

standing any other provision of law, shall transfer all assets, liabilities, and property of the Office to such nonprofit corporation on the day on which such nonprofit corporation is incorporated.

(B) Such assets shall include all sums which are appropriated to the Office by the Congress and all sums which are contained in the Account established pursuant to section 3042 of this title. If any such sums are appropriated after the date on which the transfer described in subparagraph (A) occurs, the Bank shall promptly transfer such sums to such nonprofit corporation.

**(b) Establishment; Board of Directors; functions, etc.**

(1) As soon as possible after August 13, 1981, the Board shall establish a nonprofit corporation under the laws of the District of Columbia and, notwithstanding the laws of the District of Columbia, name the directors of such nonprofit corporation.

(2) Notwithstanding the laws of the District of Columbia, the Board of Directors of such nonprofit corporation shall—

(A) select an executive director who shall be responsible for the administration of such nonprofit corporation;

(B) set the compensation of such executive director and the other employees of such nonprofit corporation;

(C) promulgate and publish the policies of such nonprofit corporation and make such policies available at all times to eligible cooperatives; and

(D) perform the functions specified in subparagraphs (A) and (C) of paragraph (3).

(3) Such nonprofit corporation shall only perform—

(A) the functions which are authorized to be performed pursuant to sections 3043 through 3048 of this title and section 3050 of this title;

(B) such functions as are necessary to comply with the laws under which it was incorporated in the District of Columbia; and

(C) such functions as are necessary to remain qualified as an organization described in section 501(c)(3) of title 26.

(4) Notwithstanding any other provision of law—

(A) the Bank may provide administrative or staff support to such nonprofit corporation; and

(B) any member of the Board of Directors of the Bank may serve as a member of the Board of Directors of such nonprofit corporation.

**(c) Treatment for tax purposes**

(1) Notwithstanding any other provision of law, such nonprofit corporation shall be deemed to be, and treated as, qualified as an organization described in section 501(c)(3) of title 26 from the date on which such nonprofit corporation is established under the laws of the District of Columbia until the date on which the Internal Revenue Service makes a final determination on the application which such nonprofit corporation will submit to the Internal Revenue Service seeking status as an organization qualifying under such section.

(2) When performed by such nonprofit corporation, the functions described in subsection

(b)(3)(A) of this section shall be deemed to be performed for “charitable purposes” within the meaning of section 501(c)(3) of title 26.

**(d) Contributions from the Bank**

(1) The Board of Directors of the Bank may make contributions to the nonprofit corporation in such amounts as the Board of Directors of the Bank deems appropriate, except that—

(A) such contributions may be made only out of the Bank’s earnings, determined in accordance with generally accepted accounting principles; and

(B) the Bank shall set aside amounts sufficient to satisfy its obligations to the Secretary of the Treasury for payments of principal and interest on class A notes and other debt before making any contributions to such nonprofit corporation.

(2) During any period in which the nonprofit corporation described in subsection (b) of this section is qualified as an organization described in section 501(c)(3) of title 26, contributions made by the Bank pursuant to paragraph (1) shall be treated as charitable contributions within the meaning of section 170(c)(2) of title 26, and may be deducted notwithstanding the provisions of section 170(b)(2) of title 26.

(3) During any period in which the nonprofit corporation described in subsection (b) of this section is qualified as an organization described in section 501(c)(3) of title 26, contributions to such nonprofit corporation by any person shall qualify as charitable contributions, as defined in section 170(c) of title 26, for purposes of the charitable contribution deduction provided for in section 170(a) of title 26, and shall also qualify for the deductions for estate and gift tax purposes provided for in sections 2055 and 2522 of title 26.

**(e) Conflict of interest rules**

Notwithstanding the laws of the District of Columbia, the Board of Directors of such nonprofit corporation shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the conflict of interest provisions adopted by the Board of Directors of the Bank pursuant to section 3024 of this title.

