

OCC may take such action as the circumstances warrant based upon a written record evidencing the conduct of the attorney in that investigation or such other or additional written or oral presentation as the OCC may permit or direct.

§ 112.6 Obstruction of the proceedings.

The designated representative shall report to the Comptroller any instances where any witness or counsel has engaged in dilatory, obstructionist, or contumacious conduct or has otherwise violated any provision of this part during the course of an investigative proceeding or formal examination proceeding; and the OCC may take such action as the circumstances warrant, including the exclusion of counsel from further participation in such proceeding.

§ 112.7 Subpoenas.

(a) *Service.* Service of a subpoena in connection with any investigative proceeding or formal examination proceeding shall be effected in the following manner:

(1) *Service upon a natural person.* Service of a subpoena upon a natural person may be effected by handing it to such person; by leaving it at his office with the person in charge thereof, or, if there is no one in charge, by leaving it in a conspicuous place therein; by leaving it at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; by mailing it to him by registered or certified mail or by an express delivery service at his last known address; or by any method whereby actual notice is given to him.

(2) *Service upon other persons.* When the person to be served is not a natural person, service of the subpoena may be effected by handing the subpoena to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; by mailing it to any such representative by registered or certified mail or by an express delivery service at his last known address; or by any method whereby actual notice is given to such person.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for

compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the Deputy Chief Counsel or his designee to quash or modify such subpoena, accompanying such application with a statement of the reasons therefor. The Deputy Chief Counsel or his designee, as appropriate, may:

- (1) Deny the application;
- (2) Quash or revoke the subpoena;
- (3) Modify the subpoena; or

(4) Condition the granting of the application on such terms as the Deputy Chief Counsel or his designee determines to be just, reasonable, and proper.

(c) *Attendance of witnesses.* Subpoenas issued in connection with an investigative proceeding or formal examination proceeding may require the attendance and/or testimony of witnesses from any state or territory of the United States and the production by such witnesses of documentary or other tangible evidence at any designated place where the proceeding is being (or is to be) conducted. Foreign nationals are subject to such subpoenas if such service is made upon a duly authorized agent located in the United States.

(d) *Witness fees and mileage.* Witnesses summoned in any proceeding under this part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Such fees and mileage need not be tendered when the subpoena is issued on behalf of the OCC by any of its designated representatives.

PARTS 113–115 [RESERVED]

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AUTHORITY: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*, 5412(b)(2)(B).

SOURCE: 76 FR 48972, Aug. 9, 2011, unless otherwise noted.

§ 116.1 What does this part do?

(a) This part explains OCC procedures for processing applications, notices, or filings (applications) for Federal savings associations. Except as provided in paragraph (b) of this section, subparts A and E of this part apply whenever an OCC regulation requires any person (you) to file an application pertaining to a Federal savings association with the OCC. Subparts B, C, and D, however, only apply when an OCC regulation incorporates the procedures in the subpart or where otherwise required by the OCC.

(b) This part does not apply to any of the following:

(1) An application related to a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823(c) or (k).

(2) A request for reconsideration, modification, or appeal of a final OCC or OTS action.

(3) A request related to litigation, an enforcement proceeding, a supervisory directive or supervisory agreement. Such requests include a request seeking approval under, modification of, or termination of an order issued under part 108 or 109 of this chapter, a supervisory agreement, a supervisory directive, a consent merger agreement or a document negotiated in settlement of an enforcement matter or other litigation, unless an applicable OCC regulation specifically requires an application under this part.

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(4) An application filed under an OCC regulation that prescribes other application processing procedures and time frames for the approval of applications.

(c) If an OCC regulation for a specific type of application prescribes some application processing procedures, or time frames, the OCC will apply this part to the extent necessary to process the application. For example, if an OCC regulation for a specific type of application does not identify time periods

for the processing of an application, the time periods in this part apply.

§ 116.5 Do the same procedures apply to all applications under this part?

