

§5.48 Voluntary liquidation of a national bank or Federal savings association.

(a) *Authority.* 12 U.S.C. 93a, 181, 182, 1463, 1464, and 5412(b)(1)(B).

(b) *Licensing requirements.* A national bank or a Federal savings association considering going into voluntary liquidation must also file a notice with the OCC once a liquidation plan is definite. The bank or savings association may not begin liquidation unless the OCC has notified it that the OCC does not object to the liquidation plan.

(c) *Exceptions to rules of general applicability.* Sections 5.8, 5.10, and 5.11 do not apply to a voluntary liquidation. However, if the OCC concludes that the notice presents significant or novel policy, supervisory or legal issues, the OCC may determine that any or all parts of §§5.8, 5.10, and 5.11 apply.

(d) *Standards—(1) In general.* In reviewing a proposed liquidation plan, the OCC will consider:

- (i) The purpose of the liquidation;
- (ii) Its impact on the safety and soundness of the national bank or Federal savings association; and
- (iii) Its impact on the bank's or savings association's depositors, other creditors, and customers.

(2) *National banks.* For national banks, the OCC also will review liquidation plans for compliance with 12 U.S.C. 181 and 182.

(3) *Federal mutual savings associations.* For Federal mutual savings associations, the OCC also will assess the advisability of, and alternatives to, liquidation and the effect of liquidation on all concerned.

(e) *Procedure—(1) Preliminary notice of voluntary liquidation.* A national bank or Federal savings association that is considering going into voluntary liquidation must provide preliminary notice to the appropriate OCC licensing office.

(2) *Submission of liquidation plan and nonobjection.* (i) After a national bank or Federal savings association provides preliminary notice under paragraph (e)(1) of this section, if the bank or savings association plans to proceed with liquidation, it must submit a voluntary liquidation plan to the OCC. A liquidation

plan may be effected in whole or part through purchase and assumption transactions.

(ii) The national bank or Federal savings association must receive the OCC's non-objection to the liquidation plan before beginning the liquidation.

(3) *Notice upon commencing liquidation—(i) In general.* When the board of directors and the shareholders of a solvent national bank or Federal savings association, or in the case of a Federal mutual savings association, the board of directors and the members, have voted to voluntarily liquidate, the bank or savings association must:

(A) File a notice with the appropriate OCC licensing office; and

(B) provide notice to depositors, other known creditors, and known claimants of the bank or savings association.

(ii) *National banks.* A vote to liquidate a national bank must comply with 12 U.S.C. 181. In addition, a national bank must publish notice in accordance with 12 U.S.C. 182.

(iii) *Federal savings associations.* A Federal savings association must publish public notice if so directed by the OCC.

(4) *Report of condition.* The national bank's or Federal savings association's liquidating agent or committee must submit a report to the appropriate OCC licensing office at the start of liquidation showing the bank's or savings association's balance sheet as of the start of liquidation. The liquidating national bank or Federal savings association must submit reports of the condition of its commercial, trust, and other departments to the appropriate OCC licensing office by filing the quarterly Consolidated Reports of Condition and Income (Call Reports).

(5) *Report of progress.* The national bank's or Federal savings association's liquidating agent or committee must submit a "Report of Progress of Liquidation" annually to the appropriate OCC licensing office until the liquidation is complete.

(6) *Final report.* The national bank's or Federal savings association's liquidating agent or committee must submit a final report at the conclusion of liquidation showing that all creditors have been satisfied, remaining assets

have been distributed to shareholders, resolutions to dissolve the bank or savings association have been adopted, and the bank or savings association has been dissolved. The national bank or Federal savings association also must return its charter certificate to the OCC.

(f) *Expedited liquidations in connection with acquisitions*—(1) *In general.* When an acquiring depository institution in 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 must be included in the notice and publication for the purchase and assumption required under the Bank Merger Act, 12 U.S.C. 1828(c).

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§ 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 must 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