(Pub. L. 95-351, title II, §211, as added Pub. L. 97-35, title III, §395(a), Aug. 13, 1981, 95 Stat. 437; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Subsecs. (b)(3)(C), (c), (d)(2), (3). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

**CHAPTER 32—FOREIGN BANK PARTICIPATION IN DOMESTIC MARKETS**

Sec. 3101.	Definitions.
3102.	Establishment of Federal branches and agencies by foreign bank.
	(a) Establishment and operation of Federal branches and agencies.
	(b) Rules and regulations; rights and privileges; duties and liabilities; exceptions; coordination of examinations.

- Sec.
- (c) Application to establish Federal branch or agency; matters considered.
  - (d) Receipt of deposits and exercising of fiduciary powers at Federal agency prohibited.
  - (e) Maintenance of Federal branch and Federal agency in same State prohibited.
  - (f) Conversion of foreign bank branch, agency or commercial lending company into Federal branch or agency; approval of Comptroller.
  - (g) Deposit requirements; asset requirements.
  - (h) Additional branches or agencies.
  - (i) Termination of authority to operate Federal branch or agency.
  - (j) Receivership over assets of foreign bank in United States.
3103. Interstate banking by foreign banks.
- (a) Interstate branching and agency operations.
  - (b) Continuance of lawful interstate banking operations previously commenced.
  - (c) Determination of home State of foreign bank.
  - (d) Clarification of branching rules in case of foreign bank with domestic bank subsidiary.
3104. Insurance of deposits.
- (a) Objective.
  - (b) Deposits of less than \$100,000.
  - (c) Deposits required to be insured under State law.
  - (d) Retail deposit-taking by foreign banks.
3105. Authority of Federal Reserve System.
- (a) Bank reserves.
  - (b) Omitted.
  - (c) Examination of branches and agencies by Board.
  - (d) Establishment of foreign bank offices in United States.
  - (e) Termination of foreign bank offices in United States.
  - (f) Judicial review.
  - (g) Consultation with State bank supervisor.
  - (h) Limitations on powers of State branches and agencies.
  - (i) Proceedings related to conviction for money laundering offenses.
  - (j) Study on equivalence of foreign bank capital.
  - (k) Management of shell branches.
3106. Nonbanking activities of foreign banks.
- (a) Applicability of Bank Holding Company Acts.
  - (b) Ownership or control of shares of nonbanking companies for certain period.
  - (c) Engagement in nonbanking activities after certain period.
  - (d) Construction of terms.
- 3106a. Compliance with State and Federal laws.
3107. Representative offices.
- (a) Prior approval to establish representative offices.
  - (b) Termination of representative offices.
  - (c) Examinations.
  - (d) Compliance with State law.
3108. Regulation and enforcement.
- (a) Rules, regulations and orders.
  - (b) Enforcement.
  - (c) Powers of Federal Reserve Board and Federal Deposit Insurance Corporation.

- Sec.
3109. Cooperation with foreign supervisors.
- (a) Disclosure of supervisory information to foreign supervisors.
  - (b) Requirement of confidentiality.
3110. Penalties.
- (a) Civil money penalty.
  - (b) Notice under this section after separation from service.
  - (c) Penalty for failure to make reports.
3111. Criminal penalty.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 619, 1813, 3902 of this title; title 15 section 78c; title 31 sections 3121, 9110.

§ 3101. Definitions

For the purposes of this chapter—

- (1) “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 citizens or residents of the United States;
- (2) “Board” means the Board of Governors of the Federal Reserve System;
- (3) “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;
- (4) “Comptroller” means the Comptroller of the Currency;
- (5) “Federal agency” means an agency of a foreign bank established and operating under section 3102 of this title;
- (6) “Federal branch” means a branch of a foreign bank established and operating under section 3102 of this title;
- (7) “foreign bank” means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this chapter the term “foreign bank” includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;
- (8) “foreign country” means any country other than the United States, and includes any colony, dependency, or possession of any such country;
- (9) “commercial lending company” means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.], organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of banking powers and engages in the business of making commercial loans;
- (10) “State” means any State of the United States or the District of Columbia;
- (11) “State agency” means an agency of a foreign bank established and operating under the laws of any State;