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(ii) An acquiror seeking to rebut the determination of control with respect to holding of proxies arising under paragraph (b)(2) of this section shall be subject to the requirements of paragraph (e)(1) of this section, except that in the case of a rebuttal of the presumption of control arising under paragraph (b)(2) of this section, the FDIC may require the acquiror to furnish information in response to a specific request for information and depending upon the particular facts and circumstances, to provide an executed rebuttal agreement materially conforming to the agreement set forth at § 391.48, with any modifications deemed necessary by the FDIC.

(2) *Presumptions of concerted action.* An acquiror attempting to rebut the presumption of concerted action arising under paragraph (d) of this section shall file a submission with the FDIC setting forth facts and circumstances which clearly and convincingly demonstrate the acquiror's contention that no action in concert exists. Such a statement must be accompanied by an affidavit, in form and content satisfactory to the FDIC, executed by each person or company presumed to be acting in concert, stating that such person or company does not and shall not, without having made necessary filings and obtained approval or clearance thereof under the Holding Company Act or the Control Act, as applicable, have any agreements or understandings, written or tacit, with respect to the exercise of control, directly or indirectly, over the management or policies of the State savings association, including agreements relating to voting, acquisition or disposition of the State savings association's stock. The affidavit shall also recite that the signatory is aware that the filing of a false affidavit may subject the person or company to criminal sanctions, would constitute a violation of the FDIC's regulations at § 390.355(b) and would be considered a ''presumptive disqualifier'' under 12 CFR 391.46(g)(1)(v).

(3) *Determination.* A rebuttal filed pursuant to paragraph (e) of this section shall not be deemed sufficient unless it includes all the information, agreements, and affidavits required by the FDIC and this subpart, as well as any additional relevant information as the FDIC may require by written request to the acquiror. Within 20 calendar days after proper filing of a rebuttal submission, the FDIC will provide written notification of its determination to accept or reject the submission; request additional information in connection with the submission; or return the submission to the acquiror as materially deficient. Within 15 calendar days after proper filing of any additional information furnished in response to a specific request by the FDIC, the FDIC shall notify the acquiror in writing as to whether the rebuttal is thereby deemed to be sufficient. If the FDIC fails to notify an acquiror within such time, the rebuttal shall be deemed to be accepted. The FDIC may reject any rebuttal which is inconsistent with facts and circumstances known to it or where the rebuttal does not clearly and convincingly refute the rebuttable determination of control or presumption of action in concert, and may determine to reject a submission solely on such bases.

(f) *Safe harbor.* Notwithstanding any other provision of this section, where an acquiror has no intention to participate in or to seek to exercise control over a State savings association's management or policies, the acquiror may seek to qualify for a safe harbor with respect to its ownership of stock of a State savings association.

(1) In order to qualify for the safe harbor, an acquiror must submit a certification to the FDIC that shall be signed by the acquiror or an authorized representative thereof and shall read as follows:

The undersigned makes this submission pursuant to § 391.43(f) with respect to [name of State savings association] and hereby certifies to the FDIC the following:

The undersigned is not in control of [name of State savings association] under § 391.43(a);

The undersigned is not subject to any control factor as enumerated in § 391.43(c) with respect to the [name of State savings association];

The undersigned will not solicit proxies relating to the voting stock of [name of State savings association];

Before any change in status occurs that would bring the undersigned within the scope of § 391.43(a) or (b), the undersigned will