

Part 5
Possession of Foreign Depository Institutions by Commissioner

7-18a-501 Supervisory actions by commissioner.

A foreign depository institution authorized by this state to transact business in this state through an agency, branch, or representative office is subject to supervisory actions by the commissioner under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, if the commissioner, with or without an administrative hearing, finds:

- (1) any of the circumstances set forth in Section 7-2-1;
- (2) that the foreign depository institution is transacting business in or outside this state in an unsafe and unsound manner;
- (3) that the foreign depository institution or its agency, branch, or representative office is in an unsafe and unsound condition;
- (4) that the foreign depository institution has ceased to operate its agency, branch, or representative office without the prior approval of the commissioner as required in Section 7-18a-202;
- (5) that the foreign depository institution or its agency or branch has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;
- (6) that the foreign depository institution or its agency or branch has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any foreign or domestic bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for any such relief under such law against the foreign depository institution and the foreign depository institution has by any affirmative act approved of or consented to such action or such relief has been granted;
- (7) that a receiver, liquidator, or conservator has been appointed for the foreign depository institution, or that any proceeding for such an appointment or any similar proceeding has been initiated in the chartering country;
- (8) that the foreign depository institution's existence or authority to transact depository institution business under the laws of the chartering country has been suspended or terminated; or
- (9) that any fact or condition exists that, if it had existed at the time when the foreign depository institution applied for a certificate of authority to transact business through an agency, branch, or representative office in this state, would have been grounds for denying the application.

Enacted by Chapter 63, 1996 General Session

7-18a-502 Distribution of balance of assets.

- (1) This section supersedes Subsection 7-2-15(3).
- (2) When the commissioner has paid claims of each depositor and creditor of the foreign depository institution's agency or branch in this state whose claims have been proved and allowed the full amount of the claim, the commissioner shall transfer any remaining assets to the foreign depository institution in accordance with orders issued by the court.
- (3)
 - (a) Notwithstanding Subsection (2), if the foreign depository institution has an office in another state of the United States that is in liquidation and the assets of the office appear to be insufficient to pay in full the creditors of that office, the court shall order the commissioner to

transfer to the liquidator of that office the amount of any remaining assets as appears to be necessary to cover the insufficiency.

- (b) If the foreign depository institution has two or more offices in a state other than this state and the assets of each office appear to be insufficient to pay in full the creditors of each office, and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to the offices, the court shall order the commissioner to distribute the remaining assets among the liquidators of the offices in a manner the court finds equitable.

Enacted by Chapter 63, 1996 General Session