

requirements for the *de novo* chartering of a national bank that differ from those applicable to that bank's subsequent establishment of additional branches or offices. With respect to licensing procedures, the proposal treats the opening of additional Federal offices by foreign banks in a manner similar to the procedures followed by national banks when opening additional branches.

Moreover, OCC regulations already distinguish between initial and additional Federal branches or agencies of foreign banks. For example, part 28 requires that a "foreign bank shall designate one Federal branch or agency office in the United States to maintain consolidated information so that the OCC can monitor compliance." See 12 CFR 28.14(c). It also requires that a "foreign bank with more than one Federal branch or agency in a state shall designate one of those offices to maintain consolidated asset, liability, and capital equivalency accounts for all Federal branches or agencies in that state." 12 CFR 28.18(c)(2). Requiring a license for the initial Federal branch or agency and treating subsequent establishments as expansions is consistent with these regulations, which already employ a "lead" Federal branch or agency approach to the supervision of foreign banks' U.S. operations. Finally, we note that the IBA has separate provisions in the law dealing with the initial establishment of a Federal branch or agency by a foreign bank, and subsequent establishments. See 12 U.S.C. 3102(a)(1) and (h).

The OCC invites comment on the proposed treatment of regulatory applications by foreign banks.

3. CCS Requirements (revised § 28.12(b)(5))

Under current § 28.12(b)(5), the OCC considers whether a foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor (CCS) in reviewing any application to establish a Federal branch or agency, including state-to-Federal conversions, upgrades, downgrades, and relocations, as well as establishing or acquiring a branch. In addition, the IBA requires the FRB to determine that a foreign bank seeking to establish a U.S. branch or agency is subject to CCS or that its home country supervisor is actively working to establish arrangements for CCS. 12 U.S.C. 3105(d). This proposal would reduce regulatory burden and conform to the OCC's risk-based practice by providing that the OCC generally will consider CCS only in certain cases and *may*, in its discretion, consider it in other cases as deemed appropriate.

As required by statute, the OCC will apply the standards of CCS when acting on applications for interstate establishments. See 12 U.S.C. 3103(a)(3)(A). In connection with other applications to establish a Federal branch or agency, the OCC *may* consider CCS if necessary based on the circumstances of a particular case. This change in the OCC's rule would have no effect on the FRB's statutory requirement to make a CCS determination in connection with any application by a foreign bank to establish a U.S. office, as that requirement is interpreted by the FRB.

The OCC believes that revising the circumstances under which the OCC will consider CCS is consistent with the supervision by risk approach. It may be appropriate to consider CCS when evaluating an application to establish an initial Federal branch or agency, in the same manner as an initial application to charter a national bank triggers a comprehensive regulatory review, but not when evaluating an application to open an additional Federal branch or agency. With respect to supervision of existing Federal branches and agencies, the OCC through the ongoing supervisory process, including information sharing with the FRB and foreign supervisors, monitors developments relating to a parent foreign bank and its home country. A CCS review involves these same types of determinations. Thus, absent specific supervisory concerns, in most cases we already would have the information about the quality of home country supervision to make a decision on the application. Moreover, in most cases, the FRB is required by statute to make a CCS determination and it may be unduly burdensome on the foreign bank for the OCC to be undertaking a duplicative CCS review, except in unusual circumstances or as expressly required by statute.

The proposed rule would not foreclose the OCC from considering CCS and undertaking a CCS review in any circumstance that it deems appropriate. The OCC invites comment on the proposed changes in the CCS requirement. In particular, are there certain transactions for which the OCC should regularly consider and conduct a CCS review other than for interstate branching applications as required by statute, *e.g.*, in the case of an application to establish an initial Federal branch or agency?

4. Expedited Approval Procedures (new § 28.12(e)(2) and (e)(3), revised § 28.12(e)(4), and new § 28.12(i))

Currently, part 28 requires that an application to establish a Federal branch or agency interstate is subject to the same review process that a foreign bank would undergo when it establishes its first Federal branch or agency in the United States. However, the rule provides that, for eligible foreign banks, an application to change the status of an office will be deemed approved on the 45th day after filing with the OCC. 12 CFR 28.12(e)(2). Under the current rule, a change in status includes contractions in operations as well as expansions. *Id.* See also 12 CFR 28.11(g) and 28.12(a).

The proposed rule provides for expedited review of additional types of applications to establish a Federal branch or agency. Under proposed new § 28.12(e)(2), a foreign bank may establish a new intrastate Federal branch or agency after providing written notice to the OCC 45 days in advance of the proposed establishment. The OCC would retain flexibility to waive the 45-day period in certain circumstances, as well as suspend the notice period or require an application if the notice raises significant policy or supervisory issues. Permitting the establishment of an intrastate Federal branch or agency through a notice procedure generally is consistent with procedures for domestic national banks (*see* 12 CFR 5.30(f)(5)) and the practices of other regulators (*see* 12 CFR 211.24(a)(2)).

In addition, under the proposed new § 28.12(e)(3), an eligible foreign bank's application to establish a Federal branch or agency interstate is conditionally approved as of the 45th day after the OCC receives the completed application, unless the OCC notifies the bank that the filing is not eligible for expedited review.

Under proposed § 28.12(e)(4), an application by an eligible foreign bank to convert state offices to Federal offices, or expand activities by converting a Federal agency or limited Federal branch to a Federal branch, would be deemed approved as of the 30th day after filing with the OCC, unless the OCC notifies the bank that the application was not eligible for expedited review.

As we have explained, the proposal deletes the current "change in status" definition in § 28.11(d). It also excludes contractions in activities conducted under a Federal license from the list of transactions that trigger the establishment of a Federal branch or agency. For contractions, new § 28.12(i) would provide that a foreign bank only