

Federal Deposit Insurance Corporation

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also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) a map showing the assessment area containing this branch, which is the area in which the FDIC evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the FDIC publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Regional Manager, Division of Compliance and Consumer Affairs, FDIC (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and the FDIC Regional Manager. Your letter, together with any response by us, will be considered by the FDIC in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the FDIC Regional Manager. You may also request from the FDIC Regional Manager an announcement of our applications covered by the CRA filed with the FDIC. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of (address) an announcement of applications covered by the CRA filed by bank holding companies.

PART 346—FOREIGN BANKS

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APPENDIX A to Part 346 [RESERVED]

AUTHORITY: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 3103, 3104, 3105, 3108.

SOURCE: 44 FR 40060, July 9, 1979, unless otherwise noted.

Subpart A—Definitions

§ 346.1 Definitions.

For the purposes of this part:

(a) *Foreign bank* means any company organized under the laws of a foreign country, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands or the Virgin Islands which engages in the business of banking. The term includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized and operating. Except as otherwise specifically provided by the Federal Deposit Insurance Corporation, banks organized under the laws of a foreign country, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands which are insured banks other than by reason of having an insured branch are not considered to be foreign banks for purposes of §§ 346.17, 346.18, 346.19, and 346.20. For purposes of § 346.6, the term

foreign bank does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Corporation pursuant to the Federal Deposit Insurance Act.

(b) *Foreign country* means any country other than the United States and includes any colony, dependency or possession of any such country.

(c) *State* means any State of the United States or the District of Columbia.

(d) *Branch* means any office or place of business of a foreign bank located in any State of the United States at which deposits are received. The term does not include any office or place of business deemed by the State licensing authority or the Comptroller of the Currency to be an agency.

(e) *Federal branch* means a branch of a foreign bank established and operating under the provisions of section 4 of the International Banking Act of 1978 (12 U.S.C. 3102).

(f) *State branch* means a branch of a foreign bank established and operating under the laws of any State.

(g) *Insured branch* means a branch of a foreign bank any deposits of which branch are insured in accordance with the provisions of the Federal Deposit Insurance Act.

(h) *Noninsured branch* means a branch of a foreign bank deposits of which branch are not insured in accordance with the provisions of the Federal Deposit Insurance Act.

(i) *Insured bank* means any bank, including a foreign bank having an insured branch, deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act.

(j) *Home State* of a foreign bank means the State so determined by the election of the foreign bank, or in default of such election, by the Board of Governors of the Federal Reserve System.

(k) *Initial deposit* means the first deposit transaction between a depositor and the branch. The initial deposit may be placed into different deposit accounts or into different kinds of deposit accounts, such as demand, savings, or time. Deposit accounts that are held by a depositor in the same

right and capacity may be added together for the purposes of determining the dollar amount of the initial deposit. *First deposit* means any deposit made when there is no current deposit relationship between the depositor and the branch.

(l) *Domestic retail deposit activity* means the acceptance by a State branch of any initial deposit of less than \$100,000.

(m) A *majority owned subsidiary* means a company the voting stock of which is more than 50 percent owned or controlled by another company.

(n) A *wholly owned subsidiary* means a company the voting stock of which is 100 percent owned or controlled by another company except for a nominal number of directors' shares.

(o) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity. An entity shall be deemed to "control" another entity if the entity directly or indirectly owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity or controls in any manner the election of a majority of the directors or trustees of the other entity.

(p) *Depository* means any insured state bank, national bank, or insured branch. A depository may not be an affiliate of the foreign bank whose insured branch is seeking to use the depository.

(q) *Deposit* means the same as in section 3(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)).

(r) *Significant risk to the deposit insurance fund* shall be understood to be present whenever there is a high probability that the Bank Insurance Fund administered by the FDIC may suffer a loss.

(s) *Foreign business* means any entity, including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust, which is organized under the laws of a country other than the United States or any United States entity which is owned or controlled by an entity which is organized under the laws of a country other than the United States or a foreign national.

(t) *Large United States business* means any entity including but not limited to

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a corporation, partnership, sole proprietorship, association, foundation or trust which is organized under the laws of the United States or any state thereof, and:

(1) Whose securities are registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System; or

(2) Has annual gross revenues in excess of \$1,000,000 for the fiscal year immediately preceding the initial deposit.

(u) *Person* means an individual, bank, corporation, partnership, trust, association, foundation, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

(v) *Immediate family member of a natural person* means the spouse, father, mother, brother, sister, son or daughter of that natural person.

[44 FR 40060, July 9, 1979, as amended at 49 FR 49620, Dec. 21, 1984; 54 FR 14066, Apr. 7, 1989; 59 FR 60706, Nov. 28, 1994; 61 FR 5674, Feb. 14, 1996]

Subpart B—Insurance of Deposits

§ 346.2 Scope.

(a) This subpart B implements the insurance provisions of section 6 of the International Banking Act of 1978 (12 U.S.C. 3104). It sets out the FDIC's rules regarding deposit activities requiring a State branch to be an insured branch; deposit activities not requiring a State branch to be an insured branch; procedures for a State branch to apply for an exemption from the insurance requirement; and, depositor notification requirements.¹ It sets out the FDIC's policy regarding the operation of insured and noninsured branches, whether State or Federal, by a foreign bank and it provides that any branch has the option of applying for insurance.

(b) Any application for insurance under this subpart should be filed in accordance with part 303 of the FDIC's Rules and Regulations.

¹Sections 346.4, 346.5, 346.6 and 346.7 do not apply to a Federal branch; the Comptroller of the Currency's regulations establish such rules for Federal branches. Federal branches deemed by the Comptroller to require insurance must apply to the FDIC for insurance.

§ 346.3 Restriction on operation of insured and noninsured branches.

The FDIC will not insure deposits in any branch of a foreign bank unless the foreign bank agrees that every branch established or operated by the foreign bank in the same State will be an insured branch; *Provided*, That this restriction does not apply to any branch which accepts only initial deposits in an amount of \$100,000 or greater.

§ 346.4 Insurance requirement.

General rule. Except as provided in § 346.5 or § 346.6, a foreign bank shall not establish or operate any State branch which is not an insured branch whenever:

(a) The branch is engaged in a domestic retail deposit activity; and

(b) The branch is located in a State which requires a bank organized and existing under State law to have deposit insurance whenever the bank accepts deposits from the general public. A State requirement is one imposed by statute or by State banking department regulation or policy.

[44 FR 40060, July 9, 1979, as amended at 54 FR 14067, Apr. 7, 1989]

§ 346.5 Branches established under section 5 of the International Banking Act.

A foreign bank may operate any State branch as a noninsured branch whenever the foreign bank has entered into an agreement with the Board of Governors of the Federal Reserve System to accept at that branch only those deposits as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 *et seq.*) and implementing rules and regulations administered by the Board of Governors (12 CFR part 211).

§ 346.6 Exemptions from the insurance requirement.

(a) *Deposit activities not requiring insurance.* A state branch will not be deemed to be engaged in a domestic retail deposit activity which requires the branch to be an insured branch under § 346.4 if initial deposits in an amount