The OCC processes applications under this part using two procedures, expedited treatment and standard treatment. To determine which treatment applies, you may use the following chart:

If . . .	Then the OCC will process your application under . . .
(a) The applicable regulation does not specifically state that expedited treatment is available.	Standard treatment.
(b) [Reserved]	
(c) Your composite rating is 3, 4, or 5. The composite rating is the composite numeric rating that the OCC or the other Federal banking regulator assigned to you under the Uniform Financial Institutions Rating System ¹ or under a comparable rating system. The composite rating refers to the rating assigned and provided to you, in writing, as a result of the most recent examination.	Standard treatment.
(d) Your Community Reinvestment Act (CRA) rating is Needs to Improve or Substantial Noncompliance. The CRA rating is the Community Reinvestment Act performance rating that the OCC or the other Federal banking regulator assigned and provided to you, in writing, as a result of the most recent compliance examination. See, for example, § 195.28 of this chapter.	Standard treatment.
(e) Your compliance rating is 3, 4, or 5. The compliance rating is the numeric rating that the OCC or the other Federal banking regulator assigned to you under the OCC compliance rating system, or a comparable rating system used by the other Federal banking regulator. The compliance rating refers to the rating assigned and provided to you, in writing, as a result of the most recent compliance examination.	Standard treatment.
(f) You fail any one of your capital requirements under 12 CFR part 3 or part 167, as applicable.	Standard treatment.
(g) The OCC or OTS has notified you that you are an association in troubled condition . . .	Standard treatment.
(h) Neither the OCC nor any other Federal banking regulator has assigned you a composite rating, a CRA rating or a compliance rating.	Standard treatment.
(i) You do not meet any of the criteria listed in paragraphs (a) through (h) of this section	Expedited treatment.

¹ A savings association may obtain a copy of its composite rating from the appropriate Federal banking agency.

[76 FR 48972, Aug. 9, 2011, as amended at 79 FR 11313, Feb. 28, 2014]

§ 116.10 How does the OCC compute time periods under this part?

In computing time periods under this part, the OCC does not include the day of the act or event that commences the time period. When the last day of a time period is a Saturday, Sunday, or Federal holiday, the time period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday.

Subpart A—Pre-Filing and Filing Procedures

PRE-FILING PROCEDURES

§ 116.15 Must I meet with the OCC before I file my application?

(a) *Chart.* To determine whether you must attend a pre-filing meeting before you file an application, please consult the following chart:

If you file . . .	Then . . .
(1) An application for permission to organize a <i>de novo</i> Federal savings association.	You must meet with the OCC before filing your application. You must submit a draft business plan before this meeting.
(2) An application to convert an existing insured depository institution (other than a state-chartered savings association or a state-chartered savings bank) or a credit union to a Federal savings association.	You must meet with the OCC before filing your application. The OCC may require you to submit a draft business plan or other relevant information before this meeting.

If you file . . .	Then . . .
(3) An application to acquire control of a Federal savings association.	The OCC may require you to meet with the OCC before filing your application and may require you to submit a draft business plan or other relevant information before this meeting.

(b) *Contacting the OCC.* (1) You must contact the appropriate OCC licensing office a reasonable time before you file an application described in paragraph (a) of this section. Unless paragraph (a) already requires a pre-filing meeting or a draft business plan, the appropriate OCC licensing office will determine whether it will require a pre-filing meeting, and whether you must submit a business plan or other relevant information before the meeting. The appropriate OCC licensing office will also establish a schedule for any meeting and the submission of any information.

(2) All other applicants are encouraged to contact the appropriate OCC licensing office to determine whether a pre-filing meeting or the submission of a draft business plan or other relevant information would expedite the application review process.

§ 116.20 What information must I include in my draft business plan?

If you must submit a draft business plan under § 116.15, your plan must:

- (a) Clearly and completely describe the savings association’s projected operations and activities;
- (b) Describe the risks associated with the transaction and the impact of this transaction on any existing activities and operations of the savings association, including financial projections for a minimum of three years;
- (c) Identify the majority of the proposed board of directors and the key senior executive officers (as defined in § 163.555 of this chapter) of the savings association and demonstrate that these individuals have the expertise to prudently manage the activities and operations described in the savings association’s draft business plan; and
- (d) Demonstrate how applicable requirements regarding serving the credit and lending needs in the market areas served by the savings association will be met.

