

AN ACT

*Codification
District of
Columbia
Code
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To enact an international banking law for the District of Columbia to provide for the chartering of international banking corporations, to permit international banking corporations to establish and maintain offices and transact banking business in the District of Columbia, to set forth terms and conditions under which an international banking corporation may enter and do business in the District of Columbia, to ensure that the international banking corporations are adequately capitalized, competently managed by persons of integrity, and supervised by the Commissioner of the Department of Banking and Financial Institutions, and to provide that foreign banking corporations are operated in compliance with the law, in a safe and sound manner, and in a manner which protects their clients and customers and other consumers in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "International Banking Act of 2000".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Banking business" means activities and transactions involving banking, including receiving deposits, paying checks, lending money, and any activity which is determined by the Commissioner to be incidental to the business of banking.

(2) "Commissioner" means the Commissioner of the Department of Banking and Financial Institutions.

(3) "Department" means the Department of Banking and Financial Institutions.

(4) "District of Columbia Banking Code" means the statutory provisions concerning banking and financial institutions which are codified in Title 26 of the District of Columbia Code, any law administered by the Commissioner, and rules and regulations promulgated under those statutory provisions and laws.

(5) "Edge Act" means the Federal Reserve Act, approved December 23, 1913 (38 Stat. 351; 12 U.S.C. § 221 *et seq.*).

(6) "Federal agency" means an agency of an international banking corporation established and operating under the Federal International Act.

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(7) "Federal branch" means a branch of an international banking corporation established and operating under the Federal International Act.

(8) "Federal International Act" means the International Banking Act of 1978, approved September 17, 1978 (92 Stat. 607; 12 U.S.C. § 3101 *et seq.*).

(9) "Federal international bank office" means a branch or agency of an international banking corporation established and operating under the Federal International Act.

(10) "Foreign country" means a country other than the United States, including a dependency or possession of such country, and any territory of the United States, including Guam, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico.

(11) "International agency" means an office located in the District of Columbia, other than a federal international bank office, which exercises powers, as set forth in section 6, on behalf of an international banking corporation.

(12) "International banking corporation" means a banking corporation organized and licensed under the laws of a foreign country. The term "international banking corporation" shall include an international commercial bank, foreign merchant bank, foreign mortgage bank, or other foreign institution that engages in banking activities in connection with the business of banking in the country where the foreign institution is organized or operating.

(13) "International banking corporation office" means, unless otherwise specified, an office established in the District of Columbia under this act.

(14) "International branch" means an office located in the District of Columbia, other than a federal international bank office, which exercises powers, as set forth in section 6, on behalf of an international banking corporation.

(15) "International financing corporation" means a corporation organized under the laws of the District of Columbia for the purpose of engaging in the activities described in section 6.

(16) "International representative office" means:

(A) An office of an international banking corporation that is established or maintained in the District of Columbia for the purpose of engaging in the activities described in section 6; or

(B) A person whose primary business is to engage in such activities, on behalf of an international banking corporation, from an office located in the District of Columbia.

(17) "Representative" means a person or entity located in an office in the District of Columbia that engages in any activity in the District of Columbia for or on behalf of an international banking corporation, which activity is not otherwise prohibited by law.

(18) "State" means a state of the United States or the District of Columbia.

Sec. 3. Construction of legal and financial terms used in act.

Legal and financial terms used in this act refer to equivalent terms used by the country in which the international banking corporation is organized.

Sec. 4. Application of the District of Columbia Banking Code.

(a) An international banking corporation having an office in the District of Columbia shall be subject to all the provisions of the District of Columbia Banking Code as though the international banking corporation is a bank organized under the laws of the District of Columbia, except where it may appear, from the context or otherwise, that such provisions are clearly applicable only to banks or trust companies organized under the laws of the District of Columbia.

(b) An international banking corporation may conduct its banking business in the District of Columbia with the same, but no greater, rights and privileges as a District of Columbia bank, and except as otherwise provided in this act, subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed under the District of Columbia Banking Code upon a District of Columbia bank.

Sec. 5. Requirements for international banking corporation activities.

(a) An international banking corporation may transact a banking business, or maintain in the District of Columbia an office for carrying on such business, or any part thereof, if the corporation has:

- (1) Been authorized by its charter to carry on a banking business and has complied with the laws of the jurisdiction in which it is chartered;
- (2) Furnished to the Department such proof as to the nature and character of its business and as to its financial condition as the Department may require;
- (3) Filed with the Department a certified copy of any information required to be supplied to the District of Columbia by a foreign corporation under section 99 of the Business Corporation Act; and
- (4) Been licensed by the Department.

