

CHAPTER 131

FOREIGN BRANCHES, AGENCIES AND REPRESENTATIVE OFFICES

§1311. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 182, Pt. B, §3 (NEW).]

1. Agency. "Agency" means any office or any place of business of a foreign bank located in any state of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent, but at which deposits may not be accepted from persons who are citizens or residents of the United States.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Branch. "Branch" means any office or any place of business of a foreign bank located in any state of the United States at which deposits are received.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

3. Federal agency. "Federal agency" means an agency of a foreign bank established and operating pursuant to Section 4 of the federal International Banking Act of 1978.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

4. Federal branch. "Federal branch" means a branch of a foreign bank established and operating pursuant to Section 4 of the federal International Banking Act of 1978.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

5. Maine agency. "Maine agency" means an agency of a foreign bank located in this State and established and operating pursuant to the provisions of this chapter.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

6. Maine branch. "Maine branch" means a branch of a foreign bank located in this State and established and operating pursuant to the provisions of this chapter.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

7. Maine foreign bank. "Maine foreign bank" means a foreign bank that operates a Maine branch or Maine agency and for which Maine is the home state, in accordance with Section 5 of the federal International Banking Act of 1978.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

8. Maine representative office. "Maine representative office" means a representative office located in this State and established and operating pursuant to the provisions of this chapter.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

9. Out-of-state foreign bank. "Out-of-state foreign bank" means a foreign bank for which a state other than Maine is the home state, in accordance with Section 5 of the federal International Banking Act of 1978.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

10. Representative office. "Representative office" means any office of a foreign bank that is located in any state and is not a federal branch, federal agency, state branch, state agency or subsidiary of a foreign bank.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1312. Branches and agencies of foreign banks

1. Establishment. A foreign bank that is or will become a Maine foreign bank and engages directly in the banking business outside the United States may, with the prior approval of the superintendent, establish a branch or agency. The establishment of a branch or agency may be de novo or through merger or acquisition.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Criteria for approval. Applications for approvals required in subsection 1 must be filed pursuant to procedures established by the superintendent. Action on those applications must be taken in accordance with the requirements of section 252 and is subject to the standards set forth in section 253. Those applications are subject to the following additional criteria:

A. The foreign bank must directly engage in the banking business outside of the United States and be subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, or the superintendent finds that the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for the consolidated supervision of the bank; and [PL 1997, c. 182, Pt. B, §3 (NEW).]

B. The foreign bank has provided the superintendent with adequate assurances that it will make available to the superintendent any information on the operations or activities of the foreign bank and any of its affiliates that the superintendent considers necessary to determine and enforce compliance with this Title and other applicable state law. [PL 1997, c. 182, Pt. B, §3 (NEW).]
[PL 1997, c. 182, Pt. B, §3 (NEW).]

3. Application fee. An application for approval required in subsection 1 may not be considered complete by the superintendent unless accompanied by an application fee to be credited and used as provided in section 214. The superintendent shall establish the amount of the fee, which may not exceed \$7,500.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1313. Federal branches and agencies

1. Permissibility of federal branches and agencies. Nothing in this Title may be construed to prohibit the operation of a federal branch or a federal agency in this State.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. No concurrent maintenance of federal branches or agencies. No foreign bank authorized to operate a Maine branch or Maine agency pursuant to section 1312 may maintain concurrently a federal branch or federal agency in this State.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1314. Powers of Maine branches and agencies

1. General powers. Except as otherwise specifically provided in this chapter or in orders or rules adopted by the superintendent, and notwithstanding any other law or rule of this State to the contrary, operations of a foreign bank at a Maine branch or Maine agency must be conducted with the same rights, privileges and powers accorded a trust company at the same location and are subject to all the same duties, restrictions, penalties, liabilities, conditions and limitations that apply under the laws of this State to a trust company doing business at the same location.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Exceptions. The following are exceptions to the provisions of subsection 1.

A. A Maine branch may not accept from citizens or residents of the United States deposits, other than credit balances that are incidental to or arise out of its exercise of other lawful banking powers, of less than \$100,000, except to the extent that those deposits are determined by the Federal Deposit Insurance Corporation not to constitute "domestic retail deposit activities requiring deposit insurance protection" within the meaning of Section 6 of the federal International Banking Act of 1978. [PL 1997, c. 182, Pt. B, §3 (NEW).]

