.30.</p> <p>FSAs may invest in small business investment companies or any entity established to invest solely in small business investment companies, up to 5% of total capital. 15 U.S.C. § 682(b); 12 C.F.R. § 160.30.</p>	<p>NBs may invest in investment grade small business-related securities that are fully secured by interests in a pool of loans to numerous obligors. No investment limit applies if the securities are rated investment grade in the highest two investment grade rating categories. NB investments in securities of any one issuer rated investment grade in the third or fourth highest categories may not exceed 25% of the NB's capital and surplus. 12 U.S.C. § 24(Seventh). 12 C.F.R. Part 1.</p>

¹¹ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
	<p>FSA service corporations are preapproved to invest in small business investment companies and new markets venture capital companies licensed by the SBA. 12 C.F.R. § 159.4(g)(3).</p>	<p>In addition, NBs may invest in small business investment companies in an aggregate amount not to exceed 5% of the NB's capital and surplus. 15 U.S.C. § 682(b).</p>
<p>27. Trust Preferred Securities</p>	<p>FSAs may invest in trust preferred securities (TPSs) that are marketable and investment grade, subject to certain requirements and limits. For supervisory reasons, FSAs have been required to limit their aggregate investment in TPSs and securities with similar attributes to 15% of total capital, unless they obtain prior approval. FSAs are prohibited from purchasing TPSs or any other type of security from their parent holding company or any other affiliate. 12 C.F.R. § 160.40; Thrift Bulletin 73a (Dec. 18, 2001); OTS Examination Handbook 540B.22.</p>	<p>NBs may invest in trust preferred securities as Type III investments that meet applicable rating and marketability requirements. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 1; OCC Interpretive Letter No. 777 (Apr. 8, 1997). Subject to the lending limits of 12 U.S.C. § 84 and the requirements of Banking Circular 181 (REV), a NB may purchase, and hold as loans, trust preferred securities that might not qualify as Type III securities. OCC Interpretive Letter No. 908 (Apr. 23, 2001).</p>
<p>28. U.S., State and Local Government Securities</p>	<p>FSAs may invest in securities issued or guaranteed by the U.S., without investment limit. 12 U.S.C. § 1464(c)(1)(C); 12 C.F.R. § 160.30.</p> <p>FSAs may invest in obligations issued by any state, territory, possession, or political subdivision thereof, subject to appropriate underwriting, as follows: (1) for general obligations, no aggregate limitation or per issuer limitation; (2) for other obligations of a governmental entity (e.g., revenue bonds) that hold one of the four highest investment grade ratings by a nationally recognized rating agency or that are non-rated but of investment quality, no aggregate limitation but a 10% of total capital per-issuer limitation (no statutory or regulatory well-capitalized requirement for FSAs); and (3) for obligations of a governmental entity that do not otherwise qualify but are approved by the OCC, whatever aggregate limitation the OCC may approve and a 10% of total capital per-issuer limitation. 12 U.S.C. § 1464(c)(1)(H); 12 C.F.R. §§ 160.30 and 160.42.</p> <p>FSAs may invest in the obligations of and make loans to state housing corporations under certain conditions. No statutory limit applies, but a prudential limit may be set. 12 U.S.C. § 1464(c)(1)(P); 12 C.F.R. §§ 160.30 and 160.121.</p>	<p>NBs may invest in securities issued or guaranteed by the U.S. or any agency of the U.S., as well as general obligations of any state or political subdivision thereof, without investment limit. 12 U.S.C. § 24(Seventh); 12 C.F.R. Part 1. Well-capitalized banks may also invest, without limit, in revenue bonds. 12 U.S.C. § 24(Seventh).</p> <p>NBs may invest in the stock of State housing corporations in States where the NB is located. 12 U.S.C. § 24(Seventh).</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>29. U.S. Government-Sponsored Corporations Securities</p>	<p>FSAs may invest, without investment limit, in securities and obligations issued by, or fully guaranteed as to principal and interest by, Fannie Mae, Ginnie Mae, Freddie Mac, or any agency of the United States (e.g., TVA, Export-Import Bank, Commodity Credit Corp., and instrumentalities such as Banks for Cooperatives, Farm Credit Banks, and the Federal Financing Bank). 12 U.S.C. § 1464(c)(1)(D)-(F); 12 C.F.R. § 160.30.</p> <p>FSAs may invest in the securities of the following government-sponsored corporations, without investment limit: Fannie Mae, Freddie Mac, and Federal Home Loan Banks ("FHLBs"). 12 U.S.C. § 1464(c)(1)(D) and (E); 12 C.F.R. § 160.30.</p> <p>FSAs may purchase Farmer Mac common stock in nominal amounts necessary to enable them to sell agricultural loans to Farmer Mac and to participate in Farmer Mac's secondary market. OTS Op. Ch. Couns., Oct. 14, 1997.</p> <p>FSAs may invest in obligations of, and make loans to, state housing corporations without limitation under certain conditions. 12 U.S.C. § 1464(c)(1)(P); 12 C.F.R. §§ 160.30 and 160.131.</p>	<p>NBs also may invest, without limitation, in the securities of Fannie Mae, Ginnie Mae, Freddie Mac, Federal Finance Bank, Farmer Mac, and the FHLBs. NBs may purchase preferred stock of Freddie Mac. OCC Interpretive Letter (Dec. 3, 1992).</p> <p>NBs may invest in the stock of FHLBs, in excess of minimum membership requirements. OCC Interpretive Letter No. 755 (Oct. 3, 1996). NBs may purchase stock of Farmer Mac in nominal amounts necessary to enable them to sell agricultural loans to Farmer Mac and to participate in Farmer Mac's secondary market, OCC Interpretive Letter No. 427 (May 7, 1988), and Fannie Mae, 12 U.S.C. § 1718(f). In addition, NBs may invest in obligations of the TVA, Postal Service, and various international development banks, provided investments in any one of these latter entities do not exceed 10 percent of capital and surplus. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 1.20.</p> <p>NB may hold up to 5 percent of its capital and surplus in stock of State Housing Corporations. 12 U.S.C. § 24(Seventh).</p>

VII.ELECTRONIC BANKING

A. Internet Banking

<p>1. Internet Banking</p>	<p>FSAs may provide products and services, and perform any authorized activity, through electronic means and facilities (e.g. the internet, ATMs, computers, telephones, automated loan machines and similar electronic devices). 12 C.F.R. §§ 155.100 and 155.200.</p> <p>FSAs must file a written notice before establishing transactional web sites. A transactional web site is an internet site that enables users to conduct financial transactions such as accessing an account, obtaining an account balance,</p>	<p>NBs may provide permissible banking services to their customers either by direct telephone connection or by the Internet that enable customers to obtain account information, transfer balances, and conduct other banking transactions. 12 U.S.C. § 24(Seventh); OCC Interpretive Letter No. 742 (Aug. 19, 1996); 12 C.F.R. Part 7, Subpart E.</p>
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POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
	<p>transferring funds, processing bill payments, opening an account, applying for or obtaining a loan, or purchasing other authorized products or services. 12 C.F.R. § 155.300.</p> <p>FSAs may invest in electronic funds transfer networks that permit the transfer of funds between accounts, and provide related electronic banking services through the Internet. OTS Op. Ch. Couns. (May 5, 1995).</p>	
<p>2. Internet Banks</p>	<p>Internet-primary FSAs may operate through the Internet without any significant offices. See OTS Order No. 97-66 (July 11, 1997).</p>	<p>NBs may be full service Internet banks. Internet-based NB will not have any traditional banking offices, but will deliver products and services through a variety of electronic delivery channels, such as ATMs, Internet via a transactional Web site, and via a toll free customer service line. Conditional Approval No. 313 (July 9, 1999); Conditional Approval No. 253 (Aug. 20, 1997). See also 12 C.F.R. Part 7, Subpart E.</p> <p>NBs can operate limited-purpose Internet credit card banks. Key features of one such bank include an entirely online credit application and approval process and an Internet direct marketing approach. Conditional Approval No. 312 (May 8, 1999).</p>
<p>B. Electronic Payments</p>		
<p>1. Automated Loan Machines and Remote Service Units</p>	<p>FSAs may use automated loan machines to assist in processing loan applications by issuing checks for presentment or collection. 12 U.S.C. § 1464(b)(1)(F); 12 C.F.R. § 155.200; § OTS Op. Ch. Couns. (Sept. 19, 1997).</p> <p>FSAs may establish remote service units to credit savings or demand accounts, debit such accounts, credit payments on loans, and dispose related financial transactions. 12 U.S.C. § 1464(b)(1)(F).</p>	<p>NBs may use automated loan machines to assist in processing loan applications and for purposes of disbursing loan proceeds. These facilities are remote service units and, thus, are not subject to branching restrictions. 12 C.F.R. § 7.4003.</p>
<p>2. Electronic Bill</p>	<p>No express precedential determination.¹²</p>	<p>A NB may provide electronic bill presentment services. 12</p>