(b) An international banking corporation may engage in representational and other activities in the District of Columbia, other than those specified in section 6, only as authorized in section 7.

(c) Any person who establishes or maintains an office or transacts business in the District of Columbia in violation of this section shall be subject to the penalties imposed by section 1(g) of An Act Regulating corporations doing a banking business in the District of Columbia.

Sec. 6. Scope of license; permissible activities of international banking corporations.

(a)(1) An international banking corporation licensed by the Commissioner may engage in the business authorized by this act only at the office specified in the license. A license issued under this act shall not be transferable or assignable; provided, that the location of an international banking corporation office may be changed after notification of the Commissioner as required by regulation. The license shall at all times be conspicuously displayed in the place of business specified in the license.

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(2) An international banking corporation licensed under this act shall, whenever its articles of incorporation are amended, immediately file with the Commissioner a copy of the amendment duly authenticated by the proper officer of the country under which the international banking corporation was organized. The filing of the amendment shall not:

(A) Enlarge or alter the purpose for which the international banking corporation is authorized to transact banking business or representational activities in the District of Columbia;

(B) Authorize the international banking corporation to transact banking business or representational activities in the District of Columbia in any other name than the name set forth in its license; or

(C) Extend the duration of its corporate existence.

(3) An international banking corporation licensed under this act shall apply to the Commissioner to secure an amended license if it changes its corporate name, changes the duration of its corporate existence, or desires to pursue a different or additional purpose which is not set forth in its prior application for a license. The requirements with respect to the form and contents of the application, the manner of its execution, the filing of duplicate originals of the application with the Commissioner, the issuance and effect of an amended license, and the recording of the amended license shall be the same as in the case of an original application for a license.

(4) An international banking corporation desiring to convert an existing international banking corporation office to an international banking corporation office of a different type shall submit to the Commissioner an application on a form that the Commissioner shall prescribe, which application shall be accompanied by all of the information and documents that are required for the license sought.

(5) Nothing in the laws of the District of Columbia shall restrict the right of a District of Columbia-licensed international agency, international branch, or international financing corporation to convert to a federal license or charter upon compliance with the laws of the United States. Upon completion of any such conversion, the District of Columbia license shall be surrendered to the Commissioner.

(6) An international banking corporation desiring to convert a federal international bank office or corporation organized under section 25A of the Edge Act into an international banking corporation office operating under the provisions of this act shall meet the minimum criteria of the District of Columbia-chartered form into which it is converting.

(b)(1)(A) An international banking corporation that meets the requirements of section 5 may, with the approval of the Commissioner, establish one or more international branches in the District of Columbia. An international branch shall have the same rights and privileges as a bank organized under the District of Columbia Banking Code, including the right to receive deposits and exercise fiduciary powers. The operations of an international branch shall be conducted under regulations determined by the Commissioner as necessary to ensure compliance with the

provisions of the District of Columbia Banking Code. The regulations shall include requirements for the maintenance of accounts and records separate from those of the international banking corporation of which it is a branch. An application to establish an international branch shall be made under section 7.

(B) An international banking corporation may operate more than one international branch in the District of Columbia, each at a different place of business; provided, that each branch office shall be separately licensed to transact a banking business, or any part of a banking business, under this act.

(2)(A) An international agency licensed under this act may make any loan, extension of credit, or investment which it could make if chartered and operating as a bank organized under the laws of the District of Columbia.

(B) An international agency shall not receive deposits in the District of Columbia other than:

(i) Deposits of a foreign nation, an agency or instrumentality of a foreign nation, or a person who resides in, is domiciled in, and maintains its, or his or her, principal place of business in, a foreign nation. For purposes of this subparagraph, the term "person" means an individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, limited liability company, or any other organization (or any branch or division thereof);

(ii) Interbank deposits, interbank borrowing, or similar interbank obligations; or

(iii) International banking facility time deposits as defined in D.C. Code § 1801.4(31).

(C) An international agency may maintain in the District of Columbia, for the account of others, credit balances necessarily incidental to, or arising out of, the exercise of its authority.

(D) Upon approval of an application by the Commissioner under section 7, an international agency may act as a fiduciary and exercise trust powers subject to the same requirements, and in the same manner, as the trust business of a District of Columbia trust company or a District of Columbia bank with trust powers.

(E) An international banking corporation may operate more than one international agency in the District of Columbia, each at a different place of business; provided, that each agency office shall be separately licensed to transact a banking business or any part of a banking business, under this act.

