

12. Deposit-Taking by an Uninsured Federal Branch (Revised § 28.16(b)(8))

As proposed, the final rule makes a technical correction to § 28.16(b)(8) to correct the citation to the FRB's Regulation K (12 CFR 211.6).

13. Maintenance of Accounts, Books, and Records (New § 28.18(c)(3))

Proposed new § 28.18(c)(3) required a foreign bank that has interstate Federal branches or agencies and combines its CEDs into one account to designate one of its Federal offices to maintain consolidated information about the Federal branches and agencies covered by the CEDs. The final rule includes this provision without change. In addition, the final rule includes the provision described above that will require consolidated CED deposits to reflect book entry segregation of assets for each Federal branch or agency office.

14. Maintenance of Assets (Revised § 28.20(a)(2))

Under current law, we may impose asset maintenance requirements on a foreign bank to hold certain assets in the state in which its Federal branch or agency is located if necessary for prudential, supervisory, or enforcement reasons. 12 CFR 28.20(a)(1). These requirements are in addition to the CED requirements but, in determining compliance with any asset maintenance requirements imposed by the OCC, we must give credit to the amount of assets held in the CED and other reserves or assets required under the IBA. 12 U.S.C. 3102(g)(4).

The proposal revised § 28.20(a)(2) to delete the requirement that the amount of assets held by the foreign bank cannot be less than 105% of the aggregate amount of liabilities of the Federal branch or agency, payable at or through the Federal branch or agency. Under the proposal, we would prescribe the amount of assets on a case-by-case basis and there would be no set minimum. This change is adopted in the final rule.

15. Voluntary Liquidation (Revised § 28.22(a) and (b))

The proposal made certain changes in the voluntary liquidation procedures for Federal branches and agencies. We received no comments on this provision and we are adopting it as proposed.

16. Procedures for Closing Some (But Not All) of a Foreign Bank's Federal Branches and/or Agencies (New § 28.23)

To be consistent with the IBA's national treatment standard, the proposal treated a foreign bank that is closing some but not all of its Federal branches and/or agencies like a national

bank that is closing a branch office. We received no comments on this change and we are adopting it as proposed.

17. After-the-Fact Notice of Change in Control (New § 28.25)

The proposal added a new section to part 28 to require a foreign bank to submit a written notice to the OCC when there is a change in control of the foreign bank. The notice would be submitted within 14 days after the foreign bank became aware of the change if no other filing is required under part 28. A foreign bank could provide its supervisory office with the copy of a notice submitted to another Federal regulator to satisfy the requirements of this section. *See* 12 CFR 28.12(k).

No comments were received on this provision and it is adopted as proposed.

18. Loan Production Offices (New § 28.26)

In the NPRM, the OCC provided that a Federal branch may operate a loan production office (LPO), an administrative office, or a regional administrative office that conducts other types of representational activities, as part of a branch license. The OCC noted that, since national banks may operate such offices, allowing Federal branches to do so is consistent with national treatment.

Two commenters addressed this proposal. One noted that it would view loan production offices as representative offices and their activities would be limited as such and noted that such offices would need to be approved by the FRB in accordance with applicable law. The commenter requested that the final rule refer to these requirements.

The second commenter stated that the IBA does not permit the establishment of such offices and that, if Congress wished to authorize them, it would have expressly done so. This commenter added that offices that are not branches or agencies are treated under Regulation K as representative offices. Since there is no basis for chartering federal representative offices, the IBA does not permit the establishment of loan production offices and other types of non-branch offices, according to the commenter.

With respect to the first comment, as discussed above, we are adding a statement to § 28.10(c) to clarify that nothing in our regulations relieves a foreign bank of any requirement that is imposed by the FRB under applicable law.

We believe that the second commenter is wrong as a matter of law. The fact that certain non-branch offices

may be subject to other regulatory requirements does not diminish the ability of the OCC to permit Federal branches to establish such offices. The OCC's authority to allow a Federal branch to establish LPOs or other administrative offices or regional administrative offices as part of its Federal branch license is derived from separate authority. *See* 12 U.S.C. 3102. In addition, as discussed above, the OCC disagrees that the IBA does not provide the authority for a Federal branch to engage in the same activities as a national bank subject to certain statutory and regulatory exemptions.

For these reasons, we have adopted § 28.26 substantially as proposed.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

Pursuant to section 605(b) of the RFA, the OCC hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Specifically the proposed rule will reduce burden by: (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 in one deposit account in a depository bank that satisfies certain criteria. These revisions will result in cost reductions for national banks and for the U.S. operations of Federal branches and agencies of foreign banks. Accordingly, a regulatory flexibility analysis is not needed.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L.