¹² Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS (“NBs”)
Presentment and Payment		U.S.C. 24(Seventh); 12 C.F.R. § 7.5002. <i>See also</i> OCC Conditional Approval No. 304 (Mar. 1999); and Conditional Approval No. 389 (May 19, 2000) (NBs may invest in an Internet electronic payment system as a complement to existing Internet bill presentment services; the system would also permit customers to make payments not linked to a presented bill).
3. Electronic Collection System on Behalf of Public Authority	No express precedential determination. ¹³	<p>A NB may provide an electronic service to state governments that enables the governments to process motor vehicle title applications and related payments over the Internet. OCC Conditional Approval No. 361 (Mar. 3, 2000).</p> <p>As part of the business of banking, a NB may contract with a public authority to operate, on behalf of the public authority, an electronic toll collection system. 12 U.S.C. § 24(Seventh); OCC Interpretive Letter No. 731 (July 1, 1996).</p> <p>NB may acquire a non-controlling interest in a LLC that enters into contracts with federal, state, and local government agencies to provide a package of Internet based services, including development of Web sites, hosting of Web sites, and providing related merchant processing services. OCC Interpretive Letter No. 883 (Mar. 3, 2000).</p>
4. Electronic Data Interchange (“EDI”) Services	<p>FSAs may market and sell electronic capacities and by-products to others if acquired or developed in good faith as part of providing financial services. 12 C.F.R. § 155.200(b).</p> <p>FSAs may invest in electronic funds transfer networks that permit the transfer of funds between accounts and provide related banking services through the internet. OTS Ops. Ch. Couns. (May 5, 1995) and (Dec. 22, 1995).</p>	A NB may acquire and hold a minority interest in a company that offers EDI services that allow businesses to send and receive payments, invoices and orders worldwide. EDI services are part of or incidental to the business of banking. OCC Interpretive Letter No. 732 (May 10, 1996).

¹³ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>5. Stored-Value Cards and other Prepaid Media</p>	<p>FSAs and their operating subsidiaries may issue gift cards. OTS Op. Ch. Couns. (June 9, 2006).</p> <p>FSAs may market and sell prepaid telephone cards as an agent for a telephone company. OTS Op. Ch. Couns. (Aug. 29, 1996).</p> <p>FSA service corporations may also engage in the business of developing and selling stored value instruments. 12 C.F.R. § 159.4(d)(6).</p>	<p>NBs may develop, market, deliver, and maintain stored value and related non-banking information systems for itself and others. 12 C.F.R. § 7.5002. OCC Conditional Approval No. 220 (Dec. 2, 1996) (MONDEX), OCC Interpretive Letter No. 737 (Aug. 19, 1996), OCC Conditional Approval No. 568 (Dec. 31, 2002).</p> <p>A NB may dispense "alternate media" supplied by merchants, <i>i.e.</i>, public transportation tickets, event and attraction tickets, gift certificates, prepaid phone cards, promotional and advertising materials, EBT script, and credit and debit cards, from ATM machines. OCC Interpretive Letter No. 718 (Mar. 14, 1996).</p>
<p>C. Software Development and Production</p>		
<p>1. Bank Activities Software</p>	<p>FSA service corporations are preapproved to perform software development and systems integration if limited to financial documents or financial clients or are generally finance-related. 12 C.F.R. §§ 159.4(b).</p>	<p>NBs may produce, market, and sell software to assist with the performance of authorized banking functions. 12 C.F.R. § 7.5006(c).</p>
<p>2. Home Banking and Financial Management Software</p>	<p>FSA service corporations are preapproved to perform software development and systems integration if limited to financial documents or financial clients or are generally finance-related. 12 C.F.R. §§ 159.4(b).</p>	<p>The OCC generally permits NBs to engage, through a joint venture, in the development and distribution of home banking and financial management software and data processing, subject to specified conditions. OCC Interpretive Letter No. 677 (June 28, 1995). In addition, a group of NBs may establish a LLC to provide data processing for home banking and other electronic financial services. OCC Conditional Approval No. 221 (Dec. 4, 1996). <i>See also</i> 12 C.F.R. § 7.5004.</p>
<p>3. Web Design Services</p>	<p>No express precedential determination.¹⁴</p>	<p>A NB may, incidental to its offering of an Internet merchant hosting services package, provide web design services to its merchant customers. OCC Interpretive Letter No. 875 (Oct. 31, 1999).</p> <p>A NB, as a finder, may refer its merchant customers to a third party that will provide web site development and hosting services. OCC Corporate Decision No. 99-50 (Dec. 23, 1999).</p>

¹⁴ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS ("NBs")
		<p>A NB can acquire a software company that owns software that enables users to make changes to their web sites where the bank will sell the software only as part of a bundle of Internet web hosting services provided to its merchant customers. OCC Corporate Decision No. 2000-01 (Jan. 29, 2000). <i>See also</i> 12 C.F.R . 7.5004.</p>
D. Electronic Commerce		
<p>1. Data Processing</p>	<p>FSA service corporations are preapproved to perform the following activities when they are limited to financial documents or financial clients or are generally finance-related: data processing, data storage facilities operation and related services, and printing and selling forms that require magnetic ink character recognition (MICR) encoding. 12 C.F.R. §§ 159.4(b).</p>	<p>A NB may, as part of the business of banking, provide data processing, and data transmission services, facilities (including equipment, technology, and personnel), data bases, advice and access to such services, facilities, data bases and advice, for itself and for others, where the data is banking, financial, or economic data, and other types of data if the derivative or resultant product is banking, financial, or economic data. For this purpose, economic data includes anything of value in banking and financial decisions.</p> <p>A NB also may perform the above activities for itself and others with respect to additional types of data to the extent convenient or useful to provide the data processing services described above, including where reasonably necessary to conduct those activities on a competitive basis. However, the total revenue attributable to the bank’s data processing activities must be derived predominantly from processing the activities described above. 12 U.S.C. 24(Seventh); 12 C.F.R. § 7.5006.</p>
<p>2. Digital Certificate Authority (“CA”) Services</p>	<p>No express precedential determination.¹⁵</p>	<p>A NB, as part of the business of banking, may act as a certificate authority and issue digital certificates verifying the identity of persons associated with a particular public/private key pair. As part of this service, the bank also may maintain a listing or repository of public keys.</p>

