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U.S. GOVERNMENT
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§ 211.3 Foreign branches of U.S. banking organizations.

(a) *General*—(1) *Definition of banking organization*. For purposes of this section, a *banking organization* is defined as a member bank and its affiliates.

(2) A banking organization is considered to be operating a branch in a foreign country if it has an affiliate that is a member bank, Edge or agreement corporation, or foreign bank that operates an office (other than a representative office) in that country.

(3) For purposes of this subpart, a foreign office of an operating subsidiary of a member bank shall be treated as a foreign branch of the member bank and may engage only in activities permissible for a branch of a member bank.

(4) At any time upon notice, the Board may modify or suspend branching authority conferred by this section with respect to any banking organization.

(b) (1) *Establishment of foreign branches.* (i) Foreign branches may be established by any member bank having capital and surplus of $1,000,000 or more, an Edge corporation, an agreement corporation, any subsidiary the shares of which are held directly by the member bank, or any other subsidiary held pursuant to this subpart.

(ii) The Board grants its general consent under section 25 of the FRA (12 U.S.C. 601–604a) for a member bank to establish a branch in the Commonwealth of Puerto Rico and the overseas territories, dependencies, and insular possessions of the United States.

(2) *Prior notice.* Unless otherwise provided in this section, the establishment of a foreign branch requires 30 days' prior written notice to the Board.

(3) *Branching into additional foreign countries.* After giving the Board 12 business days prior written notice, a banking organization that operates branches in two or more foreign countries may establish a branch in an additional foreign country.

(4) *Additional branches within a foreign country*. No prior notice is required to establish additional branches in any foreign country where the banking organization operates one or more branches.

(5) *Branching by nonbanking affiliates.* No prior notice is required for a nonbanking affiliate of a banking organization (*i.e.*, an organization that is not a member bank, an Edge or agreement corporation, or foreign bank) to establish branches within a foreign country or in additional foreign countries.

(6) *Expiration of branching authority*. Authority to establish branches, when granted following prior written notice to the Board, shall expire one year from the earliest date on which the authority could have been exercised, unless extended by the Board.

(c) *Reporting.* Any banking organization that opens, closes, or relocates a branch shall report such change in a manner prescribed by the Board.

(d) *Reserves of foreign branches of member banks.* Member banks shall maintain reserves against foreign branch deposits when required by Regulation D (12 CFR part 204).

(e) *Conditional approval; access to information*. The Board may impose such conditions on authority granted by it under this section as it deems necessary, and may require termination of any activities conducted under authority of this section if a member bank is unable to provide information on its activities or those of its affiliates that the Board deems necessary to determine and enforce compliance with U.S. banking laws.

§ 211.4 Permissible activities and investments of foreign branches of member banks.

(a) *Permissible activities and investments.* In addition to its general banking powers, and to the extent consistent with its charter, a foreign branch of a member bank may engage in the following activities and make the following investments, so far as is usual in connection with the business of banking in the country where it transacts business:

(1) *Guarantees.* Guarantee debts, or otherwise agree to make payments on the occurrence of readily ascertainable events (including, but not limited to, nonpayment of taxes, rentals, customs duties, or costs of transport, and loss or nonconformance of shipping documents) if the guarantee or agreement

specifies a maximum monetary liability; however, except to the extent that the member bank is fully secured, it may not have liabilities outstanding for any person on account of such guarantees or agreements which, when aggregated with other unsecured obligations of the same person, exceed the limit contained in section 5200(a)(1) of the Revised Statutes (12 U.S.C. 84) for loans and extensions of credit;

(2) *Government obligations.* (i) Underwrite, distribute, buy, sell, and hold obligations of:

(A) The national government of the country where the branch is located and any political subdivision of that country;

(B) An agency or instrumentality of the national government of the country where the branch is located where such obligations are supported by the taxing authority, guarantee, or full faith and credit of that government;

(C) The national government or political subdivision of any country, where such obligations are rated investment grade; and

(D) An agency or instrumentality of any national government where such obligations are rated investment grade and are supported by the taxing authority, guarantee or full faith and credit of that government.

(ii) No member bank, under authority of this paragraph (a)(2), may hold, or be under commitment with respect to, such obligations for its own account in relation to any one country in an amount exceeding the greater of:

(A) 10 percent of its tier 1 capital; or

(B) 10 percent of the total deposits of the bank's branches in that country on the preceding year-end call report date (or the date of acquisition of the branch, in the case of a branch that has not been so reported);

(3) *Other investments.* (i) Invest in:

(A) The securities of the central bank, clearinghouses, governmental entities other than those authorized under paragraph (a)(2) of this section, and government-sponsored development banks of the country where the foreign branch is located;

(B) Other debt securities eligible to meet local reserve or similar requirements; and

(C) Shares of automated electronic-payments networks, professional societies, schools, and the like necessary to the business of the branch;

(ii) The total investments of a bank's branches in a country under this paragraph (a)(3) (exclusive of securities held as required by the law of that country or as authorized under section 5136 of the Revised Statutes (12 U.S.C. 24, Seventh)) may not exceed 1 percent of the total deposits of the bank's branches in that country on the preceding year-end call report date (or on the date of acquisition of the branch, in the case of a branch that has not been so reported);

(4) *Real estate loans.* Take liens or other encumbrances on foreign real estate in connection with its extensions of credit, whether or not of first priority and whether or not the real estate has been improved;

(5) *Insurance.* Act as insurance agent or broker;

(6) *Employee benefits program.* Pay to an employee of the branch, as part of an employee benefits program, a greater rate of interest than that paid to other depositors of the branch;

(7) *Repurchase agreements.* Engage in repurchase agreements involving securities and commodities that are the functional equivalents of extensions of credit;

(8) *Investment in subsidiaries.* With the Board's prior approval, acquire all of the shares of a company (except where local law requires other investors to hold directors' qualifying shares or similar types of instruments) that engages solely in activities:

(i) In which the member bank is permitted to engage; or

(ii) That are incidental to the activities of the foreign branch.

(b) *Other activities.* With the Board's prior approval, engage in other activities that the Board determines are usual in connection with the transaction of the business of banking in the places where the member bank's branches transact business.

§ 211.5 Edge and agreement corporations.

(a) *Board Authority.* The Board shall have the authority to approve: