Federal Branches and Agencies

Entry/Expansionary Activities/Other Changes and Activities

Comptroller's Corporate Manual

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Federal Branches and Agencies

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Federal Branches and Agencies

Overview

This booklet of the *Comptroller's Corporate Manual* (manual) consolidates the Office of the Comptroller of the Currency's (OCC) policies, procedures, and relevant filing documents to facilitate the corporate activities of the federally licensed offices of foreign banks — federal branches, limited federal branches, and federal agencies. Throughout this booklet, references to federal branches and agencies also include limited federal branches, unless otherwise noted.

The booklet:

- Provides a general background on legislative developments in recent years that have affected the corporate activities of foreign banks in the U.S.
- Outlines specific corporate activities of foreign banks that require approval by or notice to the OCC and provides specific filing guidance.
- Specifies filings that may receive expedited review and describes criteria for an eligible filer and a streamlined submission process.

The specific corporate activities covered in this booklet are:

- Establishment of an initial or additional federal branch or agency.
- Acquisition by merger, consolidation, or similar transaction involving a foreign bank that has federally licensed offices.
- A change in the status (see Definitions section for a complete definition of this term) of an existing foreign bank's U.S. office, including a conversion from state to federal license.
- Relocation of a federal branch or agency.
- Fiduciary powers.
- Voluntary liquidation.
- Capital Equivalency Deposits.

- Other changes in activities or operations.

Foreign banks seeking or considering federal branch activities not specifically addressed in this booklet (e.g., operating subsidiary) are encouraged to contact the International Banking and Finance (IBF) division of the OCC to discuss their plans. Based upon those discussions, the OCC will advise the foreign bank whether it should send a written proposal to the OCC for consideration.

Each section in this booklet contains an introduction, key policies, a summary of the process and specific requirements, sample documents, and procedures. Additionally, a Definitions section follows this Overview, and a Legal References section can be found at the end of the booklet.

Users of this booklet also should refer to the following booklets of the manual, as applicable:

- "General Policies and Procedures" (GPP) booklet for a discussion of general filing instructions and procedures.
- "Public Involvement" for guidance on publishing a notice of an application, and, if applicable, procedures for responding to comments and hearings.
- "Background Investigations" for guidance on biographical and financial reports.

Background

General

Twelve CFR 5 and 28 contain the procedural and substantive rules governing the corporate activities of federal branches and agencies. As revised in 1996, 12 CFR 28 updates banking regulations found previously in 12 CFR 20 and 28 and implements provisions of the Foreign Bank Supervisory Enhancement Act of 1991 (FBSEA) and the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal Act), and the Economic Growth and Regulatory Paperwork Reduction Act of 1996, as they relate to federal branches and agencies of foreign banks.

National Treatment

Except as otherwise provided by the International Banking Act of 1978 (IBA), other federal laws or regulations, or OCC policy, a federal branch or agency

generally is authorized to operate under the same rights and privileges and subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that apply to a national bank in the same location. Consequently, the OCC's corporate activities, policies, procedures, and regulations relevant to national banks generally are applicable to federal branches and agencies, unless the OCC has provided otherwise.

Statutory Framework

The IBA establishes a federal licensing option to allow foreign banks to establish federal branches or federal agencies.

The IBA, as amended, requires foreign banks seeking to establish or expand their federally licensed U.S. operations to apply and obtain OCC approval. In deciding an application to establish a federal branch or agency, the OCC includes in its approval any conditions imposed by the Board of Governors of the Federal Reserve System (FRB) as conditions for approval. Among other important provisions, IBA, as amended, requires a determination of whether the foreign bank seeking to establish operations in the U.S. is subject to consolidated and comprehensive supervision in its home country.

The IBA, as amended, prohibits a foreign bank from establishing any new insured U.S. branches that take domestic retail deposits of less than $100,000. Therefore, federal deposit insurance is no longer available when establishing an initial or additional federal branch and in existing branches that were uninsured.

The Riegle-Neal Act eliminated the federal prohibition for a foreign bank to have full service operations in more than one state. Under that statute, a foreign bank now may operate interstate branches, either by establishing an initial or additional federal branch or agency, or acquisition through merger, consolidation, or similar transaction, to the same extent that a national bank in the same location may establish and operate such branches.

Activities Requiring Approval or Notice

Approval

A foreign bank must file an application with the IBF for prior approval if it plans to:

- Open an initial or additional federal branch or agency.

- Acquire[1] a federal branch or agency through merger, consolidation, acquisition, or similar transaction.
- Convert an existing state-licensed office of a foreign bank into a federal branch or agency.
- Change its status from federal agency to federal branch or limited federal branch.
- Relocate a federal branch or agency.
- Exercise fiduciary powers at a federal branch.

Notice

A foreign bank operating a federal branch or agency shall notify the OCC if it changes its:

- Status from a federal branch to a limited federal branch or federal agency, or from a limited federal branch to a federal agency.
- Corporate title.
- Control.
- Mailing address of either the corporate headquarters of the foreign bank or of the federal branch or federal agency.
- Home state designation.
- Capital Equivalency Deposit (CED) depository institution.

A notice also is required if a foreign bank operating a federal branch or agency:

[1]An "after-the-fact" approval is available for mergers, acquisitions, or consolidations provided certain procedures are followed. Such procedures, if followed, allow a foreign bank proposing to establish a federal branch or federal agency through the acquisition of, or merger or consolidation with, a foreign bank having an office in the U.S., to proceed with the transaction before an application to establish the federal branch or agency has been filed or acted upon (see 12 CFR 28.12(g) and the Acquisitions section of this booklet).

- Converts to a state-licensed branch, agency, commercial lending company, or representative office.

- Voluntarily liquidates.

Filing with the FRB

Nothing in this booklet relieves a foreign bank of any requirement to obtain the approval of the FRB as may be necessary under the FRB's Regulation K, 12 CFR 211.

The OCC is aware of the potential for causing a foreign bank applicant unnecessary burden because of the dual regulatory authority contained in the IBA, as amended. In an effort to avoid such duplication, in transactions when both regulatory agencies require a filing, the OCC will accept a filing made by the applicant at the FRB, in lieu of the one required in this booklet. The OCC reserves the right to require additional information at any time to reach an informed decision.

Exceptions to Rules of General Applicability

The rules of general applicability contained in the GPP booklet of this manual apply generally to corporate filings involving federal branches and agencies with the following exceptions:

Expedited Review

An eligible foreign bank qualifies for expedited review (see the "Definitions" section for a description of the eligible foreign bank and expedited review criteria) for the following corporate activities:

- Relocation of a federal branch or agency within a state.

- Change of status.

- Fiduciary powers.

- Liquidation of a federal branch or agency in connection with the acquisition of its assets and liabilities by another financial institution.

Upon receipt of a filing, the OCC verifies the applicant's eligibility for expedited review and promptly informs the applicant of its eligibility. The OCC may remove a filing from expedited review if the proposed transaction raises a significant supervisory, compliance, legal, or policy issue.

Streamlined Submission

The OCC permits a streamlined or abbreviated application to establish a federal branch or federal agency if:

- The applicant foreign bank has an existing federal branch or agency in the U.S.
- The existing federal branch or agency is not subject to special supervisory concerns.

Each application form contained in this booklet includes instructions on the specific information that can be omitted for applicants that qualify for a streamlined filing.

If the foreign bank has an existing state branch or agency (and no federally licensed operations), the OCC on a case-by-case basis will consider accepting a streamlined or abbreviated application to establish a federal branch or agency, if the relevant U.S. supervisor attests to the OCC that all existing state branches and agencies are in satisfactory condition and are not subject to special supervisory concerns.

This section defines commonly used terms in corporate filings involving federal branches and agencies (see also 12 CFR 28.11).

Capital Equivalency Deposits (CED) are deposits required for both federal branches and agencies. The OCC looks at CEDs primarily as a limited source of good quality assets, which during a liquidation of a federal branch or agency may be sold, if necessary, to pay third party claims. Upon the opening of a federal branch or agency, a foreign bank must have U.S. dollar deposits or investment grade securities on deposit with a member bank in the state in which the federal branch or agency is located. A member bank headquartered in another state, but operating a branch located in the state in which the federal branch or agency is located, qualifies as a CED depository institution.

The deposit arrangements and any subsequent reductions must be approved in advance by the OCC. The aggregate amount of deposited U.S. dollars and investment grade securities for each federal branch or agency must, at a minimum, equal the greater of:

(1) The amount of capital that would be required of a national bank being organized at the same location; or,

(2) Five percent of the total third-party liabilities of the federal branch or agency.

In individual cases, the OCC may also require, for prudential or supervisory reasons, that a foreign bank increase its CED above the minimum amount. Funds deposited and investment grade securities placed in safekeeping at the depository institution to satisfy the capital equivalency requirements of the foreign bank must be pledged to the OCC (see 12 CFR 28.15 and section 4 of the IBA, 12 USC 3102(g)).

Change the status of an office means conversion of:

- A state branch or state agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank, into a federal branch, limited federal branch, or federal agency.

- A federal agency to a federal branch or limited federal branch, a federal branch to a limited federal branch or federal agency, or a limited federal branch to a federal branch or federal agency.

Commercial lending company means any organization, other than a bank or an organization operating under section 25 of the Federal Reserve Act (12 USC 601-604a), organized under the laws of any state, that maintains credit balances permissible for an agency and engages in the business of making commercial loans (including any company chartered under Article XII of the banking law of the state of New York).

Control is the power to effect directly or indirectly management or policies or to vote 25 percent or more of any class of voting securities of the other entity.

Edge Act Corporation means a corporation organized under section 25A of the Federal Reserve Act, 12 USC 611-631.

A foreign bank is an **eligible foreign bank** if each federal branch and agency of the foreign bank in the U.S.:

- Has a composite rating of "1" or "2" under the interagency rating system for U.S. branches and agencies of foreign banks (see the "ROCA" definition).

- Is not subject to a cease and desist order, consent order, formal written agreement, prompt corrective action directive or, if subject to such an order, agreement, or directive, is informed in writing by the OCC that the foreign bank may be treated as an "eligible foreign bank."

- Has, if applicable, a Community Reinvestment Act (CRA) rating of "outstanding" or "satisfactory."[2]

To **establish a federal branch or agency** means to take one of the following actions:

- Open and conduct business through an initial or additional federal branch or agency.

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[2]CRA applies to "insured depository institutions." FBSEA prohibits federal branches not already insured at the time of its passage and *de novo* branches from obtaining FDIC insurance. Thus CRAis generally not applicable to the majority of federal branches.

- Acquire, through merger, consolidation, or similar transaction with another foreign bank, the operations of a federal branch or agency that is open and conducting business.

- Change the status of an office.

- Relocate a federal branch or agency.

A **federal agency** is an office or place of business, licensed by the OCC and operated by a foreign bank in any state that may engage in the business of banking, including maintaining credit balances, cashing checks, and lending money, but may not accept deposits from citizens or residents of the U.S.

A **federal branch** is an office or place of business, licensed by the OCC and operated by a foreign bank in any state, that may engage in the business of banking, including accepting deposits, and that is not a federal agency.

A **foreign bank** is an organization organized under the laws of a foreign country, a territory of the U.S., Puerto Rico, Guam, American Samoa, or the Virgin Islands, and that engages directly in the business of banking in a foreign country.

Home state of a foreign bank is the state in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank. If a foreign bank has an office in more than one state, the home state of the foreign bank is the state selected to be the home state by the foreign bank, or, in default of such selection, the state selected by the FRB.

A **limited federal branch** is a federal branch that, pursuant to an agreement between the foreign bank and the FRB, may accept only those deposits permissible for an Edge Act Corporation to receive.

ROCA is the rating system used by U.S. bank regulators to rate U.S. branches and agencies of foreign banking organizations. The (R) stands for risk management, (O) for operational controls, (C) for compliance, and (A) for asset quality. The individual components and the overall or composite ROCA rating are based on a scale from one through five in ascending order of supervisory concern. Thus, one represents the lowest level of concern and five, the highest.

A **short-distance relocation** means moving the federal branch or agency within:

- A one-thousand foot radius of the site if the office is located within a **central city** of a Metropolitan Statistical Area (MSA) designated by the Office of Management and Budget.
- A one-mile radius of the site if not located within a central city, but if located within an MSA.
- A two-mile radius of the site if not located within an MSA.

This section should be used together with the booklets of the manual referenced in the Overview section. Users also should refer to the "Fiduciary Powers" booklet, whenever an initial or additional federal branch or agency engages in fiduciary activities.

Applicability

The policies and procedures in this subsection apply to requests from foreign banks to establish an initial or additional federal branch or agency.

Key Policies

General

To open and operate an initial or additional federal branch or agency, a foreign bank must submit an application, obtain approval, and receive a license from the OCC.

Additional Branches and Agencies

In most cases, the OCC will permit an applicant proposing to establish an additional federal branch or agency to submit a streamlined or abbreviated application. In making this determination, the OCC will consider the record of performance of the existing federal branch or agency (see Streamlined Submission in the Overview section of this booklet). The same decision factors that relate to an initial federal branch or agency apply generally when establishing an additional branch or agency. Proposals for interstate branching are governed by applicable federal and state law.

Summary of Process

General

For an initial or additional federal branch or agency, the OCC's licensing process generally consists of three phases: prefiling discussions; filing, processing and deciding the application; and opening the federal branch or agency.

Prefiling Discussions

IBF conducts a prefiling meeting with a foreign bank applicant interested in establishing an initial or additional federal branch or agency to discuss the OCC's licensing policies and filing requirements. The applicant will receive a copy of this booklet for review prior to the meeting. Upon request, the OCC may forgo the prefiling meeting for foreign bank applicants who have existing federal branches, agencies, or national bank subsidiaries and previous banking experience in the U.S.

Application Filing, Processing, and Decision

Filing

After the prefiling meeting, the foreign bank files the application with the appropriate filing fee. If the application includes a request for fiduciary powers, no separate fee is required.

Publication Requirements

As required by 12 CFR 5.8, foreign bank applicants must publish notice of the application in a newspaper of general circulation in the community in which the foreign bank proposes to establish the federal branch or agency. The public comment period is 30 days, and interested parties may submit written comments during this period.

Processing

In evaluating applications to open an additional federal branch or agency, the OCC will draw heavily on its own supervisory experience with the applicant foreign bank and that of other state, federal, and foreign bank supervisors.

Decision

In an initial or additional establishment, the OCC generally considers:

- Effect of the proposed branch or agency on competition in U.S. domestic and foreign commerce.
- Financial and managerial resources and future prospects of the applicant foreign bank and the proposed federal branch or agency.
- Convenience and needs of the community to be served.

- Compliance of the foreign bank and its U.S. affiliates with applicable laws, including interstate branching requirements.
- Controls directed to the detection of money laundering.
- Submission of required information to allow the OCC to assess the application adequately.
- Adequate assurances that the OCC will have access to information on the operations or activities of the foreign bank or any of its affiliates necessary to determine and enforce compliance with the IBA and other applicable federal banking statutes.
- Whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor, or the home country supervisor is working actively to establish arrangements for the consolidated supervision of the bank.
- Approval or consent from the foreign bank's home country supervisor for establishment of an initial or additional federal branch or agency.

Opening a Federal Branch or Agency

Following preliminary approval, the foreign bank establishes its banking premises and its CED account. At least two weeks before the federal branch or agency is scheduled to open for business, the OCC conducts a pre-opening examination to verify that the federal branch or agency has met all requirements for commencing the business of banking in the U.S. A license is granted, if the federal branch or agency has met the requirements for opening. If the examination discloses numerous exceptions or significant deviations from the originally approved proposal, the opening may be delayed or the original preliminary approval may be revoked.

Revocation of Preliminary Approval

The OCC generally does not look favorably on a proposal, or a series of proposals, that would alter materially the plans set forth in a preliminarily approved application. The OCC may revoke preliminary approval if following receipt of an approval and prior to opening an initial or additional federal branch or agency, changes occur that significantly alter the plans detailed in the application. Proposed changes that normally would require filing another application will be considered significant. The OCC will revoke preliminary approval if it discovers material violations of law, misrepresentations, or any fraudulent activity by the applicant foreign bank officers or directors.

Specific Requirements

Identification of Management Team

The OCC considers the selection of a qualified general manager to be one of the foreign bank applicant's most important decisions affecting the success of an initial or additional federal branch or agency. The person must have experience, competence, willingness, and the ability to be active in directing the affairs of the proposed federal branch or agency in a safe, sound, and legal manner.

Provision of the name, experience, and qualifications of the proposed general manager and other officers of the proposed federal branch or agency enhances OCC's evaluation of the application. The OCC will perform background investigations, as deemed appropriate, to determine if the proposed persons possess satisfactory banking experience and integrity for the positions proposed.

Field Investigations

The OCC normally does not conduct a field investigation for a federal branch or agency application granted streamlined submission. The OCC may conduct a field investigation for an initial federal branch or agency application from a foreign bank not known to the OCC or experienced in banking in the U.S. under a state license. Determination of whether to conduct a field investigation will be made by IBF on a case-by-case basis.

The OCC targets the scope of its field investigation during which a national bank examiner may review relevant materials, interview bank management, explore matters related to the foreign bank's operations in the U.S. and abroad, and meet with management to discuss findings. The findings from a field investigation, if conducted, are important in the OCC's overall analysis and review of the application.

Fiduciary Powers

Specific prior OCC authorization must be obtained for a federal branch to exercise fiduciary powers. If the applicant wishes to exercise fiduciary powers at the federal branch (a federal agency is not permitted by law to exercise

fiduciary powers), a letter of intent to exercise such powers must be submitted with the application (see Fiduciary Powers section in this booklet). Questions regarding fiduciary activities at federal branches should be directed to IBF.

Application Instructions

An application to establish an initial or additional federal branch or agency includes:

- Foreign bank consolidated financial statements.
- General information about the applicant bank, such as its ownership, corporate structure, and home country supervision.
- A strategic plan describing how the federal branch or agency will fit into the foreign bank's global and U.S. strategy.
- An operating plan for the first three years of operation.
- Biographical information on proposed federal branch or agency management.
- A legal opinion certifying that the proposed U.S. operation is in compliance with domestic and foreign laws.

The OCC may conduct background investigations on selected senior officers of a proposed federal branch or agency and the foreign bank, if the OCC is unfamiliar with the applicant bank. Background checks provide information on the competence, experience, and integrity of persons named in the application and provide an independent determination of the accuracy and completeness of the information submitted. Information obtained by the OCC from the background investigation may be shared with the FRB and the home country supervisor.

Application processing may be delayed because of a public hearing request, a special analysis or investigation, or an additional information request.

Other Requests

Other requests, if any, should be submitted with this application. They should be fully responsive to the requirements discussed in other portions of this booklet.

Filing Fee

The applicant should send the original and one copy of the application to IBF. (See sample Initial/Additional Application — Documents.) The appropriate filing fee must accompany the application, per 12 CFR 5.5 and the current *Notice of the Comptroller of the Currency Fees*. The OCC will not refund filing fees if the application is withdrawn or disapproved. Inquiries about the preparation and filing of the application should be directed to IBF at (202) 874-4730.

Streamlined Submission

See the Overview section of this booklet for detailed information on streamlined submissions.

Confidential Treatment of Information

The applicant must state completely the reasons for any request for confidentiality of information in the application. Determinations on questions of requests for confidentiality and discretion in releasing information under the Freedom of Information Act reside with the OCC. Copies of annual reports to shareholders and information normally available to the public in the applicant's home country will not be considered confidential. However, financial disclosures extending beyond that normally available in the home country will generally, upon specific request, be held in strict confidence, as will biographical information on persons to be associated with the proposed federal branch or agency.

Publication Requirements

An applicant is required to publish public notice of its application for an initial or additional federal branch or agency in a newspaper of general circulation in the community in which the applicant proposes to engage in business, on the date of the filing or as soon as practicable before or after filing the application (see Sample Public Notice — Documents).

Completing the Application

Applicants may:

- Use the sample application documents.
- Provide the necessary information by attaching additional 8½" x 11" pages.
- Incorporate information by reference to other applications filed with the OCC or other federal regulators.

The OCC accepts a copy of an application form, notice, or report submitted to another federal regulatory agency that covers the proposed action and contains substantially the same information as would be required by the OCC. The OCC reserves the right to require the applicant to submit supplemental information.

The applicant foreign bank independently should verify filing requirements directly with the FRB.

The applicant must provide complete and reliable information in English. If a question is not applicable to the specific proposal, it should be so stated. Financial information on the proposed federal branch or agency should be submitted in U.S. dollars and prepared, when required, in the format provided. Financial information on the foreign bank may be prepared in accordance with accounting principles of its home country and converted into U.S. dollars at the exchange rate prevailing on the

date that the financial statements are provided. The OCC may also require certain information from the applicant during processing of the application. The applicant may supplement the required information with additional relevant data at any time during the processing.

Application to Establish an Initial/Additional Federal Branch or Agency

For OCC Use Only

Control No._____
License No._____
Date Received_____
Filing Fee Amount _____
Date Receipt
Acknowledged_____

Type of Proposal (Check the appropriate box)

G	Initial Federal Branch	**G**	Additional Federal Branch
G	Initial Limited Federal Branch	**G**	Additional Limited Federal Branch
G	Initial Federal Agency	**G**	Additional Federal Agency

Foreign Bank Identifying Information

Foreign Bank Name _____
(*exact corporate title of bank*)

Address _____
(*headquarters office address of foreign bank, city, state, country)*

_____

_____

_____

Country in which foreign bank is organized _____

Date of incorporation of foreign bank _____

Is the application being filed by or on behalf of a foreign bank currently operating banking related institutions in the U.S.? Yes **G** No **G**

If "yes," please provide the most recent U.S. supervisory rating(s) for each of the applicant bank's U.S. entities.

Federal Branch or Agency Identifying Information

A fee of $_____ is enclosed.

Name of Proposed Federal Branch or Agency _____
(*exact corporate title for the proposed U.S. office*)

Proposed Address _____

City _____ County _____ State _____ ZIP Code _____

Mailing Address _____
City _____ County _____ State _____ ZIP Code _____

Representative Information

Name _____

Address _____

City _____ State _____ ZIP Code _____

Phone No. _____ Fax No. _____
(*include country code and area code as applicable*)

Proposed Officers

The proposed general manager is _____.

Other proposed officers and their titles are _____

_____ ,_____.

Biographical and experience information for each is enclosed.

Streamlined Submission

Does this application qualify for or has it been approved for streamlined submission?
Yes **G** No **G**

If "yes," include supporting information, and the following application questions

need not be answered nor requested information provided: 3, 4, 5 (unless the information requested has changed in the last three years), 9, 10, 12, and 16.

Publication Information

Public notice is being published in _____
(*name and address of newspaper*)
on _____ , _____ .

A copy and certification of publication **G** is enclosed **G** will be forwarded.

General Information

Note: Questions with an asterisk (*) may be omitted in streamlined submissions.

1. State how the proposed federal branch or agency will further the development of the applicant's international business and any other reasons for applying.

2. Describe the type(s) of services and financing that will be offered at the proposed federal branch or agency, including whether any existing or planned future business will be transferred from another office. If applicable, describe how other offices of the foreign bank, including those in offshore banking centers, will be managed or controlled through the proposed federal branch or agency.

3.* Provide a brief history of the foreign bank applicant, including ranking by asset size in the home country, number of offices operated domestically and internationally, and a brief description of any nonfinancial enterprises related to or affiliated with the operations of the applicant. Describe the extent to which the applicant engages directly in the business of banking outside of the U.S.

4.* Describe the type(s) of business conducted primarily by the foreign bank applicant and its subsidiaries. Comment on any areas of specialization and nonbanking and fiduciary business. If applicable, comment on the nature and volume of fiduciary activities.

