

94842

SUPERVISORY AGREEMENT

7488 This Supervisory Agreement ("Agreement") is made and is effective this 10th day of September, 1993 (the "Effective Date"), by and between Homestead Savings Association of Texas (the "Association"), a state chartered stock association, having its main office located at 2553 South Texas Avenue, College Station, Texas, and the Office of Thrift Supervision ("OTS"), an office within the United States Department of the Treasury, having its principal executive offices located at 1700 G Street, N.W., Washington, D.C.

WHEREAS, the OTS is the primary federal regulator of the Association; and

WHEREAS, based on the Compliance Report of Examination, dated April 8, 1993 ("CROE"), the OTS, by and through the Regional Director for the Midwest Region or his successor or designee ("Regional Director") is of the opinion that the Association has engaged in acts and practices in operating the business of the Association that: (i) have resulted in violations of certain of the laws or regulations to which the Association is subject and/or (ii) are considered to be unsafe and unsound; and

WHEREAS, the OTS is of the opinion that grounds exist for the initiation of administrative proceedings against the Association; and

WHEREAS, the OTS is of the view that it is appropriate to take measures intended to ensure that the Association will: (1) comply with all applicable laws and regulations and (2) engage in safe and sound practices; and

WHEREAS, the Board of Directors of the Association (the "Board"), without admitting or denying any violations of laws or regulations and/or unsafe and unsound practices, wishes to cooperate with the OTS and to evidence their intent to: (1) comply with all applicable laws and regulations and (2) engage in safe and sound practices.

NOW THEREFORE, in consideration of the above premises, the mutual undertakings set forth herein, the parties hereto agree as follows:

COMPLIANCE WITH LAWS AND REGULATIONS

1. The Association shall take all necessary and appropriate actions to achieve compliance with the following regulations:
 - (a) Section 202.9(b)(1) of Regulation B of the Board of Governors of the Federal Reserve System ("Federal Reserve"), 12 C.F.R. § 202.9(b)(1) (regarding Equal Credit Opportunity Act Notice);
 - (b) Section 203.5 of Regulation C of the Federal Reserve, 12 C.F.R., § 203.5 (regarding home mortgage disclosure and reporting);
 - (c) Section 205.7 of Regulation E of the Federal Reserve, 12 C.F.R. § 205.7 (regarding initial disclosure of terms and conditions for electronic fund transfers);

- (d) Section 226.18 of Regulation Z of the Federal Reserve, 12 C.F.R. § 226.18 (regarding content of truth-in-lending disclosures for closed-end credit);
- (e) Section 226.22(a) of Regulation Z of the Federal Reserve, 12 C.F.R. § 226.22(a) (regarding accuracy of annual percentage rate);
- (f) Section 563.6 of the OTS Regulations, 12 C.F.R. § 563.6 (regarding payment of accounts on demand);
- (g) Section 563.170(c) of the OTS Regulations, 12 C.F.R. § 563.170(c) (regarding establishment and maintenance of records);
- (h) Section 563.177 of the OTS Regulations, 12 C.F.R. § 563.177 (regarding procedures for monitoring Bank Secrecy Act compliance); and
- (i) Section 3500.21 of Regulation X of the Department of Housing and Urban Development, 24 C.F.R. § 3500.21 (regarding mortgage-servicing transfers).

CORRECTIVE PROVISIONS

CONSUMER COMPLIANCE PROGRAM

- 2. (a) Unless the Association has already done so since the issuance of the CROE, within 90 days after the Effective Date, the Board shall establish and adopt a written program designed to ensure compliance ("Compliance Program") with the applicable consumer and public-interest related laws and regulations, including, but not limited to, those referenced in Paragraph 1 hereof.
- (b) The Compliance Program (regardless of whether adopted before or after the Effective Date) shall provide for written policies and procedures that set forth the requirements of the applicable laws and regulations, including those referenced in Paragraph 1 hereof, as well as incorporate the OTS regulatory guidelines, and shall, at a minimum, include:
 - (i) a designated individual(s) (compliance officer(s)) to coordinate and monitor the program;
 - (ii) internal control;
 - (iii) independent testing of compliance;
 - (iv) training; and
 - (v) any other specific requirements of the applicable laws and regulations.
- (c) Within 30 days after the Effective Date, the Board shall designate or reaffirm a qualified Consumer Compliance Officer to coordinate and monitor the program.

- (d) The Association, acting through its Board, shall amend its Compliance Program (regardless of whether adopted before or after the Effective Date), or any portion thereof, as directed (if directed) by the Regional Director, and shall, acting through its Board, officers, employees, and other agents, comply with the Compliance Program, as so amended (if so amended), and with the statutes and regulations referenced in this Agreement.

