FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 79-108
June 25, 1979

REVISED REGULATION K
INTERNATIONAL BANKING OPERATIONS

Rescission of Regulations K, M, and a Part of Regulation Y

TO ALL MEMBER BANKS,
BANK HOLDING COMPANIES,
AND OTHERS CONCERNED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

By Circular No. 79-48, dated March 14, 1979, this Bank transmitted proposed revisions to the Federal Reserve System's Regulation K and, at the same time, requested comments from the public on the proposal which was designed to implement the International Banking Act of 1978. The comment period has expired, and, after taking the comments submitted into consideration, the Board of Governors of the Federal Reserve System ("Board") has issued the revised Regulation K (12 CFR Part 211), which has been entitled "International Banking Operations," in final form.

At the same time, the Board reviewed Regulation M (12 CFR Part 213) "Foreign Activities of National Banks," and Section 225.4(f) of Regulation Y (12 CFR Part 225) "Bank Holding Companies and Change in Bank Control" and has incorporated revisions to those regulations into the revised Regulation K. In order for your Regulations Binder to be current, please discard the following:

Regulation K pamphlet dated January 7, 1969 and attendant amendments, and
Regulation M pamphlet dated January 7, 1971 and attendant amendments.

Printed on the following pages is a copy of the Board's press release annoucing the adoption of the new revised Regulation K. A copy of the Board's order, as published in the *Federal Register*, is enclosed. Please file these documents in your Regulations Binder under the Regulation K tab, and please make the following corrections to the text of the Regulation: in 211.7(e)(2), change "211.6(d)" to "211.6(b)"; and in 211.7(e)(3), change "211.6(c)" to "211.6(d)".

The revised Regulation K pamphlet, and a slip sheet making Regulation Y current, will be sent in the near future.

Any questions concerning the contents of this circular or the enclosure should be directed to the Attorneys' Section of our Holding Company Supervision Department, Ext. 6182.

Sincerely yours,
Robert H. Boykin
First Vice President

Enclosure

Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank: 1-800-492-4403 (intrastate) and 1-800-527-4970 (interstate). For calls placed locally, please use 651 plus the extension referred to above.

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FEDERAL RESERVE

press release

For immediate release June 14, 1979

The Federal Reserve Board has revised its Regulation K -- governing corporations engaged in international banking and financial operations, known as Edge Corporations -- to conform with the International Banking Act of 1978.

At the same time, the Board revised and consolidated into the new Regulation K provisions of other regulations dealing with foreign operations of U.S. banks (Regulation M) and foreign investments by bank holding companies (Regulation Y). New Regulation K also incorporates a number of Board policy positions in the field of international banking that have previously been developed on a less formal basis.

As now constituted Regulation K, titled International Banking Operations, includes rules for (1) the ownership of Edge Corporations and their operation in the United States (2) overseas activities and investments of Edge Corporations, member banks and bank holding companies (3) lending limits and capital requirements for Edge Corporations and other regulatory restrictions on international operations and (4) authorization for the establishment and operation of foreign branches of member banks.

The new Regulation -- which is effective June 14, 1979 -- thus brings together in one place the Board's rules regarding the international activities of United States banks, bank holding companies and Edge Corporations.

In making these changes, the Board noted:

> In amending the Edge Act (Section 25(a) of the Federal Reserve Act) Congress declared that Edge Corporations are to have powers sufficiently broad to enable them to compete with foreign banks in the United States as well as abroad and to provide all segments of the United States economy a means of financing international trade, and, in particular, exports. In addition, Edge Corporations are to serve as a means of fostering the participation of regional and smaller banks in international banking and financing and, in general, to stimulate competition in making those services available throughout the United States...

The Regulation has been issued in furtherance of these and other objectives set forth in the International Banking Act (IBA) after consideration of comment received following publication by the Board of proposals for the new Regulation in February. In addition, the Board has sought to eliminate obsolete regulations, clarify existing rules, and simplify relevant regulatory and supervisory standards and procedures.

The rules adopted in new Regulation K differ in a number of respects from proposals published in February. The principal provisions of Regulation K are:

1. Operation of Edge Corporations in the United States:

Regulation K as revised enlarges the capabilities of Edge Corporations to operate in the United States by permitting them to establish branches in the U.S. with the prior approval of the Board. Until now, a U.S. banking company could establish separately incorporated Edge Corporations at various places, but Edge Corporations were not permitted to branch. The new authority makes it more efficient and less costly for Edge Corporations to enter and operate at new locations. Edge Corporations are not subject to Federal law that limits the power of banks to branch across State lines.

The Board set forth the following standards that it will consider in acting upon applications to form new Edge Corporations or to establish domestic branches:

--The financial condition and history of the applicant;

--The general character of the applicant's management;

--The convenience and needs of the community to be served with respect to international banking and financing services;

--The effects of the proposed Corporation or branch on competition.

The Board will publish in the Federal Register notice of proposals to form new Edge Corporations or establish domestic branches in order to give opportunity for interested persons to express their views.

The Board deferred action on another proposal to enlarge the capabilities of Edge Corporations that would have given them authority to provide full banking services to customers principally engaged in international or foreign commerce. The Board will give further study to this matter and will publish a revised version for further comment.

Edge Corporations may use funds held in the United States but not employed in international or foreign business in the form of cash, deposits with banks, money market instruments such as bankers' acceptances, obligations of Federal, State or local governments or obligations fully guaranteed by them (and their instrumentalities), repurchase agreements, Federal funds sold and commercial paper.

The Board included in Regulation K a statement of activities that Edge Corporations may conduct in the United States incidental to international transactions.

The revised Regulation allows Edge Corporations to finance the production of goods and services for export. This may be done when the customer has obtained export orders, or when the items to be financed are identifiable as being directly for export.