5. *[This question may be omitted by applicants filing under streamlined submission, provided that no changes were made to the information requested below during the previous three years.]* Describe the existing operations of the foreign bank applicant and its ultimate parent, if any, in the U.S. Provide a list of all business, commercial, or financial enterprises that the applicant bank controls through ownership of more than 25 percent of the stock, or otherwise, and that the bank presently operates or intends to operate within the U.S. (In addition to branches, agencies, and direct or indirect subsidiaries, the listing should include representative offices, loan production offices, commercial lending offices, etc., and the dates the entity either commenced operating or filed with any U.S. regulatory authority for

permission to operate. The type of entity, address, and place of incorporation of all U.S. companies also must be furnished.)

When the applicant foreign bank is owned or controlled by another foreign bank, provide similar information for the parent foreign bank.

If the appropriate U.S. regulator has informed the foreign bank applicant that its existing U.S. operations are considered to be in less than satisfactory condition, the applicant should discuss why it should be permitted to expand in the U.S., notwithstanding that condition.

6. The applicant and its ultimate parent (bank or holding company), if any, should provide adequate assurances that information on the operations or activities of the foreign bank and any of its affiliates will be provided to the OCC as deemed necessary to determine and enforce compliance with the IBA, and other applicable federal laws.

   Secrecy laws or other impediments that exist that could hinder the foreign bank applicant (and its ultimate parent, if any) from providing information to the OCC as needed to determine and enforce compliance with U.S. law should be discussed fully. If impediments exist, explain how the foreign bank applicant plans to provide the OCC with adequate assurances of access to such information.

   Describe the policies, procedures, and internal and external audit measures planned to ensure compliance with U.S. law. For an additional branch application, describe only those that will deviate from existing U.S. operations.

7. List those U.S. banks and branches or agencies of other foreign banks with which the proposed office expects to compete directly and comment on the degree of expected competition with those banking facilities.

8. State how and to what extent the proposed office will contribute to the promotion of U.S. domestic and foreign commerce.

Ownership/Management

9.* Describe briefly the ownership of the applicant bank. Include a list of any legal entities, persons, or group(s) of persons that own or influence a controlling interest in the foreign bank applicant. The term "controlling interest" means the power directly or indirectly to direct or cause the direction of the management or policies of the bank. For those persons, groups of persons, or legal entities listed, provide the following information:

   - For persons—countries of citizenship, other enterprises owned or controlled, biographical information, present addresses, and references.

Include the number and percentage of shares owned, controlled, or held with power to vote, including those held by the person's spouse and dependents.

- For corporations—countries of incorporation, ownership, other enterprises owned or controlled, and a brief description of the type(s) of business in which each corporation is engaged. Include the number and percentage of each class of the foreign bank applicant's shares owned, controlled, or held with power to vote by the corporation.

- For sovereign governments or entities of sovereign governments—information on how and to what extent the government controls the normal business functions of the foreign bank applicant; the services the applicant bank provides to the general public on behalf of the government; and the duties and functions the applicant bank provides for, or on behalf of, the sovereign government. Include the number and percentage of each class of the applicant's shares owned, controlled, or held with power to vote by the government.

10.* Provide a listing of all directors and principal officers of the applicant bank. A "principal officer" is any officer, who participates or has authority to participate, other than in the capacity of director, in major policymaking functions within the bank. The listing should include the name, address, position, number of years with the bank, citizenship, and other occupation, for each person listed. (Limit the listing of principal officers to no more than the top 10.)

11. Provide biographical reports (see "Background Investigations" booklet), or in streamlined submissions a resume, detailing the relevant experience of each of the three proposed senior officers and the principal foreign exchange trader, if any, of the proposed federal branch or agency.

12.* Provide the names, addresses, and occupations of any advisory members of the proposed federal branch or agency.

13. Provide details of criminal offenses involving any member of the board of directors of the applicant bank, or any officer, employee, or advisory member of the proposed federal branch or agency, who has been convicted of a criminal offense involving dishonesty or breach of trust in any court of any sovereign nation or instrumentality thereof.

14. Describe the manner in which, and the extent to which, the foreign bank applicant and the ultimate parent entity, if any, proposes to direct and supervise the activities of the proposed federal branch or agency.

15. Discuss how the foreign bank applicant serves as a source of financial and managerial strength for the proposed federal branch or agency. If the applicant bank's home country maintains foreign exchange restrictions or other capital export controls, detail the limitations that such restrictions or

controls would place on the applicant bank's ability to serve as a source of strength for its U.S. banking interests.

Financial Resources and Future Prospects

16.* List the major U.S. correspondent bank relationships of the foreign bank applicant. Indicate those relationships that provide the bank with lines of credit of any type and the amounts of those lines of credit. For each account, include the name and telephone number of the bank, address, type of account, and the name of the responsible correspondent bank officer.

17. Provide the date the applicant bank's fiscal year ends, and two copies of each of the following financial reports in English and denominated in U.S. dollars:

* C The latest annual report of the foreign bank applicant.

C Parent only and consolidated balance sheets, showing, separately each principal group of assets, liabilities, and capital accounts as of the end of the most recent fiscal quarter and for the comparable quarter of the preceding year. Include information on all contingent liabilities (e.g., standby and commercial letters of credit, guarantees, commitments to grant or purchase loans and securities, and contracts to purchase/sell foreign exchange).

C Parent only and consolidated profit and loss statements, showing separately each principal source of revenue and expense, year-to-date through the end of the most recent fiscal quarter, the comparable quarter of the preceding year, and for the most recent three fiscal years.

C On a consolidated basis, a breakdown of risk-based assets as of the end of the most recent fiscal quarter, showing each principal group of on- and off-balance sheet assets and the relevant risk weights. Also, identify the components of tier 1 and tier 2 capital under the risk-based capital guidelines and provide calculations of the applicant's tier 1 and total capital to risk-based assets.

Since a federal branch or agency can use the total capital accounts of its parent foreign bank in determining limitations and restrictions, the applicant bank must describe its capital structure in terms that equate to U.S. banking standards. Such information facilitates an assessment of capital adequacy.

Twelve CFR 3 outlines the accounts the OCC considers as capital. Describe those items on the applicant bank's balance sheet that correspond to the indicated capital accounts in 12 CFR 3 and indicate where they are presently carried on the applicant's annual statement of condition.

- Current information that will enable the OCC to judge the quality of the applicant bank's assets. The information should be presented for the applicant's consolidated organization and, if available, include, but not be limited to:

  — Delinquencies.
  — Nonaccrual assets.
  — Assets acquired in satisfaction of debts previously contracted.
  — Loans with reduced interest charges.

  Applicant's definitions of those terms should be provided.

Financial statements may be prepared according to local accounting practices. However, an explanation of the accounting terminology and the major features of the accounting standards used to prepare the financial statements must be provided and explained further when they differ from International Accounting Standards. Fiscal financial statements must be certified by an independent and reputable auditing firm.

18. Provide the following financial data (year one should be considered as the first full calendar year of operation):

- Balance sheet projections for the proposed federal branch or agency for the first three years of operation. Describe the assumptions made in formulating the projections. Include an estimate of the total net direct and indirect country exposure of the proposed federal branch or agency to the applicant's home country for the first three years of operation. (See Balance Sheet Projection — Document.)

- Summary projections of contingent liabilities for the proposed federal branch or agency for the first three years of operation. Describe the assumptions made in formulating the projections. (See Summary of Projected Contingent Liabilities — Document.)

- Income and expense projections for the proposed federal branch or agency for the first three years of operation. Describe the assumptions made in formulating the projections. If the projections do not show profitable operations by the third year of operation, state when profitable operations are anticipated. (See Income and Expense Projections Document.)

- If the proposal includes fiduciary activities, provide the volume of business, number of accounts, and fiduciary income and expense projections. (See Fiduciary Income and Expense Projections — Document.)

19. Comment on how and from what sources the proposed federal branch or agency will be funded, and provide the name and address of the state member bank or national bank that will serve as the depository bank for the required capital equivalency deposit (CED) for the proposed federal branch or agency (see 12 CFR 28).

20. Comment on how the proposed federal branch or agency will attract sufficient business to ensure financial and economic success.

Home Country Supervision

21. Provide the name(s) of the person(s) to contact in the office of the home country bank supervisory authority or similar government agency, who can respond to questions about the applicant bank. If the foreign bank or its subsidiaries offer services, such as insurance or securities, which are regulated by a supervisor other than the bank supervisor, also provide an appropriate contact person. Include names, titles, addresses, and telephone and facsimile numbers (including country and city code).

Corporate Papers and Legal Opinions

22. Attach and make a part of this application copies, in English, of the resolution(s) adopted by the applicant bank's governing board for:

    - Authorization for bank officer(s) or agent/representative to file an application for a federal branch, agency, or limited federal branch license.

    - A designation of a representative(s) or bank officer(s), who will be permitted to sign the application and a designation to them of authority to represent the board fully in all matters regarding this application.

    - The applicant bank's agreement to conduct its operation in the U.S. in full compliance with any provisions of any U.S. laws that apply to national banks and that prohibit discrimination against any person on the basis of race, color, religion, sex, marital status, age, or national origin.

23. Attach and make a part of this application an opinion of U.S. counsel that the proposal complies with relevant state laws and a letter from the applicant bank's foreign legal counsel certifying that:

    - The applicant bank's charter authorizes the applicant to conduct the business contemplated by the application.

    - The applicant has conducted, and is now conducting, its business as authorized by its charter and bylaws.

C The filing of this application complies with the local laws of the country in which the applicant is organized and/or operates/conducts its principal business.

24. **[For Limited Federal Branches Only]** Please attach a notarized copy of the executed agreement between the applicant and the FRB as required by 12 USC 3103 section 5 of the IBA.

Convenience and Needs of the Community

25. State to what extent the proposed office will provide convenience to the public and fill needs not presently served by other existing banking facilities.

Other Information

26. Will the proposal have any significant effect on the quality of the human environment, (e.g., air and/or water quality, noise levels, energy consumption, congestion of population, solid waste disposal, or environmental integrity of private land) within the meaning of the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.? Yes **G** No **G**

    If "yes," discuss plans to comply with NEPA's requirements.

27. Does the establishment of the proposed federal branch's or agency's office affect any district, site, building, or structure listed in, or eligible for listing in, the "National Register of Historic Places" (National Register) pursuant to the National Historic Preservation Act (NHPA), 16 USC 470?
    Yes **G** No **G**

    If "yes," has the applicant bank contacted the State Historic Preservation Office (SHPO)? Yes **G** No **G**

    If "yes," has the SHPO communicated its determination of the effects of the proposal? Yes **G** No **G**

    If "yes," please provide a copy. If "no," discuss efforts taken or planned.

28. If automated recordation of any kind is planned for the proposed federal branch or agency, describe the scope and nature of the records that will be automated, the planned location of the data processing facility and equipment, and the name and location of the planned data processing service company.

I hereby certify that the bank's board of directors, or a designated official, has authorized the filing of this application and that to the best of my knowledge, the information contained herein is true and complete. A copy of the authorization is enclosed. In addition, I agree to notify the OCC if the facts described in the filing change materially prior to receiving a decision.

I further certify that any misrepresentations or omissions of material facts about this application, any attachments to it, and any other documents or information provided in connection with the application for the establishment of this federal branch or agency may be grounds for denial or revocation of the license, or grounds for an objection to the proposed officer(s) of the proposed federal branch or agency, and may subject the undersigned to other legal sanctions, including the criminal sanctions provided for in 18 USC 1001 and 1014.

Executed the _____ day of _____, ____.

_____
(*Signature*)

_____
(*Typed name of foreign bank representative*)

_____
(*Typed title of foreign bank representative*)

Attachments (as applicable)*:

- **G** Board of directors' authorization to bank representative
- **G** Streamlined submission supporting information
- **G** Newspaper publication copy and certification
- **G** General information about the applicant bank, such as its ownership, corporate structure, and home country supervision
- **G** Biographical information on general manager and other proposed officers
- **G** Consolidated financial reports for foreign bank applicant, in English and U.S. dollars
- **G** Operating plan and assumptions used
- **G** A strategic plan, describing how the federal branch or agency will fit into the foreign bank's global and U.S. strategy
- **G** A legal opinion, certifying that the proposed U.S. operation is in compliance with U.S. and home country laws
- **G** Fiduciary powers request
- **G** Filing fee

* No enclosures are required for information that relates to questions in the application that may be omitted in a streamlined submission.

Sample Public Notice

The following language may be used to meet OCC's publication requirements:

> Notification is hereby given that (name of foreign bank and complete address of headquarters) has filed an application with the Office of the Comptroller of the Currency (OCC) on (date), for permission to establish and operate a (federal branch/limited federal branch/federal agency) at (*proposed location*).
>
> Any person wishing to comment on this application may file comments in writing with the Deputy Comptroller, International Banking and Finance, 250 E St., SW, Washington, DC 20219 within 30 days of the date of this publication. The public portions of the application are available for inspection during regular business hours at International Banking and Finance.

Financial Data

Balance Sheet Projections
(in thousands of U.S. dollars)

	Year One	Year Two	Year Three
Assets			
Cash and due from depository institutions	_____	_____	_____
U.S. Treasury securities	_____	_____	_____
Obligations of states and political subdivisions in the U.S.	_____	_____	_____
Other bonds, notes, debentures, and corporate stock	_____	_____	_____
Federal funds sold and securities purchased under agreements to resell	_____	_____	_____
Total loans	_____	_____	_____
Lease financing receivables	_____	_____	_____
Customer's liability on acceptances outstanding	_____	_____	_____
Other assets (itemize any item exceeding 10 percent of other assets)	_____	_____	_____
Net due from head office and other related institutions in the U.S. and in foreign countries	_____	_____	_____
Total Assets	_____	_____	_____
Memo Account Information			
Net direct country exposure	_____	_____	_____
Net indirect country exposure	_____	_____	_____

Balance Sheet Projections
(in thousands of U.S. dollars)

Liabilities	Year One	Year Two	Year Three
C Demand deposits/call money/credit balances	_____	_____	_____
C Time deposits	_____	_____	_____
Total deposits	_____	_____	_____
Federal funds purchased and securities sold under agreements to repurchase	_____	_____	_____
Other liabilities for borrowed money	_____	_____	_____
Acceptances executed and outstanding	_____	_____	_____
Other liabilities (itemize any item exceeding 10 percent of other liabilities)	_____	_____	_____
Net due to head office and other related institutions in the U.S. and in foreign countries	_____	_____	_____
Required capital equivalency deposit	_____	_____	_____
Total Liabilities	_____	_____	_____

Summary of Projected Contingent Liabilities
(in thousands of U.S. dollars)

	Year One	Year Two	Year Three
Letters of Credit	_____	_____	_____
C Commercial (issued/ confirmed)	_____	_____	_____
C Standby	_____	_____	_____
Commitments	_____	_____	_____
C To grant/purchase loans/ securities	_____	_____	_____
C To place/accept deposits	_____	_____	_____
C Other	_____	_____	_____
Contracts	_____	_____	_____
C To buy foreign exchange/ bullion	_____	_____	_____
C To sell foreign exchange/ bullion	_____	_____	_____
C Other	_____	_____	_____
Other	_____	_____	_____
Total Contingent Liabilities	_____	_____	_____

Income and Expense Projections
(in thousands of U.S. dollars)

	Year One	Year Two	Year Three
Income			
Interest and fees on loans	_____	_____	_____
Income on:			
C Federal funds sold	_____	_____	_____
C Time placements	_____	_____	_____
C Certificates of deposit purchased	_____	_____	_____
Interest on investment securities	_____	_____	_____
Service charges, commissions, and fees	_____	_____	_____
Other operating income (itemize any category exceeding $100,000)	_____	_____	_____
Income from funds loaned to head office, other offices of applicant bank, and related entities	_____	_____	_____
Total Operating Income	_____	_____	_____

Income and Expense Projections
(in thousands of U.S. dollars)

Expenses	Year One	Year Two	Year Three
Salaries and other employee benefits	_____	_____	_____
Interest on:			
C Time certificates of deposit	_____	_____	_____
C All other deposits and credit balances	_____	_____	_____
Interest on borrowings:			
C From head office, other offices of applicant bank, and related entities	_____	_____	_____
C Other borrowings	_____	_____	_____
Interest on federal funds purchased	_____	_____	_____
Occupancy expense	_____	_____	_____
Provision (if any) for possible loan losses	_____	_____	_____
Other expenses (itemize any category exceeding $100,000)	_____	_____	_____
Total Operating Expenses	_____	_____	_____
Income before income taxes and securities gains/losses	_____	_____	_____
Applicable income taxes, gains, and losses	_____	_____	_____
Net securities gains or losses (net of related tax effects)	_____	_____	_____
Net Income	_____	_____	_____
Memo information			
Fees payable to head office/affiliates	_____	_____	_____

Fiduciary Income and Expense Projections
(in thousands of U.S. dollars)

	Year One	Year Two	Year Three
Operating Income			
Estates and trusts	_____	_____	_____
Custodial and agency accounts	_____	_____	_____
Corporate trusts (e.g., indentured trustee, transfer agent)	_____	_____	_____
Employee benefit trusts	_____	_____	_____
Other operating income	_____	_____	_____
Total Operating Income	_____	_____	_____
Expenses			
Salaries and other employee benefits	_____	_____	_____
Other	_____	_____	_____
Total Operating Expenses	_____	_____	_____
Net Operating Income	_____	_____	_____
Memo Information			
# of accounts under management	_____	_____	_____
Value of assets under management	_____	_____	_____

Cover Letter for Initial/Additional Establishment Application

Date

Deputy Comptroller
International Banking and Finance
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Dear Deputy Comptroller:

The undersigned, representing a foreign banking corporation, hereby makes application to the Office of the Comptroller of the Currency (OCC) for a license to establish an (initial/additional federal branch/limited federal branch/federal agency) pursuant to the International Banking Act of 1978 (IBA) [12 USC 3102, et. seq.], as amended.

Legal notice of this application (is being/has been) published. A copy of the notice and newspaper certification (will be forwarded/is enclosed).

Enclosed is the application and a check payable to the OCC for the required application fee. Please contact (representative's name) at the address and telephone number listed in the application, if you have any questions regarding the enclosed application.

Sincerely,

Signature

Name and Title Typed

Enclosures

Applicant

1. Requests information about establishing either an initial or additional federal branch or agency from IBF.

IBF

2. Forwards information about the establishment process and refers a foreign bank that requests instructions to the appropriate subsections of this booklet and to other relevant booklets of the *Comptroller's Corporate Manual*.

Applicant

3. Reviews information and, if necessary, requests a prefiling meeting.

IBF

4. Schedules a prefiling meeting with representatives of the foreign bank. Invites Assistant Deputy Comptroller for Federal Branches and Agencies (ADC-FBA) and the Counselor for International Activities (IA).

5. At the meeting, provides the following general information, as applicable, to the foreign bank:

   - The OCC's and the FRB's role in the licensing of federal branches and agencies.
   - The key policies and specific requirements affecting the licensing process.
   - Whether the application qualifies for streamlined submission.
   - How to file the application and what to expect during processing from the OCC.

- Common problems associated with initial and additional federal branch and agency applications.

6. In coordination with the appropriate ADC-FBA, solicits information about the foreign bank, its U.S. and global operations, how the proposed federal branch or agency will fit into the bank's global strategy, and any potential impediments to accessing information about the foreign bank, as deemed necessary, to supervise the federal branch or agency.

Applicant

7. Provides information about the foreign bank's condition and qualifications and an overview of the proposal with particular emphasis on any unique aspects.

8. If appropriate, requests permission to file under streamlined submission. Provides written justification for the request either at the time of the meeting or shortly thereafter.

IBF

9. Answers questions posed by those attending the meeting. If an answer requires further research or discussion among IBF, ADC-FBA, and/or IA, informs the representative that a response will be forthcoming following the meeting.

10. Prepares a memorandum of the meeting and retains it in a pending file. Forwards a copy of the memorandum to the ADC-FBA and IA.

11. If the prefiling discussion reveals significant policy, legal, or supervisory issues, coordinates with IA, Bank Supervision Operations (BSOP), and Bank Organization and Structure (BOS), as appropriate, to discuss processing.

12. If applicable, reviews the request for streamlined submission.

13. Responds to the foreign bank regarding any request for streamlined submission, forwards a copy to the ADC-FBA, and retains a copy in the pending file.

Filing the Application and Publication

Applicant

1. Submits by hand, or by mail, return receipt requested, one original and one copy of the application, supporting information, and appropriate filing fee to IBF. (See Initial/Additional Application in the Documents section of this subsection.) Makes check payable to the Comptroller of the Currency. Filing fees are not refundable. If fiduciary powers are planned, a letter of intent should be submitted with the initial/additional application (see the Fiduciary Powers section in this booklet).

2. Publishes a notice of the application in a newspaper of general circulation in the community in which the proposed federal branch or agency will be located (see Sample Public Notice — Documents). (Also see the "Public Involvement" booklet.)

Review

IBF

3. Initiates and enters appropriate information into the corporate tracking system.

4. Establishes the official file to maintain all original documents relating to the application. Initiates background checks as appropriate (see "Background Investigations" booklet).

5. Forwards the application fee with a deposit memorandum (OCC Form 6043-01) to the Comptroller of the Currency, P.O. Box 73150, Chicago, IL 60673-7150. Retains a copy of the memorandum in the official file.

6. Reviews the application, relevant information about the foreign bank, including its ownership, subsidiaries and financial condition, to

determine that the filing contains all information necessary to reach a decision. If the application is incomplete, requests that the information from the representative be provided by a specific due date.

7. If the application is filed under streamlined submission, determines that the applicant bank qualifies if such a determination was not made during the prefiling phase. If the foreign bank is not qualified for streamlined submission, notifies the representative and requests that any omitted portions of the application be submitted within a specified time period.

8. Acknowledges receipt of the application within five business days of receipt and advises that a letter will be sent to the applicant bank once the application is deemed complete.

9. If the proposal raises legal or other issues, including interstate branching issues, solicits comments from IA and/or other OCC divisions, as deemed appropriate, and requests comments be provided within 15 days.

10. Sends notice of the application and a request for comments to the applicant's home country supervisor. Requests that the supervisor:

    - Provide a brief description of the bank regulatory system in the country of incorporation of the applicant bank.

    - Discuss its powers and functions.

    - Discuss the extent to which it supervises or regulates the bank on a comprehensive consolidated basis or the extent to which it is working actively to establish arrangements for the comprehensive consolidated supervision of the bank.

    - Discuss whether the home country has or is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.

    - Discuss the frequency and scope of direct or indirect supervisory examinations of banks in its country.

    - Discuss the functions of the central bank and its relationship to private/public banks.

- State that the applicant is duly organized and existing under local law and is authorized to transact banking business.

- Grant permission for the applicant to operate a federal branch or agency, provide a statement that such permission is not required, or recommend that the OCC not approve the application based on supervisory concerns.

11. Forwards a copy of the application to the ADC-FBA and requests comments be provided within 15 days. Of specific interest is the ADC-FBA's comments about potential supervisory issues or the need to conduct a field investigation.

Field Investigation (Not applicable for an application filed under streamlined submission. Go to step 18.)

12. Decides to conduct a field investigation if the foreign bank applicant:

    - Is not known to the OCC.

    - Does not currently operate a branch or agency, either state or federally licensed, in the U.S.

    - Was previously requested to terminate its activities in the U.S. by either the OCC or the FRB.

    - Discloses in the application issues best resolved through a field investigation.

13. Requests a field investigation and determines its scope.

14. Forwards the Field Investigation Request to the ADC-FBA and requests that a national bank examiner be assigned to conduct the field investigation. Also notifies the representative that a field investigation will be conducted (see Initial/Additional — Procedures — Field Investigation).

15. Sends a copy of the OCC's Weekly Bulletin to the U.S. Department of State and the U.S. Department of Commerce to notify them of the application. (The Treasury Department and the FRB regularly receive the Weekly Bulletin.)

16. Performs background checks, as deemed appropriate (see "Background Investigations" booklet).

17. Analyzes the application and assesses:

    - The effect of the proposed federal branch or agency on competition and on the U.S. domestic and foreign commerce.

