WEST VIRGINIA CODE: §31A-8F-28

§31A-8F-28. Capital equivalency deposit.

(a) Each foreign bank which is licensed to establish and maintain a West Virginia state agency office shall keep on deposit with an unaffiliated West Virginia bank(s) as the foreign bank may designate and the commissioner may approve, the capital equivalency deposit required by section nine of this article in the form of interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits or obligations of the international bank for reconstruction and development, or obligations issued by the Interamerican development bank, or obligations of the Asian development bank, or obligations issued by the African development bank, or other assets as the commissioner may by rule or order permit, based upon principal amount or market value, whichever is lower, in the case of the above-described securities, and subject to the limitations as he or she shall prescribe.

(b) The West Virginia bank designated to hold the assets in deposit shall issue a written receipt addressed and delivered to the commissioner reciting that the deposit is being held for the sole benefit of the United States domiciled creditors of the foreign bank's West Virginia state agency office and that the deposit is subject to the commissioner's order without offset for the payment of the creditors. For the purpose of this subsection, the term "creditor" shall not include any other offices, branches, subsidiaries or affiliates of the foreign bank.

(c) So long as it shall continue business in the ordinary course, such foreign bank shall be permitted to collect interest on the securities deposited under this section and from time to time exchange, examine and compare such securities.

(d) The commissioner in his or her discretion may require additional capital equivalency deposits if: (I) The financial condition of either the office(s) or the foreign bank warrants such additional protection; or (ii) other circumstances exist which may impair the office(s) or foreign bank's safety or soundness.

(e) West Virginia state agency offices must maintain a capital equivalency ledger showing the amount of net liabilities requiring capital equivalency coverage for each business day. On the last day of business of each month the average daily balance shall be computed, and based upon this computation, an increase in the deposit, if necessary to maintain the deposit at the level required by this section, shall be made. Any such required increase must be made within the first two business days of the following month. For foreign banks having more than one agency office in this state, the deposit required shall be determined on an aggregate basis for all such agency offices in this state. If securities comprise all or part of the deposit, and interest rate changes or a decline in credit quality of the security results in

WV Legislature

the depreciation of its market value, the security shall be replaced with an instrument that qualifies under subsection (a) of this section or other appropriate action shall be taken to ensure the capital equivalency deposit is adequately maintained.

WV Legislature