2. Foreign Investments by Edge Corporations, Banks and Bank Holding Companies:

The new Regulation contains a list of activities that may generally be engaged in by foreign companies in which U.S. banking organizations hold a substantial ownership interest ((Section 211.5(d)). The activities specified in the Regulation are those the Board has generally allowed foreign subsidiaries of United States banks because they are of a financial character or are related to international banking and financial operations. For example, U.S. banking organizations may engage in nonbanking activities abroad that the Board has authorized under Section 4(c)(8) of the Bank Holding Company Act.

Regulation K establishes uniform and simplified procedures for foreign or international investments by Edge Corporations and member banks and bank holding companies. The Regulation establishes expedited procedures, under general consent provisions, for investments up to $2 million for subsidiaries or joint ventures engaged in activities permissible under the Regulation. Such investments in foreign companies may be made without specific consent by the Board.

Other investments in subsidiaries and joint ventures that do not qualify under the general consent procedures but that do not exceed 10 per cent of capital and surplus of the investor may be made after 60 days' notification to the Board.

All other investments must obtain the Board's prior approval.

3. Foreign Branches of Edge Corporations:

An Edge Corporation may establish branches abroad, under revised Regulation K, according to the provisions of the Regulation (Section 211.3) by which member banks may establish foreign branches.

4. Foreign Investment in Edge Corporations:

The International Banking Act ((Section 3(f)) specifies that certain foreign or domestic financial institutions may apply to the Board for prior approval to acquire 50 per cent or more of the capital stock of an Edge Corporation. In acting upon applications to acquire stock of Edge Corporations made by institutions that are not subject to the IBA or the Bank Holding Company Act the Board will impose conditions it regards as necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices in the United States. A foreign financial institution may not invest more than 10 per cent of the institution's capital and surplus in an Edge Corporation.

4. Lending Limits and Capital Requirements for Edge Corporations:

The Board established prudential rules for Edge Corporations that accept deposits in the United States, including the following:

(1) Risk assets of an Edge Corporation engaged in banking may not exceed 7 per cent of capital and surplus. In general, a Edge Corporation's capital should be adequate in relation to the scope and character of its activities.

(2) Extensions of credit to one person by Edge Corporations engaged in banking may not exceed 10 per cent of the Corporation's capital and surplus.

(3) Extensions of credit to one person by a member bank and by its Edge Corporation and foreign direct and indirect subsidiaries may not exceed the member bank's lending limit.

(4) Underwriting commitments shall be deemded extensions of credit for purposes of applying the lending limits. Underwritings of equities by subsidiaries may not represent more than 20 per cent of an issuer's equity or amount to more than $2,000,000.

5. Deposits in Edge Corporations:

The deposits of an Edge Corporation in the United States and abroad are subject to reserve requirements and interest rate ceilings as though they were member banks.

Edge Corporations may receive in the United States demand, time and savings deposits from foreign governments and their agents or instrumentalities, and from persons conducting business principally at their offices abroad and from individuals residing abroad.

Deposits of the same types may be received in the United States from other sources if the deposits are to be used for purposes specified in the Regulation ((Section 211.4(e)(2)).

6. Supervision of Edge Corporations:

Edge Corporations will be examined once yearly by Federal Reserve examiners. Organizations subject to the Regulation are required to supervise and administer their foreign branches and subsidiaries so as to ensure that their activities conform to high standards of banking and financial prudence. When investing in joint ventures investors must keep themselves informed of the activities and condition of the joint venture, and must maintain files of complete information on all transactions available to examiners. An Edge Corporation must make at least two reports of its financial condition to the Board yearly, at times and in the form prescribed by the Board. The Board may require that reports of condition or other reports be published or made available for public inspection.

7. Foreign Branches of Member Banks:

New Regulation K simplifies the regulatory approval process for the establishment of foreign branches by member banks. A member bank that has established branches in two or more foreign countries may establish branches in additional countries after 60 days' notice to the Board. Additional branches in the same country may be established without prior notification to the Board. The Board transferred to Regulation K provisions of Regulation M concerning the activities of foreign branches of member banks, with minor changes.

8. Transition Rules:

Transactions that have been consummated or activities engaged in pursuant to the Board's general or specific consent prior to June 8, 1979 may be retained or continued. Extensions of credit that exceed limitations set forth in the Regulation may remain outstanding until they mature. Investors that do not meet the requirements of the Regulation on June 14, 1979 (Section 211.6(c) and 211.5(b)(iii) respectively) must conform their accounts and investments by June 14, 1981.

The Board has considered the question of Federal Reserve membership for Edge Corporations and is sending to the Congress the Board's views on this matter. The Board deferred action on the question of the appropriateness of foreign subsidiaries of U.S. banking organizations lending to U.S. residents for domestic purposes, and will consider this matter separately.

The Board's order revising Regulation K is attached.

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Extract from
Federal Register
VOL. 44, NO. 120
Wednesday, June 20, 1979
pp. 36005 - 36012

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Reg. K; Docket No. R-0204]

International Banking Operations; Final Rule Revision

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final regulation.

SUMMARY: The Board of Governors of the Federal Reserve System has revised its regulations governing the international operations of member banks, Edge and Agreement Corporations, and bank holding companies. The regulation updates existing regulations and combines them in one comprehensive regulation. With respect to Edge Corporations in particular, the International Banking Act of 1978 ("IBA") (92 Stat. 607) directed the Board to revise its regulations so as to further certain purposes including the stimulation of competition in providing international banking and financing services throughout the United States. The Board's actions are intended to promote this and other purposes of the IBA in addition to revising and reorganizing the Board's international banking regulations. The regulation has been adopted after review and consideration of the extensive public comment on the Board's original proposals.

DATE: The regulation is effective June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Frederick R. Dahl, Associate Director, Division of Banking Supervision and Regulation (202-452-2727); or C. Keefe

Hurley, Jr., Senior Attorney, Legal Division (202–452–3269), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: On February 14, 1979, the Board of Governors of the Federal Reserve System proposed a revision of its regulations governing the international operations of member banks, Edge Corporations, and bank holding companies. The Board is required by the International Banking Act of 1978 (92 Stat. 607) ("IBA") to revise its regulations governing Edge Corporations in the light of several amendments made to section 25(a) of the Federal Reserve Act (12 U.S.C. 611–631) ("Edge Act") by the IBA. The Board has also revised its regulations dealing with the foreign operations of member banks (Regulation M, 12 CFR Part 213) and foreign investment by bank holding companies (§ 225.4(f) of Regulation Y, 12 CFR 225.4(f)). These regulations have been combined in a comprehensive regulation entitled "International Banking Operations" to be designated as Regulation K.

