

filing is not eligible for expedited review.

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(f) *Eligible foreign bank.* For purposes of this section, a foreign bank is an eligible foreign bank if each Federal branch and agency of the foreign bank or, if the foreign bank has no Federal branches or agencies and is engaging in an establishment of a Federal branch or agency as defined in 12 CFR 28.11(f)(4), each state branch and agency:

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(h) *After-the-fact notice for an eligible foreign bank.* Unless otherwise provided by the OCC, a foreign bank proposing to establish a Federal branch or agency through the acquisition of, or merger or consolidation with, a foreign bank that has an existing U.S. bank subsidiary or a Federal or state branch or agency may proceed with the transaction and provide after-the-fact notice to the OCC within 14 days of the transaction, if:

(1) The resulting bank is an "eligible foreign bank" under paragraph (f) of this section; and

(2) No Federal branch established by the transaction accepts deposits that are insured by the FDIC pursuant to the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*).

(i) *Contraction of operations.* A foreign bank shall provide written notice to the OCC within 10 days after converting a Federal branch into a limited Federal branch or Federal agency.

(j) *Procedures for approval.* A foreign bank shall file an application for approval pursuant to this section in accordance with 12 CFR part 5 and the Manual. The OCC reserves the right to adopt materially different procedures for a particular filing, or class of filings, pursuant to 12 CFR 5.2(b).

(k) *Other applications accepted.* As provided in 12 CFR 5.4(c), the OCC may accept an application or other filing submitted to another U.S. Government agency that covers the proposed activity or transaction and contains substantially the same information as required by the OCC.

■ 11. In § 28.15:

■ a. revise paragraph (a)(1)(ii);

■ b. redesignate paragraph (a)(1)(iv) as (a)(1)(v);

■ c. revise paragraph (a)(1)(iii) by removing the word "or" at the end;

■ d. add a new paragraph (a)(1)(iv);

■ e. revise newly redesignated paragraph (a)(1)(v);

■ f. add a new paragraph (a)(3);

■ g. redesignate paragraph (e) as (f); and

■ h. add a new paragraph (e) to read as follows:

§ 28.15 Capital equivalency deposits.

(a) * * *

(1) * * *

(i) * * *

(ii) United States dollar deposits payable in the United States or payable in any other Group of Ten country;

(iii) Certificates of deposit, payable in the United States, and banker's acceptances, provided that, in either case, the issuer or the instrument is rated investment grade by an internationally recognized rating organization, and neither the issuer nor the instrument is rated lower than investment grade by any such rating organization that has rated the issuer or the instrument;

(iv) Repurchase agreements; or

(v) Other similar assets permitted by the OCC to qualify to be included in the CED.

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(3) *Exceptions.* In determining the amount of the CED, the OCC excludes liabilities of an international banking facility (IBF) to third parties and of a Federal branch of a foreign bank to an IBF. The OCC may exclude liabilities from repurchase agreements on a case-by-case basis.

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(e)(1) *Deposit and Consolidation.* As provided in 12 U.S.C. 3102(g), a foreign bank with a Federal branch or agency shall deposit its CED into an account in a bank that is located in the state in which the Federal branch or agency is located. For this purpose, such depository bank is considered to be located in those states in which it has its main office or a branch. A foreign bank with Federal branches or agencies in more than one state may consolidate some or all of its CEDs into one such account.

(2) *Calculation.* The total amount of the consolidated CED shall continue to be calculated on an office-by-office basis.

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■ 12. In § 28.16, revise paragraph (b)(8) to read as follows:

§ 28.16 Deposit-taking by an uninsured Federal branch.

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(b) * * *

(8) Persons who may deposit funds with an Edge corporation as provided in the FRB's Regulation K, 12 CFR 211.6, including persons engaged in certain international business activities; and

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■ 13. In § 28.18, add a new paragraph (c)(3) to read as follows:

28.18 Recordkeeping and reporting.

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(c) * * *

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(3) A foreign bank with a Federal branch or agency in more than one state that consolidates its CEDs into one account in accordance with § 28.15(e) shall designate a participating Federal branch or agency to maintain consolidated asset, liability, and capital equivalency account information for all Federal branches and agencies covered by the consolidated deposit. A foreign bank with a consolidated CED shall maintain a book entry accounting of assets designated under the consolidated CED for each office of that foreign bank.

■ 14. In § 28.20, revise the first sentence of paragraph (a)(2) to read as follows:

§ 28.20 Maintenance of assets.

(a) * * *

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(2) If the OCC requires asset maintenance, the amount of assets held by a foreign bank shall be prescribed by the OCC after consideration of the aggregate amount of liabilities of the Federal branch or agency, payable at or through the Federal branch or agency.

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■ 15. In § 28.22, revise paragraphs (a) and (b) to read as follows:

§ 28.22 Voluntary liquidation.

(a) *Procedures to close all Federal branches and agencies.* Unless otherwise provided, in cases in which a foreign bank proposes to close all of its Federal branches or agencies, the foreign bank shall comply with applicable requirements in 12 CFR 5.48 and the Manual, including requirements that apply to an expedited liquidation of an insured Federal branch.

(b) *Notice to customers and creditors.* A foreign bank shall publish notice of the impending closure of each Federal branch or agency for a period of two months in every issue of a local newspaper where the Federal branch or agency is located. If only weekly publication is available, the notice must be published for nine consecutive weeks.

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■ 16. Redesignate § 28.23 as § 28.24.

■ 17. Add a new § 28.23 to read as follows:

§ 28.23 Procedures for closing of some of a foreign bank's Federal branches and/or agencies.

In cases where § 28.22 does not apply, and a foreign bank is closing one or more, but not all, of its Federal branches and/or agencies, it shall follow the