FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 74-97
April 12, 1974

AMENDMENTS TO RULES REGARDING DELEGATION OF AUTHORITY
(Revised Rules Under Which Federal Reserve Banks Can Approve, On Behalf of the Board, Certain Bank Holding Company Formations, Bank Acquisitions and Bank Mergers)

To All Banks, Bank Holding Companies, and Others Concerned in the Eleventh Federal Reserve District:

Effective April 4, 1974, the Board of Governors of the Federal Reserve System revised its rules under which Federal Reserve Banks can approve, on behalf of the Board, certain bank holding company formaions, bank acquisitions and bank mergers.

The revised rules give the Reserve Banks authority which they have not had before, to approve the merger or consolidation of bank holding companies on the basis of criteria similar to those for bank acquisitions by holding companies.

The Board's Rules Regarding Delegation of Authority previously authorized Reserve Banks to approve, on the basis of criteria set forth by the Board, the formation of one-bank holding companies, bank acquisitions by existing bank holding companies, and bank mergers. These rules and criteria were announced in our Circular No. 73-98, dated April 30, 1973, and amended by our Circular No. 73-265, dated October 15, 1973.

The current revisions modify two of the criteria in use since that time. Reserve Banks may now approve bank holding company formations and mergers, and bank acquisitions by bank holding companies where revenues of the Applicant from nonbank activities do not exceed 20 percent of its total operating income, instead of 10 percent as previously. Secondly, Reserve Banks may now approve bank holding company formations and mergers, and bank acquisitions by bank holding companies involving debt, where the resulting total acquisition debt of the holding company will not exceed 20 percent of the company's equity capital accounts, instead of 10 percent as previously.

A new criterion respecting bank holding company formations and mergers, bank acquisitions and mergers of banks, prohibits action under delegated authority on applications involving a covenant not to compete.

The Board's revised rules are enclosed.

Yours very truly,

P. E. Coldwell,

President

Enclosure

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

RULES REGARDING DELEGATION OF AUTHORITY

BANK ACQUISITIONS BY HOLDING COMPANIES

Effective with respect to applications accepted by the Federal Reserve Banks after April 4, 1974, § 265.2(f) (22), (24), and (28) are amended and § 265.2(f) (30) is added, to read as follows:

SECTION 265.2 SPECIFIC FUNCTIONS DELEGATED TO BOARD EMPLOYEES AND FEDERAL RESERVE BANKS.

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(f) **Each Federal Reserve Bank** is authorized, as to member banks or other indicated organizations headquartered in its district, or under subparagraph (25) of this paragraph as to its officers:

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(22) Under the provisions of section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the formation of a bank holding company through the acquisition by a company of a controlling interest in the voting shares of one or more banks, if all of the following conditions are met:

(i) no member of the Board has indicated an objection prior to the Reserve Bank's action.

(ii) all relevant departments of the Reserve Bank recommend approval.

(iii) no substantive objection to the proposal has been made by a bank supervisory authority, the United States Department of Justice, or a member of the public.

(iv) no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(v) considerations relating to the convenience and needs of the communities to be served are consistent with or lend weight toward approval of the application.

(vi) in the event any debt is incurred by the holding company to purchase shares of any bank involved in the proposal:

(a) an agreed plan for amortization of the debt within a reasonable time exists, such period normally not exceeding 12 years.

(b) the interest rate on any loan to purchase the bank shares will be comparable with other stock collateral loans by the lender to persons of comparable credit standing.

(c) no compensating balances, specifically attributable to the loan, will be deposited in the lending institution and the amount of any correspondent account which the proposed subsidiary bank will maintain with the lending institution should not exceed the amount necessary to compensate the lending bank for correspondent services rendered by it to the proposed subsidiary bank(s).

(vii) the Reserve Bank determines that the managerial and financial resources, including the equity to debt relationships, of Applicant, its existing subsidiaries, and any proposed subsidiary bank, are adequate, or will be adequate within a reasonable period of time after consummation of the proposal, and any debt service requirements to which the holding company may be subject are such as to enable it to maintain the capital adequacy of any proposed subsidiary bank in the foreseeable future.

(viii) if Applicant or any of Applicant's existing or proposed nonbanking subsidiaries compete in the same geographic and product market as any proposed subsidiary bank, the resulting organization will control no more than 10 per cent of that product or service line after consummation of the proposal.

(ix) total nonbank gross revenues of Applicant and its subsidiaries do not exceed 20 per cent of total operating income of the proposed banking subsidiaries.

(x) if Applicant engages, or is to engage, in nonbanking activities requiring the Board's approval under section 4(c)(8) of the Act, the Reserve Bank must also have delegated authority to approve the section 4(c)(8) activities.

(xi) if the proposal involves the acquisition of the controlling stock of only one bank, and any debt is incurred by the holding company to purchase shares of the bank, the amount of the loan does not exceed 75 per cent of the purchase price of the shares of the proposed subsidiary bank.

(xii) if the proposal involves the acquisition of the controlling stock of more than one bank, the following additional conditions must be met:

(a) in the event any debt is incurred by the holding company to purchase shares of any proposed subsidiary bank(s), the total amount of the debt does not exceed 20 per cent of the equity capital accounts of the holding company.

(b) the Applicant will control no more than 15 per cent of total deposits in commercial banks in the State.

(xiii) neither Applicant nor the bank(s) to be acquired has entered into or proposes to enter into any agreement with any director, officer, employee or shareholder of the bank(s) that contains any condition that limits or restricts in any manner the right of such persons to compete with Applicant or any of Applicant's existing or proposed subsidiaries.

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(24) Under the provisions of section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the acquisition by a bank holding company of a controlling interest in the voting shares of an additional bank, if all of the following conditions are met:

(i) no member of the Board has indicated an objection prior to the Reserve Bank's action.

(ii) all relevant departments of the Reserve Bank recommend approval.

(iii) no substantive objection to the proposal has been made by a bank supervisory authority, the United States Department of Justice, or a member of the public.

(iv) no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(v) considerations relating to the convenience and needs of the communities to be served are consistent with or lend weight toward approval of the application.

(vi) in the event any debt is incurred by the holding company to purchase shares of any bank involved in the proposal:

(a) an agreed plan for amortization of the debt within a reasonable time exists, such period normally not exceeding 12 years.

(b) the interest rate on any loan to purchase the bank shares will be comparable with other stock collateral loans by the lender to persons of comparable credit standing.

(c) no compensating balances, specifically attributable to the loan, will be deposited in the lending institution and the amount of any correspondent account which the proposed subsidiary bank will maintain with the lending institution should not exceed the amount necessary to compensate the lending bank for correspondent services rendered by it to the proposed subsidiary bank.

(vii) the Reserve Bank determines that the managerial and financial resources, including the equity to debt relationships, of Applicant, its existing subsidiaries, and any proposed subsidiary bank, are adequate, or will be adequate within a reasonable period of time after consummation of the proposal, and any debt service requirements to which the holding company may be subject are such as to enable it to maintain the capital adequacy of any existing or proposed subsidiary bank in the foreseeable future.

(viii) if Applicant or any of Applicant's existing or proposed nonbanking subsidiaries compete in the same geographic and product market as any proposed subsidiary, the resulting organization will not control more than 10 per cent of that product or service line after consummation of the proposal.

(ix) total nonbank gross revenues of Applicant and its subsidiaries do not exceed 20 per cent of total operating income of the company's existing or proposed bank subsidiaries.

(x) if Applicant engages, or is to engage, in nonbanking activities requiring the Board's approval under section 4(c)(8) of the Act, the Reserve Bank must also have delegated authority to approve the section 4(c)(8) activities.

(xi) in the event any debt is incurred by Applicant to purchase shares of the bank, the resulting total acquisition debt of the holding company will not exceed 20 per cent of the company's equity capital accounts after consummation of the proposal.

(xii) Applicant is not one of the dominant banking organizations in the State, and, unless the proposed subsidiary is a proposed new bank, Applicant will control no more than 15 per cent of the total deposits in commercial banks in the State after consummation of the proposal.

(xiii) if the bank to be acquired is an existing bank and if no banking offices of Applicant's existing subsidiary bank are located in the same market as the proposed subsidiary, the proposed subsidiary has no more than $25 million in total deposits or controls no more than 15 per cent of deposits in commercial banks in the market.

(xiv) if the bank to be acquired is an existing bank and if any of Applicant's existing subsidiary banks compete in the same market as the proposed subsidiary, Applicant will control no more than 10 per cent of total deposits in commercial banks in the market after consummation.

(xv) if the bank to be acquired is a proposed new bank, bank subsidiaries of Applicant will not hold in the aggregate more than 20 per cent of the total deposits in commercial banks in the relevant market area and Applicant will not be one of the dominant banking organizations in the State.

(xvi) Applicant has a proven record of furnishing to its subsidiaries, when needed, special services, management, capital funds and general guidance.

(xvii) neither Applicant nor the bank to be acquired has entered into or proposes to enter into any agreement with any director, officer, employee or shareholder of the bank that contains any condition that limits or restricts in any manner the right of such persons to compete with Applicant or any of Applicant's existing or proposed subsidiaries.

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(28) Under the provisions of section 18 (c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), to approve a merger, consolidation, acquisition of assets or assumption of liabilities, where the resulting bank is a State member bank, if all of the following conditions are met:

(i) no member of the Board has indicated an objection prior to the Reserve Bank's action.

(ii) all relevant departments of the Reserve Bank recommend approval.

(iii) no substantive objection to the proposal has been made by a bank supervisory authority, the United States Department of Justice, or a member of the public.

