

# **General Policies and Procedures**

## **Comptroller's Licensing Manual**

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# General Policies and Procedures

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# General Policies and Procedures

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## Introduction

The *Comptroller's Licensing Manual* (manual) explains the Comptroller of the Currency's (OCC) policies and procedures to form a new national bank, enter the national banking system, and effect structural changes and corporate expansion. The manual standardizes OCC processing of notice and application filings to bring consistency to the record keeping and decision-making processes.

The manual describes how national banks and others submit filings, how the public may comment on them, and how OCC personnel review and analyze them. It contains policies, procedures, a glossary of terms, and reference citations pertaining to those activities. This publication is a procedural guide only and may not list all factors that may be assessed during the analysis phase.

The OCC has an electronic process, titled e-Corp, that allows a bank to complete and submit an application or notice on-line. E-Corp represents the OCC's continuing effort to add value to the national charter, eliminate unnecessary regulatory burden, simplify administrative processes, enhance communications, reduce paperwork, and take full advantage of e-government mandates. All national banks registered on National BankNet—the OCC's free, extranet Web site—can access e-Corp. Every registered bank has a BankNet agent who can provide the necessary information. If you are not sure your bank is registered for BankNet or you need to identify your agent, contact the OCC by e-mail at [NationalBankNet@occ.treas.gov](mailto:NationalBankNet@occ.treas.gov).

The OCC charters, regulates, and supervises national banks and federal branches and agencies of foreign banks in the United States, accounting for over half of the nation's banking assets. Its mission is to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States.

The OCC acts on filings for corporate activities according to national banking laws that grant it the general authority to regulate national banks. The OCC also acts pursuant to its corporate regulations (for example, 12 CFR 5 and 28). This booklet consolidates general policies and procedures that are broadly applicable to most OCC filings. It is to be used with other booklets in the manual to prepare specific types of filings.

## General Filing Instructions

### Prefiling Discussions and Meetings

The OCC encourages applicants to contact the OCC prior to filing to discuss corporate proposals. Prefiling communications may take the form of informal

discussions (for example, telephone or conference calls) and more formalized prefiling meetings.

An applicant may request a prefiling meeting with appropriate OCC staff to review a proposed transaction and the applicable processing steps. The OCC also may require a prefiling meeting to discuss the submission requirements and appropriate policies and procedures relating to a proposed filing (for example, charters). Generally, Licensing staff in the district offices:

- Arranges meetings between appropriate OCC staff (for example, licensing, legal, supervision, compliance) and the applicant.
- Summarizes the meeting in a memo, which is held in a pending file until, and if, an application is filed.

Filers requesting OCC approval of an activity or transaction involving novel, precedential, or highly complex or sensitive issues should contact Licensing staff in the appropriate district office before actually submitting the application to discuss the issues it raises. This prefiling discussion facilitates the filer's ability to prepare the filing effectively. It also enhances the OCC's ability to process the filing efficiently. Such filers are expected to provide supporting written analysis, including a legal opinion.

## Responsibility

The OCC expects each filer to prepare accurately and completely each filing submitted to it. Each applicant certifies that its filing or supporting materials submitted to the OCC contain no material misrepresentations or omissions. Any person who misrepresents or omits facts in a filing or supporting materials may be subject to enforcement actions or other penalties, including criminal penalties, provided in 18 USC 1001 and 1014.

Each filer should:

- Submit all necessary information about a proposed filing to aid the OCC in reaching an informed decision quickly.
- Provide a response to each request for information as outlined in the sample filing formats (see the Forms column at the OCC's Web site, [manual](#)). All filing items should be answered with complete and accurate information that is subject to verification. If the answer is "not applicable," "unknown," or "none," the applicant should so state. Answers of "unknown" should be explained.
- Provide a cross reference to a specific cite or location of any documents attached as supporting information. The sample filing form is not intended to duplicate information supplied on another form or in an exhibit.
- Determine compliance with all applicable statutes and regulations.

Each applicant files a standard type of application, unless it qualifies for an expedited or notice submission. These requirements are included in each booklet, if applicable.

Each filer must notify the OCC of any significant change to each proposal, whether it occurs prior to the OCC's initial decision or after. If the OCC discovers a material misrepresentation or omission after deciding the filing, it may nullify or revoke its decision.

## Requests for Information

During the time an application is pending, the OCC provides the public file to any person who requests it from the processing office. The public file for an application consists of those portions of the filing, supporting data, and supplementary information submitted by the applicant and information submitted by interested persons for which confidential treatment has not been requested. When the first request for a copy of the filing or other submission is received, the district Licensing staff establishes a public file that is available to anyone.

The processing office for most applications is the appropriate [district office](#) for the applicant bank. Innovative applications or applications by certain of the largest national banks are usually processed in the Washington office. When a transaction stimulates significant public interest, the OCC may post the public file on the OCC's Internet site.

Headquarters Licensing staff can identify the processing office for anyone who is uncertain about where to submit a request for the public file. After the application is acted upon, all requests for the public file should be directed to the Disclosure Officer, Communications Division, Comptroller of the Currency, Washington, DC 20219.

Requests for the public file should be submitted in writing by postal mail or by facsimile transmission. Once created, the public file also will be available, by appointment, for inspection at the processing office (or the Communications Division, after the application is acted upon) during that office's regular business hours. Any request for information beyond that in the public file should be submitted as a Freedom of Information Act request to the Disclosure Officer, Communications Division, under the procedures described in 12 CFR 4, subpart B.

The OCC may impose a fee for research and duplication expenses (see 12 CFR 4) for any materials provided. However, for application information requests, the OCC will provide noncommercial requesters with 100 pages and two hours of search time free of charge. This generally means there is no charge to a member of the public who requests a single copy of the public file for a single application. In addition, the OCC may waive or reduce fees for parties who specifically request such treatment.

## Requests for Confidential Treatment

A filer or other person submitting information to the OCC may request confidential treatment for information submitted. That request should be made at the time confidential materials are submitted. Anyone making such a request should draft the request for confidential treatment precisely to extend only to those portions of a document considered confidential.

The request must discuss the justification for the requested treatment. The filer's reasons for requesting confidentiality should specifically demonstrate the harm (for example, loss of competitive position, invasion of privacy) that would result from public release of that information. The filer should separate the confidential from the nonconfidential information and label it "Confidential."

The application or filing should include a comprehensive index or table of contents that identifies each item or section for which confidential treatment is being requested. Generally, requests for confidential treatment should not extend to an entire application.

Each applicant should understand that a request(s) for confidential treatment of information submitted in an application may delay the OCC's decision, because of the time needed to resolve the confidentiality issues, if third parties request such information on a particular filing.

The Licensing staff will place all requests for confidential treatment in the official file.

The OCC will forward a request for confidential materials to the Disclosure Officer, Communications Division, to be processed in the same manner as a Freedom of Information Act (FOIA) request under procedures described in 12 CFR 4, subpart B. If, after reviewing the materials, the OCC determines that a basis for confidential treatment has not been substantiated, it will notify the person who requested that treatment. After notification, the OCC will include the material in the public file.

In addition to addressing requests for confidential treatment, the OCC will withhold personal, private information about persons that fits within the meaning of exemption 6 of the FOIA, 5 USC 552(b)(6) (for example, personal biographical and financial information).

### **Standards for Granting Confidential Treatment**

The OCC will review requests for confidentiality in terms of the exemptions outlined in the Freedom of Information Act. The burden of establishing the applicability of an exemption to information submitted in an application lies with the party seeking nondisclosure. The mere assertion of confidentiality is not sufficient for the OCC to make a determination. Also, a broad or undefined assertion of confidentiality by an applicant may delay the processing of the application.

The exemption most frequently asserted in requests for confidentiality is found at 5 USC 552(b)(4), which protects "trade secrets and commercial or financial

information obtained from a person [that is] privileged or confidential.” When asserting that exemption for material required in an application, the applicant must establish the likelihood, not only the possibility, that substantial competitive harm would result from disclosure. For material submitted voluntarily, the standard may be somewhat less stringent. Applicants or others interested in the confidentiality of official corporate file materials should contact the Disclosure Officer, Communications Division.

## Sample Forms and Submission Requirements

The manual booklets contain sample forms for each type of application or notice that may be filed with the OCC. Those sample forms may be downloaded or searched on the OCC’s [Internet site](#).

Alternatively, some of the sample forms are available on e-Corp, the OCC’s electronic filing process. A bank may use those sample forms on e-Corp, to draft, save, and submit its after-the-fact notices and prior approval requests. Banks have the ability to develop the filing in draft and then return to the saved drafts. Once completed, the bank can submit the entire filing, including attachments and exhibits, and then sign and certify the application or notice electronically. The bank is **not** required to mail a paper copy of the same filing to the OCC.

Upon request, the OCC will make available to any filer a diskette containing the sample format in commonly used, word processing software. The OCC will accept an application on a standard 3½-inch diskette or a compact disc (CD) in commonly used, word processing software. Each submission should be accompanied by a cover letter identifying the filer, the filing, the file name on the diskette, and the word processing software used. The signed original pages of the application or attachments along with copies of the diskette or CD attachments should accompany the diskette or CD submission.

Unless filing by diskette or CD, all filings and supporting documentation should be submitted on standard letter-sized paper (that is, no larger than 8½ by 11 inches) and unbound. Regardless of the filing format (that is, paper, diskette, or CD), all submissions must be in English. An original foreign language document should accompany each translated one, if prepared by another party. In addition, the OCC normally requires financial statements prepared in a foreign country to be restated in United States dollars, using accounting standards that are generally accepted (GAAP) in the United States.

Except for filings under the Bank Merger Act and the Change in Bank Control Act, each filer should submit an original and one copy of an application or notice. An applicant filing under the Bank Merger Act should submit an original and four copies. Anyone filing under the Change in Bank Control Act should submit an original and five copies. *Do not bind any of the copies you submit to the OCC.*

In lieu of following the OCC’s sample form, filers may submit a form, application, or other document submitted to another federal agency, if that submission covers the proposed action and contains substantially the same information the OCC requires.



To avoid preparing lengthy background or supporting documentation each time a filer submits an application, the applicant may incorporate by reference relevant information given to the OCC or another federal agency in a previous application or filing by attaching it as an appendix or exhibit.

Each filer may submit its original filing, including copies, by one of the following methods: hand delivery, regular mail, mail with return receipt requested, express or overnight mail service (for example, Federal Express, Express Mail, United Parcel Service), or e-Corp. Filers may submit additional information by any of those methods or by facsimile to the appropriate district office. Sometimes, the OCC may accept limited information by telephone.

### **Entrants to the National Banking System**

A group of new national bank organizers generally submits its charter application to the director for district licensing in the appropriate OCC district office for the new institution. A bank or thrift that proposes to convert into a national bank generally submits its filing to the director for district licensing in the appropriate district office for the converting institution. Foreign banks operating federal branches and agencies file with the director for district licensing in the Northeastern District.

### **Existing National Banks**

Each existing national bank submits filings to the [director for district licensing](#) in the appropriate district office.

## **Filing Fees**

The OCC publishes a filing fee schedule at least annually in a bulletin entitled, "Notice of Comptroller of the Currency Fees." The OCC mails the bulletin to all national banks. A copy of the current bulletin may be obtained from the OCC's Communications Division or by accessing the issuances section of the OCC's [Internet site](#).

The appropriate filing fee must be paid by check or other means, if any, listed in the bulletin. Checks should be payable to the "Comptroller of the Currency" and accompany the filing.

The OCC generally does not refund a filing fee. However, when justified by the OCC's processing cost or in extenuating circumstances, the OCC may grant a request for a fee waiver, reduction, or refund (fee concession). To request a fee concession, the filer should make a written request, including justification, to the director for district licensing in the appropriate district office before or simultaneously with submission of its filing. The OCC decides all requests individually. A fee concession may be warranted for:

- A corporate reorganization when numerous affiliates are being combined, but only one analysis is needed.
- A transaction when multiple filings are necessary to comply with statutory or regulatory requirements.

- A filing necessitated by a natural disaster.

## Publication

Applicants for certain types of transactions must publish notices as required by law or regulation (public notice). This notice is followed by a comment period during which the public may provide comment to the OCC. The specific publication requirement for each type of filing is discussed in the relevant booklet in this manual. (The "[Public Notice and Comments](#)" booklet also contains a general discussion of public notice requirements.)

The OCC publishes in its *Weekly Bulletin* a notice of all applications subject to a public notice and other filings received or acted upon each week. The *Weekly Bulletin* may be downloaded or searched on the OCC's [Internet site](#). Those notices provide additional information to the public, but do not satisfy the applicant's public notice requirements. Information about how to subscribe to the *Weekly Bulletin* and other OCC publications is available from the OCC's Internet site and the Communications Division.

## Communications

The OCC encourages each filer to appoint a contact person to serve as its primary liaison. To enhance communications between the OCC and the filer and to expedite handling, the OCC encourages contact persons to use a 12-digit control number on all communications with it during the filing process. This control number, which identifies each filing uniquely, is assigned by the Corporate Activities Information System (CAIS), an OCC automated online system designed to monitor the OCC's filings.

Interested parties may file written comments to support, or oppose, a proposed transaction or activity during the public comment period (see the "[Public Notice and Comments](#)" booklet). The OCC encourages banks and interested persons, including community groups, to communicate continuously on matters of material interest, not only when an application is filed.

## Application Process

Licensing staff in the appropriate district office processes most corporate applications (see previous discussion at Sample Forms and Submission Requirements). Upon receipt, Licensing staff reviews each filing to determine whether it contains all information necessary to reach a decision. Licensing staff:

- Requests additional information from the applicant by a specific due date, if the filing does not contain all information necessary to reach a decision.
- Solicits input from appropriate OCC staff (for example, licensing, legal, supervision, compliance).
- Processes each application in a timely manner.

If at any time the Licensing staff determines that the filing presents significant policy, legal, CRA, consumer compliance, or supervisory issues, staff will contact headquarters Licensing (HQ LIC) to decide:

- Whether the application should be forwarded to HQ LIC for processing (broad policy or legal issues).
- Whether specific issues should be separated from the application to be handled by HQ LIC, while the application continues to be processed in the appropriate district office.

## Expedited Review

The OCC's expedited review procedures create greater assurance that certain filings from healthy banks with satisfactory or better CRA ratings will be approved. Applications from those "eligible banks" or "eligible depository institutions" may be given expedited review for:

- Establishment of branches.
- Branch and main office relocations.
- Certain business reorganizations and other acquisitions.
- Fiduciary powers.
- Change in permanent capital.
- A national bank charter sponsored by a holding company whose lead depository institution is an eligible depository institution.
- A conversion to a national bank charter.

## Processing

Upon receipt of a filing, the OCC verifies the applicant's eligibility for expedited review. If the applicant is eligible and the filing qualifies for expedited review, the OCC reviews the filing to ensure that all necessary information has been submitted and that:

- It does not present a significant supervisory, CRA (if applicable), or compliance concern; or
- It does not raise a significant legal or policy issue.

The OCC will send the applicant an acknowledgment letter or e-mail on a filing afforded expedited review. This [letter](#) also serves as the OCC's decision unless the OCC notifies the applicant that it has been removed from expedited processing and will be subject to standard processing.

## Removal from Expedited Review

The OCC will notify the applicant orally, followed by [notice](#) in writing if an application is removed from expedited review. The OCC will remove an application from expedited review, if:

- The application does not contain information needed to make an informed decision.
- The filing itself, or an adverse public comment about the filing, presents a significant supervisory, compliance, or CRA concern or raises a significant issue. Refer to the "[Public Notice and Comments](#)" booklet for a detailed discussion of how CRA impacts the application process.
- The filing presents competitive concerns.
- The OCC needs additional time to conduct hearings or meetings or obtain or analyze information relevant to the application.
- The applicant requests removal of an application from expedited review.

The OCC will not remove a filing from expedited review if it determines that adverse comments:

- Do not raise significant concerns or issues.
- Are frivolous.
- Have been filed primarily as a means to delay action on the filing.
- Raise CRA issues that the OCC determines have been resolved satisfactorily (see the Community Reinvestment Act discussion in the "[Public Notice and Comments](#)" booklet).

## Expedited Time Frames

The time periods for processing filings afforded expedited review are specified in the appropriate sections of 12 CFR 5 (see [Appendix A](#)—Target Time Frames). For applications subject to public comment periods, the time period generally expires 15 days after the end of the comment period.

## Standard Review

The OCC will review all filings not accorded expedited review according to the standard review procedures described in the booklet covering the particular filing. The OCC will determine whether approval is consistent with applicable law, regulations, policies, and safety and soundness considerations. Criteria applicable to each type of filing are contained in the respective manual booklet. The OCC will request any additional information or opinion it needs to reach an informed decision and may conduct investigations or examinations, if necessary.

## **Acknowledgment of Receipt**

Within five business days of receipt, the OCC will acknowledge receipt by telephone, [writing](#), e-mail, facsimile, or otherwise, of the following correspondence:

- An initial submission of a filing if:
  - It is received by regular mail or similar delivery that does not provide the sender notice of receipt; or
  - The filing status (expedited versus standard filing) is inaccurate.
- A comment on a filing from an interested person.
- A request for copies from a public file.
- A request from an interested person for a hearing.
- A request for information and other miscellaneous correspondence.
- A request for information under FOIA.

If receipt is acknowledged, the OCC normally will provide the applicant with an estimated target time frame for processing the filing. OCC staff will update that estimate if the situation changes.

Subsequent correspondence from an applicant, its representatives, or interested persons will not necessarily be acknowledged.

## **Time Considerations**

When a filer submits two or more related filings jointly, even if one or more, but not all, of the submissions meet the qualifications for expedited review, expedited procedures do not apply, and the OCC will follow standard review procedures. If all of the filings qualify for expedited review, they will be deemed approved as of the end of the longest applicable time period, unless the OCC has issued a decision or advised the applicant that the filings will not be given expedited treatment, because they raise significant legal, policy, supervisory, CRA, or compliance concerns or issues.

Twelve USC 4807 requires that the OCC (and all other federal banking agencies) take final action on any application before the end of a one-year period beginning on the date a complete filing is received. A filer may request the agency to waive this requirement for any filing; however, the OCC expects to render a decision on each application well in advance of the one-year deadline.

## Additional Information Requests

Although the OCC will strive to ask for additional information or opinions at the earliest possible date, it may make that request of an applicant at any time during the processing of a filing. When requesting additional information, the OCC will advise the applicant of the due date for that submission. A request for additional information does not suspend the review period for filings accorded expedited review. However, failure to provide the information in a timely manner could result in a delayed, conditionally approved, denied, or abandoned application.

Minor corrections may be addressed over the telephone or by e-mail. If the application contains major deficiencies, the OCC normally will send a letter to the applicant detailing the deficiencies and requesting additions or corrections.

If additional information substantially changes the nature of the original filing, the OCC may direct a filer to republish and provide the public with another opportunity for comment.

## After-the-Fact Notice

In certain instances, the OCC does not conduct a prior review of permissible activities or grant approval, but it does require an after-the-fact notice. The OCC uses this information to determine continuously its supervisory strategy for the bank and to maintain the accuracy of its institutional database.

Filers must submit after-the-fact notices for the following types of activities no later than 10 days after beginning the new activity:

- The acquisition or establishment of operating subsidiaries conducting specified activities (see "Investment in Subsidiaries and Equities" booklet).
- The acquisition or establishment of financial subsidiaries.
- Investment in or performance of certain activities by bank service corporations.
- Aggregate investment in bank premises up to 150 percent of the bank's capital and surplus (notice submitted 30 days after overinvestment to the appropriate supervisory office).
- Voluntary liquidation.
- Consolidation or merger into a resulting state bank or federal savings association.
- Certain subordinated debt filings.