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§ 116.25 What type of application must I file?

(a) *Expedited treatment.* If you are eligible for expedited treatment under § 116.5, you may file your application in the form of a notice that includes all information required by the applicable substantive regulation. If the OCC has designated a form for your notice, you must file that form. Your notice is an application for the purposes of all statutory and regulatory references to “applications.”

(b) *Standard treatment.* If you are subject to standard treatment under § 116.5, you must file your application following all applicable substantive regulations and guidelines governing the filing of applications. If the OCC has a designated form for your application, you must file that form.

(c) *Waiver requests.* If you want the OCC to waive a requirement that you provide certain information with the notice or application, you must include a written waiver request:

- (1) Describing the requirement to be waived and
- (2) Explaining why the information is not needed to enable the OCC to evaluate your notice or application under applicable standards.

§ 116.30 What information must I provide with my application?

(a) *Required information.* You may obtain information about required certifications, other regulations and guidelines affecting particular notices and applications, appropriate forms, and instructions from any OCC office. You may also obtain forms and instructions on the OCC’s web page at www.occ.gov.

(b) *Captions and exhibits.* You must caption the original application and required copies with the type of filing, and must include all exhibits and other pertinent documents with the original application and all required copies.

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You are not required to include original signatures on copies if you include a copy of the signed signature page or the copy otherwise indicates that the original was signed.

§ 116.35 May I keep portions of my application confidential?

(a) *Confidentiality.* The OCC makes submissions under this part available to the public, but may keep portions of your application confidential based on the rules in this section.

(b) *Confidentiality request.* (1) You may request the OCC to keep portions of your application confidential. You must submit your request in writing with your application and must explain in detail how your request is consistent with the standards under the Freedom of Information Act (5 U.S.C. 552) and part 4 of this chapter. For example, you should explain how you will be substantially harmed by public disclosure of the information. You must separately bind and mark the portions of the application you consider confidential and the portions you consider non-confidential.

(2) The OCC will not treat as confidential the portion of your application describing how you plan to meet your Community Reinvestment Act (CRA) objectives. The OCC will make information in your CRA plan, including any information incorporated by reference from other parts of your application, available to the public upon request.

(c) *OCC determination on confidentiality.* The OCC will determine whether information that you designate as confidential may be withheld from the public under the Freedom of Information Act (5 U.S.C. 552) and part 54 of this chapter. The OCC will advise you before it makes information you designate as confidential available to the public.

§ 116.40 Where do I file my application?

(a) *OCC Office.* (1) You must file the original application and the number of copies indicated on the applicable form to the attention of the Director for Licensing at the appropriate OCC licensing office listed in paragraph (a)(2) of this section or with the OCC licensing

office at OCC headquarters. If the form does not indicate the number of copies you must file or if the OCC has not prescribed a form for your application, you must file the original application and two copies.

(2) The addresses of appropriate OCC licensing offices and the states covered by each office are listed in 12 CFR 4.5.

(b) *Additional filings with OCC headquarters.* (1) In addition to filing in the appropriate OCC licensing office, if your application involves a significant issue of law or policy or if an applicable regulation or form directs you to file with OCC headquarters, you must also file copies of your application at the OCC licensing office at headquarters. You must file the number of copies indicated on the applicable form. If the form does not indicate the number of copies you must file or if the OCC has not prescribed a form for your application, you must file three copies.

(2)(i) You may obtain a list of applications involving significant issues of law or policy at the OCC website at www.occ.gov or by contacting the OCC.

(ii) The OCC reserves the right to identify significant issues of law or policy in a particular application. The OCC will advise you, in writing, if it makes this determination.

§ 116.45 What is the filing date of my application?

(a) Your application's filing date is the date that you complete all of the following requirements.

(1) You attend a pre-filing meeting and submit a draft business plan or relevant information, if the OCC requires you to do so under § 116.15.

(2) You file your application and all required copies with the OCC, as described under § 116.40.

(i) If you are required to file with an OCC licensing office and with OCC headquarters, you have not filed with the OCC until you file with both offices.

