§ 208.6 Establishment and maintenance of branches.

(a) Branching. (1) To the extent authorized by state law, a member bank may establish and maintain branches (including interstate branches) subject to the same limitations and restrictions that apply to the establishment and maintenance of national bank branches (12 U.S.C. 36 and 1831u), except that approval of such branches shall be obtained from the Board rather than from the Comptroller of the Currency.

(2) Branch applications. A State member bank wishing to establish a branch in the United States or its territories must file an application in accordance with the Board’s Rules of Procedure, located at 12 CFR 262.3, and must comply with the public notice and comment rules contained in paragraphs (a)(3) and (a)(4) of this section. Branches of member banks located in foreign nations, in the overseas territories, dependencies, and insular possessions of those nations and of the United States, and in the Commonwealth of Puerto Rico, are subject to the Board’s Regulation K (12 CFR part 211).

(3) Public notice of branch applications. (i) Location of publication. A State member bank wishing to establish a branch in the United States or its territories must publish notice in a newspaper of general circulation in the form and at the locations specified in §262.3 of the Rules of Procedure (12 CFR 262.3).

(ii) Contents of notice. The newspaper notice referred to in paragraph (a)(3) of this section shall provide an opportunity for interested persons to comment on the application for a period of at least 15 days.

(iii) Timing of publication. Each newspaper notice shall be published no more than 7 calendar days before and no later than the calendar day on which an application is filed with the appropriate Reserve Bank.

(iv) Extension of comment period. The Board may, in its discretion, extend the public comment period regarding any application under §208.6. In the

State member bank is less than what applicable state law requires the bank to maintain relative to its capital stock account, the bank may be required to transfer amounts from its undivided profits account to surplus.
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event that an interested person requests a copy of an application submitted under §208.6, the Board may, in its discretion and based on the facts and circumstances, grant such person an extension of the comment period for up to 15 calendar days.

(b) Factors considered in approving domestic branch applications. Factors given special consideration by the Board in passing upon a branch application are:

(1) Financial condition and management. The financial history and condition of the applying bank and the general character of its management;

(2) Capital. The adequacy of the bank's capital in accordance with §208.4, and its future earnings prospects;

(3) Convenience and needs. The convenience and needs of the community to be served by the branch;

(4) CRA performance. In the case of branches with deposit-taking capability, the bank's performance under the Community Reinvestment Act (12 U.S.C. 2901 et seq.) and Regulation BB (12 CFR part 228); and

(5) Investment in bank premises. Whether the bank's investment in bank premises in establishing the branch is consistent with §208.21.

(c) Expedited approval for eligible banks and bank holding companies—(1) Availability of expedited treatment. The expedited branch application procedures described in paragraph (c)(2) of this section are available to:

(i) An eligible bank; and

(ii) A bank that cannot be determined to be an eligible bank because it has not received CAMELS compliance or CRA ratings from a bank regulatory authority, if it is controlled by a bank holding company that meets the criteria for expedited processing under §225.14(c) of Regulation Y (12 CFR 225.14(c)).

(2) Expedited procedures. A completed domestic branch application filed with the appropriate Reserve Bank will be deemed approved on the fifth day after the close of the comment period, unless the Board or the appropriate Reserve Bank notifies the bank that the application is approved prior to that date (but in no case will an application be approved before the third day after the close of the public comment period) or the Board or the appropriate Federal Reserve Bank notifies the bank that the application is not eligible for expedited review for any reason, including, without limitation, that:

(i) The bank or bank holding company does not meet the criteria under §208.6(c)(1);

(ii) The application contains a material error or is otherwise deficient; or

(iii) The application or the notice required under paragraph (a)(3) of this section, raises significant supervisory, Community Reinvestment Act, compliance, policy or legal issues that have not been resolved, or a timely substantive adverse comment is submitted. A comment will be considered substantive unless it involves individual complaints, or raises frivolous, previously considered, or wholly unsubstantiated claims or irrelevant issues.

(d) Consolidated Applications—(1) Proposed branches; notice of branch opening. A member bank may seek approval in a single application or notice for any branches that it proposes to establish within one year after the approval date. The bank shall, unless notification is waived, notify the appropriate Reserve Bank not later than 30 days after opening any branch approved under a consolidated application. A bank is not required to open a branch approved under either a consolidated or single branch application.

(2) Duration of branch approval. Branch approvals remain valid for one year unless the Board or the appropriate Reserve Bank notifies the bank that in its judgment, based on reports of condition, examinations, or other information, there has been a change in the bank's condition, financial or otherwise, that warrants reconsideration of the approval.

(e) Branch closings. A member bank shall comply with section 42 of the FDI Act (FDI Act), 12 U.S.C. 1831r–1, with regard to branch closings.

(f) Branch relocations. A relocation of an existing branch does not require filing a branch application. A relocation of an existing branch, for purposes of determining whether to file a branch application, is a movement that does not substantially affect the nature of
§ 208.7 Prohibition against use of interstate branches primarily for deposit production.

(a) Purpose and scope—


(2) Scope. (i) This section applies to any State member bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch licensed by a State for a period of at least one year.

(ii) This section describes the requirements imposed under 12 U.S.C. 1835a, which requires the appropriate Federal banking agencies (the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) to prescribe uniform rules that prohibit a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

(b) Definitions. For purposes of this section, the following definitions apply:

(1) Bank means, unless the context indicates otherwise:

(i) A State member bank as that term is defined in 12 U.S.C. 1813(d)(2); and

(ii) A foreign bank as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 211.21.

(2) Covered interstate branch means:

(i) Any branch of a State member bank, and any uninsured branch of a foreign bank licensed by a State, that:

(A) Is established or acquired outside the bank’s home State pursuant to the interstate branching authority granted by the Interstate Act or by any amendment made by the Interstate Act to any other provision of law; or

(B) Could not have been established or acquired outside of the bank’s home State but for the establishment or acquisition of a branch described in paragraph (b)(2)(i) of this section; and

(ii) Any bank or branch of a bank controlled by an out-of-State bank holding company.

(3) Home State means:

(i) With respect to a State bank, the State that chartered the bank;

(ii) With respect to a national bank, the State in which the main office of the bank is located;

(iii) With respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of:

(A) July 1, 1966; or

(B) The date on which the company becomes a bank holding company under the Bank Holding Company Act.

(iv) With respect to a foreign bank:

(A) For purposes of determining whether a U.S. branch of a foreign bank is a covered interstate branch, the home State of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 211.22; and

(B) For purposes of determining whether a branch of a U.S. bank controlled by a foreign bank is a covered interstate branch, the State in which the total deposits of all banking subsidiaries of such foreign bank are the largest on the later of:

(1) July 1, 1966; or

(2) The date on which the foreign bank becomes a bank holding company under the Bank Holding Company Act.

(4) Host State means a State in which a covered interstate branch is established or acquired.

(5) Host state loan-to-deposit ratio generally means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including institutions covered under the definition of “bank” in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(6) Out-of-State bank holding company means, with respect to any State, a bank holding company whose home State is another State.

(7) State means state as that term is defined in 12 U.S.C. 1813(a)(3).