

## Comptroller of the Currency, Treasury

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a business combination purchases all the assets, and assumes all the liabilities, including all contingent liabilities, of a target national bank or Federal savings association, the target national bank or Federal savings association may be dissolved immediately after the combination. However, if any liabilities will remain in the target national bank or Federal savings association, then the standard liquidation procedures apply. This paragraph (f) does not apply to dissolutions of Federal mutual savings associations, which are subject to the standard liquidation procedures.

(2) *Procedure.* After its board of directors and shareholders have voted to liquidate and the national bank or Federal savings association has notified the appropriate OCC licensing office of its plans, the bank or savings association may surrender its charter and dissolve immediately, if:

(i) The acquiring depository institution certifies to the OCC that it has purchased all the assets and assumed all the liabilities, including all contingent liabilities, of the national bank or Federal savings association in liquidation; and

(ii) The acquiring depository institution and the national bank or Federal savings association in liquidation have published notice that the bank or savings association will dissolve after the purchase and assumption to the acquirer. This notice shall be included in the notice and publication for the purchase and assumption required under the Bank Merger Act, 12 U.S.C. 1828(c).

[80 FR 28455, May 18, 2015, as amended at 82 FR 8104, Jan. 23, 2017]

EFFECTIVE DATE NOTE: At 85 FR 80465, Dec. 11, 2020, § 5.48 was amended in paragraphs (b), (e)(1), (e)(2)(i), (e)(3)(i) introductory text, (e)(3)(ii), (e)(3)(iii), (e)(4), (e)(5), (e)(6), and (f)(2)(ii) by removing the word “shall” and adding in its place the word “must” wherever it appears, effective Jan. 11, 2021.

### **§ 5.50 Change in control of a national bank or Federal savings association; reporting of stock loans.**

(a) *Authority.* 12 U.S.C. 93a, 1817(j), and 1831aa.

(b) *Licensing requirements.* Any person seeking to acquire control of a national

bank or Federal savings association shall provide 60 days prior written notice of a change in control to the OCC, except where otherwise provided in this section.

(c) *Scope*—(1) *In general.* This section describes the procedures and standards governing OCC review of notices for a change in control of a national bank or Federal savings association and reports of stock loans.

(2) *Exempt transactions.* The following transactions are not subject to the requirements of this section:

(i) The acquisition of additional shares of a national bank or Federal savings association by a person who:

(A) Has, continuously since March 9, 1979, (or since that institution commenced business, if later) held power to vote 25 percent or more of the voting securities of that bank or Federal savings association; or

(B) Under paragraph (f)(2)(ii) of this section, would be presumed to have controlled that bank or Federal savings association continuously since March 9, 1979, if the transaction will not result in that person’s direct or indirect ownership or power to vote 25 percent or more of any class of voting securities of the national bank or Federal savings association; or, in other cases, where the OCC determines that the person has controlled the bank or savings association continuously since March 9, 1979;

(ii) Unless the OCC otherwise provides in writing, the acquisition of additional shares of a national bank or Federal savings association by a person who has lawfully acquired and maintained continuous control of the bank or Federal savings association under paragraph (f) of this section after complying with the procedures and filing the notice required by this section;

(iii) A transaction subject to approval under section 3 of the Bank Holding Company Act, 12 U.S.C. 1842, section 18(c) of Federal Deposit Insurance Act, 12 U.S.C. 1828(c), or section 10 of the Home Owners’ Loan Act (HOLA), 12 U.S.C. 1467a;

(iv) Any transaction described in section 2(a)(5) or 3(a) (A) or (B) of the Bank Holding Company Act, 12 U.S.C. 1841(a)(5) and 1842(a) (A) and (B), by a person described in those provisions;

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(v) A customary one-time proxy solicitation or receipt of *pro rata* stock dividends; and

(vi) The acquisition of shares of a foreign bank that has a Federally licensed branch in the United States. This exemption does not extend to the reports and information required under paragraph (i) of this section.