(ii) You have not filed with an OCC licensing office or with OCC headquarters until you file the application and the required number of copies with that office.

(iii) If you file after the close of business established by an OCC licensing office or OCC headquarters, you have

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filed with that office on the next business day.

(3) You pay the applicable fee. You have not paid the fee until you submit the fee to the appropriate OCC licensing office, or the OCC waives the fee. You may pay by check, money order, cashier's check or wire transfer payable to the OCC.

(b) The OCC may notify you that it has adjusted your application filing date if you fail to meet any applicable publication requirements.

(c) If, after you properly file your application with the appropriate OCC licensing office, the OCC determines that a significant issue of law or policy exists under §116.40(b)(2)(ii), the filing date of your application is the day you filed with the appropriate OCC licensing office. The 30-day review period under §116.200 or §116.210 of this part will restart in its entirety when the OCC licensing office forwards the appropriate number of copies of your application to OCC headquarters.

§ 116.47 How do I amend or supplement my application?

To amend or supplement your application, you must file the amendment or supplemental information at the appropriate OCC office(s) along with the number of copies required under §116.40. Your amendment or supplemental information also must meet the caption and exhibit requirements at §116.30(b).

Subpart B—Publication Requirements

§ 116.50 Who must publish a public notice of an application?

This subpart applies whenever an OCC regulation requires an applicant

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(“you”) to follow the public notice procedures in this subpart.

§ 116.55 What information must I include in my public notice?

Your public notice must include the following:

- (a) Your name and address.
- (b) The type of application.
- (c) The name of the depository institution(s) that is the subject matter of the application.
- (d) A statement indicating that the public may submit comments to the appropriate OCC licensing office(s).
- (e) The address of the appropriate OCC offices where the public may submit comments.
- (f) The date that the comment period closes.
- (g) A statement indicating that the nonconfidential portions of the application are on file with the OCC, and are available for public inspection during regular business hours.
- (h) Any other information that the OCC requires you to publish.

§ 116.60 When must I publish the public notice?

You must publish a public notice of the application no earlier than seven days before and no later than the date of filing of the application.

§ 116.70 Where must I publish the public notice?

You must publish the notice in a newspaper having a general circulation in the communities indicated in the following chart:

If you file . . .	You must publish in the following communities . . .
(a) An application for permission to organize under § 143.2 of this chapter, a Bank Merger Act application under § 163.22(a) of this chapter, an application to convert to a Federal charter under § 143.8 or § 152.18 of this chapter, or an application for a mutual to stock conversion under part 192 of this chapter * * *.	The community in which your home office is located.
(b) An application to establish a branch office under § 145.95 of this chapter * * *.	The community to be served by the branch office.
(c) An application for the change of permanent location of a home or branch office under § 145.95 of this chapter * * *.	The community in which the existing office is located and the community to be served by the new office.

If you file . . .	You must publish in the following communities . . .
(d) A change of control notice under part 174 of this chapter * * *	The community in which the home office of the savings association whose stock is to be acquired is located and, if applicable, the community in which the home office of the acquiror's largest subsidiary savings association is located.

§ 116.80 What language must I use in my publication?

(a) *English.* You must publish the notice in a newspaper printed in the English language.

(b) *Other than English.* If the OCC determines that the primary language of a significant number of adult residents of the community is a language other than English, the OCC may require that you simultaneously publish additional notice(s) in the community in the appropriate language(s).

Subpart C—Comment Procedures

§ 116.100 What does this subpart do?

This subpart contains the procedures governing the submission of public comments on certain types of applications or notices (“applications”) pending before the OCC. It applies whenever a regulation incorporates the procedures in this subpart, or where otherwise required by the OCC.

§ 116.110 Who may submit a written comment?

Any person may submit a written comment supporting or opposing an application.

§ 116.120 What information should a comment include?

(a) A comment should recite relevant facts, including any demographic, economic, or financial data, supporting the commenter’s position. A comment opposing an application should also:

(1) Address at least one of the reasons why the OCC may deny the application under the relevant statute or regulation;

(2) Recite any relevant facts and supporting data addressing these reasons; and

(3) Address how the approval of the application could harm the commenter or any community.

