

company are located in the same state, unless the Federal Reserve Board has approved an exception to this requirement under the authority of 12 U.S.C. 1864(b); and

(5) Information demonstrating that the bank service company will conduct these activities only at locations in a state where the investing bank could be authorized to perform the activities directly.

(h) *Examination and supervision.* Each bank service company in which a national bank is the principal investor is subject to examination and supervision by the OCC in the same manner and to the same extent as that national bank.

(i) *Investment and other limitations—(1) Investment limitations.* A bank may not invest more than ten percent of its capital and surplus in a bank service company. In addition, the bank's total investments in all bank service companies may not exceed five percent of the bank's total assets.

(2) *Other limitations.* Except as provided in paragraph (f)(5) of this section, a bank service company shall only conduct activities that the national bank could conduct directly. If the bank service company has both national and state bank shareholders or members, the activities conducted must also be permissible for the state bank shareholders or members.

[61 FR 60363, Nov. 27, 1996, as amended at 64 FR 60098, Nov. 4, 1999]

§ 5.36 Other equity investments.

(a) *Authority.* 12 U.S.C. 1 *et seq.*, 24(Seventh), and 93a.

(b) *Scope.* National banks are permitted to make various types of equity investments pursuant to 12 U.S.C. 24(Seventh) and other statutes. These investments are in addition to those subject to §§ 5.34, 5.35, and 5.37. This section describes the procedure governing the filing of the notice that the OCC requires in connection with certain of these investments. Other investments authorized under this section may be reviewed on a case-by-case basis by the OCC.

(c) *Procedure.* (1) A national bank must provide the appropriate district office with written notice within ten days after making an equity investment in the following:

(i) An agricultural credit corporation;

(ii) A savings association eligible to be acquired under section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823); and

(iii) Any other equity investment that may be authorized by statute after February 12, 1990, if not covered by other applicable OCC regulation.

(2) The written notice required by paragraph (c)(1) of this section must include a description, and the amount, of the bank's investment.

(3) The OCC reserves the right to require additional information as necessary.

(d) *Exceptions to rules of general applicability.* Sections 5.8, 5.9, 5.10, and 5.11 of this part do not apply to filings for other equity investments.

§ 5.37 Investment in bank premises.

(a) *Authority.* 12 U.S.C. 29, 93a, and 371d.

(b) *Scope.* This section sets forth the procedures governing OCC review and approval of applications by national banks to invest in bank premises or in certain bank premises related investments, loans, or indebtedness, as described in paragraph (d)(1)(i) of this section.

(c) *Definition—Bank premises* for purposes of this section includes the following:

(1) Premises that are owned and occupied (or to be occupied, if under construction) by the bank, its branches, or its consolidated subsidiaries;

(2) Capitalized leases and leasehold improvements, vaults, and fixed machinery and equipment;

(3) Remodeling costs to existing premises;

(4) Real estate acquired and intended, in good faith, for use in future expansion; or

(5) Parking facilities that are used by customers or employees of the bank, its branches, and its consolidated subsidiaries.

(d) *Procedure—(1) Application.* (i) A national bank shall submit an application to the appropriate supervisory office to invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of the bank, or to