MONITORING OF BANK SECRECY ACT

- 3. (a) Within 60 days of the Effective Date, the Association, through its Board, shall develop and provide for the continued administration of a program ("BSA Program") reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements of the Bank Secrecy Act and the implementing regulations promulgated thereunder, including, but not limited to, those requirements regarding completion of currency transaction reports, completion of monetary instrument logs, and maintenance of an exemption list.
- (b) The Association's BSA Program shall provide for training of appropriate personnel with regard to the recordkeeping and reporting requirements of the Bank Secrecy Act and the implementing regulations promulgated thereunder, to the extent reasonably necessary to attempt to ensure compliance with such requirements.

TRUTH IN LENDING

- 4. (a) Within 60 days of the Effective Date, the Association's Compliance Officer shall review truth-in-lending calculation methods with appropriate members of the Association's staff and provide adequate training reasonably designed to ensure proper calculation of the "amount financed", "finance charge", "payment schedule", "total of payments", and "annual percentage rate", in accordance with 12 C.F.R. §§ 226.18 and 226.22(a).
- (b) Within 60 days of the Effective Date, the Association shall cause a file search of all adjustable-rate mortgage loans originated or refinanced since May 16, 1990, in order to determine, through recalculation and otherwise, whether disclosures required by 12 C.F.R. § 226.18 were properly made. With regard to such loans in which such disclosures were not properly made, the Association shall accordingly make, within 120 days of the Effective Date, appropriate restitution in accordance with the Truth in Lending Act and the Interagency Policy Guide for Restitution.

HOME MORTGAGE DISCLOSURE

- 5. Within 30 days of the Effective Date, the Association shall obtain and have at its main office its home mortgage disclosure statement for the immediately-preceding 5-year period, as required by 12 C.F.R. § 203.5.

REAL ESTATE SETTLEMENT PROCEDURES

6. Within 30 days of the Effective Date, the Association shall review its real estate settlement procedures and take such action as is necessary and prudent in an attempt to ensure that, in the future, the real estate settlement procedures Disclosure Statement is properly provided to borrowers on a timely basis, in accordance with 24 C.F.R. § 3500.21.

PAYMENT OF ACCOUNTS ON DEMAND

7. Within 30 days of the Effective Date, the Association shall review all deposit accounts it treats as Negotiable Order of Withdrawal ("NOW") accounts to determine which of such accounts are ineligible to be NOW accounts in accordance with the definition of such term at 12 C.F.R. § 561.29, cease treating such accounts as NOW accounts, and take whatever other action is necessary to cease violations of 12 C.F.R. § 563.6.

ELECTRONIC FUND TRANSFERS

8. The Association shall ensure that appropriate disclosures are timely provided to consumers in accordance with 12 C.F.R. § 205.7. Additionally, within 30 days of the Effective Date, the Association shall review its electronic fund transfer procedure in order to determine how, if at all, it needs to change in order to provide for compliance with 12 C.F.R. § 205.7.

EQUAL CREDIT OPPORTUNITY

9. In each notice of adverse action provided to an applicant for credit, the Association shall provide the correct name and address of the federal agency that administers compliance with respect to the Association (i.e., the OTS or its successor, as appropriate).

RESTRICTIONS RELATED TO LEVEL OF CLASSIFIED ASSETS

10. (a) If, on September 30, 1993, the Association's assets as of that date which had been classified assets as of July 6, 1992, exceed 200% of tangible capital, then, by no later than October 31, 1993, the Association shall have received an external cash capital infusion in at least the amount of \$250,000 minus the amount of any external cash capital infusion(s) received since January 1, 1993.
- (b) If, on September 30, 1994, the Association's assets as of that date which had been classified assets as of July 6, 1992, exceed 100% of tangible capital, then, by no later than October 31, 1994, the Association shall have received an external cash capital infusion in at least the amount of \$350,000 minus the amount of any external cash capital infusion(s) received since January 1, 1993.
- (c) The Association shall comply with the Business Plan approved on July 13, 1992. Any deviations from or amendments to the Business Plan other than as specifically authorized herein require the prior written approval of the Regional Director.

- (d) Except as approved in writing by the Regional Director, the Association shall engage in no activity in contravention of the Business Plan approved on July 13, 1992 (and any amendments thereto which are approved by the OTS) and shall not engage in any activity outside of the ordinary course of business other than those approved in writing by the Regional Director.

