

**Summary Conclusion:** "Sweep" arrangements, by which institutions "sweep" excess funds out of demand deposits each night and into interest-bearing investments and reverse the transfers the next day, are currently permissible in two circumstances: (i) through the used of government securities repurchases; and (ii) in cases where a third party would invest the funds in mutual funds overnight.

No. 56801; 10 Pages; March 2, 1998

**Summary Conclusion:** OTS would not recommend enforcement action against a holding company and its wholly-owned subsidiary engaged in certain repurchase and reverse repurchase agreements provided that: (i) all of the agreements are collateralized by Treasury securities; (ii) the reverse repurchase agreements will each be subject to an agreement to repurchase the Treasury securities on the next business day after the reverse repurchase agreement has been entered into; and (iii) at all times, the aggregate outstanding amount of repurchase agreements will exceed the aggregate amount of reverse repurchase agreements.

No. 56802; 4 Pages; April 15, 1998

**Summary Conclusion:** OTS confirmed that federal law preempts application of an anti-pass through provision of New York state tax law barring mortgage lenders from passing on to mortgagors a special mortgage recording tax.

No. 56803; 3 Pages; May 11, 1998

**Summary Conclusion:** The Indiana Interest on Lawyer Trust Account Program funds are eligible for deposit in NOW accounts in savings associations regulated by OTS.

No. 56804; 8 Pages; May 15, 1998

**Summary Conclusion:** OTS does not endorse the use by a federal savings association's service corporation of the same corporate logo on its signage, advertising, letterhead and other promotional materials as the federal savings association and its parent holding company. However, pending completion of the review and revision of OTS securities brokerage regulations and based upon representations regarding how the logos would and would not be used, OTS is prepared to state that they would not recommend enforcement action if the service corporation uses the logo currently employed by the federal savings association and its parent holding company in its advertising and other promotional materials.

No. 56805; 2 Pages; May 22, 1998

**Summary Conclusion:** Provisions of Iowa and Wyoming statutes and regulations that purport to restrict the establishment and operation of automated teller machines (“ATMs”) on an interstate basis are preempted for federal savings associations. The preempted state provisions include: (i) prohibitions on establishment or use of ATMs by financial institutions that do not have an office or place of business in the state; (ii) application, approval, registration, examination, and fee requirements; (iii) ATM fee disclosure requirements that exceed the requirements of the Electronic Funds Transfer Act and OTS regulations; and (iv) requiring provision of access to ATMs to other financial institutions and their customers on an equal basis.

No. 56806; 15 Pages; July 1, 1998

**Summary Conclusion:** A federal savings association with trust powers that provides funeral pre-need trust services from its headquarters and contracts with individual funeral directors in other states to perform specified marketing and liaison activities for the association will not be located for trust purposes in those other states.

No. 56807; 11 Pages; July 1, 1998

**Summary Conclusion:** OTS does not endorse the use by a federal savings association’s service corporation and family of mutual funds sold by the service corporate of the same corporate logo on its signage, advertising, letterhead and other promotional materials as the federal savings association, its parent holding company, and certain affiliate companies. However, pending completion of the review and revision of OTS securities brokerage regulations and subject to certain representations regarding how the logos would and would not be used, OTS is prepared to state that they would not recommend enforcement action if the service corporation and the funds sold by it use the logo currently employed by the federal savings association and its parent holding company in its advertising and other promotional materials.

No. 56808; 2 Pages; July 30, 1998

**Summary Conclusion:** A Federal savings associations may establish and maintain a commercial escrow accounts under the incidental powers doctrine.

No. 56809; 6 Pages; August 19, 1998

**Summary Conclusion:** A federal savings association may provide payroll processing services on a fee for service basis to small business employers, subject to certain restrictions, including the restrictions on customers an association may serve. The services are authorized under OTS's data processing services regulation, § 545.138. However, if an association provides these services, the services must be provided primarily for the association, other depository institutions, and the association's loan or deposit customers. Alternatively, in addition, an association's service corporation may provide payroll processing services as a preapproved activity under OTS regulation § 559.4(b)(1) and (6), and would not be subject to the foregoing restrictions.

**Date:** October 1, 1998

**Subjects:** Home Owners' Loan Act/Savings Association Powers

**Summary Conclusion:** A federal savings association may offer performance guaranties on low down payment mortgage loans it originates or purchases and insures with a private mortgage insurer, thereby assuming a portion of the default risk on the insured loans. This activity is authorized under section 5(c)(1)(B) of the HOLA and is a power incident thereto.

**Date:** October 2, 1998

**Subjects:** Home Owners' Loan Act/Savings Association Powers

**Summary Conclusion:** A federal savings association's service corporation may reinsure private mortgage insurance for loans originated or purchased by the association's affiliate. The activity is reasonably related to the activities of financial institutions, therefore, OTS may approve such a service corporation activity under 12 C.F.R. Part 559.

**Dates:** November 2, 1998

**Subjects:** Home Owners' Loan Act/Savings Association Powers; Affiliate Transactions

**Summary Conclusion:** State laws purporting to impose requirements regarding mortgage escrow accounts are preempted for federal savings associations.

**Date:** November 17, 1998

**Subjects:** Home Owners' Loan Act/Savings Association Powers

**Summary Conclusion:** A federal savings association, with trust powers may pay finders' fees to persons and entities that refer trust business to the association, subject to a number of conditions on the fee payment program.

**Date:** December 21, 1998

**Subjects:** Home Owners' Loan Act/Savings Association Powers

**Summary Conclusion:** Various provisions of Massachusetts law that purport to restrict the establishment and operation of electronic branches, including ATMs, do not apply to federal savings associations. The preempted state law provisions mandate compliance with state approval requirements prior to owning, operating, using, or sharing electronic branches and require the payment of an annual assessment for each electronic branch.

**Date:** December 22, 1998

**Subjects:** Home Owners' Loan Act/ Savings Association Powers