

disability are Citizens of the United States; and,

(C) No more than a minority of the number of its directors, or equivalent, necessary to constitute a quorum are Non-Citizens;

(iv) In the case of a joint venture:

(A) It is not determined by the Citizenship Approval Officer to be in effect an association or a partnership; and,

(B) Each co-venturer is a Citizen of the United States;

(v) In the case of a Trust that owns a Fishing Industry Vessel:

(A) The Trust is domiciled in the United States or a State;

(B) The Trustee is a Citizen of the United States; and

(C) All beneficiaries of the trust are persons eligible to document vessels pursuant to the requirements of 46 U.S.C. 12102(c);

(vi) In the case of a Limited Liability Company (LLC) that is not found to be in effect a general partnership requiring all of the general partners to be Citizens of the United States:

(A) Any Person elected to manage the LLC or who is authorized to bind the LLC, and any Person who holds a position equivalent to a Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors in a corporation are Citizens of the United States; and,

(B) Non-Citizens do not have authority within a management group, whether through veto power, combined voting, or otherwise, to exercise control over the LLC.

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(g) *Commercial Lender* means an entity that is primarily engaged in the business of lending and other financing transactions and that has a loan portfolio in excess of \$100,000,000, of which not more than 50 per centum in dollar amount consists of loans to borrowers in the commercial fishing industry, as certified by the Commercial Lender to the Citizenship Approval Officer.

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(h) *Controlling Interest*:

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(2) Other criteria that must be met by entities other than an individual include:

(i) In the case of a corporation:

(A) The Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors (or equivalent committee or body) and all officers authorized to act in their absence or disability are Citizens of the United States; and,

(B) No more than a minority of the number of its directors, or equivalent,

necessary to constitute a quorum are Non-Citizens;

(ii) In the case of a partnership all general partners are Citizens of the United States;

(iii) In the case of an association:

(A) The Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors (or equivalent committee or body) and all officers authorized to act in their absence or disability are Citizens of the United States; and,

(B) No more than a minority of the number of its directors, or equivalent, necessary to constitute a quorum are Non-Citizens;

(iv) In the case of a joint venture:

(A) It is not determined by the Citizenship Approval Officer to be in effect an association or partnership; and

(B) A majority of the equity is owned by and vested in Citizens of the United States free and clear of any trust or fiduciary obligation in favor of any Non-Citizen;

(v) In the case of a Limited Liability Company (LLC) that is not found to be in effect a general partnership requiring all of the general partners to be Citizens of the United States:

(A) Any Person elected to manage the LLC or who is authorized to bind the LLC, and any Person who holds a position equivalent to the Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors in a corporation and any Persons authorized to act in their absence are Citizens of the United States; and,

(B) Non-Citizens do not have authority within a management group, whether through veto power, combined voting, or otherwise, to exercise control over the LLC;

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(j) *Fishing Industry Vessel* means a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel;

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(n) *Lender Syndicate* means an arrangement established for the combined extension of credit of not less than \$20,000,000 made up of four or more entities that each have a beneficial interest, held through an agent, under a trust arrangement established pursuant to 46 U.S.C. 31322(f). Other than the exercise by the agent of powers related to routine administrative matters, none of the entities in a Lender Syndicate may exercise powers related to the Lender Syndicate's extension of credit without the concurrence of at least one other unaffiliated beneficiary. Powers related to routine administrative matters include those concerning the day-to-day management of the extension of credit

such as monitoring compliance with loan covenants, collateral inspections and similar matters; however, more substantive powers such as amending loan and mortgage documents, releasing guarantors or collateral, or administering the loan in the event of a default are not considered routine.

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(q) *Mortgage Trustee*, * * *

* * * * *

(2) Is authorized under those laws to exercise corporate trust powers;

(3) Is eligible to hold a Preferred Mortgage under 46 U.S.C.

31322(a)(4)(A)-(E);

* * * * *

(s) *Non-Citizen Lender* means a lender that does not qualify as a Citizen of the United States.

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(u) *Preferred Mortgage* means a mortgage on a Fishing Industry Vessel that has as the Mortgagee:

(1) A person eligible to own a vessel with a fishery endorsement under 46 U.S.C. 12102(c);

(2) A state or federally chartered financial institution that is insured by the Federal Deposit Insurance Corporation;

(3) A farm credit lender established under title 12, chapter 23, of the United States Code [12 U.S.C. 2001 *et seq.*];

(4) A commercial fishing and agriculture bank established pursuant to State law;

(5) A commercial lender organized under the laws of the United States or of a State and eligible to own a vessel under 46 U.S.C. 12102(a); or

(6) A Mortgage Trustee that complies with the requirements of 46 U.S.C. 31322(f) and 46 CFR 356.27 through 356.31.

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(y) *Trust* means:

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(2) In the case of a mortgage trust, a trust that is domiciled in and existing under the laws of the United States, or of a State, that has as its trustee a Mortgage Trustee as defined in this section, and that is authorized to act on behalf of a beneficiary in accordance with the requirements of §§ 356.27 through 356.31.

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Subpart B—Ownership and Control

4. In § 356.5, revise paragraph (d) to read as follows:

§ 356.5 Affidavit of U.S. Citizenship.

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(d) The prescribed form of the Affidavit of U.S. Citizenship is as follows: