

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1119

S.P. 341

In Senate, February 18, 1997

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**An Act to Provide for International Banking in the State and Enhanced Enforcement Authority over Financial Institution Holding Companies.**

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator KIEFFER of Aroostook.  
Cosponsored by Representative DAVIDSON of Brunswick and  
Senator MURRAY of Penobscot, Representative: BRUNO of Raymond.

2 Be it enacted by the People of the State of Maine as follows:

4 PART A

6 Sec. A-1. 9-B MRSA §131, sub-§19-A is enacted to read:

8 19-A. Foreign bank. "Foreign bank" means any company  
10 organized under the laws of a foreign country, a territory of the  
12 United States, Puerto Rico, Guam, American Samoa or the Virgin  
14 Islands that engages directly in the banking business. "Foreign  
16 bank" includes foreign commercial banks, foreign merchant banks  
18 and other foreign institutions that engage in usual banking  
20 activities in connection with the banking business in the  
22 countries where the foreign institutions are organized or  
24 operating.

26 Sec. A-2. 9-B MRSA §316, sub-§1, ¶B, as enacted by PL 1975, c.  
28 500, §1, is amended to read:

30 B. At least 2/3 of the directors provided for shall ~~must~~ be  
32 residents of this State and any director ~~removing himself~~  
34 ~~from~~ leaving this State shall ~~must~~ immediately be replaced  
36 if such removal results in a reduction of the number of  
38 resident directors below 2/3. The superintendent may  
40 approve in writing, upon application by an institution and  
42 for good cause shown, a lower proportion of directors who  
44 must be residents of this State.

46 Sec. A-3. 9-B MRSA §316, sub-§1, ¶F, as amended by PL 1985, c.  
48 642, §1, is further amended to read:

50 F. The board of directors, by a majority vote of the  
directors then in office, may appoint from the full board of  
directors an executive committee of not less than 5 members,  
2/3 of whom shall ~~must~~ be residents of this State and may  
delegate to the committee the powers of the directors in  
regard to the ordinary operations of the business of the  
institution. The superintendent may approve in writing,  
upon application by an institution and for good cause shown,  
a lower proportion of executive committee members who must  
be residents of this State.

52 Sec. A-4. 9-B MRSA §1011, sub-§3, as enacted by PL 1975, c.  
54 500, §1, is amended to read:

56 3. Company. "Company" means a corporation, partnership,  
58 business trust, association or similar organization organized  
60 under the laws of the United States, any political subdivisions  
of the United States or a country other than the United States.

2           **Sec. A-5. 9-B MRSA §1011, sub-§10**, as enacted by PL 1985, c.  
642, §4, is amended to read:

4           **10. Person.** "Person" means an individual or individuals  
6 acting in concert, including individuals who are citizens of one  
or more countries, and any colonies, dependencies or possessions  
8 of those countries, other than the United States.

10           **Sec. A-6. 9-B MRSA §1011, sub-§13** is enacted to read:

12           **13. Foreign bank holding company.** "Foreign bank holding  
14 company" means any company that controls, directly or indirectly,  
16 a foreign bank.

18           **Sec. A-7. 9-B MRSA §1013, sub-§1, ¶B**, as repealed and replaced  
20 by PL 1989, c. 16, §1, is amended to read:

22           B. Acquisition of more than 5% of the voting shares of a  
24 Maine financial institution or any financial institution or  
26 financial institution holding company controlling, directly  
28 or indirectly, a Maine financial institution, by a financial  
30 institution or, financial institution holding company,  
foreign bank or foreign bank holding company; or

32           **Sec. A-8. 9-B MRSA §1013, sub-§1, ¶C**, as amended by PL 1995,  
34 c. 628, §30, is further amended to read:

36           C. Acquisition of more than 5% of the voting shares of a  
38 financial institution, whose home state is not this State,  
40 or a foreign bank by a Maine financial institution or a  
42 Maine financial institution holding company.

44           **Sec. A-9. 9-B MRSA §1013, sub-§3**, as amended by PL 1995, c.  
46 628, §32, is further amended to read:

48           **3. Requirements for acquisition or establishment.** A  
50 financial institution holding company, foreign bank or foreign  
bank holding company may establish, acquire or maintain control  
of a Maine financial institution or Maine financial institution  
holding company with prior approval of the superintendent,  
subject to the following conditions.