(3) *Prior notice exemption.* The following transactions are not subject to the prior notice requirements of this section but are otherwise subject to this section, including filing a notice and paying the appropriate filing fee, within 90 calendar days after the transaction occurs:

(i) The acquisition of control as a result of acquisition of voting shares of a national bank or Federal savings association through testate or intestate succession;

(ii) The acquisition of control as a result of acquisition of voting shares of a national bank or Federal savings association as a bona fide gift;

(iii) The acquisition of voting shares of a national bank or Federal savings association resulting from a redemption of voting securities;

(iv) The acquisition of control of a national bank or Federal savings association as a result of actions by third parties (including the sale of securities) that are not within the control of the acquiror; and

(v) The acquisition of control as a result of the acquisition of voting shares of a national bank or Federal savings association in satisfaction of a debt previously contracted in good faith.

(A) “Good faith” means that a person must either make, renew, or acquire a loan secured by voting securities of a national bank or Federal savings association in advance of any knowledge of a default or of the substantial likelihood that a default is forthcoming. A person who purchases a previously defaulted loan, or a loan for which there is a substantial likelihood of default, secured by voting securities of a national bank or Federal savings association may not rely on this paragraph (c)(3)(v) to foreclose on that loan, seize or purchase the underlying collateral, and acquire control of the national bank or Federal savings association

without complying with the prior notice requirements of this section.

(B) To ensure compliance with this section, the acquiror of a defaulted loan secured by a controlling amount of a national bank’s or a Federal savings association’s voting securities shall file a notice prior to the time the loan is acquired unless the acquiror can demonstrate to the satisfaction of the OCC that the voting securities are not the anticipated source of repayment for the loan.

(d) *Definitions.* As used in this section:

(1) *Acquire* when used in connection with the acquisition of stock of a national bank or Federal savings association means obtaining ownership, control, power to vote, or sole power of disposition of stock, directly or indirectly or through one or more transactions or subsidiaries, through purchase, assignment, transfer, pledge, exchange, succession, or other disposition of voting stock, including:

(i) An increase in percentage ownership resulting from a redemption, repurchase, reverse stock split or a similar transaction involving other securities of the same class, and

(ii) The acquisition of stock by a group of persons and/or companies acting in concert, which shall be deemed to occur upon formation of such group.

(2) *Acting in concert* means:

(i) Knowing participation in a joint activity or parallel action towards a common goal of acquiring control whether or not pursuant to an express agreement; or

(ii) A combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement, or other arrangement, whether written or otherwise.

(3) *Company* means any corporation, partnership, trust, association, joint venture, pool, syndicate, unincorporated organization, joint-stock company or similar organization.

(4) *Control* means the power, directly or indirectly, to direct the management or policies of a national bank or Federal savings association or to vote

25 percent or more of any class of voting securities of a national bank or Federal savings association.

(5) *Controlling shareholder* means any person who directly or indirectly or acting in concert with one or more persons or companies, or together with members of his or her immediate family, owns, controls, or holds with power to vote 10 percent or more of the voting stock of a company or controls in any manner the election or appointment of a majority of the company's board of directors.

(6) *Federal savings association* means a Federal savings association or a Federal savings bank chartered under section 5 of the HOLA.

(7) *Immediate family* includes a person's spouse, father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, children, stepchildren, grandparent, grandchildren, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and the spouse of any of the foregoing.

(8) *Insured depository institution* means an insured depository institution as defined in 12 U.S.C. 1813(c)(2).

(9) *Management official* means any president, chief executive officer, chief operating officer, vice president, director, partner, or trustee, or any other person who performs or has a representative or nominee performing similar policymaking functions, including executive officers of principal business units or divisions or subsidiaries who perform policymaking functions, for a national bank, savings association, or a company, whether or not incorporated.

(10) *Notice* means a filing by a person in accordance with paragraph (f) of this section.

(11) *Person* means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity, and includes voting trusts and voting agreements and any group of persons acting in concert.

(12) *Similar organization* for purposes of paragraph (d)(3) of this section means a combination of parties with the potential for or practical likelihood of continuing rather than tem-

porary existence, where the parties thereto have knowingly and voluntarily associated for a common purpose pursuant to identifiable and binding relationships which govern the parties with respect to either:

(i) The transferability and voting of any stock or other indicia of participation in another entity, or

(ii) Achievement of a common or shared objective, such as to collectively manage or control another entity.

