

# Federal Deposit Insurance—Uninsured and Insured Branches

## Section 7010.1

Effective date July 1997

The International Banking Act (IBA) of 1978 amended the Federal Deposit Insurance Act and allowed the U.S. branches of foreign banks to apply for deposit insurance. Part 346 of the FDIC's Rules and Regulations and Section 28.8 of the Comptroller's Regulations implement the statute. Deposit insurance remained voluntary for branches engaged solely in wholesale banking, but a branch with a domestic retail banking activity had to obtain deposit insurance. Domestic retail banking was defined as the acceptance of initial deposits under \$100,000. Exemptions were permitted to allow branches conducting incidental retail banking to avoid having to obtain deposit insurance. In addition, a foreign bank could insure one or more of its U.S. branches, but elect not to insure others. Edge Act and Agreement Corporations and U.S. agencies of foreign banks could not obtain coverage.

The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) amended the IBA to disallow a *de novo* U.S. branch of a foreign bank from obtaining deposit insurance if it is engaged in retail banking activity. Already existing insured branches were permitted to retain their FDIC insurance. A foreign bank seeking to engage in retail banking activities in the United States is now expected to establish an insured subsidiary bank.

This chapter has two goals:

- To aid examiners at uninsured branches in determining that a branch is operating solely as a wholesale bank or, if some retail deposits are being accepted, that the office is operating within permissible exceptions.
- To aid examiners at insured branches in determining that the branch is meeting record-keeping, pledge, and asset maintenance requirements.

Because the requirements for uninsured branches differ from those for insured branches, the overview, examination objectives, and examination procedures will be described separately.

### UNINSURED BRANCHES

In the case of state-licensed branches, the branch is subject to restrictions on the acceptance of

deposits that the appropriate state licensing authority has determined, by regulation or order, do not constitute engaging in domestic retail deposit activities requiring deposit insurance protection. State licensing authorities may have similar requirements and exceptions as Part 346.4 of the FDIC's Rules and Regulations. However, examiners must determine that a branch engaging in some retail deposit activity conforms to the exemptions allowed under local State law.

Part 346.4 of the FDIC's Rules and Regulations states that a foreign bank may not operate a U.S. branch if the branch is uninsured and is engaged in domestic retail deposit activity (accepting an initial deposit of less than \$100,000), and is located in a state that requires banks to have deposit insurance. Two exceptions are permitted: (1) Part 346.5 permits branches established under Section 5 of the International Banking Act to accept only those deposits as permitted to an Edge Act Corporation under Section 25(a) of the Federal Reserve Act, and (2) Part 346.6 permits branches to engage in certain retail deposit activities that do not trigger a requirement for deposit insurance. Uninsured branches may accept initial deposits of less than \$100,000 from the following type of depositors or resultant activity:

- Any for-profit business entity;
- Any domestic or foreign government entity or agency;
- Any international organization of two or more nations;
- Any funds received for transmission elsewhere; and,
- Any nonresident alien at the time of the initial deposit.

In addition, the branch is permitted to accept other deposits under a *de minimis* rule. The total of such deposits shall not exceed 5 percent of the average of the branch's deposits from unrelated third parties for the last 30 days of the most recent calendar quarter. Moreover, the branch may not solicit or advertise for deposits from the general public. For state-licensed branches, the state licensing authority may have different *de minimis* rules and additional disclosure requirements.

A foreign bank may apply to the FDIC to operate a branch that engages in domestic retail

deposit activity not otherwise included above. An uninsured branch operating under Part 346.6 exemptions must notify depositors that it is an uninsured office. Conversely, an uninsured branch that is not operating under Part 346.6 exceptions need not notify depositors that their deposits are uninsured. Where required, notification must include signs at teller windows and other locations where deposits are accepted stating that deposits are not insured by the FDIC. Also, each signature card, passbook, and instrument evidencing a deposit must include a bold face statement as follows: “This deposit is not insured by the FDIC.” These acknowledgments must be retained by the branch as long as the depositor maintains any deposit at the branch. Since 1989, the requirements for acknowledgments and their retention have included negotiable certificates of deposit.

## INSURED BRANCHES

Insured branches have specific FDIC asset maintenance and asset pledge requirements that are apart from any other asset maintenance, pledge, or capital requirements of the federal or state licensing authorities. In addition, the FDIC requires the insured branch or group of insured branches in a state to keep records and sets of accounts in the English language that accurately reflect the business transactions of the branch on a daily basis. These records must be kept as though the branch were a separate entity with its assets and liabilities separate from the operations of the head office and other branches, agencies, subsidiaries, or affiliates of the foreign bank. The FDIC’s requirements are intended to protect the insurance fund from losses in the event the branch must be liquidated and, as such, it is important that examination staff, regardless of agency, pay close attention to the insured branch’s compliance with these requirements. For additional information, refer to the Asset Maintenance section of this manual.

### Pledge of Assets

Part 346.19 of the FDIC’s Rules and Regulations implements the pledged assets requirements for insured branches. The intent of the pledge requirement is to have highly marketable assets available to protect the fund in the event

the FDIC must pay the branch’s insured depositors. The size of the pledge is normally five percent of the branch’s average liabilities for the last 30 days of the second and fourth calendar quarters. The pledged assets must be placed at a depository approved by the FDIC.

