

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5 and 28

[Docket No. 03-07]

RIN 1557-AC04

Rules, Policies, and Procedures for Corporate Activities; International Banking Activities

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) proposes to amend its regulations pertaining to the foreign operations of national banks, and of Federal branches and agencies of foreign banks operating in the United States, in both cases generally to make regulatory requirements more streamlined and risk-based. The proposed rule would clarify certain regulatory definitions and simplify approval procedures for foreign banks seeking to establish Federal branches and agencies in the United States. These proposed changes will further conform the treatment of Federal branches and agencies of foreign banks to that of their domestic national bank counterparts consistent with the national treatment principles of the International Banking Act.

DATES: Comments must be received by June 23, 2003.

ADDRESSES: Please direct your comments to: Office of the Comptroller of the Currency, 250 E Street, SW., Public Information Room, Mailstop 1-5, Washington, DC 20219, Attention: Docket No. 03-07; fax number (202) 874-4448; or Internet address: regs.comments@occ.treas.gov. Due to delays in paper mail delivery in the Washington area, we encourage the submission of comments by fax or e-mail whenever possible. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E

Street, SW., Washington, DC. You may make an appointment to inspect comments by calling (202) 874-5043.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, Legislative & Regulatory Activities Division, (202) 874-5090; Carlos Hernandez, Senior International Advisor, International Banking & Finance, (202) 874-4741; or R. Julie Olson, Director, Licensing Policy & Systems, (202) 874-5060.

SUPPLEMENTARY INFORMATION:

Background

The OCC is committed to continually reevaluating our rules to reduce unnecessary regulatory burden and simplify compliance, consistent with the safe and sound operation of the institutions we supervise. We have recently undertaken such a review of part 28 of our regulations, which governs the foreign operations of national banks and the U.S. operations of Federal branches and agencies of foreign banks. As a result, we are proposing to revise part 28 to incorporate changes that clarify, streamline, and simplify compliance with a number of its requirements. The most significant revisions to part 28 include: (1) Streamlining procedures for national banks' foreign operations through branches; (2) eliminating the requirement to file an application with the OCC in certain circumstances when a foreign bank downgrades its U.S. operations; (3) requiring approval, but not a new license, for additional Federal branches or agencies opened after the establishment of the initial branch office; and (4) clarifying that a foreign bank with Federal branches and agencies in more than one state may consolidate its capital equivalency deposits (CEDs) in one deposit account in a depository bank that satisfies certain criteria.

The proposal also makes conforming changes to the procedural provisions in part 5 of our regulations, and amends part 5 to permit a Federal branch to make certain non-controlling equity investments on the same terms as national banks. The proposed changes further conform the treatment of foreign banks to that of their domestic national bank counterparts and are, therefore, in keeping with the national treatment requirements of the International Banking Act (IBA).

Certain fundamental provisions of part 28 remain unchanged. For example, none of the proposed changes affects any legal requirements that are imposed by the Board of Governors of the Federal Reserve System (FRB) in the FRB's Regulation K¹ or by any other applicable law with respect to national banks' foreign activities or the operations of foreign banks in the United States. Moreover, operations of a Federal branch or agency continue to be subject to the "same rights and privileges and subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply if the Federal branch or agency were a national bank operating at the same location." 12 CFR 28.13(a)(1). Accordingly, U.S. domestic laws apply to a Federal branch or agency to the same extent that they would apply to a national bank operating at the same location.

Section-by-Section Description of the Proposal

A. Changes to 12 CFR Part 5

1. Definitions (revised § 5.3)

The proposal amends § 5.3 to update references to the OCC units that should receive certain applications. In paragraph (c)(1), the term "Licensing Department" replaces the current "Bank Organization and Structure," reflecting a nomenclature change. Likewise, in paragraph (c)(4), "Northeastern District Office" would be substituted for "International Banking and Finance Department," to take into account changes in where Federal branches and agencies submit applications.

2. Permissible Equity Investments (revised § 5.36)

Section 5.36 of the OCC's rules permits a well-capitalized, well-managed national bank to make certain non-controlling investments in an enterprise, directly or through its operating subsidiary, by filing a written notice with the appropriate OCC district office no later than 10 days after making the investment.

The proposed rule adds a new paragraph (g) to § 5.36 to permit a well-capitalized and well-managed Federal branch to make non-controlling investments and use the after-the-fact notice procedure set forth in § 5.36 in

¹ 12 CFR part 211.