

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 83-33  
March 4, 1983

REGULATION Y

BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

(Request for Comment Concerning Nonbanking 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 proposed for comment an amendment to add discount securities brokerage and securities credit lending to the list of activities in which bank holding companies may engage. This proposal is the result of comments received in connection with an application filed by BankAmerica Corporation to acquire the Charles Schwab Corporation and thereby engage in such activities. That application was subsequently approved on January 7, 1983.

Attached is a copy each of the Board's press release and the notice as submitted to the Federal Register. Any views or comments concerning the proposal should be submitted in writing and received by Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20551, no later than April 8, 1983. All materials submitted should refer to Docket No. R-0455.

Questions regarding the contents of this circular should be directed to David W. Dixon of the Holding Company Supervision Department, Extension 6182.

Additional copies of this circular will be furnished upon request to the Public Affairs Department, Extension 6289.

Sincerely yours,



William H. Wallace  
First Vice President

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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.

# FEDERAL RESERVE press release



For immediate release

February 22, 1983

The Federal Reserve Board today proposed for comment an amendment to Regulation Y -- Bank Holding Companies -- to add discount securities brokerage and securities credit lending to the list of nonbanking activities permissible for bank holding companies.

The Board asked for comment by April 8, 1983.

In January, the Board approved the application of BankAmerica Corporation to acquire The Charles Schwab Corporation and thereby engage in discount securities brokerage and securities credit lending activities. These activities have not yet been approved for all bank holding companies. In light of the extensive record developed in the Schwab application, the Board has asked whether these activities should be added to the list of permissible nonbanking activities in Regulation Y.

Discount securities brokerage in the context of the proposal means buying and selling securities solely as agent for the account of customers; it specifically excludes securities underwriting activities and the provision of investment advice or research services. Securities credit lending means extending credit for the purchase or carrying of securities by nonbank subsidiaries of bank holding companies pursuant to the Board's Regulation T -- Margin Credit Extended by Brokers and Dealers.

The Board's notice in this matter is attached.

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Attachment

FEDERAL RESERVE SYSTEM

Regulation Y

[12 C.F.R. Part 225]

Docket No. R-0455

BANKING HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Nonbanking Activity: Discount Securities Brokerage and  
Securities Credit Lending

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Proposed Rule

SUMMARY: The Board of Governors recently approved by order an application by a major bank holding company filed pursuant to section 4(c)(8) of the Bank Holding Company Act to acquire a company engaged in providing certain brokerage and securities credit or "margin" lending services. In response to public notice of that application, several commentators suggested that those nonbanking activities, be added to the list of nonbank activities in Regulation Y, 12 C.F.R. § 225 et seq, that are generally permissible for bank holding companies. Accordingly, at this time, the Board has decided to consider amending section 225.4(a) of Regulation Y to add these activities to the list of permissible activities for bank holding companies.

DATE: Comments must be received by April 8, 1983.

ADDRESS: Comments, which should refer to Docket No. R-0455, may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room B-1122, except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 C.F.R. § 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Richard M. Ashton, Assistant General Counsel, 202/452-3750, or Richard M. Whiting, Senior Attorney, 202/452-3779, Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: (1) Proposed Rulemaking. Section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. § 1843(c)(8), states that bank holding companies lawfully may engage in those activities the Board has "determined (by order or regulation) to be so closely related to banking or managing and controlling banks as to be a proper incident thereto." 12 U.S.C. § 1843(c)(8). Under proposed general guidelines provided in a federal circuit court opinion, a nonbanking activity may be regarded as closely related to banking if it meets one of the following criteria: (a) banks generally have in fact provided the proposed service; (b) banks

generally provide services that are operationally or functionally so similar to the proposed service as to equip them particularly well to provide the proposed service; or (c) banks generally provide services that are so integrally related to the proposed service as to require their provision in a specialized form. National Courier Association v. Board of Governors of the Federal Reserve System, 516 F.2d 1229 (D.C. Cir. 1975). The Board has found such guidelines useful in considering whether or not a proposed nonbanking activity is closely related to banking. In addition, the Board may consider other factors in deciding what activities are closely related to banking. Alabama Association of Insurance Agents v. Board of Governors, 533 F.2d 224, 241 (5th Cir. 1976).

