

Branch Closings

Comptroller's Licensing Manual

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Branch Closings

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Branch Closings

Introduction

Federal law, 12 USC 1831r-1, requires an insured depository institution to submit 90 days' advance notice of any proposed branch closing to its federal regulator and to customers at specified times before the closing date. The Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision have adopted a "Joint Policy Statement on Branch Closing Notices and Policies" to implement this law.

A final notice to the OCC is required after every branch closing, relocation, and consolidation.

A national bank must file a 90-day advance branch closing notice whenever it proposes to close a traditional brick-and-mortar branch or any similar banking facility, at which deposits are received, checks paid, or money lent. Main offices, remote service units, ATMs, loan production offices, night depositories, and temporary branches are not branches for purposes of 12 USC 1831r-1 and do not require the advance 90-day branch closing notice. A national bank that questions the applicability of those criteria to a particular branch closing should consult the appropriate OCC district office.

Branch closing rules require advance branch closing notices when:

- A branch is closed as a result of a merger, consolidation, or other form of acquisition.
- Branch relocations and consolidations that do not meet the short-distance relocation definition in 12 CFR 5.3(l).

Advance branch closing notices are not required when:

- An ATM, remote service unit, night depository, loan or deposit production office, main office, or a temporary branch is closed.
- A branch is closed in connection with an emergency acquisition or any assistance provided by the Federal Deposit Insurance Corporation pursuant to 12 USC 1823(c).
- Services offered at a branch are reduced, but the resulting facility remains a branch under the branch closing rules; for example, branch hours of operation are reduced.
- The closing meets the branch consolidation or short-distance relocation definition in 12 CFR 5.3(l).

Key Policies

Each national bank with one or more branches must adopt written policies for branch closings.

Application Process

Advance Branch Closing Notice

A national bank that desires to close a branch office must notify the OCC.¹ The notification is a two-step process. The first step is a 90-day advance notice to the OCC and to bank customers. The second step is a final branch closing notice to the OCC with the effective date of the closing. Only a final branch closing notice is required for offices or facilities not considered branches under the branch closing rules (for example, a temporary branch, a night depository or branch consolidation).

A national bank must submit its 90-day notice to the licensing manager in the appropriate district office. The notice must include a statement of the reasons for the decision to close the branch and supporting statistical or other relevant information consistent with the bank's written policy for branch closings. A bank's advance notice to the OCC should contain all of the information contained in the sample notice (see the "Joint Policy Statement on Branch Closing Notices and Policies"; Advance Branch Closing and Downgrade Notice). This includes all of the following items:

- Identification of the branch to be closed.
- The proposed date of closing.
- A detailed statement of the reasons for closing the branch.
- Statistical or other information that support the reasons for closing the branch, consistent with the bank's written policies on branch closings.

Unless an exception applies, a national bank must notify its customers of the proposed closing by mailing notices to them at least 90 days prior to the closing date. A copy of the notice sent to customers also must be forwarded to the licensing manager in the appropriate district office. In addition, the bank shall post notice to branch customers in a conspicuous manner on the branch premises for at least 30 days prior to its closing date. In the case of a mobile branch, the notice shall be posted on a conspicuous place on the vehicle. The notice shall remain posted in the branch premises until the branch is closed.

¹ See "Introduction" for exceptions to this requirement.

Public Comments

If the OCC receives a public comment letter in connection with a branch closing notice, it will forward a copy of the letter to the bank to place in its Community Reinvestment Act (CRA) public file for future OCC review.

Final Branch Closing Notice

Immediately after the branch is closed, a national bank must submit a final branch closing notice to the licensing manager in the appropriate district office. The final notice should:

- List the branch's popular name, location, and authorization number (if known).
- Specify the date of the closure.
- If applicable, include a statement that the bank provided a 90-day advance notice of branch closing to its customers.

Interstate Banks

If a national bank maintains branches in more than one state² (that is, it is an interstate bank) and a branch to be closed is located in a low- or moderate-income area, the notice to customers and the notice placed on the branch premises must contain:

- The mailing address of the appropriate district office.
- A statement indicating that comments on the branch closing may be mailed to that office.

Comments should be filed with the OCC by the date of the branch closing.

OCC Authority and Consideration

The OCC is not authorized by the branch closing statute to prohibit a bank from closing a branch. However, in its evaluation of a bank's performance under the CRA and the assignment of CRA ratings, the OCC:

- Reviews a bank's record of opening and closing offices.
- Evaluates the effect of those openings and closings on the communities in which the branches are or were located.
- Considers comments received on branch closings.

² See the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994.

The OCC considers CRA performance when acting on applications by a bank to merge with another institution, establish a new branch, or relocate a branch or main office.

Meetings

The OCC will convene a meeting to explore the feasibility of obtaining alternative financial services in the low- to moderate-income area in which the closing of the interstate bank's branch is located, if a person from that area files written comments that meet all of the following criteria. The comments:

- Are related to the branch closing.
- Are not frivolous.
- Discuss the adverse affect of the closing on the availability of banking services in the affected community.
- Contain a request that the OCC convene a meeting.
- Include specific reasons for the request.

The OCC will invite to the meeting community leaders from the affected area including the person submitting the comment, other depository institution regulatory agencies, and other persons, organizations, and depository institutions that the OCC determines appropriate.

In addition, the OCC may, in its discretion, convene a meeting or take other action as appropriate to explore the feasibility of obtaining services in the area affected by the branch closing in response to comments described above that request that the OCC take some action to ameliorate the effects of the branch closing (but that do not request that the OCC convene a meeting).

Specific Requirements

Additional guidance for some specific branch closings is provided in this section. The following table illustrates the specific requirements for various closings:

| | Advance Branch Closing Notice | Final Branch Closing Notice |
|--|----------------------------------|--------------------------------|
| Brick-and-Mortar Branch Closing | Yes | Yes |
| Branch Downgrade to ATM | Yes | Yes |
| Branch Downgrade to Night Depository | Yes | Yes |
| Mobile Branch Closing | Yes | Yes |
| Branch Consolidation | No | Yes |
| Short-Distance Relocation | No | Yes |
| Night Depository | No | Yes |
| Temporary Branch | No | Yes |
| ATM Closing | No | No |
| Emergency Acquisitions/FDIC Assistance | No | Yes |
| Loan-Production-Office | No | No |
| Remote Service Units (RSU) | No | No |

ATM Closing

The OCC does not require notification when a national bank closes an ATM. ATMs are exempt from branch closing notification requirements under 12 USC 1831r-1.³

Lease Loss

The loss of a lease arrangement does not exempt a bank from branch closing notice requirements. To ensure compliance with 12 USC 1831r-1's 90-day notice provisions, lease agreements should incorporate adequate safeguards, such as a 120-day advance notice provision. In a sudden loss of lease event where 90-day notice is not possible, the bank must notify customers and the OCC in the manner specified by branch closing rules.

Branch Consolidation

For the purposes of branch closing rules, branch consolidations are considered relocations if they meet the short-distance relocation definition in 12 CFR 5.3(l). Though such consolidations do not require advance branch closing notices, the bank must submit a final branch closing notice when it consolidates branches within the same neighborhood.

Branch Downgrade to an ATM

A national bank must comply with the 90-day advance notice and the final branch closing notice, when it downgrades a brick-and-mortar branch to an ATM or night depository. The branch authorization must remain in effect, if a separate night depository will remain open with the ATM.

³ See the Economic Growth and Regulatory Paperwork Reduction Act of 1996.

Mobile Branch Operations

A mobile branch is subject to the branch closing notice requirements if:

- It will cease conducting branching transactions in the geographic area for which it was approved, or;
- The changes in services constitute a branch downgrade that is subject to branch closing requirements (for example, a staffed mobile branch is replaced by a mobile ATM).

If a mobile branch changes stops within its approved geographic area, no branch closing notice is required.

Night Depository Closing

Under branch closing rules, a night depository is not considered a branch; therefore, no advance notice of the closing of a standalone night depository (including one that may be located at an ATM site) is required. However, a night depository is considered a branch under 12 CFR 5.3(l), and a final branch closing notice to the OCC is required when a national bank closes a standalone night depository.

Customer Allocation

Under 12 USC 1831r-1, an insured depository institution that proposes to close a branch must provide notice of the proposed closing to the OCC and to the customers of the branch. A bank is expected to develop a reasonable method of allocating customers to specific branches, such as a location where a deposit or loan account was opened or through use. However, the OCC recognizes that a reasonable method of allocation may result in certain facilities, which technically constitute branches, not being assigned customers. In such cases, a notice to the OCC that the branch will close and a posting of the notice on the branch premises will suffice.

Mobile branches also are subject to customer allocation rules. For example, if customers are assigned to the mobile unit, normal customer notification requirements apply. If no customers are assigned to the mobile unit then posting a notice on the unit will suffice.

Procedures

Filing the Notice

Licensing Staff

1. Refers a bank that requests instructions to the "General Policies and Procedures" booklet and to this booklet of the Comptroller's Licensing Manual. If no advance branch closing notice or downgrade notice is required, go to step 12.

Bank

2. Sends an advance branch closing notice or advance branch downgrade notice to the appropriate district office at least 90 days before the closing date (see Advance Branch Closing Notice and Downgrade Notice).
3. Notifies customers of the proposed branch closing date by mailing notices to them at least 90 days prior to the closing date (see Sample Customer Notice of Branch Closing). In addition, a copy of the notice sent to customers must be sent to the appropriate district office.

Licensing Staff

4. Initiates and enters appropriate information into the Corporate Activities Information System (CAIS).
5. Acknowledges the filing within five business days of receipt, if applicable.
6. Reviews the notices to the OCC and to customers to ensure compliance with requirements and requests corrections or additional information, if necessary.
7. If the notification is requested, establishes a public file for the notice and public comments.
8. Notifies the portfolio manager and community affairs officer (CAO) in the appropriate district, if an interstate bank indicates its intention to close a branch in a low- or moderate-income area.

Consideration of Comments

Interested Person

9. Files comments.

Licensing Staff

10. *[Applicable only when an interstate bank proposes to close a branch in a low- or moderate-income area]*. If an interested person from the area in which the

branch is located submits a nonfrivolous written request relating to its closing that: (1) includes a discussion of the adverse effect of the branch closing on the availability of banking services in the affected area; (2) requests that the OCC convene a meeting or take other action to address the adverse effects of the branch closing; and (3) includes specific reasons for the request, Licensing:

- Sends an appropriate acknowledgment letter.
 - Forwards a copy of the written request for a meeting to the bank for inclusion in its public file of Community Reinvestment Act (CRA) comments.
 - Forwards the request to the CAO for the district in which the closing branch is located for follow-up in the planning of the meeting and consultation with community leaders in the affected community, and other persons, organizations, and depository institutions that the OCC determines appropriate.
 - Offers assistance in planning and conducting the meeting to the appropriate deputy comptroller or assistant deputy comptroller for the area in which the closing branch is located.
11. For comments received that are not covered by step 10:
- Sends an appropriate acknowledgment letter.
 - Forwards a copy of the comment letter to the CAO for the district in which the closing branch is located for information.
 - Forwards a copy of the comment letter to the bank for inclusion in its public file of CRA comments.

Bank

12. Posts a notice conspicuously on the premises of the branch to be closed at least 30 days prior to the closing date (see Sample Customer Notice of Branch Closing).
13. Sends the final branch closing, consolidation, or downgrade notice to the licensing manager in the appropriate district office immediately after the branch is closed (see Final Branch Closing, Consolidation, or Downgrade Notice).

Licensing Staff

14. Makes appropriate CAIS entries and uses "Notify Other OCC Departments" in CAIS to notify the portfolio manager of the closing.
15. If the bank also enclosed its branch authorization letter with its final branch closing notice to the OCC, the analyst should send an acknowledgment letter to the bank confirming cancellation of the branch authorization.

Close Out

16. Reviews the file for completeness and forwards it to Central Records.
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Glossary

Advance branch closing notices are a national bank's written notices to the OCC and its customers, at least 90 days in advance of a branch closing. In general, those notices are required of each insured institution when it intends to close a branch. The notice to the OCC must provide a detailed statement of the reasons for the closing along with supporting statistics or other relevant information.

A **branch**, under branch closing rules, is a traditional brick-and-mortar branch or any similar banking facility as provided in 12 USC 36(j) (see the Glossary in the "Branches and Relocations" booklet). It does not include a main office, temporary branch, night depository, or an insured branch of a foreign bank.

For the purposes of whether a branch closing notice is given, a **branch consolidation** is defined as a short-distance branch relocation or a combination of branches located within the same neighborhood that does not affect substantially the nature of the business or customers served. Branch consolidations that meet the short-distance relocation definition in 12 CFR 5.3(l) do not require advance branch closing notices.

A **branch downgrade** occurs when a national bank decides to convert an existing brick-and-mortar branch to an ATM or to a night depository. Since an ATM is not a branch, a bank that downgrades a branch to an ATM must follow branch closing procedures. In addition, a branch closing notice is required when a brick-and-mortar branch converts to a night depository, because branch services are reduced significantly and because night depositories are not considered branches under branch closing rules (12 USC 1831r-1). A branch authorization must remain in effect under OCC rules for a night depository that remains open at a downgraded site.

A **central city**, as defined in 12 CFR 5.3(e), means the city or cities identified in the complete title of the Metropolitan Statistical Area (MSA) in which the relocating office is located.⁴

A **final branch closing notice** is a national bank's submission that communicates the branch closing date to the OCC.

A **low- or moderate-income area**, as provided in 12 USC 1831r-1, means a census tract for which the median family income is: (1) less than 80 percent of the median family income for the MSA in which the census tract is located; or, (2) in the case of a census tract that is not located in an MSA, less than 80 percent of the median

⁴The Office of Management and Budget's (OMB) lists of MSAs and central cities can be found on the Internet at <http://www.census.gov>. At the "Subjects A-Z" menu, click on "M", then on Metropolitan Areas, then on Current historical lists, then on Central Cities of Metropolitan Areas. Copies of the OMB list may also be obtained by requesting the most recent "List of Metropolitan Area Definitions" (accession no. PB96-180575) from National Technical Information Services (NTIS), Document Sales, 5205 Port Royal Road, Springfield, VA 22161, (703) 487-4650.

family income for the state in which the census tract is located, as determined without taking into account family income in MSAs in that state.

A **mobile branch** is a facility, other than a messenger service, that does not have a single, permanent site, and includes a vehicle that travels to public locations for the conduct of branching transactions. A mobile branch may serve regularly scheduled locations or be open at various times and locations, such as county fairs, sporting events, or school registration periods. (A branch license is needed for each mobile unit.)

A **short-distance relocation** means moving a branch or main office within: (1) a one-thousand foot radius of the site if the branch or main office is located within a **central city** of an MSA; (2) a one-mile radius of the site if not located within a **central city**, but if located within an MSA; or, (3) a two-mile radius of the site if not located within an MSA.

References

Branches

| | |
|------------|-----------|
| Law | 12 USC 36 |
| Regulation | 12 CFR 5 |

Community Reinvestment Act of 1977

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|------------|----------------------|
| Laws | 12 USC 2901 et. seq. |
| Regulation | 12 CFR 25 |

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| Law | 12 USC 1831r-1 |
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