

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 81-173  
August 28, 1981

REGULATION Y  
BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL ACT

AMENDMENTS AND INTERPRETATION

(Insurance Agency Activities)

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

The Board of Governors of the Federal Reserve System has issued amendments to Section 225.4(a)(9) of Regulation Y limiting insurance agency activities in which bank holding companies may engage. This action was necessary in order to conform the Board's regulation to an opinion rendered by the United States Court of Appeals for the Fifth Circuit. The amendments will become effective September 1, 1981. In addition, the Board has amended its insurance agency interpretation to make it consistent with the new rulings.

Printed on the following pages are copies of the Board's press release and the text of the Board's notices as published in the Federal Register. Also enclosed is the slip-sheet making Regulation Y complete effective September 1, 1981. Please file the slip-sheet in your Regulations Binder and destroy the amendments dated December 1980. The interpretation will not be distributed in slip-sheet form; therefore, you may wish to retain this circular for future reference.

Questions regarding the amendments or the interpretation should be directed to Gary Kissiah, Attorney in this Bank's Holding Company Supervision Department, (214) 651-6469. Additional copies of this material will be made available upon request to the Department of Communications, Financial and Community Affairs, Ext. 6289.

Sincerely yours,



William H. Wallace  
First Vice President

Enclosure

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Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank: 1-800-442-7140 (intrastate) and 1-800-527-9200 (interstate). For calls placed locally, please use 651 plus the extension referred to above.



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## Press Release

for immediate release

July 16, 1981

The Federal Financial Institutions Examination Council today recommended that the agencies represented on the Council amend their regulations concerning physical security devices and programs at supervised institutions. The Council's proposal would eliminate the requirement that such institutions routinely file standard form reports of external crimes with their federal supervisor.

In place of the standard form report of crime, the Council recommends a simple recordkeeping procedure that would make information on such crimes available for review by examiners.

The Council requested that the agencies act on its recommendation by August 12, 1981. A draft Federal Register notice is available from the Council.

# FEDERAL RESERVE press release



For immediate release

July 16, 1981

The Federal Reserve Board has amended its Regulation Y (Bank Holding Companies) concerning the sale as agent of certain kinds of insurance.

The Board acted to conform its regulation to court decisions. The Board deleted the authority of bank holding companies to act as an agent for the sale of insurance sold as a matter of convenience to the public. In addition, the Board removed the authority under section 4(c)8 of the Bank Holding Company Act for bank holding companies to act as agent for the sale of insurance for themselves or for their subsidiaries. The Board determined this latter activity to be permissible under other provisions of the Bank Holding Company Act.

Subject to approval of specific proposals, it remains permissible for bank holding companies to act as agent or broker for the sale of insurance (including property and casualty insurance) directly related to an extension of credit, or the provision of financial services, by a bank or a bank-related firm.

The Board's order and interpretation are attached.

Company Act as agent for the sale of insurance for themselves and their subsidiaries. This amendment reflects a court decision that acting as agent for the sale of insurance for the bank holding company and its nonbanking subsidiaries is not an activity permissible under the Bank Holding Company Act. It also reflects the decision that such activities may be conducted pursuant to other provisions of the Act. The second amendment deletes from the Board's regulations the authority for bank holding companies to act as agent for insurance sold as a matter of convenience to the public.

These amendments are required in order to conform the Board's regulations to an opinion of the United States Court of Appeals for the Fifth Circuit. That opinion found that the sale by bank holding companies of certain of the types of insurance described in connection with the first amendment was not an activity in which bank holding companies legally may engage pursuant to section 225.4(a)(9)(i) of the Board's Regulation Y. Further, the Court's opinion found that the part of the Board's regulation relating to the sale of "convenience" insurance also authorized the sale of insurance beyond the scope of the provisions of section 4(c)(8) of the Bank Holding Company Act and therefore impermissible.

