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APPENDIX A TO SUBPART F OF PART 4—STATEMENT CLARIFYING THE ROLE OF SUPERVISORY GUIDANCE

AUTHORITY: 5 U.S.C. 301, 552; 12 U.S.C. 1, 93a, 161, 481, 482, 484(a), 1442, 1462a, 1463, 1464 1817(a), 1818, 1820, 1821, 1831m, 1831p-1, 1831o, 1833e, 1867, 1951 *et seq.*, 2601 *et seq.*, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*, 5321, 5412, 5414; 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 5318(g)(2), 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510; E.O. 12600 (3 CFR, 1987 Comp., p. 235).

SOURCE: 60 FR 57322, Nov. 15, 1995, unless otherwise noted.

Subpart A—Organization and Functions

§ 4.1 Purpose.

This subpart describes the organization and functions of the Office of the Comptroller of the Currency (OCC), and provides the OCC's principal addresses.

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§ 4.2 Office of the Comptroller of the Currency.

The OCC is charged with assuring the safety and soundness of, and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by, the institutions and other persons subject to its jurisdiction. The OCC examines, supervises, and regulates national banks, Federal branches and agencies of foreign banks, and Federal savings associations to carry out this mission. The OCC also issues rules and regulations applicable to state savings associations.

[76 FR 43561, July 21, 2011]

§ 4.3 Comptroller of the Currency.

The Comptroller of the Currency (Comptroller), as head of the OCC, is responsible for all OCC programs and functions. The Comptroller is appointed by the President, by and with the advice and consent of the Senate, for a term of five years. The Comptroller serves as a member of the board of the Federal Deposit Insurance Corporation, a member of the Financial Stability Oversight Council, a member of the Federal Financial Institutions Examination Council, and a member of the board of the Neighborhood Reinvestment Corporation. The Comptroller is advised and assisted by OCC staff, who perform the duties and functions that the Comptroller directs.

[60 FR 57322, Nov. 15, 1995, as amended at 76 FR 43561, July 21, 2011]

§ 4.4 Washington office and web site.

The Washington office of the OCC is the main office and headquarters of the OCC. The Washington office directs OCC policy, oversees OCC operations, and is responsible for the direct supervision of certain national banks and Federal savings associations, including the largest national banks and the largest Federal savings associations (through the Large Bank Supervision Department); other national banks and Federal savings associations requiring special supervision; and Federal branches and agencies of foreign banks (through the Large Bank Supervision Department). The Washington office is

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located at 400 7th Street SW., Washington, DC 20219. The OCC's Web site is at <http://www.occ.gov>.

[76 FR 43561, July 21, 2011, as amended at 79 FR 15641, Mar. 21, 2014]

§ 4.5 Other OCC supervisory offices.

(a) *Midsize Bank Supervision (MBS)*. Midsize Bank Supervision is responsible for supervising midsize national banks and Federal savings associations that present unique supervisory challenges based on size, complexity, and/or product line. MBS is headquartered in Chicago, IL and located at 425 South

Financial Place, Suite 1700, Chicago, IL 60605.

(b) *District offices*. Each district office of the OCC is responsible for the direct supervision of the national banks and Federal savings associations in its district, with the exception of the national banks and Federal savings associations supervised by the Washington office pursuant to § 4.4 of this part or Midsize Bank Supervision pursuant to § 4.5(a). The four district offices cover the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. The geographical composition of each district follows:

District	Office location	Geographical composition
Northeastern District	Office of the Comptroller of the Currency, 340 Madison Avenue, 5th Floor, New York, NY 10173-0002.	Connecticut, Delaware, District of Columbia, north-east Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Vermont, the Virgin Islands, Virginia, and West Virginia.
Central District	Office of the Comptroller of the Currency, One Financial Place, Suite 2700, 440 South LaSalle Street, Chicago, IL 60605.	Illinois, Indiana, central and southern Kentucky, Michigan, northern and eastern Minnesota, eastern Missouri, North Dakota, Ohio, and Wisconsin.
Southern District	Office of the Comptroller of the Currency, 500 North Akard Street, Suite 1600, Dallas, TX 75201.	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Western District	Office of the Comptroller of the Currency, 1225 17th Street, Suite 300, Denver, CO 80202.	Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Iowa, Kansas, southwestern Minnesota, western Missouri, Montana, Nebraska, Nevada, New Mexico, Northern Mariana Islands, Oregon, South Dakota, Utah, Washington, and Wyoming.