Part 346.19(d) describes the eight types of assets that may be pledged. At the end of the second and fourth quarters, both the depository and the insured branch must file reports with the regional FDIC office listing and describing in detail the assets pledged. In addition, the insured branch must report the average of the branch’s liabilities for the last thirty days of the respective quarter; the average is used to determine the size of the pledge requirement. The branch may substitute one pledged asset for another between reporting dates. Such substitutions normally do not have to be reported to the FDIC, but must be of the type allowed by Part 346.19(d).

### Asset Maintenance

Asset maintenance is the method used by the FDIC to ensure that foreign bank resources are retained in the branch. Part 346.20 of the FDIC’s Rules and Regulations sets forth the required amount of asset maintenance and the assets eligible for inclusion in the asset maintenance computation.

An insured branch normally must have eligible assets in an amount not less than 106% of the preceding quarter’s average liabilities. Branches are permitted flexibility in that they may compute the ratio either on a daily basis or the Wednesday of each week. In some instances the branch may be required to maintain the 106% ratio on a daily basis. In other instances, the percentage requirement may be higher.

The effectiveness of the asset maintenance requirement depends on limiting eligible assets to those that meet minimum quality standards and are free from impediments to collectibility in the event the FDIC needs to take possession of the assets. Part 346.20(b) lists six classes of assets that are excluded from use as eligible assets:

- Any asset due from the bank’s other offices or affiliates;
- Any asset classified Value Impaired, to the extent of the required Allocated Transfer Risk Reserves or equivalent write down, or Loss in

- the most recent state or federal examination report;
- Any deposit of the branch with a bank, unless the bank has signed a waiver of offset agreement;
  - Any asset not supported by sufficient credit information to allow a review of the asset's credit quality as determined at the most recent state or federal examination;
  - Any asset not in the branch's actual possession unless the branch holds title to such asset and the branch maintains records sufficient to enable independent verification of the branch's ownership of the asset as determined at the most recent state or federal examination; and,
  - Any intangible asset.

# Federal Deposit Insurance—Uninsured and Insured Branches Examination Objectives

Effective date July 1997

## Section 7010.2

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### UNINSURED BRANCHES

1. To determine if policies, practices, procedures, and internal controls regarding notification procedures for uninsured branches are adequate.
2. To determine if branch employees are operating in conformance with the established guidelines.
3. To determine the scope and adequacy of the audit function.
4. To determine compliance with Part 346 and any applicable state laws.
5. To recommend corrective action when policies, practices, procedures, or internal controls are deficient or when violations of applicable laws or regulations have been noted.

### INSURED BRANCHES

6. To determine if policies, practices, procedures, and internal controls regarding asset pledge requirements and asset maintenance requirements are adequate.
7. To determine if branch employees are operating in conformance with established guidelines.
8. To determine the scope and adequacy of the audit function.
9. To determine compliance with applicable laws and regulations.
10. To recommend corrective action when policies, practices, procedures, or internal controls are deficient or when violations of applicable laws or regulations have been noted.

# Federal Deposit Insurance—Uninsured and Insured Branches

## Examination Procedures

Effective date July 1997

## Section 7010.3

### UNINSURED BRANCHES

1. Determine the adequacy of the internal audit procedures used to check compliance with Parts 346.4, 346.5, 346.6, and 346.7, and with any applicable state laws.
  2. Review audit procedures used to check compliance with Part 346 and with any applicable state laws. Obtain a list of any deficiencies noted in the latest review performed by the internal auditors, and determine if corrections have been made.
  3. For a branch operating without Part 346.6 exemptions, determine the adequacy of the branch's procedures that ensure that it has no domestic retail deposit activity. Review deposit ledgers to ascertain that the branch has not been engaging in domestic retail deposit activity.
  4. Determine the adequacy of the branch's procedures that ensure that a branch engaging in some retail deposit activity is conforming to the exemptions allowed in Part 346.6 and in state law. In this case, verify that:
    - a. The branch is confining its retail deposit activity to the six permitted exemptions.
    - b. The branch is displaying conspicuously signs at windows or places where deposits are accepted that deposits are not insured by the FDIC.
    - c. The branch's signature cards, passbooks, and other instruments evidencing a deposit have in bold face the following statement: "This deposit is not insured by the FDIC."
    - d. The branch requires each depositor to execute a statement that acknowledges that the initial and all future deposits are not insured by the FDIC (if the branch is not using notification statements on its signature cards, passbooks, and other instruments evidencing deposits).
  5. Where required notification statements are not made in signature cards, passbooks, and other instruments evidencing deposits, ascertain that depositor acknowledgments are obtained showing that deposits are uninsured.
- applicable regulations. Obtain a list of any deficiencies noted in the latest review performed by the internal auditors and determine if corrections have been accomplished.
7. Ascertain the adequacy of the branch's procedures that ensure that:
    - a. The semiannual reports of pledged assets made to the FDIC's regional directors are prepared correctly, including the amount representing average liabilities for the 30 calendar days of the second and fourth quarters per Part 346.19 of the FDIC's Rules and Regulations.
    - b. The branch is maintaining on a daily basis eligible assets in an amount not less than 106% of the preceding quarter's average book value of the branch's liabilities per Part 346.20.
    - c. The branch is pledging additional assets complying with higher asset maintenance requirements or more frequent calculations of the asset maintenance ratio where directed by the FDIC.
    - d. The computations of eligible assets exclude those assets listed in Part 346.20(b). All banks holding deposits of the branch have signed waiver of offset agreements.
    - e. The calculation of average book value of the branch's liabilities does not exclude liabilities to less than wholly owned subsidiaries of the foreign bank which are not wholly owned.
    - f. The branch's workpapers adequately support the calculations of eligible assets and average book value of the branch's liabilities.
- Insured branches are also subject to the requirements of Section 38 of the Federal Deposit Insurance Act and Part 325 of the FDIC Rules and Regulations, which require the branch to undertake prompt corrective action where it has failed to maintain required pledged assets and eligible assets pursuant to Part 346.

### INSURED BRANCHES

6. Determine the adequacy of the internal audit procedures used to check compliance with

## SUBSEQUENT EVENTS

As a practical matter, the examination is conducted and the report of examination is prepared as of a stated date. However, events or transactions sometimes occur subsequent to the date of examination (or the on-site date as of which various examination procedures were performed) but before the date the report of examination is mailed that may have a significant effect on the evaluation of a branch. Such events and transactions are referred to as subsequent events and may be of two types.

One type includes those events or transactions that provide additional evidence about conditions that existed at the examination date. Examples of this type are the bankruptcy of a significant borrower or the resolution of outstanding litigation.

The second type includes those events that provide evidence about conditions that did not exist at the date of examination. Examples of that type of event would be new litigation arising subsequent to the examination date but before mailing the examination report or a merger agreement signed subsequent to the examination date.

All information that could materially affect the evaluation of the branch and becomes available before mailing of the report of examination should be considered by the examiner in his or her evaluation of the branch. Accordingly, all events or transactions that either significantly affect or have the potential to significantly affect the evaluation of the branch should be reflected in the report of examination, regardless of whether they occurred before or subsequent to the examination date.

## LITIGATION AND OTHER LEGAL MATTERS

Events or conditions arising from litigation, claims, and assessments are matters within the

direct knowledge and often control of branch management. Accordingly, management is the primary source of information about such matters. Examiners ordinarily do not possess legal skills and, therefore, should not make legal judgments on such information. The examiner should ask the branch's management for information concerning litigation, claims, and assessments. If necessary, management may send a letter of inquiry to its general counsel and to other counsel engaged to address more limited matters.

Information provided by management should include information about litigation, impending litigation, claims, and contingent liabilities. For the purpose of these requests, the terms, impending litigation, and contingent liabilities have the following meanings:

*Impending litigation*—litigation threatened against the branch by a third party but not formally commenced.

*Contingent liabilities*—matters other than litigation or claims for which available information indicates a reasonable possibility of impairing assets or increasing liabilities. Contingent liabilities should include unasserted claims or assessments.

Information provided by management should be as of the examination date and, if applicable, as of the date of counsel's response. Any responses provided by counsel should be as close to the completion of the examination as practicable to allow sufficient time for a thorough response and any follow-up, if necessary.

# Subsequent Events, Litigation, and Other Legal Matters

## Examination Objectives

Effective date July 1997

## Section 7020.2

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1. To determine whether any events or transactions have occurred subsequent to the examination date that have had or may have a significant impact on the present or future soundness of the branch or the conclusions expressed in the report of examination.
2. To determine the effect of legal counsel's evaluation of litigation, impending litigation, claims, and contingent liabilities on the examiner's overall conclusion regarding the soundness of the branch.

