

## § 26.5

## 12 CFR Ch. I (1–1–25 Edition)

(3) The OCC may require that any interlock permitted under this paragraph (h) be terminated if a change in circumstances occurs with respect to one of the interlocked depository organizations that would have provided a basis for disapproval of the interlock during the notice period.

(i) Any savings association that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the HOLA, as provided by section 205(9) of the Interlocks Act (12 U.S.C. 3204(9)).

(j) A management official or prospective management official of a depository organization may enter into an otherwise prohibited interlocking relationship with a Federal savings association for a period of up to 10 years if such relationship is approved by the Federal Deposit Insurance Corporation pursuant to section 13(k)(1)(A)(v) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1823(k)(1)(A)(v)).

[61 FR 40300, Aug. 2, 1996, as amended at 79 FR 28399, May 16, 2014]

### § 26.5 Small market share exemption.

(a) *Exemption.* A management interlock that is prohibited by § 26.3 is permissible, if:

(1) The interlock is not prohibited by § 26.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20 percent of the deposits in each RMSA or community in which both depository organizations (or their depository institution affiliates) have offices. The amount of deposits shall be determined by reference to the most recent annual Summary of Deposits published by the FDIC for the RMSA or community.

(b) *Confirmation and records.* Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

[64 FR 51678, Sept. 24, 1999]

### § 26.6 General exemption.

(a) *Exemption.* The OCC may by order issued following receipt of an application, exempt an interlock from the pro-

hibitions in § 26.3 if the OCC finds that the interlock would not result in a monopoly or substantial lessening of competition and would not present safety and soundness concerns.

(b) *Presumptions.* In reviewing an application for an exemption under this section, the OCC will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the depository organization seeking to add a management official:

(1) Primarily serves low-and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group, or women;

(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in “troubled condition” as defined in 12 CFR 5.51(c)(7).

(c) *Duration.* (1) Unless a specific expiration period is provided in the OCC approval, an exemption permitted by paragraph (a) of this section may continue so long as it does not result in either:

(i) A monopoly or substantial lessening of competition; or

(ii) An unsafe or unsound condition.

(2) If the OCC grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided by the OCC in writing.

[64 FR 51678, Sept. 24, 1999, as amended at 79 FR 28399, May 16, 2014; 85 FR 42642, July 14, 2020]

### § 26.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service or apply for an exemption if a change in circumstances causes the service to become prohibited. A change in circumstances may include an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or any reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

(b) *Transition period.* A management official described in paragraph (a) of this section may continue to serve the depository organization involved in the interlock for 15 months following the date of the change in circumstances. The OCC may shorten this period under appropriate circumstances.

[61 FR 40300, Aug. 2, 1996, as amended at 64 FR 51678, Sept. 24, 1999]

### § 26.8 Enforcement.

Except as provided in this section, the OCC administers and enforces the Interlocks Act with respect to national banks, Federal savings associations, and their affiliates, and may refer any case of a prohibited interlocking relationship involving these entities to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of a national bank or Federal savings association is subject to the primary regulation of another Federal depository organization supervisory agency, then the OCC does not administer and enforce the Interlocks Act with respect to that affiliate.

[73 FR 22251, Apr. 24, 2008, as amended at 79 FR 28399, May 16, 2014]

## PART 27—FAIR HOUSING HOME LOAN DATA SYSTEM

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AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 1 *et seq.*, 93a, 161, 481, and 1818; 15 U.S.C. 1691 *et seq.*; 42 U.S.C. 3601 *et seq.*; 12 CFR part 202.

SOURCE: 44 FR 63089, Nov. 2, 1979, unless otherwise noted.

### § 27.1 Scope and OMB control number.

(a) *Scope.* This part applies to the activities of national banks and their subsidiaries, which make home loans for the purpose of purchasing, construction-permanent financing, or refinancing of residential real property.

(b) *OMB control number.* The collection of information requirements contained in this part were approved by the Office of Management and Budget under OMB control number 1557–0160.

[49 FR 11825, Mar. 28, 1984, as amended at 73 FR 22251, Apr. 24, 2008]

### § 27.2 Definitions.

For the purpose of this part, including all forms and instructions issued for use under this part:

(a) *Applicant* means a natural person, including a co-applicant, who makes an application.

(b) *Application* means an oral in-person or written request for an extension of credit for a home loan that is made in accordance with procedures established by a bank for the type of credit requested.

(c) *Bank* means a national bank and any subsidiaries of a national bank.

(d) *Completed application* means an application in connection with which a bank has received all the information that it regularly obtains and considers in evaluating the amount and type of credit requested.

(e) *Decision center* means the place where home loan applications are accepted or rejected.

(f) *Home loan* means a real estate loan for the purchase, permanent financing for construction, or the refinancing of residential real property which the applicant intends to occupy as a principal residence.

(g) *Inquirer* means a natural person who makes an inquiry.

(h) *Inquiry* means a written or an oral in-person request for information about the terms of a home loan by a natural person on his/her own behalf which is received on a bank's premises by any person at the bank who customarily receives or is authorized to receive such requests. Telephonic communications do not constitute an inquiry for purposes of this part.