

assuming or guaranteeing institution, whether or not in legal existence during the whole of such five years next preceding the date of investment by such insurer, which has at any time or times during such five year period acquired the assets of any other institution or institutions by purchase, merger, consolidation or otherwise, substantially as an entirety, or has been reorganized pursuant to the bankruptcy law, the earnings of such other predecessor or constituent institutions, or of the institution so reorganized, available for interest and dividends for such portion of such period as shall have preceded such acquisition, or such reorganization, may be included in the earnings of such issuing, assuming or guaranteeing institution for such portion of such period as may be determined in accordance with adjusted or pro forma consolidated earnings statements covering such portion of such period and giving effect to all stocks or shares outstanding, and all fixed charges existing, immediately after such acquisition, or such reorganization.

(3) Preferred or Guaranteed Stocks or Shares.

Preferred or guaranteed stocks or shares of any solvent institution, created or existing under the laws of the United States or of any state, district or territory thereof, if all of the prior obligations, and prior preferred stocks, if any, of such institution at the date of acquisition by such insurer are eligible as investments under this article; and if qualified under paragraph (i) or paragraph (ii) following:

(i) Preferred stocks or shares shall be deemed qualified if both of the following requirements are met:

(A) The net earnings of such institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by such insurer shall have averaged per year not less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements applicable to such period; and

(B) During either of the last two years of such period such net earnings shall have been not less than one and one-half times the sum of its fixed charges, contingent interest and preferred dividend requirements for such year. The term "preferred dividends requirements" shall be deemed to mean cumulative or noncumulative dividends whether paid or not.

(ii) Guaranteed stocks or shares shall be deemed qualified if the assuming or guaranteeing institution meets the requirements of paragraph (ii) of subsection (2) of this subsection construed so as to include as a fixed charge the amounts of guaranteed dividends of such issue or the rental covering the guarantee of such dividends.

(4) Trustees' or Receivers' Obligations.

(i) Certificates, notes or other obligations issued by trustees or receivers of any institution created or existing under the laws of the United States or of any state, district or territory thereof, which, or the assets of which, are being administered under the direction of any court having jurisdiction, if such obligation is adequately secured as to principal and interest.