A. The Maine financial institution or Maine financial  
institution holding company to be established or acquired  
shall enter into an agreement with the superintendent to  
provide reports and permit examination of its records to the  
extent considered necessary by the superintendent to ensure  
compliance with this section and other relevant provisions  
of this Title and any rules adopted under this Title. If  
the financial institution to be established or acquired is

2 federally chartered, the agreement may provide that  
3 compliance examination information must be provided by the  
4 federal agency responsible for supervision of that financial  
5 institution. The superintendent may specify the information  
6 that requires verification, and must be provided a report of  
7 that status of compliance by the federal agency.

8 B. A Maine financial institution or Maine financial  
9 institution holding company, control of which is to be  
10 acquired or held, must have, on the date of acquisition or  
11 establishment, and shall maintain a minimum equity capital  
12 that the superintendent determines acceptable given the  
13 market area to be served and the general plan of business of  
14 the Maine financial institution or Maine financial  
15 institution holding company. Equity capital must be  
16 maintained consistent with sound banking practices.

17 C. A financial institution holding company, foreign bank or  
18 foreign bank holding company may not consolidate or merge  
19 with or acquire all or part of a Maine financial institution  
20 or Maine financial institution holding company if, as the  
21 result of the consolidation, acquisition or merger, the  
22 financial institution holding company, foreign bank or  
23 foreign bank holding company would hold or control more than  
24 30% of the total amount of deposits of financial  
25 institutions authorized to do business in this State;  
26 except, upon consideration of the decision-making criteria  
27 found in section 253, the superintendent may waive the 30%  
28 deposit concentration limits on a case-by-case basis. In  
29 calculating the amount of deposits that a financial  
30 institution holding company, foreign bank or foreign bank  
31 holding company may hold or control under this section,  
32 credit union shares are added to the amount of deposits of  
33 financial institutions authorized to do business in this  
34 State. However, the 30% deposit concentration limit does  
35 not apply to credit unions authorized to do business in this  
36 State.

37  
38 **Sec. A-10. 9-B MRSA §1015, sub-§1, ¶B,** as repealed and  
39 replaced by PL 1989, c. 16, §3, is amended to read:

40  
41 B. Acquisitions by a financial institution or financial  
42 institution holding company, foreign bank or foreign bank  
43 holding company of interests in a Maine financial  
44 institution or any financial institution or financial  
45 institution holding company controlling, directly or  
46 indirectly, a Maine financial institution in excess of 5% of  
47 the voting shares of such financial institution or financial  
48 institution holding company;

2           **Sec. A-11. 9-B MRSA §1015, sub-§1, ¶¶C and E**, as enacted by PL  
1975, c. 500, §1, are amended to read:

4           C. Acquisition or establishment by a Maine financial  
institution holding company of a financial institution  
6           outside of the State of Maine, including a foreign bank, in  
excess of 5% of the voting shares of such institution;

8           E. Authority for any financial institution holding company,  
10           foreign bank or foreign bank holding company controlling a  
Maine financial institution to engage in a closely-related  
12           activity in Maine, or acquisition or establishment of a  
subsidiary in Maine to engage in a closely-related activity.

14           **Sec. A-12. 9-B MRSA §1015, sub-§2**, as amended by PL 1995, c.  
16           628, §34, is further amended to read:

18           **2. Criteria for approval.** Applications for approvals  
required in subsection 1 must be filed pursuant to procedures  
20           established by the superintendent. Action on those applications  
must be taken in accordance with the requirements of section 252  
22           and is subject to the standards set forth in section 253. In  
addition, applications for approvals required in subsection 1 by  
24           foreign banks are subject to the following additional criteria:

26           A. The foreign bank or foreign bank holding company engages  
in the banking business outside of the United States and is  
28           subject to comprehensive supervision or regulation on a  
consolidated basis by the appropriate authorities in its  
30           home country, or the superintendent finds that the  
appropriate authorities in the home country of the foreign  
32           bank are actively working to establish arrangements for the  
consolidated supervision of such bank; and

34           B. Whether the foreign bank or foreign bank holding company  
36           has provided the superintendent with adequate assurances  
that it will make available to the superintendent such  
38           information on the operations or activities of the foreign  
bank, foreign bank holding company and any affiliate of the  
40           foreign bank or foreign bank holding company that the  
42           superintendent considers necessary to determine and enforce  
compliance with this Title and other applicable state law.