Section 3 of the IBA contains the first significant amendment of the Edge Act since its enactment in 1919. In amending the Edge Act, the Congress declared that Edge Corporations are to have powers sufficiently broad to enable them to compete with foreign banks in the United States as well as abroad and to provide all segments of the United States economy a means of financing international trade and, in particular, exports. In addition, Edge Corporations are to serve as a means of fostering the participation of regional and smaller banks in international banking and financing and, in general, to stimulate competition in making those services available throughout the United States.

In addition to the general statement of purposes for Edge Corporations, the IBA made certain specific amendments all of which had the effect of relaxing statutory restrictions. For example, aggregate amount limitations on borrowings were eliminated, the minimum 10 per cent reserve requirement on deposits in the United States was eliminated, and the restriction on foreign ownership of Edge Corporations was modified.

Approximately 100 letters of comment concerning the proposed regulation were submitted to the Board. The Board has considered the proposed regulation and the comments received in the light of the purposes of the IBA, the Federal Reserve Act, and the Bank Holding Company Act. In many instances the regulation has been modified in response to comments received. Certain parts of the regulation differ significantly from existing regulations. These include domestic operations of Edge Corporations, investment procedures and restrictions, lending limits and capital requirements of Edge Corporations.

Operation of Edge Corporations in the United States

(1) The revised regulation permits Edge Corporations to establish branches in the United States with the prior approval of the Board. Comments on this proposal were mixed. Those favoring branching stated that it would make Edge Corporation operations more efficient and more competitive. Opponents were critical of the proposal because of the general prohibition against interstate branching by member banks (12 U.S.C. 36) and in light of the perceived effects of branches on competition.

Currently several banks operate Edge Corporations in more than one State. Edge Corporations are not subject to provisions of Federal law that limit the branching powers of member banks. Permitting Edge Corporations to branch will offer a more convenient organizational form by which to conduct business. Reducing the expenses associated with establishing an Edge Corporation in a new market may make international banking services available at more locations throughout the United States and encourage banks that do not currently have extensive Edge Corporation operations to consider this form of international banking and financing.

After considering the comments, however, the Board has revised its proposal by setting forth the factors that the Board will consider in acting on applications to establish Edge Corporations branches (and to form Edge Corporations). The Board will publish notice of the filing of such applications in the **Federal Register** and afford interested persons an opportunity to comment on the proposals.

(2) The proposed regulation would have permitted an Edge Corporation to provide full banking services to a customer that was principally engaged in international or foreign commerce. According to the proposal, a customer would be presumed to be principally engaged in international or foreign commerce if, on an unconsolidated basis, two-thirds of its purchases or sales were directly attributable to international or foreign commerce. This proposal, if adopted, would have represented a departure from existing rules that require verification of the international character of each transaction with an Edge Corporation. The Board invited comment regarding the desirability of the qualifying customer approach, the appropriate criteria for designating an international customer, the number and size of firms that would qualify the effects of using a different percentage, and the desirability of using a test other than purchases or sales in international commerce such as the proportion of the customer's business devoted to exports.

Many comments were received on this proposal; however, the information submitted was not sufficient to enable the Board to assess adequately the likely effects of the proposal. Accordingly, the Board decided to defer action on the qualified customer concept pending further consideration of the issue. The Board intends to publish a revised proposal for comment in the near future.

(3) The regulation permits Edge Corporations to finance the production of goods and services directly for export. The proposal would have permitted the financing of goods "readily identifiable" as being for export. Some comments indicated that this requirement could be unduly restrictive by limiting financing to those goods that can be isolated during the process of production as being for export. The regulation would permit the financing of goods for export that are identifiable as being directly for export *or* goods for which export orders have been received. Under the latter test on Edge Corporation could finance nonsegregable goods for export if export orders have been received.

(4) The regulation permits an Edge Corporation to issue negotiable certificates of deposit to foreign governments and foreign persons or in connection with international transactions. The Board's proposal would have limited the Edge Corporation's authority to issue such instruments to nonnegotiable certificates of deposit. Comments indicated that the limitation would place Edge Corporations at a competitive disadvantage in relation to other institutions, including branches of foreign banks.

Lending Limits

The regulation imposes a limit on the direct and indirect loans that an Edge Corporation engaged in banking can make to one person. Except as otherwise permitted by the Board, such loans may not exceed 10 percent of the

Edge Corporation's capital and surplus. In addition, loans to one person made by a member bank and by its direct and indirect subsidiaries formed or acquired under this regulation are to be aggregated and the total may not exceed the amount that the member bank alone may make to that person.

The Board's original proposal would have placed lending limits on Edge Corporations not engaged in banking and on their subsidiaries as well as on the subsidiaries of member banks and bank holding companies. Comments were generally opposed to this proposal as being unduly restrictive. It is the Board's judgment that the prudential purposes of the lending limits can best be served by placing limits on all loans to one person made by affiliates of member banks organized or acquired under this regulation and by establishing a separate limit for Edge Corporations that are engaged in banking.

Capital Requirements

The regulation requires that Edge Corporations engaged in banking maintain capital and surplus equal to at least 7 percent of the Edge Corporation's risk assets. The Board's proposal would have required that capital be maintained at 6 percent of total assets. Most of the comments on this issue stated that the proposal failed to account for the composition and quality of an Edge Corporation's assets. Accordingly the capital standard adopted by the Board would be based on risk assets.

Several comments expressed the view that no numerical capital standard should be set for Edge Corporations engaged in banking. It continues to be the Board's view that Edge Corporations should be financially sound in their own right. Thus, the Board has retained a minimum capital standard and has set that standard at 7 percent.

