

(c) *Increase in capital equivalency deposits.* For prudential or supervisory reasons, the OCC may require, in individual cases or otherwise, that a foreign bank increase its capital equivalency deposit above the minimum amount.

(d) *Deposit arrangements.* A depository bank shall segregate a foreign bank's capital equivalency deposit on its books and records. The funds deposited and obligations referred to in paragraph (a) of this section that are placed in safekeeping at a depository bank to satisfy a foreign bank's capital equivalency deposit requirement:

(1) May not be reduced in aggregate value by withdrawal without the prior approval of the OCC;

(2) Must be pledged and maintained pursuant to an agreement prescribed by the OCC; and

(3) Must be free from any lien, charge, right of setoff, credit or preference in connection with any claim of the depository bank against the foreign bank.

(e) *Maintenance of capital equivalency ledger account.* Each Federal branch or Federal agency shall maintain a capital equivalency account and keep records of the amount of liabilities requiring capital equivalency coverage in a manner and form prescribed by the OCC.

§ 28.16 Deposit-taking by uninsured Federal branches.

(a) *Policy.* In carrying out this section, the OCC shall consider the importance of according foreign banks competitive opportunities equal to those of United States banks and the availability of credit to all sectors of the United States economy, including international trade finance.

(b) *General.* An uninsured Federal branch may accept initial deposits of less than \$100,000 only from:

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

(2) Individuals who are:

(i) Not citizens of the United States;

(ii) Residents of the United States; and

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

(3) Persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services within the past 12 months, or with whom the branch or bank has a written agreement to extend credit or provide such services within 12 months after the date of the initial deposit;

(4) Foreign businesses and large United States businesses;

(5) Foreign governmental units and recognized international organizations;

(6) Federal and state governmental units, including any political subdivision or agency thereof;

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

(8) Persons who may deposit funds with an Edge corporation as provided in the FRB's Regulation K, 12 CFR 211.4, including persons engaged in certain international business activities; and

(9) Any other depositor if:

(i) The amount of deposits under paragraph (b)(9) of this section does not exceed on an average daily basis 1 percent of the average of the branch's deposits for the last 30 days of the most recent calendar quarter, excluding deposits of other offices, branches, agencies, or wholly owned subsidiaries of the foreign bank; and

(ii) The branch does not solicit deposits from the general public by advertising, display of signs, or similar activity designed to attract the attention of the general public.

(c) *Application for an exemption.* A foreign bank may apply to the OCC for an exemption to permit an uninsured Federal branch to accept or maintain deposit accounts that are not listed in paragraph (b) of this section. The request should describe:

(1) The types, sources, and estimated amounts of such deposits and explain why the OCC should grant an exemption; and

(2) How the exemption improves and maintains the availability of credit to all sectors of the United States economy, including the international trade finance sector.

(d) *Aggregation of deposits.* For purposes of paragraph (b)(9) of this section only, a foreign bank that has more than one Federal branch in the same state may aggregate deposits in all the Federal branches in that state, but excluding deposits of other branches, agencies or wholly owned subsidiaries of the bank. The average amount must be computed by using the sum of deposits as of the close of business of the last 30 calendar days ending with and including the last day of the calendar quarter divided by 30. The Federal branch shall maintain records of the calculation until its next examination by the OCC.

(e) *Notification to depositors.* A Federal branch that accepts deposits pursuant to this section shall provide notice to depositors pursuant to 12 CFR 346.7, which generally requires that the Federal branch conspicuously display a sign at the branch and include a statement on each signature card,

passbook, and instrument evidencing a deposit that the deposit is not insured by the FDIC.

(f) *Transition period.* An uninsured Federal branch may maintain a deposit lawfully accepted prior to [the effective date of the final regulation]:

(1) If the deposit qualifies under paragraph (b) or paragraph (c) of this section; or

(2) No later than until:

(i) The maturity of a time deposit; or

(ii) Five years after [the effective date of the final regulation] for all other deposits.

(g) *Insured banks in United States territories.* For purposes of this section, the term "foreign bank" does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands whose deposits are insured by the FDIC pursuant to the Federal Deposit Insurance Act, 12 U.S.C. 1811 et seq.

§ 28.17 Changes in activities and operations.

(a) *Notification.* A Federal branch or Federal agency shall notify the OCC if:

(1) It changes its corporate title;

(2) It changes its mailing address;

(3) It converts to a state branch, state agency, or representative office; or

(4) The parent foreign bank changes the designation of its home state.

(b) *Where to file.* A Federal branch or agency shall file any notice under this section with the Office of the Comptroller of the Currency, International Banking and Finance, 250 E Street SW, Washington, DC 20219.

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

§ 28.18 Recordkeeping and reporting.

(a) *General.* A Federal branch or agency shall comply with applicable recordkeeping and reporting requirements that apply to national banks and with any additional requirements that may be prescribed by the OCC. A Federal branch or Federal agency, and the parent foreign bank, shall furnish information relating to the affairs of the parent foreign bank and its affiliates that the OCC may from time to time request.

(b) *Regulatory reports filed with other agencies.* A foreign bank operating a Federal branch or Federal agency in the United States shall provide the OCC with a copy of reports filed with other Federal regulatory agencies that are