(13) *Stock* means common or preferred stock, general or limited partnership shares or interests, or similar interests.

(14) *Voting securities* means:

(i) Shares of stock, if the shares or interests, by statute, charter, or in any manner, allow the holder to vote for or select directors (or persons exercising similar functions) of the issuing national bank or Federal savings association, or to vote on or to direct the conduct of the operations or other significant policies of the issuing national bank or Federal savings association. However, preferred stock or similar interests are not voting securities if:

(A) Any voting rights associated with the shares or interests are limited solely to voting rights customarily provided by statute regarding matters that would significantly affect the rights or preference of the security or other interest. This includes the issuance of additional amounts of classes of senior securities, the modification of the terms of the security or interest, the dissolution of the issuing national bank, or the payment of dividends by the issuing national bank or Federal savings association when preferred dividends are in arrears;

(B) The shares or interests are a passive investment or financing device and do not otherwise provide the holder with control over the issuing national bank or Federal savings association; and

(C) The shares or interests do not allow the holder by statute, charter, or in any manner, to select or to vote for the selection of directors (or persons exercising similar functions) of the issuing national bank or Federal savings association.

(ii) Securities, other instruments, or similar interests that are immediately convertible, at the option of the owner or holder thereof, into voting securities.

(e) *Policy*—(1) *In general.* The OCC seeks to enhance and maintain public confidence in the banking system by preventing a change in control of a national bank or Federal savings association that could have serious adverse effects on a national bank's or Federal savings association's financial stability or management resources, the interests of the bank's or Federal savings association's customers, the Deposit Insurance Fund, or competition.

(2) *Acquisitions subject to the Bank Holding Company Act.* (i) If corporations, partnerships, certain trusts, associations, and similar organizations, that are not already bank holding companies, are not required to secure prior Federal Reserve Board approval to acquire control of a bank under section 3 of the Bank Holding Company Act, 12 U.S.C. 1842, other than indirectly through the acquisition of shares of a bank holding company, they are subject to the notice requirements of this section.

(ii) Certain transactions, including foreclosures by depository institutions and other institutional lenders, fiduciary acquisitions by depository institutions, and increases of majority holdings by bank holding companies, are described in sections 2(a)(5)(D) and 3(a)(A) and (B) of the Bank Holding Company Act, 12 U.S.C. 1841(a)(5)(D) and 12 U.S.C. 1842(a)(A) and (B), but do not require the Federal Reserve Board's prior approval. For purposes of this section, they are considered subject to section 3 of the Bank Holding Company Act, 12 U.S.C. 1842, and do not require either a prior or subsequent notice to the OCC under this section.

(3) *Assessing financial condition.* In assessing the financial condition of the acquiring person, the OCC weighs any debt servicing requirements in light of the acquiring person's overall financial strength; the institution's earnings performance, asset condition, capital adequacy, and future prospects; and the likelihood of the acquiring party making unreasonable demands on the resources of the institution.

(f) *Procedures*—(1) *Exceptions to rules of general applicability.* Sections 5.8(a), 5.9, 5.10, 5.11, and 5.13(a) through (f) do not apply to filings under this section. When complying with §5.8(b) no address is required for a notice filed by one or more individuals under this section.

(2) *Who must file.* (i) Any person seeking to acquire the power, directly or indirectly, to direct the management or policies, or to vote 25 percent or more of a class of voting securities of a national bank or Federal savings association, shall file a notice with the OCC 60 days prior to the proposed acquisition, unless the acquisition is exempt under paragraph (c)(2) of this section.

(ii) The following persons shall be presumed to be acting in concert for purposes of this section:

(A) A company and any controlling shareholder, partner, trustee or management official of such company if both the company and the person own stock in the national bank or Federal savings association;

(B) A person and the members of the person's immediate family;

(C) Companies under common control;

(D) Persons that have made, or propose to make, a joint filing under section 13 or 14 of the Securities Exchange Act of 1934, and the rules thereunder promulgated by the Securities and Exchange Commission;

(E) A person or company will be presumed to be acting in concert with any trust for which such person or company serves as trustee, except that a tax-qualified employee stock benefit plan as defined in §192.25 of this chapter shall not be presumed to be acting in concert with its trustee or person acting in a similar fiduciary capacity solely for the purposes of determining whether to combine the holdings of a plan and its trustee or fiduciary; and

(F) Persons that are parties to any agreement, contract, understanding, relationship, or other arrangement, whether written or otherwise, regarding the acquisition, voting or transfer of control of voting securities of a national bank or Federal savings association, other than through a revocable proxy in connection with a proxy solicitation for the purposes of conducting

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business at a regular or special meeting of the institution, if the proxy terminates within a reasonable period after the meeting.