    - Financial and managerial resources, proposed management, and future prospects of the applicant foreign bank and the proposed federal branch or agency.

    - Convenience and needs of the community to be served.

    - The legality of the proposal.

    - Reasonableness of the operating plan.

    - Whether the foreign bank and its U.S. affiliates comply with applicable U.S. and foreign laws.

    - Whether adequate controls for the detection of money laundering will be in place.

    - Whether the foreign bank has furnished to the OCC:

        — The information required to assess the application.

        — Adequate assurances that the OCC will have access to necessary information on the operations or activities of the foreign bank or any of its affiliates to determine and enforce compliance with the IBA and other applicable federal banking statutes.

    - The extent of regulatory supervision by the home country supervisor, i.e., whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor, or the home country supervisor is working actively to establish such supervisory approach.

    - The recommendation and/or consent of the home country supervisor.

18. If applicable, receives and reviews the field investigation report.

Public Comments and Hearings

19. If copies of the application are requested, public comments filed, or a hearing requested, refers to the "Public Involvement" booklet and determines whether the comments are material. Proceeds as appropriate.

Decision

20. Contacts the FRB to discuss any issues about the application and/or any conditions contemplated by the FRB for its approval.

21. Prepares confidential memorandum and decision letter recommending a decision to the delegated official.

22. Decides the application under delegated authority or forwards the official file to BOS for decision. If referred to BOS, go to step 26.

23. Notifies the ADC-FBA and the applicant of the decision. Sends the decision letter to the applicant, ADC-FBA, FRB, and interested parties, if applicable.

24. Makes appropriate entries in the corporate tracking system.

25. Forwards to the ADC-FBA a copy of the confidential memorandum, updated corporate tracking system comments, and any additional material highlighting supervisory or licensing concerns. If denied, go to step 35. Otherwise, go to step 37 to continue processing.

BOS

26. Makes appropriate entries in the corporate tracking system.

27. Reviews the file and all relevant information; solicits comments from other OCC divisions, as appropriate; makes a recommendation; and forwards the official file to the appropriate official for decision.

28. Notifies IBF of the decision.

    If the application is denied or conditionally approved, forwards the decision document, and transmittal letter to the Quality Assurance Coordinator.

29. Makes appropriate entries in the corporate tracking system and returns the official file to IBF.

IBF

30. In coordination with BSOP, notifies the applicant foreign bank, and the FRB by phone and letter of the decision. If applicable, also sends a copy of the decision letter to any interested parties.

31. Forwards to the ADC-FBA a copy of the confidential memorandum, decision letter (including any attachments), updated corporate tracking system comments, and any additional material highlighting supervisory or licensing concerns. If approved or conditionally approved, go to step 37 to continue processing.

32. If denied, reviews the file for completeness and forwards it to Central Records (CR).

33. Makes appropriate entries in the corporate tracking system.

Organization

Capital Equivalency Deposit Agreement

Applicant

34. Submits three originally signed CED agreements to IBF (see the "Capital Equivalency Deposit" section of this booklet).

IBF

35. Reviews the original CED agreement and approves the depository bank. Signs and returns two signed copies of the CED agreement for the foreign bank's and depository bank's files. Retains one copy for OCC's official file.

Pre-opening Review

Applicant

36. Informs IBF at least 45 days in advance of the desired opening date.

Supervisory Office

37. Performs a pre-opening examination to verify that:

    - The appropriate CED is established in the approved depository bank.
    - Proper controls for detection of money laundering are in place.
    - All other conditions of the preliminary approval have been satisfied, and that the federal branch or agency is ready to open for business.

38. Informs the foreign bank of any matters to be resolved prior to opening the federal branch or agency.

Authorization

Applicant

39. If the OCC raised issues at the preopening review, notifies IBF when such matters have been resolved.

IBF

40. Notifies the foreign bank by telephone and by official letter that it is authorized to open. Forwards the federal branch or agency license to the foreign bank. Sends an individual notice of licensing to the bank's home country bank supervisor, the U.S. Department of State, and the U.S. Department of Commerce.

Applicant

41. Notifies IBF of the opening by telephone on the first day of operations.

IBF

42. Makes appropriate entries in the corporate tracking system.

Close Out

43. Reviews the file for completeness and forwards it to Central Records (CR).

Assignment and Preplanning

IBF

1. Requests the ADC-FBA to assign a national bank examiner (NBE) to conduct a field investigation. The NBE may need to be fluent in the foreign language of the applicant foreign bank.

2. Requests the ADC-FBA to provide the NBE with a copy of relevant material from the application forwarded to them for comment in step 14 of the Procedures — Processing section of this subsection. Notes any areas IBF, the ADC-FBA, or IA suggest that may warrant particular attention.

NBE

3. Prior to conducting the investigation, reviews the application and areas noted as warranting particular attention.

4. Calls the representative to schedule the investigation and the interviews of persons identified by the ADC-FBA or IBF.

5. Notifies the ADC-FBA and IBF of the start date and determines the date for submission of the completed letter report. If a trip to the applicant foreign bank's home country is considered necessary, coordinates with IBF and factors this into the date for completion of the report.

6. Interviews the identified persons to determine each person's:

   - Proposed role (specifically) in the proposed federal branch or agency and qualifications for that role.

   - Knowledge of the proposal, i.e., proposed customers and services, proposed market area, competition, and reasonableness of financial projections.

- Strengths and weaknesses.

- Knowledge of any information that might affect adversely the potential success of the proposed federal branch or agency.

- Insight into the ownership structure and principal shareholders of the foreign bank applicant.

7. In discussing a person's qualifications and role in the proposed federal branch or agency, may discuss the following matters, as deemed appropriate:

   - Management and business experience.

     — The number of people supervised.
     — Direct hiring/firing authority in current/previous positions.
     — The type of management reports that will be needed to keep the head office informed.

   - Credit management experience.

     — Knowledge of the elements of good lending, insider activities, and specific lending areas (e.g., commercial, retail, real estate).
     — Level of loan review and collection experience.
     — Use of a loan support and review function.

   - Compliance experience related to lending.

     If discussions indicate a person's weakness in the credit area, additional specific questions may be asked, such as the components used in calculating the annual percentage rate; important points relative to compliance with Regulation B; and when a right of rescission is required.

   - Funds management experience.

     — Knowledge of the definition of liquidity and its purpose.
     — The head office's strategic funding plan, including the proposed federal branch's or agency's role.
     — Legal restrictions for securities purchases.
     — Understanding of net due to/due from positions.

   - Marketing experience.

- Bank Secrecy Act and Currency Transaction Reporting requirements.

8. Meets with foreign bank management representatives at the conclusion of the investigation to inform them of the findings. The meeting includes a discussion of deficiencies and appropriate suggestions. Does not render a conclusion to the representatives on the likelihood of an approval of the pending application.

9. Prepares and forwards the written report to IBF, copying the ADC-FBA, within the decided time period. The report should be in memorandum format, summarizing briefly the findings and conclusions and addressing specifically any problems or areas of concern.

10. Does not inform anyone outside the OCC of the contents of the field investigation report.

11. Retains all investigation work papers and a copy of the written report.

12. Enters into SMS a background profile of the proposed federal branch or agency (SMS may be accessed by the proposed federal branch or agency license number; however, the proposed federal branch or agency remains inactive, until it officially opens for business).

This subsection provides guidance, instructions, and procedures to a foreign bank that is considering the acquisition of a federal branch or agency, directly or indirectly, through merger, consolidation, or similar transaction. This subsection should be used together with other subsections of this booklet and other booklets of the manual as referenced in the Overview section.

Applicability

A foreign bank that acquires a federal branch or agency, directly or indirectly, or through merger, consolidation, or similar transaction, must file an application with the OCC. In such circumstances, an after-the-fact approval generally is acceptable to the OCC. This booklet provides guidance about the use of the after-the-fact approval process.

Key Policies

General

Unless otherwise informed by the OCC, the foreign bank can proceed with the proposed transaction outside of the U.S. before an application has been filed with or acted upon by the OCC. The OCC generally will grant after-the-fact approval, provided that:

- The foreign bank applicant gives the OCC reasonable advance notice of the proposed transaction.
- Commits in writing prior to consummation of the proposed transaction to comply with the after-the-fact OCC application procedures and to abide by OCC's decision, including a decision to terminate the federal branch or agency activities.

Decision Criteria

The decision criteria used in an establishment resulting from an acquisition through merger, consolidation, or similar transaction generally includes considering the:

- Financial and managerial resources and future prospects of the applicant foreign bank and the proposed federal branch or agency.

- Compliance of the foreign bank's U.S. affiliates with applicable laws, including controls directed to the detection of money laundering.
- Whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor, or the home country supervisor is working actively to establish arrangements for the consolidated supervision of the bank.
- Convenience and needs of the community to be served.
- Submission of required information to allow the OCC to assess the application adequately.
- Comments from foreign and other U.S. regulators.

Summary of Process

General

The OCC's licensing process is based on the type of establishment proposed. For mergers, acquisitions, consolidations or similar transactions, there usually will be a prefiling phase to determine whether an after-the-fact filing is available, and a processing and decision phase.

Prefiling Discussions

The OCC encourages a foreign bank applicant to initiate prefiling discussions if it plans to pursue an after-the-fact approval related to an acquisition of a federal branch or agency, directly or indirectly, or through merger, consolidation, or similar transaction. If the resulting bank is a foreign bank with an existing federal branch or agency, the OCC may waive a prefiling meeting.

Publication Requirements

Unless the federal branch from which operations will be acquired is FDIC-insured, the publication requirement in 12 CFR 5.8 does not apply. If the federal branch is FDIC-insured, the foreign bank applicant must publish for a period of 30 days notice of the application in a newspaper of general circulation in the community where the federal branch operates.

Interested parties may submit written comments during the public comment period.

Streamlined Applications

An applicant may be able to file a streamlined application if:

- The acquiring foreign bank has either an existing federal or state-licensed branch or agency.
- The branch or agency is not subject to special supervisory concerns.

In such a case, submission of detailed financial data on the resulting foreign bank may be omitted. In addition, depending on the proposed structure of the transaction, the OCC's filing requirements may be reduced further. For example, if each foreign bank that is party to an acquisition operates a federal branch or agency and will continue to do so under the same corporate form, in lieu of an abbreviated OCC application, the OCC may accept a copy of other filings required by the FRB. However, when the OCC has supervisory concerns or if the resulting bank is unknown to the OCC, a streamlined application may not be available. The applicant is encouraged to consult early with IBF to determine what portions of the OCC application should be submitted.

Specific Requirements

Fiduciary Powers

If an existing federal branch has been authorized previously to exercise fiduciary powers and no change in the fiduciary activities is anticipated by the resulting foreign bank, then no reauthorization is necessary, and the federal branch may continue to exercise its fiduciary powers. Specific prior OCC authorization must be obtained for a federal branch to exercise fiduciary powers if not previously authorized (see Fiduciary Powers section in this booklet).

Bank Merger Act (BMA) Applicability

The BMA applies to mergers involving insured federal (or state) branches of foreign banks when there is a concrete merger impact on the insured branch, such as consolidation with another branch or acquisition of insured liabilities.

Community Reinvestment Act

If following the merger, consolidation, or similar transaction the federal branch maintains its FDIC-insured status, the CRA continues to apply. As such, the federal branch is expected to continue to meet the needs of its entire assessment area, including low- and moderate-income areas.

Other

The applicant foreign bank also must comply with applicable requirements of other regulatory agencies, including the FDIC (in case of insured branches).

Request for After-the-Fact Approval

Date

Deputy Comptroller
International Banking and Finance
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Dear Deputy Comptroller:

The undersigned, representing a foreign banking corporation, hereby requests permission to apply for an after-the-fact approval from the Office of the Comptroller of the Currency (OCC) to acquire a (federal branch/ limited federal branch/federal agency). The proposed acquisition will become effective on (date).

[**Briefly explain the transaction expected to result in the acquisition.**]

I hereby certify that the resulting foreign bank's board of directors, or a designated official, has authorized me to make the following commitments about this request:

- The resulting bank (will comply with the OCC application procedures within a reasonable period of time/has already submitted an application).

- The resulting bank agrees to abide by the OCC's decision on the application, including a decision to terminate activities of the federal branch or agency.

A copy of the authorization is attached. In the event the OCC does not grant this request for an after-the-fact approval, we agree to delay consummation until the application is submitted and approved.

Please contact (representative's name) at the address and telephone number listed in the application if you have any questions about the enclosed application.

Sincerely,

Signature

Name and Title Typed

Enclosure: Authorization

Application Instructions

The OCC accepts a copy of an application form, notice, or report submitted to another federal regulatory agency that covers the proposed action and contains substantially the same information as would be required by the OCC. An applicant might be able to file an abbreviated application, if it meets certain requirements contained under the Acquisitions section of the Federal Branches and Agencies booklet of the *Comptroller's Corporate Manual.*

The application includes:

- Resulting bank's consolidated financial statements.
- General information about the resulting bank, such as its ownership, corporate structure, and home country supervision.
- A strategic plan describing how the federal branch or agency will fit into the resulting foreign bank's global and U.S. strategy.
- Biographical information on the federal branch or agency management, if current management is replaced.
- A legal opinion certifying that the proposed U.S. operation will comply with domestic and foreign laws following the acquisition.

The OCC may conduct background investigations on senior officers of the federal branch or agency, if current management is replaced and on senior officers of the foreign bank, if the OCC is unfamiliar with the resulting foreign bank (see "Background Investigations" booklet of the manual).

Application processing may be delayed because of a public hearing request, a special analysis or investigation, or an additional information request.

Filing

The applicant should send the original and one copy of the application to IBF. (See sample (Acquisitions — Document) Inquiries about the preparation and filing of the application should be directed to IBF at (202) 874-4730.

Completing the Application

Applicants may:

- Use the sample application documents.
- Provide the necessary information by attaching additional 8 ½" x 11" pages.
- Incorporate information by reference to other applications filed with the OCC or other federal regulators.

The applicant must provide complete and reliable information in English. If a question is not applicable to the specific proposal, so state. Financial information on

the federal branch or agency should be submitted in U.S. dollars and prepared, when required, in the format provided. Financial information on the resulting foreign bank may be prepared in accordance with accounting principles of its home country and converted into U.S. dollars at the exchange rate prevailing on the date that the financial statements are provided. However, since a federal branch or agency is allowed to use the total capital accounts of its parent foreign bank in determining limitations and restrictions, the resulting foreign bank must describe its capital structure in terms that equate to U.S. banking standards. Such information facilitates an assessment of capital adequacy.

The OCC may also require certain information from the applicant during the processing of the application. The applicant may supplement the required information with additional relevant data at any time during the processing.

If no changes will occur in the activities, services, or balance sheet of the current U.S. federal branch or agency following the acquisition, so state. In such instances, submission of financial data on the existing federal branch or agency is not required.

Confidential Treatment of Information

The applicant must state completely the reasons for any request for confidentiality of information in the application. Determinations on questions or requests for confidentiality and discretion in releasing information under the Freedom of Information Act reside with the OCC. Copies of annual reports to shareholders and information normally available to the public in the applicant's home country will not be considered confidential. However, financial disclosures extending beyond that normally available in the home country will generally, upon specific request, be held in strict confidence, as will biographical information on persons to be associated with the federal branch or agency.

Publication Requirement

Publication is required only if the existing federal branch is insured by the FDIC. In such instances, publication is required in a newspaper of general circulation in the federal branch's community, on the date of the filing or as soon as practicable before or after filing the application (see Sample Public Notice—Documents).

Application to Acquire a Federal Branch or Agency

For OCC Use Only

Control No._____
License No._____
Date Received_____
Date Receipt
Acknowledged_____

Type of Proposal (Check the appropriate box and describe the transaction.)

G Merger **G** Consolidation
G Acquisition **G** Similar Transaction

Description of the proposal _____

Resulting Foreign Bank Identifying Information

Foreign Bank Name _____
(*exact corporate title of bank*)

Address _____
(*headquarters office address of foreign bank, city, state, country)*

_____

_____

_____

Country in which foreign bank is organized _____

Date of incorporation of foreign bank _____

Federal Branch or Agency Identifying Information

License No. _____

Name of Federal
Branch or Agency _____
(*exact name of the proposed U.S. office*)

Address_____

City _____ County _____ State _____ ZIP Code _____

Mailing Address_____

City _____ County _____ State _____ ZIP Code _____

Representative Information

Name _____

Address _____

City _____ State _____ ZIP Code _____

Phone No. _____ Fax No. _____
(*include country code and area code as applicable*)

Proposed Officers

Will current management at the federal branch or agency be changed following the acquisition of the parent foreign bank? Yes **G** No **G**

If "yes," please provide the following:

The proposed general manager is _____.

Other proposed officers and their titles are _____

_____, _____.

Biographical and experience information for each is attached.

Streamlined Submission

Is the application being filed by or on behalf of a foreign bank that is currently operating banking offices in the U.S.? Yes **G** No **G**

If "yes," please provide the most recent U.S. supervisory rating(s) for each of the resulting bank's U.S. offices.

Are any of the institutions under current OCC supervision? Yes **G** No **G**

If "yes," did the applicant receive permission to submit a streamlined application? Yes **G** No **G**

If "yes," to the previous three questions under this section of the application, do not complete questions 1 and 2 under General Information. In addition, do not provide responses to any other questions, if IBF is so advised through prefiling consultations.

Publication Information

Is the current federal branch or limited federal branch insured by the FDIC?
Yes **G** No **G**

If "no," go to the General Information section. If "yes," complete the following:

Public notice is being published in _____
(*name and address of newspaper*)
on _____ , _____ .

A copy and certification of publication **G** is enclosed **G** will be forwarded.

General Information

Note: Questions with an asterisk (*) may be omitted in streamlined submissions.

1.* Provide a brief history of the resulting foreign bank applicant, including:

- Current and expected ranking by asset size in the home country.
- Number of offices operated domestically and internationally.
- Type(s) of business conducted primarily by the bank and its subsidiaries. Comment on any areas of specialization, including nonbanking and fiduciary business.
- Ownership and corporate structure.
- Home country supervision.
- Provide a list of all business, commercial, or financial enterprises that the resulting foreign bank controls or will control through ownership of more than 25 percent of the stock, or otherwise, and that the bank presently operates or intends to operate within the U.S.

2.* If the resulting foreign bank is owned or controlled by another foreign bank, also provide the information requested in question 1 for the ultimate parent foreign bank.

3. If applicable, describe how other offices of the resulting foreign bank, including those in offshore banking centers, will be managed or controlled through the federal branch or agency.

4. If the appropriate U.S. regulator has informed the foreign bank applicant that its existing U.S. operations are considered to be in less than satisfactory

condition, the applicant should discuss why it should be permitted to expand its U.S. presence, notwithstanding that condition.

5. Discuss any secrecy laws or other impediments that exist that could hinder the resulting foreign bank applicant (and its ultimate parent, if any) from providing information to the OCC, as needed, to determine and enforce compliance with U.S. law. If impediments exist, explain how the resulting foreign bank applicant plans to provide the OCC with adequate assurances of access to such information.

6. Describe any planned changes in the federal branch's or agency's policies, procedures, and internal and external audit measures and how those changes will ensure continued compliance with U.S. law.

Ownership/Management

7. Include a list of any legal entities, persons, or group(s) of persons that own or influence a controlling interest in the resulting foreign bank. An organization chart may be submitted if it portrays accurately the foreign bank's corporate structure and includes the percentage of ownership and names of the various legal entities.

   For those persons, groups of persons, or legal entities listed, provide the following information:

   - For persons—countries of citizenship, other enterprises owned or controlled, biographical information, present addresses, and references. Include the number and percentage of shares owned, controlled, or held with power to vote, including those held by the person's spouse and dependents.

   - For corporations—countries of incorporation, ownership, other enterprises owned or controlled, and a brief description of the type(s) of business in which each corporation is engaged. Include the number and percentage of each class of the foreign bank applicant's shares owned, controlled, or held with power to vote by the corporation.

   - For sovereign governments or entities of sovereign governments—information on how and to what extent the government controls the normal business functions of the foreign bank applicant; the services the applicant bank provides to the general public on behalf of the government; and the duties and functions the applicant bank provides for, or on behalf of, the sovereign government. Include the number and percentage of each class of the applicant's shares owned, controlled, or held with power to vote by the government.

8. If management at the federal branch or agency will change, provide biographical reports, or in streamlined submissions a resume, detailing the

relevant experience of each of the three proposed senior officers and the principal foreign exchange trader, if any.

9. Provide details of criminal offenses involving, or supervisory actions against, any member of the board of directors of the resulting foreign bank, or any officer, employee, or advisory member of the proposed federal branch or agency, who has been convicted of a criminal offense involving dishonesty or breach of trust in any court of any sovereign nation or instrumentality thereof.

10. Discuss how the resulting foreign bank will serve as a source of financial and managerial strength for the federal branch or agency. If the resulting foreign bank's home country maintains foreign exchange restrictions or other capital export controls, detail the limitations that such restrictions or controls would place on the bank's ability to serve as a source of strength for its U.S. banking interests.

Financial Resources and Future Prospects

11. Provide the ending date of the resulting foreign bank's fiscal year, and two copies of each of the following financial reports in English and denominated in U.S. dollars:

    - The latest annual reports of the resulting foreign bank and the merging foreign banks, if different from the resulting bank.

    - Parent only and consolidated balance sheets, showing separately each principal group of assets, liabilities, and capital accounts as of the end of the most recent fiscal quarter and for the comparable quarter of the preceding year. Include information on all contingent liabilities (e.g., standby and commercial letters of credit, guarantees, commitments to grant or purchase loans and securities, and contracts to purchase/sell foreign exchange).

    - Parent only and consolidated profit and loss statements, showing separately each principal source of revenue and expense, year-to-date through the end of the most recent fiscal quarter, the comparable quarter of the preceding year, and for the most recent three fiscal years.

    - On a consolidated basis, a breakdown of risk-based assets as of the end of the most recent fiscal quarter, showing each principal group of on- and off-balance sheet assets and the relevant risk weights. Also, identify the components of tier 1 and tier 2 capital under the risk-based capital guidelines and provide calculations of the applicant's tier 1 and total capital to risk-based assets.

Twelve CFR 3 outlines the accounts the OCC considers as capital. Describe those items on the resulting foreign bank's balance sheet that correspond to the indicated capital accounts in 12 CFR 3, and explain where they are presently carried on the annual statement of condition.

- Current information that will enable the OCC to judge the quality of the resulting foreign bank's assets. The information should be presented for the consolidated organization and, if available, include, but not be limited to:

  -- Delinquencies.
  -- Nonaccrual assets.
  -- Assets acquired in satisfaction of debts previously contracted.
  -- Loans with reduced interest charges.

  Applicant's definitions of the previously mentioned terms should be provided.

Financial statements may be prepared according to local accounting practices. However, an explanation of the accounting terminology and the major features of the accounting standards used to prepare the financial statements must be provided and explained further when they differ from International Accounting Standards. Fiscal financial statements must be certified by an independent and reputable auditing firm.

12. Comment on how and from what sources the federal branch or agency will be funded.

Home Country Supervision

13. Provide the name(s) of the person(s) to contact in the office of the home country bank supervisory authority or similar government agency, who can respond to questions about the applicant bank. If the foreign bank or its subsidiaries offer services, such as insurance or securities, which are regulated by a supervisor other than the bank supervisor, also provide an appropriate contact person. Include names, titles, addresses, and telephone and facsimile numbers (including country and city code).

Corporate Papers and Legal Opinions

14. Attach and make a part of this application copies, in English, of the resolution(s) adopted by the applicant bank's governing board for:

    - Authorization for bank officer(s) or agent/representative to file this application.

- A designation of a representative(s) or bank officer(s), who will be permitted to sign the application and a delegation to them of authority to represent the board fully in all matters regarding this application.

- The resulting foreign bank's agreement to conduct its operation in the U.S. in full compliance with any provisions of any U.S. laws that apply to national banks and that prohibit discrimination against any person on the basis of race, color, religion, sex, marital status, age, or national origin.