Investment Procedures and Limitations

(1) Section 211.5 contains revised application procedures designed to reduce the number of routine investment applications that must be acted on by the Board. The revised regulation provides for an expanded use of the general consent and the introduction of a prior notice procedure. Specific consent will be necessary only for investments which because of their size or some other aspect of the proposal, deserve Board consideration. The expanded general consent will allow investments of up to $2 million in subsidiaries and joint ventures so long as they are engaged in certain listed activities, and will allow portfolio investments in other companies up to the same dollar amount. Beyond that amount, investments can be made in subsidiaries and joint ventures engaged in listed activities up to 10 percent of an Edge Corporation's capital after 60 days' notice has been given to the Board. All other investments, either involving larger amounts or activities not listed in the regulation, will require specific Board approval.

(2) The activities listed in the regulation are those of a banking or financial nature that the Board has generally authorized for U.S. banking organizations to engage in abroad. Until now, the activities that could be engaged in abroad could only be determined by reference to individual Board consents to particular investments. Listing the activities in the regulation should afford a broader understanding of the investment powers and foreign activities of Edge Corporations, member banks, and bank holding companies. In addition, inclusion of the list permits simplification of approval procedures for investments in companies engaged in those activities. Provision is made for applications to engage in activities not on the list and for expansion of the list

Other Matters

At the time that it published the regulation for comment, the Board also invited comment on two other issues. The first issue involved the question of whether foreign subsidiaries of United States banking organizations should be permitted to lend to United States residents. The second issue was whether the statutory prohibition against Edge Corporations being members of the Federal Reserve System should be removed. Most of the comments that addressed these issues favored the wider lending authority and opening up the possibility of System membership. The Board is submitting recommendations to Congress on the membership issue as required by the IBA. The issue of loans to United States residents will be taken up as a separate matter.

Part 211 is added to 12 CFR to read as set forth below:

PART 211—INTERNATIONAL BANKING OPERATIONS

See.

Authority: Federal Reserve Act (12 U.S.C. 221 et seq); The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq); and the International Banking Act of 1978 (Pub. L. 95-369; 92 Stat. 607; 12 U.S.C. 3101).

§ 211.1 Authority, purpose, and scope.

(a) *Authority.* This Part is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the Federal Reserve Act (12 U.S.C. 221 *et seq.*) ("FRA"); the Bank Holding Company Act of 1956 (12 U.S.C 1841 *et seq.*) ("BHCA"); and the International Banking Act of 1978 (92 Stat. 607) ("IBA").

(b) *Purpose and scope.* This Part is in furtherance of the purposes of the FRA, the BHCA, and the IBA. It applies to corporations organized under section 25(a) of the FRA (12 U.S.C. 611–631), "Edge Corporations"; to corporations having an agreement or undertaking with the Board under section 25 of the FRA (12 U.S.C. 601–604(a)), "Agreement Corporations"; to member banks with respect to their foreign branches and investments in foreign banks under section 25 of the FRA (12 U.S.C. 601–604(a)); [1] and to bank holding companies with respect to the exemption from the nonbanking prohibitions of the BHCA afforded by section 4(c)(13) of the BHCA (12 U.S.C. 1843(c)(13)).

§ 211.2 Definitions.

For the purposes of this part:

(a) An "affiliate" of an organization means any company of which the organization is a direct or indirect subsidiary, any other direct or indirect subsidiary of that company, and any direct or indirect subsidiary of the organization.

(b) "Capital and surplus" means paid-in and unimpaired capital and surplus, and includes undivided profits but does not include the proceeds of capital notes or debentures.

(c) "Directly or indirectly" when used in reference to activities or investments of an organization means activities or investments of the organization or of any subsidiary of the organization.

(d) An Edge Corporation is "engaged in banking" if it is ordinarily engaged in the business of accepting deposits in the United States from nonaffiliated persons.

(e) "Engaged in business in the United States" means maintaining and operating an office (other than a representative office) or subsidiary in the United States.

[1] Section 25 of the FRA, which refers to national banking associations, also applies to State member banks of the Federal Reserve System by virtue of section 9 of the FRA (12 U.S.C. 321).

(f) "Foreign" or "foreign country" refers to one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States, and the Commonwealth of Puerto Rico.

(g) "Foreign bank" means an organization that: is organized under the laws of a foreign country; engages in the business of banking; is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations; receives deposits to a substantial extent in the regular course of its business; and has the power to accept demand deposits.

(h) "Foreign branch" means an office of an institution which is located outside the country under the laws of which the institution is organized, at which a banking or financing business is conducted.

(i) "Investment" means the ownership or control of shares, including binding commitments to acquire shares, and other contributions to the capital accounts of an organization, including the holding of an organization's subordinated debt when shares of stock of the organization are also held directly or indirectly by an investor.

(j) "Investor" means an Edge Corporation, Agreement Corporation, bank holding company, or member bank.

(k) "Joint venture" is an organization 20 percent or more of the voting stock of which is held directly or indirectly by an investor or by an affiliate of the investor, but which is not a subsidiary of the investor.

(l) "Listed activities" means the activities specified in § 211.5(d).

(m) "Organization" means a corporation, government, partnership, association, or any other legal or commercial entity.

(n) "Person" means an individual or an organization.

(o) "portfolio investment" means an investment in an organization other than a subsidiary or joint venture.

(p) "Subsidiary" means an organization more than 50 percent of the voting stock of which is held directly or indirectly by the investor, or which is otherwise controlled or capable of being controlled by the investor or an affiliate of the investor.

§ 211.3 Foreign Branches of member banks.

(a) *Establishment of foreign branches.* A member bank may establish a foreign branch with prior approval of the Board. Unless otherwise advised by the Board: (1) A member bank that has branches in two or more foreign countries may establish initial branches in additional foreign countries after 60 days' notice to the Board; and (2) without prior approval or prior notice, a member bank may establish additional branches in any foreign country in which it operates one or more branches. Authority to establish branches through prior approval or prior notice shall expire one year from the earliest date on which it could have been exercised, unless extended by the Board. A member bank shall inform the Board within 30 days of the opening, closing or relocation of a branch and the address of a new or relocated foreign branch.