## Specific Requirements

### Articles of Association Amendments

A bank's Articles of Association may be amended if authorized by votes cast on behalf of a majority of the voting shares of the bank, unless otherwise provided for in the articles, at any meeting held pursuant to appropriate notice or waiver (12 USC 21a). However, two-thirds of the shareholders must approve amendments to the capital stock article. A certified copy of every amendment to the articles adopted by the shareholders must be forwarded to the director for district licensing at the appropriate district office, or for large banks to the director of licensing activities, HQ LIC.

For a discussion of amendments to the second article, see the Expansion or Contraction of Assets or Activities section located below.

### Bylaw Amendments

A majority of the bank's directors may amend its bylaws. A copy need not be submitted to the OCC.

A bank must designate in its bylaws the body of law selected for its corporate governance procedures. A bank may elect to follow the corporate governance procedures of the law of the state in which the main office of the bank is located, the law of the state in which the holding company of the bank is incorporated, the Delaware General Corporation Law, or the Model Business Corporation Act. (Refer to 12 CFR 7.2000 for corporate governance procedures.)

### Community Reinvestment Act (CRA)

Congress enacted the CRA to require federal bank and thrift regulators to encourage insured depository institutions to help meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institutions. In accordance with the CRA, the OCC considers an applicant's record of CRA performance in deciding applications for:

- Establishment of a domestic branch.
- Relocation of a main office or branch office.
- Business combination.
- Conversion to a national bank charter.

An applicant for a new national bank charter (other than a conversion applicant) submits a description of how it will meet its CRA objectives. The OCC evaluates the description in considering the application.

The OCC publishes in *Interpretations and Actions* decision letters with CRA conditions or otherwise addressing CRA issues in applications. The OCC posts the full text of [Interpretations and Actions](#) on its Internet site. The letters describe the rationale for the decision, including any significant deficient area in the bank's performance, the source of the OCC's information on the problems, and the resolution of issues raised by an adverse comment, if any, and how the applicable conditions address the deficiencies. (See the "[Public Notice and Comments](#)" booklet for a further discussion of the effect of CRA on an application.)

## Branch and Trade Names

The OCC permits national banks to operate branches under different trade names. However, the OCC is concerned that if customers believe they are dealing with two different depository institutions, they may inadvertently exceed FDIC insurance limits (generally, \$100,000 per institution) by depositing excess amounts in different branches of the same institution. The OCC believes it is important that customers understand the scope of FDIC insurance in those circumstances. Accordingly, a bank that intends to use a different name for a branch or other facility should be advised to take reasonable steps to ensure that customers will not become confused and believe that its facilities are separate institutions or that deposits in the different offices are separately insured (refer to the [Interagency Statement on Branch Names](#)). Such measures may include, but are not limited to:

- Disclosing, clearly and conspicuously, in signs, advertising, and similar materials that the facility is a branch, division, or other unit of the bank. The bank should exercise care that the signs and advertising do not create a deceptive or misleading impression.
- Using the legal name of the bank for legal documents, certificates of deposit, signature cards, loan agreements, account statements, checks, drafts, and other similar documents.
- Educating bank staff about the possibility of customer confusion over deposit insurance. The OCC recommends that the bank instruct staff at the branch and any other facilities operating under trade names to inquire of customers prior to opening new accounts, whether they have deposits at the bank's other facilities or branches. In addition, during the time period soon after the bank combines with, acquires, or is acquired by another depository institution, staff should be reminded to call customers' attention to disclosures that identify a particular branch or facility as part of an institution.
- Obtaining from depositors opening new accounts at the branch a signed statement acknowledging that they are aware that the branch and other facilities belong to the same bank and that deposits held at each facility are not insured separately.

In addition, the practice of banks using different trade names over a computer network, such as the Internet, raises similar concerns. Accordingly, institutions intending to use different trade names over a computer network should take reasonable steps to ensure that customers will not be confused about either the bank's identity or the extent of FDIC insurance coverage.



## Corporate Seal

Since national banking laws require that a bank affix its corporate seal to certain documents, such as a stock certificate, an organizing, converting, or existing bank must adopt a corporate seal. Consistent with OCC policy, the bank need not use its official name in the corporate seal.

## Shareholder Meetings

Corporate governance procedures address the ability of shareholders to act by unanimous written consent in lieu of a shareholders' meeting. When the bank's corporate governance procedures permit, the notice and meeting are not required for shareholders' approval.

## National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA)

The OCC considers historical preservation and environmental factors in deciding an application for:

- New bank charters.
- Establishment of federal branches and agencies.
- Establishment of domestic branches and seasonal agencies.
- Relocation of existing bank offices.

Regarding these applications, the applicant should not take any action that may affect a historic property or the quality of the human environment prior to contacting the OCC. Such actions include site preparation, demolition, alteration, renovation, and construction.

### **NHPA**

Applicants must certify whether a proposed transaction will affect any historic properties as stated in the NHPA, 16 USC 470-470x-6. Historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in (see [Glossary](#)), the *National Register of Historic Places* maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to, and located within, such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the *National Register* criteria.

To review the National Historic Preservation Act, implementing regulations, and other information, refer to the Web sites for the [Advisory Council on Historic Preservation](#) (ACHP) and the [National Register of Historic Places](#). Also, through the ACHP's Web site, applicants can access contact information for state and tribal

historic preservation officers as well as link directly to each of the preservation officers' Web sites for additional information.

The requirement to consider historic properties is established at section 106 of the NHPA (16 USC 470f), and 36 CFR 800 defines the process for identifying and considering historic properties. The OCC cannot approve an application until the section 106 review process is completed. Also, the applicant may not take any action that may affect a historic property, until the review process is completed or the OCC otherwise authorizes that the action may proceed. If any applicant takes an action that affects historic properties before the section 106 review is completed, the OCC may deny the application.

Under the section 106 review process, the first step to determine whether historic properties may be affected is to define the scope of the proposed project. Taking the scope into consideration, the next step is to establish the area of potential effects (see [Glossary](#)) for the project. Once the area of potential effects is established, the applicant next determines whether any historic properties exist within that area. The applicant should:

- Review existing information on historic properties that may be potentially affected, including information that unidentified historic properties may exist.
- Seek information from local governments, Native American tribes, public and private organizations, and other parties that may have knowledge or concerns about historic properties in the area.
- Request the views of the appropriate State Historic Preservation Officer (SHPO), or the appropriate Tribal Historic Preservation Officer (THPO), on further ways to identify historic properties that may be affected. In some situations, it will be necessary to involve both the SHPO and THPO in the review process. The applicant should contact the SHPO or THPO as early as practicable in the planning process.

At this point, the applicant should conclude whether historic properties exist within the area of potential effects. If historic properties are identified, the next step is to make a determination of the effect (see [Glossary](#)) of the proposed project on each of the historic properties. Under the NHPA, the review may result in one of three determinations:

- No historic properties affected; that is, there are no historic properties present or there are historic properties but the project will have no effect upon them,
- No adverse effect, or
- Adverse effect.

Upon completion of its review, the applicant should submit its documentation, including a complete description of its proposed project and its determination on historic properties, to the SHPO or THPO for review and comment. If the applicant received comments from any interested parties, those should be provided as well. To ensure that the submission is complete, the applicant should verify the SHPO or

THPO's documentation requirements prior to requesting its review. The SHPO or THPO has 30 days from receipt to provide comments. The applicant should submit copies of all correspondence between it and the SHPO or THPO to the OCC. The OCC cannot complete the section 106 review process until the SHPO or THPO has had an opportunity to provide its comments.

In the event that an adverse effect determination is made, the applicant should notify the OCC promptly. The NHPA requires that the OCC notify the ACHP of a determination of "adverse effect" and submit documentation supporting the determination. The OCC also would notify the ACHP when the reviewing parties, or other interested parties, do not agree on the determination. In certain circumstances, the ACHP will participate in the resolution of "adverse effects."

If the proposed project will have an adverse effect on a historic property, the applicant will need to consider other alternatives. After fully considering the alternatives, the project may be allowed to proceed subject to measures that mitigate the adverse effects. Mitigation measures are developed through consultation involving the applicant, the SHPO or THPO, the OCC, and any interested parties and may include the ACHP. Once the mitigation measures are agreed to, the consulting parties will execute a Memorandum of Agreement to ensure that the measures are carried out.

## **NEPA**

Applicants must certify whether a proposed transaction will affect the quality of the human environment significantly (that is, air and water quality, noise levels, energy consumption, congestion of population, solid waste disposal, or environmental integrity of private land) within the meaning of the NEPA, 42 USC 4321-4347. To review the NEPA, implementing regulations, and other information, refer to the Web sites for the Council on Environmental Quality ([CEQ](#)) and [NEPAnet](#).

Applicants should submit information from the state and other organizations about specific plans to mitigate the potential adverse impact of a proposal on the quality of the human environment. Submission of this information with the application helps to expedite the OCC's processing.

## **Expansion or Contraction of Assets or Activities**

Bank management that wishes to substantially change the bank's assets or activities may need to submit an application to the OCC, submit a business plan, revise its articles of association, or submit other materials to the OCC for review prior to implementing the proposed change.

### **Significant Deviations**

A bank's significant deviation (see [Glossary](#)) from its existing business plan may materially alter the underlying factors upon which the decision to approve the charter application was based. Those deviations may have a positive or negative effect on the bank. A bank that is subject to a condition to seek prior OCC review of significant deviations may not change its operations significantly without the OCC's review and nonobjection. This includes most recently chartered banks.

After a bank opens for business, management and the board may discover that the bank is achieving slower or more rapid growth than anticipated. Management and the board also may determine that the bank is not able to generate quality loans or attract a significant volume of deposits. There may also be concerns about poor risk management practices. Management and the board should investigate thoroughly the underlying reason(s) for each item before taking action.

Examiners will evaluate proposed significant deviations to determine if they are prudent. (See Appendix G of the Charters booklet for specific guidance on identifying and evaluating significant deviations, communication requirements, and related procedures.)

