

§ 28.17

the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*

[61 FR 19532, May 2, 1996, as amended at 68 FR 70131, Dec. 17, 2003; 68 FR 70700, Dec. 19, 2003; 76 FR 43569, July 21, 2011]

§ 28.17 Notice of change in activity or operations.

Notice. A Federal branch or agency shall notify the OCC if:

- (a) It changes its corporate title;
- (b) It changes its mailing address;
- (c) It converts to a state branch, state agency, or representative office; or
- (d) The parent foreign bank changes the designation of its home state.

§ 28.18 Recordkeeping and reporting.

(a) *General.* A Federal branch or agency shall comply with applicable recordkeeping and reporting requirements that apply to national banks and with any additional requirements that may be prescribed by the OCC. A Federal branch or agency, and the parent foreign bank, shall furnish information relating to the affairs of the parent foreign bank and its affiliates that the OCC may from time to time request.

(b) *Regulatory reports filed with other agencies.* A foreign bank operating a Federal branch or agency in the United States shall provide the OCC with a copy of reports filed with other Federal regulatory agencies that are designated in guidance issued by the OCC.

(c) *Maintenance of accounts, books, and records.* (1) Each Federal branch or agency shall maintain a set of accounts and records reflecting its transactions that are separate from those of the foreign bank and any other branch or agency. The Federal branch or agency shall keep a set of accounts and records in English sufficient to permit the OCC to examine the condition of the Federal branch or agency and its compliance with applicable laws and regulations. The Federal branch or agency shall promptly provide any additional records requested by the OCC for examination or supervisory purposes.

(2) A foreign bank with more than one Federal branch or agency in a state shall designate one of those offices to maintain consolidated asset, liability, and capital equivalency accounts for

12 CFR Ch. I (1–1–23 Edition)

all Federal branches or agencies in that state.

(3) A foreign bank with a Federal branch or agency in more than one state that consolidates its CEDs into one account in accordance with § 28.15(e) shall designate a participating Federal branch or agency to maintain consolidated asset, liability, and capital equivalency account information for all Federal branches and agencies covered by the consolidated deposit. A foreign bank with a consolidated CED shall maintain a book entry accounting of assets designated under the consolidated CED for each office of that foreign bank.

[61 FR 19532, May 2, 1996, as amended at 68 FR 70700, Dec. 19, 2003]

§ 28.19 Enforcement.

As provided by section 13 of the IBA, 12 U.S.C. 3108(b), the OCC may enforce compliance with the requirements of the IBA, other applicable banking laws, and OCC regulations or orders under section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818. This enforcement authority is in addition to any other remedies otherwise provided by the IBA or any other law.

§ 28.20 Maintenance of assets.

(a) *General rule.* (1) For prudential, supervisory, or enforcement reasons, the OCC may require a foreign bank to hold certain assets in the state in which its Federal branch or agency is located. Those assets may only consist of currency, bonds, notes, debentures, drafts, bills of exchange, or other evidence of indebtedness including loan participation agreements or certificates, or other obligations payable in the United States or in United States funds or, with the approval of the OCC, funds freely convertible into United States funds.

(2) If the OCC requires asset maintenance, the amount of assets held by a foreign bank shall be prescribed by the OCC after consideration of the aggregate amount of liabilities of the Federal branch or agency, payable at or through the Federal branch or agency. To determine the aggregate amount of liabilities for purposes of this section, the foreign bank shall include bankers' acceptances, but exclude liabilities to

Comptroller of the Currency, Treasury

§ 28.23

the head office and any other branches, offices, agencies, subsidiaries, and affiliates of the foreign bank.

(b) *Valuation.* For the purposes of this section, marketable securities must be valued at principal amount or market value, whichever is lower.

(c) *Credits.* In determining compliance with the asset maintenance requirements, the OCC will give the Federal branch or agency credit for:

(1) Capital equivalency deposits maintained pursuant to § 28.15;

(2) Reserves required to be maintained by the Federal branch or agency pursuant to the FRB's authority under 12 U.S.C. 3105(a); and

(3) Assets pledged, and surety bonds payable, to the FDIC to secure the payment of domestic deposits.

(d) *Exclusions.* In determining eligible assets for purposes of this section, the Federal branch or agency shall exclude:

(1) Any amount due from the head office or any other branch, office, agency, subsidiary, or affiliate of the foreign bank;

(2) Any classified asset;

(3) Any asset that, in the determination of the OCC, is not supported by sufficient credit information;

(4) Any deposit with a bank in the United States, unless that bank has executed a valid waiver of offset agreement;

(5) Any asset not in the Federal branch's actual possession unless the branch holds title to the asset and maintains records sufficient to enable independent verification of the branch's ownership of the asset, as determined at the most recent examination; and

(6) Any other particular asset or class of assets as provided by the OCC, based on a case-by-case assessment of the risks associated with the asset.

(e) *International banking facility.* Unless specifically exempted by the OCC, the eligible assets and liabilities of any international banking facility operated through the Federal branch or agency must be included in the computation of eligible assets and liabilities for purposes of this section.

[61 FR 19532, May 2, 1996, as amended at 68 FR 70700, Dec. 19, 2003]

§ 28.21 Service of process.

A foreign bank operating at any Federal branch or agency is subject to service of process at the location of the Federal branch or agency.

§ 28.22 Voluntary liquidation.

(a) *Procedures to close all Federal branches and agencies.* Unless otherwise provided, in cases in which a foreign bank proposes to close all of its Federal branches or agencies, the foreign bank shall comply with applicable requirements in 12 CFR 5.48 and the Manual, including requirements that apply to an expedited liquidation of an insured Federal branch.

(b) *Notice to customers and creditors.* A foreign bank shall publish notice of the impending closure of each Federal branch or agency for a period of two months in every issue of a local newspaper where the Federal branch or agency is located. If only weekly publication is available, the notice must be published for nine consecutive weeks.

(c) *Report of condition.* The Federal branch or agency shall submit a Report of Assets and Liabilities of United States Branches and Agencies of Foreign Banks as of the close of the last business day prior to the start of liquidation of the Federal branch or agency. This report must include a certified maturity schedule of all remaining liabilities, if any.

(d) *Return of certificate.* The Federal branch or agency shall return the Federal branch or agency license certificate within 30 days of closure to the public.

(e) *Reports of examination.* The Federal branch or agency shall send the OCC certification that all of its Reports of Examination have been destroyed or return its Reports of Examination to the OCC.

[61 FR 19532, May 2, 1996, as amended at 68 FR 70700, Dec. 19, 2003]

§ 28.23 Procedures for closing of some of a foreign bank's Federal branches and/or agencies.

In cases where § 28.22 does not apply, and a foreign bank is closing one or more, but not all, of its Federal branches and/or agencies, it shall follow the procedures set forth in 12