

agreement, or Prompt Corrective Action directive (see 12 CFR part 6, subpart B) or, if subject to any such order, agreement, or directive, is informed in writing by the OCC that the bank or savings association may be treated as an “eligible bank or eligible savings association” for purposes of this part.

(h) *Eligible depository institution* means:

(1) With respect to a national bank, a state bank or a Federal or state savings association that meets the criteria for an “eligible bank or eligible savings association” under § 5.3(g) and is FDIC-insured; and

(2) With respect to a Federal savings association, a state or national bank or a state savings association that meets the criteria for an “eligible bank or eligible savings association” under § 5.3(g) and is FDIC-insured.

(i) *Filing* means an application or notice submitted to the OCC under this part.

(j) *Notice*, in general, means a submission notifying the OCC that a national bank or Federal savings association intends to engage in or has commenced certain corporate activities or transactions. The specific meaning of *notice* depends on the context of the rule in which it is used and may require the filer to obtain prior OCC approval before engaging in the activity or transaction, may provide the OCC with authority to disapprove the notice, or may be informational requiring no official OCC action.

(k) *Principal city* means an area designated as a “principal city” by the Office of Management and Budget.

(1) *Short-distance relocation* means moving the premises of a branch or main office of a national bank or a branch or home office of a Federal savings association within a:

(1) One thousand foot-radius of the site if the branch, main office, or home office is located within a principal city of an MSA;

(2) One-mile radius of the site if the branch, main office, or home office is not located within a principal city, but is located within an MSA; or

(3) Two-mile radius of the site if the branch, main office, or home office is not located within an MSA.

#### § 5.4 Filing required.

(a) *Filing*. A depository institution shall file an application or notice with the OCC to engage in corporate activities and transactions as described in this part.

(b) *Availability of forms*. Forms and instructions for filing are available on the OCC’s Internet Web page at [www.occ.gov](http://www.occ.gov).

(c) *Other agency’s applications or filings*. At the request of the applicant, the OCC may accept an application or other filing submitted to another Federal agency that covers the proposed action or transaction and contains substantially the same information as required by the OCC. The OCC also may require the applicant to submit supplemental information.

(d) *Where to file*. An applicant should address a filing or other submission under this part to the appropriate OCC licensing office or appropriate OCC supervisory office, unless the OCC advises an applicant otherwise. Relevant addresses are listed on the OCC’s Internet Web page at [www.occ.gov](http://www.occ.gov).

(e) *Incorporation of other material*. An applicant may incorporate any material contained in any other application or filing filed with the OCC or other Federal agency by reference, provided that the material is attached to the application and is current and responsive to the information requested by the OCC. The filing must clearly indicate that the information is so incorporated and include a cross-reference to the information incorporated.

(f) *Prefiling meeting*. When submitting an application to the OCC, an applicant is encouraged to contact the appropriate OCC licensing office to determine the need for a prefiling meeting. The OCC decides whether to require a prefiling meeting on a case-by-case basis. Submission of a draft business plan or other relevant information before any prefiling meeting may expedite the filing review process. Information on model business plans can be found in the Comptroller’s Licensing Manual.

#### § 5.5 Filing fees.

(a) *Procedure*. An applicant shall submit the appropriate filing fee, if any, in connection with its filing. Filing fees

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may be paid by check, money order, cashier's check, or wire transfer. Additional information on filing fees, including where to file, can be found in the Comptroller's Licensing Manual. The OCC generally does not refund the filing fees.

(b) *Fee schedule.* The OCC publishes a fee schedule in the "Notice of Comptroller of the Currency Fees," as described in 12 CFR 8.8.

## § 5.6 [Reserved]

## § 5.7 Investigations.

(a) *Authority.* The OCC may examine or investigate and evaluate facts related to a filing to the extent necessary to reach an informed decision.

(b) *Fees.* As described in 12 CFR 8.6, the OCC may assess fees for investigations or examinations conducted under paragraph (a) of this section. The OCC publishes a fee schedule in the "Notice of Comptroller of the Currency Fees," as described in 12 CFR 8.8.

## § 5.8 Public notice.

(a) *In general.* An applicant shall publish a public notice of its filing in a newspaper of general circulation in the community in which the applicant proposes to engage in business, on the date of filing, or as soon as practicable before or after the date of filing. This notice shall be published in the English language but if the OCC determines that the primary language of a significant number of adult residents of the community is a language other than English, the OCC may require that an additional notice(s) simultaneously be published in the community in the appropriate language(s).

(b) *Contents of the public notice.* The public notice shall state that a filing is being made, the date of the filing, the name and address of the applicant, the subject matter of the filing (including the name of the institution that is the subject of the filing), that the public may submit comments to the appropriate OCC licensing office, the address of the appropriate OCC licensing office where comments should be sent, the closing date of the public comment period, that the public portion of the filing is available on request, and any

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other information that the OCC requires.

(c) *Confirmation of public notice.* Promptly following publication, the applicant shall mail or otherwise deliver to the appropriate OCC licensing office a statement containing the date of publication, the name and address of the newspaper that published the public notice, a copy of the public notice, and any other information that the OCC requires.

(d) *Multiple transactions.* The OCC may consider more than one transaction, or a series of transactions, to be a single filing for purposes of the publication requirements of this section. When filing a single public notice for multiple transactions, the applicant shall explain in the notice how the transactions are related.

(e) *Joint public notices accepted.* Upon the request of an applicant, for a transaction subject to a public notice requirement of both the OCC and another Federal agency, the OCC may accept publication of a single joint notice containing the information required by both the OCC and the other Federal agency, provided that the notice states that comments must be submitted to both the OCC and, if applicable, the other Federal agency.

(f) *Public notice by the OCC.* In addition to the foregoing, the OCC may require or give public notice and request comment on any filing and in any manner the OCC determines appropriate for the particular filing.

(g) *New public notice.* At the OCC's discretion, an applicant may be required to publish a new public notice if:

- (1) The applicant submits either a revised filing or new or additional information related to a filing;
- (2) A major issue of law or change in circumstance arises after a filing; or
- (3) The OCC determines that a new public notice is appropriate.

## § 5.9 Public availability.

(a) *In general.* The OCC provides a copy of the public file to any person who requests it. A requestor should submit a written request for the public file concerning a pending filing to the appropriate OCC licensing office. A requestor should submit a written request for the public file concerning a