B. A Maine agency may not accept any deposits from citizens or residents of the United States, other than credit balances that are incidental to or arise out of its exercise of other lawful banking powers, but it may accept deposits from persons who are neither citizens nor residents of the United States. [PL 1997, c. 182, Pt. B, §3 (NEW).]

C. A Maine branch or Maine agency is not required to maintain deposit insurance pursuant to section 422. [PL 1997, c. 182, Pt. B, §3 (NEW).]

D. Any limitation or restriction based on the capital and surplus of a financial institution is deemed to refer, as applied to a Maine branch or Maine agency, to the United States dollar equivalent of the capital and surplus of the foreign bank and, if the foreign bank has more than one branch or agency in the United States, the business transacted by all such branches and agencies must be aggregated in determining compliance with the limitation. [PL 1997, c. 182, Pt. B, §3 (NEW).]

E. Unless otherwise provided by the superintendent, any provision in this Title and rules adopted under this Title that require a financial institution to obtain the approval of its board of directors are deemed to require a Maine branch or Maine agency to obtain the approval of parent foreign bank senior management. [PL 1997, c. 182, Pt. B, §3 (NEW).]

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1315. Representative offices

1. Notification required. A foreign bank may establish a representative office in this State with 30 days' prior notice to the superintendent. A foreign bank may not establish a representative office in this State without the prior approval of the Board of Governors of the Federal Reserve System pursuant to Section 10 of the federal International Banking Act of 1978.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Permitted activities. Foreign banks may conduct the following activities through representative offices:

A. Solicitation for loans and in connection with those loans the assembly of credit information, making of property inspections and appraisals, securing of title information, preparation of applications for loans including making recommendations with respect to action on those applications, solicitation of investors to purchase loans from the foreign bank and the search for investors to contract with the foreign bank for servicing of those loans; [PL 1997, c. 182, Pt. B, §3 (NEW).]

B. The solicitation of new business; [PL 1997, c. 182, Pt. B, §3 (NEW).]

C. The conduct of research; [PL 1997, c. 182, Pt. B, §3 (NEW).]

D. Back office administrative functions; and [PL 1997, c. 182, Pt. B, §3 (NEW).]

E. Any other activity that may be permitted by the superintendent by rule or order. [PL 1997, c. 182, Pt. B, §3 (NEW).]

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1316. Trust activities

1. Authority. A foreign bank that has established a Maine branch or Maine agency in accordance with section 1312 may engage in trust activities at that Maine branch or Maine agency upon 30 days' prior notification to the superintendent.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Territorial application. All trust activities entered into between a foreign bank that has established a Maine branch or Maine agency and persons residing or domiciled in this State or that involve property located in this State are governed by the laws of this State.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1317. Service of process

A foreign bank having a Maine agency, Maine branch or Maine representative office shall maintain a registered office and is subject to service of process in the manner provided for in Title 13-C, chapter 15. [RR 2001, c. 2, Pt. B, §21 (COR); RR 2001, c. 2, Pt. B, §58 (AFF).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW). RR 2001, c. 2, §B21 (COR). RR 2001, c. 2, §B58 (AFF).

§1318. Deposit requirements; asset requirements

1. Deposit requirement. Upon the opening of a Maine branch or Maine agency and thereafter, a foreign bank shall keep on deposit, in accordance with rules the superintendent may prescribe, with a financial institution authorized to do business in the State, except for a foreign bank, United States dollar deposits or investment securities of a type that may be prescribed by the superintendent in an amount as set forth in this section. The financial institution must be approved by the superintendent.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Amount of deposit. The aggregate amount of deposited investment securities, calculated on the basis of principal amount or market value, whichever is lower, and United States dollar deposits for each Maine branch or Maine agency established and operating under this chapter may not be less than the amount prescribed by section 412-A or rules adopted under section 412-A as applied to total liabilities of the Maine branch or Maine agency, including acceptances, but excluding accrued expenses, and amounts due and other liabilities to offices, branches, agencies and subsidiaries of the foreign bank. The superintendent may require that the assets deposited pursuant to this subsection must be maintained in such amounts as the superintendent may consider necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest. The superintendent may consider reserves or other assets deposited with or on behalf of a federal banking agency in determining the amount of deposit.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