(b) A commenter must include any request for a meeting under § 116.170 in

its comment. The commenter must describe the nature of the issues or facts to be discussed and the reasons why written submissions are insufficient to adequately address these facts or issues.

§ 116.130 Where are comments filed?

A commenter must file with the appropriate OCC licensing office (*see* § 116.40(a)(2)). The commenter must simultaneously send a copy of the comment to the applicant.

§ 116.140 How long is the comment period?

(a) *General.* Except as provided in paragraph (b) of this section, a commenter must file a written comment with the OCC within 30 calendar days after the date of publication of the initial public notice.

(b) *Late-filed comments.* The OCC may consider late-filed comments if the OCC determines that the comment will assist in the disposition of the application.

Subpart D—Meeting Procedures

§ 116.160 What does this subpart do?

This subpart contains meeting procedures. It applies whenever a regulation incorporates the procedures in this subpart, or when otherwise required by the OCC.

§ 116.170 When will the OCC conduct a meeting on an application?

(a) The OCC will grant a meeting request or conduct a meeting on its own initiative, if it finds that written submissions are insufficient to address facts or issues raised in an application, or otherwise determines that a meeting will benefit the decision-making process. The OCC may limit the issues considered at the meeting to issues that the OCC decides are relevant or material.

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(b) The OCC will inform the applicant and all commenters requesting a meeting of its decision to grant or deny a meeting request, or of its decision to conduct a meeting on its own initiative.

(c) If the OCC decides to conduct a meeting, the OCC will invite the applicant and any commenters requesting a meeting and raising an issue that the OCC intends to consider at the meeting. The OCC may also invite other interested persons to attend. The OCC will inform the participants of the date, time, location, issues to be considered, and format for the meeting a reasonable time before the meeting.

§ 116.180 What procedures govern the conduct of the meeting?

(a) The OCC may conduct meetings in any format including, but not limited to, a telephone conference, a face-to-face meeting, or a more formal meeting.

(b) The Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Federal Rules of Evidence (28 U.S.C. Appendix), the Federal Rules of Civil Procedure (28 U.S.C. Rule 1 *et seq.*), the OCC Rules of Practice and Procedure in Adjudicatory Proceedings (12 CFR parts 19 and part 109) do not apply to meetings under this section.

§ 116.185 Will the OCC approve or disapprove an application at a meeting?

The OCC will not approve or deny an application at a meeting under this subpart.

§ 116.190 Will a meeting affect application processing time frames?

If the OCC decides to conduct a meeting, it may suspend applicable application processing time frames, including the time frames for deeming an application complete and the applicable approval time frames in subpart E of this part. If the OCC suspends applicable application processing time frames, the time period will resume when the OCC determines that a record has been de-

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veloped that sufficiently supports a determination on the issues considered at the meeting.

Subpart E—OCC Review

EXPEDITED TREATMENT

§ 116.200 If I file a notice under expedited treatment, when may I engage in the proposed activities?

If you are eligible for expedited treatment and you have appropriately filed your notice with the OCC, you may engage in the proposed activities upon the expiration of 30 days after the filing date of your notice, unless the OCC takes one of the following actions before the expiration of that time period:

(a) The OCC notifies you in writing that you must file additional information supplementing your notice. If you are required to file additional information, you may engage in the proposed activities upon the expiration of 30 calendar days after the date you file the additional information, unless the OCC takes one of the actions described in paragraphs (b) through (d) of this section before the expiration of that time period;

(b) The OCC notifies you in writing that your notice is subject to standard treatment under this subpart. The OCC will subject your notice to standard treatment if it raises a supervisory concern, raises a significant issue of law or policy, or requires significant additional information;

(c) The OCC notifies you in writing that it is suspending the applicable time frames under § 116.190; or

(d) The OCC notifies you that it disapproves your notice.

STANDARD TREATMENT

§ 116.210 What will the OCC do after I file my application?

(a) *OCC action.* Within 30 calendar days after the filing date of your application, the OCC will take one of the following actions:

If the OCC . . .	Then . . .
(1) Notifies you, in writing, that your application is complete . . .	The applicable review period will begin on the date that the OCC deems your application complete.