¹⁵ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS (“NBs”)
		<p>A NB may issue digital certificates verifying attributes in addition to identity of persons associated with a particular public/private key pair where the attribute is one for which verification is part of or incidental to the business of banking. For example, NBs may issue digital certificates verifying certain financial attributes of a customer, such as account balance, lines of credit, past financial performance of the customer, and verification of customer relationship with the bank, as of the current or a previous date. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 7.5005. See also OCC Conditional Approvals No. 267 (Jan. 12, 1998) and No. 339 (Nov. 16, 1999).</p>
<p>3. Electronic Correspondent Services</p>	<p>No express precedential determination.¹⁶</p>	<p>As part of the business of banking, NBs may offer as a correspondent service electronic activities such as, but not limited to: the provision of computer networking packages and related hardware; data processing services; the sale of software that performs data processing functions; the development, operation, management, and marketing of products and processing services for transactions conducted at electronic terminal devices; item processing services and related software; document control and record keeping through electronic imaging technology; the provision of Internet merchant hosting services for resale to merchant customers; the provision of communication support services through electronic means; and digital certification authority services. 12 C.F.R. § 7.5007.</p>
<p>4. Electronic Image Processing and Electronic Storage</p>	<p>FSA service corporations are preapproved to perform data storage facilities operation and related services when they are limited to financial documents or financial clients or are generally finance-related. 12 C.F.R. §§ 159.4(b).</p>	<p>A NB may, as part of the business of banking, provide electronic image processing services involving the loading, storage, and retrieval of banking, financial, and economic data and documents. In addition, a NB that has acquired an electronic image storage and retrieval system for banking purposes with good faith excess capacity can market that excess capacity to others to enable them to load, store, and retrieve nonfinancial and financial documents. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 7.5004. OCC Interpretive Letter No. 888 (Mar. 14, 2000).</p>

¹⁶ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
		<p>As a modern version of NBs' traditional safekeeping function, a NB may provide an integrated, on-line information service for secure Web-based document storage and retrieval of documents and files containing personal information or valuable confidential trade or business information. Data can be stored on systems controlled by the bank and will be accessible by customers through the Internet or a dedicated line. Except for storage, access, and retrieval, the bank will not process or manipulate the information stored. The bank may also offer its customers the ability to grant third parties controlled access to the stored documents and files so as to enable the use of document collaboration tools. Conditional Approval No. 479 (July 27, 2001).</p>
<p>5. Excess Electronic Capacity and By-Products</p>	<p>FSAs may market and sell electronic capacities and by-products to others if acquired or developed in good faith as part of providing financial services. 12 C.F.R. § 155.200(b).</p> <p>FSA service corporations may offer Internet Service Provider Services to nonfinancial customers up to 50% of capacity. OTS Op. Ch. Couns. (Apr. 14, 1997).</p>	<p>NBs may, in order to optimize the use of the bank's resources or avoid electronic waste, market and sell to third parties electronic capacities legitimately acquired or developed by the bank for banking purposes. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 7.5004.</p>
<p>6. Internet Access Services</p>	<p>FSA service corporations may offer Internet Service Provider Services to nonfinancial customers up to 50% of capacity. OTS Op. Ch. Couns. (Apr. 14, 1997).</p>	<p>A NB may provide full Internet access service in connection with its Internet banking services and, incidental to that, may sell good faith excess capacity in Internet access services to persons who are not Internet banking customers, provided that the excess service is not an excessive amount of the total package sold, the service is part of the NB's excess Internet capacity, and the sale does not result in increased costs for the NB. 12 C.F.R. § 7.5004. OCC Interpretive Letter No. 742 (Aug. 19, 1996); Corporate Approval 409 (Aug. 10, 2000).</p> <p>A NB operating subsidiary may acquire and hold a minority interest in a LLC that supplies a network for home banking systems; and the LLC also enables participating financial institutions to offer customers full Internet access as part of a package of home banking services. OCC Conditional Approval No. 221 (Dec. 4, 1996).</p>
<p>7. Leasing Computer and</p>	<p>FSAs may engage in general leasing of tangible personal</p>	<p>A NB operating subsidiary may conduct computer and</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
Telecommunications Equipment	<p>property, including investing in machinery, equipment, or furniture for the purpose of leasing such property. 12 U.S.C. § 1464(c)(2)(C); 12 C.F.R. §§ 160.30 and 160.41(a) and (d).</p> <p>FSA service corporations may acquire and lease personal property. 12 C.F.R. § 159.4(c)(2).</p>	<p>telecommunication equipment leasing activities, including ancillary activities. The ancillary activities include the acquisition of equipment for lease, delivery and installation of leased equipment, sales of off-lease equipment, other occasional sales of equipment, arranging for maintenance contracts, and certain website development services. OCC Corporate Decision No. 2002-13 (July 31, 2002).</p>
VIII. OTHER CUSTOMER SERVICES		
A. Deposit and Currency-Related Services		
1. Buying/Selling Coins, Bullion, Foreign Exchange	<p>FSAs may provide foreign currency exchange services to their customers. OTS Op. Ch. Couns. (Aug. 11, 1995).</p> <p>FSA service corporations may provide foreign currency exchange services. 12 C.F.R. § 159.4(d)(2), FHLBB Res. No. 72-252 (Feb. 29, 1972).</p> <p>FSAs may engage in precious metal transactions on behalf of customers pursuant to the incidental powers doctrine, provided (i) the activities are conducted in a manner consistent with safety and soundness, and (ii) the FSA does not purchase, hold, or engage in transactions in Previous Metals or Certificates for speculative purposes. OTS Op. Ch. Couns. (March 6, 2006).</p> <p>FSAs may act as principal in providing foreign exchange forward contracts to commercial borrowers. OTS Op. Ch. Couns. (Apr. 3, 2000).</p> <p>FSA service corporations may purchase and sell coins issued by the U.S. Treasury. 12 C.F.R. § 559.4(f).</p>	<p>NBs may buy and sell coins, bullion and foreign exchange. 12 U.S.C. 24(Seventh). This includes buying and selling, as agent for customers and for the NB's own account, gold, silver, platinum, palladium and copper coins and bullion, as well as exchange traded shares of the same. OCC Interpretive Letter No. 1013 (Jan. 7, 2005).</p> <p>Banks may engage as principal in foreign exchange derivative contracts with customers. 12 C.F.R. Part 48.</p>
2. Cashiers' Checks and Money Orders, Travelers'	<p>FSAs may issue, collect, and process cashiers' checks and money orders. 12 C.F.R. § 145.17; FHLBB Op. Gen. Couns.</p>	<p>NBs may issue, collect, and process cashiers' checks and money orders, and sell travelers' checks, savings bonds, and</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
Checks, Savings Bonds, Certified Checks	(Nov. 24, 1965), and FHLBB Op. Gen Couns. (July 27, 1981). FSAs may issue traveler's checks. FHLBB Op. Gen. Couns. (Nov. 24, 1965); FHLBB Ops. Dep. Ch. Couns. (Mar. 16, 1988) and (Feb. 1, 1982).	certified checks. 12 U.S.C. § 24(Seventh), 12 C.F.R. § 7.1014.
3. Check Cashing and Processing, Cash Management, Payment Processing and Verification	FSAs may cash and process checks. 12 U.S.C. § 1464(b)(1)(E); FHLBB Op. Gen. Couns. (June 24, 1968); 12 U.S.C. § 4001, <i>et seq.</i> , and 12 C.F.R. Part 229. FSA service corporations may provide check and credit card guaranty and verification services. 12 C.F.R. § 159.4(c)(6). FSAs may provide funds transfer services. 12 C.F.R. § 145.17.	NBs may cash and process checks, provide check and credit card verification services, cash management services, and software for cash management services and payment processing. 12 U.S.C. §§ 24(Seventh) and 4001, <i>et seq.</i> ; 12 C.F.R. Part 229; OCC Interpretive Letter No. 756 (Nov. 5, 1996) (software for cash management payment processing). NBs may charge fees for the service of cashing checks drawn on the bank and payable to non-account holders of the bank. 12 U.S.C. § 24(Seventh) and 12 C.F.R. § 7.4002; OCC Interpretive Letter No. 932 (Aug. 17, 2001).
4. Safe Deposit Boxes	FSAs may accept special deposits and may operate safe deposit box services. 12 U.S.C. § 1464(b).	NBs may provide safe deposit box services. 12 U.S.C. § 24 (Seventh); OCC Interpretive Letter (May 6, 1968).
B. Lending and Real Estate-Related Services		
1. Appraisals	FSAs may conduct appraisals for transactions in which they are involved as lender or otherwise. 12 C.F.R. § 164.5. FSA service corporations may offer appraisal services to the general public. 12 C.F.R. § 159.4(c)(3).	NBs may perform real estate appraisals in connection with real estate loans made by the NB or other financial institutions. OCC Interpretive Letter No. 467 (Jan. 24, 1989). A NB operating subsidiary may perform real estate appraisals for general customers, even if no bank loan was involved, pursuant to the excess capacity theory, provided that the activity constitutes no more than 10% of the subsidiary's business. OCC Corporate Decision No. 98-25 (Apr. 1, 1998).
2. Banker's Acceptances Issuance	No express precedential determination. ¹⁷	NBs may issue banker's acceptances and, in certain cases, lending limits do not apply. 12 U.S.C. § 24(Seventh), 84(c)(2) and 372; 12 C.F.R. §§ 7.1007 and 32.3(c)(2).
3. Credit Card Loss Notification and	No express precedential determination. ¹⁸	A NB may provide its customers with credit card loss notification services. OCC Interpretive Letter No. 944 (Aug. 12, 2002).

