

such insurer shall have averaged per year not less than one and one-half times the sum of its average annual fixed charges and its average annual maximum contingent interest applicable to such period and if during each 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 and maximum contingent interest for such year.

Within the meaning of this Act the term "obligation" shall include bonds, debentures, notes or other evidences of indebtedness; the term "institution" shall include a corporation, a joint stock association and a business trust. The term "net earnings available for fixed charges" shall mean net income after deducting operating and maintenance expenses, taxes other than federal and state income taxes, depreciation and depletion, but excluding extraordinary non-recurring items of income or expense appearing in the regular financial statements of the issuing, assuming or guaranteeing institutions. The term "fixed charges" shall include interest on funded and unfunded debt amortization of debt discount, and rentals for leased properties. If net earnings are determined in reliance upon consolidated earnings statements of parent and subsidiary institutions, such net earnings shall be determined after provision for income taxes of subsidiaries and after proper allowance for minority stock interest, if any; and the required coverage of fixed charges shall be computed on a basis including fixed charges and preferred dividends of subsidiaries other than those payable by such subsidiaries to the parent corporation or to any other of such subsidiaries, except that if the minority common stock interest in the subsidiary corporation is substantial, the fixed charges and preferred dividends may be apportioned in accordance with regulations prescribed by the Commissioner.

In applying the earnings tests under this Act to any issuing, 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 consol-