

Sec. 36a-428c-4. Assets to be deposited

(a) A foreign bank with a licensed state branch or licensed state agency shall keep deposit assets on deposit in accordance with section 36a-428c-6 of the Regulations of Connecticut State Agencies as follows:

(1) If at the time the foreign bank filed its application to establish the licensed state branch or licensed state agency, it did not have an existing branch or agency in the United States: (A) for the first three years that the foreign bank maintains the licensed state branch or licensed state agency, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities; and (B) thereafter, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities up to a maximum of one hundred million dollars, provided such amount shall be subject to adjustment as provided in subsection (b) of this section. Notwithstanding the time requirement in subparagraph (A) of this subdivision, the commissioner may, in the commissioner's sole discretion, allow the foreign bank to keep deposit assets on deposit in the amount specified in this subparagraph (B) if (i) there is an information-sharing agreement between the commissioner and the foreign bank's home country regulators that is satisfactory to the commissioner, (ii) the licensed state branch or licensed state agency receives a satisfactory rating at an examination by the commissioner, and (iii) allowing such amount would not be contrary to the public interest;

(2) If the foreign bank maintains in the United States a branch or agency that has not been engaged in banking business continuously in the four years preceding the filing of the application by the foreign bank to establish the licensed state branch or licensed state agency: (A) for the first three years that the foreign bank maintains the licensed state branch or licensed state agency, or the first four years that the foreign bank maintains in the United States a branch or agency that has been engaged in banking business continuously, whichever period is shorter, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities, and (B) thereafter, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities up to a maximum of one hundred million dollars, provided such amount shall be subject to adjustment as provided in subsection (b) of this section. Notwithstanding the time requirement in subparagraph (A) of this subdivision, the commissioner may, in the commissioner's sole discretion, allow the foreign bank to keep deposit assets on deposit in the amount specified in this subparagraph (B) if (i) there is an information-sharing agreement between the commissioner and the foreign bank's home country regulators that is satisfactory to the commissioner, (ii) the licensed state branch or licensed state agency receives a satisfactory rating at an examination by the commissioner, and (iii) allowing such amount would not be contrary to the public interest;

(3) If the foreign bank maintains in the United States a branch or agency that has been engaged in banking business continuously in the four years preceding the filing of the application by the foreign bank to establish the licensed state branch or licensed state agency, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities up to a maximum of one hundred

million dollars, provided this amount shall be subject to adjustment as provided in subsection (b) of this section.

(b) (1) If any of the following criteria is met, the commissioner may, in the commissioner's sole discretion, increase the maximum amount of deposit assets required to be kept on deposit to five hundred million dollars, and if, in addition, the adjusted liabilities are less than one hundred million dollars, the commissioner may, in the commissioner's sole discretion, require that deposit assets be kept on deposit in the minimum amount of two million dollars. If two or more of the following criteria are met, the commissioner shall increase the maximum amount of deposit assets required to be kept on deposit to five hundred million dollars, and if, in addition, the adjusted liabilities are less than one hundred million dollars, the commissioner shall require that deposit assets be kept on deposit in the minimum amount of two million dollars:

(A) the licensed state branch or licensed state agency receives a ROCA composite rating of "3-Fair" at its most recent examination;

(B) the foreign bank's operations in the United States receive a ROCA comprehensive composite rating of "3-Fair" by the FRB;

(C) the rating of any outstanding debt issued by the foreign bank is placed on watch for a possible downgrade to below investment grade, by a rating service recognized by the commissioner;

(D) the sovereign rating of the home country of the foreign bank is placed on watch for possible bank downgrade to below investment grade, by a rating service recognized by the commissioner;

(E) the SOSA rating of the foreign bank is "2"; or

(F) a formal supervisory or enforcement action is issued against the foreign bank in any jurisdiction.

(2) If any of the following criteria is met, the minimum amount of deposit assets that the foreign bank shall keep on deposit shall be five million dollars, if adjusted liabilities are less than two hundred fifty million dollars and shall be two per cent of adjusted liabilities if such liabilities are two hundred fifty million dollars or more:

(A) the licensed state branch or licensed state agency receives a ROCA composite rating of "4-Marginal" or "5-Unsatisfactory" at its most recent examination;

(B) the foreign bank's operations in the United States receive a ROCA comprehensive composite rating of "4-Marginal" or "5-Unsatisfactory" by the FRB;

(C) the rating of any outstanding debt issued by the foreign bank is rated below investment grade by a rating service recognized by the commissioner;

(D) the sovereign rating of the home country of the foreign bank is rated below investment grade, by a rating service recognized by the commissioner; or

(E) the SOSA rating of the foreign bank is "3".

(c) A foreign bank opening its initial licensed state branch or licensed state agency shall keep deposit assets on deposit based upon the branch's or agency's projection of adjusted liabilities at the end of its first year of operation.

(d) If the commissioner determines that the protection of the public interest requires that a foreign bank should keep deposit assets on deposit in an amount greater than that required by this section, the commissioner shall so notify the foreign bank, which shall immediately

thereafter keep deposit assets on deposit in such greater amount.

(e) For purposes of this section, liabilities arising from securities repurchase agreements may be excluded from the calculation of adjusted liabilities, to the extent such liabilities are secured by collateral within the meaning of section 36a-428n(i)(2)(D) of the Connecticut General Statutes unless the licensed state branch or licensed state agency has been notified otherwise by the commissioner.

(f) (1) With the approval of the commissioner, a foreign bank may satisfy up to twenty-five per cent of the amount that such foreign bank is required to keep on deposit in accordance with this section by obtaining and retaining a fidelity insurance bond for such amount from a monoline fidelity insurance company that is licensed by the insurance department to sell fidelity insurance in Connecticut and is rated in the two highest rating categories by a rating service recognized by the commissioner. Such bond shall be in a form satisfactory to the commissioner, shall name the commissioner as the beneficiary and provide that the fidelity insurance company issuing the bond shall make payment on the bond not later than twenty-four hours after the commissioner presents an order taking possession of the business and property of the foreign bank pursuant to section 36a-428n of the Connecticut General Statutes. The foreign bank shall file the fidelity insurance bond and proof of the authority of the fidelity insurance company to engage in business in Connecticut with the commissioner.

(2) If a fidelity insurance company that has issued a fidelity insurance bond to a foreign bank no longer meets any of the requirements of this subsection, such foreign bank, not later than five days of becoming aware of the failure to meet such requirements, shall notify the commissioner of such failure, and obtain a replacement fidelity insurance bond from a fidelity insurance company that meets such requirements, or place on deposit assets as required by this section.

(3) The commissioner shall revoke any approval issued under this subsection if the commissioner determines that the protection of the public interest so requires.

(Adopted effective December 23, 1997; Amended May 26, 2000; Amended September 6, 2002)