(b) *Further powers of foreign branches.* In addition to its general banking powers, and to the extent consistent with its charter, a foreign branch of a member bank may engage in the following activities so far as usual in connection with the business of banking in the country where it transacts business:

(1) Guarantee customers' debts or otherwise agree for their benefit to make payments on the occurrence of readily ascertainable events,[2] if the guarantee or agreement specifies a maximum monetary liability; but, except to the extent that the member bank is fully secured, it may not have liabilities outstanding for any person on account of such guarantees or agreements which when aggregated with other obligations of the same person exceed the limit contained in section 5200 of the Revised Statutes (12 U.S.C. 84);

(2) Accept drafts or bills of exchange drawn upon it subject to the amount limitations of section 13 of the FRA (12 U.S.C. 372);

(3) Invest in (i) the securities of the central bank, clearing houses, governmental entities, and government-sponsored development banks of the country in which the foreign branch is located, (ii) other debt securities eligible to meet local reserve or similar requirements, and (iii) shares of professional societies, schools, and the like necessary to the business of the branch; however, the branch's total investments under this provision (exclusive of securities held as required by the law of that country or as authorized under section 5136 of the Revised Statutes (12 U.S.C. 24)) shall not exceed one per cent of its total deposits on the preceding year-end call report date (or on the date of acquisition in the case of a newly established branch that has not so reported);

(4) Underwrite, distribute, buy, and sell obligations of the national government of the country in which the branch is located, obligations of an agency or instrumentality of the national government, and obligations of a municipality or other local or regional governmental entity of the country; however, no member bank may hold, or be under commitment with respect to, obligations of the government or governmental entities of a country as a result of underwriting, dealing, or purchasing for the bank's own account an aggregate amount exceeding 10 per cent of the member bank's capital and surplus;

(5) Take liens or other encumbrances on foreign real estate in connection with its extensions of credit, whether or not of first priority and whether or not the real estate is improved or has been appraised, and without regard to maturity or amount limitations or amortization requirements of section 24 of the FRA (12 U.S.C. 371);

(6) Extend credit up to $100,000 or its equivalent to an officer of the bank residing in the country in which the foreign branch is located to finance the acquisition or construction of living quarters to be used as the officer's residence abroad, provided any such credit extension is reported promptly to the branch's home office; however, when necessary to meet local housing costs, such amount may be exceeded with the specific prior approval of the member bank's board of directors;

(7) Act as insurance agent or broker;

(8) Pay to an employee of the branch, as part of an employee benefit program, a greater rate of interest than that paid to other depositors of the branch; and

(9) Engage in repurchase arrangements involving commodities and securities that are the functional equivalent of extensions of credit.

(c) *Other permissible activities.* A member bank that is of the opinion that activities other than those specified in this section are usual in connection with the transaction of the business of banking in the places where its branches transact business may apply to the Board for permission to engage in such activities.

(d) *Reserves.* Reserves shall be maintained against foreign branch deposits when required by Part 204 of this chapter (Regulation D).

§ 211.4 Edge and agreement corporations.

(a) *Organization.* (1) A proposed Edge Corporation shall become a body

[2] "Readily ascertainable events" include, but are not limited to, events such as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents.

corporate when the Board issues a preliminary permit approving its proposed name, articles of association, and organization certificate. The name shall include "international," "foreign," "overseas," or some similar word, but may not resemble the name of another organization to an extent that might mislead or deceive the public. The factors that will be considered by the Board in acting on a proposal to organize an Edge Corporation include:

(i) The financial condition and history of the applicant;

(ii) The general character of its management;

(iii) The convenience and needs of the community to be served with respect to international banking and financing services; and

(iv) The effects of the proposal on competition.

The Board will publish in the **Federal Register** notice of any such proposal and will give interested persons an opportunity to express their views on the proposal.

(2) After the Board issues a preliminary permit, the Edge Corporation may elect officers and otherwise complete its organization, invest in obligations of the United States Government, and maintain deposits with banks, but it may not exercise any other powers until the Board has issued a final permit to commence business. No amendment to the articles of association shall become effective until approved by the Board.

(b) *Nature and ownership of shares.* (1) Shares of stock in an Edge corporation may not include no-par value shares and shall be issued and transferred only on its books and in compliance with section 25(a) of the FRA. The share certificates of an Edge Corporation shall (i) name and describe each class of shares indicating their character and any unusual attributes such as preferred status or lack of voting rights; and (ii) conspicuously set forth the substance of (A) limitations upon the rights of ownership and transfer of shares imposed by section 25(a) of the FRA, and (B) rules that the Edge Corporation shall prescribe in its by-laws to ensure compliance with this paragraph. Any change in status of a shareholder that causes a violation of section 25(a) of the FRA shall be reported to the Board as soon as possible, and the Edge Corporation shall take such action as the Board may direct.

(2) One or more foreign or domestic institutions referred to in section 3(f) of the IBA may apply for the Board's prior approval to acquire a majority of the shares of the capital stock of an Edge Corporation. In acting on an application by a foreign institution that is not subject to the IBA or the BHCA, the Board will impose any conditions that are necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. The aggregate amount invested in Edge Corporations by a foreign institution shall not exceed 10 percent of the foreign institution's capital and surplus.

(c) *Branches.* (1) With prior Board approval, an Edge Corporation may establish branches in the United States. In acting on a proposal to establish a branch in the United States, the Board will consider the same factors enumerated in § 211.4(a)(1). The Board will publish in the **Federal Register** notice of any proposal to establish a branch in the United States and will give interested persons an opportunity to express their views on the proposal.

(2) An Edge Corporation may establish branches abroad in accordance with the procedures in § 211.3(a).

(d) *Reserve requirements and interest rate limitations.* The deposits of an Edge Corporation are subject to Parts 204 and 217 of this chapter (Regulations D and Q) in the same manner and to the same extent as if the Edge Corporation were a member bank.