# Subsequent Events, Litigation, and Other Legal Matters

## Examination Procedures

Effective date July 1997

Section 7020.3

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1. Obtain from the branch officer responsible for legal matters a listing of impending or threatened litigation, including follow-up information on litigation pending at the previous examination. For each item, the following information should be included:
    - a. Nature of the litigation.
    - b. Progress of case to date.
    - c. How management is responding or intends to respond to the litigation.
    - d. An evaluation of the likelihood of an unfavorable outcome and an estimate, if one can be made, of the amount or range of potential loss, and whether any reserves have been established for any potential loss exposure.
  2. Obtain from the branch officer responsible for legal matters a listing of unasserted claims or assessments that management believes will probably be asserted and which, if asserted, would have at least a reasonable possibility of an unfavorable outcome. For each item, the following information should be included:
    - a. Nature of the matter.
    - b. How management intends to respond if the claim is asserted.
    - c. Possible exposure if the claim is asserted.
  3. Obtain from management, a listing of attorneys and legal firms to whom litigation and related matters have been referred. In addition, review a listing of any litigation noted in the most recent internal and external audits, if applicable.
  4. Evaluate management's listing of litigation, unasserted claims and assessments, and counsel's replies, if applicable, for the potential effect on the branch.
  5. Discuss with appropriate branch management, the following:
    - a. Changes in credit lines or transactions with officers, related offices, and affiliates.
    - b. Changes in significant accounting and management reporting policies.
    - c. Changes in senior officers.
  - d. Any event or combination of events that have had or could have a material adverse effect on the branch, such as the default of a bond issue in which the branch has substantial holdings or the filing of bankruptcy by a major borrower.
  - e. New or discontinued services not requiring prior approval.
  - f. Execution of significant contracts, such as for employment, leases, pensions, or other fringe benefit programs.
  - g. Significant new contingent liabilities or commitments other than those referred to above.
  - h. Significant changes in assets such as a shift in the amount of loans or investments in special categories or unusual adjustments made after the date of the financial statements reviewed at the examination.
6. Read minutes of all meetings of appropriate committees (investment, loans, etc.) and
    - a. Verify with branch management whether minutes of all such meetings subsequent to the examination date are available for review.
    - b. For any meetings for which minutes have not yet been prepared, contact appropriate branch personnel about what transpired at the meetings.
  7. If specific violations of law or areas of weakness have been reported to management earlier in the examination, determine the extent to which management has proceeded toward corrective action.
  8. If, after completing the foregoing procedures, information is obtained that is deemed to have a significant impact on the evaluation of the branch, discuss with the examiner-in-charge to determine appropriate follow-up procedures, including the preparation of comments for the examination report and work-paper documentation.

# Survey of Foreign Regulation in Selected States

Effective date July 1997

Section 7030.1

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The following table prepared by the Conference of State Bank Supervisors provides statutory and regulatory citations for selected states on a number of issues that may arise in connection with examinations of state-licensed branches

and agencies in those states. It is intended to serve as a preliminary reference only; specific questions should be directed to the appropriate state banking authority or qualified legal counsel.

	CA	CT	FL	GA	IL	NY	TX	WA
Other Real Estate Owned	FCS <sup>1</sup> 750(c) <sup>2</sup>	No specific statute or regulation.	Subsection 658.67(9)	Section 7-1-263 OCGA	205 ILCS 5/5(9), Rule (Title 38/Chapter II/Part 354)	N/A.	TBA <sup>4</sup> Section 9.002, 5.002 and 5.203; 7 TAC <sup>5</sup> 12.91; PM <sup>6</sup> 1008	RCW <sup>7</sup> 30.42.160(3)
Debts Previously Contracted	FCS 750(b) and 1234	No specific statute or regulation.	See above.	7-1-650(9) OCGA	Rule (Title 38/Chapter II/Part 554)	N/A.	TBA Section 9.002	RCW 30.42.155(G)
Real Estate Appraisals	No state regulations.	C.G.S. Section 36a-261	Section 655.60 FS & Rule 3C-100.600	No specific state law; FDIC Pt 323 is used by the state.	No state regulations.	N/A.	TBA Section 9.002; 7 TAC 12.91	RCW 30.42.105
Internal and External Audits	No state regulations.	No specific statute or regulation.	Subsection 663.09(2) FS; Rule 3C-15.012 FAC	7-1-487 OCGA	N/A.	N/A. Part 5 pending.	N/A.	Not required by statute or regulation.
Bank Secrecy & Money Laundering	Penal Code Sections ¶14160–¶14167	C.G.S. Part XXIII of Chapter 952	Section 655.50 FS; Rule 3C-15.012 FAC; Rule 3C-1.022 FAC	7-1-911; 7-1-912; 7-1-914; 7-1-915; 7-1-916 OCGA	No state regulations.	No State regulations.	N/A.	Federal regulations apply for branch/agency.
Branch/Agency Licensing Procedures	FCS 1700-1711, 1725, 1726, 1750-1753; CCRS <sup>8</sup> 10.11700–10.14188	C.G.S. Section 36a-428a	Sections 663.04 FS; 663.05 FS; 663.55 FS; Chapter 3C-9 FAC	7-1-713; 7-1-914; 7-1-915; 7-1-916 OCGA	205 ILCS 645/3- 205 ILCS 645/9	SP <sup>9</sup> FB 101; BL <sup>3</sup> Section 201	TBA Section 9.003, 9.004, 9.005 and 9.007; 7 TAC 3.41	RCW 30.42.060; 30.42.090 and WAC <sup>10</sup> 50-32

Notes appear at the end of these tables.

