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OCC PROPOSES REGULATION ON INTERNATIONAL BANKING

The Office of the Comptroller of the Currency (OCC) will send to the Federal Register today a proposed rule on international operations of national banks and federal branches and agencies of foreign banks in the United States.

The proposed rule implements provisions of the Foreign Bank Supervisory Enhancement Act of 1991 and the Riegle-Neal Interstate Bank and Branching Efficiency Act of 1994. The proposal clarifies, updates, and streamlines provisions in the current parts 20 and 28 of OCC regulations, and consolidates these provisions into the new part 28. The proposed rule also is part of the OCC's ongoing regulatory review program.

The proposed rule clarifies and streamlines the standards and procedures for OCC approval of new federal branches and agencies. Similarly, it clarifies and streamlines the notice requirements for federal branches and agencies, as well as for international operations of national banks. Among other things, under the proposed rule, the OCC may accept a copy of an application filed with other federal banking agencies, which would eliminate the existing requirement for a separate notification to the OCC.

Most federal branches and agencies of foreign banks do not have FDIC deposit insurance. Uninsured U.S. federal branches and agencies are not permitted to accept retail deposits under \$100,000. An exemption exists for certain minimal (so-called de minimis) deposits up to 5 percent of branch deposits. The Riegle-Neal Act required the OCC and the Federal Deposit Insurance Corporation (FDIC) to reduce that exempted amount from 5 percent to 1 percent of branch deposits. The proposed rule would implement that statutory requirement and is consistent with a similar FDIC proposal. This provision means that an uninsured federal branch or agency could accept retail deposits under \$100,000 limited to 1 percent of the daily average of deposits of the last 30 days of the most recent quarter. The OCC also solicits comment on simplifying the calculation of this daily deposit average.

In addition, the OCC proposes a transition period of up to 5 years to phase out deposits held in the existing 5 percent de minimis accounts.

The Riegle-Neal Act also required the agencies to review their other exemptions from the general prohibition of retail deposit taking, and particularly to consider various specific categories of deposits that should be exempted. Congress' objectives were to ensure the competitive equality of foreign and domestic banks, as well as credit availability to various sectors of the U.S. economy, including trade finance.

The OCC proposes to adopt the exemptions cited in the Act, with some modifications and additions that take into account Congress'

objectives for this provision. As a result, uninsured federal branches would be allowed to accept deposits under \$100,000 from:

individuals who are neither U.S. citizens or residents;

foreign individuals employed by a foreign bank, business, or government, or a recognized international organization;

foreign businesses and large U.S. businesses;

U.S. and foreign governmental units and international organizations;

persons to whom the branch or the foreign bank has extended credit or provided other non-deposit services in the past year, or has agreed to provide credit or non-deposit services in the next year;

persons who deposit funds in connection of transmitting funds; and

persons who may deposit funds with Edge corporations, such as persons engaged in certain international business activities.

The OCC seeks comment on these proposed exceptions and the definitions of the terms used in these exceptions, such as "large U.S. businesses", that would be consistent with Congress' objectives. For instance, the proposed rule solicits comment on potential additional exceptions, such as deposits from customers or persons and their affiliates who have received credit or a written agreement for credit from the branch or agency.

The proposed rule also clarifies the permissible activities for national banks in a foreign country, as well as for U.S. branches or agencies of foreign banks. Among other things, the proposed rule would implement the provision of the Riegle-Neal Act that addresses the ability of a federal branch or agency of a foreign bank to manage the activities of the bank's offshore offices. The Act permits a federal branch or agency to manage the same offshore activities permissible for U.S. banks to manage offshore.

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