(e) *Permissible activities in the United States.* An Edge Corporation may engage in activities in the United States that are permitted by the sixth paragraph of section 25(a) of the FRA and in such other activities as the Board determines are incidental to international or foreign business. The following activities will ordinarily be considered incidental to an Edge Corporation's international or foreign business:

(1) *Deposits from foreign governments and persons.* An Edge Corporation may receive in the United States demand, savings, and time deposits (including negotiable certificates of deposits) from foreign governments and their agencies and instrumentalities, persons conducting business principally at their offices or establishments abroad, and individuals residing abroad.

(2) *Deposits from other persons.* An Edge Corporation may receive in the United States demand, savings, and time deposits (including negotiable certificates of deposits) if such deposits:

(i) Are to be transmitted abroad;

(ii) Consist of collateral or funds to be used for payment of obligations to the Edge Corporation;

(iii) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to be periodically transferred to the depositor's account at another financial institution;

(iv) Consist of the proceeds of extensions of credit by the Edge Corporation; or

(v) Represent compensation to the Edge Corporation for extensions of credit or services to the customer.

(3) *Use of funds in the United States.* Funds of an Edge Corporation not currently employed in its international or foreign business, if held or invested in the United States, shall be in the form of cash, deposits with banks, and money market instruments such as bankers' acceptances, obligations of or fully guaranteed by Federal, State, and local governments and their instrumentalities, repurchase agreements, Federal funds sold, and commercial paper.

(4) *General activities.* Subject to the limitations of section 25(a) of the FRA and § 211.6, an Edge Corporation may engage in the following activities to the extent consistent with sound banking practices:

(i) Issue obligations to domestic offices of other banks (including pruchases of Federal funds) or to the United States or any of its agencies;

(ii) Incur indebtedness from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the Edge Corporation is obligated to repurchase;

(iii) Issue long-term subordinated debt that does not qualify as a "deposit" under Part 204 of this Chapter (Regulation D);

(iv) Finance the following: (A) Contracts, projects, or activities performed substantially abroad; (B) the importation into or exportation from the United States of goods, whether direct or through brokers or other intermediaries; (C) the domestic shipment or temporary storage of goods being imported or exported (or accumulated for export); and (D) the assembly or repackaging of goods imported or to be exported;

(v) Finance the costs of production of goods and services for which export orders have been received or which are identifiable as being directly for export;

(vi) Assume or acquire participations in extensions of credit, or acquire obligations arising from transactions the Edge Corporation could have financed;

(vii) Guarantee a customer's debts or otherwise agree for the customer's benefit to make payments on the occurrence of readily ascertainable events,[3] if the guarantee or agreement specifies the maximum monetary liability thereunder and is related to a type of transaction described in paragraphs (e)(4)(iv) and (4)(v) of this section;

(viii) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad, and collect such instruments in the United States for a customer abroad;

(ix) Hold securities in safekeeping for, or buy and sell securities upon the order and for the account and risk of a person;

(x) Act as paying agent for securities issued by foreign governments or other entities organized under foreign law;

(xi) Act as trustee, registrar, conversion agent, or paying agent with respect to any class of securities issued to finance foreign activities and distributed solely outside the United States;

(xii) Make private placements of participations in its investments and extensions of credit; however, except to the extent permissible for member banks under section 5136 of the Revised Statutes (12 U.S.C. 24), no Edge Corporation may otherwise engage in the business of selling or distributing securities in the United States; and

(xiii) Buy and sell spot and forward foreign exchange.

(5) *Other permissible activities.* An Edge Corporation that is of the opinion that other activities in the United States would be incidental to its international or foreign business may apply to the Board for such a determination.

(f) *Agreement Corporations.* With the prior approval of the Board, a member bank or bank holding company may invest in a federally or State chartered corporation that has entered into an agreement or undertaking with the Board that it will not exercise any power that is impermissible for an Edge Corporation under this part.

§ 211.5 Investments in other organizations.

(a) *General policy.* Activities of investors abroad, whether conducted directly or indirectly, shall be confined to those of a banking or financial nature and those that are necessary to carry on such activities. In doing so, investors shall at all times act in accordance with high standards of banking or financial prudence, having due regard for diversification of risks, suitable liquidity, and adequacy of capital. Subject to these considerations and the other provisions of this section, it is the Board's policy to allow activities abroad to be organized and operated as best meets corporate policies.

(b) *Investment limitations.* (1) An investor, in accordance with the investment procedures described in paragraph (c) of this section, may directly or indirectly:

(i) Invest in a subsidiary that engages solely in listed activities or in such other activities as the Board has determined in the circumstances of a particular case are permissible;

(ii) Invest in a joint venture provided that, unless otherwise permitted by the Board, not more than 10 percent of the joint venture's consolidated assets or revenues shall be attributable to activities that would not be permissible for a subsidiary;

(iii) Make portfolio investments (including securities held in trading or dealing accounts) in an organization if the total direct and indirect portfolio investments in organizations engaged in activities that are not permissible for joint ventures does not at any time exceed 100 per cent of the investor's capital and surplus.[4]

(2) A member bank's direct investments under section 25 of the FRA shall be limited to foreign banks and to foreign organizations formed for the sole purpose of either holding shares of a foreign bank or performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or foreign bank affiliate of the member bank.

(3) Subsidiaries may establish branches in accordance with the procedures set forth in § 211.3(a).

(4) In computing the amount that may be invested in any organization under this section there shall be included any unpaid amount for which the investor is liable and any investments by affiliates.

(5) An investor shall dispose of an investment promptly (unless the Board authorizes retention) if:

(i) The organization invested in (A) engages in the business of underwriting, selling or distributing securities in the United States; (B) engages in the general business of buying or selling goods, wares, merchandise, or commodities in the United States; or (C) transacts business in the United States that is not incidental to its international or foreign business;

(ii) In the case of a subsidiary, it engages in an activity other than that which the Board has determined to be permissible; or in the case of joint venture, it engages in an impermissible activity beyond that described in paragraph (b)(1)(ii) of this section; or

(iii) After notice and opportunity for hearing, the investor is advised by the Board that its investment is inappropriate under the FRA, the BHCA, or this Part.