BOOKS AND RECORDS

- 11. The Association shall comply with its guidelines and policies, established pursuant to Section 5 of the Order to Cease and Desist, dated August 12, 1991, issued by the OTS against the Association, with regard to the review and maintenance of books and records and ensuring timely and accurate filing of all financial reports required by the OTS. This requirement shall remain in effect regardless of the status of the above-referenced Order to Cease and Desist.

BOARD OF DIRECTORS

COMPLIANCE WITH AGREEMENT

- 12. (a) The Board and officers of the Association shall take immediate action to cause the Association to comply with the terms of this Agreement and shall take all actions necessary or appropriate thereafter to cause the Association to continue to carry out the provisions of this Agreement.
- (b) The Board, on a monthly basis, shall adopt a Board Resolution (the "Compliance Resolution") formally resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief, during the immediately preceding calendar month, the Association has complied with each provision of this Agreement currently in effect, except as otherwise stated. The Compliance Resolution shall: (i) specify in detail how, if at all, full compliance was found not to exist, and (ii) identify all notices of exemption or non-objection issued by the Regional Director that were outstanding as of the date of its adoption.
- (c) The minutes of the meeting of the Board shall set forth the following information with respect to the adoption of each Compliance Resolution: (i) the identity of each director voting in favor of its adoption; and (ii) the identity of each director voting in opposition to its adoption or abstaining from voting thereon, setting forth each such director's reasoning for opposing or abstaining.
- (d) No later than the 25th calendar day of the month following the end of a calendar quarter, beginning with the end of the first calendar quarter following the Effective Date, the Association shall provide to the Regional Director a certified true copy of the Compliance Resolutions adopted at the Board meeting of each month in such

calendar quarter. The Board and each of its members, by virtue of the Association's submission of a certified true copy of each such Compliance Resolution to the Regional Director, shall be deemed to have certified to the accuracy of the statements set forth in each Compliance Resolution, except as provided below. In the event that one or more Directors do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the Association.

- (e) Within 45 days after each meeting of the Board and thereafter, the Board shall maintain at the Association's facilities, and make available to OTS staff upon request, minutes of such Board meeting. At least on a quarterly basis, such minutes shall reflect review of the Business Plan and include or be accompanied by a report (which shall also be made available to OTS staff upon request) that sets forth and explains each material variance, if any, from the level of activities, capital targets and asset growth projected in the Business Plan.

MISCELLANEOUS

DEFINITIONS

13. All technical words or terms used in this Agreement for which meanings are not specified or otherwise provided by the provisions of this Agreement shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, HOLA, FDIA or OTS Memoranda. Any such technical words or terms used in this Directive and undefined in said Code of Federal Regulations, HOLA, FDIA, or OTS Memoranda shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.
- (a) "Advisory Memoranda" refers to, inter alia, R Memoranda and T Memoranda issued by the staff (or agents) of the OTS (or its predecessors in interest).
 - (b) "Board Resolution" means a resolution duly adopted by the Board at a duly called and held meeting of the Board at which a quorum was present.
 - (c) "Director" shall mean any current or former member of the Association's Board of Directors unless it refers to an agent of OTS, as made clear from the context.
 - (d) "FDIA" means the Federal Deposit Insurance Act, as amended.
 - (e) "HOLA" means the Home Owners' Loan Act, as amended, 12 U.S.C. §§ 1461 et seq.
 - (f) "Regional Director" or his successor is the senior supervisory official in the Midwest Region of OTS. All references to the Regional Director shall include the Regional Director and/or his designee(s).

SUCCESSOR STATUTES, REGULATIONS, GUIDANCE, AMENDMENTS

14. Reference in this Agreement to provisions of statutes, regulations, and OTS Memoranda shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date and references to successor provisions as they become applicable.

DURATION, TERMINATION OR SUSPENSION OF AGREEMENT

15. (a) This Agreement shall: (i) become effective upon its execution by the OTS, through its authorized representative whose signature appears below and (ii) remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director or the Regional Director (including any authorized designee thereof).
- (b) The Regional Director, in his or her sole discretion, may, by written notice, suspend any or all provisions of this Agreement.

TIME LIMITS

16. Time limitations for compliance with the terms of this Agreement run from the Effective Date, unless otherwise noted.

EFFECT OF HEADINGS

17. The Section headings herein are for convenience only and shall not affect the construction hereof.

SEPARABILITY CLAUSE

18. In case any provision in this Agreement is ruled to be invalid, illegal or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his/her sole discretion determines otherwise.

NO VIOLATIONS OF LAW, RULE, REGULATION OR POLICY STATEMENT AUTHORIZED; OTS NOT RESTRICTED

19. Nothing in this Agreement shall be construed as: (i) allowing the Association to violate any law, rule, regulation, or policy statement to which it is subject or (ii) restricting or estopping the OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

SUCCESSORS IN INTEREST/BENEFIT

20. The terms and provisions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Agreement, express or implied, shall give to any person or

entity, other than the parties hereto, the Resolution Trust Corporation, and the Federal Deposit Insurance Corporation and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Agreement.