(iii) The OCC presumes, unless rebutted, that an acquisition or other disposition of voting securities through which any person proposes to acquire ownership of, or the power to vote, 10 percent or more of a class of voting securities of a national bank or Federal savings association is an acquisition by a person of the power to direct the bank's or savings association's management or policies if:

(A) The securities to be acquired or voted are subject to the registration requirements of section 12 of the Securities Exchange Act of 1934, 15 U.S.C. 78l; or

(B) Immediately after the transaction no other person will own or have the power to vote a greater proportion of that class of voting securities.

(iv) The OCC will consider a rebuttal of the presumption of control where the person or company intends to have no more than one representative on the board of directors of the national bank or Federal savings association.

(v) The presumption of control may not be rebutted if the total equity investment by the person or company in the national bank or Federal savings association, including 15 percent or more of any class of voting securities, equals or exceeds one third of the total equity of the national bank or Federal savings association.

(vi) Other transactions resulting in a person's control of less than 25 percent of a class of voting securities of a national bank or Federal savings association are not deemed by the OCC to result in control for purposes of this section.

(vii) If two or more persons, not acting in concert, each propose to acquire simultaneously equal percentages of 10 percent or more of a class of a national bank's or Federal savings association's voting securities, and either the acquisitions are of a class of securities subject to the registration requirements of section 12 of the Securities Exchange Act of 1934, 15 U.S.C. 78l, or immediately after the transaction no other shareholder of the national bank or Federal savings association would own

or have the power to vote a greater percentage of the class, each of the acquiring persons shall either file a notice or rebut the presumption of control.

(viii) An acquiring person may seek to rebut a presumption established in paragraph (f)(2)(ii) or (iii) of this section by presenting relevant information in writing to the appropriate OCC licensing office. The OCC shall respond in writing to any person that seeks to rebut the presumption of control or the presumption of concerted action. No rebuttal filing is effective unless the OCC indicates in writing that the information submitted has been found to be sufficient to rebut the presumption of control.

(3) *Filings.* (i) The OCC does not accept a notice of a change in control unless it is technically complete, *i.e.*, the information provided is responsive to every item listed in the notice form and is accompanied by the appropriate fee.

(A) The notice must contain the information required under 12 U.S.C. 1817(j)(6)(A), and the information prescribed in the Interagency Biographical and Financial Report. This form is available on the OCC's Internet Web page, [www.occ.gov](http://www.occ.gov). The OCC may waive any of the informational requirements of the notice if the OCC determines that it is in the public interest.

(B) When the acquiring person is an individual, or group of individuals acting in concert, the requirement to provide personal financial data may be satisfied with a current statement of assets and liabilities and an income summary, together with a statement of any material changes since the date of the statement or summary. However, the OCC may require additional information, if appropriate.

(ii) The OCC has 60 days from the date it declares the notice to be technically complete to review the notice.

(A) When the OCC declares a notice technically complete, the appropriate OCC licensing office sends a letter of acknowledgment to the applicant indicating the technically complete date.

(B) As set forth in paragraph (g) of this section, the applicant shall publish

an announcement within 10 days of filing the notice with the OCC. The publication of the announcement triggers a 20-day public comment period. The OCC may waive or shorten the public comment period if an emergency exists. The OCC also may shorten the comment period for other good cause. The OCC may act on a proposed change in control prior to the expiration of the public comment period if the OCC makes a written determination that an emergency exists.

(C) An applicant shall notify the OCC immediately of any material changes in a notice submitted to the OCC, including changes in financial or other conditions that may affect the OCC's decision on the filing.

