At the time of their initial publication, many of the rulings formed the basis of regulatory authority for new bank activities. Many of those activities are recognized as usual and customary today. However, most of these interpretive rulings are unchanged since their initial publication, while the banking statutes and interpretive positions of the OCC have continued to evolve. As a result, many of the interpretive rulings in part 7 need revision, and some are so outdated that they no longer serve any useful purpose. In addition, new rulings are needed to address changing industry practices, developing issues, and recent statutory amendments. In conjunction with these revisions, the OCC also is proposing to transfer some interpretive rulings presently located in part 7 of title 12 to part 31 of title 12, since they relate to the subject matter of that part.

## Proposal

This proposal also substantially reorganizes part 7. To aid users of the part, the subparts are renumbered and divided among four topic sections: Subpart A—Bank Powers, Subpart B— Corporate Practices, Subpart C—Bank Operations, and Subpart D-Preemption. The proposal removes a number of rulings that are obsolete or superfluous because they merely restate statutory authority, and proposes changes to the remaining rulings to clarify or update longstanding interpretive positions. In addition, new interpretive rulings are proposed to address developing issues and changing industry practices as well as recent statutory developments.

Wherever possible, this proposal consolidates related interpretive rulings into one section in order to address related issues together. For instance, proposed § 7.2011 on bank compensation plans combines current §§ 7.5000, 7.5010, and 7.5015, regarding bonus and profit sharing plans, pension plans, and employee stock option and stock purchase plans. The OCC condensed related sections, to present relevant information in one comprehensive section for greater clarity.

The proposal's revisions, additions, and consolidation of current sections are described in the section-by-section summary that follows. After the section-by-section summary, the preamble explains the OCC's reasons for proposing to remove a number of

the public generally. The Comptroller has accordingly concluded that the public interest requires the publication of these rulings in the Code of Federal Regulations.

interpretive rulings contained in current part 7. The preamble concludes by listing those sections for which no change, except for necessary renumbering, is proposed, and briefly explains the reasons for preserving the sections as they are. A distribution table and derivation table comparing current part 7 sections to the proposed sections follows the "proposal" segment of this preamble.

Section-by-Section Descriptions of Proposed Changes

Bank Ownership of Property (§ 7.1000)

Proposed § 7.1000 simplifies and consolidates current §§ 7.3005, 7.3010, 7.3100, 7.3300, and 7.5230 regarding permissible ownership of real property by national banks, primarily bank premises. Proposed § 7.1000 provides an updated, non-exclusive list of real estate the OCC considers as bank premises for purposes of 12 U.S.C. 29, and removes provisions that merely repeat statutory language. For greater simplicity and clarity, proposed § 7.1000 uses the phrase "necessary for the transaction of its business" rather than "necessary for its accommodation in the transaction of its business" used in 12 U.S.C. 29.

Proposed § 7.1000(b) clarifies that a national bank, as well as a bank premises corporation, may own necessary fixed assets as part of bank premises, and adds that a national bank may own real property "fixtures." In recognition of modern corporate law developments, proposed § 7.1000(c) provides that a bank premises subsidiary may be organized as a partnership or similar entity (e.g., a limited liability company) as well as a corporation. A statement in current § 7.3100(b)(2) that a bank premises corporation is not a bank service corporation has been removed as unnecessary, but the OCC intends no substantive change.

Proposed § 7.1000(d) shortens the discussion of investment limitations on bank ownership of property or corporations owning bank premises by referring to 12 U.S.C. 371d, where they are fully set forth, and refers to part 5 of this chapter for the relevant approval requirements. See § 5.37 of this chapter, 59 FR 61034, Nov. 29, 1994. Proposed § 7.1000 removes references to prior approval, because revisions to part 5, recently proposed by the OCC, would not always require prior approval for these investments. See 59 FR 61034, Nov. 29, 1994.

Proposed § 7.1000(e) covers two other types of real estate ownership that the OCC has found to be permissible in narrowly defined circumstances,

although not as bank premises. In a line of precedent originating in the early sixties, the OCC has permitted the lease financing of public facilities under certain conditions, on the basis that such transactions are essentially secured real estate loans. This rationale is analogous to the basis for leasing personal property pursuant to 12 U.S.C. 24(Seventh), and could have broader applicability.

The OCC invites comment on the extent to which real estate lease financing should be similarly permitted for other types of borrowers and other

types of properties.

Proposed § 7.1000(e) also incorporates the present § 7.5230, concerning bank purchases of the homes of relocating employees who would otherwise suffer a loss on the sale of their homes. Such purchases are justified because they facilitate the efficient utilization of bank personnel, but the bank must divest itself of the house as soon as reasonably possible.

National Bank Acting as Finder (§ 7.1002)

Proposed § 7.1002 revises current § 7.7200 to reflect more recent OCC interpretations. The proposal clarifies that a national bank may act as a finder of certain goods and services other than insurance. In addition, proposed § 7.1002(b) contains a non-exclusive list of the types of activities that a national bank may engage in while acting as finder.

Proposed § 7.1002(c) also adds the phrase—"Unless otherwise prohibited"—to recognize that some state laws prohibit insurance brokers from splitting commissions with nonbrokers and certain national bank finder activities could violate the Real Estate Settlement Procedures Act (RESPA) and its implementing regulations. See 12 U.S.C. 2601 through 2617, and 24 CFR 3500.14(b). Proposed § 7.1002 also revises current § 7.7200 to reflect that since 1986 the OCC has not objected to a national bank advertising its finder services.

Loans made at banking offices or at other than banking offices (§ 7.1003); Loans originating at other than banking offices (§ 7.1004); Credit decisions at other than banking offices (§ 7.1005)

The proposal retains and redesignates current § 7.7380 as § 7.1004 without substantive change, (the section is slightly reworded to be more readable) and adds new sections that address when a loan is made, loan approval and loan disbursal. The new sections, §§ 7.1003 and 7.1005, are intended to