¹⁷ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
Monitoring Services		
4. Debt Cancellation Contracts ("DCCs") and Debt Suspension Agreements ("DSAs")	FSAs are authorized to enter into agreements that result in cancellation of debt upon the death, disability, or other loss experienced by a borrower. OTS Op. Acting Ch. Couns. (Sept. 15, 1993); OTS Op. Ch. Couns. (Dec. 18, 1995).	NBs are authorized to enter into, and charge a fee for, DCCs and DSAs, under which a NB agrees to cancel, in the case of a DCC, or suspend, in the case of a DSA, all or part of a customer's obligation to repay a loan from that bank upon the occurrence of a specified event. DCCs and DSAs are subject to various consumer safeguards if they are sold in connection with an extension of credit primarily for personal, family, or household purposes. 12 C.F.R. Part 37. NBs may offer DCCs through agents, such as automobile dealers. OCC Interpretive Letter No. 1093 (Oct. 29, 2007).
5. Flood Hazard Determinations	FSAs and their subsidiaries may provide mortgage lenders with flood hazard determination services. 12 C.F.R. Part 172.	NBs and their operating subsidiaries may provide mortgage lenders with flood hazard determination services. 12 C.F.R. § 22.8(a); OCC Corporate Decision No. 97-79 (July 11, 1997).
6. Mortgage Document Custodian	FSAs may act as document custodian of residential mortgage loan documents for third parties without obtaining approval to exercise trust powers. OTS Op. Ch. Couns. (Jan. 31, 1994).	NBs may act as document custodian of residential mortgage loan documents for third parties without obtaining approval to exercise trust powers. 12 U.S.C. § 24(Seventh).
7. Real Estate Brokerage	FSA service corporations may engage in real estate brokerage for property owned by the parent FSA, the service corporation or a lower-tier subsidiary of the service corporation. 12 C.F.R. § 159.3(e)(4). Real estate brokerage for third parties is reasonably related to the activities of financial institutions and, therefore, on a case-by-case basis could be approved for a FSA service corporation or mutual holding company. OTS Op. Ch. Couns. (July 16, 1997).	NBs may not engage in general real estate brokerage activities. However, NBs may engage in certain real estate sales-related activities as a fiduciary and may act as finders as specified in 12 C.F.R. § 7.1002.
8. Real Estate Tax Reporting and Management Services	FSA service corporations may provide various real-estate related services, including maintaining and managing real estate. 12 C.F.R. § 159.4(e).	A NB may establish an operating subsidiary to hold a direct and indirect 50 percent interest in a joint venture engaged in real estate tax reporting and management services in connection with certain loans made by the bank or its affiliates. OCC Interpretive Letter No. 317 (July 19, 1999).

¹⁸ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
9. Title Abstracting Services	FSA service corporations are preapproved to provide credit-related abstracting. 12 C.F.R. § 159.4(c)(1).	NBs and their subsidiaries may provide title abstracting services for the parent bank, for unaffiliated lenders, and for the occasional customer who requests the service even if there is no associated loan transaction. 12 U.S.C. § 24(Seventh); OCC Corporate Decision No. 98-26 (Apr. 21, 1998).
C. Other Services		
1. Automobile Roadside Assistance Programs	FSAs may offer to consumer loan customers discount programs through third-parties or service providers. Programs include emergency roadside assistance. OTS Op. Ch. Couns. (Aug 5, 2008).	NB can administer and operate auto roadside assistance programs for third parties as permissible finder activities; and NB can administer and operate a roadside assistance program, made available to its credit card customers, as an incidental activity that is convenient and useful to the administration and operation of the programs for third parties. Conditional Approval No. 535 (June 21, 2002).
2. Correspondent Services	FSAs may provide correspondent services. 48 Fed. Reg. 23,032, 23,035 (May 13, 1983); 47 Fed. Reg. 17,468, 17,469 (Apr. 23, 1982); FHLBB letter by Long (Jan. 13, 1984); FHLBB Op. by Barnett (Nov. 10, 1982).	NBs may, as part of the business of banking, provide a wide variety of correspondent services (any service that it may perform for itself) to its affiliates or to other depository institutions. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 7.5007.
3. Employee Benefit, Compensation Advisory and Human Resource Services Consulting	FSA service corporations are preapproved to perform personnel benefit program development or administration as well as relocation of personnel when limited to financial clients or are generally finance-related. 12 C.F.R. § 159.4(b).	A NB operating subsidiary may provide employee benefit, compensation advisory and related administrative services, and other human resources services to the bank's business customers and other businesses in the bank's market area. OCC Corporate Decision No. 2002-2 (Jan. 9, 2002).
4. Escrow Services	<p>FSAs may provide escrow services in connection with real estate loans and real estate transactions. See 61 Fed. Reg. 50,951, 50,961 (Sept. 30, 1996); OTS Op. Ch. Couns. (Jan. 31, 1994).</p> <p>FSAs may establish commercial escrow accounts. See OTS Op. Ch. Couns. (Aug. 19, 1998).</p> <p>FSA service corporations may operate as escrow agent or trustee under deeds of trust. 12 C.F.R. § 159.4(c)(7).</p>	NBs may provide escrow services. 12 U.S.C. 24(Seventh); OCC Interpretive Letter (May 6, 1968). See <i>a/so</i> Corporate Decision No. 99-06 (Jan. 29, 1999), which provides that a NB may own an operating subsidiary that engaged in real estate closing and escrow services using excess capacity to offer services occasionally to customers where no loan or title policy would be present.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>5. Financial Consulting</p>	<p>FSAs may engage in consulting and advisory services for other financial institutions and the general public. OTS Op. Ch. Couns. (May 10, 1995), and FHLBB Op. Gen. Couns. (Aug. 11, 1981). Depending on the nature of the activity, registration under the Investment Advisers Act may be required.</p> <p>FSA service corporations are preapproved to provide consulting services to financial clients or that are finance-related. 12 C.F.R. § 159.4(b)(4).</p>	<p>NBs may engage in financial, investment, or economic consulting, planning and advisory services for other financial institutions, businesses and the general public in a variety of contexts. Among other things, these services may include financial planning, acting as a conduit in conveying loan terms to prospective borrowers or purchasers, supplying financial information regarding a third party, engaging on behalf of others in research in contemplation of prospective transactions, advice and counseling on employee benefits and human resources, and global supply chain management services. NBs may not participate in negotiations as a representative of one of the parties. NBs and their operating subsidiaries advising mutual funds are required to register under the Advisers Act. 12 U.S.C. §§ 24(Seventh) and 92a; 15 U.S.C. §§ 80b-2(a)(11)(A), 80b-2(a)(26); 12 C.F.R. § 5.34(e)(5)(v)(K); OCC Conditional Approval No. 384 (Apr. 25, 2000); Corporate Decision No. 99-43 (Nov. 29, 1999); Corporate Decision No. 98-51 (Nov. 30, 1998); Corporate Decision No. 2005-02 (March 24, 2005).</p>
<p>6. Medical Insurance Services</p>	<p>No express precedential determination.¹⁹</p>	<p>A NB may acquire and hold as an operating subsidiary a company engaged in providing medical insurance cost information, benefits counseling, premium collection and disbursement, and related activities. Corporate Decision No. 98-13 (Feb. 9, 1998).</p>
<p>7. Messenger Services</p>	<p>FSAs are authorized to provide messenger services to facilitate customer transactions, including deposits. OTS Mem. Dep. Ch. Couns. (Nov. 20, 1992). FHLBB Mem. Gen. Couns. (Nov. 20, 1986). FSA service corporations may engage in the business of providing financial courier services to the general public. 12 C.F.R. § 159.4(b)(5). <i>See also</i> OTS Op. Ch. Couns. (Oct. 17, 1995) (FSAs may provide support services, such as receiving, storing, transmitting and executing or obtaining execution of certain documents, for an unaffiliated trust company).</p>	<p>A NB may establish and operate a messenger service to transport items relevant to the NB's transactions with its customers. However, a NB must receive approval from the OCC to establish a branch if the messenger service constitutes a branching function within the meaning of 12 U.S.C. § 36(j). NBs may use a messenger service established and operated by a third party to pick up from and deliver to its customers items that relate to a branching function without regard to the branching limitations of 12 U.S.C. § 36. 12 U.S.C. § 24(Seventh); 12 C.F. R. § 7.1012.</p> <p>A NB may operate a messenger service that would provide</p>