If the OCC . . .	Then . . .
(2) Notifies you, in writing, that you must submit additional information to complete your application * * *.	You must submit the required additional information under § 116.220.
(3) Notifies you, in writing, that your application is materially deficient * * *.	The OCC will not process your application.
(4) Takes no action * * *	Your application is deemed complete. The applicable review period will begin on the day the 30-day time period expires.

(b) *Waiver requests.* If your application includes a request for waiver of an information requirement under § 116.25(b), and the OCC has not notified you that you must submit additional information under paragraph (a)(2) of this section, your request for waiver is granted.

§ 116.220 If the OCC requests additional information to complete my application, how will it process my application?

(a) You may use the following chart to determine the procedure that applies to your submission of additional information under § 116.210(a)(1):

If, within 30 calendar days after the date of the OCC's request for additional information . . .	Then, the OCC may . . .	And . . .
(1) You file a response to all information requests * * *.	(i) Notify you in writing within 15 days after the filing date of your response that your application is complete* * *. (ii) Notify you in writing within 15 calendar days after the filing date of your response that you must submit additional information regarding matters derived from or prompted by information already furnished or any additional information necessary to resolve the issues presented in your application * * *. (iii) Notify you in writing within 15 calendar days after the filing date of your response that your application is materially deficient * * *. (iv) Take no action within 15 calendar days after the filing date of your response * * *.	The applicable review period will begin on the date that the OCC deems your application complete. You must respond to the additional information request within the time period required by the OCC. The OCC will review your response under the procedures described in this section. The OCC will not process your application. Your application is deemed complete. The applicable review period will begin on the day that the 15-day time period expires.
(2) You request an extension of time to file additional information * * *.	(i) Grant an extension, in writing, specifying the number of days for the extension * * *. (ii) Notify you in writing that your extension request is disapproved * * *.	You must fully respond within the extended time period specified by the OCC. The OCC will review your response under the procedures described under this section. The OCC will not process your application further. You may resubmit the application for processing as a new filing under the applicable regulation.
(3) You fail to respond completely * * *	(i) Notify you in writing that your application is deemed withdrawn * * *. (ii) Notify you, in writing, that your response is incomplete and extend the response period, specifying the number of days for the respond extension * * *.	The OCC will not process your application further. You may resubmit the application for processing as a new filing under the applicable regulation. You must fully respond within the extended time period specified by the OCC. The OCC will review your response under the procedures described under this section.

(b) The OCC may extend the 15-day period referenced in paragraph (a)(1) of this section by up to 15 calendar days, if the OCC requires the additional time to review your response. The OCC will notify you that it has extended the pe-

riod before the end of the initial 15-day period and will briefly explain why the extension is necessary.

(c) If your response filed under paragraph (a)(1) of this section includes a

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request for a waiver of an informational requirement, your request for a waiver is granted if the OCC fails to act on it within 15 calendar days after the filing of your response, unless the OCC extends the review period under paragraph (b). If the OCC extends the review period under paragraph (b), your request is granted if the OCC fails to act on it by the end of the extended review period.

§ 116.230 Will the OCC conduct an eligibility examination?

(a) *Eligibility examination.* The OCC may notify you at any time before it deems your application complete that it will conduct an eligibility examination. If the OCC decides to conduct an eligibility examination, it will not deem your application complete until it concludes the examination.

(b) *Additional information.* The OCC may, as a result of the eligibility examination, notify you that you must submit additional information to complete your application. If so, you must respond to the additional information request within the time period required by the OCC. The OCC will review your response under the procedures described in § 116.220.

§ 116.240 What may the OCC require me to do after my application is deemed complete?

After your application is deemed complete, but before the end of the applicable review period,

(a) The OCC may require you to provide additional information if the information is necessary to resolve or clarify the issues presented by your application.

(b) The OCC may determine that a major issue of law or a change in circumstances arose after you filed your application, and that the issue or changed circumstances will substantially effect your application. If the OCC identifies such an issue or changed circumstances, it may:

(1) Notify you, in writing, that your application is now incomplete and require you to submit additional information to complete the application under the procedures described at § 116.220; and

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(2) Require you to publish a new public notice of your application under § 116.250.

