

**§ 347.1 Authority and scope.**

Under sections 3(o), 18(d) and 18(l) of the Federal Deposit Insurance Act, as amended by section 301, Pub. L. No. 95-630, 92 Stat. 3641 (12 U.S.C. 1813(o), 1828(d), 1828(l)), the Federal Deposit Insurance Corporation (the *Corporation*) prescribes the following regulation relating to: (a) Foreign branches of insured State nonmember banks, (b) the acquisition and holding of stock in foreign banks and other financial entities, and (c) loans or extensions of credit to or for the account of such foreign banks or other financial entities.

**§ 347.2 Definitions.**

For the purposes of this part:

(a) *Foreign branch* means any office or place of business of an insured State nonmember bank located outside the United States, its territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations (excluding representative offices solely concerned with new business development or public relations) are conducted.

(b) *Foreign country* means any foreign nation or colony, dependency, or possession thereof.

(c) *Foreign bank* means a bank organized under the law of a foreign country or any dependency or insular possession of the United States which is principally engaged in a commercial banking business and not engaged, directly or indirectly, in any activity in the United States except as in the judgment of the Federal Deposit Insurance Corporation, shall be incidental to the international or foreign business of such foreign bank.

(d) *Other financial entity* means a foreign institution other than a foreign bank which is: (1) Organized under the law of a foreign country or any dependency or insular possession of the United States, (2) not engaged, directly or indirectly, in any activity in the United States except as is incidental to its foreign business, and (3) engaged solely in the business of holding the shares of foreign banks, performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or banking affiliate of an insured State nonmember bank, or performing other financial activities

approved by the Corporation as being consistent with this part.

**§ 347.3 Foreign branches.**

(a) *Establishing, moving, or closing foreign branches.* A foreign branch may not be established, operated, or relocated by an insured State nonmember bank without the prior written consent of the Corporation. This consent may be obtained through the application procedures set forth under part 303. For all foreign branches and relocations thereof, the application shall contain information on the exact location of the facility and on the involvement of insiders as such involvement is specified in § 303.2, as well as the name and address of the newspaper in which the notice required by § 303.14(b)(1) is published and the date of that publication. At the time of the closing of a foreign branch, the insured State nonmember bank shall by letter advise the regional director of the name, the location, and the date of the closing of the branch.

(b) *Existing foreign branches.* The Corporation hereby grants its general consent for any insured State nonmember bank with a foreign branch that was established prior to March 10, 1979 to continue operating such branch without application for specific approval, provided the activity does not conflict with the provisions of this part and the following information regarding the branch is submitted (unless already submitted) within 90 days from April 30, 1979: Name and location; statement of condition; earnings statement, with year-to-date and last two full years' data; estimated time when branch will be profitable if it is not; description of policies and management procedures designed to ensure safe and sound operation; and description of services offered.

(c) *Powers of foreign branches.* In addition to its general banking powers and to the extent consistent with its charter, the banking practices in the country where it does business, and the provisions of this part, a Branch may:

(1) Guarantee customer's debts or otherwise agree for their benefit to make payments on the occurrence of

readily ascertainable events<sup>1</sup> if the guarantee or agreement specifies its maximum monetary liability thereunder. The guarantee or agreement shall be combined with all standby letters of credit and loans for purposes of applying any legal limitation on loans of the bank: *Provided*, That if the guarantee or agreement is subject to separate limitation under State or Federal law, the separate limitation shall apply in lieu of the loan limitation.

(2) Accept drafts or bills of exchange drawn upon it;

(3) Acquire and hold securities (including certificates or other evidences of ownership or participation) of the central bank, clearinghouses, governmental entities, and development banks of the country in which it is located, but the total investment in such securities (exclusive of securities held as required by the law of that country or as authorized for national banks under 12 U.S.C. 24) shall not exceed 1 percent of its total deposits on the preceding year-end call report date (or on the date of such acquisition in the case of a newly approved branch which has never reported);

(4) Underwrite, distribute, buy, and sell obligations of the national government of the country in which it is located;<sup>2</sup> but no bank may hold, or be under commitment with respect to, obligations of such a government as a result of underwriting, dealing in, or purchasing for its own account, in an aggregate amount exceeding 10 percent of its capital and surplus;

(5) Take liens or other encumbrances on foreign real estate in connection with its extensions of credit, whether or not of first priority and whether or not such real estate is improved or has been appraised;

(6) Pay to any officer or employee of the branch a greater rate of interest on deposits than that paid to other depositors on similar deposits with the branch;

<sup>1</sup> Including, but not limited to, events such as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or non-conformance of shipping documents.

<sup>2</sup> Including obligations issued by an agency or instrumentality, and supported by the full faith and credit, of such government.

(7) Act as insurance agent or broker. An insured State nonmember bank that is of the opinion that other activities are usual in connection with the transaction of the business of banking in the places where its branches transact business, may apply to the Corporation for permission to engage in such activities.

(d) *Limitations*. Nothing in paragraph (c) of this section shall authorize a foreign branch to engage in the general business of producing, distributing, buying, or selling goods, wares, or merchandise, or, except as permitted by paragraph (c)(4) of this section, to engage or participate, directly, or indirectly, in the business of underwriting, selling, or distributing securities.

(e) *Suspending operations during disturbed conditions*. The officer in charge of a foreign branch may suspend its operations during disturbed conditions which make conduct of operations impracticable; but every effort shall be made before and during such suspension to serve its customers. Full information concerning any suspension shall be promptly reported to the branch's main office, which shall immediately send a copy thereof to the Regional Director of the region in which the main office exists.

[44 FR 25195, Apr. 30, 1979, as amended at 48 FR 28078, June 20, 1983; 51 FR 47209, Dec. 31, 1986]

**§347.4 Acquisition and holding of stock in foreign banks or other financial entities.**

(a) *General*. No insured State nonmember bank may acquire or hold, directly or indirectly, ownership interest in a foreign bank or other entity except as provided in this section. When authorized by State law, an insured State nonmember bank may, with the prior written consent of the Corporation and subject to the provisions of this part, acquire and hold, directly or indirectly, the stock or other evidences of ownership in one or more foreign banks or other financial entities without regard to the provisions of 12 U.S.C. 1828(j):

*Provided*, That the aggregate amount invested directly or indirectly (other than through a corporation organized