### **Change in Asset Composition**

The OCC requires prior written approval for a change in the composition of all, or substantially all, of the bank's assets either through the sale or other disposition of assets. Prior written approval also is required if a bank, once having disposed of all or substantially all the assets, reactivates its operations through the subsequent purchase, acquisition, or other expansion of its operations (12 CFR 5.53). This includes acquiring assets by any means, including generating new assets through the bank's own efforts. *The requirements of 12 CFR 5.53 are primarily designed to address changes to and from dormant bank (see [Glossary](#)) status.*

The regulation does not apply if the change is:

- In response to the OCC's direction (for example, an enforcement action pursuant to 12 USC 1818).
- Part of a voluntary liquidation pursuant to 12 USC 181 and 12 CFR 5.48 if the liquidating bank stipulates in its notice of liquidation that the liquidation will be completed, the bank dissolved, and its charter returned to the OCC within one year of the date it files the liquidation notice.
- A result of a bank's ordinary and ongoing business of originating and securitizing loans.

If, as a part of a prior corporate approval, a bank is subject to a "significant deviation condition" requiring OCC's prior written approval before making changes and is also subject to 12 CFR 5.53 because it is changing the composition of all, or substantially all, of its assets, the bank need only file an application under 5.53.

Generally, public notice under 12 CFR 5.8 does not apply to a change in asset composition unless the OCC determines that the application presents a significant or novel policy, supervisory, or legal issue where a public notice is considered necessary. A public notice also may be required when a change in asset composition application is accompanied by a second application that requires a publication notice under 12 CFR 5.8. In this instance a public notice describing the entire transaction may be necessary to ensure that the public has a full understanding of the entire transaction.

### *Asset Disposition Transactions*

If a change in the composition of assets is subject to 12 CFR 5.53, the selling national bank must file an application with the OCC if it is selling, disposing, or transferring assets, whether it be to another national bank, a state bank, or to any other person or entity.

The OCC has a long-standing practice of discouraging a national bank from removing substantially all of the assets and liabilities of the bank, creating a dormant bank or shell operation. The OCC has serious supervisory concerns including how the management or the board may use such a dormant bank charter; the nature of the services and products that might later be initiated; and increased operations and concentration risk. The OCC will consider the appropriateness of permitting a substantive sale that creates a dormant bank and the plan for final disposition and winding up of the bank's existence.

When reviewing an application to dispose of all, or substantially all, of a bank's assets, the OCC considers:

- Reasons for the proposed decrease in asset size.
- The impact on the bank's safety and soundness (for example, remaining asset concentrations).
- Any effect on bank customers (including continued FDIC insurance coverage).
- Plans for terminating the bank charter, through a voluntary liquidation or merger into a nonbank affiliate.

### *Increasing Assets of a Dormant Bank*

The OCC requires that a dormant bank file an application and obtain the OCC's prior approval before ending its dormant status and restarting operations. A national bank with a dormant charter could restart operations by obtaining or acquiring assets through any means, including generating new assets through the bank's own efforts. For example, the dormant bank may restart business by first taking new deposits and then using those deposits to fund new assets; or a dormant bank will restart by engaging in activities that significantly deviate or are a change from its original business plan or operations.

The change in asset composition regulation applies to all situations in which a dormant bank increases its assets regardless of when the bank became dormant or whether approval under 12 CFR 5.53 was required for the original sale or disposition.

When reviewing an application to increase the assets of a dormant bank, we will consider:

- The reasons for the proposed increase in asset size.
- The impact on the bank's safety and soundness.
- Any effect on bank customers (including continued FDIC insurance coverage).
- Competent management, including a board of directors, with ability and experience relevant to the types of services to be provided.
- If capital is sufficient to support the projected volume and type of business.
- If the proposed business plan can achieve and maintain profitability.

### **Substantial Changes in the Scope of Activities**

Bank management that wishes to expand or contract the bank's primary business may need to revise its articles of association and submit other materials to the OCC for review prior to implementing the proposed change.

#### *Full Service Charter to Limited Charter*

If management desires to convert a full-service charter to a limited-service charter (such as a cash management or trust bank), it should amend its articles of association and submit a notice to the Licensing staff in the appropriate district office. The notice should include a proposed business plan, changes in the bank's capital structure, a description of planned changes in bank premises, and a list of proposed management. The OCC does not charge a fee for this notice.

If a consequence of this change to the powers or services is a reduction in capital, the bank is required to file a letter of intent and any appropriate fee (see the "[Capital and Dividends](#)" booklet). If the bank intends to relocate its head office or any branch in its change to a limited-service charter, the bank must submit the appropriate relocation application and filing fee (see the "[Branches and Relocations](#)" booklet). In addition, the FDIC may terminate deposit insurance if the bank stops accepting insured deposits as part of a plan to contract its banking business.

Although the OCC does not require a public notice to convert to a limited-service charter, the bank may need to provide public notice for related applications or notices (such as a purchase and assumption, relocation, or branch closing).

Additionally, for a limited purpose bank, the articles stipulate that the bank may not expand or alter its business beyond that stated in its articles without the prior approval of the OCC.

### *Limited Charter to Full Service Charter*

If management of a limited charter bank wants to expand the bank's powers to those of a full service commercial bank, it must amend its articles of association and submit a request to the Licensing staff in the appropriate district office. The request must include a proposed business plan, filing fee, and list of management. The OCC also may request other parts of the new bank charter application to evaluate sufficiently the proposed change to full service banking. In addition, an uninsured bank will need to file a deposit insurance application with the FDIC if it plans to begin accepting insured deposits as part of an expansionary plan.

## Filings Required for Undercapitalized Banks

Twelve USC 1831o requires that an undercapitalized bank must obtain the FDIC's or the OCC's prior approval to acquire, directly or indirectly, any interest in any company or depository institution, establish or acquire any additional branch office, or engage in any new line of business. To grant approval to an undercapitalized bank, the OCC must determine that:

- The bank has submitted an acceptable capital restoration plan.
- The bank is implementing the plan.
- The proposed filing is consistent with and will further the achievement of the plan.

## Key Policies

The OCC evaluates the complete filing to determine whether the applicant may complete the transaction legally and operate the proposed activity in a safe and sound manner. Each filing is evaluated on its merits. Specific decision criteria are contained in each relevant manual booklet.

## Change in Federal or State Law

After a law that affects a national bank activity is enacted or amended to permit a banking activity or facility previously prohibited by federal or state law, the OCC usually will accept, but will not act upon, applications prior to the effective date of the amended law. This practice will minimize unnecessary delays for applicants, minimize processing burdens on the OCC, and enable an approved facility to be opened or an activity initiated as soon as it becomes legal under the law.

## Consolidated Entity

In reaching its decision, the OCC considers the activities, resources, or condition of an affiliate of the applicant that reasonably may reflect on or affect the applicant. For example, the OCC recognizes that the strength of a parent, combined with the direct support it offers, can mitigate supervisory concerns about an affiliated bank. Conversely, the OCC recognizes when the satisfactory condition of an affiliate bank is overshadowed by that of its parent or affiliate companies. In those cases, the

OCC considers the extent to which the condition of the bank is affected by the overall condition of the consolidated entity.

## Approval or Conditional Approval

Generally, the OCC may approve or conditionally approve any filing, including one accorded expedited review, after reviewing the application and considering the relevant factors. The OCC may impose conditions if it determines that they are necessary or appropriate to ensure that approval is consistent with applicable statutes, regulations, and OCC policies.

The OCC imposes on many filings standard requirements that must be met before completing the proposed transaction (for example, opening a bank or a branch or completing a merger). In addition, the OCC sometimes imposes special conditions that corporate filers must satisfy before the OCC will allow completion of the proposed transaction. Final approval occurs once the filer has complied with all of the requirements of its approval letter, but has not, as yet, consummated the transaction.

In some cases, the OCC may impose conditions enforceable under 12 USC 1818. These are included in approvals containing conditions that remain in effect after the effective date or consummation date of an approved transaction or activity and continue until the OCC removes them. Examples of conditions that may be imposed include:

- Provisions that limit the activities that a bank subsidiary may conduct or set standards for how certain activities may be conducted.
- Special supervisory conditions that require adherence to a capital or CRA plan.

In approval letters that include a reference to enforceability, the following language will be inserted in a separate paragraph that precedes a list of conditions:

The following conditions of this approval shall be deemed to be a "condition imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 USC 1818.

## Denial

The OCC may deny a filing if:

- Significant supervisory, CRA (if applicable), or compliance concerns exist.
- Approval would be inconsistent with applicable law, regulation, or OCC policy.
- The applicant fails to provide information in a timely manner that the OCC requested to make an informed decision.



## Abandonment

A filing must contain information described in the appropriate booklet of this manual. If an applicant fails to provide required or additional requested information within the time period the OCC specified, the OCC may deem a filing abandoned.

## Notification of Interested Persons

The OCC provides commenters and other interested persons with a written decision immediately after the filer is notified. Interested persons may not appeal the OCC's decision. (See also the "[Public Notice and Comments](#)" booklet.) A member of Congress who files a congressional inquiry also will receive a copy of the OCC's decision from the OCC's Congressional Liaison.

## Post Decision Issues

### Extension of Time

When the OCC approves or conditionally approves a filing, it generally gives the applicant up to 18 months to begin the new or expanded activity. If the approval time runs out and the transaction is not consummated, the OCC's approval ends automatically.

The OCC normally does not grant extensions of time. However, in extenuating circumstances, extension of the approval time may be requested from the Licensing staff in the appropriate district office. However, the applicant must provide sufficient information to prove that the reason for the delay is beyond its control (for example, environmental clean up that must be done before a branch office can be built).

### Satisfaction Survey

The OCC includes a [Satisfaction Survey](#) with the decision letter to the applicant. Comments are welcomed and used to improve licensing policies and procedures continuously.

### Nullifying a Decision

After rendering a decision on a filing, the OCC may nullify its decision if it discovers:

- A material misrepresentation or omission.
- The decision is contrary to law, regulation, or OCC policy.
- A clerical or administrative error, or a material mistake of law or fact occurred.

## Appeal

An applicant may request review of an OCC decision according to the National Bank Appeals Process (OCC [Issuance 2002-9](#)). Applicants may appeal a decision to the deputy comptroller for Licensing or the Ombudsman.