(iii) Within the 60-day period, the OCC may inform the applicant that the acquisition has been disapproved, has not been disapproved, or that the OCC will extend the 60-day review period for up to an additional 30 days. The period or the OCC's review of a notice may be further extended not to exceed two additional times for not more than 45 days each time if:

(A) The OCC determines that any acquiring party has not furnished all the information required under this part;

(B) In the OCC's judgment, any material information submitted is substantially inaccurate;

(C) The OCC has been unable to complete an investigation of each acquirer because of any delay caused by, or the inadequate cooperation of, such acquirer; or

(D) The OCC determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31 of the United States Code.

(iv) The applicant may request a hearing by the OCC within 10 days of receipt of a disapproval (*see* 12 CFR part 19, subpart H, for hearing initiation procedures). Following final agency action under 12 CFR part 19, further review by the courts is available. (*See* 12 U.S.C. 1817(j)(5).)

(4) *Conditional actions.* The OCC may impose conditions on its action not to disapprove a notice to assure satisfac-

tion of the relevant statutory criteria for non-objection to a notice.

(5) *Disapproval of notice.* The OCC may disapprove a notice if it finds that any of the following factors exist:

(i) The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

(ii) The effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anti-competitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

(iii) Either the financial condition of any acquiring person or the future prospects of the institution is such as might jeopardize the financial stability of the bank or Federal savings association or prejudice the interests of the depositors of the bank or Federal savings association;

(iv) The competence, experience, or integrity of any acquiring person, or of any of the proposed management personnel, indicates that it would not be in the interest of the depositors of the bank or Federal savings association, or in the interest of the public, to permit that person to control the bank or Federal savings association;

(v) An acquiring person neglects, fails, or refuses to furnish the OCC all the information it requires; or

(vi) The OCC determines that the proposed transaction would result in an adverse effect on the Deposit Insurance Fund.

(6) *Disapproval notification.* If the OCC disapproves a notice, it will notify the proposed acquiring person in writing within three days after the decision containing a statement of the basis for disapproval.

(g) *Disclosure—(1) Announcement.* The applicant shall publish an announcement in a newspaper of general circulation in the community where the affected national bank or Federal savings association is located within 10 days of filing. The OCC may authorize a delayed announcement if an immediate announcement would not be in the public interest.

(i) In addition to the information required by § 5.8(b), the announcement must include the name of the national bank or Federal savings association named in the notice and the comment period (*i.e.*, 20 days from the date of the announcement). The announcement also must state that the public portion of the notice is available upon request.

(ii) Notwithstanding any other provisions of this paragraph (g), if the OCC determines in writing that an emergency exists and that the announcement requirements of this paragraph (g) would seriously threaten the safety and soundness of the national bank or Federal savings association to be acquired, including situations where the OCC must act immediately in order to prevent the probable failure of a national bank or Federal savings association, the OCC may waive or shorten the publication requirement.

(2) *Release of information.* (i) Upon the request of any person, the OCC releases the information provided in the public portion of the notice and makes it available for public inspection and copying as soon as possible after a notice has been filed. In certain circumstances the OCC may determine that the release of the information would not be in the public interest. In addition, the OCC makes a public announcement of a technically complete notice, the disposition of the notice, and the consummation date of the transaction, if applicable, in the OCC's "Weekly Bulletin."

(ii) The OCC handles requests for the non-public portion of the notice as requests under the Freedom of Information Act, 5 U.S.C. 552, and other applicable law.

(h) *Reporting requirement.* After the consummation of the change in control, the national bank or Federal savings association shall notify the OCC in writing of any changes or replacements

of its chief executive officer or of any director occurring during the 12-month period beginning on the date of consummation. This notice must be filed within 10 days of such change or replacement and must include a statement of the past and current business and professional affiliations of the new chief executive officers or directors.

(i) *Reporting of stock loans—(1) Requirements.* (i) Any foreign bank, or any affiliate thereof, shall file a consolidated report with the appropriate OCC supervisory office of the national bank or Federal savings association if the foreign bank or any affiliate thereof, has credit outstanding to any person or group of persons that, in the aggregate, is secured, directly or indirectly, by 25 percent or more of any class of voting securities of the same national bank or Federal savings association.