	CA	CT	FL	GA	IL	NY	TX	WA
Branch/Agency Closing or Termination Procedures	FCS 1729, 1763, 1775–1785	C.G.S. Section 36a-428j, 36a-428k, 36a-145(f) and Part VIII of Chapter 664c	Sections 663.11 FS; 663.06 FS; 658.80–658.84 FS; 658.90 FS; 658.94–658.96 FS; Rule 3C-15.016 FAC	7-1-720 OCGA	205 ILCS 645/19	BL Sections 40; 206; 605 (11); 606 (4)	TBA Section 9.009, 9.010 and 9.001	RCW 30.42.300
International Banking Facilities	No state regulations.	No specific statute or regulation.	Section 655.071 FS; Rule 3C-15.011 FAC; Chapter 3C-17 FAC	7-1-721 and 7-1-732 OCGA	35 ILCS 5/30(2)	GRBB <sup>11</sup> Part 19	N/A.	Permitted under FRB regulations.
Deposit Taking	FCS 1700(e), 1700(n), 1700(s), 1700(u), 1728, 1755, 1758, CCRS 10.14750–10.15627	C.G.S. Section 36a-428b	Section 663.011 FS; Rule 3C 15.003 FAC	7-1-716(e) OCGA	205 ILCS 645/3	BL Section 202-a; SR <sup>12</sup> Part 323	TBA 9.012	RCW 30.42.115 (branch only).
Legal Lending Limits	FCS 12211	C.G.S. Section 36a-262	Sections 663.083 FS; 658.48, 658.67, 658.49, 658.491, 658.51 FS; Rule 3C-15.003 FAC	7-1-718(b) and 7-1-285 OCGA	No limits <sup>13</sup>	BL Sections 103; 202-f	TBA Section 9.002 and 5.203	RCW 30.42.105, 30.04.111

Notes appear at the end of these tables.

	CA	CT	FL	GA	IL	NY	TX	WA
Permissible Lending Activities	FCS 1220–1239	C.G.S. Section 36a-260, 36a-261, 36a-265 and 36-266	Sections 663.06; 663.061, 663.64 FS; Rule 3C-15.003 FAC	7-1-718 OCGA	205 ILCS 645/3	BL Sections 96 <sup>15</sup> ; 103; 202-f	TBA Section 9.012	RCW 30.42.105 (Branch); RCW 30.42.180 (Agency)
Ineligible Assets	See next item.	Promulgation of regulations in progress.	Subsections 663.07(5) & (6)	No state regulation.	205 ILCS 645/13	SR Part 322	N/A.	RCW 30.42.120(2)
Asset Maintenance	FCS 1761 & 1762; CCRS 10.16000–10.16226	C.G.S. Section 36a-428c and promulgation of regulations in progress.	Section 663.07 FS; Rule 3C-15.006 FAC	No state regulation.	205 ILCS 645/13	BL Section 202-b; GRBB Part 52; SR Part 322	N/A.	RCW 30.42.120
Capital Equivalency Deposits	See previous item.	See previous item.	Section 663.07 FS; Rules 3C-15.006, 3C-140.007 FAC	7-1-718(b) OCGA	See previous item.	BL Section 202-b; GRBB Part 51; SR Part 322	N/A.	RCW 30.42.070
Credit Files	FCS 1706; CCRS 10.14725–10.14730	C.G.S. Section 36a-428h	N/A.	Required to be available and in English.	205 ILCS 645/13	GRBB Part 52 <sup>14</sup>	7 TAC 3.42	WAC 50-32-070 (Branch); WAC 50-32-080 (Agency); RCW 30.42.200
Other Items				7-1-719 OCGA Reports; 7-1-710, 7-1-711	1. Representative Office/ Licensing Procedures: 205 ILCS 650/4. 2. Authorization for Fiduciary Powers: 205 ILCS 645/3.	1. Representative Office/ Licensing Procedures: SP FB 102. 2. Authorization for Fiduciary Powers for branches/ agencies: BL Section 201-b, SP FB 103.	1. Representative Office/ Licensing Procedures: TBA Section 9.006; 7 TAC 3.44	

Footnotes appear at the end of the table.

	CA	CT	FL	GA	IL	NY	TX	WA
Other Items Continued					3. Registered Agent: 205 ILCS 645/9.	3. Permission to change name of the banking institution: SB FB 104; BL Section 203. 4. Permission to change branch/agency's general manager or representative: SP FB 105.		

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| <ul style="list-style-type: none"> <li>1. Financial Code Section(s).</li> <li>2. Applicable only in a Depository Agency or Branch Office.</li> <li>3. Banking Law.</li> <li>4. The Texas Banking Act.</li> <li>5. Title 7, Texas Administrative Code.</li> <li>6. Policy Memorandum.</li> <li>7. Revised Code of Washington (state law).</li> <li>8. California Code of Regulations Section(s).</li> <li>9. Supervisory Policies.</li> <li>10. Washington Administrative Code (state rulings and regulations).</li> </ul> | <ul style="list-style-type: none"> <li>11. General Regulation of the Banking Board.</li> <li>12. Superintendent's Regulations.</li> <li>13. No legal lending limits for foreign banking offices under Illinois law. Section 14 of the Foreign Banking Office Act (205 ILCS 645/14) states, however, that the portion of loans to any one obligor in excess of 10 percent of eligible assets is considered ineligible and not included in the numerator of the asset maintenance ratio.</li> <li>14. Maintenance of the evidence of indebtedness.</li> <li>15. Section 96 is applicable to branches and agencies only, pursuant to banking department policy.</li> </ul> |
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## CONNECTICUT

*Other Real Estate Owned*—No specific statute or regulation.

*Debts Previously Contracted*—No specific statute or regulation.

*Real Estate Appraisals*—Section 36a-261 sets forth the real estate appraisal requirements applicable to state chartered banks which also apply to state branches and agencies of foreign banks.

*Internal and External Audits*—No special statute or regulation.