## Modification of Condition of Approval

An applicant may request that the OCC modify a condition that was imposed in a final decision. The request should be in writing and should provide a detailed justification for such modification. The request should provide the CAIS Control Number and a description of the condition imposed that the bank wishes to modify. A board of directors' resolution approving the request to modify should accompany the request.

The removal or modification of a condition that was imposed is considered a policy issue.

## Request for OCC Corporate Decision

Final decisions on filings are available to the public. Requests for those decisions should be directed to: Comptroller of the Currency, Attn: Disclosure Officer, Communications Division (3-2), Washington, DC 20219. Requests for final decisions generally are answered within 10 business days of receipt.

## Procedures: Information Request

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### Requesting Information

#### Interested Party

1. Submits a request for a copy of the public file of a pending filing to the appropriate district office. Submits a request for a copy of a decided or closed filing or a request for materials other than the public file to the Communications Division, Washington, DC.

### Responding to the Request

#### Licensing Staff

2. Establishes a public file from the official file (see additional discussion under Requests for Information).
3. If the applicant has requested confidential treatment for public file information not generally withheld, promptly forwards a copy of all materials submitted by the applicant and interested parties, the request for confidential treatment, and the request for information to the Disclosure Officer, Communications Division. (See steps 8 through 11 for processing of such requests.)
4. When a request for materials other than the public file is received, promptly forwards a copy of the entire official file, other related materials, any request for confidential treatment of any of the materials, and the request for information to the Disclosure Officer, Communications Division. (See step 12 for processing of such a request.)
5. When material has been referred to the Disclosure Officer, establishes a tracking system to follow up with that officer and to respond appropriately to the interested party.
6. Forwards a copy of the requested public file to the interested party if no confidential treatment requested. Include an invoice for research and duplication charges, if appropriate.
7. Makes the public file available for inspection by interested persons during regular business hours.

#### Disclosure Officer

8. **For a request for confidential treatment of material**, determines whether to grant the request for confidential treatment, using the standards of the Freedom of Information Act (FOIA).

9. When the decision is to deny confidential treatment, contacts the person who submitted the material to notify him or her of the decision before releasing the material.
10. After deciding the request and providing appropriate notification to the submitter, prepares the public file, documents his or her decision(s), and forwards a copy of the public file to the person who requested it and another to the appropriate Licensing staff for future use as the public file.
11. **For a request for materials other than the public file**, processes the request as an initial request under the FOIA.

## Licensing Staff

12. Adds the name of each person who requests the public file to the list of interested persons. If applicable, establishes a list of additional parties making contacts. (See [Appendix B](#), Guidelines for Additional Communications and Contacts.)
13. Enters appropriate information into the Corporate Activities Information System (CAIS).

# Procedures: National Historic Preservation Act (NHPA)

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## Identification of Issue

### Licensing Staff

1. If the applicant has indicated that a historic property may be affected or there is a reason to believe that a historic property may be affected, immediately consults with the headquarters Licensing (HQ LIC) NHPA specialist on how to proceed with the application.
2. Updates the Corporate Activities Information System (CAIS) entries for NHPA issue.
3. Continues processing the application pending the results of the NHPA review process.

## Exploration of Issue

### NHPA Specialist

4. Reviews the proposal and makes a determination of the effect on the historic property (see [Glossary](#)).
5. If the determination is "adverse effect," forwards relevant materials to the Advisory Council on Historic Preservation (ACHP).
6. If the determination is "no adverse effect," consults with the SHPO or THPO, the applicant, and any other interested organizations or persons, if appropriate, to ensure agreement exists. If agreement exists, proceed to step 8. If agreement does not exist, forwards relevant materials to the ACHP.
7. Receives ACHP's comments and continues to process, including development of a Memorandum of Agreement (MOA) if the "effect" is adverse.
8. Informs Licensing staff that NHPA review process is complete and provides relevant documentation for file, prepares appropriate additional language for approval letter, and provides MOA, if appropriate, to be included with the approval letter.

## **Resolution of Issue**

### Licensing Staff

9. Makes appropriate CAIS entries.
10. Processes application to conclusion.
11. Includes all documents relevant to the NHPA issue in official file.
12. Provides NHPA Specialist, HQ LIC, with a copy of the approval letter if there were any NHPA issues or concerns.

# Procedures: National Environmental Policy Act

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## Identification of Issue

### Licensing Staff

1. If the proposed transaction will have a significant or adverse effect on the quality of the human environment immediately, consults with the headquarters Licensing (HQ LIC) National Environmental Policy Act (NEPA) specialist on how to proceed with the application.
2. Updates Corporate Activities Information System (CAIS) entries for NEPA issue.
3. Continues processing the application pending the results of the NEPA review process.

## Exploration of Issue

### NEPA Specialist

4. Performs "environmental review" to determine whether to prepare a "negative declaration" or "environmental impact statement" (EIS).
5. As appropriate, prepares "negative declaration" or EIS.
  - If "negative declaration" is prepared, goes to step 7.
  - If EIS is to be prepared, goes to step 6.
6. If preparing EIS:
  - Provides notice to *Federal Register* of intent to perform EIS after obtaining appropriate official's concurrence.
  - Incorporates comments of interested persons into draft EIS.
  - Provides draft copy of EIS to Council on Environmental Quality, other agencies, as listed in NEPA, and interested persons.
  - Prepares final EIS at conclusion of comment period.
7. Informs Licensing staff that NEPA review process is complete and provides relevant documentation for the file, prepares appropriate additional language for approval letter, and provides any documents to be included with the approval letter.

## **Resolution of Issue**

### Licensing Staff

8. Makes appropriate CAIS entries.
9. Processes application to conclusion.
10. Includes all documents relevant to the NEPA issue in official file.
11. Provides NEPA Specialist with a copy of the approval letter if there were any NEPA issues or concerns.



# Procedures: Change in Assets by Sale or Other Disposition

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## Prefiling

### Licensing Staff

1. Refers a bank that requests instructions to this booklet.
2. Arranges for a prefiling discussion or meeting, if necessary, and invites appropriate OCC staff (for example, headquarters Licensing (HQ LIC), compliance, economics, legal, information technology, and supervision). Immediately contacts HQ LIC to decide if and when:
  - To forward the application to HQ LIC for processing, or
  - To forward specific issues to HQ LIC for action, while the district Licensing staff continues to process the application.
  - To require public notice.
3. Prepares a summary memorandum on all prefiling meetings and discussions.
  - Retains the summary memorandum and other information in the pending file.
  - Sends the summary memorandum to the appropriate supervisory office if no supervisory representative attended the prefiling meeting.

## Filing the Application

### Bank

4. Completes and submits a complete application (**Add Link**) to the director for district licensing in the appropriate district office or to the director of licensing activities, HQ LIC.

## Receipt

### Licensing Staff

5. Initiates and enters appropriate information into the Corporate Activities Information System (CAIS).
6. Establishes the official file to maintain all original documents.

7. Within five business days of receipt of the filing,
  - Acknowledges receipt to the contact person.
  - Sends an e-mail to notify the appropriate assistant deputy comptroller (ADC) and ADC analyst or the large bank examiner-in-charge (EIC) of receipt.

## Initial Review

### Licensing Staff

8. Within five business days of receipt:
  - Reviews the application and other relevant information about the bank to determine if the filing contains a detailed description of the change and all information required in the sample application (refer to steps 14 and 15 for specific criteria).
  - Solicits comments from the ADC and the ADC analyst or large bank EIC and from other OCC divisions (supervisory, compliance, economic, accounting), as appropriate, with a preliminary response required within 15 days after receipt. Provides a brief description of the filing, including any issues identified, and offers a copy of the application. Comments received should include:
    - Any additional information needed from the applicant.
    - A conclusion about the national bank's plans, resources, and expertise to carry out the proposal.
    - If applicable, a decision on any related request to declare a dividend that requires OCC prior approval under 12 USC 60(b) and 12 CFR 5.64 (see "[Capital and Dividends](#)" booklet for additional information).
    - If applicable, a recommendation on any other related request or application.
    - Information about the resulting capital as it relates to the bank's capital plan if an undercapitalized bank is involved.
  - If a legal question is identified or a legal opinion submitted, forwards the question and application to the district counsel with a preliminary response required within 15 days after receipt.
9. If the application is not complete, returns the application or requests the necessary information in writing from the bank, including any information needs of other OCC staff and establishing a specific due date for reply. E-

mails a copy of the request for additional information to the ADC and ADC analyst or large bank EIC, and other interested OCC staff.

10. If the filing is processed in the district and it presents novel, policy, legal, or supervisory issues not previously determined, contacts HQ LIC for guidance.

## **Public Comments and Hearings (if applicable)**

### Licensing Staff

11. If copies of applications are requested, public comments filed, or hearings requested, refers to the "[Public Notice and Comments](#)" booklet.
12. Forwards public comments to other units, as appropriate, for evaluation and advice (for example, legal issues to appropriate legal division or CRA issues to the CRA team).

## **Analysis and Recommendation**

### Licensing Staff

13. Reviews comments received from other OCC staff.
14. Considers and evaluates:
  - The reasons for the proposed decrease in asset size.
  - The impact on the bank's safety and soundness (for example, remaining asset concentrations).
  - Any effect on bank customers (including continued FDIC insurance coverage).
  - Plans for terminating the bank charter, through a voluntary liquidation or merger into a nonbank affiliate.

*Note:* The analyst should assess the likelihood that the transaction will happen as planned and coordinate the related transactions that end the charter. If appropriate, the OCC obtains a written representation from the applicant that it immediately will begin voluntary liquidation in accordance with 12 CFR 5.48 if the transaction does not go as planned. An OCC approval will be conditioned upon the applicant submitting a plan to wind up its affairs and terminate its status as a national bank if the original plan does not occur. (Refer to [Termination of National Bank Status](#) booklet.)

