

United States and foreign banks and credit availability to all sectors of the economy as a result of the extension.

The Interstate Act permits the OCC to establish reasonable transition rules to facilitate termination of any deposit-taking activity that previously was permissible. The proposal provides for a five-year transition period for existing transaction accounts. The transition period for a time deposit is proposed to be until the maturity of the deposit. Thus, an uninsured branch may not retain deposits accepted before the effective date of this section for longer than five years or, in the case of time deposits, until maturity of the deposit, unless the deposit falls within a new exemption under paragraph (b) or is granted an exception by the OCC under paragraph (c).

Deposits received after the effective date of the regulation would be regarded as initial deposits that must qualify under one of the new exemptions, or be accepted under the new 1 percent *de minimis* exemption. With regard to the *de minimis* exemption, uninsured Federal branches will start with a clean slate, i.e. the new 1 percent limit will apply prospectively. It will exclude deposits in the existing 5 percent *de minimis* account that are phased out, as described above.

The OCC invites comment on this transition rule. If an alternate approach is recommended, commenters are requested to detail whether the alternate imposes a recordkeeping burden on uninsured branches and the extent of the burden, particularly in comparison to the approach contained in the proposal.

#### *Changes in Activities and Operations (Section 28.17)*

The proposal adds a new provision to clarify the OCC's current policy regarding certain changes in activities and operations. The proposal requires a Federal branch or Federal agency simply to provide a notice to the OCC when it changes its corporate title or mailing address, converts to a state branch, state agency, or a representative office, or when its parent foreign bank changes its home state designation.

#### *Recordkeeping and Reporting. (Section 28.18)*

The proposal reorganizes and clarifies the recordkeeping and reporting requirements in current § 28.10 for

Federal branches and Federal agencies. The proposal restates current OCC policy and practice that the OCC may require a parent foreign bank to provide the OCC with the information regarding its affairs. The proposal also adds a specific requirement that a foreign bank operating a Federal branch or Federal agency in the United States provide the OCC with a copy of regulatory reports designated by the OCC that are filed with other Federal regulatory agencies. These reports may be necessary for the OCC to effectively supervise Federal branches and agencies. The OCC believes that asking only for copies of information that is already prepared to satisfy existing requirements for other United States regulators would preclude the need, in most cases, to impose new report-preparation requirements on Federal branches and agencies.

The proposal also clarifies the current requirement that a Federal branch or Federal agency maintain a set of accounts and records in English reflecting all transactions on a daily basis. To eliminate unnecessary burden and translation costs, the proposal does not require that all records be maintained in English; however, a Federal branch or Federal agency must maintain sufficient records in English to permit examiners to perform their responsibilities.

#### *Enforcement (Section 28.19)*

The proposal clarifies the OCC's enforcement authority, pursuant to 12 U.S.C. 3108(b), to bring actions under 12 U.S.C. 1818 for violations of the IBA in addition to any other remedies provided by the IBA or any other law.

#### *Maintenance of Assets (Section 28.20)*

The proposal amplifies and clarifies the current asset maintenance requirement for Federal branches and Federal agencies contained in the IBA and current § 28.9. The proposal contains provisions regarding the minimum amount of required assets, valuation of assets, and eligibility of assets for asset maintenance purposes. The proposal is in most respects identical to the FDIC's asset maintenance requirements for insured branches 12 CFR 346.20. The proposed provision is also similar to the comparable provisions in the New York state banking law and regulations.

In the past, the OCC has imposed asset maintenance requirements in a few

cases as a condition of licensing and has exercised this authority in connection with certain enforcement actions. In the future, the asset maintenance requirement may increase in importance as a tool that the OCC uses in its overall supervision of foreign banks. Therefore, the OCC believes that the proposal will be helpful in clarifying aspects of the asset maintenance requirement.

The OCC invites comment on whether the detail provided by the proposal is helpful in clarifying the use and scope of the provision to the industry.

Also, the OCC invites comment on whether to exclude any classified asset entirely, as the provided in proposed § 28.20(c)(2)(ii), or whether to include certain classified assets (e.g. "substandard") in eligible assets in full or in part based on different risk weights and percentages.

#### *Voluntary Liquidation (Section 28.22)*

Currently, the OCC's regulations do not provide guidance on the procedures and standards applicable to a voluntary liquidation or termination of a Federal branch or Federal agency. In the past, the OCC has applied and modified the standards applicable in a national bank liquidation pursuant to 12 U.S.C. 181. The proposal clarifies the voluntary liquidation process for Federal branches and Federal agencies by referencing the applicable provisions in 12 CFR part 5. It also adds requirements that are specific to a Federal branch or Federal agency, such as notice to customers and creditors, and return of examination reports and the branch certificate.

#### *Termination of Federal Branches and Agencies (Section 28.23)*

The proposal clarifies the OCC's authority to terminate Federal branches and Federal agencies. The termination grounds include those stated in section 4(i) of the IBA, 12 U.S.C. 3102(i), the grounds for national bank termination referred to in 12 U.S.C. 191 and 12 U.S.C. 1821(c)(5), including unsafe and unsound practices, insufficiency or dissipation of assets, concealment of books and records, a money laundering offense, or a recommendation from the FRB to terminate a Federal branch or Federal agency pursuant to section 7(e)(5) of the IBA, 12 U.S.C. 3105(e)(5).

#### **Derivation Table**

Only substantive modifications, additions, and changes are indicated.

Revised provision	Original provision	Comments
§ 28.2 .....	§ 20.2 .....	Modified.
§ 28.3 .....	§§ 20.3, 20.4 .....	Significant change.
§ 28.4 .....	.....	Added.