SIGNATURE OF DIRECTORS

21. Each Director signing the Agreement attests, by such act, that she or he, as the case may be, voted in favor of the resolution, in the form attached to this Agreement, authorizing the execution of this Agreement by the Association.

INTEGRATION CLAUSE; MODIFICATION; TERMINATION OF CERTAIN ACTIONS

22. (a) This Agreement represents the final written agreement of the parties with respect to the subject matter hereof and constitutes the sole agreement of the parties, as of the Effective Date, with respect to such subject matter.
- (b) Upon execution by both parties of this Agreement, the Capital Directive, dated September 4, 1992, issued by the OTS against the Association, and the Order to Cease and Desist, dated August 12, 1991, issued by the OTS against the Association, shall each terminate, provided, however, that any violation of either such Capital Directive or such Order to Cease and Desist which shall have occurred prior to such termination may be subject to enforcement action to the extent that such enforcement action is otherwise supportable and shall not be affected by this termination.

ENFORCEABILITY OF AGREEMENT

23. The Association represents and warrants that this Agreement has been duly authorized, executed, and delivered, and constitutes, in accordance with its terms, a valid and binding obligation of the Association. The Association acknowledges that this Agreement is a "written agreement" entered into with the OTS within the meaning of Section 8 of the FDIA, 12 U.S.C. §1818.

IN WITNESS WHEREOF, the OTS, acting by and through the Regional Director and the Association, in accordance with a duly adopted resolution of its Board (copy attached hereto), hereby execute this Agreement as of the Effective Date.

OFFICE OF THRIFT SUPERVISION

THE ASSOCIATION

By:

By:

15/
~~James E. Bostley~~ Frederick R. Casteel
Regional ~~Director~~
~~Designee of the Regional Director~~

15/
Gem B. Childress
Chief Executive Officer

**CERTIFIED COPY OF
RESOLUTION OF BOARD OF DIRECTORS**

I, the undersigned, being the duly appointed and qualified Secretary of Homestead Savings Association of Texas, College Station, Texas (the "Association") hereby certify as follows:

1. A duly called meeting of the Board of Directors of the Association was held on August 17, 1993;
2. At said meeting a quorum was present and voting throughout;
3. The following is a true copy of resolutions duly adopted by the Association's Board of Directors, which resolutions have not been rescinded or modified and are now in full force and effect:

WHEREAS, the Board of Directors of the Association wishes to cooperate with the Office of Thrift Supervision and to demonstrate that said Board of Directors and the Association have the intent and ability to: (1) comply with all applicable laws and regulations and (2) engage in safe and sound practices; and

WHEREAS the Directors of the Association have read and considered the proposed Supervisory Agreement ("Agreement"), a copy of which shall be attached to the minutes of this meeting; and

WHEREAS after due consideration, the Directors of the Association have determined to cause the Association to enter into the proposed Agreement which is in the best interest of the Association;

NOW THEREFORE, BE IT RESOLVED, that the Association be and it hereby is authorized to enter into the Agreement in the form attached to the minutes of the meeting,

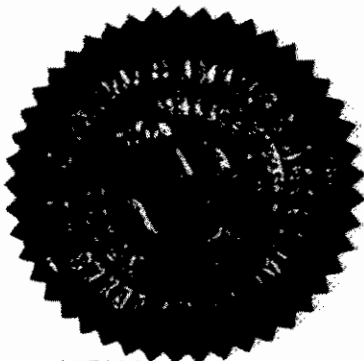
FURTHER RESOLVED, that the execution and delivery of, and performance of all of the provisions of the Agreement be, and they hereby are, authorized and approved,

FURTHER RESOLVED, that the Directors and Officers of the Association be, and they hereby are, authorized and directed to execute and deliver the Agreement and to take all steps necessary or appropriate to implement the terms of the Agreement and to cause the Association to comply in all respects with the terms of the Agreement.

4. All members of the Board of Directors were present and voted at the meeting (except N/A) and all members of the Board of Directors (except N/A) voted in favor of the resolution;

Page 11

IN WITNESS WHEREOF, I have hereto subscribed my name and affixed the seal of
the Association on this 17th day of August, 1993, 11



(SEAL)

151
Name:
Title: Secretary

DIRECTORS OF THE ASSOCIATION

15/
Director

15/
Director

15/
Director

15/
Director

15/
Director

15/
Director

Director

Director

Director

Director