§ 116.250 Will the OCC require me to publish a new public notice?

(a) If your application was subject to a publication requirement, the OCC may require you to publish a new public notice of your application if:

(1) You submitted a revision to the application, you submitted new or additional information, or a major issue of law or a change in circumstances arose after the filing of your application; and

(2) The OCC determines that additional comment on these matters is appropriate because of the significance of the new information or circumstances.

(b) The OCC will notify you in writing if you must publish a new public notice of your revised application.

(c) If you are required to publish a new public notice of your revised application, you must notify the OCC after you publish the new public notice.

§ 116.260 May the OCC suspend processing of my application?

(a) *Suspension.* The OCC may, at any time, indefinitely suspend processing of your application if:

(1) The OCC, another governmental entity, or a self-regulatory trade or professional organization initiates an investigation, examination, or administrative proceeding that is relevant to the OCC's evaluation of your application;

(2) You request the suspension or there are other extraordinary circumstances that have a significant impact on the processing of your application.

(b) *Notice.* The OCC will promptly notify you, in writing, if it suspends your application.

§ 116.270 How long is the OCC review period?

(a) *General.* The applicable OCC review period is 60 calendar days after the date that your application is deemed complete, unless an applicable OCC regulation specifies a different review period.

(b) *Multiple applications.* If you submit more than one application in connection with a proposed action or if two or more applicants submit related applications, the applicable review period for all applications is the review period for the application with the longest review period, subject to statutory review periods.

(c) *Extensions.* (1) The OCC may extend the review period for up to 30 calendar days beyond the period described in paragraph (a) or (b) of this section. The OCC must notify you in writing of the extension and the duration of the extension. The OCC must issue the written extension before the end of the review period.

(2) The OCC may also extend the review period as needed until it acts on the application, if the application presents a significant issue of law or policy that requires additional time to resolve. The OCC must notify you in writing of the extension and the general reasons for the extension. The OCC must issue the written extension before the end of the review period, including any extension of that period under paragraph (c)(1) of this section. This section applies to notices filed under §174 of this chapter.

§ 116.280 How will I know if my application has been approved?

(a) *OCC approval or denial.* (1) The OCC will approve or deny your application before the expiration of the applicable review period, including any extensions of the review period.

(2) The OCC will promptly notify you in writing of its decision to approve or deny your application.

(b) *No OCC action.* If the OCC fails to act under paragraph (a)(1) of this section, your application is approved.

§ 116.290 What will happen if the OCC does not approve or disapprove my application within two calendar years after the filing date?

If the OCC has not approved or denied your pending application within two calendar years after the filing date under §116.45, the OCC will notify you, in writing, that your application is deemed withdrawn unless the OCC determines that you are actively pursuing a final OCC determination on

your application. You are not actively pursuing a final OCC determination if you have failed to timely take an action required under this part, including filing required additional information, or the OCC has suspended processing of your application under §116.260 based on circumstances that are, in whole or in part, within your control and you have failed to take reasonable steps to resolve these circumstances.

PARTS 117–127 [RESERVED]

PART 128—NONDISCRIMINATION REQUIREMENTS

Sec.

- 128.1 Definitions.
- 128.2 Nondiscrimination in lending and other services.
- 128.3 Nondiscrimination in applications.
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AUTHORITY: 12 U.S.C. 1464, 5412(b)(2)(B).

SOURCE: 76 FR 48978, August 9, 2011, unless otherwise noted.

§ 128.1 Definitions.

As used in this part 128—

(a) *Application.* For purposes of this part, an application for a loan or other service is as defined in Regulation C, 12 CFR 203.2(b).

(b) *Savings association.* The term “savings association” means any Federal savings association as defined in 12 U.S.C. 1813(b)(2).

(c) *Dwelling.* The term “dwelling” means a residential structure (whether or not it is attached to real property) located in a state of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico. The term includes an individual condominium unit, cooperative unit, or mobile or manufactured home.