

Authority and Issuance

For the reasons set forth in the preamble, parts 5 and 28 of chapter I of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24a, 24(Seventh), 93a, and 3101 *et seq.*;

2. In § 5.3, paragraphs (c)(1) and (c)(4) are revised:

§ 5.3 Definitions.

* * * * *

(c) * * *

(1) The Licensing Department for all national bank subsidiaries of certain holding companies assigned to the Washington, DC, licensing unit;

(2) * * *

(3) * * *

(4) The licensing unit in the Northeastern District Office for Federal branches and agencies of foreign banks.

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3. In § 5.36, a new paragraph (g) is added to read as follows:

§ 5.36 Other equity investments.

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(g) *Non-controlling investments by Federal branches.* A Federal branch that satisfies the well capitalized and well managed standards in § 4.7(b)(1)(iii) and § 5.34(d)(3)(ii) may make a non-controlling investment in accordance with paragraph (e) of this section in the same manner, and subject to the same conditions and requirements as a national bank.⁹

4. In § 5.70:

a. Paragraph (c)(1) is removed;

b. Paragraphs (c)(2)(i) through (v) are redesignated as paragraphs (c)(1)(i) through (v);

c. Newly redesignated paragraphs (c)(1)(i), (iv), and (v) are revised;

d. New paragraph (c)(1)(vi) is added; and

e. New paragraph (c)(2) is added to read as follows:

§ 5.70 Federal branches and agencies.

* * * * *

(c) * * *

(1) * * *

(i) Open and conduct business through an initial or additional Federal branch or agency;

(ii) * * *

(iii) * * *

(iv) Convert a state branch or state agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank, into a Federal branch or Federal agency;

(v) Relocate a Federal branch or agency within a state or from one state to another; or

(vi) Convert a Federal agency or a limited Federal branch into a Federal branch.

(2) Any reference to a Federal branch includes a limited Federal branch unless provided otherwise.

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PART 28—INTERNATIONAL BANKING ACTIVITIES

5. The authority citation for part 28 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

6. In § 28.3, paragraphs (a)(1)(i) and (a)(2) are revised to read as follows:

§ 28.3 Filing requirements for foreign operations of a national bank:

(a) * * *

(1) * * *

(i) Establish or open a foreign branch;

(ii) * * *

(2) Opens a foreign branch, and no application or notice is required by the FRB for such transaction.

* * * * *

1. In § 28.5, paragraphs (a) and (b) are revised as follows:

§ 28.5 Filing of notice.

(a) *Where to file.* A national bank shall file any notice or submission required under this subpart with the appropriate supervisory office of the OCC.

(b) *Availability of forms.* Individual forms and instructions for filings are available from the appropriate supervisory office of the OCC.

8. In § 28.11:

a. Paragraph (d) is removed;

b. Paragraphs (e)–(z) are redesignated as paragraphs (d)–(y);

c. Newly redesignated paragraphs (f)(1), (4), and (5) are revised;

d. New paragraph (f)(6) is added; and

e. Newly redesignated paragraph (h) is revised to add a new sentence at the end to read as follows:

§ 28.11 Definitions.

* * * * *

(f) *Establish a Federal branch or agency* means to:

(1) Open and conduct business through an initial or additional Federal branch or agency;

(2) * * *

(3) * * *

(4) Convert a state branch or state agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank, into a Federal branch or agency;

(5) Relocate a Federal branch or agency within a state or from one state to another; or

(6) Convert a Federal agency or a limited Federal branch into a Federal branch.

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(h) * * * Unless otherwise provided, the references in this subpart B of part 28 to a Federal branch include a limited Federal branch.

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9. In § 28.12:

a. Paragraphs (a) and (b)(5) are revised;

b. Paragraphs (e)(2) through (4) are redesignated as paragraphs (e)(4) through (6);

c. New paragraphs (e)(2) and (3) is added;

d. Newly redesignated paragraph (e)(4) is revised;

e. Paragraph (f) introductory text is revised;

f. Paragraphs (h) through (i) are redesignated as paragraphs (j) through (k);

g. New paragraphs (h) and (i) is added;

h. Newly redesignated paragraph (j) is revised; and

i. New paragraph (l) is added to read as follows:

§ 28.12 Approval of a Federal branch or agency.

(a) *Approval and licensing requirements*—(1) *General.* Except as otherwise provided in this section, a foreign bank shall submit an application to, and obtain prior approval from, the OCC before it:

(i) Establishes a Federal branch or agency; or

(ii) Exercises fiduciary powers at a Federal branch. (A foreign bank may submit an application to exercise fiduciary powers at the time of filing an application for a Federal branch or at any subsequent date.)

(2) *Licensing.* A foreign bank must receive a license from the OCC to open and operate its initial Federal office in the United States. A foreign bank that has a license to operate and is operating a full-service Federal branch will not be required to obtain a new license for any additional Federal offices, or to upgrade or downgrade its operations in an existing Federal office. A foreign bank that only has a license to operate and is operating a limited Federal branch or

⁹ Federal branches also may be subject to requirements contained in the Board of Governors of the Federal Reserve System's Regulation K, 12 CFR part 211.