

§ 347.118

12 CFR Ch. III (1–1–23 Edition)

§ 347.118 Expedited processing.

(a) *Expedited processing of branch applications.* An eligible bank may establish a foreign branch conducting activities authorized by § 347.115 in an additional foreign country, after complying with the expedited processing requirements contained in § 303.182(b) and (c)(1), if any of the following are located in two or more foreign countries:

- (1) Foreign branches or foreign bank subsidiaries of the eligible bank;
- (2) Foreign branches or foreign bank subsidiaries of banks and Edge or Agreement corporations affiliated with the eligible bank; and
- (3) Foreign bank subsidiaries of the eligible bank's holding company.

(b) *Expedited processing of applications for investment in foreign organizations.* An investment that does not qualify for general consent but is otherwise in conformity with the limits and requirements of this subpart may be made 45 days after an eligible bank files a substantially complete application with the FDIC in compliance with the expedited processing requirements contained in § 303.183(b) and (c)(1), or within such earlier time as authorized by the FDIC.

§ 347.119 Specific consent.

General consent and expedited processing under this subpart do not apply in the following circumstances:

(a) *Limitation on access to supervisory information in foreign country.* (1) Applicable law or practice in the foreign country where the foreign organization or foreign branch would be located would limit the FDIC's access to information for supervisory purposes; and

(i) A bank would hold 20 percent or more of the voting equity interests of a foreign organization or control such organization as a result of a foreign investment; or

(ii) A bank would be establishing a foreign branch.

(b) *Modification or suspension of general consent or expedited processing.* The FDIC at any time notifies the bank that the FDIC is modifying or suspending its general consent or expedited processing procedure.

(c) *Specific consent.* Direct or indirect investments in or activities of foreign

organizations by banks, the establishment of foreign branches or issues regarding the types or amounts of activity that can be engaged in by foreign branches, which are not authorized under §§ 347.117 or 347.118 require prior review and specific consent of the FDIC.

[70 FR 17560, Apr. 6, 2005, as amended at 85 FR 72555, Nov. 13, 2020]

§ 347.120 Computation of investment amounts.

In computing the amount that may be invested in any foreign organization under §§ 347.117 through 347.119, any investments held by an affiliate of a bank must be included.

§ 347.121 Requirements for insured state nonmember bank to close a foreign branch.

A bank must comply with the written notification requirement contained in § 303.182(d) when it closes a foreign branch.

§ 347.122 Limitations applicable to the authority provided in this subpart.

The FDIC may impose such conditions on authority granted in this subpart as it considers appropriate. If a bank is unable or fails to comply with the requirements of this subpart or any conditions imposed by the FDIC regarding transactions under this subpart, the FDIC may require termination of any activities or divestiture of investments permitted under this subpart after giving the bank notice and a reasonable opportunity to be heard on the matter.

Subpart B—Foreign Banks

§ 347.201 Authority, purpose, and scope.

(a) This subpart is issued pursuant to sections 5(c) and 10(b)(4) of the Federal Deposit Insurance Act (FDI Act)(12 U.S.C. 1815(c) and 1820(b)(4)) and sections 6, 7, and 15 of the International Banking Act of 1978 (IBA)(12 U.S.C. 3104, 3105, and 3109).

Federal Deposit Insurance Corporation

§ 347.202

(b) This subpart implements the insured branch asset pledge and examination commitment requirement for foreign banks in the FDI Act. It also implements the deposit insurance, permissible activity, and cross-border cooperation provisions of the IBA regarding the FDIC. Sections 347.203-347.211 apply to state and federal branches whose deposits are insured. Sections 347.204 and 347.207 are applicable to depository institution subsidiaries of a foreign bank. Section 347.212 applies to insured state branches and §§347.213-347.216 apply to state branches whose deposits are not insured by the FDIC.

§ 347.202 Definitions.

For the purposes of this subpart:

(a) 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.

(b) Agency means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent but at which deposits may not be accepted from citizens or residents of the United States.

(c) 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.

(d) Deposit has the same meaning as that term in section 3(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(1)).

(e) Depository means any insured state bank, national bank, or insured branch.

(f) *Domestic retail deposit activity* means the acceptance by a Federal or State branch of any initial deposit of less than an amount equal to the

standard maximum deposit insurance amount (“SMDIA”).

(g) 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).

(h) 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 §§347.204, 347.205, 347.209, and 347.210.

(i) 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 foreign country or any United States entity which is owned or controlled by an entity which is organized under the laws of a foreign country or a foreign national.

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

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

(l) Highly liquid means, with respect to a security, that the security has low credit and market risk; is traded in an active secondary two-way market that has committed market makers and independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within