Savings and loan associations (S&Ls) are also known as “thrifts,” “thrift institutions,” or “savings banks.” In the federal banking system they are officially called “savings associations.”

S&Ls are descendants of the building and loan associations of the nineteenth century. These were private cooperative organizations in which each of the members contributed periodic payments on his “share” in the organization in return for receiving a mortgage loan as sufficient funds became available to the cooperative. Early building and loan associations generally dissolved once houses had been built for all members. By the turn of the century, building and loan associations had evolved to permanent organizations, chartered and regulated by many states, in which the accounts of shareholders and borrowers were separately maintained.

A parallel system of state and federal S&Ls, somewhat comparable to the dual state and federal banking system, was established during the depression when many S&Ls faced severe financial problems. In 1932, the Federal Home Loan Bank System was created, modeled after the Federal Reserve System. Twelve regional federal home loan banks were established, under one board, the Federal Home Loan Bank Board (FHLBB). The regional federal home loan banks extended short-term and long-term credit to member S&Ls. In 1933, the Home Owners’ Loan Act provided for the chartering of federal S&Ls, subject to a 6% rate cap. The Home Owners’ Loan Act mandated the participation of federal S&Ls in the Federal Home Loan Bank System. In 1934, the Federal Savings and Loan Insurance Corporation (FSLIC) was created, and deposits in all federal S&Ls and many state S&Ls were federally insured.

In the high interest rate environment of the late 1970s, the lending authority of federal S&Ls and many state S&Ls was expanded from long-term, low-yield mortgages to other forms of credit. Federal S&Ls, for example, were authorized to issue consumer loans, home improvement loans, commercial real estate loans, credit cards, student loans, and many other forms of credit, although the percentage of an S&L’s assets which may be invested in some of these forms of credit is limited. The lending authority of state S&Ls is generally specified by state law. As with banks, federal savings associations and federally insured S&Ls can export their home state interest rate to other states.

This expanded lending authority did not prove to be a boon for the savings and loan industry. In fact, it resulted in failure for an unprecedented number of thrifts, placing financial strains on the thrift insurer, FSLIC. As a result, Congress passed the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), a general overhaul of the federal regulatory structure for thrifts. The Federal Home Loan Bank Board was abolished, and many of its supervisory functions were transferred to the Office of Thrift Supervision (OTS).

Nor did the OTS prove to be an effective regulator. It encouraged irresponsible lending by offering lax regulation as a way of competing for the business of lending institutions that might otherwise operate under national bank charters or state charters. Starting in 2007, all of the major OTS-regulated thrifts failed. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 abolished the OTS, consolidating oversight of both national banks and federal savings and loan associations in the Office of the Comptroller of the Currency.

Footnotes


164 [144] Mutual savings banks and insurance companies were also permitted to join the federal home loan bank system, although there have been no insurance company members since 1959. See Welfling, Mutual Savings Banks 92–94 (1968).


168  [148] See § 3.4 [1], infra.


171  [151] See Arthur E. Wilmarth, Jr., The Dodd-Frank Act’s Expansion of State Authority to Protect Consumers of Financial Services, 36 J. Corp. L. 893 (Summer 2011).