

§ 7.2020

§ 7.2020 Acquisition and holding of shares as treasury stock.

(a) *Acquisition of outstanding shares.* Pursuant to 12 U.S.C. 59, including the requirements for prior approval by the bank's shareholders and the OCC imposed by that statute, a national bank may acquire its outstanding shares and hold them as treasury stock, if the acquisition and retention of the shares is, and continues to be, for a legitimate corporate purpose.

(b) *Legitimate corporate purpose.* Examples of legitimate corporate purposes include the acquisition and holding of treasury stock to:

(1) Have shares available for use in connection with employee stock option, bonus, purchase, or similar plans;

(2) Sell to a director for the purpose of acquiring qualifying shares;

(3) Purchase a director's qualifying shares upon the cessation of the director's service in that capacity if there is no ready market for the shares;

(4) Reduce the number of shareholders in order to qualify as a Subchapter S corporation; and

(5) Reduce costs associated with shareholder communications and meetings.

(c) *Prohibition.* It is not a legitimate corporate purpose to acquire or hold treasury stock on speculation about changes in its value.

[64 FR 60099, Nov. 4, 1999]

§ 7.2021 Preemptive rights.

A national bank in its articles of association must grant or deny preemptive rights to the bank's shareholders. Any amendment to a national bank's articles of association which modifies such preemptive rights must be approved by a vote of the holders of two-thirds of the bank's outstanding voting shares.

§ 7.2022 Voting trusts.

The shareholders of a national bank may establish a voting trust under the applicable law of a state selected by the participants and designated in the trust agreement, provided the implementation of the trust is consistent with safe and sound banking practices.

12 CFR Ch. I (1-1-05 Edition)

§ 7.2023 Reverse stock splits.

(a) *Authority to engage in reverse stock splits.* A national bank may engage in a reverse stock split if the transaction serves a legitimate corporate purpose and provides adequate dissenting shareholders' rights.

(b) *Legitimate corporate purpose.* Examples of legitimate corporate purposes include a reverse stock split to:

(1) Reduce the number of shareholders in order to qualify as a Subchapter S corporation; and

(2) Reduce costs associated with shareholder communications and meetings.

[64 FR 60099, Nov. 4, 1999]

§ 7.2024 Staggered terms for national bank directors and size of bank board.

(a) *Staggered terms.* Any national bank may adopt bylaws that provide for staggering the terms of its directors. National banks shall provide the OCC with copies of any bylaws so amended.

(b) *Maximum term.* Any national bank director may hold office for a term that does not exceed three years.

(c) *Number of directors.* A national bank's board of directors shall consist of no fewer than 5 and no more than 25 members. A national bank may, after notice to the OCC, increase the size of its board of directors above the 25 member limit. A national bank seeking to increase the number of its directors must notify the OCC any time the proposed size would exceed 25 directors. The bank's notice shall specify the reason(s) for the increase in the size of the board of directors beyond the statutory limit.

[68 FR 70131, Dec. 17, 2003]

Subpart C—Bank Operations

§ 7.3000 Bank hours and closings.

(a) *Bank hours.* A national bank's board of directors should review its banking hours, and, independently of any other bank, take appropriate action to establish a schedule of banking hours.

(b) *Emergency closings.* Pursuant to 12 U.S.C. 95(b)(1), the Comptroller of the Currency (Comptroller), a state, or a

legally authorized state official may declare a day a legal holiday if emergency conditions exist. That day is a legal holiday for national banks or their offices in the affected geographic area (*i.e.*, throughout the country, in a state, or in part of a state). Emergency conditions include natural disasters and civil and municipal emergencies (*e.g.*, severe flooding, or a power emergency declared by a local power company or government requesting that businesses in the affected area close). The Comptroller issues a proclamation authorizing the emergency closing in accordance with 12 U.S.C. 95 at the time of the emergency condition, or soon thereafter. When the Comptroller, a State, or a legally authorized State official declares a legal holiday due to emergency conditions, a national bank may temporarily limit or suspend operations at its affected offices. Alternatively, the national bank may continue its operations unless the Comptroller by written order directs otherwise.

(c) *Ceremonial closings.* A state or a legally authorized state official may declare a day a legal holiday for ceremonial reasons. When a state or a legally authorized state official declares a day to be a legal holiday for ceremonial reasons, a national bank may choose to remain open or to close.

(d) *Liability.* A national bank should assure that all liabilities or other obligations under the applicable law due to the bank's closing are satisfied.

[61 FR 4862, Feb. 9, 1996, as amended at 66 FR 34791, July 2, 2001]

§ 7.3001 Sharing space and employees.

(a) *Sharing space.* A national bank may:

(1) Lease excess space on bank premises to one or more other businesses (including other banks and financial institutions);

(2) Share space jointly held with one or more other businesses; or

(3) Offer its services in space owned or leased to other businesses.

(b) *Sharing employees.* When sharing space with other businesses as described in paragraph (a) of this section, a national bank may provide, under one or more written agreements among

the bank, the other businesses, and their employees, that:

(1) A bank employee may act as agent for the other business; or

(2) An employee of the other business may act as agent for the bank.

(c) *Supervisory conditions.* When a national bank engages in arrangements of the types listed in paragraphs (a) and (b) of this section, the bank shall ensure that:

(1) The other business is conspicuously, accurately, and separately identified;

(2) Shared employees clearly and fully disclose the nature of their agency relationship to customers of the bank and of the other businesses so that customers will know the identity of the bank or business that is providing the product or service;

(3) The arrangement does not constitute a joint venture or partnership with the other business under applicable state law;

(4) All aspects of the relationship between the bank and the other business are conducted at arm's length, unless a special arrangement is warranted because the other business is a subsidiary of the bank;

(5) Security issues arising from the activities of the other business on the premises are addressed;

(6) The activities of the other business do not adversely affect the safety and soundness of the bank;

(7) The shared employees or the entity for which they perform services are duly licensed or meet qualification requirements of applicable statutes and regulations pertaining to agents or employees of such other business; and

(8) The assets and records of the parties are segregated.

(d) *Other legal requirements.* When entering into arrangements, of the types described in paragraphs (a) and (b) of this section, and in conducting operations pursuant to those arrangements the bank must ensure that each arrangement complies with 12 U.S.C. 29 and 36 and with any other applicable laws and regulations. If the arrangement involves an affiliate or a shareholder, director, officer or employee of the bank: