§ 202-b. Maintenance of assets in this state. * 1. Upon opening a branch or agency and thereafter, a foreign banking corporation licensed pursuant to article two of this chapter shall keep on deposit, in accordance with such rules and regulations as the superintendent shall adopt shall from time to time, with such banks or trust companies or private bankers or national banks in the state of New York as such foreign banking corporation may designate and the superintendent may approve, 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 Inter-American Development Bank, or obligations of the Asian Development Bank, or obligations issued by the African Development Bank, or obligations issued by the International Finance Corporation, or bonds, notes, debentures, or other obligations issued by or guaranteed by the Federal Home Loan Mortgage Corporation (Freddie Mac) or by the Federal National Mortgage Corporation (Fannie Mae), or bonds, notes, debentures, or other obligations issued by or guaranteed by the Student Loan Marketing Association (SALLIE MAE) or all bonds, notes, debentures, or other obligations issued by or guaranteed by a federal home loan bank, or bonds, notes, debentures or other obligations of any unaffiliated issuer provided that, at the time of such investment, the obligation has received the highest rating of an independent rating service designated by the superintendent or, if the obligation is rated by more than one such service, the highest rating of at least two such services, or such other assets as the superintendent shall by rule or regulation permit, to an aggregate amount to be determined by the superintendent, based upon principal amount or market value, whichever is lower, in the case of the above-described securities, and subject to such limitations as the superintendent shall prescribe; provided, however, that the superintendent may determine, in the superintendent's discretion, that any such bonds, notes, debentures or other obligations of a particular issuer are not acceptable for purposes of meeting the requirements of this subdivision. The superintendent may from time to time require that the assets deposited

pursuant to this subdivision may be maintained by the foreign banking corporation at such amount, in such form and subject to such conditions as he or she shall deem necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of such branch or branches or such agency or agencies. The superintendent may give credit to reserves required to be maintained with a federal reserve bank in or outside the state of New York pursuant to federal law, subject to such rules and regulations as the superintendent may from time to time promulgate. So long as it shall continue business in the ordinary course, such foreign banking corporation shall be permitted to collect interest on the securities so deposited and from time to time exchange, examine and compare such securities.

* NB Effective until notification of the superintendent of financial services

* 1. Upon opening a branch or agency and thereafter, a foreign banking corporation licensed pursuant to article two of this chapter shall keep on deposit, in accordance with such rules and regulations as the superintendent shall from time to time promulgate, with such banks or trust companies or private bankers or national banks in the state of New York as such foreign banking corporation may designate and the superintendent may approve, 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 Inter-American Development Bank, or obligations of the Asian Development Bank, or obligations issued by the African Development Bank, or obligations issued by the International Finance Corporation, or bonds, notes, debentures, or other obligations issued by or guaranteed by the Federal Home Loan Mortgage Corporation (Freddie Mac) or by the Federal National Mortgage Corporation (Fannie Mae), or bonds, notes, debentures, or other obligations issued by or guaranteed by the Student Loan Marketing Association (SALLIE MAE) or all bonds, notes, debentures, or other obligations issued by or guaranteed by a federal home loan bank, or

bonds, notes, debentures or other obligations of any unaffiliated issuer that meet the standards of creditworthiness established by regulation by the superintendent, or such other assets as the superintendent shall by rule or regulation permit, to an aggregate amount to be determined by the superintendent, based upon principal amount or market value, whichever is lower, in the case of the above-described securities, and subject to such limitations as he or she shall prescribe; provided, however, that the superintendent may determine, in his or her discretion, that any such bonds, notes, debentures or other obligations of a particular issuer are not acceptable for purposes of meeting the requirements of this subdivision. The superintendent may from time to time require that the assets deposited pursuant to this subdivision may be maintained by the foreign banking corporation at such amount, in such form and subject to such conditions as he or she shall deem necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of such branch or branches or such agency or agencies. The superintendent may give credit to reserves required to be maintained with a federal reserve bank in or outside the state of New York pursuant to federal law, subject to such rules and regulations as the superintendent may from time to time promulgate. So long as it shall continue business in the ordinary course, such foreign banking corporation shall be permitted to collect interest on the securities so deposited and from time to time exchange, examine and compare such securities.

* NB Effective upon notification of the superintendent of financial services

2. Each foreign banking corporation shall hold in this state currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness, including loan participation agreements or certificates, or other obligations payable in the United States or in United States funds or, with the prior approval of the superintendent, in funds freely convertible into United States funds, or such other assets as the superintendent shall by rule or regulation permit, in an amount which shall bear such relationship as the superintendent shall by regulation prescribe to liabilities of such foreign banking corporation

appearing in the books, accounts or records of its agency, agencies, branch or branches in this state as liabilities of such agency, agencies, branch or branches, including acceptances and such other liabilities (including contingent liabilities) as the superintendent shall determine, but excluding amounts due and other liabilities to other offices, agencies or branches of, and affiliates of, such foreign banking corporation. As used in this subdivision, (i) "affiliate" shall mean any person or entity, or group of persons or entities acting in concert, that controls, is controlled by or is under common control with such foreign banking corporation and (ii) "control" means any person, or group of persons acting in concert, directly or indirectly, owning, controlling or holding with power to vote, more than fifty percent of the voting stock of a company, or having the ability in any manner to elect a majority of the directors of a company, or otherwise exercising a controlling influence over the management and policies of a company as defined by the superintendent by regulation. For purposes of this subdivision, the term "person" shall mean a corporation, unincorporated association, partnership, or any other entity or individual. For the purposes of this subdivision, the superintendent shall value marketable securities at principal amount or market value, whichever is lower, shall have the right to determine the value of any non-marketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, including loan participation agreements or certificates, or of any other asset or obligation held by or owed to the foreign banking corporation or its agency, agencies, branch or branches within the state, and in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power to exclude in whole or in part any particular asset. If, by reason of the existence or the potential occurrence of unusual and extraordinary circumstances, the superintendent deems 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 the agency, agencies, branch or branches of a foreign banking corporation, the superintendent may, subject to such terms and conditions as the superintendent may prescribe, require such foreign banking corporation to deposit the assets required to be held in this state pursuant to this subdivision two with such banks or

trust companies or private bankers or national banks located in this state, as the superintendent may designate.

3. In the event that any of the deposits received within the state by a foreign banking corporation are insured by the Federal Deposit Insurance Corporation, the superintendent shall specify what reasonable percentage of deposit liabilities may be excluded in determining the aggregate amount of liabilities of such foreign banking corporation for deposits received within the state for purposes of subdivision two of this section by reason of the fact that all or a part of such deposit liabilities are insured by the Federal Deposit Insurance Corporation.