¹⁹ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
		<p>armored car service through a branch or operating subsidiary that would transport cash, checks, and other financial documents for the bank, the bank's depositors, other unaffiliated institutions and businesses that are not customers of the bank. Corporate Decision 2003-9 (June 25, 2003).</p> <p>A NB may also provide messenger service consulting and advisory services to deposit customers who hire independent messenger or courier services to transport banking items to and from the bank. OCC Interpretive Letter No. 1023 (Feb. 24, 2005).</p>
<p>8. Payroll Processing Services</p>	<p>FSAs may provide payroll processing services if performed primarily for the FSA, other depository institutions, or loan or deposit customers of the FSA. OTS Op. Ch. Couns. (Oct. 1, 1998).</p> <p>FSA service corporations may engage in payroll processing without restrictions. OTS Op. Ch. Couns. (Oct 1, 1998).</p>	<p>NBs may provide this service. 12 C.F.R. § 7.1011.</p>
<p>9. Postal Services</p>	<p>FSAs may offer postal services from their retail offices and may receive income from such operations. Activities include meter stamping, accepting matter for mailing, accepting registered mail, issuing money orders, selling related insurance, and selling stamps. FSAs must comply with U.S. Postal Service regulations, and must keep postal service records separate from other association operations. Postal service records may be subject to inspection by the OCC and the U.S. Postal Service. OTS Op. Acting Ch. Couns. (Mar. 25, 1994).</p> <p>FSA service corporations may offer postal services to the general public. 12 C.F.R. § 159.4(d)(5).</p>	<p>NBs may maintain, operate, and receive income from a postal substation on banking premises, pursuant to U.S. Postal Service regulations. NBs may advertise, develop, and extend the services of the substation for the purpose of attracting customers to the NB. The services performed at the substation must be permitted by the U.S. Postal Service, and may include meter stamping of letters and packages, and the sale of related insurance. NBs must keep the books and records of the substation, which are subject to inspection by the U.S. Postal Service, separate from those of other banking operations. 12 C.F.R. § 7.1010, 39 C.F.R. § 241.2.</p>
<p>10. Printing Services</p>	<p>FSA service corporations are preapproved to perform check printing and related services. 12 C.F.R. § 159.4(d)(8).</p>	<p>NBs may engage in the printing of checks, drafts, loan payment coupons, and similar documents for use in the NB's business; engage in printing services that facilitate the general operation of the bank as a business enterprise, such as the printing of internal personnel forms; and provide printing services for affiliated banks. 12 U.S.C. § 24(Seventh); OCC Interpretive Letter No. 811 (Dec. 18, 1997).</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS (“NBs”)
11. Records Access (credit scores, credit reports, social security, medical and motor vehicle records)	No express precedential determination. ²⁰	A NB may provide its customers with their credit scores, credit reports, and credit monitoring services. NBs also may approve providing customers with access to their Social Security, medical, and motor vehicle records as activities that are incidental to banking. OCC Interpretive Letter No. 944 (Aug. 12, 2002).
12. Rewards Programs	No express precedential determination ²¹	NBs may sell rewards points to unrelated third parties and act as finder to assist individuals with rewards points in redeeming those points. OCC Corporate Decision 2003-10 (July 27, 2003).
13. Support Services	<p>FSAs may provide ministerial, non-discretionary support services as agent for a trust company without obtaining prior approval to exercise trust powers. OTS Op. Ch. Couns. (Oct. 17, 1995).</p> <p>In addition, a FSA service corporation may provide abstract services, operate a collection agency, and provide various other credit-related services, including credit analysis and loan inspection. 12 C.F.R. § 159.4(c).</p>	NBs may act as agent for an individual or corporation without obtaining prior approval to exercise trust powers if the duties are nondiscretionary and purely ministerial in nature.
14. Tax Returns and Planning	FSA service corporations may prepare income tax returns. 12 C.F.R. § 159.4(d)(4).	NBs may prepare tax returns and offer tax planning directly or through subsidiaries for any type of customer. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 7.1008; 12 C.F.R. § 5.34(e)(5)(v)(J).
15. Transaction Finders	<p>FSAs may act as finders and collect referral fees for referring customers to registered investment advisers, subject to certain conditions, and enter into referral fee arrangements approved by the OCC. OTS Op. Ch. Couns. (May 5, 2000). FSAs may pay referral fees to third parties for the referral of trust business. OTS Op. Ch. Couns. (Dec. 21, 1998); Thrift Bulletin 76-1a.</p> <p>FSAs may, under certain circumstances, pay a fee to a person who introduces a depositor to the FSA. 12 C.F.R. § 161.16; OTS Op. Ch. Couns. (Nov. 28, 2005).</p>	NBs may serve as finders for certain goods and services, <i>i.e.</i> , they may identify potential parties, make inquiries as to interest, introduce or arrange contacts or meetings of interested parties, and otherwise bring parties together for a transaction that the parties themselves negotiate and consummate. However, the authority to act as a finder does not enable a NB to engage in brokerage activities that have not been found to be permissible for NBs. Unless otherwise prohibited, NBs may advertise and accept fees for their finder services. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 7.1002;. NBs may pay finders’ fees to others for customers referred to the bank. OCC Interpretive Letter

²⁰ Id.