**EFFECTIVE DATE:** September 1, 1981.

**FOR FURTHER INFORMATION CONTACT:**

Robert E. Mannion, Deputy General Counsel (202/452-3274) or Richard M. Whiting, Senior Attorney (202/452-3779), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** (1) The Board previously published in the *Federal Register* (43 FR 14970) a notice of proposed rulemaking to amend section 225.4(a)(9) of Regulation Y (12 CFR 225.4(a)(9)). That section of Regulation Y enumerates those insurance agency activities that the Board has found to be so "closely related" to banking as to be a proper incident thereto under section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. § 1843(c)(8) ("Act") and, therefore, permissible nonbanking activities for bank holding companies.

The United States Court of Appeals for the Fifth Circuit, in *Alabama Association of Insurance Agents v. Board of Governors of the Federal Reserve System*, 533 F.2d 224 (5th Cir. 1976); rehearing denied, 558 F.2d 729 (5th Cir. 1977); cert. denied, 435 U.S. 904 (1978), determined that certain portions of section 225.4(a)(9) of Regulation Y

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 225

[Reg. Y; Docket No. R-0050]

#### Bank Holding Companies; Nonbank Activities

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board has adopted certain amendments to its Regulation Y ("Bank Holding Companies") that would limit the insurance agency activities authorized for bank holding companies. The first amendment would delete from the Board's regulations the authority for bank holding companies to act under section 4(c)(8) of the Bank Holding

authorized insurance agency activities for bank holding companies that were not "closely related" to banking within the meaning of section 4(c)(8) of the Act. In particular, the Court found that to the extent § 225.4(a)(9)(i) of Regulation Y authorized bank holding companies to act as agent for the sale of insurance for themselves and their nonbanking subsidiaries, that section permitted activities not "closely related" to banking. Thus, the Court invalidated § 225.4(a)(9)(i) of Regulation Y as to those activities. However, the Board has found that the authority for bank holding companies to engage in these activities as well as the activity of acting as agent for the sale of insurance to the banking subsidiaries of bank holding companies is contained in sections 4(c)(1)(C) and 4(a)(2)(A) of the Act. Accordingly, § 225.4(a)(9)(i) of Regulation Y, which originally was proposed to be revised in part, is deleted entirely by the final amendment adopted by the Board. Additionally, the Court found that § 225.4(a)(9)(ii)(c), which authorized bank holding companies, under certain circumstances, to sell insurance to meet the convenience of the public, also permitted nonbanking activities not "closely related" to banking. The Court also struck down this portion of the Board's Regulation Y. Finally, the Court found that § 225.4(a)(9)(iii) of Regulation Y, which authorized bank holding companies to sell insurance in communities of a population not exceeding 5,000 or having inadequate insurance agency facilities, was phrased in such a way as to permit nonbanking activities that are not "closely related" to banking as well as those that are "closely related." The Court remanded to the Board this section for further consideration, which was done on October 31, 1979. See 44 FR 6505 (1979). In order to implement the Court's decision that § 225.4(a)(9)(i) and (ii)(c) of Regulation Y were invalid, the Board issued the rulemaking proposal cited above. That part of the proposed rulemaking relating to § 225.4(a)(9)(iii) has been mooted by intervening Board action, as described above.

The Board now is adopting in final form substantially as proposed, amendments to § 225.4(a)(9) of Regulation Y that would limit, in conformance with the Court's opinion, the insurance agency activities of bank holding companies. In connection with this action, the Board has considered the comments received in response to its rulemaking proposal. Several commenters stated that the Board should not eliminate from the regulation the authority for bank holding