(iv) no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(v) if the banks do not have offices in the same market, the bank to be acquired has no more than $25 million in total deposits or controls no more than $25 million in total deposits or controls no more than 15 per cent of the total deposits[2] in commercial banks in the market.

(vi) if the banks compete in the same banking market, the resulting bank will control no more than 10 per cent of total deposits[3] in commercial banks in the market.

(vii) neither of the merging or consolidating banks is a dominant banking organization in the State and the resulting institution will control no more than 15 per cent of the total deposits in commercial banks in the State after consummation of the proposal.[4]

(viii) the Reserve Bank determines that the managerial and financial resources, including the equity capital accounts of the resulting bank, are adequate, or will be adequate within a reasonable period of time after the proposal is consummated.

(ix) considerations relating to the convenience and needs of the communities to be served are consistent with or lend weight toward approval of the application.

(x) no bank involved in this proposal has entered into or proposes to enter into any agreement with any director, officer, employee or shareholder of either bank that contains any condition that limits or restricts in any manner the right of such persons to compete with the resulting institution.

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(30) Under the provisions of section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the merger or consolidation of a bank holding company with any other bank holding company, if all of the following conditions are met:

(i) no member of the Board has indicated an objection prior to the Reserve Bank's action.

(ii) all relevant departments of the Reserve Bank recommend approval.

(iii) no substantive objection to the proposal has been made by a bank supervisory authority,

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[2] If either of the proponent banks is a subsidiary of a holding company and the parent company has another bank subsidiary operating in the market of the bank to be acquired, deposits of such offices should be included in the computation of market shares.

[3] See footnote 2, above.

[4] If either of the proponent banks is a subsidiary of a holding company, the deposits of the other subsidiary banks of the holding company should be included in determining whether the resulting institution will control more than 15 per cent of the total deposits in commercial banks in the State.

the United States Department of Justice, or a member of the public.

(iv) no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(v) considerations relating to the convenience and needs of the communities to be served are consistent with or lend weight toward approval of the application.

(vi) in the event any debt is incurred by the resulting or surviving holding company to effect the merger or consolidation:

(a) an agreed plan for amortization of the debt within a reasonable time exists, such period normally not exceeding 12 years.

(b) the interest rate on any loan involved will be comparable with other stock collateral loans by the lender to borrowers of comparable credit standing.

(c) no compensating balances, specifically attributable to the loan, will be deposited in the lending institution and the amount of any correspondent account which the subsidiary banks of the resulting or surviving company will maintain with the lending institution should not exceed the amount necessary to compensate the lending bank for correspondent services rendered by it to the depositing bank(s).

(d) the total acquisition debt of the resulting or surviving company will not exceed 20 per cent of such company's equity capital accounts after consummation of the proposal.

(vii) the Reserve Bank determines that the managerial and financial resources, including the equity to debt relationships, of the merging or consolidating companies, and their existing subsidiaries, are adequate, or will be adequate within a reasonable period of time after consummation of the proposal, and any debt service requirements to which the resulting or surviving company may be subject are such as to enable it to maintain the capital adequacy of any existing or proposed subsidiary bank in the foreseeable future.

(viii) if either of the merging or consolidating companies or any of their subsidiaries compete in the same geographic and product market as the other merging or consolidating company or any of its subsidiaries, the resulting or surviving organization will not control more than 10 per cent of that product or service line after consummation of the proposal.

(ix) if the merging or consolidating bank holding companies do not have subsidiary banking offices in the same market, the resulting or surviving bank holding company will not acquire a subsidiary bank with more than $25 million in deposits or with more than 15 per cent of the total deposits in commercial banks in the market.

(x) if any subsidiary bank(s) of either of the merging or consolidating companies competes in the same market as any subsidiary bank(s) of the other merging or consolidating company, the resulting or surviving company will control no more than 10 per cent of total deposits in commercial banks in the market after consummation of the proposal.

(xi) neither merging or consolidating company is one of the dominant banking organizations in the State, and the resulting or surviving company will control no more than 15 per cent of total deposits in commercial banks in the State after consummation of the proposal.

(xii) total nonbank gross revenues of the merging or consolidating companies and their subsidiaries do not exceed 20 per cent of the total operating income of the merging or consolidating companies' bank subsidiaries.

(xiii) if either of the merging or consolidating companies engages, or is to engage, in nonbanking activities requiring the Board's approval under section 4(c)(8) of the Act, the Reserve Bank must also have delegated authority to approve the section 4(c)(8) activities.

(xiv) Applicant has a proven record of furnishing to its subsidiaries, when needed, special services, management, capital funds and general guidance.

(xv) neither bank holding company involved in this proposal nor any of the subsidiary banks of either bank holding company involved in this proposal has entered into or proposes to enter into any agreement with any officer, director, employee or shareholder of the bank(s) involved in this proposal that contains any condition that limits or restricts in any manner the right of such person to compete with the resulting or surviving company or any of its existing or proposed subsidiaries.