As referenced above, effective January 7, 1983, the Board of Governors approved the application filed pursuant to section 4(c)(8) of the Bank Holding Company Act by BankAmerica Corporation, San Francisco, California ("BAC"), a registered bank holding company, to acquire the Charles Schwab Corporation and thereby engage in certain securities brokerage and margin lending activities pursuant to Regulation T. 69 Federal Reserve Bulletin 105 (1983). In its order approving BAC's application, the Board found that BAC's proposed discount securities brokerage and margin activities were closely related to banking. BAC also sought to engage in certain nonbank activities that it believed were "incidental" to the primary activities of securities brokerage and securities credit lending. Those activities were the provision of custodial services and the provision of investment alternatives for funds awaiting investment in securities. Particularly, these latter services include the offering to securities customers IRAs, sweep arrangements, and the payment of interest on net free balances awaiting investment, particularly through an account that combines payment of interest with customer access to such balances through a debit card and checking account with an unaffiliated bank.

In its order approving the BAC application, the Board relied upon record evidence that banks currently offer certain types of securities brokerage services. For example, banks have offered brokerage services in connection with servicing custodial accounts, dividend reinvestment plans, voluntary investment plans, employee stock purchase plans, automatic investment plans, customer transaction services and bank trust and advisory accounts. The extent and nature of these bank brokerage activities has been recognized and documented by the SEC.<sup>1/</sup> In addition, national banks, the Board noted, are expressly authorized by statute (i.e., 12 U.S.C. § 27 ¶ 7) to purchase and sell securities without recourse and for the account of customers. Moreover, the Board found that the use of sophisticated techniques, resources, and personnel by banks to execute the purchase or sale of securities for the account of customers is so widespread as to justify a finding that banks generally provide securities brokerage services that equip them particularly well to engage in the proposed brokerage activities. Finally, the Board determined that the proposed "incidental"

<sup>1/</sup> Securities and Exchange Commission, Final Report on Bank Securities Activities (1977).

activities were permissible and could legally be conducted by BAC in connection with the proposed securities brokerage and securities credit lending activities.

Several commentators on BAC's application to engage in discount securities brokerage and margin lending activities suggested that these activities be added to the list of nonbank activities generally permissible for all bank holding companies. Accordingly, the Board now solicits comment as to whether the proposed activities of discount securities brokerage and securities credit lending should be added to the list of permissible nonbank activities in section 225.4(a) of Regulation Y. In this context, securities brokerage means buying and selling securities solely as agent for the account of customers; it specifically excludes securities underwriting activities and the provision of investment advice or research services. Securities credit or margin lending means extending credit for the purchase or carrying of securities by nonbank subsidiaries of bank holding companies pursuant to the Board's Regulation T, 12 C.F.R. § 220.

(2) Submission of Comments. Interested persons may express their views on the question whether the proposed activities should be added to the list in Regulation Y of nonbanking activities that the Board has determined to be so "closely related to banking or managing or controlling banks as to be a proper incident thereto" within the meaning of section 4(c)(8) of the Bank Holding Company Act and therefore generally permissible nonbanking activities for all bank holding companies. Any request for a hearing on this matter should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354); 5 U.S.C. 601 et seq.), the Board of Governors of the Federal Reserve System certifies that any amendment that might be adopted as a result of action on this matter, will not have significant economic impact on a substantial number of small entities that would be subject to the regulation. The proposed amendment would liberalize the existing regulations and would not have any particular effect on small entities that would be subject thereto.

(3) Authority. Accordingly, pursuant to its authority under section 5(b) of the Bank Holding Company Act, 12 U.S.C. § 1844(b), and Sec. 5, 70 Stat. 137; 12 U.S.C. 1844, unless otherwise noted. The Board of Governors of the Federal Reserve System proposes to amend 12 C.F.R. Part 225, as follows:

1. Section 225.4 is amended by adding paragraph (a) (15) to read as follows:

225.4--Nonbanking Activities

(a) \* \* \*

(15) providing certain securities brokerage services and security credit lending, provided that (i) the brokerage services are restricted to buying and selling securities solely as agent for the account of customers and does not include the conduct of securities underwriting or the provision of investment advice or research services, and (ii) the securities credit lending is conducted by nonbank subsidiaries of bank holding companies pursuant to the Board's Regulation T, 12 C.F.R. § 220.

By order of the Board of Governors of the Federal Reserve System,  
February 17, 1983.

(signed) James McAfee

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James McAfee  
Associate Secretary of the Board

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