

a directive requiring a bank immediately to take actions or to follow proscriptions described in section 38 that are within the OCC's discretion to require or impose under section 38 of the FDI Act, including section 38 (e)(5), (f)(2), (f)(3), or (f)(5). A bank that is subject to such an immediately effective directive may submit a written appeal of the directive to the OCC. Such an appeal must be received by the OCC within 14 calendar days of the issuance of the directive, unless the OCC permits a longer period. The OCC shall consider any such appeal, if filed in a timely matter, within 60 days of receiving the appeal. During such period of review, the directive shall remain in effect unless the OCC, in its sole discretion, stays the effectiveness of the directive.

(b) *Contents of notice.* A notice of intention to issue a directive shall include:

(1) A statement of the bank's capital measures and capital levels;

(2) A description of the restrictions, prohibitions or affirmative actions that the OCC proposes to impose or require;

(3) The proposed date when such restrictions or prohibitions would be effective or the proposed date for completion of such affirmative actions; and

(4) The date by which the bank subject to the directive may file with the OCC a written response to the notice.

§ 6.22 Response to notice.

(a) *Time for response.* A bank may file a written response to a notice of intent to issue a directive within the time period set by the OCC. The date shall be at least 14 calendar days from the date of the notice unless the OCC determines that a shorter period is appropriate in light of the financial condition of the bank or other relevant circumstances.

(b) *Content of response.* The response should include:

(1) An explanation why the action proposed by the OCC is not an appropriate exercise of discretion under section 38;

(2) Any recommended modification of the proposed directive; and

(3) Any other relevant information, mitigating circumstances, documenta-

tion, or other evidence in support of the position of the bank regarding the proposed directive.

(c) *Failure to file response.* Failure by a bank to file with the OCC, within the specified time period, a written response to a proposed directive shall constitute a waiver of the opportunity to respond and shall constitute consent to the issuance of the directive.

§ 6.23 Decision and issuance of a prompt corrective action directive.

(a) *OCC consideration of response.* After considering the response, the OCC may:

(1) Issue the directive as proposed or in modified form;

(2) Determine not to issue the directive and so notify the bank; or

(3) Seek additional information or clarification of the response from the bank, or any other relevant source.

(b) [Reserved]

§ 6.24 Request for modification or rescission of directive.

Any bank that is subject to a directive under this subpart may, upon a change in circumstances, request in writing that the OCC reconsider the terms of the directive, and may propose that the directive be rescinded or modified. Unless otherwise ordered by the OCC, the directive shall continue in place while such request is pending before the OCC.

§ 6.25 Enforcement of directive.

(a) *Judicial remedies.* Whenever a bank fails to comply with a directive issued under section 38, the OCC may seek enforcement of the directive in the appropriate United States district court pursuant to section 8(i)(1) of the FDI Act.

(b) *Administrative remedies.* Pursuant to section 8(i)(2)(A) of the FDI Act, the OCC may assess a civil money penalty against any bank that violates or otherwise fails to comply with any final directive issued under section 38 and against any institution-affiliated party who participates in such violation or noncompliance.

(c) *Other enforcement action.* In addition to the actions described in paragraphs (a) and (b) of this section, the OCC may seek enforcement of the provisions of section 38 or this part

through any other judicial or administrative proceeding authorized by law.

PART 7—BANK ACTIVITIES AND OPERATIONS

Subpart A—Bank Powers

- Sec.
- 7.1000 National bank ownership of property.
 - 7.1001 National bank acting as general insurance agent.
 - 7.1002 National bank acting as finder.
 - 7.1003 Money lent at banking offices or at other than banking offices.
 - 7.1004 Loans originating at other than banking offices.
 - 7.1005 Credit decisions at other than banking offices.
 - 7.1006 Loan agreement providing for a share in profits, income, or earnings or for stock warrants.
 - 7.1007 Acceptances.
 - 7.1008 Preparing income tax returns for customers or public.
 - 7.1009 National bank holding collateral stock as nominee.
 - 7.1010 Postal service by national bank.
 - 7.1011 National bank acting as payroll issuer.
 - 7.1012 Messenger service.
 - 7.1014 Sale of money orders at nonbanking outlets.
 - 7.1015 Receipt of stock from a small business investment company.
 - 7.1016 Independent undertakings to pay against documents.
 - 7.1017 National bank as guarantor or surety on indemnity bond.
 - 7.1018 Automatic payment plan account.
 - 7.1020 Purchase of open accounts.
 - 7.1021 National bank participation in financial literacy programs.

Subpart B—Corporate Practices

- 7.2000 Corporate governance procedures.
- 7.2001 Notice of shareholders' meetings.
- 7.2002 Director or attorney as proxy.
- 7.2003 Annual meeting for election of directors.
- 7.2004 Honorary directors or advisory boards.
- 7.2005 Ownership of stock necessary to qualify as director.
- 7.2006 Cumulative voting in election of directors.
- 7.2007 Filling vacancies and increasing board of directors other than by shareholder action.
- 7.2008 Oath of directors.
- 7.2009 Quorum of the board of directors; proxies not permissible.
- 7.2010 Directors' responsibilities.
- 7.2011 Compensation plans.

- 7.2012 President as director; chief executive officer.
- 7.2013 Fidelity bonds covering officers and employees.
- 7.2014 Indemnification of institution-affiliated parties.
- 7.2015 Cashier.
- 7.2016 Restricting transfer of stock and record dates.
- 7.2017 Facsimile signatures on bank stock certificates.
- 7.2018 Lost stock certificates.
- 7.2019 Loans secured by a bank's own shares.
- 7.2020 Acquisition and holding of shares as treasury stock.
- 7.2021 Preemptive rights.
- 7.2022 Voting trusts.
- 7.2023 Reverse stock splits.
- 7.2024 Staggered terms for national bank directors and size of bank board.

Subpart C—Bank Operations

- 7.3000 Bank hours and closings.
- 7.3001 Sharing space and employees.

Subpart D—Preemption

- 7.4000 Visitorial powers.
- 7.4001 Charging interest at rates permitted competing institutions; charging interest to corporate borrowers.
- 7.4002 National bank charges.
- 7.4003 Establishment and operation of a remote service unit by a national bank.
- 7.4004 Establishment and operation of a deposit production office by a national bank.
- 7.4005 Combination of loan production office, deposit production office, and remote service unit.
- 7.4006 Applicability of State law to national bank operating subsidiaries.
- 7.4007 Deposit-taking.
- 7.4008 Lending.
- 7.4009 Applicability of state law to national bank operations.

Subpart E—Electronic Activities

- 7.5000 Scope.
- 7.5001 Electronic activities that are part of, or incidental to, the business of banking.
- 7.5002 Furnishing of products and services by electronic means and facilities.
- 7.5003 Composite authority to engage in electronic activities.
- 7.5004 Sale of excess electronic capacity and by-products.
- 7.5005 National bank acting as digital certification authority.
- 7.5006 Data processing.
- 7.5007 Correspondent services.
- 7.5008 Location of national bank conducting electronic activities.