*Bank Secrecy and Anti-Money Laundering*—No special statute or regulation concerning bank secrecy. Part XXIII of Chapter 952 of the Connecticut General Statutes makes money laundry an offense under the penal code.

*Branch/Agency Licensing Procedures*—Section 36a-428a sets forth the requirements for application for a license and the factors that the Banking Commissioner must consider before issuing a license.

*Branch/Agency Closing or Termination Procedures*—Section 36a-428j addresses revocation, suspension or failure to renew a license as well as revocation of a license due to voluntary surrender, or dissolution of the foreign bank or other termination or cancellation of its existence or authority. Section 36a-428k delineates the procedure for voluntary liquidation of the business and property of the state branches and state agencies. Section 36a-145(f) sets forth the notice requirements applicable to branch closings. Part VIII of Chapter 664c concerns failure, receiverships, conservatorships and other emergency actions.

*International Banking Facilities*—No special statute or regulation.

*Deposit Taking*—Section 36a-428b provides that the operations of a foreign bank at a state branch or state agency shall be conducted with the same rights and privileges as a state chartered bank at the same location and thus authorizes deposit taking.

*Legal Lending Limits*—Under Section 36a-428b, the operations of a foreign bank at a state

branch or agency are subject to the same restrictions and limitations applicable to a state chartered bank. Therefore, the legal lending limits of Section 36a-262 apply to foreign banks. Under Section 36a-428d, limitations based on the capital stock or surplus of a state chartered bank are deemed to refer to the dollar equivalent of the capital and surplus of the foreign bank.

*Permissible Lending Activities*—Section 36a-428b gives state branches and state agencies the same lending authority as state chartered banks.

*Ineligible Assets*—Regulations in progress.

*Asset Maintenance*—Section 36a-428c requires a foreign bank with a state branch or state agency to hold assets in the state in an amount prescribed by regulation. The promulgation of regulations addressing this is currently in progress.

*Capital Equivalency Deposits*—Section 36a-428c requires a foreign bank with a state branch or state agency to keep assets on deposit in this state in accordance with regulations. The promulgation of regulations addressing this is currently in progress.

*Credit Files*—Section 36a-428h requires a foreign bank to maintain or make available at its state branch, state agency or representative office appropriate books, accounts and records relating to or reflecting transactions effected by such branch, agency or office.

## FLORIDA

*Other Real Estate Owned*—Subsection 658.67(9), FS, allows banks to acquire property to protect a loan or investment previously made in good faith. Certain limitations/restrictions apply.

*Debts Previously Contracted*—See above.

*Real Estate Appraisals*—Section 655.60, FS, grants the Department the power to require that appraisals be made on loans made by financial institutions under certain conditions. Rule 3C-100.600 contains appraisal standards and policies for state financial institutions.

*Internal and External Audits*—Subsection 663.09(2), FS, requires that audits be performed of all agencies. Rule 3C-15.012, FAC, contains the Minimum Audit Procedures for agencies.

*Bank Secrecy and Anti-Money Laundering*—Section 655.50, FS, requires that financial institutions maintain records of large currency transactions and submit currency transaction forms on those transactions. Rule 3C-15-012, FAC, discussed areas that must be checked during an audit to ensure that an agency is complying with anti-money laundering policies and procedures. Rule 3C-1.022, FAC, contains requirements for filing currency transaction reports.

*Branch/Agency Licensing Procedures*—Section 663.04, FS, discusses the requirements for carrying on a banking business by an international banking corporation. Section 663.05, FS, discusses the procedures for applying for an international office. Section 663.55, FS, discusses capital requirements to establish international offices. Chapter 3C-9, FAC, discusses time frames for processing applications.

*Branch/Agency Closing or Termination Procedures*—Section 663.11, FS, discusses the dissolution of an international banking corporation and the effect such action would have on the state-licensed office. Section 663.06, FS, discusses the surrender or termination of a license to operate an international office in relation to performing permissible activities. Section 658.80, FS, discusses the appointment of a receiver or liquidator. Section 658.81, FS, discusses notice requirements and court confirmation of appointment of the receiver/liquidator. Section 658.82, FS, discusses the powers and duties of a receiver. Section 658.83, FS, discusses the powers and duties of a liquidator. Section 658.84, FS, discusses transfers and other acts in contemplation of insolvency. Section 658.90, FS, discusses receivers and liquidators under supervision of the Department. Section 658.94, FS, discusses what constitutes prima facie evidence of insolvency. Section 658.95, FS, discusses how a bank would start procedures to voluntarily liquidate itself. Section 658.96, FS, discusses the procedures in voluntary liquidation. Rule 3C-15.016, FAC, discusses the surrender of an agency's license.

*International Banking Facilities*—Section 655.071, FS, defines an IBF and requires noti-

fication to the Department before an IBF can be established. Rule 3C-15.011, FAC, provides administrative rules for IBFs in more detail.

*Deposit Taking*—Section 663.011, FS, limits the deposits that agencies may receive from customers. Rule 3C-15.003, FAC, discusses permissible activities for agencies, including deposit taking.

*Legal Lending Limits*—Section 663.083, FS, discusses lending limits of agencies and branches, and states that Sections 658.48 (Loans) and 658.67 (Investments), FS, may be applicable to branches and agencies in certain circumstances. Other possible areas of regulation in the statutes are Sections 658.49 (Loans not exceeding \$50,000), 658.491 (Commercial loans by financial institutions), and 658.51 (Commodity loans), FS. Rule 3C-15.003, FAC, discusses permissible activities of international offices, including loans.

*Permissible Lending Activities*—Section 663.06, FS, discusses the inability to perform permissible activities when a license is surrendered, revoked, or terminated. Section 663.061, FS, allows international agencies to engage in any loan or investment that could be made by domestic banks. Section 663.64, FS, discusses permissible activities of international branches. Rule 3C-15.003, FAC, discusses permissible activities of international offices, including loans.

*Ineligible Assets*—Subsections 663.07(5) and (6) discuss ineligible assets.

*Asset Maintenance*—Section 663.07, FS, discusses asset maintenance. Rule 3C-15.006, FAC, discusses the reporting of asset maintenance data to the Department.

*Capital Equivalency Deposits*—Section 663.07, FS, discusses capital equivalency requirements. Rule 3C-15.006, FAC, discusses the reporting of capital equivalency data to the Department. Rule 3C-140.007, FAC, provides further clarification of asset maintenance and capital equivalency requirements.

*Credit Files*—N/A.

## ILLINOIS

*Other Real Estate Owned*—A foreign banking office may own other real estate in the collection

of its debts but may not hold title for more than five years unless a request for extension is submitted in writing and approved by the Commissioner. The maximum time period is ten years. 205 ILCS 5/5(9), Rule (Title 38/Chapter II/Part 354).

*Debts Previously Contracted*—A foreign banking office may maintain assets it acquires in collection of debt. A rule has been adopted for the administration of these assets. Rule (Title 38/Chapter II/Part 354).

*Real Estate Appraisals*—No statutes or rules govern real estate appraisals.

*Internal and External Audits*—Although no statutes or rules are in place governing internal and external audits, examiners will recommend that an internal program be maintained by the bank. This could include personnel located at the branch or at a regional office. A particular situation could be present that warrants recommendation for an outside audit.

*Bank Secrecy and Anti-Money Laundering*—No statutes or rules govern bank secrecy and anti-money laundering.

*Branch Licensing Procedures*—Foreign banks are required to receive a Certificate of Authority to operate a foreign banking office (branch) in the State of Illinois. A foreign bank may establish and maintain banking offices in the State. The application requires information that is specifically stated in the statutes. (205 ILCS 645/3 through 205 ILCS 645/19) Additionally, the bank must indicate whether Illinois will be the “home state” pursuant to the IBA 78; if not, an agreement must be signed with the Federal Reserve restricting the types of deposits to be received at the Illinois office. Applications may be obtained by contacting the State of Illinois, Office of Banks and Real Estate.

*Branch Closing or Termination Procedures*—A branch closing or termination is identified in the statutes. (205 ILCS 645/19) A voluntary surrender of the Certificate of Authority should be accompanied by an affidavit stating there are no liabilities of any kind remaining at the Illinois office.

*International Banking Facilities*—Illinois recognizes the International Banking Facilities (IBF)

and had amended its tax law in 1981 to provide for state tax exemption of income generated from IBF accounts. (35 ILCS 5/30(2)).

*Deposit Taking*—The Certificate of Authority issued to a foreign bank pursuant to Illinois statute provides full banking powers (205 ILCS 645/3). The deposit powers are not utilized by the bank if an agreement between the bank and the Federal Reserve is signed pursuant to the IBA 78, which limits the deposit taking to that defined in section 25(a) of the FRA.

*Legal Lending Limits*—There are no legal lending limits for foreign banking offices under Illinois law. However, Section 14 of the Foreign Banking Office Act (205 ILCS 645/101) states that the portion of loans to any one obligor in excess of 10 percent of eligible assets is considered ineligible and should not be included in the numerator of the asset maintenance ratio.

*Permissible Lending Activities*—205 ILCS 645/3 state that a foreign banking office may conduct a general banking business with the same, but no greater rights and privileges, as a state bank.

*Ineligible Assets*—Ineligible assets are those assets not included in the numerator of the asset maintenance ratio. This ratio, as described in Section 13 of the Foreign Banking Office Act (205 ILCS 645/31), is required to be maintained at all times. The following is a list of ineligible assets, although it is not all inclusive: (Refer to Monthly Report of Statutory Requirements instruction book for details.)

- Amounts due from head office, branches, agencies, and wholly-owned subsidiaries.
- Fixed assets.
- That portion of loans to one borrower in excess of 10 percent of eligible assets.
- Loans classified Loss and the designated loss portion of Doubtful accrual accounts.
- Loans not supported by proper credit documentation.
- Difference between book value and the lower of par or market value of securities (amount could be added or subtracted from assets depending on book value relationship to lower of par or market).