²¹ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS (“NBs”)
		No. 504 (May 18, 1990). A NB may, under its finder authority, help arrange for the purchase of nonfinancial products by its credit card customers. OCC Interpretive Letter No. 904 (Jan. 18, 2001).
16. Travel Booking Services for Customers	No express precedential determination. ²²	A NB may make travel-related loans, issue letters of credit and provide free travel information. <i>Arnold Tours v. Camp</i> , 472 F.2d 427 (1st Cir. 1972). NBs also may assist customers in placing orders for tickets with a travel agency and, in general, lease excess office space to a travel agency. OCC Interpretive Letter Nos. 342 (May 22, 1985); and 437 (July 27, 1988).
17. Welfare Counseling	No express precedential determination. ²³	NB may acquire an operating subsidiary engaged in providing government “welfare to work” program counseling and related activities. Corporate Decision No. 2000-11 (June 24, 2000).
IX. OFFICE LOCATIONS		
1. Branches (Home Office and Home State)	<p>FSAs must comply with 12 C.F.R. §§ 145.93 and 145.95 to establish a new home office or change the location of an existing home office. 12 C.F.R. § 145.91(b).</p> <p>FSAs may establish branches anywhere in their home state. FSAs must comply with application and notice requirements. 12 C.F.R. §§ 145.92(c), 145.93, and 145.95. FSAs may own and operate full-service mobile banking facilities as branch offices. OTS Op. Acting Ch. Couns. (May 16, 1994).</p>	Branches are facilities, other than ATMs and remote service units (“RSUs”), established by a NB at which the NB receives deposits, pays withdrawals, or disburses loan proceeds in-person to customers. Branches include staffed mobile vans, messenger services, temporary facilities, and drop boxes. 12 U.S.C. § 36(j). With OCC approval, which includes consideration of the NB’s CRA compliance, NBs may establish or acquire branches in their main office states to the same extent as state banks chartered by such states. 12 C.F.R. § 5.30.
2. Branches (Interstate)	FSAs may establish branches in any state unless the location would violate 12 U.S.C. §§ 1464(r), 1467a(e)(3), or 1823(k)(4). FSAs must comply with application and notice requirements. 12 C.F.R. §§ 145.92(c), 145.93, and 145.95.	<p>With OCC approval, a NB may open an interstate <i>de novo</i> branch in any state that permits the establishment of a branch by a bank chartered by such state, subject to applicable state law limitations. 12 U.S.C. §§ 36(g), 1831u(b)(1), (3), and (4).</p> <p>With OCC approval, a NB may acquire a single branch in an</p>

²² Id.

²³ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS (“FSAs”)	NATIONAL BANKS (“NBs”)
		<p>interstate acquisition, if permissible under the law of the state in which the target branch is located. Approval is subject to state filing and age requirements, deposit concentration limits, and findings regarding capital, management, and CRA compliance. 12 U.S.C. §§ 1831u(a)(4) and (5), and (b)(1)-(4).</p> <p>With OCC approval, a NB may engage in interstate branching through acquisition or merger of an insured bank. Approval is subject to state filing and age requirements, deposit concentration limits, and findings regarding capital, management, and CRA compliance. 12 U.S.C. §§ 1831u(a)(1) and (5), and (b)(1)-(4).</p> <p>Note: In all of the scenarios above, once a bank has opened one branch in a state, all subsequent branches must satisfy intrastate branching requirements. 12 U.S.C. §§ 36(f) and 1831u(d)(2); <i>Seattle Trust & Savings Bank v. Bank of California, N.A.</i>, 492 F.2d 48, <i>cert. denied</i>, 419 U.S. 844.</p> <p>FSAs that convert to NBs may continue to establish, operate, and acquire any branch in a state where it operated as an FSA. 12 U.S.C. § 5451.</p>
<p>3. Foreign Branches</p>	<p>No express precedential determination.²⁴</p>	<p>NBs with capital and surplus greater than \$1 million, and Edge Act Corporations established by NBs, may establish a branch in a foreign country with the approval of the FRB and notice to the OCC. A NB may subsequently open additional branches in the same foreign country without providing notice or obtaining FRB approval. A NB with branches in two or more foreign countries may establish a branch in other foreign countries following 12 days advance notice to the FRB. 12 C.F.R. § 211.</p> <p>Foreign branches of NBs are permitted to engage in any activity that is permissible for a NB within U.S. borders, if the activity also is permitted in the foreign jurisdiction. In addition to general banking powers permitted under 12 U.S.C. § 24(Seventh), a NB foreign branch may engage in any activity</p>

²⁴ Id.

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
		<p>expressly permitted under Regulation K (12 C.F.R. Part 211). Subject to various limitations, some of the activities specifically permitted by Regulation K include guaranteeing certain debts, underwriting, distributing, buying, selling, and holding government obligations of the country in which the branch is located, acting as an insurance agent or broker, engaging in repurchase agreements for securities and commodities that are functional equivalents of extensions of credit, investing in the securities of the foreign country's central bank, clearinghouses and other governmental entities, and investing in foreign banks or other companies whose activities are incidental to the activities of the foreign branch. 12 C.F.R. § 211.</p> <p>In addition to the OCC's examination and supervisory authority, the FRB has specific statutory authority to examine and issue regulations governing the activities of foreign branches of NBs. 12 U.S.C. § 601 <i>et seq.</i>; 12 C.F.R. Part 28, Subpart A and Part 211, Subpart A.</p>
<p>4. Interaffiliate Banking Arrangements</p>	<p>FSAs may enter into arrangements with affiliated FSAs to provide basic banking services, including deposit taking and closing and servicing loans, without filing branch applications. OTS Op. Ch. Couns. (Dec. 30, 1994). FSAs may also contract with affiliated banks to provide these services under certain circumstances. OTS Op. Ch. Couns. (Aug. 25, 1995).</p>	<p>A NB acting as an agent for a depository institution affiliate, or a depository institution acting as an agent for a NB, may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations without being considered a branch. 12 U.S.C. § 1828(r)(1), (2). These activities can be undertaken both on an intrastate and interstate basis. In addition, the OCC has recognized that other activities, such as facilitating deposit account withdrawals, may be undertaken between NB affiliates and between a NB and a state bank or FSA affiliate without being considered to be branching. See OCC Interpretive Letter No. 610 (Oct. 8, 1992).</p>
<p>5. Interstate Banking through Separate Financial Institution Subsidiaries</p>	<p>S&L holding companies generally may acquire FSAs located in a new state and hold them as separate subsidiaries only if: (i) the laws of the new state would permit a FSA or FSA holding company in the existing home state to acquire a state FSA in the new state; or (ii) the acquisition is approved under 12 U.S.C. § 1823(k) (emergency acquisition authority). However, these restrictions do not apply where the new FSA and the existing FSA merge, provided the holding company has only one FSA subsidiary. 12 U.S.C. § 1467a(e)(3).</p>	<p>Bank holding companies may acquire banks located in a new state and hold them as separate subsidiaries if they receive approval from the Federal Reserve Board (FRB), which must make certain determinations regarding the management and capitalization of the holding company, as well as compliance with applicable CRA laws. The target bank must comply with applicable state age limits and the resulting bank and its insured depository institution affiliates must comply with applicable state and national deposit concentration limits. 12 U.S.C. § 1842(d).</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
<p>6. Nonbranch Facilities (including ATMs, Point-of-Sale ("POS") Terminals, and Automated Loan Machines ("ALMs"))</p>	<p>FSAs may establish agency offices without geographic limitation. No advance approval is required for an agency office that merely originates, services, and approves loans, manages REO, or conducts previously approved fiduciary activities. Case-specific approval is required for other activities. Any activity that could be conducted at a branch could be approved for an agency office, except making payments on savings accounts. 12 C.F.R. § 145.96. FSAs may also establish foreign agency offices with OCC approval and subject to safety and soundness restrictions imposed to address the unique risks that can be presented by foreign operations. OTS Op. Acting Ch. Couns. (June 13, 1994).</p> <p>FSAs may own, rent, or use ATMs and POS terminals without geographic restriction and without obtaining OCC approval. 12 C.F.R. § 155.200; OTS Op. Acting Ch. Couns. (Sept. 19, 1997). FSAs may establish and operate mobile banking facilities or ATMs. OTS Mem. Acting Ch. Couns. (May 16, 1994).</p> <p>FSAs may invest in corporations operating ATM and POS systems, subject to certain conditions. OTS Op. Ch. Couns. (Sept. 15, 1995).</p> <p>FSAs may establish ALMs. OTS Op. Ch. Couns. (Sept. 19, 1997).</p> <p>FSA service corporations are preapproved to engage in remote service unit operation, leasing, ownership, or establishment. 12 C.F.R. § 159.4(b)(14) & (d)(9).</p>	<p>NBs may establish nonbranch facilities without geographic limitation notwithstanding state law and without OCC approval, but generally may not disburse loan proceeds or deposit account withdrawals to, or receive deposits from, customers in-person at nonbranch locations. (See 12 U.S.C. § 36(j)) at these locations. For example, NBs may establish loan production offices, deposit production offices ("DPOs"), engage in discount brokerage, and offer safe deposit boxes, but generally may not disburse loan funds, receive deposits or pay withdrawals at non-branch locations. 12 C.F.R. §§ 7.1003 - 7.1005 (loan production offices); 12 C.F.R. § 7.4004 (DPOs); 12 C.F.R. § 7.4005 (combinations of the above). NBs also may establish customer-operated RSUs, ATMs, ALMs, and POS terminals without regard to branching limitations. 12 U.S.C. § 36(j); 12 C.F.R. § 7.4003 (ATMs and RSUs). RSUs may be equipped with a telephone or tele-video device that allows contact with bank personnel without being considered to be a branch. 12 C.F.R. § 7.4003.</p>
<p>X. ACTIVITIES CONDUCTED THROUGH AFFILIATES</p>		
<p>1. Financial Subsidiaries</p>	<p>FSA do not own financial subsidiaries.</p>	<p>Qualified NBs are authorized to have financial subsidiaries in addition to operating subsidiaries. Among other things, a NB must deduct its investment in financial subsidiaries from its tangible equity, and the assets of a NB's financial subsidiaries cannot exceed the lesser of 45% of the bank's consolidated assets or \$50 billion. 12 U.S.C. § 24a; 12 C.F.R. § 5.39. To be</p>