companies to sell certain of the kinds of insurance proposed to be deleted, such as insurance for the bank holding company, its nonbanking subsidiaries, convenience insurance and insurance in towns of population of less than 5,000. As those parts of Regulation Y authorizing the sale of the first two kinds of insurance specially were invalidated by the Court, the Board has concluded that it must delete from the regulation the authority for bank holding companies to sell such insurance. Further, as described above, the Board has adopted in a separate rulemaking proceeding a rule pertaining to the sale of insurance in towns of less than 5,000 population and that action moots the related portion of the proposal. Other commenters recommended that, in addition to the proposed deletions of authority to sell insurance, the Board should delete the authority for bank holding companies to sell property and casualty insurance. The Board believes such action would be inconsistent with the Court's opinion. Moreover, this recommendation is beyond the scope of this proposal. Finally, many commenters suggested that the Board add to the regulation the authority for bank holding companies to renew insurance sold by a bank holding company in connection with an extension of credit or provision of other financial service. This suggestion, too, is beyond the scope of the proposal. However, the Board will address this suggestion in the near future.

Some commenters stated that amended § 225.4(a)(9) of Regulation Y would be inconsistent with the Board's published interpretations relating to the sale of insurance by bank holding companies. The Board agrees that its action amending § 225.4(a)(9) of Regulation Y would require similar revision of the Board's interpretations. Accordingly, the Board has approved revisions of 12 CFR 225.128 in order to make that interpretation consistent with the Board's regulation.

Several commenters objected that the proposed regulation was too generalized and suggested that it be expanded to enumerate the specific lines of insurance authorized, and that the term "financial services" in § 225.4(a)(9)(ii) of Regulation Y be defined. The Board has rejected these suggestions because the term financial service is defined in 12 CFR 225.128 of the Board's published interpretations. Moreover, it believes that the general language of the regulation was approved by the Court and that good administrative practice dictates that the application of the law to all possible factual situations should

not be attempted, and cannot be achieved, by general regulation. In this regard, the public is advised that the Board and its staff will provide, upon request, interpretations of the law and the Board's regulations.

Finally, various comments were received relating to the provisions of § 225.4(a)(9)(ii) (a) and (b) of the regulation. Inasmuch as the sole purpose of the proposed amendments was to revise § 225.4(a)(9)(i) and delete § 225.4(a)(9)(ii)(c), as described above, the Board has determined that such comments are beyond the scope of the proposal.

(2) This action is taken pursuant to the Board's authority under section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

Effective as noted above, § 225.4(a)(9) of the Board's Regulation Y (12 CFR 225.4(a)(9)) is revised to read as follows:

#### § 225.4 Nonbanking activities

(a) \* \* \*

(9) Acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business (or in an office adjacent thereto) with respect to the following types of insurance:

(i) Any insurance that (A) is directly related to an extension of credit by a bank or bank-related firm of the kind described in this regulation, or (B) is directly related to the provision of other financial services by a bank or such a bank-related firm.

(ii) Any insurance sold by a bank holding company or a nonbanking subsidiary in a community that has a population not exceeding 5,000 (as shown by the last preceding decennial census), provided the principal place of banking business of the bank holding company is located in a community having a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, July 15, 1981.

William W. Wiles,  
*Secretary of the Board.*

[FR Doc. 81-21481 Filed 7-27-81; 8:45 am]  
BILLING CODE 6210-01-M

#### 12 CFR Part 225

#### Bank Holding Companies; Nonbank Activities

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Interpretations.

**SUMMARY:** The Board has revised its interpretations of Regulation Y ("Bank Holding Companies") relating to the sale

of insurance by bank holding companies. These revisions are required to conform the interpretations to recently adopted amendments to Regulation Y, which was partially invalidated by a federal court.

**EFFECTIVE DATE:** September 1, 1981.

**FOR FURTHER INFORMATION CONTACT:**

Robert E. Mannion, Deputy General Counsel (202/452-2374) or Richard M. Whiting, Senior Attorney (202/452-3779), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** As a result of a decision by the U.S. Court of Appeals for the Fifth Circuit, (*Alabama Association of Insurance Agents, Inc. v. Board of Governors of the Federal Reserve System*, 533 F.2d 224 (5th Cir. 1976); rehearing *denied*, 558 F.2d 729 (5th Cir. 1977); *cert. denied*, 435 U.S. 904 (1978)), the Board's regulation relating to permissible insurance agency activities in which bank holding companies may engage (12 CFR 225.4(a)(9)), pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(8)) was upheld in part, invalidated in part, and remanded in part. To conform Regulation Y with the decision of the U.S. Court of Appeals for the Fifth Circuit, the Board has amended those portions of its regulation that were either revised or invalidated by the Court. In particular, the Board has eliminated § 225.4(a)(9)(i) of Regulation Y to delete the authority for bank holding companies to sell insurance to themselves, and their subsidiaries pursuant to section 4(c)(8) of the Act. Instead, bank holding companies may sell such insurance pursuant to the provisions of sections 4(a)(2)(A) and 4(c)(1)(C) of the Act. In addition, the Board has deleted § 225.4(a)(9)(ii)(c) of Regulation Y, which authorized bank holding companies to sell insurance as a matter of convenience to the public.

These amendments to Regulation Y require certain amendments to the Board's insurance agency interpretation to make it consistent with the Board's amended regulation. Also, certain portions of the interpretation have been redesignated.

**§ 225.128 [Amended]**

In accordance with the Board's amendments to § 225.4(a)(9)(i) and (ii)(c) of Regulation Y, the following changes have been made to the Board's insurance agency interpretation, 12 CFR 225.128:

(1) Paragraph (b) of § 225.128 has been removed.

(2) Present paragraph (c) has been redesignated paragraph (b) and the

reference in the first sentence of that paragraph to Regulation Y should be revised to refer to § 225.4(a)(9)(i)(a).

(3) Present paragraph (c)(3) is removed and present paragraph (c)(4) is redesignated paragraph (c)(3).

(4) Present paragraph (d) is redesignated paragraph (c) and the reference in the first sentence of that paragraph to Regulation Y should be revised to refer to § 225.4(a)(9)(i)(b).

(5) Present paragraph (e) is removed.

Board of Governors of the Federal Reserve System, July 15, 1981.

William W. Wiles,  
*Secretary of the Board.*

[FR Doc. 81-21902 Filed 7-27-81; 8:45 am]

**BILLING CODE 6210-01-M**

**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**  
**BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL**

**AMENDMENTS TO REGULATION Y †**

As amended effective September 1, 1981

Effective March 10, 1979 the title to Regulation Y is revised to read "Part 225—Bank Holding Companies and Change in Bank Control", and section 225.1(a) and (b) are amended; effective October 24, 1979, section 225.1(c) is amended as follows:

**SECTION 225.1—AUTHORITY, SCOPE,  
AND DEFINITIONS**

(a) **Authority and scope.** This Part is issued by the Board of Governors of the Federal Reserve System under section 5(b) of the Bank Holding Company Act of 1956 ("the Act") (12 U.S.C. § 1844(b)) and section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 ("the Control Act"), (12 U.S.C. § 1817(j)(13)). Sections 225.2 through 225.6 of this Part implement the Act, and section 225.7 of this Part implements the Control Act.

(b) **Terms used in the Act.** As used in this Part, the terms "bank holding company," "company," "bank," "subsidiary," and "Board" have the same meanings as those given such terms in the Act. As used in section 225.7 of this Part, the term "person" has the meaning given it in the Control Act.

(c) **Federal Reserve Bank.** The term "Federal Reserve Bank" as used in this Part with respect to action by, on behalf of, or directed to be taken by a bank holding company or other organization shall mean either the Federal Reserve Bank of the Federal Reserve district in which the operations of the bank holding company or other organization are principally conducted, as measured by total deposits held or controlled by it in subsidiary banks on the date on which it became, or is to become, a bank holding company, or such Reserve Bank as the Board may designate. In the case of a foreign banking organization that is not a bank holding company but which has one or more branches, agencies, or

commercial lending companies located in any State of the United States or the District of Columbia, "Federal Reserve Bank" shall mean, unless otherwise determined by the Board, the Reserve Bank of the district in which its banking assets are the largest as of the later of January 1, 1980, or the date that it establishes its first branch, agency, or commercial lending company. With respect to notices filed and other actions taken under the Control Act, the term refers to the Federal Reserve Bank for the institution to be acquired, as determined by the preceding sentence in the case of bank holding companies and by section 9 of the Federal Reserve Act in the case of State member banks.

\* \* \* \* \*

Effective December 5, 1979, section 225.4(a)(9)(iii) is amended; effective September 1, 1981, section 225.4(a)(9)(i) and (ii) is amended; effective April 2, 1979, new section 225.4(a)(13) is added; effective December 31, 1980, new section 224.4(a)(14) is added; effective January 1, 1979, section 225.4(b)(1) and (2) is amended; and effective October 24, 1979, section 225.4(g)(3) is amended as follows:

**SECTION 225.4 — NONBANKING ACTIVITIES**

(a) \*\*\*

(9) \*\*\*

(i) Any insurance that (A) is directly related to an extension of credit by a bank or bank-related firm of the kind described in this regulation, or (B) is directly related to the provision of other financial services by a bank or such a bank-related firm.

(ii) Any insurance sold by a bank holding company or a nonbanking subsidiary in a community that has a population not exceeding 5,000 (as shown by the last preceding decennial census), provided the principal place of banking business of the bank hold-

† For this Regulation to be complete as amended September 1, 1981, retain:

1) Printed Regulation pamphlet dated April 5, 1978.

2) This slip sheet. (Destroy slip sheet dated December 1980.)

ing company is located in a community having a population not exceeding 5,000.

(iii) any insurance sold by a bank holding company or a nonbanking subsidiary in a community that has a population not exceeding 5,000 (as shown by the last preceding decennial census) provided the principal place of banking business of the bank holding company is located in a community having a population not exceeding 5,000.

\* \* \* \* \*

(13) The sale at retail of money orders having a face value of not more than \$1,000 and travelers checks and the sale of U.S. savings bonds.

(14) Performing appraisals of real estate.

(b)(1) **De novo entry.** A bank holding company may engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in activities described in paragraph (a) of this section, 45 days after the company has furnished its Reserve Bank a notice of the proposal (in substantially the same form as F.R. Y-4A), unless the company is notified to the contrary within that time or unless it is permitted to consummate the transaction at an earlier date on the basis of exigent circumstances of a particular case. 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 to the Reserve Bank. If adverse comments of a substantive nature are received within the time specified in the notice,<sup>11</sup> or if it otherwise appears appropriate in a particular case, the Reserve Bank may inform the company that (i) the proposal shall not be consummated until specifically authorized by the Reserve Bank or by the Board or (ii) the proposal should be processed in accordance with the procedures of subparagraph (2) of this paragraph. With respect to activities to be engaged in outside the United States, the procedures of this subparagraph apply solely to activities to be engaged in directly by a domestic bank holding company or by domestic nonbank subsidiaries of any bank holding company. Paragraphs (f) and (g) of this section govern other international operations of bank holding companies.

<sup>11</sup> If a Reserve Bank decides that adverse comments are not of a substantive nature, the person submitting the comments may request review by the Board of that decision in accordance with the provisions of §265.3 of the Board's Rules Regarding Delegation of Authority (12 CFR 265.3) by filing a petition for review with the Secretary of the Board.

(2) **Acquisition of going concern.** A bank holding company may apply to the Board to acquire or retain the assets of or shares in a company engaged solely in activities described in paragraph (a) of this section by filing an application with its Reserve Bank (Form F.R. Y-4). The Board will publish in the *Federal Register* a notice of any such application and will give interested persons an opportunity to express their views (including, where appropriate, by means of a hearing) on the question whether performance of the activity proposed by the holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

\* \* \* \* \*

(g) \*\*\*

(3) A foreign bank holding company that is of the opinion that other activities or investments may, in particular circumstances, meet the conditions for an exemption under section 4(c)(9) of the Act may apply to the Board for such determination by submitting to its Reserve Bank a letter setting forth the basis for that opinion.

