

## Federal Deposit Insurance Corporation

## § 347.213

(1) Any asset due from the foreign bank's head office, other branches, agencies, offices or affiliates;

(2) Any asset classified "Value Impaired," to the extent of the required Allocated Transfer Risk Reserves or equivalent write down, or "Loss" in the most recent State or Federal examination report;

(3) Any deposit of the insured branch in a bank unless the bank has executed a valid waiver of offset agreement;

(4) Any asset not supported by sufficient credit information to allow a review of the asset's credit quality, as determined at the most recent State or Federal examination, as follows:

(i) Whether an asset has sufficient credit information will be a function of the size of the borrower and the location within the foreign bank of the responsibility for authorizing and monitoring extensions of credit to the borrower. For large, well known companies, when credit responsibility is located in an office of the foreign bank outside the insured branch, the insured branch must have adequate documentation to show that the asset is of good quality and is being supervised adequately by the foreign bank. In such cases, copies of periodic memoranda that include an analysis of the borrower's recent financial statements and a report on recent developments in the borrower's operations and borrowing relationships with the foreign bank generally would constitute sufficient information. For other borrowers, periodic memoranda must be supplemented by information such as copies of recent financial statements, recent correspondence concerning the borrower's financial condition and repayment history, credit terms and collateral, data on any guarantors, and where necessary, the status of any corrective measures being employed;

(ii) Subsequent to the determination that an asset lacks sufficient credit information, an insured branch may not include the amount of that asset among eligible assets until the FDIC determines that sufficient documentation exists. Such a determination may be made either at the next Federal examination, or upon request of the insured branch, by the appropriate regional director;

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

(6) Any intangible asset;

(7) Any other asset not considered bankable by the FDIC.

(c) A foreign bank which has more than one insured branch in a state may treat all of its insured branches in the same state as one entity for purposes of compliance with paragraph (a) of this section and shall designate one insured branch to be responsible for maintaining the records of the insured branches' compliance with this section.

(d) The average book value of the insured branch's liabilities for a quarter shall be, at the insured branch's option, either an average of the balances as of the close of business for each day of the quarter or an average of the balances as of the close of business on each Wednesday during the quarter. Quarters end on March 31, June 30, September 30, and December 31 of any given year. For days on which the insured branch is closed, balances from the previous business day are to be used. Calculations of the average book value of the insured branch's liabilities for a quarter shall be retained by the insured branch until the next Federal examination.

### § 347.212 Deductions from the assessment base.

An insured branch may deduct from its assessment base deposits in the insured branch to the credit of the foreign bank or any office, branch or agency of and any wholly owned subsidiary of the foreign bank.

### § 347.213 FDIC approval to conduct activities not permissible for Federal branches.

(a) *Scope.* A foreign bank operating an insured state branch which desires to engage in or continue to engage in any type of activity that is not permissible for a Federal branch, pursuant to the National Bank Act (12 U.S.C. 21 *et*

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seq.) or any other Federal statute, regulation, official bulletin or circular, written order or interpretation, or decision of a court of competent jurisdiction (each an impermissible activity), shall file a written application for permission to conduct such activity with the FDIC.

(b) *Exceptions.* A foreign bank operating an insured state branch which would otherwise be required to submit an application pursuant to paragraph (a) of this section will not be required to submit such an application if the activity it desires to engage in or continue to engage in has been determined by the FDIC not to present a significant risk to the affected deposit insurance fund pursuant to part 362 of this chapter, ‘‘Activities and Investment of Insured State Banks’.

(c) *Agency activities.* A foreign bank operating an insured state branch which would otherwise be required to submit an application pursuant to paragraph (a) of this section will not be required to submit such an application if it desires to engage in or continue to engage in an activity conducted as agent which would be a permissible agency activity for a state-chartered bank located in the state which the state-licensed insured branch of the foreign bank is located and is also permissible for a state-licensed branch of a foreign bank located in that state; provided, however, that the agency activity must be permissible pursuant to any other applicable Federal law or regulation.

(d) *Conditions of approval.* Approval of such an application may be conditioned on the applicant’s agreement to conduct the activity subject to specific limitations, such as but not limited to the pledging of assets in excess of the requirements of §347.210 and/or the maintenance of eligible assets in excess of the requirements of §347.211. In the case of an application to initially engage in an activity, as opposed to an application to continue to conduct an activity, the insured branch shall not commence the activity until it has been approved in writing by the FDIC pursuant to this part and the Board of Governors of the Federal Reserve System (Board of Governors), and any and

all conditions imposed in such approvals have been satisfied.

(e) *Divestiture or cessation.* (1) If an application for permission to continue to conduct an activity is not approved by the FDIC or the Board of Governors, the applicant shall submit a plan of divestiture or cessation of the activity to the appropriate regional director.

(2) A foreign bank operating an insured state branch which elects not to apply to the FDIC for permission to continue to conduct an activity which is rendered impermissible by any change in statute, regulation, official bulletin or circular, written order or interpretation, or decision of a court of competent jurisdiction shall submit a plan of divestiture or cessation to the appropriate regional director.

(3) Divestitures or cessations shall be completed within one year from the date of the disapproval, or within such shorter period of time as the FDIC shall direct.

(f) *Procedures.* Procedures for applications under this section are set out in subpart D of this part.

**§ 347.214 Examination of branches of foreign banks.**

(a) *Frequency of on-site examination.* Each branch or agency of a foreign bank shall be examined on-site at least once during each 12-month period (beginning on the date the most recent examination of the office ended) by:

(1) The Board of Governors of the Federal Reserve System (Board);

(2) The FDIC, if an insured branch;

(3) The Office of the Comptroller of the Currency (OCC), if the branch or agency of the foreign bank is licensed by the Comptroller; or

(4) The state supervisor, if the office of the foreign bank is licensed or chartered by the state.

(b) *18-month cycle for certain small institutions.* (1) *Mandatory standards.* The FDIC may conduct a full-scope, on-site examination at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the insured branch:

(i) Has total assets of \$250 million or less;

(ii) Has received a composite ROCA supervisory rating (which rates risk