

Part 4 Operation

7-18a-401 Separate assets.

- (1) Each foreign depository institution authorized to transact business in this state through an agency or branch shall keep the assets of its business in this state separate and apart from the assets of its business outside this state.
- (2) The creditors of a foreign depository institution authorized to transact business in this state through an agency or branch arising out of transactions with, and recorded on the books of, the agency or branch shall be entitled to absolute preference and priority over the creditors of the foreign depository institution's offices located outside this state with respect to the assets of the foreign depository institution in this state.

Enacted by Chapter 63, 1996 General Session

7-18a-402 Disclosure of lack of deposit insurance.

Each foreign depository institution authorized to transact business in this state through an agency or branch shall give notice to the customers of the foreign depository institution, as prescribed by rule or order, that deposits and credit balances in the agency or branch are not insured by a federal deposit insurance agency.

Enacted by Chapter 63, 1996 General Session

7-18a-403 Asset maintenance.

- (1) Each foreign depository institution authorized to transact business in this state through an agency or branch shall hold assets in this state consisting of currency, bonds, notes, debentures, drafts, bills of exchange, or other evidences of indebtedness, including loan participation agreements or certificates, or other obligations that are payable:
 - (a) in the United States in United States funds; or
 - (b) with the prior approval of the commissioner, in funds freely convertible into United States funds.
- (2) The amount of assets required in Subsection (1) shall be in an amount not less than 108% of the aggregate amount of liabilities of the foreign depository institution appearing in the books, accounts, or records of its agency or branch located in this state, including acceptances, but excluding amounts due and other liabilities to other offices, agencies, or branches of, and wholly owned, except for a nominal number of directors' shares, subsidiaries of, the foreign depository institution, and such other liabilities as the commissioner shall determine.
- (3) For the purposes of this section, the commissioner:
 - (a) shall value marketable securities at principal amount or market value, whichever is lower;
 - (b) may determine the value of any non-marketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness or other asset or obligation held by or owed to the foreign depository institution in this state; and
 - (c) in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities in Subsection (2), may exclude in whole or in part any particular asset.
- (4) The commissioner may require a foreign depository institution to deposit the assets required to be held in this state pursuant to this section with a Utah depository institution designated

by the commissioner if, because of the existence or the potential occurrence of unusual and extraordinary circumstances, the commissioner considers it necessary or desirable:

- (a) for the maintenance of a sound financial condition;
 - (b) for the protection of depositors, creditors, and the public interest; or
 - (c) to maintain public confidence in the business of an agency or branch.
- (5) The assets held to satisfy the ratio of assets to liabilities prescribed by this section, shall include obligations of any person for money borrowed from an agency or branch of a foreign depository institution authorized to transact business in this state only to the extent that the total of these obligations of any person are not more than 10% of the assets considered for purposes of this section.

Enacted by Chapter 63, 1996 General Session