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
		<p>eligible to have a financial subsidiary, a NB and all affiliated depository institutions must be well-managed and well-capitalized, and an insured NB and its insured affiliates must not have received a rating of less than satisfactory at the last CRA examination. Financial subsidiaries may engage in activities that are not permissible for the parent bank so long as the activities are "financial in nature" or incidental to financial activities. These activities include: insurance sales from any location (including title insurance); underwriting securities of all types; and most of the other activities approved for bank holding companies or financial holding companies (including activities that are closely related to banking, e.g., owning a FSA, or permissible abroad, e.g., operating a travel agency). Financial subsidiaries may also engage in activities that are financial in nature and activities that are incidental to financial activities, as determined by the Department of Treasury (in conjunction with the FRB). See, e.g., 12 C.F.R. § 225.86.</p> <p>In addition, financial subsidiaries also may engage in activities permissible for operating subsidiaries. Financial subsidiaries may not make merchant banking investments as described under the Gramm-Leach-Bliley Act or engage in new insurance underwriting or real estate development/ investment unless expressly authorized by law. 12 U.S.C. § 24a.</p>
<p>2. Foreign Subsidiaries and Operations</p>	<p>FSAs may establish operating subsidiaries in foreign countries subject to the same technical, procedural, safety and soundness, and supervisory requirements that are applicable to FSAs establishing domestic operating subsidiaries. 12 C.F.R. § 159.3; OTS Op. Acting Ch. Couns. (July 6, 1994). Subject to conditions, FSAs may create operating subsidiaries chartered in foreign countries to hold financial assets. OTS Mem. Ch. Couns. (Jan. 14, 2000).</p> <p>FSAs may establish operating subsidiaries organized under the laws of foreign countries. OTS Order No. 2003-54 (Oct. 21, 2003).</p> <p>FSAs' wholly-owned operating subsidiaries, established as</p>	<p>In addition to foreign branches, NBs may acquire foreign banks and establish Edge Act corporations subject to the approval of the FRB and notification to the OCC. Like foreign branches, these entities may conduct broader activities than permissible for NBs in the U.S., subject to FRB approval. A NB may guarantee deposits and other liabilities of these foreign operations. The activities include those set forth separately in Regulation K (12 C.F.R. Part 211) for member banks with subsidiary operations abroad and for Edge Act corporations. A foreign subsidiary, subject to certain aggregate limitations, may make a portfolio investment of less than 20% of the voting shares of any organization that engages in any activities of a banking or financial nature or those necessary to carry on such activities. In addition to the OCC's examination and supervisory</p>

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	<p>Delaware LLCs, may maintain foreign offices. OTS Order No. 2002-40 (Sept. 6, 2002); OTS Order 2000-29 (March 22, 2000).</p> <p>FSAs may establish foreign agency offices with approval and subject to safety and soundness restrictions. OTS Op. Ch. Couns. (Sept. 15, 1995).</p> <p>FSAs may establish operating subsidiaries that are foreign-regulated banks. OTS Order No. 2007-61 (Dec. 6, 2007).</p> <p>FSAs may establish lower-tier service corporations in foreign countries to engage in activities reasonably related to the activities of the FSAs (e.g., reinsurance of a portion of PMI on loans originated and underwritten by the FSA). OTS Order No. 2002-48 (Oct. 14, 2002); OTS Order No. 2002-12 (April 8, 2002).</p>	<p>authority, the FRB has specific statutory authority to examine and issue regulations governing the activities of these foreign offices of NBs. 12 U.S.C. § 601 <i>et seq.</i>; 12 C.F.R. Part 28, Subpart A, and Part 211, Subpart A.</p>
<p>3. Holding Companies</p>	<p>Generally, FSAs may not be acquired by a company that is engaged in commercial activities. 12 U.S.C. § 1467a(c)(9). A company that was a savings and loan holding company on May 4, 1999, or that became a savings and loan holding company pursuant to an application pending before the OTS on that date, and meets certain additional requirements, is not subject to activities restrictions ("Grandfathered SLHC"). 12 U.S.C. § 1467a(c)(9)(C).</p> <p>Savings and loan holding companies other than Grandfathered SLHCs may engage in activities permitted for "financial holding companies" under § 4(k) of the Bank Holding Company Act ("BHCA"), only if they meet certain requirements, set forth at 12 C.F.R. § 238.63: the savings and loan holding company and all depository institutions controlled by the savings and loan holding company must be and remain well-capitalized; the savings and loan holding company and all depository institutions controlled by the savings and loan holding company must be and remain well managed; and the savings and loan holding company must make an effective election to be treated as a financial holding company.</p>	<p>NBs may be acquired by bank holding companies that engage only in activities that are closely related to banking, as determined by the FRB (subject to certain narrow exceptions). 12 U.S.C. § 1843; 12 C.F.R. Part 225. In addition, NBs also may be acquired by financial holding companies (<i>i.e.</i>, bank holding companies that satisfy certain requirements, which are engaged in activities that are financial in nature, incidental to financial activities, or complementary to financial activities). 12 C.F.R. Part 225, Subpart I. However, a NB that engages only in credit card operations may be acquired by any type of company because the acquiring company would not be a bank holding company. The same rule applies for a NB that engages only in trust activities. 12 U.S.C. § 1841(c)(2).</p>
<p>4. Offshore Operating</p>	<p>FSAs may establish operating subsidiaries or lower-tier service</p>	<p>A NB may establish an offshore operating subsidiary that will</p>

