§ 5.46 Changes in permanent capital.

(a) Authority. 12 U.S.C. 21a, 51, 51a, 51b, 51b–1, 52, 56, 57, 59, 60, and 93a.

(b) Licensing requirements. A national bank shall submit an application and obtain OCC approval to decrease its permanent capital. Generally, a national bank need only submit a notice to increase its permanent capital, although, in certain circumstances, a national bank shall be required to submit an application and obtain OCC approval.

(c) Scope. This section describes procedures and standards relating to a transaction resulting in a change in a national bank’s permanent capital.

(d) Exceptions to rules of general applicability. Sections 5.8, 5.10, and 5.11 do not apply to changes in a national bank’s permanent capital.

(e) Definitions. For the purposes of this section the following definitions apply:

(1) Capital plan means a plan describing the manner and schedule by which a national bank will attain specified capital levels or ratios, including a plan to achieve minimum capital ratios filed with the appropriate district office under 12 CFR 3.7 and a capital restoration plan filed with the OCC under 12 U.S.C. 1831o and 12 CFR 6.5.

(2) Capital stock means the total amount of common stock and preferred stock.

(3) Capital surplus means the total of:

(i) The amount paid in on capital stock in excess of the par or stated value;

(ii) Direct capital contributions representing the amounts paid in to the national bank other than for capital stock;

(iii) The amount transferred from undivided profits; and