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used by OCC procurement staff to identify firms to be solicited for OCC procurements.

§ 4.65 Certification.

(a) *Objective.* To preserve the integrity and foster the Outreach Program's objectives, each prospective MWOB or IDOB must demonstrate that it meets the ownership and control requirements for participation in the Outreach Program.

(b) *MWOB.* A prospective MWOB may demonstrate its eligibility for participation in the Outreach Program by:

(1) Submitting a valid MWOB certification received from another government agency whose definition of MWOB is substantially similar to that specified in § 4.62(a);

(2) Self-certifying MWOB ownership status by filing with the OCC a completed and signed certification form as prescribed by the Federal Acquisition Regulation, 48 CFR 53.301-129; or

(3) Submitting a valid MWOB certification received from the Small Business Administration.

(c) *IDOB.* A prospective IDOB may demonstrate its eligibility for participation in the Outreach Program by:

(1) Submitting a valid IDOB certification received from another government agency whose definition of IDOB is substantially similar to that specified in § 4.62(c); or

(2) Self-certifying IDOB ownership status by filing with the OCC a completed and signed certification as prescribed in the Federal Acquisition Regulation, 48 CFR 53.301-129, and adding an additional certifying statement to read as follows:

I certify that I am an individual with disabilities as defined in 12 CFR 4.62(d), and that my firm, (Name of Firm) qualifies as an individual with disabilities-owned business as defined in 12 CFR 4.62(c).

§ 4.66 Oversight and monitoring.

The Deputy Comptroller for Resource Management shall appoint an Outreach Program Manager, who shall appoint an Outreach Program Specialist. The Outreach Program Manager is primarily responsible for program advocacy, oversight and monitoring.

12 CFR Ch. I (1-1-08 Edition)

Subpart E—One-Year Restrictions on Post-Employment Activities of Senior Examiners

SOURCE: 70 FR 69637, Nov. 17, 2005, unless otherwise noted.

§ 4.72 Scope and purpose.

This subpart describes those OCC examiners who are subject to the post-employment restrictions set forth in section 10(k) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1820(k)) and implements those restrictions for officers and employees of the OCC.

§ 4.73 Definitions.

For purposes of this subpart:

Bank holding company means any company that controls a bank (as provided in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*)).

Consultant. For purposes of this subpart, a consultant for a national bank, bank holding company, or other company shall include only an individual who works directly on matters for, or on behalf of, such bank, bank holding company, or other company.

Control has the meaning given in section 2 of the Bank Holding Company Act (12 U.S.C. 1841(a)). For purposes of this subpart, a foreign bank shall be deemed to control any branch or agency of the foreign bank.

Depository institution has the meaning given in section 3 of the FDI Act (12 U.S.C. 1813(c)). For purposes of this subpart, a depository institution includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State.

Federal Reserve means the Board of Governors of the Federal Reserve System and the Federal Reserve Banks.

Foreign bank means any foreign bank or company described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)).

Insured depository institution has the meaning given in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)).

National bank means a national banking association or a Federal branch or agency of a foreign bank.

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Senior examiner. For purposes of this subpart, an officer or employee of the OCC is considered to be the “senior examiner” for a particular national bank if—

(1) The officer or employee has been authorized by the OCC to conduct examinations on behalf of the OCC;

(2) The officer or employee has been assigned continuing, broad, and lead responsibility for examining the national bank; and

(3) The officer’s or employee’s responsibilities for examining the national bank—

(i) Represent a substantial portion of the officer’s or employee’s assigned responsibilities; and

(ii) Require the officer or employee to interact routinely with officers or employees of the national bank or its affiliates.

§ 4.74 One-year post-employment restrictions.

An officer or employee of the OCC who serves as the senior examiner of a national bank for two or more months during the last twelve months of such individual’s employment with the OCC may not, within one year after leaving the employment of the OCC, knowingly accept compensation as an employee, officer, director or consultant from the national bank, or any company (including a bank holding company) that controls the national bank.

§ 4.75 Effective date; waivers.

The post-employment restrictions set forth in section 10(k) of the FDI Act and § 4.74 do not apply to any officer or employee of the OCC, or any former officer or employee of the OCC, if—

(a) The individual ceased to be an officer or employee of the OCC before December 17, 2005; or

(b) The Comptroller of the Currency certifies, in writing and on a case-by-case basis, that granting the individual a waiver of the restrictions would not affect the integrity of the OCC’s supervisory program.

§ 4.76 Penalties.

(a) *Penalties under section 10(k) of FDI Act.* If a senior examiner of a national bank, after leaving the employment of the OCC, accepts compensation as an

employee, officer, director, or consultant from that bank, or any company (including a bank holding company) that controls that bank, then the examiner shall, in accordance with section 10(k)(6) of the FDI Act, be subject to one of the following penalties—

(1) An order—

(i) Removing the individual from office or prohibiting the individual from further participation in the affairs of the relevant national bank, bank holding company, or other company that controls such institution for a period of up to five years; and

(ii) Prohibiting the individual from participating in the affairs of any insured depository institution for a period of up to five years; or

(2) A civil monetary penalty of not more than \$250,000.

(b) *Enforcement by appropriate Federal banking agency.* Violations of § 4.74 shall be administered or enforced by the appropriate Federal banking agency for the depository institution or depository institution holding company that provided compensation to the former senior examiner. For purposes of this paragraph, the appropriate Federal banking agency for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency that formerly employed the senior examiner.

(c) *Scope of prohibition orders.* Any senior examiner who is subject to an order issued under paragraph (a) of this section shall, as required by 12 U.S.C. 1820(k)(6)(B), be subject to paragraphs (6) and (7) of section 8(e) of the FDI Act (12 U.S.C. 1818(e)(6)–(7)) in the same manner and to the same extent as a person subject to an order issued under section 8(e).

(d) *Procedures.* The procedures applicable to actions under paragraph (a) of this section are provided in section 10(k)(6) of the FDI Act (12 U.S.C. 1820(k)(6)) and in 12 CFR part 19.

(e) *Remedies not exclusive.* The OCC may seek both of the penalties described in paragraph (a) of this section. In addition, a senior examiner who accepts compensation as described in § 4.74 may be subject to other administrative, civil or criminal remedies or penalties as provided in law.