

**Federal Deposit Insurance Corporation**

**§ 347.102**

**PART 347—INTERNATIONAL BANKING**

AUTHORITY: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108; Title IX, Pub. L. 98-181, 97 Stat. 1153.

**Subpart A—Foreign Branching and Investment by Insured State Nonmember Banks**

SOURCE: 63 FR 17075, Apr. 8, 1998, unless otherwise noted.

Sec.

- 347.101 Purpose, authority, and scope.
- 347.102 Definitions.
- 347.103 Foreign branches of insured State nonmember banks.
- 347.104 Investment by insured State nonmember banks in foreign organizations.
- 347.105 Underwriting and dealing limits applicable to foreign organizations held by insured State nonmember banks.
- 347.106 Restrictions on certain activities applicable to foreign organizations held by insured State nonmember banks.
- 347.107 U.S. activities of foreign organizations held by insured State nonmember banks.
- 347.108 Obtaining FDIC approval to invest in foreign organizations.
- 347.109 Extensions of credit to foreign organizations held by insured State nonmember banks; shares of foreign organizations held in connection with debts previously contracted.
- 347.110 Supervision and recordkeeping of the foreign activities of insured State nonmember banks.

**Subpart A—Foreign Branching and Investment by Insured State Nonmember Banks**

**§ 347.101 Purpose, authority, and scope.**

Under sections 18(d) and 18(l) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d), 1828(l)), the Federal Deposit Insurance Corporation prescribes the regulations in this subpart relating to foreign branches of insured state nonmember banks, the acquisition and holding of stock of foreign organizations, and loans or extensions of credit to or for the account of such foreign organizations.

**§ 347.102 Definitions.**

For the purposes of this subpart:

(a) An *affiliate* of an insured state nonmember bank means:

(1) Any entity of which the insured state nonmember bank is a direct or indirect subsidiary or which otherwise controls the insured state nonmember bank;

(2) Any organization which is a direct or indirect subsidiary of such entity or which is otherwise controlled by such entity; or

(3) Any other organization which is a direct or indirect subsidiary of the insured state nonmember bank or is otherwise controlled by the insured state nonmember bank.

(b) *Control* means the ability to control in any manner the election of a majority of an organization's directors or trustees; or the ability to exercise a controlling influence over the management and policies of an organization. An insured state nonmember bank is deemed to control an organization of which it is a general partner or its affiliate is a general partner.

(c) *Eligible* insured state nonmember bank means an eligible depository institution as defined in § 347.401(c).

(d) *Equity interest* means any ownership interest or rights in an organization, whether through an equity security, contribution to capital, general or

**Subpart B—Foreign Banks**

- 347.201 Scope.
- 347.202 Definitions.
- 347.203 Restriction on operation of insured and noninsured branches.
- 347.204 Insurance requirement.
- 347.205 Branches established under section 5 of the International Banking Act.
- 347.206 Exemptions from the insurance requirement.
- 347.207 Notification to depositors.
- 347.208 Agreement to provide information and to be examined.
- 347.209 Records.
- 347.210 Pledge of assets.
- 347.211 Asset maintenance.
- 347.212 Deductions from the assessment base.
- 347.213 FDIC approval to conduct activities not permissible for federal branches.
- 347.214 Examination of branches of foreign banks.

**Subpart C—International Lending**

- 347.301 Purpose, authority, and scope.
- 347.302 Definitions.
- 347.303 Allocated transfer risk reserve.
- 347.304 Accounting for fees on international loans.
- 347.305 Reporting and disclosure of international assets.

limited partnership interest, debt or warrants convertible into ownership interests or rights, loans providing profit participation, binding commitments to acquire any such items, or some other form of business transaction.

(e) *Equity security* means voting or nonvoting shares, stock, investment contracts, or other interests representing ownership or participation in a company or similar enterprise, as well as any instrument convertible to any such interest at the option of the holder without payment of substantial additional consideration.

(f) *FRB* means the Board of Governors of the Federal Reserve System.

(g) *Foreign bank* means an organization that is organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands that:

(1) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or the country in which its principal banking operations are located;

(2) Receives deposits to a substantial extent in the regular course of its business; and

(3) Has the power to accept demand deposits.

(h) *Foreign banking organization* means a foreign organization that is formed for the sole purpose of either holding shares of a foreign bank or performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or foreign bank affiliate of the insured state nonmember bank.

(i) *Foreign branch* means an office or place of business located outside the United States, its territories, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, at which banking operations are conducted, but does not include a representative office.

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

(k) *Foreign organization* means an organization that is organized under the laws of a foreign country.

(l) *Indirectly* means investments held or activities conducted by a subsidiary of an organization.

(m) *Loan or extension of credit* means all direct and indirect advances of funds to a person, government, or entity made on the basis of any obligation of that person, government, or entity to repay funds.

(n) *Organization* or *entity* means a corporation, partnership, association, bank, or other similar entity.

(o) *Representative office* means an office that engages solely in representative functions such as soliciting new business for its home office or acting as liaison between the home office and local customers, but which has no authority to make business or contracting decisions other than those relating to the personnel and premises of the representative office.

(p) *Subsidiary* means any organization more than 50 percent of the voting equity interests of which are directly or indirectly held by another organization.

(q) *Tier 1 capital* means Tier 1 capital as defined in § 325.2 of this chapter.

(r) *Well capitalized* means well capitalized as defined in § 325.103 of this chapter.

**§ 347.103 Foreign branches of insured State nonmember banks.**

(a) *Powers of foreign branches.* To the extent authorized by state law, an insured state nonmember bank may establish a foreign branch. In addition to its general banking powers, and if permitted by state law, a foreign branch of an insured state nonmember bank may conduct the following activities to the extent the activities are consistent with banking practices in the foreign country in which the branch is located:

(1) *Guarantees.* Guarantee debts, or otherwise agree to make payments on the occurrence of readily ascertainable events including without limitation such things as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents, if:

(i) The guarantee or agreement specifies a maximum monetary liability; and

(ii) To the extent the guarantee or agreement is not subject to a separate