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Subsidiary or Service Corporation	corporations organized under foreign law. Duplicate set of records must be maintained in U.S., and other conditions apply. OTS Order No. 2001-01 (Jan. 5, 2001) (operating subsidiary); OTS Orders No. 2001-9 and 2001-10 (April 4, 2001)(service corporation).	facilitate the funding of the bank's domestic mortgage lending operations. The subsidiary's books and records must be maintained in the United States and be accessible to the OCC. Conditional Approval No. 536, June 21, 2002.
5. Operating Subsidiaries	<p>FSAs may establish or acquire operating subsidiaries that engage exclusively in activities that FSAs may engage in directly. A FSA must own more than 50% of the voting shares of an operating subsidiary and no other person or entity may exercise effective operating control. 12 C.F.R. §§ 159.2 and 159.3. Pursuant to this authority, a FSA may hold one or more depository institutions as operating subsidiaries. 12 C.F.R. § 159.3(e).</p> <p>An operating subsidiary may invest in other types of lower-tier entities. 12 C.F.R. § 159.3(f).</p>	<p>NBs may establish operating subsidiaries (in the form of traditional corporations, limited liability companies (LLCs), or similar entities) that engage in activities that are part of or incidental to the business of banking and permissible for the parent bank or otherwise authorized by statute. Adequately capitalized and well-capitalized NBs may engage in certain activities in operating subsidiaries under preapproved notice procedures, and eligible banks may engage in certain activities under expedited review procedures. In general, NBs must hold more than 50% of the voting stock of their operating subsidiaries. The OCC permits NBs to own certain types of depository institutions with limited purpose charters, i.e. trust banks and CEBA credit card banks as operating subsidiaries. 12 U.S.C. § 24(Seventh); 12 C.F.R. § 5.34.</p> <p>A NB may establish an operating subsidiary in the form of a limited partnership. OCC Corporate Decision No. 2004-16 (Sept.) 10, 2004).</p>
6. Service Corporations	<p>FSAs may invest up to 2% of their assets (and an additional 1% for community development purposes) in service corporations. FSA service corporations are preapproved to engage in any activity that FSAs may conduct directly, except taking deposits. 12 C.F.R. §§ 159.4(a) and 159.5. 12 U.S.C. § 1464(c)(4)(B).</p> <p>Specific preapproved activities include a wide range of business and professional services; credit-related activities; consumer services; real estate-related services; securities activities, liquidity management, and coins; investments; community development and charitable activities; activities conducted on behalf of a customer on an other than "as principal" basis; and activities incidental to the foregoing activities. 12 C.F.R. § 159.4.</p>	<p>NBs may invest up to 10% of their capital and surplus or 5% of their assets (whichever is lower) in service corporations engaged in: (1) correspondent banking services without geographic limitation; (2) any activity except for deposit-taking that NBs can engage in, but subject to the branching restrictions that apply to the NB in the state where it is located; and (3) with FRB approval and subject to branching restrictions, any activity other than deposit-taking that bank holding companies can engage in under § 4(c)(8) of the BHCA. NB service corporations may be organized as either traditional corporations or LLCs and may be jointly owned with other insured banks. No minimum ownership level is required. NB service corporations cannot engage in real estate development, real estate management, or general insurance agency (except in towns of less than 5,000). 12 U.S.C. § 1861 <i>et seq.</i>; 12 C.F.R. § 5.35.</p>

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	<p>FSA service corporations engaging in a preapproved activity listed in 12 C.F.R. § 159.4(a)-(i) may also engage in any activities reasonably incident to that preapproved activity. 12 C.F.R. § 159.4(j).</p> <p>FSA service corporations eligible for expedited treatment may engage in any preapproved activity after notice; the FSA may apply for approval for a service corporation to engage in other activities reasonably related to the activities of FSAs under standard treatment. Service corporations subject to standard treatment may, after notice, engage in activities that the FSA may engage in directly except taking deposits; the FSA may apply for approval for a service corporation to engage in any other activity reasonably related to the activities of FSAs, including preapproved activities.</p> <p>These service corporations need not be controlled by the FSA, but ownership of first tier service corporations is limited to savings associations with home offices in the same State. 12 C.F.R. § 159.3(b)(2) & (c)(2).</p> <p>FSAs may generally make loans to majority-owned service corporations (over and above their 3% service corporation investment limit) to the extent authorized under any other lending or investment provision of the Home Owners' Loan Act ("HOLA") and Part 160, up to the available lending capacity that remains under such authority subject to 12 C.F.R. § 159.5(b).</p> <p>The amount of loans that may be extended to a service corporation in which a FSA does not own a majority interest, generally is limited to 15% of capital for any one entity and an aggregate of 50% of FSA capital for loans to all such entities (i.e., to the extent available lending authority and remaining lending capacity exist under some other provision). 12 C.F.R. § 159.5(b)(1).</p> <p>FSAs also have authority to establish service corporations under 12 U.S.C. §§ 1861 <i>et seq.</i></p>	

POWER	FEDERAL SAVINGS ASSOCIATIONS ("FSAs")	NATIONAL BANKS ("NBs")
XI. MISCELLANEOUS		
1. Affinity Relationships	No express precedential determination. ²⁵	NBs may solicit "affinity" relationships with other groups and commercial entities to establish a private label banking clientele. Under the authority to use multiple trade names, NBs can offer its products and services to customers or members of the affinity group under a private label and establish individual divisions to provide products and services specific to the needs expressed by affinity groups. Corporate Decision No. 2001-18 (July 3, 2001).
2. Borrowing and Other Liabilities	<p>FSAs may obtain secured advances from the FHLBs in amounts up to 20 times an FSA's investment in FHLB stock, and may also obtain secured or unsecured loans from and issue secured or unsecured obligations to third parties in unlimited amounts, subject to safety and soundness. 12 U.S.C. §§ 1430 and 1464(b)(2); 12 C.F.R. § 163.80.</p> <p>FSAs may borrow and give security FSAs may enter into suretyship and guaranty agreements, subject to certain requirements. 12 U.S.C. § 1464(b)(2); 12 C.F.R. § 160.60.</p> <p>FSAs may borrow from a state mortgage finance agency in the state where the FSA's home office is located, subject to certain capital and other requirements. 12 U.S.C. § 1464(b)(3).</p>	<p>NBs may obtain secured advances from Federal Reserve Banks, without prescribed limits. NBs may also become members of the FHLBs and obtain FHLB advances on the same basis as FSAs, except the ratio of advances to stock will be lower if the NB does not meet the QTL test.</p> <p>NBs have authority to borrow money and may pledge assets to secure their borrowings. 12 U.S.C. §§ 24(7), 347 <i>et seq.</i>, 1424, and 1430; <i>First Natl. Bank v. National Exchange Bank</i>, 92 U.S. 122 (1875); OCC Interpretive Letter (Aug. 8, 1965).</p>
3. Charitable Contributions	FSAs may make reasonable charitable contributions, either directly or through charitable foundations established by them. OTS Op. Ch. Couns. (Nov. 12, 1992). <i>See also</i> Community Development Investment Authority: A Guide to the Federal Laws & Regulations Governing Community Development Activities of FSAs, OTS (Dec. 1998) at 20. FSA service corporations are preapproved to engage in certain community development and charitable activities. 12 C.F.R. § 159.4(h).	NBs may make charitable contributions and may establish charitable foundations if not prohibited by state law. 12 U.S.C. § 24(Eighth).
4. Leasing of Employees	No express precedential determination. ²⁶	NBs may lease employees from a contractor, subject to

²⁵ Id.

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		directors' obligation to supervise bank. OCC Interpretive Letter No. 431 (Nov. 5, 1987). NBs may hire customers' employees and lease them back (employee outsourcing). OCC Conditional Approval No. 384 (Apr. 25, 2000).
5. Leasing Lobby Space; Sharing Space and Personnel	FSAs may lease lobby space to other companies provided there is a clear demarcation between the lessee's space and the institution's space. FHLBB Op. Gen. Counsel (Feb. 7, 1985); OTS Ops. Ch. Couns. (May 23, 1991) and (Sept. 1, 1993).	<p>In general, a NB may lease property it does not need for its current use, provided the lessee business is appropriately and separately identified. The NB may not enter into a partnership or joint venture with the lessee. 12 U.S.C. §§ 24(Seventh) and 29; 12 C.F.R. § 7.3001; OCC Interpretive Letter No. 342 (May 22, 1985).</p> <p>A NB may lease space and conduct business in other types of retail establishments, such as supermarkets, provided it meets certain conditions. NBs may also share employees with these establishments. 12 C.F.R. § 7.3001.</p>
6. Leasing of Personal Property	Service corporations are preapproved to lease personal property. 12 C.F.R. § 559.4(c)(2).	NBs may lease personal property for their own use. Letter (July 14, 1976).
7. Political Contributions	FSAs owned in stock form are prohibited from making political contributions to candidates. 2 U.S.C. § 441b	NBs are prohibited from making political contributions to candidates. 2 U.S.C. § 441b

²⁶ Id.