(c) Subject to the provisions of this act, an international representative office may act in the District of Columbia in a liaison capacity with existing and potential customers of an international banking corporation and its subsidiaries and affiliates. It may, through its employees or agents, solicit loans; assemble credit information; make proprietary inspections and appraisals; assist in completing loan applications and other preliminary paperwork in preparation

for making a loan; administer personnel and operations; engage in data processing or recordkeeping activities; provide information to customers concerning their accounts; answer questions; receive applications for extensions of credit and other banking services; transmit documents on behalf of customers; make arrangements for customers to transact business on their accounts; service loans or extensions of credit and investments; solicit, but not accept, deposits; and engage in such other activities as the Commissioner may approve by order or regulation. An international representative office may not conduct any banking business, or part of a banking business, in the District of Columbia.

(d) An international banking corporation may, with the approval of the Commissioner under the District of Columbia Banking Code, acquire control over or organize a bank organized under the laws of the District of Columbia. For the purposes of this section, the term "bank" shall have the same meaning as set forth in section 2(c) of the Bank Holding Company Act of 1956, approved May 9, 1956 (70 Stat. 133; 12 U.S.C. § 1841(c)).

(e) A bank established by an international banking corporation and chartered outside the District of Columbia may establish a branch in the District of Columbia; provided, that the branch shall be subject to the same laws, rules, regulations, and oversight as a bank branch of a domestic financial institution chartered outside the District of Columbia.

(f) An international banking corporation that has established a branch, agency, or representative office outside the District of Columbia may establish and operate, directly or indirectly, an international branch, an international agency, or an international representative office in the District of Columbia in accordance with applicable District of Columbia law.

(g) An international financing corporation established under this act shall directly engage only in those activities permissible for corporations organized under the Edge Act. Subject to the prior approval of the Commissioner and to such limitations as the Commissioner shall prescribe by regulation, the fact that an international financing corporation invests in shares of, and owns or controls, an Edge Act corporation, an international banking corporation, or a company engaged in financial activities outside the United States, or establishes and operates branches, representative offices, and similar banking facilities in foreign countries, shall not prohibit their operation in the District of Columbia.

(h) This act shall not be construed to prohibit an international banking corporation which does not maintain an office in the District of Columbia from transacting the following business:

(1)(A) Making loans in the District of Columbia secured by mortgages on real property; or

(B) Contracting in the District of Columbia with a banking institution engaged in the business of banking under the laws of the District of Columbia to acquire from or through such banking institution a part or the entire interest in:

(i) A loan or evidence of debt which such banking institution has made, purchased, or acquired, or will make, purchase, or acquire, for its own account or otherwise; and

(ii) A like interest in any security and any security instrument proposed to be given, or previously or subsequently given, to secure or evidence such loan or evidence of debt;

(2) Enforcing in the District of Columbia obligations previously or subsequently acquired by it in the transaction of business outside the District of Columbia or in the transaction of business authorized by this section; or

(3) Acquiring, holding, leasing, mortgaging, contracting with respect to, or otherwise protecting or conveying property in the District of Columbia previously or subsequently assigned, transferred, mortgaged, or conveyed to it as security for, or in whole or part satisfaction of, a loan made by it or an obligation acquired by it in the transaction of business outside the District of Columbia or in the transaction of business authorized by this section.

Sec. 7. Applications for licenses; approval or disapproval.

(a)(1) Before being licensed by the Commissioner to transact a banking business in the District of Columbia as an international branch or international agency or before maintaining in the District of Columbia an office to carry on a banking business, or any part of a banking business, an international banking corporation shall submit to the Commissioner a separate application, in duplicate, which shall state:

(A) The name of the corporation and the country under the laws of which it was organized;

(B) The date of its incorporation and the period of its duration;

(C) The address of its principal office in the country under the laws of which it was organized;

(D) The address of its proposed registered office in the District of Columbia and the name of its proposed registered agent in the District of Columbia at such address;

(E) The names of other states and countries in which it is licensed or qualified to transact business;

(F) The names and respective addresses of its directors and principal officers;

(G) Such information as the Commissioner may require indicating that the international banking corporation is authorized to conduct a general banking business under the laws of the country of its organization and the nature of the business of the international banking corporation;

(H) A complete and detailed statement of its financial condition and the actual value of its assets;

(I) A listing of any occasion within the preceding 10-year period in which the international banking corporation or any of its directors, executive officers, or principal shareholders has been convicted of, or pleaded guilty or nolo contendere to, any offense:

(i) With respect to which the penalties include the possibility of imprisonment for one year or more;
(ii) Involving money laundering; or
(iii) Otherwise related to the operation of a financial institution;

and

(J) Such additional information as the Commissioner may require as necessary or appropriate to enable the Commissioner to determine whether the international banking corporation is entitled to a license.