3. Deposit agreement. The deposit must be maintained with the financial institution selected according to subsection 1 pursuant to a deposit agreement in such form and containing such limitations and conditions as the superintendent may prescribe. So long as it continues business in the ordinary course a foreign bank may be permitted to collect income on the securities and funds so deposited and examine and exchange those securities.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

4. Asset maintenance. Subject to such conditions and requirements as may be prescribed by the superintendent, each foreign bank operating a Maine branch or Maine agency shall hold in this State assets of such types and in such amounts as the superintendent may prescribe by general or specific rule or ruling as necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and creditors and the public interest. In determining compliance with any such prescribed asset requirements, the superintendent shall give credit to assets required to be maintained pursuant to subsection 1, reserves required to be maintained with the Federal Reserve System and assets pledged and surety bonds payable to the Federal Deposit Insurance Corporation to secure the payment of domestic deposits.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1319. Record keeping and reporting

1. General. A Maine branch, Maine agency or Maine representative office shall comply with applicable record-keeping and reporting requirements that apply to financial institutions organized under this Title and with any additional requirements that may be prescribed by the superintendent. A Maine branch, Maine agency, Maine representative office and the parent foreign bank shall furnish information relating to the affairs of the parent foreign bank and its affiliates that the superintendent may from time to time request. The superintendent may modify record-keeping and reporting requirements if the superintendent determines that circumstances warrant a modification.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Reports filed with other agencies. The reporting requirements imposed by this section may be complied with by submitting to the superintendent copies of reports prepared for federal regulatory agencies by the institution, which contain the information requested, unless the superintendent requires otherwise.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

3. Maintenance of accounts, books and records. A Maine branch, Maine agency or Maine representative office shall maintain a set of accounts and records reflecting its transactions that are separate from those of the foreign bank and any other branch, agency or representative office. The Maine branch, Maine agency or Maine representative office shall keep a set of accounts and records in English sufficient to permit the superintendent to examine the condition of the branch, agency or representative office and the branch's, agency's or representative office's compliance with applicable laws and rules. The Maine branch, Maine agency or Maine representative office shall promptly provide any additional records requested by the superintendent for examination or supervisory purposes.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

4. More than one Maine branch or Maine agency. A foreign bank with more than one Maine branch or Maine agency shall designate one of those branches or agencies to maintain consolidated asset, liability and capital equivalency accounts for all Maine branches or Maine agencies.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1320. Disclosure of lack of deposit insurance

Each foreign bank operating a Maine branch or Maine agency shall, in a manner established by the superintendent, give notice that deposits and credit balances in that branch or agency are not insured by the Federal Deposit Insurance Corporation. [PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1321. Notice of changes in name and location

1. Notice. A foreign bank maintaining a Maine branch, Maine agency or Maine representative office shall provide the superintendent with prior notice of the following events:

- A. A change in corporate name; [PL 1997, c. 182, Pt. B, §3 (NEW).]
- B. A change of mailing address; [PL 1997, c. 182, Pt. B, §3 (NEW).]
- C. A relocation of office in Maine; [PL 1997, c. 182, Pt. B, §3 (NEW).]
- D. A conversion of a Maine branch or Maine agency to a federal branch or agency; and [PL 1997, c. 182, Pt. B, §3 (NEW).]
- E. Any changes in the designation of home state. [PL 1997, c. 182, Pt. B, §3 (NEW).]

