commercial lending company subsidiary would not be consistent with the public interest or with the purposes of the IBA, the BHC Act, or the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1811 *et seq.*).

(2) *Additional ground.* The Board may also enforce any condition imposed in connection with an order issued under § 211.24 of this subpart.

(b) *Factor.* In making its findings under this section, the Board may take into account the needs of the community as well as the history of operation of the foreign bank and its relative size in its home country, provided, however, that the size of the foreign bank shall not be the sole determining factor in a decision to terminate an office.

(c) *Consultation with relevant state supervisor.* Except in the case of termination pursuant to paragraph (d)(3) of this section, before issuing an order terminating the activities of a state branch, state agency, representative office, or commercial lending company subsidiary under this section, the Board shall request and consider the views of the relevant state supervisor.

(d) *Termination procedures*—(1) *Notice and hearing.* Except as otherwise provided in paragraph (d)(3) of this section, an order issued under paragraph (a)(1) of this section shall be issued only after notice to the relevant state supervisor and the foreign bank and after an opportunity for a hearing.

(2) *Procedures for hearing.* Hearings under this section shall be conducted pursuant to the Board's Rules of Practice for Hearings (12 CFR part 263).

(3) *Expedited procedure.* The Board may act without providing an opportunity for a hearing if it determines that expeditious action is necessary in order to protect the public interest. When the Board finds that it is necessary to act without providing an opportunity for a hearing, the Board, solely in its discretion, may provide the foreign bank that is the subject of the termination order with notice of the intended termination order, grant the foreign bank an opportunity to present a written submission opposing issuance of the order, or take any other action designed to provide the foreign bank with notice and an opportunity to present its views concerning the order.

(e) *Termination of federal branch or federal agency.* The Board may transmit to the Comptroller a recommendation that the license of a federal branch or federal agency be terminated if the Board has reasonable cause to believe that the foreign bank or any affiliate of the foreign bank has engaged in conduct for which the activities of a state branch or state agency may be terminated pursuant to this section.

(f) *Voluntary termination.* A foreign bank shall notify the Board at least 30 days prior to terminating the activities of any office. Notice pursuant to this paragraph is in addition to, and does not satisfy, any other federal or state requirements relating to the termination of an office or the requirement for prior notice of the closing of a branch pursuant to section 39 of the FDI Act (12 U.S.C. 1831p).

[58 FR 6359, Jan. 28, 1993]

§ 211.26 Examination of offices and affiliates of foreign banks.

(a) *Conduct of examinations*—(1) *Examination of branches, agencies, commercial lending companies, and affiliates.* The Board may examine any branch or agency of a foreign bank, any commercial lending company or bank controlled by one or more foreign banks or one or more foreign companies that control a foreign bank, and any other office or affiliate of a foreign bank conducting business in any state.

(2) *Examination of representative offices.* The Board may examine any representative office in the manner and with the frequency it deems appropriate.

(b) *Coordination of examinations.* To the extent possible, the Board shall coordinate its examinations of the U.S. offices and U.S. affiliates of a foreign bank with the licensing authority and, in the case of an insured branch, the Federal Deposit Insurance Corporation (FDIC), including through simultaneous examinations of the U.S. offices and U.S. affiliates of a foreign bank.

(c) *Annual on-site examinations.* Each branch, agency, or commercial lending company subsidiary of a foreign bank shall be examined on-site at least once during each 12-month period (beginning on the date the most recent examination of the office ended) by:

(1) The Board;

(2) The FDIC, if the branch of the foreign bank accepts or maintains insured deposits;

(3) The Comptroller, if the branch or agency of the foreign bank is licensed by the Comptroller; or

(4) The state supervisor, if the office of the foreign bank is licensed or chartered by the state.

[58 FR 6359, Jan. 28, 1993]

§ 211.27 Disclosure of supervisory information to foreign supervisors.

(a) *Disclosure by Board.* The Board may disclose information obtained in the course of exercising its supervisory or examination authority to a foreign bank regulatory or supervisory authority if the Board determines that disclosure is appropriate for bank supervisory or regulatory purposes and will not prejudice the interests of the United States.

(b) *Confidentiality.* Before making any disclosure of information pursuant to paragraph (a) of this section, the Board shall obtain, to the extent necessary, the agreement of the foreign bank regulatory or supervisory authority to maintain the confidentiality of such information to the extent possible under applicable law.

[58 FR 6359, Jan. 28, 1993]

§ 211.28 Limitation on loans to one borrower.

(a) *Limitation.* Except as otherwise provided in paragraph (b) of this section, the total loans and extensions of credit by all the state branches and agencies of a foreign bank outstanding to a single borrower at one time shall be aggregated with the total loans and extensions of credit by all federal branches and federal agencies of the same foreign bank outstanding to such borrower at the time and shall be subject to the limitations and other provisions of section 5200 of the Revised Statutes (12 U.S.C. 84), and the regulations promulgated thereunder, in the same manner that extensions of credit by a federal branch or federal agency are subject to section 4(b) of the IBA (12 U.S.C. 3102(b)) as if such state branches and agencies were federal branches and agencies.

(b) *Preexisting loans and extensions of credit.* Any loans or extensions of credit to a single borrower that were originated prior to December 19, 1991 by a state branch or state agency of the same foreign bank and that, when aggregated with loans and extensions of credit by all other branches and agencies of the foreign bank, exceed the limits set forth in paragraph (a) of this section, may be brought into compliance with such limitations through routine repayment, provided that any new loans or extensions of credit, including renewals of existing unfunded credit lines or extensions of the dates of maturity of existing loans, to the same borrower shall comply with the limits set forth in paragraph (a) of this section.

[58 FR 6359, Jan. 28, 1993]

§ 211.29 Applications by state-licensed branches and agencies to conduct activities not permissible for federal branches.

(a) *Scope.* A state-licensed branch or agency shall file with the Board a prior written application for permission to engage in or continue to engage in any type of activity that:

(1) Is not permissible for a federal branch, pursuant to statute, regulation, official bulletin or circular, or order or interpretation issued in writing by the Office of the Comptroller of the Currency; or

(2) Is rendered impermissible due to a subsequent change in statute, regulation, official bulletin or circular, written order or interpretation, or decision of a court of competent jurisdiction.

(b) *Exceptions.* No application shall be required by a state-licensed branch or agency to conduct any activity that is otherwise permissible under applicable state and federal law or regulation and that:

(1) Has been determined by the FDIC pursuant to 12 CFR 362.4(c)(3)(i)–(c)(3)(ii)(A) not to present a significant risk to the affected deposit insurance fund;

(2) Is permissible for a federally-licensed branch but the OCC imposes a quantitative limitation on the conduct of such activity by the federal branch;

(3) Is conducted as agent rather than as principal, provided that the activity