

branch, Federal agency, or limited Federal branch, and from a Federal branch, Federal agency, or limited Federal branch to another Federal office (branch, limited branch, or agency).

The proposal defines "establish" as opening and engaging in business at a new Federal branch or Federal agency. It also includes the acquisition of a Federal branch or agency through a merger, consolidation, or similar transaction with another foreign bank or a foreign bank subsidiary, and various conversions and relocations within a state, or from one state to another.

#### *Federal Agency (Section 28.11(e))*

The proposal makes this definition consistent with the definition in Regulation K and the IBA by clarifying that a Federal agency may maintain credit balances, cash checks, and lend money, but generally may not accept deposits from citizens or residents of the United States. Usage of the term "credit balances" is also consistent with Regulation K.

#### *Federal Branch (Section 28.11(f))*

The proposal makes this definition consistent with the definition in Regulation K and the IBA by clarifying that a Federal branch is an office licensed by the OCC that is not a Federal agency as defined in proposed § 28.11(e).

#### *Foreign Bank (Section 28.11(g))*

The proposal makes this definition consistent with the definition in Regulation K and the IBA by clarifying that a foreign bank is an organization that is organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, and that engages directly in the business of banking outside the United States.

#### *Foreign Business (Section 28.11(h))*

This new definition clarifies the term "foreign business" as it is used in proposed § 28.16, "Deposit-taking by uninsured Federal branches", which permits uninsured Federal branches to accept initial deposits of less than \$100,000 from a "foreign business". The proposed definition attempts to balance Congress' concern that foreign banks not receive an unfair advantage over United States banks by engaging in retail deposit-taking through uninsured branches and the importance of maintaining credit availability to all sectors of the United States economy, including international trade finance.

The proposal defines "foreign business" to mean any entity, including a corporation, partnership, sole

proprietorship, association, or trust that is organized under the laws of a foreign country, or any United States entity that is controlled by a foreign entity or foreign national. A foreign entity or foreign national shall be deemed to control a United States entity if the foreign entity or individual directly controls, or has the power to vote 25 percent or more of any class of voting securities of, the United States entity or controls in any manner the election of a majority of the directors or trustees of the other entity.

This definition accommodates businesses owned by foreign nationals who are residents of the United States and concerned about credit availability to their businesses. These businesses may prefer to do business with a branch of a foreign bank from their home country regardless of whether the branch is FDIC insured.

The OCC specifically invites commenters to address the scope of this definition.

#### *Foreign Country (Section 28.11(i))*

This new definition clarifies the term "foreign country" as used in this subpart to mean one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States, and the Commonwealth of Puerto Rico.

#### *Home Country (Section 28.11(j))*

This new definition clarifies the term "home country" as used in proposed § 28.12, and is similar to the definition in Regulation K. The proposal defines "home country" as the country in which the foreign bank is chartered or incorporated.

#### *Home Country Supervisor (Section 28.11(k))*

This new definition clarifies the term "home country supervisor" as it is used in proposed § 28.12, and is similar to the definition in Regulation K. The proposal defines "home country supervisor" as the governmental entity or entities in the foreign bank's home country with responsibility for supervising and regulating the foreign bank.

#### *Home State (Section 28.11(l))*

This new definition of "home state", as it is used in proposed § 28.17, is consistent with the description of "home state" in section 104(d) of the Interstate Act amending section 5(c) of the IBA, 12 U.S.C. 3103(c). The proposal defines "home state" to mean the state in which the foreign bank has an office. If a foreign bank has an office in more

than one state, the home state of the foreign bank is one state of those states that is selected to be the home state by the foreign bank or, in default of such selection, by the FRB. The FRB's Regulation K, 12 CFR 211.22(b), also permits a foreign bank to change its home state designation once by providing 30 days prior notice to the FRB.

#### *Initial Deposit (Section 28.11(m))*

This new definition clarifies the term "initial deposit" as used in proposed § 28.16, and is similar to the definition found in the comparable FDIC regulation, 12 CFR 346.1(k). The proposal defines "initial deposit" to mean the first deposit transaction between a depositor and the branch made on or after the effective date of this regulation. The initial deposit may be placed into different deposit accounts or into different kinds of deposit accounts, such as demand, savings, or time accounts. Deposit accounts that are held by a depositor in the same right and capacity may be added together for the purpose of determining the dollar amount of the initial deposit.

#### *International Banking Facility (Section 28.11(n))*

This new definition clarifies the term "International banking facility" as it is used in proposed § 28.20, and incorporates the definition found in 12 CFR 204.8. The proposal defines "international banking facility" to mean a set of asset and liability accounts segregated on the books and records of a bank, a United States branch or agency of a foreign bank, or an Edge or Agreement Corporation, that includes only international banking facility time deposits and extensions of credit.

#### *Large United States Business (Section 28.11(o))*

This new definition clarifies an exception to the general prohibition of deposit taking by Federal branches in proposed § 28.16, which permits uninsured Federal branches to accept initial deposits of less than \$100,000 from "large United States businesses". The proposal attempts to balance Congress' concern that foreign banks not receive an unfair competitive advantage over United States banks by engaging in retail deposit-taking through uninsured branches and the importance of maintaining credit availability to all sectors of the United States economy. There does not appear to be a commonly-accepted or standard definition for a "large business". Therefore, the proposal describes