- The executed acquisition agreement (in English).

15. Attach and make a part of this application an opinion of U.S. counsel that the proposal complies with relevant state laws and a letter from the resulting foreign bank's foreign legal counsel, certifying that the proposed acquisition complies with the applicable laws of the home country.

16. **[For Limited Federal Branches]** Please attach a notarized copy of the executed agreement between the resulting foreign bank and the FRB as required by 12 USC 3103 section 5 of the IBA.

Convenience and Needs of the Community

17. If the federal branch or limited federal branch is insured by the FDIC, state to what extent, if any, the resulting foreign bank will provide convenience to the public and fill needs not presently served by other existing banking facilities.

18. If the acquisition will affect the CRA statement or assessment area of the federal branch, discuss the effect.

Other Information

19. If a change in information systems is planned for the federal branch or agency, describe the scope and nature of the change, the planned location of the data processing facility and equipment, and the name and location of the planned data processing service company.

I certify that any misrepresentations or omissions of material fact in this application, any attachments to it, and any other documents or information provided in connection with this application may be grounds for denial or revocation of the license, or grounds for objection to the proposed officer(s) of the federal branch or agency, and may subject the undersigned officer, agent, or representative to other legal sanctions, including the criminal sanctions provided for in 18 USC 1001.

Executed the _____ day of _____ , _____ .

_____
(Signature)

_____
(Typed name of foreign bank representative)

_____
(Typed title of foreign bank representative)

Attachments: (as applicable)*

- **G** Board of directors' authorization to bank representative
- **G** Streamlined submission supporting information
- **G** Newspaper publication copy or certification
- **G** General information about the resulting bank, such as its ownership, corporate structure, and home country supervision
- **G** Biographical information on proposed new officers
- **G** Consolidated financial reports for resulting foreign bank applicant, in English and U.S. dollars
- **G** A strategic plan, describing how the federal branch or agency will fit into the resulting foreign bank's global and U.S. strategy
- **G** A legal opinion, certifying that the proposed U.S. operations following the acquisition, merger, or consolidation will comply with U.S. laws and regulations
- **G** Fiduciary powers request

*No attachments are required for information that relates to questions in the application that may be omitted in a streamlined submission.

Sample Public Notice

The following language may be used to meet OCC's publication requirements:

Notification is hereby given that (name of foreign bank and complete address of headquarters) has filed an application with the Office of the Comptroller of the Currency (OCC) on (date), for permission to operate the (federal branch/limited federal branch/federal agency) of (target institution), which will be (merged/acquired/ consolidated) into (name of resulting foreign bank) effective (date). The (federal branch/ limited federal branch/federal agency) is currently located at (location) and will remain at that location.

Any person wishing to comment on this application may file comments in writing with the Deputy Comptroller, International Banking and Finance, 250 E St., SW, Washington, DC 20219 within 30 days of the date of this publication. The public portions of the application are retained by International Banking and Finance and are available for inspection during regular business hours.

Application Cover Letter

Date

Deputy Comptroller
International Banking and Finance
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Dear Deputy Comptroller:

The undersigned, representing a foreign banking corporation, hereby makes application to the Office of the Comptroller of the Currency (OCC) for authorization to acquire a (federal branch/ limited federal branch/federal agency).

The resulting foreign bank (does/does not) plan to change management at the federal branch or agency.

I hereby certify that the resulting foreign bank's board of directors, or a designated official, has authorized the filing of this application and that to the best of my knowledge, the information contained herein is true and complete. A copy of the authorization is attached. In addition, I agree to notify the OCC if the facts described in the filing change materially prior to receiving its decision.

I further certify that the resulting foreign bank applicant and its ultimate parent (bank/holding company), if any, will provide adequate assurances that information on the operations or activities of the resulting foreign bank and any of its affiliates will be provided to the OCC as deemed necessary to determine and enforce compliance with the IBA, and other applicable federal laws.

Please contact (representative's name) at the address and telephone number listed in the application if you have any questions about the enclosed application.

Sincerely,

Signature

Name and Title Typed

Prefiling Meeting

IBF

1. Refers a foreign bank that requests instructions to the appropriate subsections of this booklet.

Applicant

2. Requests a prefiling meeting to discuss filing procedures, including the possibility of a streamlined application and after-the-fact approval criteria, or requests a waiver of the prefiling meeting.

IBF

3. Conducts or waives the prefiling meeting.

Applicant

4. Submits a letter to the OCC requesting approval for filing an application after the merger, acquisition, or consolidation is effective in the resulting foreign bank's home country (see Sample Letter for After-the-Fact Filing — Documents).

IBF

5. Approves applicant's request for an after-the-fact filing or notifies applicant that the OCC requires it to file an application and receive OCC approval prior to consummating the merger, acquisition, or consolidation in its home country.

Filing the Application

Applicant

6. Sends one original and one copy of the application and supporting information to IBF (see Acquisitions application in the Documents section of this subsection). If fiduciary powers are desired and not

currently exercised, a letter of intent and the appropriate filing fee should be submitted with the Acquisitions application (see the Fiduciary Powers section in this booklet).

7. If the federal branch or limited federal branch is insured by the FDIC, publishes a notice of the application in a newspaper of general circulation in the community in which the federal branch or limited federal branch is located (see Sample Public Notice — Documents). (Also see the "Public Involvement" booklet.)

Review

IBF

8. Initiates and enters required information into the corporate tracking system.

9. Establishes the official file to maintain all original documents relating to the application.

10. Initiates background checks if management is being changed at the federal branch or agency (see "Background Investigations" booklet).

11. Reviews the application and relevant information about the resulting foreign bank, including its ownership, subsidiaries, and financial condition, to determine that the filing contains all information necessary to reach a decision. If the application is incomplete, requests the information from the representative, specifying a response date.

12. If the application is filed under streamlined submission, determines whether the applicant bank qualifies. If the foreign bank is not qualified for streamlined submission, notifies the representative and requests that any omitted portions of the application be submitted within a specified time period.

13. Prepares and sends a letter to the applicant bank once the application is deemed complete.

14. If the proposal raises legal or other issues, solicits comments from IA and/or other OCC divisions, as deemed appropriate, and requests that comments be provided within 15 days.

15. If the resulting foreign bank does not already have a federal branch or agency, sends notice of the application and a request for comments to the applicant's home country supervisor. Requests that the supervisor:

    - Provide a brief description of the bank regulatory system in the country of incorporation of the resulting foreign bank.
    - Discuss its powers and functions.
    - Discuss the extent to which it supervises or regulates the resulting foreign bank on a comprehensive consolidated basis or the extent to which it is working actively to establish arrangements for the comprehensive consolidated supervision of the bank.
    - Discuss whether the home country has or is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.
    - Discuss the frequency and scope of direct or indirect supervisory examinations of banks in its country.
    - Discuss the functions of the central bank and its relationship to private/public banks.
    - State that the applicant is duly organized and existing under local law and is authorized to transact banking business.
    - Grant permission for the applicant to operate a federal branch or agency, provide a statement that such permission is not required, or recommend that the OCC not approve the application based on supervisory concerns.

    To the extent the OCC is familiar with the home country supervisor and its approach to supervision, this step may be omitted.

16. Forwards a copy of the application to the ADC-FBA and requests that comments be provided within 15 days. Of specific interest are the ADC-FBA's comments about potential supervisory issues.

17. Analyzes the application and assesses:

    - Financial and managerial resources, proposed management, and future prospects of the resulting foreign bank and its effect on the federal branch or agency.

- The legality of the proposal.
- If applicable, whether the resulting foreign bank and its U.S. affiliates comply with applicable U.S. and foreign laws.
- Whether the resulting foreign bank has furnished to the OCC:
  - The information required to assess the application.
  - Adequate assurances that the OCC will have access to necessary information on the operations or activities of the foreign bank or any of its affiliates to determine and enforce compliance with the IBA and other applicable federal banking statutes.
  - If the merger, acquisition, or consolidation will occur prior to OCC's approval of the application, adequate written commitment that the resulting foreign bank will comply with the OCC application procedures within a reasonable period of time (or has already submitted an application) and agrees to abide by the OCC's decision on the application, including one to terminate activities of the federal branch or agency.
- The extent of regulatory supervision by the home country supervisor, i.e., whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor, or the home country supervisor is working actively to establish such supervisory approach.
- Whether the home country is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.
- The recommendation and/or consent of the home country supervisor, if applicable.

Public Comments and Hearings

IBF

18. If a copy of the application is requested, public comments filed, or a hearing requested, refers to the "Public Involvement" booklet and

determines whether the comments are material. Proceeds as appropriate.

Decision

IBF

19. Contacts the FRB to discuss any issues about the resulting foreign bank's application.

20. Prepares a confidential memorandum and decision letter recommending a decision to the delegated official.

21. Decides the application under delegated authority or forwards the official file to BOS for decision. If referred to BOS, go to step 25.

22. Notifies the ADC-FBA and the applicant of the decision. Sends the decision letter to the applicant, ADC-FBA, FRB, and interested parties, if applicable.

23. Makes appropriate entries in the corporate tracking system.

24. Forwards to the ADC-FBA a copy of the confidential memorandum, updated corporate tracking system comments, and any additional material highlighting supervisory or licensing concerns. Go to step 31 to continue processing.

BOS

25. Reviews the file and all relevant information; solicits comments from other OCC divisions, as appropriate; makes a recommendation; and forwards the official file to the appropriate official for decision.

26. Notifies IBF of the decision.

    If the application is conditionally approved or denied, forwards decision document, and transmittal letter to the Quality Assurance Coordinator.

27. Makes appropriate entries in the corporate tracking system and returns the official file to IBF.

IBF

28. Notifies the ADC-FBA, the resulting foreign bank, and the FRB by phone and letter of the decision. If applicable, also sends a copy of the decision letter to any interested parties.

29. Forwards to the ADC-FBA a copy of the confidential memorandum, decision letter (including any attachments), updated corporate tracking system comments, and any additional material highlighting supervisory or licensing concerns. If approved or conditionally approved, go to step 32 to continue processing.

30. If denied, makes appropriate entries in the corporate tracking system, reviews the file for completeness and refers resulting foreign bank to the "Voluntary Liquidation" section of this booklet. Coordinates termination of the federal branch or agency license with IA and the FRB as deemed appropriate. Go to step 35.

Authorization

Applicant

31. Notifies IBF of the effective date and requests final authorization.

IBF

32. Sends applicant final authorization letter. Sends copy to ADC-FBA.

33. Makes appropriate entries in the corporate tracking system.

Close Out

IBF

34. Forwards application file to Central Records (CR).

This section describes the OCC's policies, procedures, and filing requirements for a foreign bank planning to change the status of its U.S. operation(s) by:

- Converting from a state branch or agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank into a federal branch, limited federal branch, or federal agency.
- Expanding the activities of its federally licensed operation from either a federal agency into a federal branch or limited federal branch or from a limited federal branch into a federal branch.
- Contracting the activities of its federally licensed operation from either a federal branch to a limited federal branch or a federal agency or from a limited federal branch to a federal agency.

Applicability

A foreign bank proposing either to convert its state-licensed operation or expand the activities of its federally licensed operation must file an application with and receive prior approval from the OCC. A foreign bank proposing to contract the activities of its federally licensed operation must provide only advance notification to the OCC.

These procedures do not apply when a foreign bank is seeking to convert its federally licensed U.S. operations to a state license. In such instance, please refer to the Other Changes in Activities or Operations section of this booklet.

Key Policies

General

The OCC approves changes in the status of an office of a foreign bank, provided that the approval does not violate the provisions of applicable federal and state law, and the proposal satisfies OCC's decision criteria.

State-to-Federal License Conversion

The OCC has streamlined the conversion process and affords expedited review for eligible foreign banks that wish to convert from a state license. This streamlined application process is available generally in a conversion proposal when the banking powers of the desired type of federal license are

commensurate with those of the state license. A proposal for conversion to a type of federal license that involves more banking powers than those permissible under the state license will be considered on a case-by-case basis to determine if expedited review or a streamlined filing can be afforded.

A foreign bank that does not meet the eligible foreign bank definition because it does not have an existing federally licensed office can still be afforded expedited review and could qualify for a streamlined submission if it meets the criteria set forth under the Expedited Review discussion under the Summary of Process subsection of this section of the booklet.

Generally, public notice under 12 CFR 5.8 does not apply to conversions, unless the OCC determines that the application presents a significant or novel policy, supervisory, or legal issue and that a public notice is necessary.

If a conversion from a state to federally licensed operation is not consummated within six months from the date of an approval, the OCC may withdraw its approval.

Expansion of Activities

Proposals for expanding an office from a federal agency to a limited federal branch or federal branch, or from a limited federal branch to a federal branch, could qualify for expedited review. Therefore, the foreign bank is encouraged to discuss its plans with IBF prior to filing an application.

Contraction of Activities

Proposals for changing the status of an office from a federal branch to a limited federal branch or federal agency, or from a limited federal branch to a federal agency, are considered management decisions. The OCC processes such requests using a simple 15-day advance notification letter (see the Documents section).

Decision Criteria

General

The OCC may deny an application from a foreign bank wanting to convert its state license to a federal license or expand its federally licensed operations, if:

- The applicant's financial condition poses supervisory concern.
- There are safety or soundness concerns.
- The proposal is inconsistent with applicable law, regulation, or OCC policy.
- The applicant is trying to escape supervisory action by its current regulator.

The OCC may impose special conditions for approvals to convert a state license to a federal license or to expand the activities of an existing federally licensed operation to protect the safety and soundness of the federal branch or agency, prevent conflict of interests, provide customer protections, ensure that approval is consistent with the statutes and regulations, or provide for other special supervisory or policy considerations.

State-to-Federal License Conversion

In an establishment resulting from a conversion from a state to a federal license, the OCC generally considers:

- Financial and managerial resources and future prospects of the applicant foreign bank and of the converting state branch or agency.
- The condition of the U.S. office(s) of the foreign bank and the history of compliance with applicable U.S. laws.
- Submission of required information to allow the OCC to assess the application adequately.
- The legality of the proposal.
- If the proposal involves an FDIC-insured institution, the institution's CRA record of performance.
- Comments from other appropriate regulatory agencies.

In evaluating a proposal to convert an existing state-licensed foreign bank office to a federal branch or agency, the OCC will draw heavily on information received from the office's current U.S. supervisor.

Expansion of Activities

In a change of status from a federal agency into a federal branch or limited federal branch, or from a limited federal branch into a federal branch, the OCC generally considers:

- Financial and managerial resources and future prospects of the applicant foreign bank and the federal branch or agency.
- Compliance of the foreign bank's U.S. affiliates, including the office proposing a change in status, with applicable laws.
- Submission of required information to allow the OCC to assess the application adequately.
- Comments from foreign and other U.S. regulators.

In evaluating an application to expand the activities of an existing limited federal branch or federal agency, the OCC will draw heavily on its own supervisory experience with the foreign bank.

Summary of Process

State-to-Federal License Conversion

The application process for a conversion from a state to a federal license generally consists of prefiling discussions; filing, processing, and deciding the application; and consummating the proposal. The OCC application includes information on the foreign bank applicant as well as the operations of its U.S. office(s). A sample application letter outlining the specific information needed for this type of change of status proposal is included in the "Documents" section of this subsection.

Expansion of Activities

A change of status resulting in the expansion of activities (upgrade) of a federal agency or limited federal branch license consists of filing, processing, and deciding the application.

Contraction of Activities

Proposals for changing the status of an office from a federal branch to a limited federal branch or federal agency, or from a limited federal branch to a federal agency only require the foreign bank to send a notice request in advance of the change of status. The notice requires the foreign bank merely to provide counsel's legal opinion on the proposed change of status and, if applicable, furnish evidence of regulatory approvals in the home country. A change in status to a limited federal branch also may require the foreign bank first to enter into an agreement with the FRB on the types of deposits it plans to receive (see 12 CFR 28.11(t)).

Expedited Review

An application for a change of status by a state-to-federal license conversion or an expansion of activities qualifies for expedited review, if the applicant is an "eligible foreign bank" (see the "Definitions" section of this booklet and 12 CFR 28.12(e) and (f)). Under expedited review, such a change of status application is deemed approved by the OCC 45 days after filing with the OCC, unless the OCC notifies the bank prior to that date that the filing is not eligible for expedited review.

A foreign bank with no federally licensed operations that desires to convert could receive expedited review and qualify for a streamlined application. In order to do so, each of its state-licensed operations must meet the criteria set forth under 12 CFR 28.12(f), and the filing must not present significant supervisory, compliance, legal, or policy issues.

Standard Review

An application that does not qualify for, or is removed from, expedited review is processed under standard review procedures. After review of a complete application for a change of status by a state-to-federal license conversion or an expansion of activities, the OCC decides to approve, conditionally approve, or deny the application.

Specific Requirements

Plans

For any change of status of an office of a foreign bank, the OCC requires that the applicant explain the reason for the desired change, any planned changes in its U.S. operations, and a statement of the legal basis for the proposed change in activity. The application requires a written legal opinion to be included.

The legal opinion should address whether the proposed change is in conformance with applicable state and federal law.

Background Investigations

If additional management is being proposed to oversee the expanded activities and IBF deems it appropriate, a background investigation of the new management will be conducted (see "Background Investigations" booklet).

Fiduciary Powers

If the institution seeking to convert from a state to federal license has existing fiduciary powers or plans to exercise them following the conversion, it must request and obtain prior OCC approval to do so (see the Fiduciary Powers section in this booklet). Similarly, if a current federal agency or limited federal branch through expansion of its activities plans to exercise fiduciary powers, it must request and obtain prior OCC approval to do so. The only exception is for a limited federal branch currently exercising fiduciary powers that plans to change its status to a federal branch with fiduciary powers. Such powers transfer to the upgraded office, and no separate request or approval is required.

Field Investigation

State-to-Federal License Conversion

For conversions from a state to a federal license, the OCC may conduct a field investigation, if deemed necessary. The OCC normally does not conduct a field investigation for a conversion application accorded expedited review. If the foreign bank applicant's U.S. operation(s) is (are) in satisfactory condition, the OCC generally will not perform a field investigation. The OCC may discuss the proposal with the applicant's current regulator(s) and will accept and rely on the current banking regulator's examination rating. However, if there are supervisory concerns, the OCC may conduct a field investigation. The decision to conduct a field investigation is made on a case-by-case basis. The information obtained in the investigation may be shared with other regulators.

Expansion of Activities

The OCC does not conduct field investigations on changes of status involving the upgrade from a federal agency to a limited federal branch or federal branch, or from a limited federal branch to a federal branch.

Capital Equivalency Deposit (CED)

A CED pledged to the OCC will be required upon conversion from a state license to a federal license (see the "Capital Equivalency Deposit" section of this booklet).

Other

Proposals for expansion of activities may require an application with the FRB. A foreign bank considering a contraction of activities for its insured federal branch may need to observe additional procedures and requirements promulgated by the FDIC. A foreign bank considering changing the status of its federal branch to a limited federal branch should seek FRB guidance prior to notifying the OCC of its downgrade plan. By definition, limited federal branches must enter into an agreement with the FRB on the type of deposits it may receive.

Application for a Change of Status of an Office of a Foreign Bank

For OCC Use Only

Control No._____
Date Received _____
Filing Fee Amount_____
Date Receipt Acknowledged_____

Foreign Bank Identifying Information

Foreign Bank Name _____
(*exact corporate title of bank*)

Address _____
(*headquarters office address of foreign bank, city, state, country)*

_____

_____

_____

Branch or Agency Identifying Information

License No. _____ A fee of $_____ is enclosed.

Foreign Branch or Agency Name _____
(*exact corporate title of branch or agency*)

Address _____
(*street address of branch or agency, city, county, state, ZIP Code)*

_____

_____

_____

Application Identifying Information

State-to-Federal Conversion or Expansion of Activities

For a state-to-federal license conversion or an expansion in the activities of a federal agency or limited federal branch, complete the "Identifying Information" sections on the previous page, this section, and the sections that follow, as applicable. Also refer to the previous sample cover letters.

G State (*branch, limited branch, agency, commercial lending office*) into a (*federal branch, limited federal branch, or federal agency*).

G Limited federal branch into a federal branch.

G Federal agency into a (*federal branch or limited federal branch*).

Streamlined Submission

Does this application qualify for or has it been approved for streamlined submission?
Yes **G** No **G**

If "yes," include supporting information.

Representative Information

Name _____

Address _____

City _____ State _____ ZIP Code _____

Phone No. _____ Fax No. _____
(*include country code and area code as applicable*)

Statutory and Regulatory Factors

1. Legality *(to be completed by all applicants)*

   a. Do any legal requirements exist that will affect the desired change of status of the office of the foreign bank? Yes **G** No **G**

      If "yes," does this filing comply with state law requirements?
      Yes **G** No **G**

      If the preceding answer is "no," or if approval of this application would be precedential under federal and/or state laws, provide a legal analysis in support of the application.

B. Are there any other legal issues involved with this proposal?
Yes **G** No **G**

If "yes," provide a legal analysis and discuss the legal issue(s) fully.

C. Is notice/application required by any other regulatory authority?
Yes **G** No **G**

If "yes," submit a copy of the notification/application.

2. Business (*to be completed only for state-to-federal license conversions or contraction of activities)*

a. Provide a brief explanation of the reason for the requested change of status.

b. Explain if the proposed change of status will alter the types of business conducted by the U.S. office(s) of the foreign bank. If so, discuss management's strategic plan for its U.S. operation(s).

c. Provide one copy of the daily Statement of Condition of the office of the foreign bank, as of the most recent month-end date.

3. Community Reinvestment Act (CRA) (*to be completed by all applicants)*

Is the converting entity insured by the Federal Deposit Insurance Corporation (FDIC)? Yes **G** No **G**

If "yes," CRA applies and the applicant should discuss how the conversion of the office will affect the provision of banking services to the community. Also include a copy of the most recent CRA rating and public assessment.

General Information

NOTE: Questions with an asterisk (*) need not be answered by applicants converting from a state to a federal license. If the conversion involves an expansion of activities, all questions in this section must be answered.

1.* State the applicant bank's reasons for applying for the proposed federal branch or agency (will it further the development of the applicant's international business, and if so, how).

2.* Describe the expanded type(s) of services and financing that will be offered at the limited federal branch or federal branch, including whether any existing or planned future business will be transferred from another office. If applicable, describe how other offices of the foreign bank, including those in offshore

banking centers, will be managed or controlled through the expanded federal branch.

3. *[The following information may be waived for foreign bank applicants currently supervised by the OCC, if the OCC previously has received this information. If the OCC does not have recent financial information on the foreign bank, this information will be required for a change in status to expand a current limited federal branch or federal agency.]*

   Provide the date the applicant bank's fiscal year ends, and two copies of each of the following financial reports in English and denominated in U.S. dollars:

   - The latest annual report of the foreign bank applicant.

   - Parent only and consolidated balance sheets, showing separately each principal group of assets, liabilities, and capital accounts as of the end of the most recent fiscal quarter and for the comparable quarter of the preceding year. Include information on all contingent liabilities (e.g., standby and commercial letters of credit, guarantees, commitments to grant or purchase loans and securities, and contracts to purchase/sell foreign exchange).

   - Parent only and consolidated profit and loss statements, showing separately each principal source of revenue and expense, year-to-date through the end of the most recent fiscal quarter, the comparable quarter of the preceding year, and for the most recent three fiscal years.

   - On a consolidated basis, a breakdown of risk-based assets as of the end of the most recent fiscal quarter, showing each principal group of on- and off-balance sheet assets and the relevant risk weights. Also, identify the components of tier 1 and tier 2 capital under the risk-based capital guidelines and provide calculations of the applicant's tier 1 and total capital to risk-based assets.

     Since a federal branch or agency is allowed to use the total capital accounts of its parent foreign bank in determining limitations and restrictions, the applicant bank must describe its capital structure in terms that equate to U.S. banking standards. Such information facilitates an assessment of capital adequacy.