44           **Sec. A-13. 9-B MRSA §§1016 and 1017**, as enacted by PL 1975,  
c. 500, §1, are amended to read:

46           **§1016. Reports and examinations**

48           The superintendent may require any financial institution  
50           holding company that controls a Maine financial institution to

2 furnish such reports as he ~~deems~~ the superintendent considers  
3 appropriate to the proper supervision of such companies. Unless  
4 the superintendent determines otherwise, reports prepared for  
5 Federal authorities or, in the case of a foreign bank or foreign  
6 bank holding company, reports prepared for the home country  
7 regulatory authorities and translated to English may be submitted  
8 by such holding company in satisfaction of the requirements of  
9 this section. If such information and reports are inadequate in  
10 his the superintendent's judgment for that purpose, the  
11 superintendent may examine such financial institution holding  
12 company and any subsidiary doing business in Maine. Section 214  
13 ~~shall apply~~ applies with respect to any such examination.

#### 14 **§1017. Conformity with Federal procedures**

15 To the maximum extent consistent with the effective  
16 discharge of the superintendent's responsibilities, the forms  
17 established under this chapter for registration, applications and  
18 reports ~~shall~~ must conform with those established under either  
19 the Bank Holding Company Act of 1956 or ~~section~~ section 408 of the  
20 National Housing Act, or the federal International Banking Act of  
21 1978 and regulations promulgated under the federal International  
22 Banking Act of 1978.

23 **Sec. A-14. 9-B MRSA §1019, sub-§2,** as amended by PL 1985, c.  
24 642, §9, is further amended to read:

25 2. **Penalties.** Any person or company violating any provision  
26 of this chapter, or any regulation promulgated thereunder, shall  
27 be is subject to a penalty of not more than \$1,000 per day for  
28 each day the violation continues, to be recovered in a civil  
29 action in the name of the State.

30 Any company or Maine financial institution violating section  
31 1013, subsection 3 ~~or~~ 4, or any regulation promulgated under that  
32 section, ~~shall be~~ is subject to a penalty of not more than \$1,000  
33 a day for each day the violation continues. The superintendent  
34 shall report the violation forthwith, with such remarks as he  
35 ~~deems~~ the superintendent determines appropriate, to the Attorney  
36 General, who may forthwith institute a civil action therefor on  
37 behalf of the State.

#### 38 **PART B**

39 **Sec. B-1. 9-B MRSA §131, sub-§20-A, ¶¶A and B,** as enacted by  
40 PL 1995, c. 628, §8, are amended to read:

41 A. With respect to a financial institution or out-of-state  
42 financial institution, the state under whose laws the  
43

2 financial institution or out-of-state financial institution  
is organized; or

4 B. With respect to a national bank or federal association,  
6 the state in which the main office of the national bank or  
federal association is deemed to be located under federal  
law; or

8  
10 **Sec. B-2. 9-B MRSA §131, sub-§20-A, ¶C** is enacted to read:

12 C. With respect to a foreign bank, the state that the  
foreign bank has designated as its home state in accordance  
with Section 5 of the federal International Banking Act of  
14 1978.

16 **Sec. B-3. 9-B MRSA c.110** is enacted to read:

18 **CHAPTER 110**

20 **FOREIGN BRANCHES, AGENCIES AND**  
22 **REPRESENTATIVE OFFICES**

24 **§1101. Definitions**

26 As used in this chapter, unless the context otherwise  
indicates, the following terms have the following meanings.

28 1. Agency. "Agency" means any office or any place of  
business of a foreign bank located in any state of the United  
30 States at which credit balances are maintained incidental to or  
arising out of the exercise of banking powers, checks are paid,  
32 or money is lent, but at which deposits may not be accepted from  
persons who are citizens or residents of the United States.

34  
36 2. Branch. "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.

38  
40 3. Federal agency. "Federal agency" means an agency of a  
foreign bank established and operating pursuant to Section 4 of  
the federal International Banking Act of 1978.

42  
44 4. Federal branch. "Federal branch" means a branch of a  
foreign bank established and operating pursuant to Section 4 of  
the federal International Banking Act of 1978.

46  
48 5. Maine agency. "Maine agency" means an agency of a  
foreign bank located in this State and established and operating  
pursuant to the provisions of this chapter.

2 6. Maine branch. "Maine branch" means a branch of a  
foreign bank located in this State and established and operating  
pursuant to the provisions of this chapter.

4  
6 7. Maine foreign bank. "Maine foreign bank" means a  
foreign bank that operates a Maine branch or Maine agency and for  
which Maine is the home state, in accordance with Section 5 of  
8 the federal International Banking Act of 1978.

10 8. Maine representative office. "Maine representative  
office" means a representative office located in this State and  
12 established and operating pursuant to the provisions of this  
chapter.

14  
16 9. Out-of-state foreign bank. "Out-of-state foreign bank"  
means a foreign bank for which a state other than Maine is the  
home state, in accordance with Section 5 of the federal  
18 International Banking Act of 1978.

20 10. Representative office. "Representative office" means  
any office of a foreign bank that is located in any state and is  
22 not a federal branch, federal agency, state branch, state agency  
or subsidiary of a foreign bank.

24 §1102. Branches and agencies of foreign banks

26  
28 1. Establishment. A foreign bank that is or will become a  
Maine foreign bank and engages directly in the banking business  
outside the United States may, with the prior approval of the  
30 superintendent, establish a branch or agency. The establishment  
of a branch or agency may be de novo or through merger or  
32 acquisition.

34 2. Criteria for approval. Applications for approvals  
required in subsection 1 must be filed pursuant to procedures  
36 established by the superintendent. Action on those applications  
must be taken in accordance with the requirements of section 252  
38 and is subject to the standards set forth in section 253. Those  
applications are subject to the following additional criteria:

40  
42 A. The foreign bank must directly engage in the banking  
business outside of the United States and be subject to  
comprehensive supervision or regulation on a consolidated  
44 basis by the appropriate authorities in its home country, or  
the superintendent finds that the appropriate authorities in  
46 the home country of the foreign bank are actively working to  
establish arrangements for the consolidated supervision of  
48 the bank; and

2       B. The foreign bank has provided the superintendent with  
4       adequate assurances that it will make available to the  
6       superintendent any information on the operations or  
8       activities of the foreign bank and any of its affiliates  
10       that the superintendent considers necessary to determine and  
12       enforce compliance with this Title and other applicable  
14       state law.

16       3. Application fee. An application for approval required in  
18       subsection 1 may not be considered complete by the superintendent  
20       unless accompanied by an application fee to be credited and used  
22       as provided in section 214. The superintendent shall establish  
24       the amount of the fee, which may not exceed \$7,500.

### 26       §1103. Federal branches and agencies

28       1. Permissibility of federal branches and agencies.  
30       Nothing in this Title may be construed to prohibit the operation  
32       of a federal branch or a federal agency in this State.

34       2. No concurrent maintenance of federal branches or  
36       agencies. No foreign bank authorized to operate a Maine branch  
38       or Maine agency pursuant to section 1102 may maintain  
40       concurrently a federal branch or federal agency in this State.

### 42       §1104. Powers of Maine branches and agencies

44       1. General powers. Except as otherwise specifically  
46       provided in this chapter or in orders or rules adopted by the  
48       superintendent, and notwithstanding any other law or rule of this  
50       State to the contrary, operations of a foreign bank at a Maine  
branch or Maine agency must be conducted with the same rights,  
privileges and powers accorded a trust company at the same  
location and are subject to all the same duties, restrictions,  
penalties, liabilities, conditions and limitations that apply  
under the laws of this State to a trust company doing business at  
the same location.

2. Exceptions. The following are exceptions to the  
provisions of subsection 1.

A. A Maine branch may not accept from citizens or residents  
of the United States deposits, other than credit balances  
that are incidental to or arise out of its exercise of other  
lawful banking powers, of less than \$100,000, except to the  
extent that those deposits are determined by the Federal  
Deposit Insurance Corporation not to constitute "domestic  
retail deposit activities requiring deposit insurance  
protection" within the meaning of Section 6 of the federal  
International Banking Act of 1978.

2 B. A Maine agency may not accept any deposits from citizens  
4 or residents of the United States, other than credit  
6 balances that are incidental to or arise out of its exercise  
of other lawful banking powers, but it may accept deposits  
from persons who are neither citizens nor residents of the  
United States.

8 C. A Maine branch or Maine agency is not required to  
10 maintain deposit insurance pursuant to section 422.

12 D. Any limitation or restriction based on the capital and  
14 surplus of a financial institution is deemed to refer, as  
16 applied to a Maine branch or Maine agency, to the United  
18 States dollar equivalent of the capital and surplus of the  
foreign bank and, if the foreign bank has more than one  
branch or agency in the United States, the business  
transacted by all such branches and agencies must be  
aggregated in determining compliance with the limitation.

