

### § 303.184

### 12 CFR Ch. III (1–1–06 Edition)

other than under §347.117(b) of this chapter shall submit an application to the appropriate FDIC office.

(2) *Content of filing.* A complete application shall include the following information:

(i) Basic information about the terms of the proposed transaction, the amount of the investment in the foreign organization and the proportion of its ownership to be acquired;

(ii) Basic information about the foreign organization, its financial position and income, including any available balance sheet and income statement for the prior year, or financial projections for a new foreign organization;

(iii) A listing of all shareholders known to hold ten percent or more of any class of the foreign organization's stock or other evidence of ownership, and the amount held by each;

(iv) A brief description of the applicant's business plan with respect to the foreign organization;

(v) A brief description of any business or activities which the foreign organization will conduct directly or indirectly in the United States, and to the extent such activities are not authorized by subpart A of part 347, the applicant's reasons why they should be approved;

(vi) A brief description of the foreign organization's activities, and to the extent such activities are not authorized by subpart A of part 347, the applicant's reasons why they should be approved; and

(vii) If the applicant seeks approval to engage in underwriting or dealing activities, a description of the applicant's plans and procedures to address all relevant risks.

(3) *Additional information.* The FDIC may request additional information to complete processing.

(c) *Processing—(1) Expedited processing for eligible depository institutions.* An application filed under §347.118(b) of this chapter by an eligible depository institution as defined in §303.2(r) of this part seeking to make direct or indirect investments in a foreign organization will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for

that decision. The FDIC may remove the application from expedited processing for any of the reasons set forth in §303.11(c)(2) of this part. Absent such removal, an application processed under expedited processing is deemed approved 45 days after receipt of a substantially complete application by the FDIC, or on such earlier date authorized by the FDIC in writing.

(2) *Standard processing.* For those applications which are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action when the decision is rendered.

(d) *Divestiture.* If an insured state nonmember bank holding 50 percent or more of the voting equity interests of a foreign organization or otherwise controlling the foreign organization divests itself of such ownership or control, the insured state nonmember bank shall file a notice in the form of a letter, including the name, location, and date of divestiture of the foreign organization, with the appropriate FDIC office no later than 30 days after the divestiture.

[67 FR 79247, Dec. 27, 2002, as amended at 70 FR 17558, Apr. 6, 2005]

### § 303.184 Moving an insured branch of a foreign bank.

(a) *Filing procedures—(1) Where and when to file.* An application by an insured branch of a foreign bank seeking the FDIC's consent to move from one location to another, as required by section 18(d)(1) of the FDI Act (12 U.S.C. 1828(d)(1)), shall be submitted in writing to the appropriate FDIC office on the date the notice required by paragraph (c) of this section is published, or within 5 days after the date of the last required publication.

(2) *Content of filing.* A complete letter application shall include the following information:

(i) The exact location of the proposed site, including the street address;

(ii) Details concerning any involvement in the proposal by an insider of the applicant, as defined in §303.2(u), including any financial arrangements relating to fees, the acquisition of property, leasing of property, and construction contracts;

(iii) A statement of the impact of the proposal on the human environment, including information on compliance with local zoning laws and regulations and the effect on traffic patterns, for purposes of complying with the applicable provisions of the NEPA, and the FDIC “Statement of Policy on NEPA” (1 FDIC Law, Regulations, Related Acts 5185; see §309.4(a) and (b) of this chapter for availability).

(iv) A statement as to whether or not the site is eligible for inclusion in the National Register of Historic Places for purposes of complying with the applicable provisions of the NHPA, and the FDIC AStatement of Policy on NHPA” (1 FDIC Law, Regulations, Related Acts 5175; see §309.4(a) and (b) of this chapter for availability), including documentation of consultation with the State Historic Preservation Officer, as appropriate.

(v) Comments on any changes in services to be offered, the community to be served, or any other effect the proposal may have on the applicant’s compliance with the CRA; and

(vi) A copy of the newspaper publication required by paragraph (c) of this section, as well as the name and address of the newspaper and the date of the publication.

(3) *Comptroller’s application.* If the applicant is filing an application with the Comptroller which contains the information required by paragraph (a)(2) of this section, the applicant may submit a copy to the FDIC in lieu of a separate application.

(4) *Additional information.* The FDIC may request additional information to complete processing.

(b) *Processing*—(1) *Expedited processing for eligible insured branches.* An application filed by an eligible insured branch as defined in §303.181(c) of this part will be acknowledged in writing by the FDIC and will receive expedited processing if the applicant is proposing to move within the same state, unless the applicant is notified to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in §303.11(c)(2) of this part. Absent such removal, an application processed under expedited processing will be

deemed approved on the latest of the following:

(i) The 21st day after the FDIC’s receipt of a substantially complete application; or

(ii) The 5th day after expiration of the comment period described in paragraph (c) of this section.