(2) The application shall be accompanied by a reasonable fee determined by the Commissioner, made on forms prescribed and furnished by the Commissioner, and duly executed in duplicate by one or more of the principal officers of the international banking corporation.

(3) When the application is submitted to the Commissioner, the international banking corporation shall also:

(A) Submit a duly authenticated copy of its articles of incorporation, or equivalent corporate document, and an authenticated copy of its bylaws, or an equivalent of the bylaws, that is satisfactory to the Commissioner;

(B) Pay an investigation and supervision fee, which shall be established by regulation; and

(C) Submit a statement or certificate issued by the banking or supervisory authority of the country in which the international banking corporation is organized and licensed, stating that the international banking corporation is duly organized, licensed, in good standing, and authorized to conduct a general banking business.

(4) The Commissioner may approve or disapprove the application; provided, that the Commissioner shall not approve the application unless, in the Commissioner's opinion, (A) the applicant meets every requirement of this act and any regulations adopted under this act, and (B) federal law permits the appropriate federal regulatory authority to issue a comparable license to the international banking corporation. In acting on an application, the Commissioner shall consider the financial and managerial resources and future prospects of the applicant and the international branch or agency and the convenience and needs of the community to be served. The Commissioner may specify conditions that the Commissioner considers appropriate, considering the public interest, the need to maintain a sound and competitive banking system, and the preservation of an environment conducive to the conduct of an international banking business in the District of Columbia.

(5) A license shall not be issued to an international banking corporation for the purpose of operating an international agency or an international branch in the District of Columbia unless the international banking corporation:

(A) Has been authorized by the bank regulatory authority, in the foreign country in which the international banking corporation is organized or incorporated, to establish the proposed international branch or agency;

(B) Is adequately supervised by the central bank or bank regulatory agency in the foreign country in which it is organized and chartered. The Commissioner shall establish, by regulation, the general principles which shall determine the adequacy of supervision of an international banking corporation's foreign establishments, taking into consideration the standards set forth in the Federal International Act;

(C) Holds capital consistent with minimum capital requirements established by the Commissioner by regulation. In adopting such requirements, the Commissioner shall consider similar rules adopted by other bank regulatory agencies in the United States and the need to provide reasonably consistent regulatory requirements for international banking corporations which will maintain a safe and sound condition of international banking corporations doing business in the District of Columbia; and

(D) As of a date not more than 120 days before the application, has assets with a fair market value of \$1 million greater than its liabilities.

(b)(1) Before being licensed by the Commissioner to transact business in the District of Columbia as an international bank representative office, an international banking corporation shall subscribe and submit to the Commissioner a separate application, in duplicate, which shall contain such corporate organizational, financial, and other information as the Commissioner determines to be appropriate, taking into consideration the information required to be submitted with regard to applications for international branches and agencies as set forth in this act.

(2) The application for a license shall be accompanied by a reasonable fee as determined by the Commissioner.

(3) The Commissioner shall issue a license to an international banking corporation to establish and maintain a representative office if the Commissioner determines that:

(A) The international banking corporation is of sound financial standing;

(B) The international banking corporation has been authorized by the bank regulatory authority of the foreign country in which it was organized or incorporated to establish the proposed international bank office or the regulatory authority interposes no objection to the office;

(C) The international banking corporation is adequately supervised by the central bank or bank regulatory agency in the foreign country in which it is organized and chartered;

(D) The management of the international banking corporation and the proposed management of the representative office are adequate; and

(E) The convenience and needs of persons to be served by the proposed representative office will be promoted.

(4) An international banking corporation desiring to convert its existing registered international representative office to a licensed international branch or licensed international agency shall submit an application to the Commissioner which meets the minimum criteria for licensing of an international branch or licensed international agency as required by this

act.

(c) An application for approval to organize an international financing corporation shall be subject to the provisions of the District of Columbia Banking Code relating to the organization of new financial institutions and to regulations adopted by the Commissioner as necessary to ensure that the proposed international financing corporation will be operated in a safe and lawful manner; provided, that the applicant shall not be required to become a member of the Federal Reserve System or the Federal Deposit Insurance Corporation. An international financing corporation shall be subject to the examination and supervision of the Commissioner and subject to the District of Columbia Banking Code to the same extent as international banking corporations under section 4.

(d) An application filed under this section shall be subject to the application review procedures, including Council review, contained in section 5 (a), (b), and (f) through (i) of the District of Columbia Regional Interstate Banking Act.

Sec. 8. Registered office and agent.

(a) An international banking corporation authorized to establish and maintain a banking office in the District of Columbia shall have and continuously maintain:

(1) A registered office in the District of Columbia which may, but shall not be required to, be the same as its place of business; and

(2) A registered agent, which agent may be either an individual residing in the District of Columbia whose business office is identical with the registered office or a corporation authorized to transact business in the District of Columbia having a business office identical with the registered office.