15. Determines how long the dormant bank may continue. If there will be ongoing activities, evaluates the bank's one-year [business plan](#), including pro forma balance sheet, income statement, and capital calculation showing the effects of the transaction. If operating in any capacity, determines:

- How the transaction changes the business plan and operations.
  - How the transaction changes the institution's risk profile.
  - The effect of the transaction on any existing supervisory concerns.
  - The prospects of generating sufficient income to meet competition and conduct its affairs free of supervisory concern. Consider the proposal's effect on the bank's cost of money and yield on assets. Consider future growth or shrinkage.
  - Whether capital is adequate based upon the risks inherent in the resulting bank's assets and economic, as well as other, factors.
  - Whether management changes and resources are appropriate given the changing business of the bank. The experience and performance record of those in key managerial positions and on the board should be evaluated. Management should have the necessary expertise, staffing, controls, and systems in place to implement the business plan. In addition, management should have adequate oversight of the activities and accountability to the board.
  - The extent to which the transaction will affect the communities to be served and the impact, if any, on operating efficiency of the resulting institution. The applicant should discuss any expected changes in the delineated local community, in the performance of the institution in helping to meet the credit needs of the community, and in the effect the transaction will have on the availability of credit and savings services in the community. A copy of the amended CRA plan should be provided if it will be amended; any changes should be discussed.
16. Reviews the terms of any written or oral contracts, agreements, or understandings where any person or company will receive directly or indirectly, any money, property, service, release of pledges made, or other thing of value, whether tangible or intangible, in connection with the transaction.
  17. Ensures that all applicable board and shareholder resolutions have been submitted and that the appropriate changes have been made to the Articles regarding the business of the bank, if applicable.
  18. If there are issues to be determined by HQ LIC, but the filing is still delegated to the district, goes to step 24.
  19. Prepares the Confidential Memorandum (CM) and draft decision letter. The decision letter should address related decisions, such as those concerning dividends, decreases in capital, or branch closings.

20. Forwards CM and draft decision letter to the appropriate ADC and ADC analyst, or large bank EIC, and requests that the ADC or large bank EIC provide final comments within five business days. Incorporates appropriate comments into the draft documents.
21. For transactions that the district deputy comptroller (DDC) or deputy comptroller for Midsize Banks (MDC) decides to review, forwards the CM, draft decision letter, and the supervisory office and ADC comments to the district deputy comptroller (DDC) or MDC. Requests the DDC or MDC comments within five business days.
22. If the filing is delegated to the district and there are no issues to be decided by HQ, goes to step 26.
23. If the decision is delegated to HQ, forwards the file to HQ and goes to step 32.

## Issues Directed to HQ LIC

### HQ LIC

24. Receives and reviews the file from the Licensing staff, and solicits comments from other OCC divisions or supervisory agencies as appropriate.
25. Prepares and forwards a memorandum concerning the issues to the district Licensing staff and, if appropriate, forwards language to insert into the decision letter to the district Licensing staff.

## Decision

### Licensing Staff

26. Deciding official decides the application under delegated authority, including, as appropriate, language received from HQ LIC in the approval.
27. Notifies the bank and, if appropriate, any interested parties of the decision by telephone. Sends the bank the decision letter and a satisfaction [survey](#).
28. Notifies the ADC and ADC analyst or large bank EIC of the decision by forwarding updated CAIS comments and an electronic copy of the decision letter. Also notifies Securities and Corporate Practices Division (SCP) of the decision by e-mail if the bank is subject to 12 CFR 11.
29. If the decision letter is either a denial or conditional approval, forwards a copy of the CM and decision letter to the secretary for the director of licensing activities.
30. Makes appropriate CAIS entries.
31. If the application is denied, goes to step 53.

## HQ LIC

32. Receives file, including CM, from the Licensing staff and makes appropriate CAIS entries.
33. Reviews the file and all relevant information, solicits comments from other OCC divisions or supervisory agencies, as appropriate. Recommends a decision and routes the file to the deciding official.
34. If disapproval will be recommended, forwards the draft documents to the Litigation Division and seeks concurrence.
35. Deciding official decides the application and returns the file to the HQ LIC staff.
36. HQ LIC staff notifies the bank of the decision by telephone and, if the bank requests, sends a facsimile copy of the decision letter to the bank. Sends the decision letter to the bank, along with a satisfaction [survey](#).
37. After decision, notifies Licensing staff and the ADC and ADC analyst or large bank EIC of the decision by forwarding updated CAIS comments by e-mail and by attaching a copy of the decision letter. Also notifies SCP of the decision by e-mail if the bank is subject to 12 CFR 11.
38. Notifies any interested parties of the decision by [letter](#).
39. If the decision letter includes conditions imposed in writing under 12 USC 1818, forwards a copy of the decision letter to the secretary for the director of licensing activities.
40. If denied, proceeds to step 53.
41. Makes appropriate CAIS entries.

## Disclosure (if applicable)

### Bank

42. If the bank is subject to 12 CFR 11, and bank's counsel determines a shareholder vote is necessary, files preliminary proxy materials or information statements with SCP in Washington.

### SCP

43. Reviews proxy materials or information statements and, if warranted, does not object to distribution to the shareholders.

## Shareholder Approval (if applicable)

### Bank

44. If applicable, publishes notice of shareholders' meeting for four consecutive weeks if a shareholder vote is necessary. A shareholder vote may be necessary. The bank's Articles of Association, state law, and the amount of assets involved may be determining factors. Banks with a class of securities registered under section 12 of the Securities Exchange Act of 1934 should refer to the applicable requirements in 12 CFR 11.
45. Mails notice of shareholders' meeting, with accompanying proxy materials or information statements, to all shareholders by certified or registered mail at least 10 days prior to the meeting, or earlier, if required. If a bank is subject to 12 CFR 11, the OCC must not object to the proxy materials prior to distribution.
46. Mails definitive copy of the shareholders' materials, including proxy materials or information statements, to the director for district licensing in the appropriate district.
47. Obtains shareholders' approval of the sale or disposition of assets.

## Consummation

### Bank

48. Notifies the appropriate director for district licensing at least 10 days in advance of the date that the bank plans to sell or dispose of the assets. If not previously done, submits the Secretary's Certificates of the board of director's approval; the Articles of Association in which the changes are made; and the Secretary's Certificates of shareholders' ratification, if applicable.
49. Completes any Post Consummation Procedures for [Business Combinations](#) or Termination Procedures for [Voluntary Liquidations](#).

### Licensing Staff

50. Reviews the bank's notice and verifies that all required actions have been completed. Verifies that SCP has reviewed final proxy materials, if any, to make sure no significant inconsistencies exist between the proxy materials and the application. Notifies the applicant by telephone of any problems.
51. If applicable, prepares and sends a letter following consummation providing a capital certification, branch closings, or lending limit calculation.
52. Makes appropriate CAIS entries.

## Close Out

### HQ LIC

53. Reviews the file for completeness and forwards it to Central Records.
54. Makes appropriate CAIS entries to close filing.
55. Notifies the ADC and ADC analyst or large bank EIC of the sale or disposition date by forwarding updated CAIS comments and, if warranted, other materials.



# Procedures: Change in Assets by Acquisition or Expansion

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## Prefiling

### Licensing Staff

1. Refers a bank that requests instructions to this booklet.
2. Arranges for a prefiling discussion or meeting, if necessary, and invites appropriate OCC staff (for example, headquarters Licensing (HQ LIC), compliance, economics, legal, information technology, and supervision). Immediately contacts HQ LIC to decide if and when:
  - To forward the application to HQ LIC for processing, or
  - To forward specific issues to HQ LIC for action, while the district Licensing staff continues to process the application.
  - To require public notice.
3. Prepares a summary memorandum on all prefiling meetings and discussions.
  - Retains the summary memorandum and other information in the pending file.
  - Sends the summary memorandum to the appropriate supervisory office if no supervisory representative attended the prefiling meeting.

## Filing the Application

### Bank

4. Completes and submits a complete application ([Charter Application](#) and [Business Plan](#)) and the appropriate filing fee to the director for district licensing in the appropriate district office or to the director of licensing activities, HQ LIC.

## Receipt

### Licensing Staff

5. Initiates and enters appropriate information into the Corporate Activities Information System (CAIS).
6. Establishes the official file to maintain all original documents.

7. If a fee is received, forwards it and the deposit memorandum to the Comptroller of the Currency, Attention: Accounts Receivable, 250 E Street, S.W., MS 4-8, Washington, DC 20219. Retains a copy of the memorandum. Contacts the applicant if the filing fee is not received or is incorrect.
8. Within five business days of receipt:
  - Acknowledges receipt to the contact person.
  - Sends an e-mail to notify the appropriate assistant deputy comptroller (ADC) and ADC analyst or large bank examiner-in-charge (EIC) of receipt.

## Initial Review

### Licensing Staff

9. Within five business days of receipt:
  - Reviews the application and other relevant information about the bank to determine if the filing contains a detailed description of the change and all information required in the sample application.
  - Solicits comments from the ADC and ADC analyst or large bank EIC and from other OCC divisions (supervisory, compliance, economic, accounting), as appropriate, with a preliminary response required within 15 days after receipt. Provides a brief description of the filing, including any issues identified, and offers a copy of the application. Comments received should include:
    - A conclusion about the national bank's plans, resources, and expertise to carry out the proposal.
    - Any additional information needed from the applicant.
  - If a legal question is identified or a legal opinion submitted, forwards the question and application to the district counsel with a preliminary response required within 15 days after receipt.
10. If the application is not complete, returns the application or requests the necessary information in writing from the bank, including any information needs of other OCC staff and establishing a specific due date for reply. E-mails a copy of the request for additional information to the ADC and ADC analyst or large bank EIC, and other interested OCC staff.
11. If the filing is processed in the district and it presents novel, policy, legal, or supervisory issues not previously determined, contacts HQ LIC for guidance.

## Public Comments and Hearings (if applicable)

### Licensing Staff

12. If copies of applications are requested, public comments filed, or hearings requested, refers to the "[Public Notice and Comments](#)" booklet.
13. Forwards comments to other units, as appropriate, for evaluation and advice (for example, legal issues to appropriate legal division or CRA issues to the CRA team).