\* \* \* \* \*

Effective March 10, 1979, new section 225.7 is added as follows:

#### SECTION 225.7—CHANGE IN BANK CONTROL

(a) **Acquisitions of Control.**<sup>14</sup> Under the Control Act, acquisitions by a person or persons acting in concert of the power to vote 25 per cent or more of a class of voting securities of a bank holding company or State member bank, unless exempted, require prior notice to the Board. In addition, a purchase, assignment, transfer, pledge, or other disposition of voting stock through which any person will acquire ownership, control, or the power to vote ten per cent or more of a class of voting securities of a bank holding company or State member bank will be deemed to be an acquisition by such person of the power to direct that institution's management or policies if:

<sup>14</sup> Control is defined in the Control Act as the power, directly or indirectly, to direct the management or policies, or to vote 25 per cent or more of any class of voting securities, of an institution. 12 U.S.C. § 1817(j)(8)(B).



(1) the institution has issued any class of securities subject to registration under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. § 781); or

(2) immediately after the transaction no other person will own a greater proportion of that class of voting securities.

Other transactions resulting in a person's control of less than 25 per cent of a class of voting shares of a bank holding company or State member bank would not result in control for purposes of the Act. An acquiring person may request an opportunity to contest the presumption established by this paragraph with respect to a proposed transaction. The Board will afford the person an opportunity to present views in writing or, where appropriate, orally before its designated representatives either at informal conference discussions or at informal presentations of evidence.

(b) **Notices.** Section 265.3 of the Board's Rules of Procedure governs the submission of notices required by the Control Act, except that notices should be sent to the Federal Reserve Bank of the district in which the affected bank or bank holding company is located. Notice shall not be considered given unless information provided is responsive to every item specified in paragraph 6 of the Control Act (12 U.S.C. § 1817(j)(6)), or every item prescribed in the appropriate Board forms. With respect to personal financial statements required by paragraph 6(B) of the Control Act, an individual acquirer may include a current statement of assets and liabilities, as of a date within 90 days of the notice, a brief income summary, and a statement of material changes since the date thereof, subject to the authority of the Federal Reserve Bank or the Board to require additional information.

(c) **Exempt transactions.** The following transactions are not subject to the prior notice requirements of the Control Act:

(1) the acquisition of additional shares of a

bank holding company or State member bank by a person who continuously since March 9, 1979, held power to vote 25 per cent or more of the voting shares of that institution, or by a person who has acquired and maintained control of that institution after complying with the Control Act's procedures;

(2) the acquisition of additional shares of a bank holding company or State member bank by a person who under paragraph (a) of this section would be deemed to have controlled that institution continuously since March 9, 1979, if:

(i) the transaction will not result in that person's direct or indirect ownership or power to vote 25 per cent or more of any class of voting securities of the institution; or

(ii) in other cases, the Board determines that the person has controlled the institution continuously since March 9, 1979;

(3) the acquisition of shares in satisfaction of a debt previously contracted in good faith or through testate or intestate succession or bona fide gift, provided the acquirer advises the Federal Reserve Bank within thirty days after the acquisition and provides any information specified in paragraph 6 of the Control Act that the Reserve Bank requests;

(4) a transaction subject to approval under section 3 of the Bank Holding Company Act or section 18 of the Federal Deposit Insurance Act;

(5) a transaction described in sections 2(a)(5) or 3(a)(A) or (B) of the Bank Holding Company Act by a person there described;

(6) a customary one-time proxy solicitation and receipt of pro-rata stock dividends; and

(7) the acquisition of shares of a foreign bank holding company, as defined in section 225.4(g) of this Part, provided this exemption does not extend to the reports and information required under paragraphs 9, 10, and 12 of the Control Act (12 U.S.C. § 1817(j)(9), (10), and (12)).