(ii) The foreign bank, or any affiliate thereof, shall also file a copy of the report with its appropriate OCC supervisory office if that office is different from the national bank's or Federal savings association's appropriate OCC supervisory office. If the foreign bank, or any affiliate thereof, is not supervised by the OCC, it shall file a copy of the report filed with the OCC with its appropriate Federal banking agency.

(iii) Any shares of the national bank or Federal savings association held by the foreign bank, or any affiliate thereof, as principal must be included in the calculation of the number of shares in which the foreign bank or any affiliate thereof has a security interest for purposes of paragraph (h)(1)(i) of this section.

(2) *Definitions.* For purposes of this paragraph (i):

(i) *Foreign bank and affiliate* have the same meanings as in section 1 of the International Banking Act of 1978, 12 U.S.C. 3101.

(ii) *Credit outstanding* includes any loan or extension of credit; the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit; and any other type of transaction that extends credit or financing to a person or group of persons.

(iii) *Group of persons* includes any number of persons that a foreign bank,

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or an affiliate thereof, has reason to believe:

(A) Are acting together, in concert, or with one another to acquire or control shares of the same insured national bank or Federal savings association, including an acquisition of shares of the same national bank or Federal savings association at approximately the same time under substantially the same terms; or

(B) Have made, or propose to make, a joint filing under 15 U.S.C. 78m regarding ownership of the shares of the same depository institution.

(3) *Exceptions.* Compliance with paragraph (i)(1) of this section is not required if:

(i) The person or group of persons referred to in paragraph (h)(1) of this section has disclosed the amount borrowed and the security interest therein to the appropriate OCC licensing office in connection with a notice filed under this section or any other application filed with the appropriate OCC licensing office as a substitute for a notice under this section, such as for a national bank or Federal savings association charter; or

(ii) The transaction involves a person or group of persons that has been the owner or owners of record of the stock for a period of one year or more or, if the transaction involves stock issued by a newly chartered bank or Federal savings association, before the bank's or Federal savings association's opening.

(4) *Report requirements.* (i) The consolidated report must indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the foreign bank and any affiliate thereof.

(ii) The foreign bank and all affiliates thereof shall file the consolidated report in writing within 30 days of the date on which the foreign bank or affiliate thereof first believes that the security for any outstanding credit consists of 25 percent or more of any class of voting securities of a national bank or Federal savings association.

(5) *Other reporting requirements.* A foreign bank or any affiliate thereof, supervised by the OCC and required to re-

port credit outstanding secured by the shares of a depository institution to another Federal banking agency also shall file a copy of the report with its appropriate OCC supervisory office.

[80 FR 28456, May 18, 2015, as amended at 82 FR 8104, Jan. 23, 2017]

EFFECTIVE DATE NOTE: At 85 FR 80465, Dec. 11, 2020, § 5.50 was amended, effective Jan. 11, 2020, by:

a. In paragraphs (b), (c)(3)(v)(B), (f)(2)(i), (f)(2)(vii), (f)(3)(ii)(B), (f)(3)(ii)(C), (g)(1) introductory text, (h), (i)(1)(i), (i)(1)(ii), (i)(4)(ii), and (i)(5), removing the word “shall” and adding in its place the word “must” wherever it appears;

b. In paragraph (c)(2)(iii), removing the word “(HOLA)”;

c. In paragraph (d)(1)(ii), removing the phrase “shall be” and adding in its place the word “is”;

d. In paragraph (d)(5), removing the phrase “his or her”; and adding in its place the word “their”;

e. Removing paragraph (d)(8);

f. Redesignating paragraphs (d)(6) through (7) as paragraphs (d)(7) through (8);

g. Adding new paragraph (d)(6);

h. In redesignated paragraph (d)(7), removing the word “HOLA” and adding in its place the phrase “Home Owners’ Loan Act, 12 U.S.C. 1464”;

i. In paragraph (f)(2)(ii) introductory text, removing the phrase “shall be” and adding in its place the word “are”;

j. In paragraph (f)(2)(ii)(D), adding the phrase “15 U.S.C. 78m or 78n,” after “1934,”;

k. In paragraph (f)(2)(ii)(E), removing the phrase “defined in §192.25 of this chapter shall” and adding in its place the phrase “defined in 12 CFR 192.25 is”;

