

§ 347.203

12 CFR Ch. III (1–1–21 Edition)

one day and settled at that price within a reasonable time period conforming with trade custom; is a type of asset that investors historically have purchased in periods of financial market distress during which market liquidity has been impaired.

(m) 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.

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

(o) Initial deposit means the first deposit transaction between a depositor and the branch where there is no existing deposit relationship. 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.

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

(q) 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.

(r) Investment grade means a security issued by an entity that has adequate capacity to meet financial commitments for the projected life of the exposure. Such an entity has adequate capacity to meet financial commitments if the risk of its default is low and the full and timely repayment of principal and interest is expected.

(s) Large United States 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 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.

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

(u) 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.

(v) OCC means the Office of the Comptroller of the Currency.

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

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

(y) *Standard maximum deposit insurance amount*, referred to as the “SMDIA” hereafter, means \$250,000 adjusted pursuant to subparagraph (F) of section 11(a)(1) of the FDI Act (12 U.S.C. 1821(a)(1)(F)).

(z) State means any state of the United States or the District of Columbia.

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

(bb) 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.

[70 FR 17560, Apr. 6, 2005; 70 FR 20704, Apr. 21, 2005, as amended at 71 FR 20527, Apr. 21, 2006; 74 FR 47718, Sept. 17, 2009; 75 FR 49365, Aug. 13, 2010; 83 FR 9143, Mar. 5, 2018]

**§ 347.203 Deposit insurance required for all branches of foreign banks engaged in domestic retail deposit activity in the same State.**

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 that engages in

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domestic retail deposit activity will be an insured branch.

### **§ 347.204 Commitment to be examined and provide information.**

(a) In connection with an application for deposit insurance for a U.S. branch or depository institution subsidiary of a foreign bank that has been determined to be subject to comprehensive consolidated supervision by the appropriate Federal banking agency, as defined in section 3(q) of the FDI Act (12 U.S.C. 1813(q)), the foreign bank shall provide binding written commitments (including a consent to U.S. jurisdiction and designation of agent for service, acceptable to the FDIC) to the following terms:

(1) The FDIC will be provided with any information about the foreign bank and its affiliates located outside of the United States that the FDIC requests to determine:

(i) The relationship between the U.S. branch or depository institution subsidiary and its affiliates; and

(ii) The effect of such relationship on such U.S. branch or depository institution subsidiary;

(2) The FDIC will be allowed to examine the affairs of any office, agency, branch or affiliate of the foreign bank located in the United States and will be provided any information requested to determine:

(i) The relationship between the U.S. branch or depository institution subsidiary and such offices, agencies, branches or affiliates; and

(ii) The effect of such relationship on such U.S. branch or depository institution subsidiary.

(3) The FDIC will not process a deposit insurance application for any U.S. branch or depository institution subsidiary of a foreign bank if the foreign bank fails to provide the written commitments, consent to U.S. jurisdiction, and designation of agent for service required by this section.

(b) The FDIC will consider the existence and extent of any prohibition or restrictions, if any, on its ability to

utilize the commitments, consent to U.S. jurisdiction, and designation of agent for service required by this section, in determining whether to grant or deny a deposit insurance application for the U.S. branch or depository institution subsidiary of the foreign bank. In addition, the FDIC may consider any additional assurances or commitments provided by the foreign bank, including that it will cooperate and assist the FDIC, without limitation, by seeking to obtain waivers and exemptions from applicable confidentiality or secrecy restrictions or requirements to enable the foreign bank or its affiliates to make information about the foreign bank and its affiliates located outside of the United States available to the FDIC for review.

(c) The foreign bank's commitments, consent to U.S. jurisdiction, and designation of agent for service shall be signed by an officer of the foreign bank who has been so authorized by the foreign bank's board of directors and in all instances will be executed in a manner acceptable to the FDIC and shall be included with the branch or depository institution application for insurance. Any documents that are not in English shall be accompanied by an English translation.

### **§ 347.205 Record maintenance.**

The records of each insured branch shall be kept as though it were a separate entity, with its assets and liabilities separate from the other operations of the head office, other branches or agencies of the foreign bank and its subsidiaries or affiliates. Each insured branch must keep a set of accounts and records in the words and figures of the English language that accurately reflects the business transactions of the insured branch on a daily basis. A foreign bank that has more than one insured branch in a state may treat such insured branches as one entity for record-keeping purposes and may designate one branch to maintain records for all the branches in the state.