(b) A registered agent may at any time vacate its office as registered agent by filing with the Commissioner a statement setting forth its resignation and the effective date thereof, which shall not be less than 60 days nor more than 90 days after the date of filing. A copy of the statement shall be served on the international banking corporation by registered or certified mail addressed to the international banking corporation at its principal office, as such is known to the resigning agent, and directed to the attention of the secretary or other comparable officer of the international banking corporation within 5 days after the date of the filing.

(c) An international banking corporation may from time to time change the address of its registered office and shall change its registered agent if the office of the registered agent becomes vacant for any reason, if its registered agent becomes disqualified or incapacitated to act, or if it revokes the appointment of its registered agent. A change of registered office or registered agent may be effected by filing with the Commissioner duplicate originals of a statement setting forth the details with respect to the change and the effective date thereof.

(d) Service of process in a suit, action, or proceeding, or service of a notice or demand required or permitted by law to be served on an international banking corporation, may be made on a licensed international banking corporation by serving the registered agent of the

international banking corporation. If a licensed international banking corporation fails to appoint or maintain a registered agent upon whom legal process or a notice or demand may be served, the registered agent cannot with reasonable diligence be found at the registered office of the international banking corporation, or the license of an international banking corporation is revoked, the Commissioner shall be irrevocably authorized as the agent and representative of the international banking corporation to accept service of process or a notice or demand required or permitted by law to be served on the international banking corporation. Service on the Commissioner of any process, notice, or demand for the international banking corporation shall be made by delivering to and leaving with the Commissioner, or with any official having charge of the Department, duplicate copies of the process, notice, or demand. If any process, notice, or demand is served on the Commissioner, the Commissioner shall immediately forward a copy by registered mail to the international banking corporation at its principal office as the same appears on the Department's records. Service on the Commissioner shall be returnable in not less than 30 days. Nothing in this act shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter permitted by law. The Commissioner shall keep a record of all process, notices, and demands served upon the Commissioner under this section, setting forth the time of service and the Commissioner's action on the service.

Sec. 9. Assets to be held in the District of Columbia.

(a) Upon and after establishing an international branch or international agency in the District of Columbia, and as may be required under regulations adopted by the Commissioner, an international banking corporation licensed under this act shall keep on deposit, with such banks as the international banking corporation may designate and the Commissioner may approve, dollar deposits or other assets, including securities. The Commissioner may from time to time require that the assets deposited under this subsection be maintained by the international banking corporation in such amount, and in such form and subject to such conditions as the Commissioner considers necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and the confidence in the business of each branch or agency.

(b) An international banking corporation shall hold in the District of Columbia currency or such other assets as the Commissioner shall, by regulation, permit, in an amount which shall be a percentage, determined by the Commissioner by order or regulation, of the liabilities of the international banking corporation. As used in this subsection, the term "liabilities" means liabilities appearing on the books, accounts, or records of an international banking corporation's international agencies and international branches in the District of Columbia as liabilities, including acceptances and such other items as the Commissioner shall determine, but excluding amounts due, and other liabilities, to other offices, agencies, or branches of, and affiliates of, the international banking corporation. For purposes of this subsection, the Commissioner (1) shall

value marketable securities at the lower of their principal amount or market value, (2) may determine the value of a nonmarketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, or of any other asset or obligation held by, or owed to, the international banking corporation or its agencies or branches within the District of Columbia, and (3) in determining the ratio of assets to liabilities, may exclude, in whole or in part, any particular asset. If, by reason of the existence or potential occurrence of unusual and extraordinary circumstances, the Commissioner considers it necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors, and the public interest, and to maintain public confidence in the business of an international agency or international branch of an international banking corporation in the District of Columbia, the Commissioner may, subject to such terms and conditions as the Commissioner may prescribe, require the international banking corporation to deposit the assets required to be held in the District of Columbia under this subsection with such banks as the Commissioner may designate.

Sec. 10. Financial certification; restrictions on investments, loans, and acceptances.

(a) Before opening an office in the District of Columbia, and annually thereafter so long as a banking office is maintained in the District of Columbia, an international banking corporation licensed under this act shall certify to the Commissioner the amount of its paid-in capital, its surplus, and its undivided profits, each expressed in the currency of the country of its organization. The dollar equivalent of this amount, as determined by the Commissioner, shall be considered to be the amount of its capital, surplus, and undivided profits.

(b)(1) The Commissioner shall, by regulation, prescribe the limits of drafts or bills of exchange which an international agency or branch may accept relative to the capital account of the international banking corporation. The limits shall take into account all transactions which are included and excluded in computing the lending limit for acceptances of a federal international bank office.

(2) Except to the extent they are inconsistent with this act, the provisions of the District of Columbia Banking Code shall apply to the loans and investments made by an international bank agency or international branch of the international banking corporation. With respect to an international banking corporation and its international bank agencies or international branches, a reference in those provisions to capital, capital account, or similar terms shall refer to the capital account of the international banking corporation, and, except when used with reference to the capital account, a reference in those provisions to the term "bank" shall refer to the international agencies and branches of the international banking corporation which are licensed in the District of Columbia.

(3) Any limitation in this act based on the capital account of an international banking corporation shall refer, with respect to an international agency or international branch in the District of Columbia, to the dollar equivalent of the capital account of the international banking corporation, as determined by the Commissioner. If the international banking

corporation has more than one international agency or international branch in the District of Columbia, the business transacted by all agencies or branches shall be aggregated in determining compliance with a limitation or restriction.

Sec. 11. Reports and records.

(a) An international banking corporation that maintains one or more international banking corporation offices or an international financing corporation under this act shall, at the times and in the form prescribed by the Commissioner, file written reports in the English language for such offices or corporation with the Commissioner under the oath of one of its officers, managers, or agents transacting business in the District of Columbia, showing the amount of its assets and liabilities and containing any other matters required by the Commissioner.

(b) An international banking corporation that maintains 2 or more international banking corporation offices may consolidate the information in one report unless the Commissioner requires otherwise for purposes of the Commissioner's supervision of the condition and operations of each office. The late filing of the reports shall be subject to the imposition of an administrative penalty prescribed by regulation. If an international banking corporation shall fail to file a report as directed by the Commissioner, or if a report shall contain any false statement knowingly made, it shall be grounds for revocation of the license of the international banking corporation.

(c) The Commissioner shall, by regulation, prescribe the circumstances under which the Commissioner may require an international banking corporation to use internal or external auditors to address significant supervisory concerns with respect to the operations of an international branch or agency licensed in the District of Columbia.

(d) An international banking corporation which operates an agency or branch licensed under this act shall maintain, at a location accepted by the Commissioner:

(1) Correct and complete books and records of account of the business operations transacted by the office, including accounts and records (A) reflecting all transactions effected by, or on behalf of, the branch or agency, (B) reflecting all actions taken in the District of Columbia by employees of the office located in the District of Columbia to effect transactions on behalf of an office of the international banking corporation located outside the District of Columbia, and (C) relating to any other matters concerning the branch or agency that the Commissioner may require. All policies and procedures governing the operations of the office and any existing general ledger or subsidiary accounts shall be maintained in the English language. The Commissioner may require that any other document not written in the English language which the Commissioner considers necessary for the purposes of its regulatory and supervisory functions be translated into English at the expense of the international banking corporation. The books, accounts, and records shall be preserved for at least 3 years; provided, that preservation by photographic reproduction or records in photographic form shall constitute

compliance with the requirements of this section; and

(2) Current copies of the charter and bylaws of the international banking corporation relating to the operations of the office, minutes of the proceedings of its directors, officers, or committees relating to the business of the office, and minutes of the proceedings of its directors, officers, or committees relating to the business of the office. The records shall be kept as required by paragraph (1) of this subsection and shall be made available to the Commissioner, upon request, at any time during regular business hours of the office. The failure to keep records as required or a refusal to produce the records upon request by the Commissioner shall be grounds for suspension or revocation of a license issued under this act.

(e) In addition to any other reports it may be required to file, an international banking corporation which maintains an international agency or international branch in the District of Columbia shall file reports with the Commissioner in form and at such times as the Commissioner prescribes, by regulation, concerning the management, asset quality, capital adequacy, and liquidity of the international banking corporation.

(f) An international banking corporation that maintains a representative office in the District of Columbia licensed under this act shall make, maintain, and preserve at the office or at such other place as determined by the Commissioner, such books, accounts, and other records relating to the activities conducted at the office as the Commissioner may require. An international banking corporation which is licensed to establish and maintain a representative office shall file the reports accompanied by a reasonable fee, as required and determined by the Commissioner.

(g) The Commissioner may require such regular or special reports as the Commissioner considers necessary for the proper supervision of licensees. The additional reports shall be in the form prescribed by the Commissioner and shall be subscribed and affirmed as true under penalty of perjury.

(h) If an international banking corporation shall fail to make a report as directed by the Commissioner, it shall be subject to the penalties prescribed by regulation. A false statement contained in a report, in any other sworn statement made to the Commissioner by such report, or in any other sworn statement made to the Commissioner by the international banking corporation under the provisions of this act shall constitute perjury.