l. In paragraph (f)(2)(iii)(A), removing “78l” and adding in its place “78l”;

m. In paragraph (f)(2)(viii), removing the word “shall” and adding in its place the word “will”;

n. In paragraph (f)(3)(i)(A), removing the phrase “on the OCC’s internet web page,” and adding in its place the word “at”;

o. In paragraphs (f)(3)(ii)(A), (f)(3)(ii)(B), (f)(3)(iii) introductory text, and (g)(1) introductory text removing the word “applicant” and adding in its place the word “filer”;

p. In paragraph (f)(3)(ii)(C), removing the phrase “An applicant” and adding in its place the phrase “A filer”;

q. Removing paragraph (f)(3)(iv);

r. Removing the phrase “of notice” in the heading of paragraph (f)(5);

s. Revising paragraph (f)(6);

t. Revising paragraph (g)(2)(1);

u. In paragraph (i)(1)(iii), removing the phrase “paragraph (h)(1)(i)” and adding in its place the phrase “paragraph (i)(1)(i)”; and



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v. In paragraph (i)(3)(i), removing the phrase “paragraph (h)(1)” and adding in its place the phrase “paragraph (i)(1)”.

For the convenience of the user, the added and revised text is set forth as follows:

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\* \* \* \* \*

(d) \* \* \*

(6) Depository institution means a depository institution as defined in section 3(c)(1) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c)(1).

\* \* \* \* \*

(f) \* \* \*

(6) *Notification of disapproval.* (i) *Written notice by OCC.* If the OCC disapproves a notice, it will notify the filer in writing within three days after the decision. The OCC’s written disapproval will contain a statement of the basis for disapproval and indicate that the filer may request a hearing.

(ii) *Hearing Request.* The filer may request a hearing by the OCC within 10 days of receipt of disapproval, pursuant to the procedures in 12 CFR part 19, subpart H. Following final agency action under 12 CFR part 19, further review by the courts is available. (See 12 U.S.C. 1817(j)(5)).

(iii) *Failure to request a hearing.* If a filer fails to request a hearing with a timely request, the notice of disapproval constitutes a final and unappealable order.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(i) Upon the request of any person, the OCC releases the information provided in the public portion of the notice and makes it available for public inspection and copying as soon as possible after a notice has been filed. In certain circumstances the OCC may determine that the release of the information would not be in the public interest. In addition, the OCC makes the date that the notice is filed, the disposition of the notice and the date thereof, and the consummation date of the transaction, if applicable, publicly available in the OCC’s “Weekly Bulletin.”

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**§5.51 Changes in directors and senior executive officers of a national bank or Federal savings association.**

(a) *Authority.* 12 U.S.C. 1831i and 12 U.S.C. 5412(b)(2)(B).

(b) *Scope.* This section describes the circumstances when a national bank or a Federal savings association must notify the OCC of a change in its directors and senior executive officers, and the OCC’s authority to disapprove those notices.

(c) *Definitions*—(1) *Director* means an individual who serves on the board of directors of a national bank or a Federal savings association, except:

(i) A director of a foreign bank that operates a Federal branch; and

(ii) An advisory director who does not have the authority to vote on matters before the board of directors or any committee of the board of directors and provides solely general policy advice to the board of directors or any committee.

(2) *Federal savings association* means a Federal savings association or Federal savings bank chartered under 12 U.S.C. 1464.

(3) *National bank* includes a Federal branch for purposes of this section only.

(4) *Senior executive officer* means the president, chief executive officer, chief operating officer, chief financial officer, chief lending officer, chief investment officer, and any other individual the OCC identifies in writing to the national bank or Federal savings association who exercises significant influence over, or participates in, major policy making decisions of the national bank or Federal savings association without regard to title, salary, or compensation. The term also includes employees of entities retained by a national bank or Federal savings association to perform such functions in lieu of directly hiring the individuals, and, with respect to a Federal branch operated by a foreign bank, the individual functioning as the chief managing official of the Federal branch.

(5) *Technically complete notice* means a notice that provides all the information requested in paragraph (e)(2) of this section, including complete explanations where material issues arise regarding the competence, experience, character, or integrity of proposed directors or senior executive officers, and any additional information that the