

## Comptroller of the Currency, Treasury

## § 4.76

deemed to control any branch or agency of the foreign bank.

*Depository institution* has the meaning given in section 3 of the FDI Act (12 U.S.C. 1813(c)). For purposes of this subpart, a depository institution includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State.

*Federal Reserve* means the Board of Governors of the Federal Reserve System and the Federal Reserve Banks.

*Foreign bank* means any foreign bank or company described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)).

*Insured depository institution* has the meaning given in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)).

*National bank* means a national banking association or a Federal branch or agency of a foreign bank.

*Senior examiner*. For purposes of this subpart, an officer or employee of the OCC is considered to be the "senior examiner" for a particular national bank if—

(1) The officer or employee has been authorized by the OCC to conduct examinations on behalf of the OCC;

(2) The officer or employee has been assigned continuing, broad, and lead responsibility for examining the national bank; and

(3) The officer's or employee's responsibilities for examining the national bank—

(i) Represent a substantial portion of the officer's or employee's assigned responsibilities; and

(ii) Require the officer or employee to interact routinely with officers or employees of the national bank or its affiliates.

### § 4.74 One-year post-employment restrictions.

An officer or employee of the OCC who serves as the senior examiner of a national bank for two or more months during the last twelve months of such individual's employment with the OCC may not, within one year after leaving the employment of the OCC, knowingly accept compensation as an employee, officer, director or consultant from the national bank, or any company (including a bank holding company) that controls the national bank.

### § 4.75 Effective date; waivers.

The post-employment restrictions set forth in section 10(k) of the FDI Act and § 4.74 do not apply to any officer or employee of the OCC, or any former officer or employee of the OCC, if—

(a) The individual ceased to be an officer or employee of the OCC before December 17, 2005; or

(b) The Comptroller of the Currency certifies, in writing and on a case-by-case basis, that granting the individual a waiver of the restrictions would not affect the integrity of the OCC's supervisory program.

### § 4.76 Penalties.

(a) *Penalties under section 10(k) of FDI Act*. If a senior examiner of a national bank, after leaving the employment of the OCC, accepts compensation as an employee, officer, director, or consultant from that bank, or any company (including a bank holding company) that controls that bank, then the examiner shall, in accordance with section 10(k)(6) of the FDI Act, be subject to one of the following penalties—

(1) An order—

(i) Removing the individual from office or prohibiting the individual from further participation in the affairs of the relevant national bank, bank holding company, or other company that controls such institution for a period of up to five years; and

(ii) Prohibiting the individual from participating in the affairs of any insured depository institution for a period of up to five years; or

(2) A civil monetary penalty of not more than \$250,000.

(b) *Enforcement by appropriate Federal banking agency*. Violations of § 4.74 shall be administered or enforced by the appropriate Federal banking agency for the depository institution or depository institution holding company that provided compensation to the former senior examiner. For purposes of this paragraph, the appropriate Federal banking agency for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency that formerly employed the senior examiner.

(c) *Scope of prohibition orders*. Any senior examiner who is subject to an