Sec. 12. Examinations; enforcement powers; fees and assessments.

(a)(1) The Commissioner may make such public or private investigations or examinations inside or outside the District of Columbia concerning an international banking corporation licensed to maintain an international branch, international agency, or international representative office in the District of Columbia, as the Commissioner considers necessary to carry out the duties of the Commissioner relating to the international branch, international agency, or international representative office.

(2) For the purpose of an investigation, examination, or proceeding under this

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section, the Commissioner may administer oaths and affirmations, subpoena witnesses, compel attendance of witnesses, take evidence, require written statements, and require the production of records relating to the activities of the branch, agency, or representative office which the Commissioner considers relevant or material. The Commissioner may require that certified copies of any records be provided to the Commissioner at the Commissioner's office.

(3) The international banking corporation which is the subject of an investigation, examination, or proceeding shall:

(A) Make its records relating to the activities of the branch, agency, or representative office available to the Commissioner in readable form;

(B) Provide necessary personnel and equipment, including assistance in the analysis of computer-generated records;

(C) Provide copies or computer printouts of records when requested;

(D) Furnish unrestricted access to all areas of its principal place of business in the District of Columbia or wherever the applicable records may be located; and

(E) Otherwise cooperate with the Commissioner.

(4) Upon application of the Commissioner, a court of competent jurisdiction may issue to a person refusing to obey a subpoena issued under this section an order requiring that the person appear before the Commissioner, or any officer designated by the Commissioner, to produce the records ordered or to give evidence concerning the matter under investigation or in question. The failure to obey the order of the court may be punished by the court as a contempt of court.

(5) An international banking corporation licensed to maintain an international branch, international agency, or international representative office in the District of Columbia shall pay the Commissioner the actual cost of any examination of the licensee, as such cost is determined by the Commissioner. Failure by the licensee to pay such cost within 30 days of receipt of demand from the Commissioner shall automatically suspend the license until the costs are paid.

(6) For the purposes of this section, the term "records" include, books; papers; correspondence; memoranda; agreements; diaries; logs; notes; ledgers; journals; visual, audio, machine-readable, magnetic, or electronic recordings; computer printouts and software; and any other documents.

(b)(1) Upon a finding that an international banking corporation or its international agency, international branch, or international representative office subject to this act may be acting in an unsafe or unsound manner or in violation of a District of Columbia Banking Code law, rule, regulation, or written condition, or is otherwise engaging in conduct that may be grounds for the issuance of a cease and desist order under the District of Columbia Banking Code, the Commissioner may issue a cease and desist order or take any other action authorized under the District of Columbia Banking Code.

(2)(A) The Commissioner may suspend or revoke a license issued to an

international banking corporation under this act for any reason which would be sufficient grounds for the Commissioner to deny an application for the license. The Commissioner may also suspend or revoke a license if the Commissioner finds that the licensee or any director, officer, partner, controlling shareholder, trustee, employee, agent, or representative of the licensee has: (i) made any material misstatement in the application, or (ii) violated or failed to comply with any of the provisions of this act applicable to the licensee or any of the regulations or orders of the Commissioner under this act. The Commissioner may prescribe, by regulation, additional conditions or standards under which the license of an international agency, international branch, or international representative office may be suspended or revoked.

(B) The Commissioner may, for good cause shown, suspend a license for a period not exceeding 30 days, pending investigation.

(C) Except as provided in this section, no license shall be revoked or suspended except after notice and a hearing.

(D) A licensee may surrender a license by delivering to the Commissioner written notice that it thereby surrenders the license, but the surrender shall not affect the licensee's civil or criminal liability for acts committed before the surrender.

(E) A license shall remain in force and effect until it shall have been surrendered, revoked, or suspended in accordance with the provisions of this act. The Commissioner may reinstate a suspended license or issue a new license to a licensee whose license shall have been revoked if an original application for the license could be approved.

(F) If the Commissioner revokes or suspends a license issued under this act, a written order of revocation or suspension shall be immediately executed in duplicate. The Commissioner shall file one copy in his or her office and shall immediately serve the other copy upon the licensee.

(G) If a license is surrendered by an international banking corporation or is suspended or revoked by the Commissioner, all rights and privileges of the international banking corporation under the license shall immediately cease. If the license is suspended or revoked, it shall be surrendered to the Commissioner within 24 hours after the written order has been mailed by the Commissioner to the registered office of the international banking corporation as it appears on the records of the Department, or has been personally delivered to an officer, director, employee, or agent of the international banking corporation who is physically present in the District of Columbia. The Commissioner shall prescribe, by regulation, procedures for the orderly cessation of business by an international banking corporation in a manner which is not harmful to the interests of its customers or of the public.