     Twelve CFR 3 outlines the accounts the OCC considers as capital. Describe those items on the applicant bank's balance sheet that correspond to the indicated capital accounts in 12 CFR 3, and describe where they are carried currently on the applicant's annual statement of condition.

   - Current information that will enable the OCC to judge the quality of the applicant bank's assets. The information should be presented for the applicant's consolidated organization and, if available, include, but

not be limited to:

— Delinquencies.
— Nonaccrual assets.
— Assets acquired in satisfaction of debts previously contracted.
— Loans with reduced interest charges.

Applicant's definitions of those terms should be provided.

Financial statements may be prepared according to local accounting practices. However, an explanation of the accounting terminology and major features of the accounting standards used to prepare the financial statements must be provided and explained further when they differ from International Accounting Standards. Fiscal financial statements must be certified by an independent and reputable auditing firm.

4. Comment on how and from what sources the proposed federal branch or agency will be funded, and provide the name and address of the state member bank or national bank that will serve as the depository bank for the required capital equivalency deposit (CED) for the proposed federal branch or agency (see 12 CFR 28).

5.* Comment on how the limited federal branch or federal agency will attract sufficient business to ensure financial and economic success.

Corporate Papers and Legal Opinions

6. Attach and make a part of this application copies, in English, of the resolution(s) adopted by the applicant bank's governing board for:

- Authorization for bank officer(s) or agent/representative to file an application for a federal branch, agency, or limited federal branch license or to expand the operations of an existing federal agency or limited federal branch.

- Designation of a representative(s) or bank officer(s), who will be permitted to sign the application and a designation to them of authority to represent the board fully in all matters regarding this application.

- The applicant bank's agreement to conduct its operation in the U.S. in full compliance with any provisions of any U.S. laws that apply to national banks and that prohibit discrimination against any person on the basis of race, color, religion, sex, marital status, age, or national origin.

7. Attach and make a part of this application an opinion of U.S. counsel that the proposal complies with relevant state laws and a letter from the applicant bank's foreign legal counsel certifying that:

   - The applicant bank's charter authorizes the applicant to conduct the business contemplated by the application.

   - The applicant has conducted, and is now conducting, its business as authorized by its charter and bylaws.

   - The filing of this application complies with the local laws of the country in which the applicant is organized and/or operates/conducts its principal business.

8.* For Limited Federal Branches Only. Please attach a notarized copy of the executed agreement between the applicant and the FRB as required by 12 USC 3103 section 5 of the IBA.

9. If automated data processing of any kind is planned for the proposed federal branch or agency, describe the scope and nature of the records that will be automated, the planned location of the data processing facility and equipment, and the name and location of the planned data processing service company.

I hereby certify that senior management of the foreign bank has authorized the filing of this application (certified authorization enclosed), and that to the best of my knowledge, it contains no misrepresentations or omissions of material facts. In addition, I agree to notify the OCC if the facts described in the filing materially change prior to receiving a decision. I acknowledge that any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject me to legal sanctions provided by 18 USC 1001.

Executed this _____ day of _____ , _____ .

_____
Signature of Authorized Officer

_____
Typed Name

_____
Title

Attachments* (Check all that apply):

G Board of directors' authorization to bank representative
G Streamlined submission supporting information
G General information about the applicant bank, such as ownership, corporate structure, and home country supervision
G Biographical information on general manager and other proposed officers
G Consolidated financial reports for foreign bank applicant, in English and U.S. dollars
G A strategic plan, describing how the expanded office will fit into the foreign bank's global and U.S. strategy
G A legal opinion, certifying that the proposal complies with domestic and foreign laws
G Fiduciary powers request
G Filing fee

* No enclosures are required for information that relates to questions in the application that may be omitted in a streamlined submission.

Application Cover Letter (State-to-Federal License)

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Dear Deputy Comptroller:

We request approval to convert our state (commercial lending office/agency/ limited branch/branch) to a federal (agency/limited branch/branch). Our counsel has advised us that the conversion is not in contravention of applicable federal and state laws. A legal opinion is enclosed.

We (are/are not) currently insured by the Federal Deposit Insurance Corporation (FDIC). [**For FDIC- insured offices**] We enclose the most recent CRA public evaluation of the institution.

The proposed name of the institution after conversion will be (complete name of the institution). Our office(s) will be located at (street address, city, county, state, and ZIP Code).

We have enclosed the most recent month-end balance sheet and income statement for the converting office; the most recent audited annual financial statements or annual report (translated into English) of the applicant foreign bank; and a calculation, including the details of the elements of tier 1 and tier 2 capital, and the risk-based capital and leverage ratios for the foreign bank's parent (on a consolidated basis).

[**For banks seeking fiduciary powers**] We request approval to exercise all permissible fiduciary powers. The proposed fiduciary powers are not in contravention of applicable laws (enclose opinion of counsel and cite applicable laws). Our proposed trust officer(s) will be (name). We enclose the required background information on each proposed officer, including educational and professional credentials, and employment history.

Based on our current examination rating, we certify that (we qualify/do not qualify) for expedited review.

We have enclosed a check payable to the Office of the Comptroller of the Currency (OCC) for the application fee in accordance with the current annual "Notice of the Comptroller of the Currency Fees."

I certify that the information contained in this filing has been examined carefully by me and is true, correct, and complete and is current as of the date of this submission. Additionally, I agree to notify the OCC if the facts described in the filing change materially prior to receiving its decision or at any time prior to consummation of the

conversion. I acknowledge that any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject me to legal sanctions provided by 18 USC 1001.

If you have any questions about this filing, please contact (name, address, city, state, ZIP Code) at (telephone and facsimile numbers, including area and/or country code).

Sincerely,

- Signature -

Typed Name and Title
(Should be president or authorized officer)

Enclosures

Application Cover Letter (Expansion of Activities)

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Dear Deputy Comptroller:

We request approval to expand the activities of our [(federal agency to a limited federal branch/ federal branch)/(limited federal branch to a federal branch)]. Our counsel has advised us that the proposed change of status is not in contravention of applicable federal and state laws. **[If a legal opinion is required]** A legal opinion is enclosed.

[For fiduciary powers] We request approval to exercise all permissible fiduciary powers. The proposed fiduciary powers are not in contravention of applicable laws, and we enclose opinion of counsel and cite applicable laws. Our proposed trust officer(s) will be (name). Enclosed is (his/her) background information, including educational and professional credentials, and employment history.

Enclosed is a check payable to the Office of the Comptroller of the Currency (OCC) for the application fee in accordance with the current annual "Notice of the Comptroller of the Currency Fees."

I hereby certify that the bank's board of directors, or a designated official, has authorized the filing of this application and that to the best of my knowledge, the information contained herein is true and complete. A copy of the authorization is attached. In addition, I agree to notify the OCC if the facts described in the filing change materially prior to receiving its decision or at any time prior to consummation of the change of status.

If you have any questions regarding this filing, please contact (name, address, city, state, ZIP Code) at (telephone and facsimile numbers, including area and/or country code).

Sincerely,

- Signature -

Typed Name and Title
(*Should be president or authorized officer*)

Enclosures

Notice of Contraction of Activities

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Dear Deputy Comptroller:

We hereby provide a 10-day advance notice to change the status of our (federal branch/ limited federal branch) to (limited federal branch/federal agency). The license number of our (federal branch/limited federal branch) is (license number). Our legal counsel advised us that the proposed change of status is not in contravention of applicable federal and state laws. A legal opinion is enclosed.

This planned change of status (requires/does not require) approval by the regulatory authorities of our home country. **[For home country approval]** Evidence of home country regulatory approval for this change of status is enclosed/forthcoming.

[For change of status from federal branch to limited federal branches] We include a copy of our agreement with the Federal Reserve Bank concerning the types of deposits the limited federal branch will accept.

I hereby certify that the bank's board of directors, or a designated official, has authorized the filing of this notice and that to the best of my knowledge, the information contained herein is true and complete. A copy of the authorization is attached. In addition, I agree to notify the OCC if the facts described in this notice change materially prior to receiving its decision.

If you have any questions regarding this notice, please contact (name, address, city, state, ZIP Code) at (telephone and facsimile numbers, including area and/or country code).

Sincerely,

- Signature -

Typed Name and Title
(*Should be president or authorized officer*)

Attachment (if applicable)

Prefiling

IBF

1. Refers a foreign bank that requests instructions to the GPP booklet and this section of the "Federal Branches and Agencies" booklet of the manual.

2. If the filing presents policy, legal, or novel issues, contacts the Counselor for International Activities (IA) and/or Bank Organization and Structure (BOS) to discuss processing.

Applicant or IBF

3. Requests an optional prefiling meeting to review procedures for a change of status of a foreign bank office and to discuss the factors that may influence the OCC's review of the application.

IBF

4. Prepares summary memorandum on all prefiling communications. Retains all pertinent information in the pending file.

Filing the Application

Applicant

5. Sends one original and one copy of the application and the appropriate filing fee to IBF.

Review

IBF

6. Enters appropriate information into the corporate tracking system.

7. Establishes the official file to maintain all original documents.

8. Forwards the correct filing fee and the deposit memorandum (Form 6043-01) to the Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. Retains a copy of the check and memorandum.

9. Reviews information received from other U.S. supervisors for any issues or concerns. If no recent information is on hand, contacts the institution's state and federal supervisors by phone or letter, if deemed necessary, to:

   - Obtain their supervisory background and comments.
   - Determine whether the institution is subject to an agreement, other enforcement proceeding, or order.
   - Obtain applicant's most recent three reports of examination.

10. Reviews the application, relevant information about the foreign bank, including its ownership, subsidiaries and financial condition, to determine that the filing contains all information necessary to reach a decision. If the application is incomplete, requests that the information from the representative be provided by a specific due date.

11. If the filing presents policy, legal, or supervisory issues, contacts IA and/or BOS to discuss processing.

12. Determines if the applicant meets the qualification criteria and is eligible for expedited review or streamlined submission.

    - If the applicant is eligible, acknowledges receipt of the filing within five business days.
    - If the applicant is not eligible, prepares and sends a letter to the applicant within five business days of receipt, identifying specific reasons.

13. Within five business days of receipt, solicits comments from the ADC-FBA, IA (if legal issues are identified), and any other OCC divisions, as appropriate. Comments should be submitted within 10 days.

14. Reviews comments received from other OCC divisions and determines whether the applicant is still eligible for expedited review.

    - If so, continues processing.

    - If not, contacts the applicant immediately and notifies it that it is no longer qualified for expedited review. Explains in detail the specific reason(s).

15. Reviews recent examination reports and other supervisory information pertaining to the condition of the converting institution. Determines if an OCC preconversion field investigation is needed, and:

    - If needed, notifies the ADC-FBA to schedule it with the institution (normally within 60 days from date of receipt of the conversion application). Specifies matters to be considered and notifies applicant (see "Procedures | Field Investigation" following this section). Notifies applicant that it no longer qualifies as an eligible bank, if applicable.

    - If not needed, documents file with reason.

16. Analyzes the application and assesses:

    - Financial and managerial resources, proposed management, and future prospects of the foreign bank and their effect on the proposed federal branch or agency.

    - The legality of the proposal.

    - If applicable, whether the foreign bank and its U.S. affiliates comply with applicable U.S. and foreign laws.

    - Whether the foreign bank has furnished to the OCC:

        — The information required to assess the application.

— Adequate assurances that the OCC will have access to necessary information on the operations or activities of the foreign bank or any of its affiliates to determine and enforce compliance with the IBA and other applicable federal banking statutes.

- Information obtained from the entity's current U.S. regulator.

Decision

17. Prepares a confidential memorandum recommending a decision to the delegated official. Drafts the decision letter.

18. Decides application under delegated authority or forwards the official file to BOS for decision. If nondelegated, go to step 24.

19. Notifies applicant and ADC-FBA and any interested parties of decision.

20. Sends the applicant a decision letter and a copy to the ADC-FBA, and:

    - Verifies the accuracy of the spokesperson's name, address, and telephone number and makes any necessary correction in the corporate tracking system for Communications to forward the OCC manuals and publications.

21. If the application is conditionally approved or denied, forwards a copy of the confidential memorandum, decision document, and transmittal letter to the Quality Assurance Coordinator.

22. Makes appropriate entries in the corporate tracking system.

23. If decided under delegated authority, go to step 31.

BOS

24. Makes appropriate entries in the corporate tracking system.

25. Reviews the file and all relevant information, makes a recommendation, and forwards the official file to the appropriate official for decision.

26. Notifies IBF of the decision. IBF notifies the ADC-FBA and the applicant foreign bank of the decision.

27. Sends the applicant a decision letter and a copy to the ADC-FBA, and:

    - Verifies the accuracy of the spokesperson's name, address, and telephone number and makes any necessary correction in the corporate tracking system for Communications to forward the OCC manuals and publications.

28. If the application is denied or approved conditionally, forwards a copy of the confidential memorandum, decision document, and transmittal letter to the Quality Assurance Coordinator.

29. Makes appropriate entries in the corporate tracking system.

30. For approved and conditionally approved filings, returns the official file to IBF for additional processing. Go to step 32.

31. If denied, go to step 37.

Authorization

IBF

32. Reviews the official file and determines that all requirements have been met or conditions imposed in the decision document have been satisfied.

33. Notifies the applicant by telephone of any outstanding issues.

34. Prepares and mails an official authorization of the change of status to the applicant together with the appropriate License Certificate. Retains a copy in the official file.

35. Notifies the ADC-FBA.

36. Makes appropriate entries in the corporate tracking system.

Close Out

IBF

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

Prefiling Meeting

IBF

1. Refers a foreign bank that requests instructions to this section of the "Federal Branches and Agencies" booklet of the manual.

Applicant

2. Determines whether a prefiling meeting is needed to discuss filing procedures.

IBF

3. Conducts the prefiling meeting.

Filing the Application

Applicant

4. Submits one original and one copy of the application and the appropriate filing fee(s) to IBF.

Review

IBF

5. Initiates and enters required information into the corporate tracking system.

6. Establishes the official file to maintain all original documents relating to the application.

7. Forwards the filing fee with a deposit memorandum (OCC Form 6043-01) to the Comptroller of the Currency, P.O. Box 73150, Chicago, IL 60673-7150. Retains a copy of the check and memorandum in the official file.

8. Reviews the application to determine that the filing contains all of the information necessary to reach a decision. If the application is

incomplete, requests that the information from the representative be provided by a specific due date.

9. Once the application is deemed complete, prepares and sends a letter to the applicant bank advising that the OCC deems the application complete.

10. If the proposal raises legal or other issues, solicits comments from IA and/or other OCC divisions, as deemed appropriate, and requests that comments be provided within 10 business days.

11. Sends notice of the application and a request for comments to the applicant's home country supervisor. Requests that the supervisor share any supervisory concerns they may have about the foreign bank's proposal to expand its activities in the U.S.

12. Forwards a copy of the application to the ADC-FBA and requests that comments be provided within 10 days. Of specific interest is the ADC-FBA's comments on potential supervisory issues.

13. Initiates background checks if additional management is being proposed to oversee the expanded activities and IBF deems it appropriate (see "Background Investigations" booklet).

14. Analyzes the application and assesses:

    - Financial and managerial resources, proposed management, and future prospects of the foreign bank and its effect on the proposed limited federal branch or federal branch.

    - The legality of the proposal.

    - If applicable, whether the foreign bank and its U.S. affiliates comply with applicable U.S. and foreign laws.

    - Whether the foreign bank has furnished to the OCC:

        — The information required to assess the application.

        — Adequate assurances that the OCC will have access to necessary information on the operations or activities of the foreign bank or any of its affiliates to determine and enforce compliance with the IBA and other applicable federal banking statutes.

- The extent of regulatory supervision by the home country supervisor, i.e., whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor, or the home country supervisor is actively working to establish such supervisory approach.

- Whether the home country has or is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.

- The recommendation and/or consent of the home country supervisor, if applicable.

Decision

15. Contacts the FRB to discuss any issues on the expansion of activities application filed with them by the foreign bank.

16. Prepares a confidential memorandum and decision letter recommending a decision to the delegated official.

17. Decides the application under delegated authority or forwards the official file to BOS for decision. If referred to BOS, go to step 21.

18. Notifies the ADC-FBA and applicant of the decision. Sends a copy of the decision letter to the ADC-FBA and FRB.

19. Makes appropriate entries in the corporate tracking system.

20. Forwards to the ADC-FBA a copy of the confidential memorandum, updated corporate tracking system comments, and any additional material highlighting supervisory or licensing concerns. Go to step 28 to continue processing.

BOS

21. Makes appropriate entries in the corporate tracking system.

22. Reviews the file and all relevant information; solicits comments from other OCC divisions, as appropriate; makes a recommendation; and forwards the official file to the appropriate official for decision.

23. Notifies IBF of the decision.

    If the application is denied or conditionally approved, forwards the decision document, and transmittal letter to the Quality Assurance Coordinator.

24. Makes appropriate entries in the corporate tracking system and returns the official file to IBF.

IBF

25. If approved or conditionally approved, notifies the ADC-FBA, the foreign bank's representative, and the FRB by phone and letter of the decision.

26. Forwards to the ADC-FBA a copy of the confidential memorandum, decision letter (including any attachments), updated corporate tracking system comments, and any additional material highlighting supervisory or licensing concerns.

27. If denied, makes appropriate entries in the corporate tracking system and reviews the file for completeness.

Close Out

IBF

28. Forwards application file to Central Records (CR).

Assignment and Preplanning

IBF

1. Requests the ADC-FBA to assign a national bank examiner (NBE) for the field investigation.

2. Provides a Field Investigation Request (request) to the NBE along with relevant materials; i.e., proposed license number, copies of the application and any amendments, biographical information, and any information on areas that IBF considers to warrant particular attention.

NBE

3. Calls the spokesperson to schedule the investigation (normally completed within 60 days from date of receipt of the conversion application).

4. Notifies the ADC-FBA and IBF of the start date and determines the date for submission of the completed report.

5. Prior to conducting the investigation:

   - Reviews the conversion application and any other information forwarded with the request.

   - Schedules necessary interviews.

   - Reviews any special instructions in the request.

Onsite Review

6. Performs the preconversion field investigation.

7. Determines the institution's condition based on judgments that:

   - Management ensures compliance with applicable federal and state banking laws, rulings, and regulations.

- Management exhibits strategic planning skills that reflect a reasonable prospect for the successful operation of the proposed federal branch or agency.

- Management's soundness based on the condition of the institution and on management's ability to recognize and correct problems.

- If the institution is FDIC-insured, its record of CRA performance is at least satisfactory or not otherwise problematic.

- The operations of the institution reflect sound credit skills and funds management.

- The institution's compliance with national banking laws, regulations, and rulings will be satisfactory.

8. Schedules a meeting with management (this may include management from the foreign bank's home country) at the conclusion of the visit to inform it of the findings.

9. Discusses results of the investigation, highlighting the deficiencies, recommendations, and suggestions with senior management. Requests that management respond to major criticisms or take corrective action prior to consummating the conversion. (The institution's response should be submitted to IBF.)

10. Assigns preliminary ROCA ratings and, if applicable, a CRA assessment.

    - Preliminary ratings are not disclosed to management. The composite rating will be disclosed in the preconversion field investigation report.

    - If the preconversion field investigation reveals concerns, the OCC may request additional information or clarification from the converting institution.

11. Does not inform anyone outside of the OCC of the contents of the investigation report.

Report Preparation

12. Prepares billing information in accordance with 12 CFR 8.6.

13. Prepares a recommendation on the conversion and forwards the written report in memorandum format and the field investigation billing information to IBF, and:

    - Briefly summarizes findings and conclusions and specifically addresses any problems or area(s) of concern.

    - Retains the conversion application information, all investigation work papers, and a copy of the written report.

14. Enters into SMS a background profile of the bank. (SMS may be accessed by the branch's proposed license number; however, the branch will still be inactive at this time.)

Filing the Notice

Foreign Bank

1. Submits one original notification letter to IBF requesting a change of status through the contraction of activities.

Review

IBF

2. Initiates and enters required information into the corporate tracking system.

3. Establishes the official file to maintain all original documents relating to the notice.

4. Reviews the notice and determines that a legal opinion from the foreign bank's counsel is included together with, if applicable, evidence of home country regulatory approvals.

   - If information is missing, contacts the foreign bank.

   - If contracting to a limited federal branch, determines if the foreign bank needs an agreement with the FRB.

   - If a change of status of an insured branch, determines that any requirements of the FDIC are satisfied.

5. Advises the ADC-FBA of the notification.

6. Sends an acknowledgment letter to the foreign bank (and a copy to the ADC-FBA), advising that at the next onsite examination, the OCC will verify that the operations of the limited federal branch or federal agency conform to the requested type of license.

Close Out

IBF

7. Forwards file to Central Records.

The policies and procedures in this section apply to foreign banks seeking to change the physical location of their federal branch or agency. Users of this booklet also should refer to the Overview section for references to other relevant booklets.

Applicability

A foreign bank planning to relocate its federal branch or agency must file an application with and receive prior approval from the OCC.

Key Policies

General

A proposal to relocate generally does not require a prefiling meeting, unless it involves a relocation from one state to another (”interstate relocation”). An application to relocate within a state (”intrastate relocation”) is filed, processed, decided, and effected within a relatively short period of time, if the foreign bank qualifies for expedited review as described under the Summary of Process subsection. The OCC decides applications for relocations by federal branches or agencies in accordance with the provisions of pertinent federal and state law.

Decision Criteria

The OCC will decide a relocation based on:

- Submission of required information to allow the OCC to assess the application adequately.
- Any supervisory issues in connection with the federal branch or agency or with the relocation.

For an interstate relocation, the applicant must comply with all understandings and commitments contained in any Approval Order issued by the FRB.

Standard Requirements

If the OCC approves a relocation request, the federal branch or agency must relocate within 18 months from the approval date, or the approval automatically terminates, unless the OCC grants an extension. The foreign bank should advise the OCC promptly of any changes to the original application between the time of the OCC's decision and the relocation.

Special Conditions

The OCC may impose special conditions on its approval to protect the safety and soundness of the federal branch or agency; prevent the risk of conflict of interest; assure compliance with applicable laws; or for other supervisory, compliance, or policy considerations.

Summary of Process

The foreign bank applicant submits an application to the OCC and publishes, on the date the application is filed or as soon as practical before or after the date of filing, a public notice containing specific information on the relocation application. The OCC reviews each application for compliance with applicable laws and regulations and considers any comments received within the comment period.

Expedited Review

Expedited review is available for an eligible foreign bank proposing an intrastate relocation. Under expedited review, an application for an intrastate relocation is deemed approved on the seventh day after the close of the public comment period, unless the OCC:

- Notifies the applicant prior to that time that the filing is not eligible for expedited treatment.
- Approves, conditionally approves, or denies the application.
- Advises the applicant that the filing presents significant policy, legal, or supervisory issues and is being removed from expedited review. (See 12 CFR 5.13 and the "Public Involvement" booklet of the manual for additional information on reasons for application removal from expedited review.)

The OCC notifies an applicant promptly whenever it decides to remove an application from expedited review and provides a written explanation of the reasons for that decision. When an application is removed from expedited review as a result of information obtained from a public comment, the OCC will also inform the commenter.

The expedited review process is not available for interstate relocations.

Short Distance Relocations

A federal branch or agency relocating within the distance parameters outlined in the Definitions section of this booklet for a "short-distance" relocation generally will receive expedited review and a shortened publication period. The OCC decides short-distance relocations within seven days of the close of the public comment period.

Standard Review

After the close of the public comment period, the OCC considers all appropriate information and makes a decision to approve, conditionally approve, or deny the application. A standard review means that the federal branch or agency must receive a written decision from the OCC, and the application will not be approved automatically through the passage of time.

Specific Requirements

General Publication Requirements

As required by 12 CFR 5.8, each foreign bank that proposes to relocate a federal branch or agency must publish notice of the application in a newspaper of general circulation in the community in which the applicant proposes to engage in business on the date of filing or as soon as practicable before or after the filing date. The comment period is 15 days for short-distance relocations and 30 days for all other relocation applications. (See the sample Public Notice in the Documents section of this booklet.)

The applicant must mail or otherwise deliver to IBF promptly after publication a statement containing the date of publication, the name and address of the newspaper that published the public notice, a copy of the public notice, and any other information that the OCC requires.

State Law Considerations

The relocation must comply with applicable state laws, as determined by the OCC. When a foreign bank proposes to relocate a federal branch or agency

outside its current designated home state, the applicant foreign bank should contact IBF at (202) 874-4730 for specific guidance.

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

The applicant foreign bank must consider the implications of the NHPA and NEPA in its relocation of its federal branch or agency and certify whether the proposal will affect a historic district, site, building, structure, or object or the quality of the human environment. The OCC considers historical preservation and environmental factors in deciding relocation requests for a federal branch or agency. (For a discussion of the NHPA/NEPA requirements, see the GPP booklet.)

Federal Branch and Agency Relocation Application

For OCC Use Only

Control No._____
Date Received_____
Filing Fee Amount_____
Date Receipt_____
Acknowledged_____

Foreign Bank Identifying Information

Foreign Bank Name _____
(*exact corporate title of bank*)

Address _____
(*headquarters office address of foreign bank, city, state, country)*

_____

_____

_____

Federal Branch or Agency Identifying Information

OCC License No. _____ A fee of $_____ is enclosed.

Present Location_____
(*street address of federal branch, city, county, state, ZIP Code*)

Proposed Location _____
(*street address of federal branch, city, county, state, ZIP Code*)

Desired Relocation Date _____

Application Identifying Information

Application is hereby made for permission to relocate a federal branch or agency (*within the same state/to another state*).

Does the proposed relocation meet the distance criteria to qualify for a ”short-distance” relocation pursuant to 12 CFR 5.3(l)? Yes **G** No **G**

Distance between present and proposed locations _____ (*in feet or miles*)

Does this application qualify for or has it been approved for expedited review?
Yes **G** No **G**

Representative Information

Name _____

Address _____

City _____ State _____ ZIP Code _____

Phone No. _____ Fax No. _____
(*include country code and area code as applicable*)

Publication Information

Public notice is being published in _____
(*name and address of newspaper*)
on _____ , _____ .

A copy and certification of publication **G** is enclosed **G** will be forwarded.

Requests for additional Information or other communications about this proposal should be directed to:

(Name) (Title)

(Mailing Address) (Telephone Number)

Statutory and Regulatory Factors

1. Legality

a. Do any federal and state legal requirements exist that will affect the planned relocation?
Yes **G** No **G**

If "yes," does this filing comply with state law requirements?
Yes **G** No **G**

If the preceding answer is "no," or if approval of this application would be precedential under federal and/or state laws, list applicable law citations and provide a legal analysis from counsel in support of the application.

b. Are there any other legal issues involved with this proposal?
Yes **G** No **G**

If "yes," provide a legal analysis and fully discuss the legal issue(s).

c. Is notice/application required by any other regulatory authority?
Yes **G** No **G**

If "yes," submit a copy of the notification/application.

2. Business

a. Will the relocation alter the types of business conducted by the federal branch or agency? Yes **G** No **G**

If "yes," discuss management's strategic plan for the relocated federal branch or agency.

3. Community Reinvestment Act (CRA)

Is the federal branch insured by the Federal Deposit Insurance Corporation (FDIC)? Yes **G** No **G**

If "yes," CRA applies and the applicant should discuss how the relocation will affect the assessment areas and the provision of banking services to the community.

4. Environment

Will the proposed action affect significantly the quality of the human environment, (e.g., air quality, water quality, noise levels, energy consumption, congestion of population, solid waste disposal, or environmental integrity of private land) within the meaning of the National Environmental Policy Act (NEPA), 42 USC 4321, *et seq*.?
Yes **G** No **G**

If "yes," discuss plans to comply with NEPA's requirements.

5. Historic Properties

Does the proposed relocation affect any district, site, building or structure listed in, or eligible for listing in, the *National Register of Historic Places* (National Register), pursuant to the National Historic Preservation Act (NHPA), 16 USC 470? Yes **G** No **G**

If "yes," has the State Historic Preservation Office (SHPO) communicated its determination of the effects of the relocation? Yes **G** No **G**

If "yes," please provide a copy of the letter. If "no," discuss the status.

Desired Action Date

I/we desire OCC action on this application no later than (date). I hereby certify that senior management of the foreign bank has authorized the filing of this application (certified authorization enclosed), and that to the best of my knowledge, it contains no misrepresentations or omissions of material fact. In addition, I agree to notify the OCC if the facts described in the filing materially change prior to receiving a decision.

_____
Signature of Authorized Officer

_____
Typed Name

_____
Title

_____
Date

Enclosures: (As applicable)

G Filing fee
G Proof of publication
G Legal opinion
G Other regulatory applications/notices
G Reason for relocation
G CRA discussion
G SHPO letter

Sample Public Notice

The following language may be used to meet the publication requirements:

Notification is hereby given that (name of foreign bank and complete address of headquarters) has filed an application with the Office of the Comptroller of the Currency on (date), for permission to change the location of its (federal branch or agency) from (present address) to (proposed address).

Any person wishing to comment on this application may file comments in writing with the Deputy Comptroller, International Banking and Finance, 250 E St., SW, Washington, DC 20219 within (15 days for short-distance relocations/30 days for all others) of the date of this publication. The public portions of the application are available in International Banking and Finance for public inspection during regular business hours.

Cover Letter for a Relocation Application

Date

Deputy Comptroller
International Banking and Finance
Comptroller of the Currency
250 E Street, SW
Washington, D.C. 20219

Dear Deputy Comptroller:

We request approval to relocate our (federal branch/limited federal branch/federal agency), license number _____, from (current location) to (proposed location). Our counsel has advised us that the relocation is not in contravention of applicable federal or state laws. **[If required]** A legal opinion is enclosed.

Legal notice of this application (is being/has been) published. A copy of the notice and newspaper certification (will be forwarded/is enclosed).

Enclosed is the relocation application and a check payable to the Office of the Comptroller of the Currency for the required application fee. Please contact (representative's name) at the address and telephone number listed in the application, if you have any questions about the enclosed application.

Sincerely,

_____
(Signature)

_____
(Typed name of foreign bank representative)

_____
(Typed title of foreign bank representative)

Enclosures

Notice of Effective Date for Relocation

Date

Deputy Comptroller
International Banking and Finance
Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Re: Effective Date for Relocation of (name of federal branch or agency)
Control No. _____

Dear Deputy Comptroller:

As required in your approval letter dated _____, this is to inform you that (name of federal branch or agency) will relocate from (address of present location) to (address of approved location) effective (date).

Please issue the appropriate relocation authorization document(s). If you have any questions, please contact (name and telephone number).

Sincerely,

Signature

Name and Title

Prefiling

IBF

1. Refers an applicant foreign bank that requests instructions to this section of the ”Federal Branches and Agencies” booklet.

Applicant or IBF

2. Requests a prefiling meeting to review procedures for relocations of federal branches and agencies and factors that may influence the OCC’s review of the application. If an interstate relocation proposal, advises applicant that an application also must be made to the FRB.

IBF

3. If any prefiling discussions or meetings reveal significant policy, legal, or supervisory issues, immediately contacts the Counselor for International Activities (IA) and/or Bank Organization and Structure (BOS) to discuss processing.

4. Prepares memoranda on all prefiling discussions. Retains memoranda and other information in a pending file.

Filing the Application and Publication

Applicant

5. Submits by hand, or by mail, return receipt requested, one original and one copy of a letter with an application and the appropriate filing fee to IBF requesting permission to relocate (see Sample Cover Letter and Application to Relocate — Documents). Makes check payable to the Comptroller of the Currency. Filing fees are not refundable.

6. Publishes a notice as soon as practicable before or after the date of filing. (See sample Public Notice in the Documents section.)

Review

IBF

7. Enters appropriate information into the corporate tracking system.

8. Establishes the official file to maintain all original documents.

9. Forwards the filing fee and the deposit memorandum (Form 6043-01) to the Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. Retains a copy of the check and memorandum in the official file. Contacts the applicant if the filing fee is not received or is incorrect.

10. Reviews the application to determine that the filing contains all information necessary to reach a decision. If the application is for an interstate relocation, determines that the applicant also files with the FRB. If the application is incomplete, requests that the information from the representative be provided by a specific due date.

11. Determines if the federal branch or agency meets the qualification criteria and is "eligible" for expedited review per 12 CFR 5.3(g), and:

    - If not eligible, prepares and sends a letter to the applicant providing notice of standard processing within five business days of receipt of the application. The letter must include the explanation of the reasons for that decision. Includes the control number and OCC contact person.

    - If eligible, acknowledges filing within five business days of receipt. Includes the control number and OCC contact person.

12. If the filing presents significant policy, legal, or supervisory issues, contacts IA and/or BOS to discuss processing.

13. Within five business days of receipt:

    - Notifies the Assistant Deputy Comptroller for Federal Branches and Agencies (ADC-FBA) of the filing. Requests that comments from the ADC-FBA be submitted within 15 days (or five business days of a short distance relocation that qualifies for expedited review).

    - If a legal issue has been identified or a legal opinion was submitted with the filing, forwards relevant materials to IA with

comments due within 15 calendar days (or five business days of a short distance relocation that qualifies for expedited review).

- Solicits comments from other OCC divisions, as appropriate, with responses due within 15 days (or five business days of a short distance relocation that qualifies for expedited review).

- Contacts BOS if the proposal will:

  — Affect significantly the quality of the human environment.

  — Affect any district, site, building or structure listed in, or eligible for listing in the National Register of Historic Places (see GPP for NEPA/NHPA related processing).

- If issues are raised, informs the applicant immediately in writing that it is no longer qualified for expedited review and identifies the specific reason(s). Updates the corporate tracking system and the file as appropriate.

Public Comments and Hearings

14. If a copy of the application is requested, public comments filed, or a hearing requested, refers to the "Public Involvement" booklet. Public comments should be forwarded to appropriate units for evaluation and advice. If an adverse CRA comment is received, notifies BOS promptly. Proceeds as appropriate.

Decision

15. After the close of the public comment period:

    - For a federal branch or agency eligible for expedited review, before expiration of the processing period, verifies that there are no reasons for disqualification from expedited review, and:

      — If the applicant remains qualified, proceeds to the next step.

      — If the applicant is disqualified, immediately notifies the applicant that it no longer qualifies for expedited review, identifies the specific reason(s), and requests any necessary information from the applicant, specifying a response date.

16. Prepares a confidential memorandum and decision letter and forwards them to the delegated official.

17. Decides the application under delegated authority or forwards the official file to BOS for decision. If non-delegated, go to step 23.

18. Notifies the ADC-FBA and the applicant of the decision. Notifies interested parties, if applicable.

19. Sends the applicant a decision letter and copies the ADC-FBA.

20. If the application is conditionally approved or denied, forwards a copy of the confidential memorandum, decision document, and transmittal letter to the Quality Assurance Coordinator.

21. Makes appropriate entries in the corporate tracking system.

22. If the application is denied, go to step 36. Otherwise, go to step 31.

BOS

23. Makes appropriate entries in the corporate tracking system.

24. Reviews the file and all relevant information; solicits comments from other OCC divisions, as appropriate; makes a recommendation; and forwards the official file to the appropriate official for decision.

25. Notifies IBF of the decision.

26. If the application is conditionally approved or denied, forwards a copy of the confidential memorandum, decision document, and transmittal letter to the Quality Assurance Coordinator.

27. Makes appropriate entries in the corporate tracking system.

28. Returns the official file to IBF.

IBF

29. IBF notifies the ADC-FBA and the applicant of the decision. Sends the applicant a decision letter and copies the ADC-FBA. Notifies interested parties, if applicable.

30. For approved and conditionally approved filings, go to the next step. If denied, go to step 36.

Applicant

31. Notifies IBF of the desired relocation date at least 10 days prior to the planned effective date.

Authorizations

IBF

32. Reviews the official file and determines that all required actions have been completed.

33. Notifies the federal branch or agency by telephone of any remaining issues.

34. Prepares and mails an official authorization letter to the federal branch or agency on the planned relocation date. Retains a copy in the official file and forwards a copy to the ADC-FBA.

Close Out

IBF

35. Makes appropriate entries in the corporate tracking system.

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

This section addresses policies and procedures applicable to a foreign bank interested in exercising fiduciary (trust) powers through its federal branch. Federal agencies are not permitted by law to exercise fiduciary powers. Also discussed in this section is the revocation of fiduciary powers by the OCC and procedures for a federal branch to surrender them voluntarily. Users also should refer to other sections in this booklet for additional information as applicable and to the Fiduciary Powers booklet of the *Comptroller's Corporate Manual*.

Applicability

The OCC requires foreign banks that operate a federal branch to seek prior approval to offer fiduciary services to the public. A state branch of a foreign bank seeking to convert to a federal branch must request and obtain prior OCC approval to exercise fiduciary powers regardless of whether it currently exercises them. Additionally, a foreign bank that acquires a federal branch or agency that does not currently exercise fiduciary powers, directly or indirectly, or through merger, consolidation, or similar transaction, needs prior OCC approval if it desires to exercise fiduciary powers.

Key Policies

General

A federal branch may apply for fiduciary powers in conjunction with an establishment application or at any time after opening for business.

The OCC views the exercise of fiduciary powers primarily as a business decision of the foreign bank. The OCC generally grants permission to exercise fiduciary powers to federal branches operating in a satisfactory manner, provided:

- The proposed activities comply with applicable statutes and regulations, including federal law (12 USC 92a) and state and local statutes and regulations.
- The federal branch provides for and retains qualified fiduciary management.

The OCC requires that federal branches licensed for less than two years submit information discussing how the fiduciary powers will complement the bank's strategy as submitted at the time the federal license was granted. The OCC may request additional information depending upon the condition of the federal branch.

Decision Criteria

When deciding whether to approve, conditionally approve, or deny an application for fiduciary powers, the OCC considers:

- The condition of the foreign bank.
- The condition of the federal branch and its history of compliance with U.S. laws, if applicable.
- The character and ability of proposed fiduciary management, including qualifications, experience, and competency.
- The needs of the community to be served (see 12 USC 92a(l)).
- The adequacy of the proposed "operating plan."

The OCC may deny a request for fiduciary powers, if federal branch activities do not comply with applicable state and federal laws (12 USC 92a and 12 CFR 9), or if the federal branch does not provide for and retain qualified fiduciary management.

Summary of Process

A foreign bank submits an application for fiduciary powers in letter form to IBF, providing specific information and the appropriate filing fee (see Documents — Application Letter). If the request is part of an initial or additional federal branch or agency application or a conversion filing, no separate fee for trust powers should be included. The OCC sends an acknowledgment letter within five business days from receipt of the application and will notify the foreign bank in writing of its decision.

Expedited Review

If the foreign bank is eligible and the filing qualifies for expedited review, the application will be reviewed to ensure that all information has been submitted, and there are no new or novel policy issues. (See "eligible foreign bank" in the

Definitions section of this booklet.) The OCC will notify an eligible foreign bank of the OCC's decision within 30 days of receipt of the application. If the applicant does not receive a decision within that time period and is not otherwise notified that the processing time has been extended, approval is granted automatically 30 days after the date the OCC receives an application. A foreign bank ineligible for expedited review may not exercise fiduciary powers until notified by the OCC in writing.

Timing of Decision

Generally, a fiduciary powers request that is filed with an application to open an initial or additional federal branch will be decided at the same time as the federal branch application. However, a fiduciary powers permit will not be issued until the federal branch opens for business. The federal branch may exercise trust powers once it receives the permit.

Commencement of Activity

The federal branch must begin exercising fiduciary powers within 18 months of approval. It must request and receive OCC approval for any changes it wishes to make in the proposed trust management before commencing its fiduciary business.

Surrender or Revocation of Fiduciary Powers

Surrender

A foreign bank may discontinue and surrender voluntarily the fiduciary powers of its federal branch. To do so, it must notify and file with IBF a certified copy of a resolution adopted by its senior bank management to surrender trust powers. It also must return any trust permit previously issued.

The branch or agency may be classified either as inactive, or it may surrender its fiduciary powers altogether. In either case, the board of directors must arrange for a final audit of the fiduciary accounts. In addition, the OCC may conduct a closing investigation to determine if the bank has been discharged completely from its fiduciary obligations (i.e., all accounts have been properly closed and distributed or transferred to substitute fiduciaries). The appropriate supervisory office will decide whether to conduct a closing investigation.

After the OCC is assured that the federal branch is relieved of all fiduciary duties pursuant to state law and the Trust Permit has been returned, the OCC will issue to the foreign bank a notice certifying that the federal branch is no

longer authorized to exercise fiduciary powers. (See also the Voluntary Liquidation section of this booklet.)

Revocation

Pursuant to U.S. laws and regulations, the OCC may serve a foreign bank with a notice of its intent to revoke the authority of the federal branch to exercise the fiduciary powers. When such powers are revoked, the federal branch must surrender the Trust Permit previously issued by the OCC.

Application Letter—Fiduciary Powers

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Re: Fiduciary Powers Application, Federal Branch License No. _____

Dear Deputy Comptroller:

We request approval to exercise (all permissible fiduciary powers or the following limited fiduciary powers) **[If appropriate, list fiduciary powers requested].**

The fiduciary powers we propose to exercise are not in contravention of applicable state and local laws, and we enclose an opinion of counsel listing the applicable laws and attesting to this fact. The trust activities will be conducted at the office of the federal branch located at (address).

The foreign bank's capital and surplus are not less than that required by state law of state banks, trust companies, and other corporations exercising fiduciary powers.

Biographical information on the proposed fiduciary management, including educational and professional credentials, and previous five-year employment history, is enclosed. This information describes the proposed management's fiduciary experience and includes a discussion of the proposed activities and why proposed management is able to manage them.

[For federal branches that have been licensed less than two years] We enclose the bank's operating plan for our U.S. operations.

I certify that senior management of the foreign bank has authorized the filing of this application, and that the information contained in this filing has been examined carefully by me and is true, correct, and complete and is current as of the date of this submission. Additionally, I agree to notify the OCC if the facts described in the filing change materially prior to the bank receiving a decision or at any time prior to commencement of the activity. I acknowledge that any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject me to legal sanctions as provided by 18 USC 1001.

We enclose a check for (amount) payable to the Comptroller of the Currency in accordance with the current annual Notice of the Comptroller of the Currency Fees.

We desire OCC action on this application no later than (date).

If you have questions, please contact (name, address, city, state, ZIP Code) at (telephone and facsimile numbers, including area code).

Sincerely,

—Signature—

Name and Title

Enclosures

Fiduciary Operating Plan—Instructions

(*To be submitted by federal branches licensed less than two years or as required by the OCC.*) Submit a copy of the projected operating plan or feasibility study prepared to support the establishment of the proposed fiduciary operation. The plan, at a minimum, should address sufficiently the following considerations.

1. Discuss the applicant bank's plans for fiduciary activities at the federal branch and how they relate to the bank's overall U.S. strategy.

2. Identify the proposed primary market area by:

   - Demonstrating the need for fiduciary services in the proposed market area and the degree to which business may be drawn from outside this area.

   - Specifying the types of fiduciary services to be offered and the fees to be charged for each service.

3. Identify the institutions offering fiduciary services in the same market area and their competitive role, including their relative size and market share of fiduciary business. The applicant should describe in what way it intends to draw from those institutions or otherwise establish its fiduciary customer base.

4. Provide an estimate of the number of fiduciary accounts and the projected volume of assets under management for the first three years of operation.

5. Provide a resume or work experience chronology of the proposed trust officer(s).

6. Discuss any additional factors that the applicant considers may be relevant to OCC's decision.

Notice of Commencement of Fiduciary Activities

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Re: Fiduciary Powers Request, Control Number _____

Dear Deputy Comptroller:

Per the (approval/conditional approval) granted to us on (date), we commenced fiduciary activities on (date). This information is provided to complete your records.

Sincerely,

—Signature—

Name and Title

Senior Management Resolution on Surrender of Fiduciary Powers

Senior management of (name of foreign bank and country), operating federal branch license (number), located at (street address, city, state) on (date):

RESOLVED, that (name of federal branch) will surrender on (planned effective date) the fiduciary powers granted by the Office of the Comptroller of the Currency (OCC).

Please find enclosed the Trust Powers Permit issued by the OCC.

_____
Name and Title
(Representative of senior management
of the foreign bank)

Enclosure

Filing the Application

IBF

1. Refers a foreign bank that requests instructions to this section of the "Federal Branches and Agencies" booklet of the manual.

Applicant

2. Submits to IBF an application requesting permission to exercise fiduciary powers (see Application Letter— Fiduciary Powers in the Documents section).

   An expedited application must contain:

   - **G** A statement requesting full or limited powers. (Limited powers must be specified.)
   - **G** The location(s) in which the services will be offered.
   - **G** A statement that the capital and surplus of the foreign bank are not less than that required by state law for state banks, trust companies, and other corporations chartered by that state that exercise comparable fiduciary powers.
   - **G** Sufficient biographical information on the proposed trust management personnel, including educational and professional credentials and a five-year employment history, emphasizing their trust experience and discussing their ability to perform the proposed activities.
   - **G** The prescribed filing fee. Makes check payable to the Comptroller of the Currency. Filing fees are not refundable. (See OCC Bulletin Notice of the Comptroller of the Currency Fees).

For a standard application, the following additional items are required:

- **G** An opinion of the bank's counsel that the proposed fiduciary activities do not violate applicable law, including citations.

- **G** (For branches licensed less than two years) An operating plan for the trust department that contains, at a minimum, number of accounts, projected volume of assets under management, services, and target market (see Documents section in this booklet).

Review

IBF

3. Enters appropriate information into the corporate tracking system.

4. Establishes an official file to maintain all original documents.

5 . Forwards the filing fee and the deposit memorandum (Form 6043-01) to the Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. Retains a copy of the check and memorandum in the official file.

6. Within five business days, sends an acknowledgment letter (if applicable) and reviews the application and any other relevant information about the foreign bank.

7. Determines if the federal branch meets the qualification criteria and is eligible for expedited review per 12 CFR 5.3(g), and:

   - If not eligible, prepares and sends a letter to the applicant, providing notice of standard processing within five business days of receipt of the application. Includes the control number and OCC contact person.

   - If eligible, acknowledges filing within five business days of receipt. Includes the control number and OCC contact person.

8. Also, within five business days, solicits comments from the ADC-FBA and other OCC divisions, as appropriate. Preliminary comments should be submitted to IBF within 15 days from the request.

9. Requests clarification or additional information from the applicant, as necessary, and prepares the Expedited Review Form or confidential memorandum.

Decision

10. For expedited review, submits completed Expedited Review Form and a decision letter to the appropriate delegated official for decision.

    For standard review, prepares and forwards a confidential memorandum and decision letter recommending a decision to the delegated official.

11. Decides application under delegated authority or forwards the official file to the BOS for decision. If nondelegated, go to step 16.

12. Notifies the ADC-FBA and applicant of the decision and sends a decision letter.

13. If the application is denied or conditionally approved, forwards a copy of the Expedited Review Form and decision letter, or confidential memorandum, decision document, and transmittal letter to the Quality Assurance Coordinator.

14. Makes appropriate entries in the corporate tracking system.

15. If denied, go to step 26. Otherwise, go to step 24.

BOS

16. Makes appropriate entries in the corporate tracking system.

17. Reviews the file and all relevant information, makes a recommendation, and forwards the official file to the appropriate delegated official for decision.

18. Notifies IBF of the decision.

19. If the application is denied or conditionally approved, forwards a copy of the confidential memorandum, decision document, and transmittal letter to the Quality Assurance Coordinator.