## Analysis and Recommendation

### Licensing Staff

14. Reviews comments received from other OCC staff.
15. Evaluates the purpose of the transaction.
16. Evaluates the changes to the business plan and operations. Determines how the transaction changes the bank's risk profile. Considers:
  - The reasons for the proposed increase in asset size.
  - The impact on the bank's safety and soundness.
  - Any effect on bank customers (including continued FDIC insurance coverage).
  - If there is competent management, including a board of directors, with ability and experience relevant to the types of services to be provided.
  - If capital is sufficient to support the projected volume and type of business.
  - If the proposed business plan can achieve and maintain profitability.
  - Whether the directors stock purchases reflect a financial commitment to the success of the bank.
17. If applicable, ensures all applicable board and shareholder resolutions have been submitted and that the appropriate changes have been made to the Articles regarding the business of the bank.
18. If there are issues to be determined by HQ LIC, but the filing is still delegated to the district, goes to step 24.
19. Prepares the Confidential Memorandum (CM) and decision letter. The decision letter also should address related decisions, certifications, authorizations, or acknowledgements, such as those concerning dividends,

branches, branch closings, decreases or increases in capital, investments in operating and financial subsidiaries, community development investments, investment in bank premises, or fiduciary powers.

20. Forwards CM and draft decision letter to the appropriate ADC and the ADC analyst or large bank EIC, and requests that the ADC or large bank EIC provide final comments within five business days. Incorporates appropriate comments into draft documents.
21. For transactions that the district deputy comptroller (DDC) or deputy comptroller for Midsize Banks (MDC) decides to review, forwards the CM, draft decision letter; and the supervisory office comments to the DDC or MDC, requesting that the DDC or MDC provide comments within five business days.
22. If it is delegated to the district and there are no issues to be decided by HQ LIC, goes to step 28.
23. If the decision is delegated to HQ LIC, forwards the file to HQ LIC and goes to step 35.

## **Issues Directed to HQ LIC**

### **HQ LIC**

24. Receives and reviews the file, and solicits comments from other OCC divisions or supervisory agencies as appropriate.
25. Prepares and forwards a memorandum concerning the issues to the district Licensing staff and, if appropriate, forwards language to insert into the decision letter to the district Licensing staff.

## **Decision**

### **Licensing Staff**

28. Deciding official decides the application under delegated authority, including any language received from HQ LIC.
29. Notifies the bank of the decision by telephone and, if the bank requests, sends a facsimile copy of the decision letter to the bank.
30. Notifies the appropriate ADC and ADC analyst or large bank EIC of the decision by forwarding updated CAIS comments and a copy of the decision letter. Also notifies Securities and Corporate Practices Division (SCP) of the decision by e-mail if the bank is subject to 12 CFR 11.
31. Sends the bank the decision letter, along with a satisfaction [survey](#).

32. Notifies any interested parties by [letter](#) of the decision.
33. If the decision letter includes conditions imposed in writing under 12 USC 1818, forwards the decision letter to the secretary for the director of licensing activities.
34. Makes appropriate CAIS entries.

## HQ LIC

35. Receives file, including CM, and makes appropriate CAIS entries.
36. Reviews the file and all relevant information about the bank, solicits comments from other OCC divisions or supervisory agencies as appropriate, makes a recommendation, and routes the official file to the deciding official. If Licensing recommends denial, contacts and seeks concurrence of the Litigation Division.
37. Deciding official decides the application and returns the file to the HQ LIC staff.
38. Notifies the bank of the decision by telephone and, if the bank requests, sends a facsimile copy of the transmittal letter to the bank.
39. Notifies Licensing staff and the appropriate ADC and ADC analyst or large bank EIC of the decision by forwarding updated CAIS comments by e-mail and attaching a copy of the decision letter. Also notifies SCP of the decision by e-mail if the bank is subject to 12 CFR 11.
40. Sends the decision letter to the bank, along with a satisfaction [survey](#).
41. Notifies any interested parties of the decision by [letter](#).
42. If the decision letter includes conditions imposed in writing under 12 USC 1818, forwards a copy of the decision letter to the secretary for the director for licensing activities.
43. If denied, proceeds to [step 54](#).
44. Makes appropriate CAIS entries.

## Disclosure (If applicable)

### Bank

44. If the bank is subject to 12 CFR 11, and bank's counsel determines that a shareholder vote is necessary, files preliminary proxy materials or information statements with SCP in Washington.

## SCP

45. Reviews proxy materials or information statements and, if warranted, does not object to distribution to the shareholders.

## Shareholder Approval (if applicable)

### Bank

46. If applicable, publishes notice of shareholders' meeting for four consecutive weeks if a shareholder vote is necessary. A shareholder vote may be necessary. The bank's Articles of Association, state law, and the amount of assets involved may be determining factors. Banks with a class of securities registered under section 12 of the Securities Exchange Act of 1934 should refer to the applicable requirements in 12 CFR 11.
47. Mails notice of shareholders' meeting, with accompanying proxy materials or information statements, to all shareholders by certified or registered mail at least 10 days prior to the meeting, or earlier, if required. If a bank is subject to 12 CFR 11, the OCC must not object to the proxy materials prior to distribution.
48. Mails definitive copy of the shareholders' materials, including proxy materials or information statements, to the director for district licensing in the appropriate district.
49. Obtains shareholders' approval of the acquisition or expansion.

## Consummation

### Bank

50. Notifies the appropriate director for district licensing at least 10 days in advance of the date that the bank plans to acquire the assets or expand its activities. If not previously done, submits the secretary's certificates of the board of director's approval; the Articles of Association in which the changes are made, and the secretary's certificates of shareholders' ratification, if applicable.

## Licensing Staff

51. Reviews the bank's notice and verifies that all required actions have been completed. Verifies that SCP has reviewed the final proxy materials, if any, to make sure no significant inconsistencies exist between the proxy materials and the application. Notifies the applicant by telephone of any problems.
52. If applicable, prepares and mails a letter following consummation of the acquisition of assets or expansion. Includes appropriate authorization,

acknowledgement, or certification for dividend declarations, branches, branch closings, investments in operating and financial subsidiaries, community development investments, investments in bank premises, fiduciary powers, and increases or decreases in capital, as applicable.

53. Makes appropriate CAIS entries.

## **Close Out**

### **HQ LIC**

54. Reviews the file for completeness, separates documents, and sends the official file and documents to Central Records.
55. Makes appropriate CAIS entries.
56. Notifies the appropriate ADC and ADC analyst or large bank EIC of the acquisition or expansion date by forwarding updated CAIS comments and, if warranted, other materials.

## Appendix A: Target Time Frames

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### Target Time Frames in Numbers of Days<sup>1</sup>

	Standard	Expedited <sup>2</sup>
<b>Bank service company</b>	60	na
<b>Branch</b>	60	45
<b>Business combination</b>	60	45
<b>Capital change</b>	45	30
<b>Change in bank control</b>	60	na
<b>Change in directors and senior executive officers</b>	90	na
<b>Charter</b>		
Independent bank	120	na
Holding company sponsored	90	45
<b>Director waiver</b>	30	na
<b>Conversion to national charter</b>		
Independent bank	90	30
Independent thrift	120	30
Holding company owned bank or thrift	90	30
<b>Fiduciary powers</b>	45	30
<b>Investment in bank premises</b>	45	30
<b>Management interlocks</b>	30	na
<b>Operating subsidiary</b>	60	na
<b>Relocation</b>	60	45
Short-distance relocation	60	30
<b>Subordinated debt</b>	45	30
<b>Other application types not listed</b>	30	na

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<sup>1</sup>Number of calendar days from the later of date of receipt or publication to OCC action.

<sup>2</sup>Certain filings from eligible banks automatically are approved after this time.



## Appendix B: Guidelines for Additional Communications and Contacts

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The OCC often receives significant information, other than that contained in an application form or written comment on an application, which it uses in the decision-making process. This information often comes from meetings, telephone contacts, or other discussions held with applicants or interested persons, often without all interested parties being involved at the same time.

Those types of contacts, beyond written comments, are permitted, while a filing is pending before the OCC. To ensure that the information received through such contacts is handled properly, all OCC staff must follow these guidelines.

### Guidelines

**The official file should reflect all significant information** an OCC employee receives through written and oral communications, whether by letter, e-mail, fax, telephone, or in-person meeting. (See the [Glossary](#) for official file definition.)

**Documents in the official file form the basis for the public file.** (See the discussion under [Requests for Information](#) for information on how documents are included in or excluded from the public file.)

Any **written communication** containing significant information should be provided to the Licensing staff for inclusion in the official file. If the communication is maintained electronically (for example, as e-mail), a printed copy should be included in the official file. (For information stored on CAIS, the director for district licensing should ensure that a hard copy of any significant information is placed in the file. If the information will be afforded confidential treatment, the director for district licensing should ensure that it will remain accessible on-line or in electronic data storage.)

Any **oral communication** containing significant information (for example, a meeting or telephone call) should be summarized in a written document, which should be included in the official file. If the analyst maintaining the official file is a party to the oral communication, he or she should create the summary. If the analyst maintaining the file is not a party to the communication, an OCC employee involved in the communication should create the summary of the significant information and forward it to the analyst for inclusion in the official file.

**Inquiries concerning status** of an application, or other routine procedural inquiries (for example, inquiries on procedures for filing comments) do not have to be included in the official file.

**Any consideration to require republication of the public filing notice or to reopen a closed comment period**, because of a substantial change in a filing from alterations in the nature or information received from an additional contact, should be coordinated by licensing and legal staff.

**Private meetings**, in which OCC representatives do not participate, between representatives of an applicant and protestants to help narrow issues or facilitate their resolution, even if arranged by the OCC, are not part of the official file of the application.

## Appendix C: OMB Disclosure Statement

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The information collections in this manual have been submitted to and approved by the Office of Management and Budget (Control Number 1557-0014, Expiration Date November 30, 2007<sup>1</sup>) in accordance with the Paperwork Reduction Act of 1980.

Comments about the information collection, the burden estimates, and suggestions for reducing burden may be sent to: Legislative and Regulatory Activities Division, Comptroller of the Currency, Washington, DC 20219. A copy should also be sent to the Paperwork Reduction Project, Office of Management and Budget, Washington, DC 20503.

The OCC requires this information to fulfill its statutory responsibilities and to ensure the continued safety and soundness of national banks. It uses the information to evaluate specific corporate applications of national banks and to prevent potentially unsafe and unsound practices. National banks are the likely respondents.

A list of the various information collections included in this manual follows. An average burden estimate for each filing is provided. Filings are grouped by booklets under each main heading. The average burden hours are broken down by processing type. Depending on each case, the actual time needed by respondents may vary widely.

<u>Filing</u>	<u>Average Burden Hours</u>
Background Investigations	
Interagency Biographical and Financial Report	4
Foreign Certification	1
Branch Closings	1
Branches and Relocations	2
Business Combinations	
Nonaffiliates	30
Affiliates	18
Capital and Dividends	1
Change in Bank Control	30
Changes in Directors and Senior Executive Officers	2
Changes of Corporate Title and Address	0.25
Charters	125
Corporate Organization	0.5
Conversions	4.5
Director Waivers	
Citizenship Waivers	1.5
Residency Waivers	0.5

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<sup>1</sup> Management Official Interlocks received OMB approval under OMB No. 1557-0196, Expiration Date February 29, 2008.

Failure Acquisitions	20
Federal Branches and Agencies	41
Fiduciary Powers	3
General Policies and Procedures	
Satisfaction Survey	0.25
Change in Asset Composition	5
Investment in Bank Premises	1
Investment in Subsidiaries and Equities	
Operating Subsidiaries	1
Bank Service Companies	1
Equities	1
Annual Report	3
Management Official Interlocks	29
Subordinated Debt	1
Termination of National	
Bank Status	1

## Glossary

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The **area of potential effects** means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking [36 CFR 800.16(d)].

An **applicant** is a person or entity that submits a notice or application to the OCC.

An **application** is a submission requesting prior OCC approval to engage in various corporate activities or transactions.

**Appropriate district office** means: (1) Headquarters Licensing (HQ LIC) for all national bank subsidiaries of certain holding companies assigned to the Washington, DC, licensing unit; (2) the appropriate OCC district office for all national bank subsidiaries of certain holding companies assigned to a district office licensing unit; or (3) the OCC's district office where the national bank's supervisory office is located for all other banks.

A **complete filing** is fully responsive to each request for information included in a sample notice or application contained in this manual; includes any information the OCC may subsequently request; and/or provides adequate information, when considered together with other information available to the OCC for its decision.

A **dormant bank** is a bank that is no longer engaged in core banking activities other than on a *de minimis* basis. This definition includes, for example, a bank that has significantly reduced its activities and services or that has contracted out significant portions of its operations to third party service providers, other than in the ordinary course of the bank's ongoing business.

A **filing** is either an application or a notice.

**Effect** on a historic property means alteration to the characteristics that qualify it for inclusion in or eligibility for the National Register. Effects may arise from:

- Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access.
- Change of the character of the property's use or change of physical features within the property's setting.
- Introduction of visual, atmospheric or audible elements.
- Removal of the property from its historic location.
- Physical destruction of or damage to all or part of the property.
- Neglect of a property, which causes its deterioration.

**Eligible for inclusion in the National Register** includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

An **eligible bank** is a national bank that:

- Has a composite CAMELS rating of 1 or 2.
- Has an "outstanding" or "satisfactory" Community Reinvestment Act (CRA) rating. (This factor does not apply to an uninsured bank or branch or a special purpose bank covered by 12 CFR 25.11(c)(3).)
- Is well capitalized as defined at 12 CFR 6.4(b)(1).
- Is not subject to a cease and desist order, consent order, formal written agreement, or Prompt Corrective Action directive or, if subject to any such order, agreement or directive, is informed in writing by the OCC that the bank still may be treated as an "eligible bank."

An **eligible depository institution** means a state bank or a federal or state savings association that is FDIC-insured and that meets the eligible bank criteria.

A **filer** is a person, group of persons, national bank, state-chartered bank, thrift, other financial institution, or any other entity that submits a filing to the OCC.

An **incomplete filing** is not fully responsive to each item of information included in a sample notice or application or lacks adequate information, when considered together with other available information, for the OCC to make its decision.

The **legal name** of a national bank is its full name as reflected in its charter and Articles of Association, except that a bank may abbreviate terms that indicate corporate status (for example, N.A., N.S. & T., Corp., Inc.) in any document, except its charter, charter application, and Articles of Association.

A **lead depository institution** means the largest depository institution controlled by a holding company.

A **notice** is a submission notifying the OCC that a filer: (1) intends to engage in certain corporate activities or transactions; or, (2) has begun certain corporate activities or transactions (see **application** definition).

The **official file** is opened when an application or notice is filed. It becomes the official repository of all significant information about the filing. "Significant" information is nonduplicative information that may be used in the decision-making process. The official file will be made available ultimately to the decision maker and, following the decision, will be forwarded to Central Records.

The official file consists of: (1) the filing and any amendment; and (2) copies or summaries of oral or written communications involving significant information. Examples of such communications are post-filing oral or written contacts by letter, e-mail, fax, telephone, or in-person between one or more of the following:

- An OCC employee involved in the processing or review of a filing and the applicant.

- The OCC and persons who have filed formal comments on the application.
- An OCC employee or other federal regulator and persons contacted during investigations.

Prefiling communications and communications between OCC employees are included in the official file only if they contain significant information.

The **public file** for an application consists of those portions of the filing, supporting data, and supplementary information submitted by the applicant and information submitted by interested persons that have not been afforded confidential treatment by the office processing the application.

A **significant deviation** is a material variance from the bank's business plan or operations that occurs after the proposed bank has opened for business.

An **undercapitalized bank** is an FDIC-insured depository institution that meets the criteria established in 12 CFR 6.4(b)(3), (4), and (5), for an undercapitalized, significantly undercapitalized, or critically undercapitalized bank, respectively.

# References

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<b>After-the-Fact Notice</b>	
Regulation	12 CFR 5
<b>Amendments to Articles of Association</b>	
Law	12 USC 21a
<b>Appeals Process</b>	
Regulation	12 CFR 5.13(f)
OCC Issuances	OCC 2002-9 PPM 1000-9 (REV)
<b>Asset Composition</b>	
Regulation	12 CFR 5.53
<b>Articles of Association</b>	
Laws	12 USC 21, 21a
<i>Indemnification</i>	
Regulation	12 CFR 7.2014
<i>Lost Stock Certificates</i>	
Regulation	12 CFR 7.2018
<i>Preemptive Rights</i>	
Regulation	12 CFR 7.2021
<i>Quorum</i>	
Regulation	12 CFR 7.2009
<i>Shareholder Meetings</i>	
Laws	12 USC 71, 75
Regulation	12 CFR 7.2001
<i>Vacancies in Board</i>	
Law	12 USC 74
Regulation	12 CFR 7.2007
<b>Branch Name</b>	
Issuance	OCC Bulletin 98-22, dated May 1, 1998
<b>Bylaws</b>	
Regulation	12 CFR 7.2000
<i>Cashier</i>	
Regulation	12 CFR 7.2015
<i>Lost Stock Certificates</i>	
Regulation	12 CFR 7.2018
<i>Quorum</i>	
Regulation	12 CFR 7.2009
<i>Shareholder Meetings</i>	
Laws	12 USC 71, 75
Regulation	12 CFR 7.2001
<i>Stock Certificate Signatures</i>	
Law	12 USC 52



Regulation	12 CFR 7.2017
<b>Change of Address</b>	
Laws	12 USC 93a, 161, 481
Regulation	12 CFR 5.52
<b>Change of Name</b>	
Laws	12 USC 30, 31
Regulation	12 CFR 5.42
<b>Community Reinvestment Act</b>	
Law	12 USC 2901-2908
Regulation	12 CFR 25
<b>Corporate Governance Procedures</b>	
Regulation	12 CFR 7.2000
<b>Corporate Powers and Investment Securities</b>	
Law	12 USC 24
Regulation	12 CFR 1
<b>Decisions</b>	
Laws	12 USC 93a, 1818(b), 1831o(e)(4)
Regulation	12 CFR 5.13
<b>Definitions</b>	
Regulation	12 CFR 5.3
<b>Executive Officers</b>	
<i>Cashier</i>	
Laws	12 USC 26, 51a, 52, 57, 62, 92a(g), 161
Regulation	12 CFR 7.2015
<b>Expedited Review of Filings</b>	
Regulation	12 CFR 5.13(a)(2)
<b>Extension of Time for Review of Filings</b>	
Regulation	12 CFR 5.13(g)
<b>Filing Fees</b>	
Regulation	12 CFR 5.5
<b>Freedom of Information Act</b>	
Law	5 USC 552
Regulation	12 CFR 4
Issuance	PPM 2100-15, Supp 1, Supp 2
<b>Hearings and Other Meetings</b>	

Regulation	12 CFR 5.11
<b>Insider Activities</b>	
Laws	12 USC 375, 375a, 375b, 376
Regulations	12 CFR 31, 215
Publication	<i>Comptroller's Handbook, "Insider Activities"</i>
<b>Interlocking Directors and Officers</b>	
Laws	12 USC 3201-3208 15 USC 19
Regulation	12 CFR 26
<b>Misrepresentations or Omissions</b>	
Law	18 USC 1001
<b>Name</b>	
Laws	12 USC 22, 30, 35 18 USC 709
Regulation	12 CFR 5.42
<b>National Environmental Policy Act</b>	
Laws	42 USC 4321-4347
Regulation	40 CFR 1500
<b>National Historic Preservation Act</b>	
Laws	16 USC 470-470x-6
Regulation	36 CFR 800
<b>Organization Certificate</b>	
Law	12 USC 22
<b>Place of Business</b>	
Laws	12 USC 22, 81
<b>Public Comment</b>	
Regulation	12 CFR 5.10
<b>Public File Availability</b>	
Regulation	12 CFR 5.9
<b>Publication Requirement</b>	
Regulation	12 CFR 5.8
<b>Shareholders List</b>	
Law	12 USC 62
<b>Title</b>	
Laws	12 USC 22, 30, 35
Regulation	12 CFR 5.42