

Service Corporations

Using Service Corporations for Innovation and Collaboration

OCC Guidance and Regulations

- **OCC Whitepaper** - [*An Opportunity for Community Banks: Working Together Collaboratively*](#) – January 13, 2015
- **Comptroller’s Licensing Manual** – [*Subsidiaries and Equity Investments*](#) – October 2017
- **Regulations**
 - Service corporations and their subsidiaries – 12 CFR 5.59
 - Operating subsidiaries – 12 CFR 5.38
 - Bank service company – 12 CFR 5.35
 - Qualifying public welfare investments – 12 CFR 24.6

* **NOTE: OTS Examination Handbook – Section 730 – [*Related Organizations*](#)** – January 1994 – provides historical context, but should not be relied upon for guidance due to changes in the regulations and licensing process.

Service Corporations

Statutory Investment limitations

- An FSA may invest up to 3 percent of its assets in the capital stock, obligations, and other securities of service corporations.
- Any investment that would cause an FSA's investment, in the aggregate, to exceed 2 percent of assets, or made while the savings association's investments in service corporations exceeds 2 percent of assets, must serve primarily community, inner city, or community and economic development or public welfare purposes*

**See 12 CFR 24.6 for qualifying public welfare investments*

Service Corporations

First-tier service corporation ownership

- Must be organized under the laws of the state in which the FSA's home office is located
- Its capital stock must be available for purchase only by that state's savings associations and FSAs with home offices in the state
- Service corporations enable FSAs to allocate costs among participants
- Lower-tier service corporations do not have the same geographic limitations

Authorized Service Corporation Activities

- Any activity that the FSA can conduct directly
- Business and professional services (when finance-related)
 - Accounting or internal audit; Advertising, market research and other marketing; Clerical; Consulting; Courier; Data processing; Data storage facilities operation and related services; Office supplies, furniture, and equipment purchasing and distribution; Personnel benefit program development or administration; Printing and selling forms that require Magnetic Ink Character Recognition (MICR) encoding; Relocation of personnel; Research studies and surveys; Software development and systems integration; and Remote service unit operation, leasing, ownership or establishment.
- Credit-related activities
 - Abstracting; Acquiring and leasing personal property; Appraising; Collection agency; Credit analysis; Check or credit card guaranty and verification; Escrow agent or trustee (under deeds of trust, including executing and delivery of conveyances, reconveyances and transfers of title); and Loan inspection.
- Consumer services
 - Financial advice or consulting; Foreign currency exchange; Home ownership counseling; Income tax return preparation; Postal services; Stored value instrument sales; Welfare benefit distribution; Check printing and related services; and Remote service unit operation, leasing, ownership, or establishment.

Authorized Service Corporation Activities (continued)

- Real estate related services
 - Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites, in accordance with a prudent program of property development;
 - Acquiring improved real estate or manufactured homes to be held for rental or resale, for remodeling, renovating or demolishing and rebuilding for resale or rental, or to be used for offices and related facilities of a stockholder of the service corporation;
 - Maintaining and managing real estate; and
 - Real estate brokerage for property owned by a savings association that owns capital stock of the service corporation, or a lower-tier service corporation in which the service corporation invests.

- Securities activities, liquidity management, and coins
 - Execution of transactions in securities on an agency or riskless principal basis solely upon the order and for the account of customers or the provision of investment advice. The service corporation must register with the Securities and Exchange Commission and state securities regulators, as required by applicable Federal and state law and regulations;
 - Liquidity management;
 - Issuing notes, bonds, debentures, or other obligations or securities; and
 - Purchase or sale of coins issued by the U.S. Treasury.

Authorized Service Corporation Activities (continued)

- Investments
 - Tax-exempt bonds used to finance residential real property for family units;
 - Tax-exempt obligations of public housing agencies used to finance housing projects with rental assistance subsidies;
 - Small business investment companies and new markets venture capital companies licensed by the U.S. Small Business Administration;
 - Rural business investment companies licensed by the U.S. Department of Agriculture; and
 - Investing in savings accounts of an investing thrift.
- Community Development Investments
- Charitable Activities
- Activities conducted as an agent
- An FSA may request OCC approval for a service corporation to engage in any other activity reasonably related to the activities of financial institutions.

Licensing Requirements

- **Application required** – FSAs must submit an application to the OCC to establish or invest in a subsidiary or to perform a new activity in an existing subsidiary
- **Legal opinion** – The OCC may require the applicant to submit a legal analysis if the proposal is novel or unusually complex, or if it raises substantial unresolved legal issues
- **Prefiling meeting** – OCC encourages applicants to arrange a prefiling meeting with the appropriate Director for District Licensing
- **Expedited treatment** – “Well capitalized” and “well managed” thrifts are eligible for expedited review if the service corporation engages only authorized activities (12 CFR 5.59(f))

Licensing Standards

for considering whether to approve a service corporation

- The service corporation's proposed activity
 - is legally permissible.
 - is consistent with safe and sound banking practices and does not endanger the safety and soundness of the parent FSA.
- The FSA's
 - aggregate outstanding investments in service corporations are within the limits set forth in 12 CFR 5.59(g).
 - performance of the activity through the service corporation is not in contravention of OCC policy.
- Investments in the capital stock, obligations, or other securities of a first-tier service corporation must be in the same state in which the FSA has its home office.

Appendix

- **Operating Subsidiaries**
- **Bank Service Companies**

Operating Subsidiaries

- **Authorized Activities** – Only those activities that an FSA is permitted to engage in directly
- **Ownership**
 - The parent FSA must own > 50 percent of the Operating Subsidiary's voting stock
 - No person or entity other than the parent FSA may exercise control over the operating subsidiary

Bank Service Company

- **Authorized Activities** – Activities of the BSC must be permissible for each investing institution
- **Ownership** – A bank may invest up to 10 percent of its capital and surplus in a single BSC, and up to five percent of total assets in all BSCs
- **Licensing**
 - a bank shall submit a notice and obtain prior OCC approval to invest in the equity of a BSC or to perform new activities in an existing BSC.
 - A bank does not need to submit a notice or obtain OCC approval to invest in a BSC, or to perform a new activity in an existing BSC, if the BSC will provide only the following services only for depository institutions: Check and deposit posting and sorting; computation and posting of interest and other credits and charges; preparation and mailing of checks, statements, notices, and similar items; or any other clerical, bookkeeping, accounting, statistical, or similar functions.