

§ 26.5

(3) The OCC may require that any interlock permitted under this paragraph (h) be terminated if a change in circumstances occurs with respect to one of the interlocked depository organizations that would have provided a basis for disapproval of the interlock during the notice period.

§ 26.5 Small market share exemption.

(a) *Exemption.* A management interlock that is prohibited by § 26.3 is permissible, if:

(1) The interlock is not prohibited by § 26.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20 percent of the deposits in each RMSA or community in which both depository organizations (or their depository institution affiliates) have offices. The amount of deposits shall be determined by reference to the most recent annual Summary of Deposits published by the FDIC for the RMSA or community.

(b) *Confirmation and records.* Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

[64 FR 51678, Sept. 24, 1999]

§ 26.6 General exemption.

(a) *Exemption.* The OCC may by order issued following receipt of an application, exempt an interlock from the prohibitions in § 26.3 if the OCC finds that the interlock would not result in a monopoly or substantial lessening of competition and would not present safety and soundness concerns.

(b) *Presumptions.* In reviewing an application for an exemption under this section, the OCC will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the depository organization seeking to add a management official:

(1) Primarily serves low- and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group, or women;

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(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in “troubled condition” as defined in 12 CFR 5.51(c)(6).

(c) *Duration.* Unless a specific expiration period is provided in the OCC approval, an exemption permitted by paragraph (a) of this section may continue so long as it does not result in a monopoly or substantial lessening of competition, or is unsafe or unsound. If the OCC grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided by the OCC in writing.

[64 FR 51678, Sept. 24, 1999]

§ 26.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service or apply for an exemption if a change in circumstances causes the service to become prohibited. A change in circumstances may include an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or any reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

(b) *Transition period.* A management official described in paragraph (a) of this section may continue to serve the depository organization involved in the interlock for 15 months following the date of the change in circumstances. The OCC may shorten this period under appropriate circumstances.

[61 FR 40300, Aug. 2, 1996, as amended at 64 FR 51678, Sept. 24, 1999]

§ 26.8 Enforcement.

Except as provided in this section, the OCC administers and enforces the Interlocks Act with respect to national banks, District banks, and affiliates of either, and may refer any case of a prohibited interlocking relationship involving these entities to the Attorney General of the United States to enforce compliance with the Interlocks Act

and this part. If an affiliate of a national bank or a District bank is subject to the primary regulation of another Federal depository organization supervisory agency, then the OCC does not administer and enforce the Interlocks Act with respect to that affiliate.

PART 27—FAIR HOUSING HOME LOAN DATA SYSTEM

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APPENDIX I TO PART 27—MONTHLY HOME LOAN ACTIVITY FORMAT

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APPENDIX III TO PART 27—FAIR HOUSING LENDING INQUIRY/APPLICATION LOG SHEET

APPENDIX IV TO PART 27—HOME LOAN DATA SUBMISSION

AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 1 *et seq.*, 93a, 161, 481, and 1818; 15 U.S.C. 1691 *et seq.*; 42 U.S.C. 3601 *et seq.*; 12 CFR part 202.

SOURCE: 44 FR 63089, Nov. 2, 1979, unless otherwise noted.

§ 27.1 Scope and OMB control number.

(a) *Scope.* This part applies to the activities of national banks and banks located in the District of Columbia, and their subsidiaries, which make home loans for the purpose of purchasing, construction-permanent financing, or refinancing of residential real property.

(b) *OMB control number.* The collection of information requirements contained in this part were approved by the Office of Management and Budget under OMB control number 1557-0160.

[49 FR 11825, Mar. 28, 1984]

§ 27.2 Definitions.

For the purpose of this part, including all forms and instructions issued for use under this part:

(a) *Applicant* means a natural person, including a co-applicant, who makes an application.

(b) *Application* means an oral in-person or written request for an extension of credit for a home loan that is made

in accordance with procedures established by a bank for the type of credit requested.

(c) *Bank* means a national bank or bank located in the District of Columbia, and any subsidiaries of such a bank.

(d) *Completed application* means an application in connection with which a bank has received all the information that it regularly obtains and considers in evaluating the amount and type of credit requested.

(e) *Decision center* means the place where home loan applications are accepted or rejected.

(f) *Home loan* means a real estate loan for the purchase, permanent financing for construction, or the refinancing of residential real property which the applicant intends to occupy as a principal residence.

(g) *Inquirer* means a natural person who makes an inquiry.

(h) *Inquiry* means a written or an oral in-person request for information about the terms of a home loan by a natural person on his/her own behalf which is received on a bank's premises by any person at the bank who customarily receives or is authorized to receive such requests. Telephonic communications do not constitute an inquiry for purposes of this part.

(i) *Real estate loan* means any loan secured by real estate where the bank relies upon such real estate as the primary security for the loan. Where the bank in its judgment relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than real estate, the loan does not constitute a real estate loan, although as a matter of prudent banking practice it may also be secured by real estate.

(1) A loan made in reliance upon the security of a mobile home will not be considered a real estate loan, although as a prudent banking practice the security interest is recorded or otherwise perfected as if the mobile home were real estate. For purposes of this part, a loan made in reliance upon the security of a mobile home and the parcel of land to which it is permanently affixed will be considered a real estate loan.

(2) Where the bank relies substantially upon the insurance guaranty of a