20 E. Unless otherwise provided by the superintendent, any  
22 provision in this Title and rules adopted under this Title  
24 that require a financial institution to obtain the approval  
of its board of directors are deemed to require a Maine  
branch or Maine agency to obtain the approval of parent  
foreign bank senior management.

26 **§1105. Representative offices**

28  
30 1. Notification required. A foreign bank may establish a  
32 representative office in this State with 30 days' prior notice to  
34 the superintendent. A foreign bank may not establish a  
representative office in this State without the prior approval of  
the Board of Governors of the Federal Reserve System pursuant to  
Section 10 of the federal International Banking Act of 1978.

36 2. Permitted activities. Foreign banks may conduct the  
38 following activities through representative offices:

40 A. Solicitation for loans and in connection with those  
42 loans the assembly of credit information, making of property  
44 inspections and appraisals, securing of title information,  
46 preparation of applications for loans including making  
recommendations with respect to action on those  
applications, solicitation of investors to purchase loans  
from the foreign bank and the search for investors to  
contract with the foreign bank for servicing of those loans;

48 B. The solicitation of new business;

50 C. The conduct of research;

2 D. Back office administrative functions; and

4 E. Any other activity that may be permitted by the  
6 superintendent by rule or order.

8 **§1106. Trust activities**

10 1. Authority. A foreign bank that has established a Maine  
12 branch or Maine agency in accordance with section 1102 may engage  
14 in trust activities at that Maine branch or Maine agency upon 30  
16 days' prior notification to the superintendent.

18 2. Territorial application. All trust activities entered  
20 into between a foreign bank that has established a Maine branch  
22 or Maine agency and persons residing or domiciled in this State  
24 or that involve property located in this State are governed by  
26 the laws of this State.

28 **§1107. Service of process**

30 A foreign bank having a Maine agency, Maine branch or Maine  
32 representative office shall maintain a registered office and is  
34 subject to service of process in the manner provided for in Title  
36 13-A, chapter 12.

38 **§1108. Deposit requirements; asset requirements**

40 1. Deposit requirement. Upon the opening of a Maine branch  
42 or Maine agency and thereafter, a foreign bank shall keep on  
44 deposit, in accordance with rules the superintendent may  
46 prescribe, with a financial institution authorized to do business  
48 in the State, except for a foreign bank, United States dollar  
50 deposits or investment securities of a type that may be  
prescribed by the superintendent in an amount as set forth in  
this section. The financial institution must be approved by the  
superintendent.

2. Amount of deposit. The aggregate amount of deposited  
investment securities, calculated on the basis of principal  
amount or market value, whichever is lower, and United States  
dollar deposits for each Maine branch or Maine agency established  
and operating under this chapter may not be less than the amount  
prescribed by section 412-A or rules adopted under section 412-A  
as applied to total liabilities of the Maine branch or Maine  
agency, including acceptances, but excluding accrued expenses,  
and amounts due and other liabilities to offices, branches,  
agencies and subsidiaries of the foreign bank. The  
superintendent may require that the assets deposited pursuant to  
this subsection must be maintained in such amounts as the

2 superintendent may consider necessary or desirable for the  
3 maintenance of a sound financial condition, the protection of  
4 depositors and the public interest. The superintendent may  
5 consider reserves or other assets deposited with or on behalf of  
6 a federal banking agency in determining the amount of deposit.

7 3. Deposit agreement. The deposit must be maintained with  
8 the financial institution selected according to subsection 1  
9 pursuant to a deposit agreement in such form and containing such  
10 limitations and conditions as the superintendent may prescribe.  
11 So long as it continues business in the ordinary course a foreign  
12 bank may be permitted to collect income on the securities and  
13 funds so deposited and examine and exchange those securities.

14 4. Asset maintenance. Subject to such conditions and  
15 requirements as may be prescribed by the superintendent, each  
16 foreign bank operating a Maine branch or Maine agency shall hold  
17 in this State assets of such types and in such amounts as the  
18 superintendent may prescribe by general or specific rule or  
19 ruling as necessary or desirable for the maintenance of a sound  
20 financial condition, the protection of depositors and creditors  
21 and the public interest. In determining compliance with any such  
22 prescribed asset requirements, the superintendent shall give  
23 credit to assets required to be maintained pursuant to subsection  
24 1, reserves required to be maintained with the Federal Reserve  
25 System and assets pledged and surety bonds payable to the Federal  
26 Deposit Insurance Corporation to secure the payment of domestic  
27 deposits.

