

28.53 Accounting for fees on international loans.

28.54 Reporting and disclosure of international assets.

Authority: 12 U.S.C. 1 *et seq.*, 93a, 161, 602, 1818, 3102, 3108, and 3901 *et seq.*

Subpart A—Foreign Operations of National Banks

§ 28.1 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, and 602.

(b) *Purpose.* This subpart sets forth filing requirements for national banks that engage in international operations and clarifies permissible foreign activities of national banks.

(c) *Scope.* This subpart applies to all national banks that engage in international operations through a foreign branch, or acquire an interest in an Edge corporation, Agreement corporation, foreign bank, or certain other foreign organizations.

§ 28.2 Definitions.

For purposes of this subpart:

(a) *Agreement corporation* means a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System (FRB) under section 25 of the Federal Reserve Act (FRA), 12 U.S.C. 601 through 604a.

(b) *Edge corporation* means a corporation that is organized under section 25(a) of the FRA, 12 U.S.C. 611 through 631.

(c) *Foreign bank* means an organization that:

(1) Is organized under the laws of a foreign country;

(2) Engages in the business of banking;

(3) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations;

(4) Receives deposits to a substantial extent in the regular course of its business; and

(5) Has the power to accept demand deposits.

(d) *Foreign branch* means an office of a national bank (other than a representative office) that is located outside the United States at which a banking or financing business is conducted.

(e) *Foreign country* means one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States, and the Commonwealth of Puerto Rico.

§ 28.3 Filing requirements for foreign operations of national banks.

(a) *Notice requirement.* A national bank shall notify the OCC when it:

(1) Establishes, opens, closes, or relocates a foreign branch; or

(2) Files an application, notice, or report with the FRB regarding the acquisition or divestment of an interest in, or closing of, an Edge corporation, Agreement corporation, foreign bank, or other foreign organization.

(b) *Other applications and notices accepted.* The OCC accepts a copy of an application form, notice, or report submitted to another Federal agency that covers the proposed action and contains substantially the same information required by the OCC.

(c) *Additional information.* A national bank shall furnish the OCC with any additional information as the OCC may require in connection with the national bank's foreign operations.

§ 28.4 Permissible activities.

(a) *Generally.* Subject to the applicable approval process, if any, a national bank may engage in activities in a foreign country that are:

(1) Permissible for a national bank in the United States; and

(2) Usual in connection with the business of banking in the country where it transacts business.

(b) *Additional activities.* In addition to its general banking powers, a national bank may engage in any activities in a foreign country that are permissible under the FRB's Regulation K, 12 CFR part 211.

(c) *Foreign operations guarantees.* A national bank may guarantee the deposits and other liabilities of its Edge and Agreement corporations and of its corporate instrumentalities in foreign countries.

§ 28.5 Filing of notice.

(a) *Where to file.* A national bank shall file any notice or submission required under this subpart with the Office of the Comptroller of the Currency, International Banking and Finance, 250 E Street SW, Washington, DC 20219.

(b) *Availability of forms.* Individual forms and instructions for filings are available from International Banking and Finance.

Subpart B—Federal Branches and Agencies of Foreign Banks

§ 28.10 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to the authority in the International Banking Act of 1978 (IBA), 12 U.S.C. 3101 *et seq.*, and 12 U.S.C. 93a.

(b) *Purpose and scope.* This subpart implements and clarifies the IBA pertaining to the licensing, supervision, and operations of Federal branches and Federal agencies in the United States.

§ 28.11 Definitions.

For purposes of this subpart:

(a) *Agreement corporation* means a corporation having an agreement or undertaking with the FRB under section 25 of the FRA, 12 U.S.C. 601 through 604a.

(b) *Change the status of an office* means conversion of a:

(1) State branch or state agency operated by a foreign bank, or a commercial lending company controlled by a foreign bank, into a Federal branch, limited Federal branch, or Federal agency;

(2) Federal agency into a Federal branch or limited Federal branch;

(3) Federal branch into a limited Federal branch or Federal agency; or

(4) Limited Federal branch into a Federal branch or Federal agency.

(c) *Edge corporation* means a corporation that is organized under section 25(a) of the FRA, 12 U.S.C. 611 through 631.

(d) *Establish a Federal branch or Federal agency* means to:

(1) Open and conduct business through a Federal branch or Federal agency;

(2) Acquire directly, through merger, consolidation, or similar transaction with another foreign bank, the operations of a Federal branch or Federal agency that is open and conducting business;

(3) Acquire a Federal branch or Federal agency through the acquisition of a foreign bank subsidiary that will cease to operate in the same corporate form following the acquisition;

(4) Change the status of an office; or

(5) Relocate a Federal branch or Federal agency within a state or from one state to another.

(e) *Federal agency* means an office or place of business, licensed by the OCC and operated by a foreign bank in any state, that may engage in the business of banking, including maintaining credit balances, cashing checks, and lending money, but may not accept deposits from citizens or residents of the United States. Obligations may not be considered credit balances unless they are:

(1) Incidental to, or arise out of the exercise of, other lawful banking powers;

(2) To serve a specific purpose;

(3) Not solicited from the general public;