(c) *Field offices and other supervisory offices*. Field offices and other supervisory offices support the bank and savings association supervision responsibilities of the district offices.

[80 FR 28414, May 18, 2015, as amended at 85 FR 83726, Dec. 22, 2020]

§ 4.6 Frequency of examination of national banks and Federal savings associations.

(a) *General*. The OCC examines national banks and Federal savings associations pursuant to authority conferred by 12 U.S.C. 481 (with respect to national banks) and 1463(a)(1) and 1464 (with respect to Federal savings associations) and the requirements of 12 U.S.C. 1820(d) (with respect to national banks and Federal savings associations). The OCC is required to conduct a full-scope, on-site examination of

every national bank and Federal savings association at least once during each 12-month period.

(b) *18-month rule for certain small institutions*. The OCC may conduct a full-scope, on-site examination of a national bank or a Federal savings association at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the following conditions are satisfied:

(1) The bank or Federal savings association has total assets of less than \$3 billion;

(2) The bank or Federal savings association is well capitalized as defined in part 6 of this chapter;

(3) At the most recent examination;

(i) The bank or Federal savings association was assigned a rating of 1 or 2 for management as part of the bank's

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or association's rating under the Uniform Financial Institutions Rating System; and

(ii) The bank or Federal savings association was assigned a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System;

(4) The bank or Federal savings association currently is not subject to a formal enforcement proceeding or order by the FDIC, OCC, OTS or the Federal Reserve System; and

(5) No person acquired control of the bank or Federal savings association during the preceding 12-month period in which a full-scope, on-site examination would have been required but for this section.

(c) *Authority to conduct more frequent examinations.* This section does not limit the authority of the OCC to examine any national bank or Federal savings association as frequently as the agency deems necessary.

(d) Through December 31, 2021, for purposes of determining eligibility for the 18-month rule described in paragraph (b) of this section, the OCC may determine the total assets of a national bank or Federal savings association by reference to the total assets of the national bank or Federal savings association as reported by the national bank or Federal savings association in its Call Report as of December 31, 2019.

[81 FR 10068, Feb. 29, 2016, as amended at 83 FR 43965, Aug. 29, 2018; 85 FR 77359, Dec. 2, 2020]

§4.7 Frequency of examination of Federal agencies and branches.

(a) *General.* The OCC examines Federal agencies and Federal branches (as these entities are defined in §28.11 (g) and (h), respectively, of this chapter) pursuant to the authority conferred by 12 U.S.C. 3105(c)(1)(C). Except as noted in paragraph (b) of this section, the OCC will conduct a full-scope, on-site examination of every Federal branch and agency at least once during each 12-month period.

(b) *18-month rule for certain small institutions—(1) Mandatory standards.* The OCC may conduct a full-scope, on-site examination at least once during each 18-month period, rather than each 12-month period as provided in paragraph

(a) of this section, if the Federal branch or agency:

(i) Has total assets of less than \$3 billion;

(ii) Has received a composite ROCA supervisory rating (which rates risk management, operational controls, compliance, and asset quality) of 1 or 2 at its most recent examination;

(iii) Satisfies the requirements of either paragraph (b)(1)(iii)(A) or (B) of this section:

(A) The foreign bank's most recently reported capital adequacy position consists of, or is equivalent to, common equity tier 1, tier 1 and total risk-based capital ratios that satisfy the definition of "well capitalized" set forth at 12 CFR 6.4, respectively, on a consolidated basis; or

(B) The branch or agency has maintained on a daily basis, over the past three quarters, eligible assets in an amount not less than 108 percent of the preceding quarter's average third party liabilities (determined consistent with applicable federal and state law), and sufficient liquidity is currently available to meet its obligations to third parties;

(iv) Is not subject to a formal enforcement action or order by the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the OCC; and

(v) Has not experienced a change in control during the preceding 12-month period in which a full-scope, on-site examination would have been required but for this section.

(2) *Discretionary standards.* In determining whether a Federal branch or agency that meets the standards of paragraph (b)(1) of this section should not be eligible for an 18-month examination cycle pursuant to this paragraph (b), the OCC may consider additional factors, including whether:

(i) Any of the individual components of the ROCA rating of the Federal branch or agency is rated "3" or worse;

(ii) The results of any off-site supervision indicate a deterioration in the condition of the Federal branch or agency;

(iii) The size, relative importance, and role of a particular office when reviewed in the context of the foreign bank's entire U.S. operations otherwise

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necessitate an annual examination; and

(iv) The condition of the foreign bank gives rise to such a need.

(c) *Authority to conduct more frequent examinations.* Nothing in paragraph (a) or (b) of this section limits the authority of the OCC to examine any Federal branch or agency as frequently as the OCC deems necessary.

(d) Through December 31, 2021, for purposes of determining eligibility for the 18-month rule described in paragraph (b) of this section, the OCC may determine total assets of a Federal branch or agency by reference to the total assets of the Federal branch or agency as reported by the Federal branch or agency as of December 31, 2019.

[81 FR 10068, Feb. 29, 2016, as amended at 83 FR 43965, Aug. 29, 2018; 85 FR 77359, Dec. 2, 2020]

Subpart B—Availability of Information Under the Freedom of Information Act

§ 4.11 Purpose and scope.

(a) *Purpose.* This subpart sets forth the standards, policies, and procedures that the OCC applies in administering the Freedom of Information Act (FOIA) (5 U.S.C. 552) to facilitate the OCC's interaction with the banking and savings association industries and the public.

(b) *Scope.* (1) This subpart describes the information that the FOIA requires the OCC to disclose to the public (§ 4.12), and the three methods by which the OCC discloses that information under the FOIA (§§ 4.13, 4.14, and 4.15).

(2) This subpart also sets forth predisclosure notice procedures that the OCC follows, in accordance with Executive Order 12600 (3 CFR, 1987 Comp., p. 235), when the OCC receives a request under § 4.15 for disclosure of records that arguably are exempt from disclosure as confidential commercial information (§ 4.16). Finally, this subpart describes the fees that the OCC assesses for the services it renders in providing information under the FOIA (§ 4.17).

(3) This subpart does not apply to a request for records pursuant to the Pri-

vacancy Act (5 U.S.C. 552a). A person requesting records from the OCC pursuant to the Privacy Act should refer to 31 CFR part 1, subpart C, and appendix J of subpart C.

[60 FR 57322, Nov. 15, 1995, as amended at 76 FR 43561, July 21, 2011; 81 FR 94244, Dec. 23, 2016]

§ 4.12 Information available under the FOIA.

(a) *General.* Except as otherwise provided by the FOIA, OCC and Office of Thrift Supervision (OTS) records are available to the public.

(b) *Exemptions from availability.* The following records, or portions thereof, are exempt from disclosure under the FOIA:

(1) A record that is specifically authorized, under criteria established by an Executive order, to be kept secret in the interest of national defense or foreign policy, and that is properly classified pursuant to that Executive order;

(2) A record relating solely to the internal personnel rules and practices of an agency;

(3) A record specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that the statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; establishes particular criteria for withholding, or refers to particular types of matters to be withheld; and, if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to 5 U.S.C. 552(b)(3);

(4) A record that is privileged or contains trade secrets, or commercial or financial information, furnished in confidence, that relates to the business, personal, or financial affairs of any person (see § 4.16 for notice requirements regarding disclosure of confidential commercial information);

(5) An intra-agency or interagency memorandum or letter not routinely available by law to a private party in litigation, including memoranda, reports, and other documents prepared by OCC employees, and records of deliberations and discussions at meetings of OCC employees, provided that the deliberative process privilege shall not apply to records created 25 years or