28 **§1109. Record keeping and reporting**

29 1. General. A Maine branch, Maine agency or Maine  
30 representative office shall comply with applicable record-keeping  
31 and reporting requirements that apply to financial institutions  
32 organized under this Title and with any additional requirements  
33 that may be prescribed by the superintendent. A Maine branch,  
34 Maine agency, Maine representative office and the parent foreign  
35 bank shall furnish information relating to the affairs of the  
36 parent foreign bank and its affiliates that the superintendent  
37 may from time to time request. The superintendent may modify  
38 record-keeping and reporting requirements if the superintendent  
39 determines that circumstances warrant a modification.

40 2. Reports filed with other agencies. The reporting  
41 requirements imposed by this section may be complied with by  
42 submitting to the superintendent copies of reports prepared for  
43 federal regulatory agencies by the institution, which contain the  
44 information requested, unless the superintendent requires  
45 otherwise.

2           3. Maintenance of accounts, books and records. A Maine  
3 branch, Maine agency or Maine representative office shall  
4 maintain a set of accounts and records reflecting its  
5 transactions that are separate from those of the foreign bank and  
6 any other branch, agency or representative office. The Maine  
7 branch, Maine agency or Maine representative office shall keep a  
8 set of accounts and records in English sufficient to permit the  
9 superintendent to examine the condition of the branch, agency or  
10 representative office and the branch's, agency's or  
11 representative office's compliance with applicable laws and  
12 rules. The Maine branch, Maine agency or Maine representative  
13 office shall promptly provide any additional records requested by  
14 the superintendent for examination or supervisory purposes.

15           4. More than one Maine branch or Maine agency. A foreign  
16 bank with more than one Maine branch or Maine agency shall  
17 designate one of those branches or agencies to maintain  
18 consolidated asset, liability and capital equivalency accounts  
19 for all Maine branches or Maine agencies.

20           §1110. Disclosure of lack of deposit insurance

21           Each foreign bank operating a Maine branch or Maine agency  
22 shall, in a manner established by the superintendent, give notice  
23 that deposits and credit balances in that branch or agency are  
24 not insured by the Federal Deposit Insurance Corporation.

25           §1111. Notice of changes in name and location

26           1. Notice. A foreign bank maintaining a Maine branch,  
27 Maine agency or Maine representative office shall provide the  
28 superintendent with prior notice of the following events:

29           A. A change in corporate name;

30           B. A change of mailing address;

31           C. A relocation of office in Maine;

32           D. A conversion of a Maine branch or Maine agency to a  
33 federal branch or agency; and

34           E. Any changes in the designation of home state.

35           2. Timing and form of notice. The superintendent shall  
36 determine the form and timing of notice of these events.

37           §1112. Change of control of foreign bank

2 A foreign bank that is licensed to establish and maintain a  
3 Maine branch, Maine agency or Maine representative office shall  
4 file with the superintendent a notice, in such form and  
5 containing such information as the superintendent may prescribe,  
6 no later than 14 calendar days after that foreign bank becomes  
7 aware of any acquisition of control of that foreign bank or  
8 merges with another foreign bank.

10 **§1113. Voluntary closure of Maine branch, Maine agency or Maine**  
11 **representative office**

12 1. Maine branch or Maine agency. A foreign bank may  
13 voluntarily close a Maine branch or Maine agency in accordance  
14 with section 335, subsection 2.

16 2. Maine representative office. A foreign bank may  
17 voluntarily close a Maine representative office upon 30 days'  
18 prior notice to the superintendent.

20 **§1114. Conversions**

22 1. Authority. A foreign bank may convert a Maine  
23 representative office to a Maine agency or Maine branch, or  
24 convert a Maine agency to a Maine representative office or a  
25 Maine branch, or convert a Maine branch to a Maine agency or  
26 Maine representative office with the prior approval of the  
27 superintendent. A foreign bank may also convert a federal branch  
28 or agency to a Maine branch or Maine agency.

30 2. Applications. Applications for prior approval of  
31 conversions must be processed in accordance with sections 252 and  
32 253 or section 1105 as appropriate.

34 **§1115. Assessment, examination and enforcement**

36 1. Assessment. A foreign bank operating a Maine branch or  
37 a Maine agency shall pay assessments to the superintendent in  
38 accordance with section 214, subsection 2.

