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or may not have voting rights on one or more series.

[85 FR 83736, Dec. 22, 2020]

Subpart C—National Bank and Federal Savings Association Operations

§ 7.3000 National bank and Federal savings association operating hours and closings.

(a) *Operating hours.* The board of directors of a national bank or Federal savings association, or an equivalent person or committee of a Federal branch or agency, should review its hours of operations for customers and, independently of any other bank, savings association, or Federal branch or agency, take appropriate action to establish a schedule of operating hours for customers.

(b) *Emergency closings declared by the Comptroller.* Pursuant to 12 U.S.C. 95(b)(1) and 1463(a)(1)(A), the Comptroller of the Currency (Comptroller), may declare any day a legal holiday if emergency conditions exist. That day is a legal holiday for national banks, Federal savings associations, and Federal branches or agencies in the affected geographic area (*i.e.*, throughout the United States, in a State, or in part of a State), and national banks, Federal savings associations, and Federal branches and agencies may temporarily limit or suspend operations at their affected offices, unless the Comptroller by written order directs otherwise. Emergency conditions may be caused by acts of nature or of man and may include natural and other disasters, public health or safety emergencies, civil and municipal emergencies, and cyber threats or other unauthorized intrusions (*e.g.*, severe flooding, a pandemic, terrorism, a cyber-attack on bank systems, or a power emergency declared by a local power company or government requesting that businesses in the affected area close). The Comptroller may issue a proclamation authorizing the emergency closing in anticipation of the emergency condition, at the time of the emergency condition, or soon thereafter. In the absence of a Comptroller declaration of a bank holiday, a

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national bank, Federal savings associations, or Federal branch or agency may choose to temporarily close offices in response to an emergency condition. The national bank, Federal savings associations, or Federal branch or agency should notify the OCC of such temporary closure as soon as feasible.

(c) *Emergency and ceremonial closings declared by a State or State official.* In the event a State or a legally authorized State official declares any day to be a legal holiday for emergency or ceremonial reasons in that State or part of the State, that same day is a legal holiday for national banks, Federal savings associations, and Federal branches or agencies or their offices in the affected geographic area. National banks, Federal savings associations, and Federal branches or agencies or their affected offices may close their affected offices or remain open on such a State-designated holiday, unless the Comptroller by written order directs otherwise.

(d) *Liability.* A national bank, Federal savings association, or Federal branch or agency should assure that all liabilities or other obligations under the applicable law due to its closing are satisfied.

(e) *Definition.* For the purpose of this subpart, the term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

[85 FR 83736, Dec. 22, 2020]

§ 7.3001 Sharing national bank or Federal association space and employees.

(a) *Sharing space.* A national bank or Federal savings association may:

- (1) Consistent with § 7.1024, lease excess space on national bank or Federal savings association premises to one or more other businesses (including other financial institutions);
- (2) Share space jointly held with one or more other businesses; or
- (3) Offer its services in space owned by or leased to other businesses.

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(b) *Sharing employees.* When sharing space with other businesses as described in paragraph (a) of this section, a national bank or Federal savings association may provide, under one or more written agreements between the national bank or Federal savings association, the other businesses, and their employees, that:

(1) A national bank or Federal savings association employee may act as agent for the other business; or

(2) An employee of the other business may act as agent for the national bank or Federal savings association.

(c) *Supervisory conditions.* When a national bank or Federal savings association engages in arrangements of the types listed in paragraphs (a) and (b) of this section, the national bank or Federal savings association must ensure that:

(1) The other business is conspicuously, accurately, and separately identified;

(2) Shared employees clearly and fully disclose the nature of their agency relationship to customers of the national bank or Federal savings association and of the other businesses so that customers will know the identity of the national bank, Federal savings association, or other business that is providing the product or service;

(3) The arrangement does not constitute a joint venture or partnership with the other business under applicable State law;

(4) All aspects of the relationship between the national bank or Federal savings association and the other business are conducted at arm's length, unless a special arrangement is warranted because the other business is a subsidiary of the national bank or Federal savings association;

(5) Security issues arising from the activities of the other business on the premises are addressed;

(6) The activities of the other business do not adversely affect the safety and soundness of the national bank or Federal savings association;

(7) The shared employees or the entity for which they perform services are duly licensed or meet qualification requirements of applicable statutes and regulations pertaining to agents or employees of such other business; and

(8) The assets and records of the parties are segregated.

(d) *Other legal requirements.* When entering into arrangements of the types described in paragraphs (a) and (b) of this section, and in conducting operations pursuant to those arrangements, a national bank or Federal savings association must ensure that each arrangement complies with all applicable laws and regulations. If the arrangement involves an affiliate or a shareholder, director, officer or employee of the national bank or Federal savings association:

(1) The national bank or Federal savings association must ensure compliance with all applicable statutory and regulatory provisions governing national bank or Federal savings association transactions with these persons or entities;

(2) The parties must comply with all applicable fiduciary duties; and

(3) The parties, if they are in competition with each other, must consider limitations, if any, imposed by applicable antitrust laws.

(e) *Transition.* If, on May 18, 2015, a Federal savings association shares space or employees with another business under an agreement that complies with the legal requirements that were in effect prior to May 18, 2015, but which would violate any provision of this section, the Federal savings association may continue sharing under the existing agreement but it may not amend, renew, or extend the agreement without prior approval of the appropriate OCC supervisory office.

[80 FR 28471, May 18, 2015, as amended at 85 FR 83737, Dec. 22, 2020]

Subpart D—Preemption

§ 7.4000 Visitorial powers with respect to national banks.

(a) *General rule.* (1) Under 12 U.S.C. 484, only the OCC or an authorized representative of the OCC may exercise visitorial powers with respect to national banks. State officials may not exercise visitorial powers with respect to national banks, such as conducting examinations, inspecting or requiring the production of books or records of