

FEDERAL RESERVE BANK OF DALLAS
DALLAS, TEXAS 75222

Circular No. 81-20
January 23, 1981

RULES REGARDING DELEGATION OF AUTHORITY

TO ALL MEMBER BANKS
AND OTHERS CONCERNED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

The Board of Governors of the Federal Reserve System has issued amendments to its Rules Regarding Delegation of Authority. The amendments are in reference to modifications of commitments and conditions, authority to approve applications to acquire failing banks, authority to accept agreements under the Securities Exchange Act of 1934, and authority to approve branch applications.

Printed on the following pages are copies of the Federal Register documents relating to these actions.

Sincerely yours,

William H. Wallace

First Vice President

TITLE 12--BANKS AND BANKING
CHAPTER II--FEDERAL RESERVE SYSTEM
SUBCHAPTER A--BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
PART 265--RULES REGARDING DELEGATION OF AUTHORITY

[Docket R-0344]

Modifications of Commitments and Conditions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate the performance of certain of its functions with respect to applications and notices under the Bank Holding Company Act, Bank Merger Act, Federal Reserve Act, International Banking Act, Federal Reserve Act, and Change of Bank Control Act, the Board of Governors has delegated to the Director of the Division of Banking Supervision and Regulation the authority to grant or deny requests for modification, including extension of time, to fulfill commitments or conditions relied on by the Board in acting on such applications.

EFFECTIVE DATE: Upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Bronwen M. Mason, Senior Attorney (202-452-3564) or Jennifer J. Johnson, Senior Attorney (202-452-3584), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: From time to time, often because of economic conditions or changes of circumstances, the Board receives requests from companies for modification, including extension of time to fulfill conditions or commitments relied on by the Board in acting on applications. Under existing procedures, each of these requests, including the most routine, must be acted upon by the Board resulting in unnecessary delay in processing such requests. To avoid this delay, the Board has, by the instant amendment, delegated the authority to grant or deny such extensions to the Director of the Division of Banking Supervision and Regulation in consultation with other interested Divisions.

This action is taken pursuant to the Board's authority under sections 3(a), 4 and 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. §§ 1842(a), 1843 and 1844(b)), section 18 of the Federal Deposit Insurance Act (12 U.S.C. § 1828 (c)), sections 9 and 11(i) of the Federal Reserve Act (12 U.S.C. §§ 321 and 2481) and section 13 of the International Banking Act (12 U.S.C. § 3108), sections 25 and 25a of the Federal Reserve Act (12 U.S.C. §§ 604(a) and 615), and Change in Bank Control Act (12 U.S.C. § 1817(j)).

The provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date were not followed in connection with the adoption of this amendment because the change involved herein is procedural in nature and does not constitute a substantive rule subject to the requirements of such section. The Board's expanded rulemaking procedures (44 Fed. Reg. 3,957 1979)) have not been followed because the amendment is a technical one and because it relieves a burden that could obstruct necessary and prompt action that would be in the public interest.

In order to accomplish this delegation, section 265.2(c) of the Rules Regarding Delegation of Authority is amended by adding subparagraph (29) to read as follows:

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

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(c) * * *

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(29) To grant or deny requests for modification, including extension of time, for the performance of a commitment or condition relied on by the Board or its delegee in taking any action under the provisions of the Bank Holding Company Act, the Bank Merger Act, the Change in Bank Control Act of 1978, the Federal Reserve Act or the International Banking Act. In acting on requests hereunder, the Director may take into account changed circumstances and good faith efforts to fulfill the commitments or conditions, and shall consult with the Directors of other interested divisions, where appropriate. The Director may not take any action hereunder that would be inconsistent with or result in an evasion of the provisions of the Board's original action.

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By Order of the Board of Governors of the Federal Reserve System, January 13, 1981.

(signed) Theodore E. Allison

Theodore E. Allison
Secretary of the Board

[SEAL]

TITLE 12--BANKS AND BANKING
CHAPTER II--FEDERAL RESERVE SYSTEM
SUBCHAPTER A--BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
PART 265--RULES REGARDING DELEGATION OF AUTHORITY
[Docket R-0345]

Authority to Approve Applications to Acquire Failing Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule

SUMMARY: This amendment to the Board's Rules Regarding Delegation of Authority permits the Director of the Board's Division of Banking and Supervision and Regulation to approve applications by a company to acquire a bank and to permit an individual to acquire a bank when immediate or expeditious action is necessary.

EFFECTIVE DATE: Upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason (202/452-3564), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Occasionally urgent consideration is required of certain applications under the Bank Holding Company Act or notices under the Change in Bank Control Act because the institution is likely to fail otherwise or because of some emergency. In order to avoid undue delay, under this amendment, the Board has delegated authority to the Director of its Division of Banking Supervision and Regulation to approve such applications and to permit such acquisitions that meet the conditions specified for Reserve Bank approval under delegated authority.

This action is taken pursuant to the Board's authority under sections 3(a) and 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. §§ 1842(a) and 1844(b)), and the Change in Bank Control Act (12 U.S.C. § 1817(j)).

The provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date are not followed in connection with adoption of the amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The Board's expanded rulemaking procedures (44 Federal Register 3,957 (1979)) have not been followed because the amendment is a technical one and because it relieves a burden that could obstruct necessary and prompt action that would be in the public interest.

In order to accomplish this delegation, section 265.2(c) of the Board's Rules Regarding Delegation of Authority is amended by adding subparagraph (30) to read as follows:

**§ 265.2 - SPECIFIC FUNCTIONS DELEGATED TO BOARD EMPLOYEES
AND TO FEDERAL RESERVE BANKS**

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(c) * * *

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(30) Under the provisions of § 3(a) of the Bank Holding Company Act (12 U.S.C. § 1842(a)) and the Change In Bank Control Act (12 U.S.C. § 1817(j)) to take actions the Reserve Bank could take under paragraphs (f) (22) and (f) (30) of this section if immediate or expeditious action is required to avert failure of a bank or because of an emergency.

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By Order of the Board of Governors of the Federal Reserve System, January 13, 1981.

(signed) Theodore E. Allison

Theodore E. Allison
Secretary of thde Board

[SEAL]

TITLE 12--BANKS AND BANKING

CHAPTER II--FEDERAL RESERVE SYSTEM

SUBCHAPTER A--BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265--RULES REGARDING DELEGATION OF AUTHORITY
[Docket No. R-0346]

Authority to Accept Agreements Under the Securities Exchange Act of 1934

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: Section 8 of the Securities Exchange Act of 1934 requires nonmember banks wishing to extend credit in connection with securities transactions to enter into an agreement with the Board to comply with the provisions of law and the Board's rules in connection with such extensions of credit. The Board has delegated to the Federal Reserve Banks authority to receive such agreements.

EFFECTIVE DATE: Upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer (202/452-2786), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) prohibits a broker or dealer from borrowing on a security registered on a national exchange from any bank other than a member of the Federal Reserve System, or one that has filed an agreement with the Board. The agreement provides that the nonmember bank will comply with the provisions of the 1934 Act, the Federal Reserve Act and the Banking Act of 1933 as well as the rules and regulations issued thereunder. This amendment authorizes the Federal Reserve Banks to accept on the Board's behalf these agreements, which are executed on forms approved by the Board.

The provisions of 5 U.S.C. § 553, relating to notice, public participation and deferred effective date are not followed in connection with adoption of the amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The Board's expanded rulemaking procedures (44 Fed. Reg. 3,957 (1979)) have not been followed because the amendment is a technical one and because it relieves a burden that could obstruct necessary and prompt action.

Pursuant to its authority under section 11(k) of the Federal Reserve Act and section 8(a) of the Securities Exchange Act of 1934, the Board amends its Rules Regarding Delegation of Authority (12 C.F.R. 265) by adding paragraph (53) to read as follows:

§ 265.2--SPECIFIC FUNCTIONS DELEGATED TO BOARD EMPLOYEES
AND TO FEDERAL RESERVE BANKS

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(f) * * *

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(53) Under the provisions of section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) concerning extensions of credit to finance securities transactions, to accept agreements on behalf of the Board from nonmember banks in the form prescribed by the Board.

By Order of the Board of Governors of the Federal Reserve System, January 13, 1981.

(signed) Theodore E. Allison

Theodore E. Allison
Secretary of the Board

[SEAL]

TITLE 12 -- BANKS AND BANKING
CHAPTER II -- FEDERAL RESERVE SYSTEM
SUBCHAPTER A -- BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0347]

PART 265 -- RULES REGARDING DELEGATION OF AUTHORITY

Authority to Approve Branch Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final regulation.

SUMMARY: Section 265.2(f) of the Board's Rules Regarding Delegation of Authority is hereby amended to eliminate the requirement that Federal Reserve Banks may approve the application of a State member bank to establish a branch only if the proposed branch has already been approved by the appropriate State supervisory authority.

EFFECTIVE DATE: Upon publication in the Federal Register.

CONTACT: For further information contact Bronwen Mason, Senior Attorney (202/452-3564) of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 265.2(f) of the Board Rules Regarding Delegation of Authority authorizes Federal Reserve Banks to approve applications pursuant to section 9 of the Federal Reserve Act (12 U.S.C. 321) by State member banks to establish branches. The Reserve Banks may approve branch applications if the proposed branch has already been approved by the appropriate state supervisory authority and if several other conditions are met. The other conditions that must be met relate to the Reserve Bank's evaluation of the overall financial condition of the applicant bank, as well as competitive considerations, and the convenience and needs of the community to be served. In a 1953 interpretation concerning this policy, the Board noted that embarrassment may result if the Board approves a branch before a state supervisor acts. However, in the Board's experience with matters requiring action by an agency other than the Board, such conflicts arise rarely. Accordingly, in order to promote greater efficiency, the requirement of state approvals before Reserve Banks can approve branch applications has been eliminated. Of course, the Reserve Banks may require supervisory approval in cases where it appears that the record is not complete or where precipitous Board action might create a conflict.

This action is taken pursuant to the Board's authority under section 9 of the Federal Reserve Act (12 U.S.C. § 321).

The provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date are not followed in connection with adoption of the amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section.

Accordingly, paragraph (f)(1) of section 265.2 is revised to read as follows:

§ 265.2 - SPECIFIC FUNCTIONS DELEGATED TO BOARD EMPLOYEES AND FEDERAL RESERVE BANKS

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(f) * * *

(1) Under the provisions of the third paragraph of section 9 of the Federal Reserve Act (12 U.S.C. § 321), section 5155 of the Revised Statutes (12 U.S.C. § 36), and § 208.8 of this chapter (Regulation H), to approve the establishment by a State member bank of a domestic branch if the Reserve Bank is satisfied that approval is warranted after giving consideration to:

(i) the bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management;

(ii) the ability of bank's management to cope successfully with existing or foreseeable problems, and to staff the proposed branch without any significant deterioration in the overall management situation;

(iii) the convenience and needs of the community;

(iv) the competitive situation (either actual or potential);

(v) the prospects for profitable operations of the proposed branch within a reasonable time, and the ability of the bank to sustain the operational losses of the proposed branch until it becomes profitable; and

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(vi) the reasonableness of bank's investment in bank premises after the expenditure for the proposed branch.

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By Order of the Board of Governors of the Federal Reserve System, January 13, 1981.

(signed) Theodore E. Allison

Theodore E. Allison
Secretary of the Board

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