

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

§ 347.203

12 CFR Ch. III (1–1–23 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