(2) *Standard processing.* For those applications that are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(c) *Publication requirement and comment period*—(1) *Newspaper publications.* The applicant shall publish a notice of its proposal to move from one location to another, as described in §303.7(b), in a newspaper of general circulation in the community in which the insured branch is located prior to its being moved and in the community to which it is to be moved. The notice shall include the insured branch’s current and proposed addresses.

(2) *Public comments.* All public comments must be received by the appropriate regional director within 15 days after the date of the last newspaper publication required by paragraph (c)(1) of this section, unless the comment period has been extended or reopened in accordance with §303.9(b)(2).

(3) *Lobby notices.* If the insured branch has a public lobby, a copy of the newspaper publication shall be posted in the public lobby for at least 15 days beginning on the date of the publication required by paragraph (c)(1) of this section.

(d) *Other approval criteria.* (1) The FDIC may approve an application under this section if the criteria in paragraphs (d)(1)(i) through (d)(1)(vi) of this section is satisfied.

(i) The factors set forth in section 6 of the FDI Act (12 U.S.C. 1816) have been considered and favorably resolved;

(ii) The applicant is at least adequately capitalized as defined in subpart B of part 325 of this chapter;

(iii) Any financial arrangements which have been made in connection with the proposed relocation and which involve the applicant’s directors, officers, major shareholders, or their interests are fair and reasonable in comparison to similar arrangements that

### § 303.185

### 12 CFR Ch. III (1–1–06 Edition)

could have been made with independent third parties;

(iv) Compliance with the CRA, the NEPA, the NHPA and any applicable related regulations, including 12 CFR part 345, has been considered and favorably resolved;

(v) No CRA protest as defined in § 303.2(1) has been filed which remains unresolved or, where such a protest has been filed and remains unresolved, the Director or designee concurs that approval is consistent with the purposes of the CRA and the applicant agrees in writing to any conditions imposed regarding the CRA; and

(vi) The applicant agrees in writing to comply with any conditions imposed by the FDIC, other than the standard conditions defined in § 303.2(dd) which may be imposed without the applicant's written consent.

(e) Relocation of insured branch from one state to another. If the foreign bank proposes to relocate an insured state branch to a state that is outside the state where the branch is presently located, in addition to meeting the approval criteria contained in paragraph (d) of this section, the foreign bank must:

(i) Comply with any applicable state laws or regulations of the states affected by the proposed relocation; and

(ii) Obtain any required regulatory approvals from the appropriate state licensing authority of the state to which the insured branch proposes to relocate before relocating the existing branch operations and surrendering its existing license to the appropriate state licensing authority of the state from which the branch is relocating.

[67 FR 79247, Dec. 27, 2002, as amended at 70 FR 17559, Apr. 6, 2005]

### § 303.185 Merger transactions involving foreign banks or foreign organizations.

(a) *Merger transactions involving an insured branch of a foreign bank.* Merger transactions requiring the FDIC's prior approval as set forth in § 303.62 include any merger transaction in which the resulting institution is an insured branch of a foreign bank which is not a federal branch, or any merger transaction which involves any insured

branch and any uninsured institution. In such cases:

(1) References to an eligible depository institution in subpart D of this part include an eligible insured branch as defined in § 303.181;

(2) The definition of a corporate reorganization in § 303.61(b) includes a merger transaction between an insured branch and other branches, agencies, or subsidiaries in the United States of the same foreign bank; and

(3) For the purposes of § 303.62(b)(1) on interstate mergers, a merger transaction involving an insured branch is one involving the acquisition of a branch of an insured bank without the acquisition of the bank for purposes of section 44 of the FDI Act (12 U.S.C. 1831u) only when the merger transaction involves fewer than all the insured branches of the same foreign bank in the same state.

(b) *Certain merger transactions with foreign organizations outside any State.* Merger transactions requiring the FDIC's prior approval as set forth in § 303.62 include any merger transaction in which an insured depository institution becomes directly liable for obligations which will, after the merger transaction, be treated as deposits under section 3(1)(5)(A)(i)–(ii) of the FDI Act (12 U.S.C. 1813(1)(5)(A)(i)–(ii)), as a result of a merger or consolidation with a foreign organization or an assumption of liabilities of a foreign organization.

### § 303.186 Exemptions from insurance requirements for a state branch of a foreign bank.

(a) *Filing procedures*—(1) Where to file. An application by a foreign bank for consent to operate as a noninsured state branch, as permitted by § 347.215(b) of this chapter, shall be submitted in writing to the appropriate FDIC office.

(2) *Content of filing.* A complete letter application shall include the following information:

(i) The kinds of deposit activities in which the state branch proposes to engage;

(ii) The expected source of deposits;

(iii) The manner in which deposits will be solicited;