*Asset Maintenance*—Section 13 of the Foreign Banking Office Act (205 ILCS 645/13) describes a relationship of certain assets to certain

liabilities that may be maintained by a foreign banking office. This figure is the asset maintenance ratio: ineligible assets divided by liabilities requiring cover; it is to be set by the Commissioner. Currently, the ratios are imposed when Supervisory concerns exist at local, national or global levels. The ratio, when required, needs to be maintained at all times and is monitored via the Monthly Report of Statutory Requirements and the on-site examinations.

*Capital Equivalency Deposits*—Pledged asset requirements may be imposed when Supervisory concerns exist.

*Credit Files*—Credit files are to be maintained at the branch for all loans booked. Loans not supported by proper documentation may be deemed ineligible by the examiner in determining the asset maintenance ratio. Refer to (205 ILCS 645/13), which states, in part, the Commissioner shall have the right to determine the value of assets ...for purposes of computing the ratio.

## WASHINGTON

*Other Real Estate Owned*—An alien bank may hold and convey real estate acquired at sale under judgements, decrees, liens, or mortgage foreclosures against securities held by it. There is a five-year holding limit as a bank asset unless an extension of time is granted by the Supervisor.

*Debts Previously Contracted*—In order to prevent loss on debts previously contracted, a branch may acquire shares in a corporation provided that such shares are disposed of within two years from acquisition date.

*Real Estate Appraisals*—A branch has the power to make loans the same as a state-chartered commercial bank; therefore, a branch must comply with applicable state and federal regulations. An agency can be involved in making loans only for the financing of the international movement of goods and services, for operational needs, and for the purchase of fixed assets. If secured by real estate, the implication is that they must comply with state and federal regulations.

*Internal and External Audits*—Not required by statute or regulation.

*Bank Secrecy and Anti-Money Laundering*—Federal regulations apply for branch/agency.

*Branch/Agency Licensing Procedures*—Application must be approved by the Supervisor of Banking after investigating the proposal for compliance with conditions delineated in statute and applicant has met all conditions precedent to establishing an office in the state.

*Branch/Agency Closing or Termination Procedures*—The Supervisor may suspend or revoke the Certificate of Authority of an alien bank for issues relating to violations of laws and regulations, conducting business in an unauthorized manner, and unresponsiveness to the Supervisor's orders or directives as well as if the bank is in an unsafe or unsound condition, the bank cannot with safety continue business, or the alien bank's country is unjustifiably refusing state banks to operate in the alien bank's country. The Supervisor may take possession of an alien office as provided by statute.

*International Banking Facilities*—Permitted under federal regulations (FRB); applicant must notify the local Federal Reserve Bank. State revenue laws allow IBFs.

*Deposit Taking Branch Only*—Any branch of an alien bank that filed its application before July 27, 1978, and has designated Washington as its home state pursuant to the International Banking Act (IBA) of 1978 shall have the power to solicit and accept deposits the same as a state-chartered commercial bank, except that acceptance of initial deposits of less than \$100,000 shall be limited to deposits delineated by statute. (The same as provided by the IBA.) Deposits must be either insured by the FDIC or arrangements made for capital maintenance in accordance with provisions of RCW 30.42.120.

*Legal Lending Limits*—The base for computing the applicable loan limitation is the entire capital and surplus of the alien bank. The loan limit is the same as a state-chartered commercial bank, or 20 percent of the capital surplus of the bank, with certain exceptions.

*Permissible Lending Activities*—An approved branch of an alien bank shall have the same power to make loans and guarantee obligations as a state-chartered commercial bank. An approved agency may engage in the business of

making loans and guaranteeing obligations for the financing of the international movement of goods and services and for all operational needs, including working capital and short-term operating needs for the acquisition of fixed assets.

*Ineligible Assets*—Assets ineligible for asset maintenance calculations include amounts due from head office and any other branch, agency, or other office or wholly-owned subsidiary of the bank, except those amounts due from such offices or subsidiaries located within the United States and payable in U.S. dollars.

*Asset Maintenance Branch Only*—100 percent of aggregate liabilities of such alien bank must be held and payable at or through its office in this state. The funds so held are to be currency, bonds, notes, debentures, bills of exchange, or other evidences of indebtedness or other obligations payable in the United States or in U.S. funds, or, with the approval of the Supervisor, in funds freely convertible in U.S. funds or such other assets as are approved by the Supervisor. Interoffice due from accounts are excluded from the calculation, except amounts due from offices or subsidiaries located within the United States and payable in U.S. dollars.

*Capital Equivalency Deposits*—Capital allocated shall be maintained within the state at all times in cash or in Supervisor-approved (1) interest bearing bonds, notes, debentures, or other obligations of the United States, agency, or instrumentality thereof, or guaranteed by the United States or the state of Washington, or (2) other such assets as the Supervisor may approve. Such capital must be deposited with a bank whose principal place of business is located in this state. The capital equivalency deposits are held under tripartite agreement and are held for the sole benefit of U.S.-domiciled creditors of such alien bank's Washington state office and is subject to the Supervisor's order without offset for the payment of such creditors.

*Credit Files*—A branch must maintain loan records and controls that include the organizing and maintenance of credit files incorporating loan comments, credit analysis, financials, etc. The same is applicable to an agency. RCW 30.42.200 requires the books and accounts of an office to be in the English language.