

## Instructions – Articles of Association

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### General Instructions

The OCC recommends that the Articles of Association (articles) and any subsequent amendments be executed in duplicate. One should be retained as an original document at the bank. The other should be forwarded to the OCC for its retention.

The paragraphs marked with an asterisk (\*) in the sample document are optional.

Unless the organizers have a good reason to deviate from the OCC's sample articles, they should use the sample document. Justification should be provided for any changes in the sample articles. The organizers should tailor the articles for special purpose banks or banks with a special focus, as appropriate.

### Adoption Procedures

1. At the first meeting, the organizers execute the articles in duplicate. (See the "Charters" booklet of the *Comptroller's Licensing Manual*.)
2. The organizers may include additional articles provided they are not contrary to law.
3. The organizers submit a signed original of the articles to the Licensing staff in the appropriate district office and retain the other signed original for the bank's records.
4. The OCC will maintain its original in the bank's corporate history file in Washington, DC.

### Amendment Procedures for an Existing National Bank

1. The majority of the shareholders voting at a meeting held pursuant to 10 days notice by mail or pursuant to a waiver by all stockholders eligible to receive notice may take any action requiring approval of the stockholders. (12 USC 21a)
2. Whenever changes occur in the Articles of Association at a shareholders' meeting, the secretary of the board forwards the amendment with a corporate resolution certifying action by the shareholders to the Licensing staff in the appropriate district office.
3. When acknowledged, the OCC's Licensing staff maintains its original in the bank's corporate history file in Washington, DC.

### Specific Requirements

1. The name of the association must include the word "National." If the word "Association" is used in the name, it must be spelled out completely. (12 USC 22, 30) (See the Branch and Trade Names discussion in the "General Policies and Procedures" booklet.)

2. In most cases, the location should include a city/town/village, county, and state, territory, or district. A street name should not be given. The location should be the same as that originally proposed and approved by the OCC. (12 USC 22, 30, 81)
3. Appropriate limitations on operations or services, for example, bankers' banks, trust companies, and CEBA credit card banks, should be consistent with the preliminary conditional approval letter or subsequent correspondence. (12 USC 27, 92a, 1841(c)(2)(d) or (f))
4. Directors should number no less than five and no more than twenty-five, unless the OCC has exempted the bank from the 25-member limit. Information about qualifying shares and vacancies should be included. For a bankers' bank, information about replacing participating banks should be included. (12 USC 27(b), 71a, 72, 73, 74 and 12 CFR 7.2005, 7.2007, and 7.2008)
5. The annual shareholders' meeting and the election of directors should be discussed. (12 USC 71, 75 and 12 CFR 7.2001, 7.2002, 7.2003, 7.2004, 7.2005, 7.2006, 7.2007)
6. There should be a discussion of all types and classes of the bank's capital stock. (12 USC 51a, 51b, 51c, 52, 56, 57, 59 and 12 CFR 7.2021)
  - The par value of the stock should equal the amount that was approved by the OCC.
  - The authorized number of shares should equal the amount proposed by the bank and approved by the OCC.
  - Certain capital changes may require OCC approval. (See the "Capital and Dividends" booklet.)
  - The shareholder preemptive rights discussion should follow the sample. (12 CFR 7.2021)
  - If included, the issuance of subordinated debt discussion should follow the sample.
  - For bankers' banks only: Bankers' banks may sell their stock only to depository institutions or their holding companies.
7. The articles must include the requirement that the president be a member of the board and discuss the board's powers, including its ability to appoint and dismiss management. (12 USC 24(5), 76 and 12 CFR 7.2010 and 7.2012)
8. The location of the main office and the establishment of branches should be discussed. (12 USC 30, 36)
9. The corporate existence of the association should be mentioned. (12 USC 24(2))

10. The ability to call special meetings of the shareholders should be discussed. (Various statutes and regulations, including: 12 USC 30(b), 51a, 57, 59, 75, 181, 214a, 215, 215a, 215a-2, 215a-3, and 12 CFR 5.33)
11. Indemnity agreements should be consistent with 12 CFR 7.2014. If the payment of insurance premiums is included, the article should explicitly exclude coverage of liability for a formal order assessing civil money penalties against a director or employee.
12. National banking laws and regulations prohibit the adoption of certain anti-takeover and super-majority voting requirements that conflict with statutes and/or regulations specifying percentages of shareholder and director affirmative votes required to approve certain transactions. The OCC will evaluate all anti-takeover and super-majority voting requirements individually for consistency with legal, regulatory, policy, and supervisory considerations.
13. At least five persons, all of whom signed the original application, must sign the articles. If there are more than five persons joining to organize a bank, all must sign the articles.