(3) The Commissioner may, at his or her discretion, take possession of the business and property in the District of Columbia of an international banking corporation as provided in this act.

(c) The Commissioner may establish, by regulation, such fees as the Commissioner determines are appropriate for applications and documents filed with the Commissioner under

this act. Upon written notice by the Commissioner of the total amount of such assessment, the licensee shall become liable for, and shall pay, the assessment to the Commissioner.

Sec. 13. Voluntary dissolutions; involuntary dissolutions and liquidations.

(a) An international banking corporation that proposes to terminate the operation in the District of Columbia of an international branch, an international agency, or an international representative office in the District of Columbia shall comply with all procedures as the Commissioner may prescribe, by regulation, to ensure an orderly cessation of activities in a manner that is not harmful to the public interest and shall surrender its license to the Commissioner or its right to maintain an office in the District of Columbia, as applicable.

(b)(1) If an international banking corporation licensed to maintain an international branch, an international agency, or an international representative office in the District of Columbia is dissolved or its authority or existence is otherwise terminated or canceled in the jurisdiction of its incorporation, the international banking corporation shall deliver, within 10 days thereafter, to the Commissioner a certificate of the official responsible for records of banking corporations of the jurisdiction of incorporation of the international banking corporation attesting to the occurrence of this event or a certified copy of an order or decree of a court of the jurisdiction directing the dissolution of the international banking corporation, the termination of its existence, or the cancellation of its authority. The filing of the certificate, order, or decree shall have the same effect as the revocation of the license of the international banking corporation as provided in this act. The Commissioner shall serve as agent of the international banking corporation upon whom process may be served in an action based upon a liability or obligation incurred by the international banking corporation within the District of Columbia before the filing of the certificate, order, or decree. The Commissioner shall promptly cause a copy of the process to be mailed by registered or certified mail, return receipt requested, to the international banking corporation at its office address as it appears on the records of the Department.

(2)(A) The Commissioner may, at the Commissioner's discretion, take possession of the business and property in the District of Columbia of a international banking corporation that has been licensed to operate in the District of Columbia upon finding that (i) the corporation's international branch or agency operating in the District of Columbia has violated any law, (ii) has neglected or refused to comply with the terms of a duly issued order of the Commissioner, (iii) is insolvent, will imminently become insolvent, or is transacting business in an unsound, unsafe, or unauthorized manner such that the corporation is threatened with imminent insolvency, or (iv) the corporation is in liquidation at its domicile or elsewhere. Title to the business and property shall vest by operation of law in the Commissioner upon taking possession. Thereafter, the Commissioner shall liquidate or otherwise deal with such business and property in accordance with the provisions of this act and any other laws relating to the liquidation of banking corporations within the District of Columbia.

(B)(i) Upon the Commissioner's taking possession of the business and property in the District of Columbia of the banking office of an international banking corporation whose deposit liabilities in the District of Columbia are not insured by the Federal Deposit Insurance Corporation, the amounts deposited under this act shall become the property of the Commissioner, free and clear of any and all liens and other claims, and shall be held in trust for the depositors of such banking office. The Commissioner may, without regard to any priorities, preferences, or adverse claims and without obtaining the approval of a court, sell the property and, as soon as practicable, distribute the proceeds to the depositors on a pro rata basis; provided, that no depositor shall receive an amount in excess of his account balance.

(ii) For purposes of this subparagraph, the term "depositor" shall not include any other office or branch of, or a wholly-owned (except for a nominal number of directors' shares) subsidiary of, the international banking corporation, but shall include a person to whom such banking office is indebted by virtue of money or its equivalent received by the banking office for which it has:

(I) Given credit, or is obligated to give credit, to a time or demand deposit or which is evidenced by a check or draft against a deposit account and certified by the banking office;

(II) Issued a letter of credit for cash or a traveler's check on which the banking office is primarily liable; or

(III) Issued an outstanding draft (including advice or authorization to charge the banking office's balance at another bank), cashier's check or money order, or other officer's check.

Sec. 14. Commissioner's powers; regulations.

(a) The Commissioner shall have all of the powers granted to the Commissioner under the District of Columbia Banking Code to the extent appropriate to enable the Commissioner to supervise an international banking corporation office of an international banking corporation holding a license to maintain the office.

(b) The Commissioner may promulgate, in addition to, and not inconsistent with, this act, general rules, regulations, and definitions and specific rulings, demands, and findings as the Commissioner may consider necessary for the proper conduct of the business authorized and licensed under, and for the enforcement of, this act.

Sec. 15. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

ENROLLED ORIGINAL

Sec. 16. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia