§7.1013 Debt cancellation contracts.

A national bank may enter into a contract to provide for losses arising from cancellation of outstanding loans upon the death, disability, or unemployment of borrowers. The imposition of an additional charge and the establishment of necessary reserves in order to enable the bank to enter into such debt cancellation contracts are a lawful exercise of the powers of a national bank.

§7.1014 Sale of money orders at nonbanking outlets.

A national bank may designate bonded agents to sell the bank's money orders at nonbanking outlets. The responsibility of both the bank and their agents should be carefully defined in a written agreement setting forth the duties of both parties and providing for remuneration of the agent. The bank's agents need not report on sales and transmit funds from the nonbanking outlets more frequently than at the end of the third business day following receipt of the funds.

§7.1015 Receipt of stock from small business investment company.

A national bank may purchase the stock of a small business investment company (SBIC), (see 15 U.S.C. 682(b)) and may receive the benefits of such stock ownership (e.g., stock dividends). The receipt and retention of a dividend by a national bank from an SBIC in the form of stock of a corporate borrower of the SBIC is not a purchase of stock within the meaning of 12 U.S.C. 24(Seventh).

§ 7.1016 Independent undertakings to pay against documents.

(a) General authority. A national bank may issue and commit to issue letters of credit and other independent undertakings within the scope of the laws or rules of practice recognized by law (such as the Uniform Commercial Code (1962) (amended 1990)), the Uniform Customs and Practice for Documentary Credits (Int'l Chamber of Com., 1983) (ICC Publication No. 400), the United Nations Commission on International Trade Law (UNCITRAL) Convention on Independent Guarantees and Standby Letters of Credit, and Uniform Rules for Bank-to-Bank Reimbursements Under Documentary Credits (Int'l Chamber of Com., 1995) (ICC Publication No. 525), under which the bank's obligation to honor depends upon the presentation of specified documents and not upon nondocumentary conditions outside the bank's operational purview. A national bank may also confirm or otherwise

undertake to honor or purchase specified documents upon their presentation under another person's independent undertaking within the scope of such laws or rules.

(b) Safety and soundness considerations. (1) Terms. As a matter of safe and sound banking practice, banks that issue independent undertakings must not be exposed to undue risk. At a minimum, banks must consider the following:

(i) The independent character of the undertaking must be apparent from its terms and include a reference to the laws or rules providing for its independent character;

(ii) The undertaking must be limited in duration and in amount; and

- (iii) The bank must have a post-honor right of reimbursement from its customer or from another bank, or if the bank's undertaking is to purchase drafts accompanied by documents of title, securities, or other intrinsically valuable documents, the bank must obtain a first priority right to realize on the documents if the bank is not otherwise reimbursed.
- (2) Additional considerations in special circumstances. Certain undertakings require particular protections against credit, operational and market risk:
- (i) In the event that the undertaking is to honor by delivery of an item of value other than money, the bank must ensure that market fluctuations that affect the value of the item will not cause the bank to assume undue market risk;

(ii) In the event that an undertaking provides for renewal, the terms for renewal must be consistent with the bank's ability to make any necessary credit assessments prior to renewal; and

(iii) In the event that a bank issues an undertaking for its own account, the underlying obligation for which it is issued must be within the bank's authority and comply with any safety and soundness requirements applicable to that obligation.

(3) Operational expertise. The bank must possess operational expertise that is commensurate with the sophistication of its independent undertaking activities.

(4) *Documentation*. The bank must accurately reflect the bank's undertakings in its records, including any acceptance or deferred payment or other absolute obligation arising out of its contingent undertaking.

§7.1017 National bank as guarantor or surety on indemnity bond.

General. A national bank may lend its credit, bind itself as a surety to indemnify another, or otherwise become

a guarantor, if it has a substantial interest in the performance of the transaction involved or has a segregated deposit sufficient in amount to cover the bank's total potential liability. For example, a bank, as a fiduciary, has a sufficient interest in the faithful performance by a cofiduciary of its duties to act as surety on the bond of such cofiduciary.

§7.1018 Automatic payment plan account.

A national bank may, for the benefit and convenience of its savings depositors, adopt an automatic payment plan under which a savings account will earn dividends at the current rate paid on regular savings accounts. The depositor, upon reaching a previously designated age, receives his or her accumulated savings and earned interest in installments of equal amounts over a specified period.

§7.1019 Use of data processing equipment and furnishing of data processing services.

In general, data processing is a technology rather than a service distinct or different from the underlying services or functions to which the technology is applied. A national bank may use data processing equipment and technology to perform for itself and others all services expressly or incidentally authorized under the statutes applicable to national banks. Further, when a national bank uses data processing equipment or technology to perform authorized services, the bank may market and sell any legitimate excess capacity in that equipment or technology.

Subpart B—Corporate Practices

§7.2000 Corporate governance procedures.

(a) General. A national bank proposing to engage in a corporate governance procedure must comply with applicable Federal banking statutes and regulations, and safe and sound banking practices.

(b) Model Business Corporation Act. In the event that there is no applicable Federal banking statute or regulation, a national bank may obtain guidance on proper corporate governance procedures from a variety of sources. In addition to other appropriate sources of guidance, a national bank may engage in a corporate governance procedure in the manner prescribed in those sections of the Model Business Corporation Act (MBCA) (1984) (amended 1993), designated by the OCC, which are set forth in Appendix A of this part.

(c) *No-objection procedures.* The OCC also considers requests for the staff's position on the ability of a national bank