20. Makes appropriate entries in the corporate tracking system.

21. Returns the official file to IBF.

IBF

22. Notifies the ADC-FBA and the applicant of the decision. Sends letter to both.

23. If denied, go to step 26.

Applicant

24. Notifies the OCC within 10 days following the commencement of fiduciary activities.

Close Out

IBF

25. Makes appropriate entries in the corporate tracking system to indicate that fiduciary powers are effective.

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

Submission

Applicant

1. Arranges for a final audit of the fiduciary account.
2. Submits to IBF a certified copy of a resolution adopted by senior management of the foreign bank, stating its decision to surrender the fiduciary powers of the federal branch.
3. Returns to IBF the OCC's original Trust Powers Permit.

Review

IBF

4. After ensuring that the federal branch is relieved of all fiduciary duties, issues a notice certifying that the federal branch is no longer authorized to exercise fiduciary powers.
5. Makes appropriate entries in the corporate tracking system to indicate that trust powers are no longer authorized.
6. Notifies the ADC-FBA.

Close Out

IBF

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

This section should be used together with other sections in this booklet and other booklets of the manual as referenced in the Overview section. Users should also refer to the Acquisitions section in this booklet if the liquidation occurs in connection with an acquisition by merger, consolidation, or other similar transaction of federal branch or agency operations in the U.S.

Background

The policies and procedures discussed in this section address the voluntary liquidation of a federal branch or agency. A voluntary liquidation occurs when the senior management of the foreign bank decides to discontinue operations of the federal branch or agency and proceeds with a plan of liquidation to terminate the affairs of the foreign bank office.

Applicability

A federal branch or agency that proposes to close its operations and to liquidate voluntarily must comply with the requirements in 12 CFR 28.22, 12 CFR 5.48, and the *Comptroller's Corporate Manual*. The federal branch or agency must file a notice with the OCC and publish a notice of its intent to cease operations.

Key Policies

The OCC generally requires that the provisions of 12 USC 181 and 182 be followed in a liquidation of a federal branch or agency. A federal branch or agency in voluntary liquidation must make regular reports to the OCC until the liquidation process is completed and its operations are terminated. The OCC monitors voluntary liquidations to ensure compliance with applicable statutes. The OCC requires maintenance of a capital equivalency deposit (CED) by the federal branch or agency, until the voluntary liquidation and final dissolution of the federal branch or agency is completed.

Summary of Process

Once a foreign bank decides to liquidate its federal branch or agency, it should submit a notice to IBF of its intent to voluntarily liquidate and publish notice in a local newspaper with general circulation. In general, the assets of the federal branch or agency should not be distributed until after the required public notice period has ended. During a voluntary liquidation, the federal branch or

agency must comply with normal OCC reporting requirements. Additionally, the federal branch or agency must make annual filings on the progress of the liquidation and a Final Report of Liquidation upon its completion. Foreign banks seeking an expedited liquidation process, resulting from an acquisition through merger, consolidation, or similar transaction, should contact IBF for specific requirements and further guidance.

Upon completion of a liquidation, the foreign bank should return the federal branch or agency license, and if applicable, its fiduciary permit to the OCC with its Final Report of Liquidation. It also must return all OCC reports of examination or certify that they have been destroyed. The OCC will notify the foreign bank when it deems that all of the requirements of voluntary liquidation have been met and the operations of the federal branch or agency are finally dissolved. The OCC will not release the CED to the foreign bank until all necessary requirements are met.

Specific Requirements

Expedited Liquidation

A federal branch or agency seeking an expedited liquidation process should contact IBF for guidance. The OCC permits an expedited liquidation of a federal branch or agency for:

- Acquisition transactions whereby an acquiring U.S. bank purchases all the assets and assumes all the liabilities of the federal branch or agency, including all contingent liabilities.

- Consolidation of the foreign bank's offices in the United States.

These transactions allow the liquidating federal branch or agency to surrender its license and dissolve immediately after the acquisition or consolidation has been consummated.

Generally, an expedited liquidation process is available for acquisition or consolidation transactions, if:

- The foreign bank's senior managers have resolved to liquidate the operations of the federal branch or agency.
- The foreign bank has notified IBF of its plans.
- The acquiring bank, or the consolidating foreign bank, certifies to the OCC that the ownership of all the assets and liabilities, including all contingent liabilities, of the liquidating federal branch or agency have been transferred.
- The federal branch or agency has published notice of the intent to dissolve the federal branch or agency after the combination or consolidation transaction (see Public Notice section below).

Standard Voluntary Liquidation

A foreign bank that wishes to close its federal branch or agency through a voluntary liquidation may do so according to the procedures in this section. The foreign bank must file a written notice with IBF that includes:

- A resolution to liquidate the federal branch or agency adopted by senior management of the foreign bank.
- A certification of senior management that states that total assets exceed total liabilities, including contingent liabilities of the federal branch or agency.
- A plan of liquidation.
- The anticipated date of closure to the public.

Capital Equivalency Deposit (CED)

Generally, the OCC will release a CED to a foreign bank following the completion of a voluntary liquidation and final dissolution of the foreign bank's federal branch or agency.

The OCC will continue to monitor the branch or agency's termination process to ensure compliance with applicable statutes pertaining to voluntary liquidation and the CED. Generally, the OCC will hold the CED until all federal branch or agency liabilities have been resolved. Persons wishing to file

claims, after liquidation of the federal branch or agency and return of the CED, must make them against the foreign bank in the appropriate jurisdiction.

Disposition of Assets

The liquidating agent will liquidate the assets of the federal branch or agency for the benefit, first, of its depositors and other creditors and, then, of the foreign bank. The agent may not dispose of the assets of the federal branch or agency to favor some creditors more than others (unless entitled by law to do so). A liquidating agent may not dispose of the assets of the federal branch or agency, or transfer them to the foreign bank, until all depositors' and creditors' claims have been identified and evaluated.

Examinations or Field Investigations

The OCC may perform regular and special examinations or field investigations of a federal branch or agency in liquidation, until the claims of all creditors have been satisfied, and the liquidation process is completed pursuant to 12 CFR 28.18 and 5.48. The foreign bank of the federal branch or agency is responsible for the cost of any regular or special examinations conducted by the OCC during the voluntary liquidation phase of the branch or agency.

Fiduciary Responsibilities

Whenever a federal branch exercising fiduciary powers is in voluntary liquidation, the agent shall liquidate fiduciary accounts in accordance with 12 USC 92a(j) and 12 CFR 9.

Liquidating Agent

Senior management of the foreign bank must appoint a liquidating agent and publish notice of the intent to voluntarily liquidate and close the operations of the federal branch or agency. The liquidating agent should reside in the U.S. during the liquidation process. Senior management of the foreign bank must continue to monitor the federal branch or agency and its liquidation through the liquidating agent.

The liquidating agent may be the general manager of the federal branch or agency, a management committee member of the federal branch or agency, or another responsible person designated by the senior management. The liquidating agent must post a bond in favor of the federal branch or agency.

After considering the nature and value of the assets to be liquidated, the bond must carry an amount deemed adequate by senior management of the foreign bank. The resolution adopted by senior management of the foreign bank must specify the dollar amount to be posted as a bond for the liquidation agent.

Offshore Shell Branches

Prior to completion of a voluntary liquidation, the management and control of any offshore shell branch activity, otherwise conducted through the federal branch or agency in liquidation, must be transferred to other units of the foreign bank or terminated. The management and control by the federal branch or agency of any offshore shell branch activity will cease upon the completion of the liquidation and final dissolution of the federal branch or agency.

Loan Production Offices

A foreign branch and agency that operates a loan production office must include it in the liquidation process of the federal branch or agency.

Public Notice

Expedited Voluntary Liquidation

The public comment period for an expedited voluntary liquidation is 30 days, unless the OCC determines a shorter period is warranted. The notice must announce that the federal branch or agency is closing its operations and that creditors should present their claims for payment. A sample notice of publication is included in the documents section of this booklet.

Notice of the application must be published in a newspaper of general circulation in the community where the federal branch or agency is located. The public notice must be published three times, at intervals spaced throughout the 30-day comment period. The first publication should be on or about the date the application is filed with the OCC, but in no event more than three days before or after the date the application is filed. The applicant should submit to the OCC confirmation of the public notice as part of the voluntary liquidation notice.

Standard Voluntary Liquidation

The federal branch or agency must publish daily for two months in a local

newspaper notice of the impending closure of the federal branch or agency (see Public Notice sample). If only weekly publication is available, the notice must be published for nine consecutive weeks. The notice must announce that the federal branch or agency is closing its operations and that creditors should present their claims for payment. The first publication of the liquidation should appear on or before the date the liquidation begins and final publication should be prior to the date the federal branch or agency closes to the public.

Reports

At the commencement of its liquidation, a federal branch or agency must submit to IBF a report of its condition. This filing requirement is met by submitting to IBF a Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC Form 002) and a report of all contingent liabilities as of the close of the last business day prior to the start of the liquidation. The Report of Assets and Liabilities must include a maturity schedule of all remaining liabilities, if any. The federal branch or agency in liquidation must continue to file the FFIEC Form 002 Report, and its supplement, FFIEC Form 002S, if applicable, quarterly, or until the liquidation is complete.

Additionally, the liquidating agent for the federal branch or agency must submit quarterly to IBF a Report of Progress of Liquidation, unless requested to file it more often, until the liquidation is complete and the federal branch or agency is dissolved finally. A copy of the report must be provided to the ADC-FBA.

Other

Additional requirements apply if the voluntary liquidation involves an FDIC insured federal branch. In such cases, the foreign bank should refer to 12 USC 1818(p) and (q) and 12 CFR 307. The foreign bank should contact IBF for guidance and instructions. If the liquidation occurs in connection with an acquisition by merger, consolidation, or other similar transaction of federal branch or agency operations in the U.S., expedited procedures may be available.

Notice Letter|Standard Voluntary Liquidation

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Re: Standard Voluntary Liquidation

Dear Deputy Comptroller:

(Name of bank) intends to liquidate voluntarily and close its (federal branch/ limited federal branch/federal agency) license number _____ located at (street address, city, county, and state). The proposed effective date for closing the office is _____.

Enclosed please find a senior management resolution formalizing the decision to liquidate and close the federal branch or agency. The resolution appoints, (name) at (telephone number including area code), as liquidating agent and specifies the dollar amount of the bond posted for the liquidating agent in favor of (the federal branch/limited federal branch/federal agency) at (amount), (if applicable). Our liquidation plan is enclosed.

Public notice is being published in (name and address of newspaper) on (list all dates for publication). A copy and certification of publication will be forwarded at the end of the publication period.

(Name of bank) hereby certifies that on the date liquidation begins, the federal branch's or agency's total assets will exceed its total liabilities, including contingent liabilities. If you have any questions, please contact (name) at (telephone number, including country and area code, as appropriate).

Sincerely,

— Signature —
Name and Title

Enclosure

Resolution to Voluntarily Liquidate

Senior management of (name of foreign bank and country), operating a (federal branch/limited federal branch/federal agency), license number ( ), located at (street address, city, state), on (date):

RESOLVED, that (name of federal branch/limited federal branch/federal agency) be placed in voluntary liquidation, under the provisions of applicable law, to take effect on (planned closing date) and,

RESOLVED, that the following person(s) be appointed to serve as liquidating (agent/committee of the federal branch/limited federal branch/federal agency). The liquidating (agent/committee's) bond shall be posted in the amount of U.S. $_____.

(The first name listed should be the agent/correspondent for the liquidating committee.)

NAME	BUSINESS ADDRESS AND TELEPHONE NUMBER (including area code)
1. _____	_____ _____
2. _____	_____ _____
3. _____	_____ _____

The proposed voluntary liquidation will be published daily for eight weeks (weekly for nine weeks if daily publication is not available), beginning (date of first publication) in (name of newspaper), circulated in (location of federal branch, limited federal branch, federal agency).

I hereby certify that the foregoing is an accurate report of the resolutions adopted by senior management on this _____ of _____, ___.

(*Seal of Bank*)

_____
Name and Title

Public Notice of Voluntary Liquidation

Public Notice

Notice is hereby given that notification has been made to the Comptroller of the Currency, International Banking and Finance, to voluntarily liquidate

(exact corporate name of the federal branch, limited federal branch, federal agency)

located at (complete street address, including city/town, county, state) .

The (federal branch/limited federal branch/federal agency) is closing its affairs. Creditors should present their claims against the (federal branch/limited federal branch/federal agency) for payment by mail to (mailing address) or in person to (street address).

Liquidation will commence on (date).

A copy of the resolution for voluntary liquidation may be inspected at the (federal branch/limited federal branch/federal agency) at (street address) during regular business hours.

This notice is published pursuant to 12 USC 182 and 12 USC 3102.

Liquidation—Interim Progress Report

Federal Branch, Limited Federal Branch, Federal Agency Identifying Information

OCC License No. _____ Date Liquidation Started _____

Name _____
(exact name of federal branch/limited federal branch/ federal agency)

Address _____
(office address, street, city, state, ZIP Code, country)

_____

_____

Liquidating Agent/Correspondent Identifying Information

Name _____

Address _____

City _____ State _____ ZIP Code _____

Phone No. _____ Fax No. _____

Since the (original/last reported) appointment of the liquidating agent/committee, senior management has made the following changes:

Name/Address of Appointee Appointed to Succeed Effective Date

1._____
_____
_____

2._____
_____
_____

Report of Progress of Liquidation

Briefly summarize the progress of the liquidation during the past reporting period.

Explain the plans in progress for completing the liquidation, discuss the status of any pending litigation or court ordered liabilities, and state the anticipated liquidation completion date.

All creditor claims, including all claims asserted during the period of advertisement for claims, (have/have not) been paid fully or assumed by the bank.

Types of Outstanding Liabilities	Amount (in U.S. $)
_____	$_____
_____	$_____
_____	$_____
_____	$_____
_____	$_____
	Total $_____

Aggregate book value of assets received originally by liquidating agent or committee	$_____
Amount of cash received originally by liquidating agent of committee	$_____
	Total $_____

The present book value of remaining unliquidated assets	$_____
Amount of cash on hand	$_____
	Total $_____

Fiduciary Activities (if applicable)

If the federal branch or limited federal branch had a trust department, detail the disposition since liquidation.

Number of fiduciary accounts as of the effective date of liquidation: _____.

Number of fiduciary accounts closed, transferred, or otherwise disposed of since effective date of liquidation: _____.

Number of fiduciary accounts remaining: _____.

This report and any attachments/schedules are as of__(date)_____ and certified to be correct to the best of my knowledge and belief.

Executed this _____ of _____, ____.

_____ _____
(Liquidating Agent) (Correspondent for Committee)

(If there is a liquidating committee, every member of the committee should sign.)

_____ _____
_____ _____
_____ _____
_____ _____

Liquidation—Final Report

Federal Branch, Limited Federal Branch, Federal Agency Identifying Information

OCC License No. _____ Date Liquidation Started _____
Date Liquidation Completed _____

Name _____
(exact corporate title of bank)

Address _____
(office address, street, city, state, ZIP Code, country)

_____

_____

Liquidating Agent/Correspondent Identifying Information

Name _____

Address _____

City _____ State _____ ZIP Code _____

Phone No. _____ Fax No. _____

[If applicable] The liquidation occurred because of an acquisition of the assets and liabilities by (name the acquiring institution).

I/We, the undersigned, being the (liquidating agent/liquidating committee), certify the attached* report of assets and liabilities to be a true statement, to the best of my/our knowledge and belief. Please release the Capital Equivalency Deposit held for the benefit of the OCC to (name of foreign bank).

Executed this _____ of _____, ____.

_____ _____
(Liquidating Agent) (Correspondent for Committee)

(If there is a liquidating committee, every member should sign.)

_____ _____
_____ _____
_____ _____
_____ _____

*NOTE: The referenced report of assets and liabilities must be certified by a CPA and should reflect zero balances with the exception of the CED account.

Inquiry

IBF

1. Refers a foreign bank that requests instructions to this section of the "Federal Branches and Agencies" booklet of the manual. Provides further guidance if the liquidating federal branch:

   - **G** Has FDIC-insured deposits.
   - **G** Is being liquidated in connection with an acquisition or consolidation transaction when abbreviated procedures may be applicable.

Filing the Notice

Foreign Bank

2. Provides a written notice to IBF of its intention to liquidate voluntarily and close its federal branch or agency. The notice should be signed by a senior officer of the foreign bank having the appropriate delegated authority to file such notice. The notice should include:

   - **G** A resolution adopted by senior management of the foreign bank to liquidate the federal branch or agency and appoint a liquidating agent.
   - **G** A certification by senior management of the foreign bank stating that, as of the commencement date of liquidation, the total assets of the federal branch or agency will exceed its liabilities, including contingent liabilities.
   - **G** An acceptable plan of liquidation.
   - **G** The anticipated date the federal branch or agency will close to the public.

Public Notice

Foreign Bank

3. Publishes a notice of liquidation. Submits a notarized certificate of publication to IBF upon publication.

Processing the Notice

IBF

4. Acknowledges receipt of the notice of liquidation and notifies the ADC-FBA.

5. Enters required information into the corporate tracking system. An effective date is not entered, until the final liquidation report is received.

6. Establishes the official file to maintain all original documents relating to the liquidation.

7. Reviews the proposed liquidation plan, forwards a copy to the ADC-FBA and checks for compliance with 12 CFR 28.

Liquidation Process

Liquidating Agent/Committee

8. Sends IBF and the ADC-FBA a copy of the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and its supplement (FFIEC 002S), if applicable, as of the close of the last business day prior to the start of liquidation. The report should include a certified maturity schedule of liabilities.

9. Carries out the liquidation process. Submits to IBF and the ADC-FBA a copy of the quarterly liquidation progress reports of the branch's assets and liabilities, including a maturity schedule of remaining liabilities. The report should include details of payments of all liabilities and the status of pending litigation or other court- ordered liabilities and be kept on file until the liquidation is complete (see Liquidation — Interim Report Document).

IBF

10. May require an examination or field investigation at any time until the claims of all creditors have been satisfied.

11. Notifies the foreign bank or liquidating agent, if a special examination or field investigation is required. If applicable, sends a request letter to the liquidating agent, specifying the issues to be considered in an examination or field investigation.

Conclusion of Liquidation

Foreign Bank

12. Upon completion of the liquidation process, submits to the OCC the Liquidation — Final Report (see sample document) and:

    - All OCC reports of examination (or certifies that all OCC reports have been destroyed), the federal branch or agency License Certificate, and Trust Powers Permit (if applicable).

    - A certification of senior management of the foreign bank, stating that all claims have been fully paid or settled, and that the federal branch or agency has ceased operations.

    - A copy of the agreement with the landlord canceling the lease (if applicable).

    - A certification that all FDIC requirements have been met in addition to a copy of the FDIC's termination of insurance letter, if the voluntary liquidation involves an insured federal branch.

IBF

13. Enters the effective date of Liquidation Final Report into the corporate tracking system. Entry of the effective date of the liquidation into the corporate tracking system will cause the liquidating federal branch or agency to be placed on inactive status in the OCC's bank structure records. Publication in the Weekly Bulletin constitutes required OCC notice to other federal agencies.

14. Sends a letter to the foreign bank and a copy to the ADC-FBA

acknowledging receipt of the Liquidation — Final Report, receipt of all required documents, and completion of the liquidation.

15. Sends a letter to the depository bank authorizing release of the CED to the foreign bank, with a copy to the foreign bank and the ADC-FBA. This will usually occur within 30 days of receipt of the Liquidation — Final Report.

Close Out

16. When all required steps are completed, closes out the file, and forwards it to Central Records (CR). Informs the ADC-FBA to close out all supervisory files and to forward them to the CR.

Federal Branches and Agencies—Capital Equivalency Deposit

Introduction

Applicability

This section discusses the establishment of Capital Equivalency Deposit (CED) accounts for a federal branch, limited federal branch, or federal agency (federal branch or agency), and operational issues that may arise in maintaining and closing the account. It also includes procedures for CED account withdrawals and changes in depository banks and sample documents. Further supervisory guidance is provided in the "Federal Branches and Agencies" booklet of *The Comptroller's Handbook.*

Key Policies

A CED serves the public interest, protects depositors, and maintains a sound financial condition. In the event of a liquidation of a federal branch or agency, CED assets may be used to extinguish appropriate claims, if necessary. All federal branches and agencies must establish a CED account before opening for business. The CED must be maintained in accordance with the requirements set forth in this section and 12 CFR 28.15.

Summary of Process

Establishment of a CED

Subject to the OCC's discretion, 12 USC 3102(g) and 12 CFR 28.15 require a federal branch or agency to establish and maintain a CED account with a Federal Reserve System member bank ("depository bank") in an amount the greater of:

- Five percent of the total liabilities of the federal branch or agency, including acceptances, but excluding accrued expenses, intercompany liabilities, and any amounts due to head office; or

- The amount of capital (excluding surplus) that would be required of a national bank being organized at the same location.

The depository bank must be located in the same state as the federal branch. A member bank headquartered in another state, but operating a branch located in the state where the federal branch or agency is located, qualifies as a CED

depository bank. The OCC must approve the depository bank if it is a national bank, and the FRB must concur if the depository bank is a state member bank.

The CED must consist of the following eligible assets:

- Investment securities eligible for investment by national banks.
- U.S. deposits payable in the U.S., other than certificates of deposit.
- Certificates of deposit, payable in the U.S., and bankers' acceptances, provided that, in either case, the issuer is rated investment grade by an internationally recognized rating organization, and neither the issuer nor the instrument is rated lower than investment grade by any such rating organization that has rated the issuer or the instrument.
- Other assets the OCC deems eligible.

The OCC is considering changes to the requirements of the CED. A foreign bank applicant considering to establish or make changes to its CED is advised to contact IBF for information on any relevant developments and how such developments could impact the applicant foreign bank's proposal.

A CED agreement is required before an initial or additional federal branch or agency opens for business or a state-licensed branch or agency converts to a federal license. This agreement is entered into by the foreign bank, the depository bank, and the OCC. It governs the operation of the account, sets forth certain conditions, and stipulates that the instruments are held for the benefit of the OCC and cannot be released or diminished without the OCC's prior written authorization. The foreign bank collects the interest on the eligible instruments and is permitted by the agreement to exchange funds or securities on a dollar-for-dollar basis without prior OCC approval.

An authorized officer of the foreign and depository banks should complete and sign three original CED agreements and forward them to IBF. The Deputy Comptroller of the Currency for IBF, or designee, will sign each of the three original documents. The OCC retains one original and sends the two remaining documents to the foreign bank that is responsible for providing one copy of the agreement to the depository bank.

Change of Depository Bank

A federal branch or agency may change its depository bank with the permission

of the OCC. The FRB's concurrence is required if the new depository bank is a state member bank. At the request of the federal branch or agency, the OCC will administer the execution of a new CED agreement among the federal branch or agency, the new depository bank, and the OCC. When the OCC has received confirmation from the new depository bank that the new account is open, IBF will authorize the transfer of the assets from the old to the new depository bank.

Exchanges to the Account

Account assets may be exchanged, provided that the aggregate value of the assets being deposited is the same or greater than the value of those being withdrawn. The aggregate value of the new assets must be calculated on the basis of principal amount or market value, whichever is lower. New assets of equal or greater value must be delivered to the depository bank at the same time that other assets are retrieved. Exchanges to the account meeting those criteria do not require prior OCC approval.

Reduction of CED Account Balance

CED account assets may not be withdrawn without the prior written permission of the OCC. This requirement includes assets at or nearing maturity. If the balance of eligible assets maintained in the account exceeds the required level, the OCC generally will permit the account to be decreased, provided that no supervisory or regulatory factors bar such action. Requests to decrease the level of the CED should be initiated with the OCC well in advance of any instrument approaching maturity. The OCC will process such requests as expeditiously as possible, but cannot guarantee timely release if a request is received less than 10 business days before maturity or the desired release date.

In addition, each request must be accompanied by the account balance computations for the previous three months and a statement that the assets remaining in the account after the reduction will be at or above the level required by the OCC.

Closing of Account

With the OCC's prior approval, a foreign bank may close the CED account of its federal branch or agency after it voluntarily liquidates or converts from a federal to state license. The closing of the account will follow established OCC procedures (see the Voluntary Liquidation and Other Changes in Activities or Operations sections of this booklet).