40 2. Examination. The superintendent may examine each Maine  
41 branch, Maine agency or Maine representative office pursuant to  
42 section 221 and is compensated for those examinations according  
43 to the provisions of section 214, subsection 1.

44 3. Enforcement. The superintendent may enforce the  
45 provisions of this chapter pursuant to the enforcement authority  
46 under sections 231 and 232.

48 **§1116. Involuntary termination of authority and receivership**

50

2 1. Involuntary termination of authority to operate Maine  
3 branch, Maine agency or Maine representative office. The  
4 involuntary termination of authority to operate a Maine branch,  
5 Maine agency or Maine representative office is governed by the  
6 following.

7 A. Authority to operate a Maine branch, Maine agency or  
8 Maine representative office terminates when the parent  
9 foreign bank is dissolved or its authority or existence is  
10 otherwise terminated or canceled in the country of its  
11 organization.

12 B. The superintendent may terminate a foreign bank's  
13 authority to operate a Maine branch, Maine agency or Maine  
14 representative office if the superintendent determines that  
15 or has reasonable cause to believe that:

16 (1) The foreign bank has violated or failed to comply  
17 with any of the provisions of this chapter or any of  
18 the rules or orders of the superintendent made pursuant  
19 to this chapter; or

20 (2) A conservator is appointed for the foreign bank or  
21 a similar proceeding is initiated in the foreign bank's  
22 country of organization.

23 C. A foreign bank whose authority to operate a Maine  
24 branch, Maine agency or Maine representative office is  
25 revoked by the superintendent may bring an action  
26 challenging the superintendent's revocation in Superior  
27 Court within 10 days of that revocation. The court must  
28 uphold the superintendent's revocation of a foreign bank's  
29 authority to operate a Maine branch, Maine agency or Maine  
30 representative office unless the court finds that the  
31 superintendent's action was arbitrary and capricious.

32 2. Receivership. Whenever the superintendent revokes a  
33 foreign bank's authority to operate a Maine branch or Maine  
34 agency or whenever any creditor of that foreign bank has obtained  
35 a judgment against the foreign bank arising out of a transaction  
36 with a branch or agency in any court of record of the United  
37 States or any state of the United States and made application,  
38 accompanied by a certificate from the clerk of the court stating  
39 that that judgment has been rendered and has remained unpaid for  
40 a period of 30 days, or whenever the superintendent becomes  
41 satisfied that that foreign bank is insolvent, the superintendent  
42 may, after due consideration of its affairs, appoint a receiver  
43 who shall take possession of all the property and assets of that  
44 foreign bank in Maine pursuant to provisions of chapter 36.

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**§1117. Interstate operations of Maine foreign banks**

1. Establishment. A Maine foreign bank may establish and operate a branch in another state in accordance with section 1102. The establishment of that branch may be de novo or through merger, acquisition or other consolidation.

2. Activities. A Maine foreign bank may conduct any activity at that branch that is permissible for a foreign bank in that host state, as defined in section 131, subsection 20-B.

**§1118. Interstate operations of out-of-state foreign banks**

1. Establishment. An out-of-state foreign bank may establish a branch or agency in this State in accordance with the procedures set forth in section 373, subsection 3. The establishment of that branch or agency may be de novo or through merger, acquisition or other consolidation.

2. Activities. The activities of branches or agencies located in this State by out-of-state foreign banks are governed by the provisions of this chapter and section 376, subsection 2.

**§1119. Rule-making authority**

The superintendent may adopt rules to supplement the requirements of this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**PART C**

**Sec. C-1. 9-B MRSA §232, first ¶,** as amended by PL 1995, c. 628, §17, is further amended to read:

The superintendent may remove any officer or director of a financial institution organized pursuant to this Title or any officer of a branch of an out-of-state financial institution authorized to do business in this State, or any officer or director of a financial institution holding company, in accordance with the procedures and subject to the conditions and limitations set forth in this section.