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Timing and form of notice. The superintendent shall determine the form and timing of notice of these events.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1322. Change of control of foreign bank

A foreign bank that is licensed to establish and maintain a Maine branch, Maine agency or Maine representative office shall file with the superintendent a notice, in such form and containing such information as the superintendent may prescribe, no later than 14 calendar days after that foreign bank becomes aware of any acquisition of control of that foreign bank or merges with another foreign bank. [PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1323. Voluntary closure of Maine branch, Maine agency or Maine representative office

1. Maine branch or Maine agency. A foreign bank may voluntarily close a Maine branch or Maine agency in accordance with section 335, subsection 2.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Maine representative office. A foreign bank may voluntarily close a Maine representative office upon 30 days' prior notice to the superintendent.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1324. Conversions

1. Authority. A foreign bank may convert a Maine representative office to a Maine agency or Maine branch, or convert a Maine agency to a Maine representative office or a Maine branch, or convert a Maine branch to a Maine agency or Maine representative office with the prior approval of the superintendent. A foreign bank may also convert a federal branch or agency to a Maine branch or Maine agency.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Applications. Applications for prior approval of conversions must be processed in accordance with sections 252 and 253 or section 1315 as appropriate.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1325. Assessment, examination and enforcement

1. Assessment. A foreign bank operating a Maine branch or a Maine agency shall pay assessments to the superintendent in accordance with section 214, subsection 2.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Examination. The superintendent may examine each Maine branch, Maine agency or Maine representative office pursuant to section 221 and is compensated for those examinations according to the provisions of section 214, subsection 1.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

3. Enforcement. The superintendent may enforce the provisions of this chapter pursuant to the enforcement authority under sections 231 and 232.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1326. Involuntary termination of authority and receivership

1. Involuntary termination of authority to operate Maine branch, Maine agency or Maine representative office. The involuntary termination of authority to operate a Maine branch, Maine agency or Maine representative office is governed by the following.

A. Authority to operate a Maine branch, Maine agency or Maine representative office terminates when the parent foreign bank is dissolved or its authority or existence is otherwise terminated or canceled in the country of its organization. [PL 1997, c. 182, Pt. B, §3 (NEW).]

B. The superintendent may terminate a foreign bank's authority to operate a Maine branch, Maine agency or Maine representative office if the superintendent determines that or has reasonable cause to believe that:

(1) The foreign bank has violated or failed to comply with any of the provisions of this chapter or any of the rules or orders of the superintendent made pursuant to this chapter; or

(2) A conservator is appointed for the foreign bank or a similar proceeding is initiated in the foreign bank's country of organization. [PL 1997, c. 182, Pt. B, §3 (NEW).]

C. A foreign bank whose authority to operate a Maine branch, Maine agency or Maine representative office is revoked by the superintendent may bring an action challenging the superintendent's revocation in Superior Court within 10 days of that revocation. The court must uphold the superintendent's revocation of a foreign bank's authority to operate a Maine branch, Maine agency or Maine representative office unless the court finds that the superintendent's action was arbitrary and capricious. [PL 1997, c. 182, Pt. B, §3 (NEW).]

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Receivership. Whenever the superintendent revokes a foreign bank's authority to operate a Maine branch or Maine agency or whenever any creditor of that foreign bank has obtained a judgment against the foreign bank arising out of a transaction with a branch or agency in any court of record of the United States or any state of the United States and made application, accompanied by a certificate from the clerk of the court stating that that judgment has been rendered and has remained unpaid for a period of 30 days, or whenever the superintendent becomes satisfied that that foreign bank is insolvent, the superintendent may, after due consideration of its affairs, appoint a receiver who shall take

possession of all the property and assets of that foreign bank in Maine pursuant to provisions of chapter 36.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1327. Interstate operations of Maine foreign banks

1. Establishment. A Maine foreign bank may establish and operate a branch in another state in accordance with section 1312. The establishment of that branch may be de novo or through merger, acquisition or other consolidation.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Activities. A Maine foreign bank may conduct any activity at that branch that is permissible for a foreign bank in that host state, as defined in section 131, subsection 20-B.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1328. Interstate operations of out-of-state foreign banks

1. Establishment. An out-of-state foreign bank may establish a branch or agency in this State in accordance with the procedures set forth in section 373, subsection 3. The establishment of that branch or agency may be de novo or through merger, acquisition or other consolidation.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

2. Activities. The activities of branches or agencies located in this State by out-of-state foreign banks are governed by the provisions of this chapter and section 376, subsection 2.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

§1329. Rule-making authority

The superintendent may adopt rules to supplement the requirements of this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 182, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 182, §B3 (NEW).

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