(c) *Investment procedures.*[5] Direct and indirect investments shall be made in accordance with the general consent, notice, or specific consent procedures contained in this section. The Board may at any time, upon notice, suspend the general consent and notification procedures with respect to any investor or with respect to the acquisition of shares of companies engaged in particular kinds of activities. An investor must receive prior specific consent of the Board for investment in its first subsidiary, its first joint venture, and its first portfolio investment unless an affiliate has made such investments. Authority to make investments under prior notice or prior consent shall expire one year from the earliest date on which it could have been exercised, unless extended by the Board.

(1) *General consent.* The Board grants its general consent for the following:

(i) Any investment in a joint venture or subsidiary, and any portfolio investment, if:

(A) The organization is not engaged in business in the United States; and

(B) The total amount invested does not exceed the lesser of (*1*) $2 million or (*2*) five per cent of the investor's capital and surplus in the case of a member bank, bank holding company, or Edge Corporation engaged in banking, or 25 per cent of the investor's capital and surplus in the case of an Edge Corporation not engaged in banking;

(ii) Any additional investment in an organization if:

(A) The additional investment does not cause the organization to be a direct or indirect subsidiary or joint venture of the investor; and

(B) The additional amount invested does not in any calendar year exceed 10 per cent of the investor's historical cost plus dividends for that year. The amount that may be invested under this provision of the general consent may, if not exercised, be carried forward and accumulated for up to five consecutive years; or

[3] "Readily ascertainable events" include, but are not limited to, events such as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents.

[4] For this purpose, a direct subsidiary of a member bank is deemed to be an investor.

[5] When necessary, the general consent and prior notification provisions of this section constitute the Board's approval under the eighth paragraph of section 25(a) of the FRA for investments in excess of the limitations therein based on capital and surplus.

(iii) Any investment that is acquired from an affiliate at net asset value.

(2) *Prior notification.* An investment in a subsidiary or joint venture that does not qualify under the general consent procedure, may be made after the investor has given 60 days' prior written notice to the Board if the total amount to be invested does not exceed 10 per cent of the investor's capital and surplus. The notification period shall commence at the time the notice is accepted. The Board may, during the notification period, disapprove the investment, suspend the period, or require that an application be filed by the investor for the Board's specific consent.

(3) *Specific consent.* Any investment that does not qualify for either the general consent or the prior notification procedure shall not be consummated without the specific consent of the Board.

(d) *Listed activities.* The Board has determined that the following activities are usual in connection with the transaction of banking or other financial operations abroad:

(1) Commercial banking;

(2) Financing, including commercial financing, consumer financing, mortgage banking, and factoring;

(3) Leasing real or personal property if the lease serves as the functional equivalent of an extension of credit to the lessee of the property;

(4) Acting as fiduciary;

(5) Underwriting credit life insurance and credit accident and health insurance related to extensions of credit by the investor or its affiliates;

(6) Performing services for other direct or indirect operations of a United States banking organization, including representative functions, sale of long term debt, name saving, and holding assets acquired to prevent loss on a debt previously contracted in good faith;

(7) Holding the premises of a branch of an Edge Corporation or member bank or the premises of a direct or indirect subsidiary;

(8) Providing investment, financial or economic advisory services;

(9) General insurance brokerage;

(10) Data processing;

(11) Managing a mutual fund if the fund's shares are not sold or distributed in the United States or to United States residents and the fund does not exercise managerial control over the firms in which it invests;

(12) Performing management consulting services provided that such services when rendered with respect to the United States market shall be restricted to the initial entry;

(13) Underwriting, distributing, and dealing in debt and equity securities outside the United States, provided that no underwriting commitment by a subsidiary of an investor for shares of an issuer may exceed $2 million or represent 20 per cent of the capital and surplus or voting stock of an issuer unless the underwriter is covered by binding commitments from subunderwriters or other purchasers;

(14) Engaging in other activities that the Board has determined by regulation or order are closely related to banking under section 4(c)(8) of the BHCA.

An investor that is of the opinion that other activities are usual in connection with the transaction of the business of banking or other financial operations abroad and are consistent with the FRA or the BHCA may apply to the Board for such a determination.

(e) *Debts previously contracted.* Shares of stock or other evidences of ownership acquired to prevent a loss upon a debt previously contracted in good faith shall not be subject to the limitations or procedures of this section; however, the shares or evidences of ownership shall be disposed of promptly, but in no event later than two years after their acquisition unless the Board authorizes retention for a longer period.

§ 211.6 Lending limits and capital requirements.

(a) *Acceptances of Edge Corporations.* An Edge Corporation shall be and remain fully secured for (1) all acceptances outstanding in excess of twice its capital and surplus; and (2) all acceptances outstanding for any one person in excess of 10 per cent of its capital and surplus. These limitations shall not apply (i) if the excess represents the international shipment of goods and the Edge Corporation is fully covered by primary obligations to reimburse it that are also guaranteed by banks or bankers, or (ii) if the Edge Corporation is covered by participation agreements from other banks.

(b) *Liabilities of one person.* (1) Except as the Board may otherwise specify:

(i) the liabilities of any person to an Edge Corporation engaged in banking and to its direct or indirect subsidiaries shall not exceed 10 per cent of the Edge Corporation's capital and surplus;

(ii) the total liabilities of any person to a foreign bank or Edge Corporation that is a subsidiary of a member bank, and to subsidiaries of such foreign bank, Edge Corporation or member bank when combined with liabilities of the same person to the member bank and its affiliates, shall not exceed the member bank's limitation on loans to one person.

