

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 83-58
April 11, 1983

FFIEC REPORT TO CONGRESS

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

Attached is a press release of the Federal Financial Institutions Examination Council and its report and recommendation to Congress with respect to the Bank Export Services Act.

Questions regarding the material contained in this circular should be directed to the Legal Department, Extension 6171.

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

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.



Press Release

For immediate release

March 30, 1983

Chairman J. Charles Partee has submitted the attached report and recommendations to Congress with respect to the Bank Export Services Act (BESA), on behalf of the Federal Financial Institutions Examination Council.

The report was made in accordance with the Conference Report on the Export Trading Company Act of 1982, of which the BESA is part, which requested that the Council send to committees of Congress within eighteen months results of its analysis, a report of regulatory actions and legislative recommendations.

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March 25, 1983

The Honorable Fernand J. St Germain
Chairman
Committee on Banking, Housing &
Urban Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Examination Council, I am pleased to submit the Council's report on section 207 of the Bank Export Services Act (BESA -- Title II of P.L. 97-290) in accordance with the Conference Report on the Export Trading Company Act of 1982. The conferees requested that the Council "report to the respective committees of jurisdiction within 18 months after the date of enactment, the results of its analysis, a summary of any individual regulatory agency action viewed as needed, and any legislative recommendations relating to safety and soundness considerations."

In a letter to you of July 23, 1982, I expressed my concerns with the explanation in the House Banking Committee Report of the bankers' acceptances provisions of H.R. 6016. In the letter, I requested that Congress clarify whether certain "risk" participations were intended to be authorized for certain types of depository institutions. Risk participations involve the accepting bank conveying to others part of its credit risk in the transaction. The accepting bank, however, remains legally and directly liable to the holder for the full amount of the acceptance at maturity. The participating bank must pay the amount of its participation share to the accepting bank when the acceptance matures in the event the account party defaults on its obligations. The subsequent legislative history of the bankers' acceptance provision appears to clarify the intent of Congress in this area. The Council has recently considered this issue and has concluded that section 207 of the BESA authorizes member banks and U.S. branches and agencies of foreign banks that are subject to the limitations of this section to engage in such participations.

My letter also expressed the concern about the implications of risk participations in bankers' acceptances for the safety and soundness of banks. The Council, however, has recently taken action with regard to the reporting of such participations which we believe will enable the agencies to monitor more effectively developments in this area that may have implications for safety and soundness. Under these reporting requirements, the accepting bank will report on the balance sheet of its Report of Condition the total amount

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of its acceptances outstanding whether or not participations in those acceptances have been conveyed to others. This reporting treatment is considered by the Council to be appropriate because the accepting bank is liable to the acceptance holder for the full amount of the acceptance irrespective of the risk participation arrangement. The supervisory agencies will, however, have information on such participations because of the data that banks will be required to provide on Schedule L of the Report of Condition, "Commitments and Contingencies," beginning with the June 30, 1983 report. Accepting banks that have conveyed participations to others will report the amount of such participations on Schedule L, and the banks that have acquired such participations will also report the total amount for which they are contingently liable on the same schedule. As we gain experience with this approach, we may find it desirable to modify the reporting procedures. Such changes may also be warranted in the event of future regulatory clarifications.

There remains the question of the definition of an acceptance participation for purposes of determining compliance with the limits on the aggregate amount of eligible bankers' acceptances that may be issued by an individual member bank and by U.S. branches and agencies of a foreign bank subject to the limitations of the Act. Because the statute specifically authorizes the Federal Reserve Board to define further any of the terms used in section 207 of the BESA, the Council is not addressing this matter in this report. The Council understands that the Board will take up this question in the near future.

If you or your staff have any questions about this report, please contact Mr. Robert J. Lawrence, the Council's Executive Secretary, on 447-0939.

Sincerely,


Charles Partee
Chairman

cc: The Honorable Chalmers P. Wylie

(Also to Senator Jake Garn, Chairman of the Senate Committee on Banking, Housing and Urban Affairs, and to The Honorable William Proxmire.)