**Sec. C-2. 9-B MRSA §232, sub-§1,** as repealed and replaced by PL 1993, c. 538, §2, is amended to read:

**1. Grounds for removal.** The superintendent may serve written notice of intent to remove an officer or director from office or to prohibit further participation by the officer or

2 director in any manner in the conduct of the affairs of a  
3 financial institution or financial institution holding company if:

4 A. In the opinion of the superintendent, that officer or  
5 director has directly or indirectly:

6 (1) Violated a law, rule, regulation or cease and  
7 desist order that has become final;

10 (2) Engaged in or participated in any unsafe or  
11 unsound practice; or

12 (3) Committed or engaged in any act, omission, or  
13 practice that constitutes a breach of the fiduciary  
14 duty of the officer or director;

15 B. By reason of the violation, practice or breach of  
16 fiduciary duty described in paragraph A:

17 (1) The financial institution or financial institution  
18 holding company has suffered or will probably suffer  
19 financial loss or other damage;

20 (2) The interests of the financial institution's  
21 depositors have been or could be prejudiced; or

22 (3) The officer or director has received financial  
23 gain or other benefit by reason of the violation,  
24 practice or breach of fiduciary duty;

25 C. The violation, practice or breach of fiduciary duty  
26 described in paragraph A involves personal dishonesty on the  
27 part of the officer or director or demonstrates willful or  
28 continuing disregard by the officer or director for the  
29 safety or soundness of the financial institution or  
30 financial institution holding company; and

31 D. In the opinion of the superintendent, that officer or  
32 director has evidenced personal dishonesty and unfitness to  
33 continue as an officer or director of the financial  
34 institution or financial institution holding company by  
35 conduct with respect to another business entity that  
36 resulted, or is likely to result, in substantial financial  
37 loss or other damage.

38 **Sec. C-3. 9-B MRSA §232, sub-§2, ¶B**, as amended by PL 1977, c.  
39 694, §156, is further amended to read:

40 B. The superintendent shall serve such written notice in  
41 accordance with Rule 4 of the Maine Rules of Civil Procedure  
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2 upon the officer or director involved and copies of such  
notice shall must be served upon the financial institution  
4 or financial institution holding company of which he the  
person is an officer or director or in the conduct of whose  
6 affairs he the person has participated.

8 **Sec. C-4. 9-B MRSA §232, sub-§3, ¶A**, as enacted by PL 1975, c.  
500, §1, is amended to read:

10 A. If the superintendent deems considers it necessary for  
12 the protection of the financial institution or financial  
institution holding company or the interests of its  
14 depositors or shareholders, such written notice may suspend  
the officer or director from office or prohibit ~~him~~ the  
16 officer or director from further participation in any manner  
in the conduct of the affairs of the financial institution  
or financial institution holding company.

18 **Sec. C-5. 9-B MRSA §232, sub-§5, ¶C**, as enacted by PL 1975, c.  
20 500, §1, is amended to read:

22 C. In the event of consent pursuant to paragraph B, or if  
upon the record made at any such hearing the superintendent  
24 ~~shall-find~~ finds that any of the grounds specified in the  
notice have been established, he the superintendent may  
26 issue such orders of suspension or removal from office or  
prohibition from participation in the conduct of the affairs  
28 of the financial institution or financial institution  
holding company, as ~~he-may-deem~~ the superintendent considers  
30 appropriate.

32 **Sec. C-6. 9-B MRSA §232, sub-§6, ¶A**, as enacted by PL 1975, c.  
34 500, §1, is amended to read:

36 A. Any order issued pursuant to subsection 5 ~~shall-become~~  
becomes effective at the expiration of 30 days after service  
upon the officer or director and the financial institution  
38 or financial institution holding company concerned; provided  
that an order issued upon consent ~~shall--become~~ becomes  
40 effective within the time specified therein.

42 **Sec. C-7. 9-B MRSA §232, sub-§7, ¶B**, as enacted by PL 1975, c.  
44 500, §1, is amended to read:

46 B. At such time as a judgment of conviction with respect to  
such offense is entered against such officer or director,  
and such judgment is not subject to further appellate  
48 review, the superintendent may issue and serve upon such  
officer or director an order removing ~~him~~ the officer or  
50 director from such office or prohibiting ~~him~~ the officer or



2 those contained in the federal International Banking Act of  
3 1978. The primary difference between a financial institution  
4 organized pursuant to Title 9-B and a foreign bank branch is that  
5 the foreign bank branch may not solicit deposits of less than  
6 \$100,000 and is not required to maintain federal deposit  
7 insurance.

8 Part C of the bill amends Title 9-B, section 232 to provide  
9 the Superintendent of Banking with the authority to remove  
10 directors and officers of financial institution holding  
11 companies. During 1996, the Bureau of Banking successfully  
12 completed the Conference of State Bank Supervisors' accreditation  
13 process for state banking departments. The Accreditation Review  
14 Team, however, recommended in its report of accreditation that  
15 director and officer removal authority be extended to financial  
16 institution holding companies.