Specific Requirements

Account Statements

Federal branches and agencies should retain CED account statements furnished by the depository bank. OCC examiners will review such records during examinations, as appropriate. The CED agreement requires that the depository bank furnish receipts to the OCC, whenever assets are deposited or withdrawn from the account. Receipts should specify the aggregate face value of the assets being deposited or withdrawn, and for each asset, the following information to the extent applicable: the complete title, interest rate, series, serial number, face value, maturity date, and call date. In most cases, a copy of the monthly statement routinely provided to the depositor is sufficient.

Processing of Requests

All requests for CED account withdrawals, changes in depository banks, or other matters affecting the CED account should be made in writing and sent to the Deputy Comptroller, International Banking and Finance, 250 E Street, SW, Washington, DC 20219. Additionally, management of federal branches and agencies should ensure that depository banks provide IBF with receipts, transaction advices, and monthly statements on CED accounts. Any questions may be referred to IBF at (202) 874-4730 or by facsimile at (202) 874-5234.

Capital Equivalency Deposit Agreement

Date _____

WHEREAS, _____
_____ (the depositor)
is a foreign bank organized under the laws of _____ and
maintains an office(s) in the state of _____
licensed by the Office of the Comptroller of the Currency (the Comptroller)
pursuant to the International Banking Act of 1978 (Pub. L. 95-369); and

WHEREAS, _____
(the depository bank) is a member bank with its principal office located at _____
_____; and

WHEREAS, the depositor is required under section 4 of the International Banking Act and under the Comptroller's regulations at 12 CFR 28.15 to maintain with a designated member bank a capital equivalency deposit in the form of dollar deposits or investment securities of the type that may be held by national banks for their own account;

NOW, THEREFORE, it is agreed among the Comptroller, the depositor, and the depository bank that:

1. Dollar deposits and investment securities placed in safekeeping at the depository bank pursuant to this agreement and in order to satisfy the capital equivalency requirements of the depositor, shall be:

(a) Pledged to the Comptroller.

(b) Accompanied by any documentation necessary to facilitate transfer of title in the event of subsequent release to the Comptroller.

(c) Segregated on the books and records of the depository bank, provided, however, that the depository bank may deposit and maintain such assets in a book-entry account with the Federal Reserve System.

(d) Free from any lien, charge, right of set off, credit or preference in connection with any claim of the depository bank against the depositor.

2. Whenever assets are deposited pursuant to this agreement, the depository bank

shall furnish promptly to the depositor a receipt and a copy of it to the Comptroller. Such receipt shall specify the aggregate face value of the assets being deposited and, for each asset, shall specify the following information to the extent applicable: the complete title, interest rate, series, serial number, face value, maturity date, and call date.

3. The depository bank shall not allow assets comprising the Capital Equivalency Deposit to be withdrawn without prior written permission of the Comptroller.

4. Notwithstanding the provision of paragraph 3, unless otherwise ordered by the Comptroller, the depository bank shall release assets to the depositor in exchange for other assets deposited pursuant to this agreement, provided that the depositor certifies to the depository bank that the aggregate value of the assets being deposited is the same or greater than the aggregate value of the assets being withdrawn. The value of the assets being withdrawn and deposited shall be calculated as of the date of the exchange transaction and, in the case of investment securities, on the basis of the lower of face value or market value. The depositor's certificate, a copy of which shall be furnished concurrently to the Comptroller, shall also specify:

(a) To the extent applicable, the complete title, interest rate, series, serial number, face value, market value, maturity date and call date of each asset being withdrawn and each asset being deposited.

(b) The aggregate value of the assets being withdrawn and deposited.

(c) That, after the exchange transaction, the amount of the capital equivalency deposit is sufficient to comply with requirements set by law and by the Comptroller.

5. The depository bank shall permit representatives of the Comptroller or the depositor to examine the Capital Equivalency Deposit during regular business hours. Upon request, the depository bank shall furnish the Comptroller with a current list of the assets maintained in the Capital Equivalency Deposit pursuant to this agreement.

6. The depositor shall be permitted to collect income on the assets in its Capital Equivalency Deposit, unless the Comptroller issues a contrary order to the depository bank.

7. The depository bank agrees to give to the safeguarding, handling, and shipment of Capital Equivalency Deposit assets the same degree of care that it gives to its own securities.

8. The Comptroller by written order may relieve the depositor or depository bank from compliance with any term or condition of this agreement.

9. The Comptroller shall not be required to pay for any services under this agreement.

10. The Capital Equivalency Deposit agreement may be terminated by the depositor or the depository bank upon at least 60 days written notice to the other party. No termination shall be effective until:

(a) Another depository bank has been selected by the depositor and approved by the Comptroller or, if applicable, the Federal Reserve.

(b) A Capital Equivalency Deposit agreement acceptable to the Comptroller has been agreed upon by the depositor and the new depository bank.

(c) The depository bank has released to the newly designated depository bank the assets of the Capital Equivalency Account in accordance with the depositor's written instructions as approved by the Comptroller.

11. The depository bank shall release to the Comptroller assets in the Capital Equivalency Deposit upon certification by the Comptroller that a receiver or conservator has been appointed in connection with one or more federal branches or agencies of the depositor.

12. Once the total Capital Equivalency Deposit has been given to the depositor or the Comptroller, as the case may be, the depository bank shall be discharged from further obligation under this agreement.

13. All written communications required under this agreement shall be mailed or delivered to each party at the following addresses:

The depository bank:

The depositor:

The Comptroller: The Comptroller of the Currency
International Banking and Finance
250 E Street, SW, Mail Stop: 3-6
Washington, DC 20219

IN WITNESS WHEREOF, the depositor, the depository bank, and the Comptroller have caused this agreement to be duly executed as of today's date.

For the depositor:

_____, _____
Signature Typed Name and Title

For the depository bank:

_____, _____
Signature Typed Name and Title

For the Comptroller:

_____, _____
Signature Typed Name and Title

Date: _____

Request to Change Depository Bank

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Re: Request to Change Depository Bank

Dear Deputy Comptroller:

(Name of federal branch/limited federal branch/federal agency) maintains its Capital Equivalency Deposit (CED) account (account #) at (name of current depository bank). This is to request the OCC's authorization to change the current depository bank to (name of new depository bank).

We seek this change because (state reasons). We would like the change to take place effective (date). Enclosed are three original CED agreements, each signed by (name of new depository bank) and (name of federal branch).

Should you have any questions, please contact (name of representative) at (telephone and facsimile numbers, including area code).

Sincerely,

—Signature —

Name and Title
(Federal Branch or Agency Officer)

Enclosures

Request for Reduction in CED Account Balance

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Re: Request for Reduction in Capital Equivalency Deposit Account

Dear Deputy Comptroller:

(Name of federal branch/limited federal branch/federal agency) maintains a Capital Equivalency Deposit (CED) account (account #) at (name of depository bank). This is to request a reduction of ($ amount) in our CED account in accordance with OCC regulation, 12 CFR 28.15.

The CED balance as of (date) is ($ amount). The balance following the reduction would be ($ amount), which still exceeds the minimum OCC requirements. Enclosed are copies of the account balance computations for the last three months in support of this request.

We certify that the CED account will be at or above the level required by 12 CFR 28.15 following the reduction. Should you have any questions, please contact (representative, phone and facsimile numbers, including area code).

Sincerely,

—Signature—

Name and Title

Enclosures

Request

IBF

1. Refers a federal branch or agency that requests instructions to this section of the "Federal Branches and Agencies" booklet.

2. Discusses the qualification criteria for a depository bank, a proposed change in depository bank, including the need for new CED agreements, and identifies issues that could affect OCC processing.

Foreign Bank

3. Submits a written request to IBF, along with three CED agreements, each originally signed by the federal branch or agency and the depository bank.

Processing the Request

IBF

4. Verifies that the proposed depository bank is a member bank of the Federal Reserve System and has an office in the same state as the federal branch or agency. If not, informs the federal branch or agency it must select a different depository bank.

5. Determines if there are any other reasons why the proposed depository bank should not be approved.

6. If the proposed depository bank is a state bank, consults with the appropriate Federal Reserve Bank.

Decision

7. If the request is denied, sends letter to the federal branch or agency justifying OCC's decision. Proceeds to step 10. If approved, sends authorization to the federal branch or agency along with two CED agreements signed by all parties, one to be retained by the federal branch or agency, the other to be forwarded by the federal branch or agency to the new depository bank. OCC retains one original signed

copy for its official file.

8. Sends a letter to the current depository bank, authorizing the change to a new depository bank and requesting the transfer of assets to the new depository bank. Copies the ADC-FBA.

9. Sends a letter to the new depository bank, requesting confirmation of asset transfer from the previous depository bank. Copies ADC-FBA.

Close Out

IBF

10. Records SMS entry as Other Significant Event and files documents in the federal branch or agency CED files.

Request

IBF

1. Refers a federal branch or agency that requests instructions to this section of the "Federal Branches and Agencies" booklet of the manual.

Foreign Bank

2. Submits a written request to IBF at least 10 days prior to the desired effective date of the transaction (see sample letter in the Documents section).

Processing Request

IBF

3. Consults with the ADC-FBA, as necessary.

4. Determines that the amount requested will not reduce the CED below an acceptable level. Reviews the last three months' calculations to ensure the federal branch or agency has complied with the requirements of the regulation and will continue to be in compliance following the reduction.

Decision

5. If the request is approved, sends a letter authorizing the reduction to the federal branch or agency and copies the ADC-FBA.

6. If the request is denied, sends denial letter justifying OCC's decision and copies the ADC-FBA.

Close Out

7. Records entry in SMS as Other Significant Event and files documents in the federal branch or agency CED file.

Federal Branches and Agencies—Other Changes in Activities or Operations

Introduction

This section describes the OCC's policies and procedures not addressed elsewhere in this booklet for other changes in activities or operations of a foreign bank that owns a federal branch or agency.

Applicability

This section pertains to the following changes in activities or operations of a foreign bank that owns a federal branch or agency:

- Corporate title.
- Home state designation.
- Mailing address of either the corporate headquarters of the foreign bank or of the federal branch or agency.
- A change in control of the foreign bank when the acquiring individual, group of individuals, or entity will vote at least 25 percent of any class of securities of the foreign bank.
- Conversion to a state branch, state agency, commercial lending company, or representative office.

Summary of Process

A foreign bank must provide written notice within 10 days of the effective date of changes in title, mailing address, home state designation, and control to the Deputy Comptroller, International Banking and Finance, 250 E Street SW, Washington, DC 20219. Conversion to a state-licensed branch or agency requires prior notice to the OCC, generally at the time the application to convert is filed with the state.

The general manager of a federal branch or agency should sign notices submitted to the OCC.

Specific Requirements

Change in Corporate Title

The notice of the change in the corporate title of the foreign bank must include the current and the former corporate title.

Change in Home State Designation

A foreign bank changing its home state designation must give the OCC notice of the change. A foreign bank may meet this requirement by providing to the OCC a copy of a notice or application to the FRB or an FRB determination for a change in home state designation.

Change in Mailing Address

A foreign bank must notify the OCC whenever it changes its mailing address or the mailing address of its federal branch or agency. A separate notice is not required if a change in address of a federal branch or agency results from a corporate application with the OCC, such as a relocation.

Change in Control

Under this part, the OCC only requires a written notice when an entity or person or group of persons acquires control over a foreign bank operating a federal branch or agency, provided that after the change in control the foreign bank and its federal branch or agency continue to operate in the same corporate form as prior to the change. In such case, the acquiring entity or person needs only to provide the OCC with a copy of any filing submitted to the FRB, as may be required under 12 CFR 211.24(a)(4). The OCC may request supplemental information as deemed appropriate.

An entity, person, or group of persons proposing to acquire control of a foreign bank operating a federal branch or agency are encouraged to contact IBF.

Conversion to State-Licensed Operation

When a foreign bank decides to convert its federal branch or agency to a state-licensed operation, it must file written notice with the OCC prior to conversion. The notice must include a resolution from senior management of the foreign bank to surrender the federal branch or agency license and any trust

powers previously granted by the OCC. The anticipated date of the conversion must also be provided.

Prior to conversion, a federal branch or agency must return the federal branch or agency license, and, if applicable, its Trust Powers Permit. The federal branch or agency must also either return all reports of examination or certify that they have been destroyed.

The conversion will not be deemed final, until the foreign bank obtains any appropriate regulatory approvals and returns official OCC documents. Upon conversion to a state-licensed operation and compliance with OCC's requirements for the return to it of documents, the OCC will authorize the release of the Capital Equivalency Deposit (CED) to the foreign bank.

Notice of Change in Activities or Operations

For OCC Use Only

Control No._____
License No._____
Date Received_____
Date Receipt
Acknowledged_____

Type of Notice (Check the appropriate box)

This is to notify the OCC of the following change affecting the identified federal branch or agency:

G Corporate Title
G Mailing Address of: ___ Foreign bank ___ Federal branch or agency
G Home State Designation
G Conversion to State-Licensed Operation

Complete the name and license number blanks and other information as applicable to the particular change checked.

Foreign Bank Identifying Information

For Changes in Corporate Title

Foreign Bank Previous Name _____
(exact corporate title of bank)

Foreign Bank New Name _____
(exact corporate title of bank following title change)

Effective Date _____

For Changes in the Mailing Address of the Foreign Bank

Previous Address _____
(headquarters office of foreign bank, city, state, country)
_____
_____
_____

New Address _____
(headquarters office of foreign bank, city, state, country)
_____
_____
_____

Effective Date _____

Federal Branch or Agency Identifying Information

License No. _____

Name _____
(exact corporate title of U.S. office)

For Changes in the Mailing Address of the Federal Branch or Agency

Current Mailing Address_____

City _____ County _____ State _____ ZIP Code_____

New Mailing Address _____

City _____ County _____ State _____ ZIP Code _____

Effective Date _____

For Changes in Home State Designation

Current Home State _____

New Home State _____

Effective Date _____

A copy of the notice or application to the Federal Reserve Board (FRB) or determination of the FRB for a change in home state designation should be attached.

For Conversion to a State License

Reasons for converting:

Planned Effective Date _____

A certified copy of the resolution adopted by senior management of the foreign bank and a copy of the state application should be attached.

Upon approval to convert, we certify that the license certificate, trust permit (if applicable), and reports of examination and any related correspondence will be returned to the OCC (or in the case of the reports of examination and related correspondence, these have been destroyed). We understand that the CED will not be released until all OCC official documents are returned or destroyed.

Executed this _____ day of _____ , _____ .

_____
Signature of Authorized Officer

_____
Typed Name

_____
Title

Cover Letter for a Change in Control

Date

Deputy Comptroller
International Banking and Finance
250 E Street, SW
Washington, DC 20219

Dear Deputy Comptroller:

This is to notify you of a change in control involving (name of foreign bank), which operates (name of federal branch/limited federal branch/agency). **[Provide an explanation of the change in control transaction]** This change in control (took/will take) place on (date).

We include a copy of a notice to the Board of Governors of the Federal Reserve System of change in ownership or control under 12 CFR 211.24(a)(4). We understand the OCC may request supplemental information as deemed appropriate. If you have any questions regarding this notice, please contact (name) at (telephone and facsimile numbers).

Sincerely,

—Signature—

Name and Title

Attachment

Senior Management Resolution on Conversion of a Federal Branch or Agency to a State-Licensed Operation of a Foreign Bank

Senior management of (name of foreign bank and country), operating (federal branch/limited federal branch/federal agency) license (number), located at (U.S. address), on (date):

RESOLVED, that (name of federal branch or agency) will surrender its federal license and its Trust Powers Permit (if applicable) granted by the Office of the Comptroller of the Currency in order to convert to a (type of office) licensed by (name of state bank supervisory authority) on (planned effective date).

— Bank Seal —

_____
Name and Title
(Representative of senior management
of the foreign bank)

IBF

1. Refers a foreign bank that requests instructions to this section of the "Federal Branches and Agencies" booklet of the manual.

Foreign Bank

2. Submits to IBF within 10 days of the effective date, a notice of the change, including the effective date (see Notice in the Documents section). The OCC accepts a copy of any notice or application to the FRB or state supervisors.

Processing the Notice

IBF

3. Establishes an official file that contains all original documents.

4. Sends a letter to the foreign bank acknowledging receipt and copies the ADC-FBA.

5. Makes appropriate entries in the corporate tracking system.

Close Out

6. Sends official file to Central Records.

IBF

1. Refers a foreign bank that requests instructions to this section of the "Federal Branches and Agencies" booklet of the manual.

Foreign Bank

2. Submits to IBF within 10 days of the effective date, a notice of a change in its control, including the effective date (see Notice in the Documents section). The OCC accepts a copy of any notice or application to the FRB. A copy of the FRB's decision for the change in control or ownership should be attached to the notice.

Processing the Notice

IBF

3. Establishes an official file that contains all original documents.

4. Makes appropriate entries in the corporate tracking system.

5. Reviews the material submitted and determines whether the new controlling owner has the financial capacity and integrity required by the OCC of an owner of a federal branch or agency. Performs background checks as deemed appropriate (see "Background Investigations" booklet of the manual).

6. Forwards any pertinent material submitted to the ADC-FBA, IA, Enforcement and Compliance, and the FRB. Discusses with them any concerns, as appropriate.

7. Requests additional information, if necessary, to understand fully the operations and structure of the new owner. Sometimes, multiple-tier ownership structures may necessitate obtaining financial and structure information on other legal entities.

8. Sends a letter to the foreign bank acknowledging receipt and copies the ADC-FBA.

Close Out

9. Sends official file to Central Records once issues or concerns, if any, are resolved.

IBF

1. Refers a foreign bank that requests instructions to this section of the "Federal Branches and Agencies" booklet of the manual. Promptly advises the appropriate ADC-FBA about the foreign bank's inquiry.

Foreign Bank

2. Submits to IBF a notice of its intent to convert the federal branch or agency to a state-licensed operation and the anticipated date of the conversion (see Notice in the Documents section). The notice must be filed in advance of the conversion and signed by a senior officer of the foreign bank having the appropriate authority to file such a notice. The notice should include:

   - A resolution adopted by senior management of the foreign bank that agrees to surrender the federal branch or agency license, trust permit, if applicable, and reports of examination (or certification that the reports have been destroyed).
   - A copy of the application to convert filed with the state.
   - Reason(s) for the conversion and the proposed effective date.

Processing the Notice

IBF

3. Establishes the official file to maintain all original documents.
4. Sends a letter to the foreign bank acknowledging receipt and copies the ADC-FBA.
5. Makes appropriate entries in the corporate tracking system.

Foreign Bank

6. Upon approval from the state to convert, submits to the OCC:

   - A copy of the approval letter from the state to convert.
   - All OCC reports of examination (or certifies that all OCC reports have been destroyed), the federal branch or agency license certificate, and Trust Powers Permit (if applicable).
   - The effective date of the conversion.
   - Request for release of the CED.

Close Out

IBF

7. Enters the effective date of the conversion into the corporate tracking system.

8. Sends a letter to the foreign bank and a copy to the ADC-FBA acknowledging receipt of other regulatory approvals and the return of required documents.

9. Sends a letter to the depository bank authorizing the release of the CED to the foreign bank, with a copy of the letter to the foreign bank.

10. When all required steps are completed, closes out the file, and forwards it to Central Records. Informs the ADC-FBA to close out all supervisory files and forward them to Central Records.

Background Investigations

Laws	12 USC 3101 et seq.
Regulations	12 CFR 28.13 (a), 28 CFR 16.34 and 50.12

Bank Secrecy Act

Laws	12 USC 3101 et seq.
Regulation	31 CFR 103

Capital Equivalency Deposit

Laws	12 USC 24(7), 3102, and 3108(a)
Regulations	12 CFR 1 and 28.15

Capital Requirements

Law	12 USC 3102
Regulations	12 CFR 3, 28.14, and 28.20

Change in Corporate Title

Laws	12 USC 3102, 3105, and 3108(a)
Regulation	12 CFR 28.17(a)

Change in Home State Designation

Laws	12 USC 3103, 3105, and 3108(a)
Regulations	12 CFR 28.11(o) and 211.22(b)

Change in Location—Policy and Procedures

Laws	12 USC 30(b) 3102, 3105, and 3108(a)
Regulations	12 CFR 5.40, 28.12(e)(1), 28. 13(a), and 28.21

Change in Mailing Address

Laws	12 USC 21a and 3101 et seq.
Regulation	12 CFR 28.17(b)

Change in Ownership or Control

Laws	12 USC 3102, 3105, and 3108(a)
Regulations	12 CFR 28.11(e), 28.12(a), 28.13(a), and 211.24(a)(3)-(4)

Change in the Status of an Office

Laws	12 USC 3102, 3105, 3107, and 3108(a)
Regulations	12 CFR 28.11(d) and (g), 28.12, and 211.24(a)(4)(ii)

Computation of Time

Law	12 USC 3102
Regulation	12 CFR 5.12

Conversion to State-Licensed Branch, Agency, or Representative Office

Laws	12 USC 3101 et seq. and state law
Regulation	12 CFR 28.17(c)

Corporate Powers and Investment Securities

Laws	12 USC 24, 3102, and 3108(a)
Regulations	12 CFR 1 and 28.13(a)

Decisions

Laws	12 USC 3101 et seq.
Regulations	12 CFR 5.13 and 28.12

Examination Reports

Laws	12 USC 3102 and 3108(a)
Ruling	12 CFR 7.4000

Expedited Review

Laws	12 USC 3101 et seq.
Regulations	12 CFR 5.13 and 28.12

Failing to File Progress Reports

Laws	12 USC 164 and 3101 et seq.
Regulations	12 CFR 28.18 and 28.19

Federal Branches and Agencies of Foreign Banks

Laws	12 USC 3101-3111
Regulations	12 CFR 28 and 211

Fiduciary Powers

Laws	12 USC 92a, 3102, and 3108(a)
Regulations	12 CFR 5.26, 28.12(e)(3), and 28.13

Fiduciary Powers of Liquidating Agent

Laws	12 USC 92(a)(j) and 3101 et seq.
Regulations	12 CFR 9, 28.12(e), and 28.13

Filing Fees

Laws	12 USC 3101 et seq.
Regulations	12 CFR 5.5 and 28.10

Fraudulent Statements

Law	18 USC 1001

Independent External Audit

Laws	12 USC 1831m and 15 USC 78m
Regulations	12 CFR 11, 363, and 17 CFR 210

International Banking Act

Laws	12 USC 3101 et seq.

Interstate Branching

Laws	12 USC 3102 and 3103
Regulation	12 CFR 28.12

Liquidation Reports

Laws	12 USC 181 and 3102
Regulations	12 CFR 5.48 and 28.22

National Environmental Policy Act

Law	42 USC 4321

National Historic Preservation Act

Law	16 USC 470f

Notice of Filing

Laws	12 USC 93a and 3101 et seq.
Regulations	12 CFR 5.8(a) and 28.10(b)

Place of Business

Laws	12 USC 22, 81, and 3101 et seq.

Prohibited Activities

Law	12 USC 25

Public Comments and Hearings

Regulations	12 CFR 5.10 and 5.11

Publication of Application

Laws	12 USC 3101 et seq.
Regulations	12 CFR 5.8 and 28.10(b)

Recordkeeping and Confirmation Requirements for Securities Transactions

Laws	12 USC 3101 et seq.
Regulations	12 CFR 12 and 28.13(a)

Requirements and Procedures for Liquidation and Dissolution

Laws	12 USC 181, 182, and 3102
Regulations	12 CFR 5.48 and 28.22

Securities Devices and Procedures

Laws	12 USC 1882, 1884, and 3101 et seq.
Regulations	12 CFR 21 and 28.13(a)

Termination of Insurance

Law	12 USC 1828(p), (q)

Theft, Embezzlement, or Misapplication

Laws	18 USC 656 and 3101 et seq.
Regulation	12 CFR 21.11