

## § 347.213

## 12 CFR Ch. III (1–1–23 Edition)

be completed within one year from the date of the disapproval, or within such shorter period as the FDIC may direct.

(f) *Procedures.* Procedures for applications under this section are set out in section 303.187.

[70 FR 17560, Apr. 6, 2005; 70 FR 20704, Apr. 21, 2005, as amended at 71 FR 20527, Apr. 21, 2006]

### § 347.213 Establishment or operation of noninsured foreign branch.

(a) A foreign bank may establish or operate a state branch, as provided by state law, without federal deposit insurance whenever:

(1) The branch only accepts initial deposits in an amount equal to the SMDIA or greater; or

(2) The branch meets the criteria set forth in § 347.214 or § 347.215.

(b) [Reserved]

[70 FR 17560, Apr. 6, 2005, as amended at 74 FR 47718, Sept. 17, 2009]

### § 347.214 Branch established under section 5 of the International Banking Act.

A foreign bank may operate any state branch as a noninsured branch whenever the foreign bank has entered into an agreement with the FRB to accept at that branch only those deposits as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 *et seq.*) and implementing rules and regulations administered by the FRB (12 CFR 211).

### § 347.215 Exemptions from deposit insurance requirement.

(a) *Deposit activities not requiring insurance.* A State branch will not be considered to be engaged in domestic retail deposit activity that requires the foreign bank parent to establish an insured U.S. bank subsidiary if the State branch accepts initial deposits only in an amount of less than an amount equal to the SMDIA that are derived solely from the following:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons (including immediate family members of natural persons) to whom the branch or foreign bank (including any affiliate thereof) has extended credit or provided other non-deposit banking services within the past twelve months or has entered into a written agreement to provide such services within the next twelve months;

(4) Foreign businesses, large United States businesses, and persons from whom an Edge or agreement corporation may accept deposits under 12 CFR 211.6(a)(1);

(5) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of any of the foregoing, and recognized international organizations;

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds or the transmission of such funds by any electronic means; and

(7) Any other depositor, but only if:

(i) The branch's average deposits under this paragraph (a)(7) do not exceed one percent of the branch's average total deposits, as calculated under paragraph (a)(7)(ii) if this section (*de minimis* exception).

(ii) For purposes of calculating this exception:

(A) The branch's average deposits under this paragraph and the average total deposits must be computed by summing the close of business figures for each of the last 30 calendar days, ending with and including the last day of the calendar quarter, and dividing the resulting sum by 30;

(B) For days on which the branch is closed, balances from the last previous business day are to be used;

(C) The branch may exclude deposits in the branch of other offices, branches, agencies or wholly owned subsidiaries of the bank to determine its average deposits;

(D) The branch must not solicit deposits from the general public by advertising, display of signs, or similar