(2) "Liabilities" includes: Ineligible acceptances outstanding; obligations for money borrowed; investments in another organization (valued at original cost) except where that organization is a direct or indirect subsidiary; unsecured obligations resulting from the issuance of guarantees or similar agreements; underwriting commitments to an issuer of securities; in the case of a partnership or firm, obligations of its members, in the case of a corporation, obligations incurred for its benefit by other corporations that it controls; and in the case of a foreign government, the liabilities of its departments or agencies deriving their current funds principally from general tax revenues.

(3) The limitations of this paragraph do not apply to:

(i) Deposits of banks and Federal funds purchased;

(ii) Bills or drafts drawn in good faith against actual goods and on which two or more parties are liable;

(iii) Any acceptance that has not matured and is not held by the acceptor;

(iv) Obligations to the extent secured by cash collateral; or

(v) Obligations to the extent supported by the full faith and credit of the following:

(A) The United States or any of its departments, agencies, establishments, or wholly-owned corporations (including obligations to the extent insured against foreign political and credit risks by the Export-Import Bank of the United States or the Foreign Credit Insurance Association), the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, the Inter-American Development Bank, or the Asian Development Bank;

(B) Any organization if at least 25 per cent of such an obligation or of the total credit is also supported by the full faith and credit of, or participated in by any institution designated in paragraph (b)(3)(v)(A) of this section in such manner that default to the lender will necessarily include default to that entity. The total liabilities of such person shall at no time exceed 100 per cent of the capital and surplus of the lender or the parent Edge Corporation.

(c) *Loans to foreign banks.* A member bank that holds directly or indirectly shares in a foreign bank may make loans to that foreign bank without regard to section 23A of the FRA.

(d) *Capitalization.* An Edge Corporation shall at all times be capitalized in an amount that is adequate in relation to the scope and

character of its activities. In the case of an Edge Corporation engaged in banking, its capital and surplus shall be not less than seven per cent of risk assets. For this purpose, risk assets shall be deemed to be all assets on a consolidated basis other than cash, amounts due from banking institutions in the United States, United States Government securities, and Federal funds sold.

§ 211.7 Supervision and reporting.

(a) *Supervision.* (1) Investors shall supervise and administer their foreign branches and subsidiaries in such a manner as to ensure that their operations conform to high standards of banking and financial prudence. Effective systems of records, controls, and reports shall be maintained to keep management informed of their activities and condition. Such systems should provide, in particular, information on risk assets, liquidity management, and operations of controls and conformance to management policies. Reports on risk assets should be sufficient to permit an appraisal of credit quality and assessment of exposure to loss, and for this purpose provide provide full information on the condition of material borrowers. Reports on the operations of controls should include the internal and external audits of the branch or subsidiary.

(2) Investors shall maintain sufficient information with respect to joint ventures to keep informed of their activities and condition. Such information shall include audits and other reports on financial performance, risk exposure, management policies, and operations of controls. Complete information shall be maintained on all transactions with the joint venture by the investor and its affiliates.

(3) The reports and information specified in paragraphs (a) (1) and (2) of this section shall be made available to examiners of the appropriate bank supervisory agencies.

(b) *Examinations.* Examiners appointed by the Board shall examine each Edge Corporation once a year. An Edge Corporation shall make available to examiners sufficient information to assess its condition and operations and the condition and activities of any organization whose shares it holds.

(c) *Reports.* (1) Each Edge Corporation shall make at least two reports of condition annually to the Board at such times and in such form as the Board may prescribe. The Board may require that statements of condition or other reports be published or made available for public inspection.

(2) Edge Corporations, member banks, and bank holding companies shall file such reports on their foreign operations as the Board may require.

(3) A member bank, Edge Corporation or a bank holding company shall report within 30 days any acquisition or disposition of shares in a manner prescribed by the Board.

(d) *Filing procedures.* Unless otherwise directed by the Board, applications, notifications, and reports required by this Part shall be filed with the Federal Reserve Bank of the district in which the parent bank or bank holding company is located, or if none, the Federal Reserve Bank of the district in which the applying or reporting institution is located. Instructions and forms for such applications, notifications and reports are available from the Federal Reserve Bank.

(e) *Transition.* (1) Transactions that have been consummated or activities engaged in pursuant to the Board's general or specific consent prior to June 8, 1979, may be retained or continued. Conditions imposed or undertakings in connection with such investments that are inconsistent with this Part shall be superseded by this part.

(2) Extensions of credit in excess of the limitations of section 211.6(d) that were outstanding on June 8, 1979, may remain outstanding until the date of maturity.

(3) Edge Corporations whose accounts or investments do not conform to §§ 211.6(c) or 211.5(b) on June 14, 1979, shall conform such accounts and investments by June 14, 1981.

By order of the Board of Governors, effective June 13, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-19185 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Parts 211, 213, and 225

International Banking Operations; Rescission of Regulations K, M and part of Regulation Y

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Rescission of regulations.

SUMMARY: The Board is revising its regulations governing international banking operations. Current Regulations K (12 CFR Part 211), M (12 CFR Part 213), and § 225.4(f) of Regulation Y (12 CFR 225.4(f)) are being revised and combined in new Regulation K (12 CFR Part 211) which is set forth in an accompanying notice. Regulations K, M and that section of Regulation Y are, therefore, rescinded.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Frederick R. Dahl, Associate Director, Division of Banking Supervision and Regulation (202-452-2727); or C. Keefe Hurley, Jr., Senior Attorney, Legal Division (202-452-3269), Board of Governors of the Federal Reserve System.

The following actions are taken under the Board's authority under sections 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 601 and 611); section 5 of the Bank Holding Company Act (12 U.S.C. 1844); and section 13 of the International Banking Act (12 U.S.C. 3108). Title 12 CFR is amended as follows:

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT [DELETED]

1. 12 CFR Part 211 is deleted in its entirety.

PART 213—FOREIGN ACTIVITY OF NATIONAL BANKS [DELETED]

2. 12 CFR Part 213 is deleted in its entirety.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

§ 225.4 [Amended]

3. Section 225.4(f) of 12 CFR Part 225 is deleted in its entirety.

By order of the Board of Governors, June 13, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-19186 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M