



**FEDERAL RESERVE BANK
OF DALLAS**

ROBERT D. McTEER, JR.
PRESIDENT
AND CHIEF EXECUTIVE OFFICER

DALLAS, TEXAS
75265-5906

April 7, 1995

Notice 95-38

TO: The Chief Executive Officer of each
member bank and bank holding company
in the Eleventh Federal Reserve District

SUBJECT

**Request for Public Comment on a
Proposal to Amend Regulation Y (Bank Holding
Companies and Change in Bank Control)**

DETAILS

The Board of Governors of the Federal Reserve System is proposing to amend Regulation Y (Bank Holding Companies and Change in Bank Control). The amendment would eliminate the need for a bank holding company to file a request with the Board for a determination under section 2(g)(3) of the Bank Holding Company Act that it no longer controls shares or assets that it has sold to a third party with financing if: (i) the purchaser is not an affiliate or principal shareholder of the divesting holding company, or a company controlled by the principal shareholder; and (ii) there are no officers, directors, trustees, or beneficiaries of the acquiror in common with or subject to control by the divesting company.

The Board believes that the elimination of the requirement for a determination of control for these types of divestitures will reduce the regulatory burden on bank holding companies without undermining the purposes of the Bank Holding Company Act. This proposal has been identified in connection with the Board's continuing effort to eliminate obsolete or unnecessary regulations or applications.

ATTACHMENT

A copy of the Board's notice (Federal Reserve System Docket No. R-0872) is attached.

MORE INFORMATION

For more information, please contact Michael Johnson at (214) 922-6081.
For additional copies of this Bank's notice, please contact the Public Affairs Department
at (214) 922-5254.

Sincerely yours,

Robert D. McTeer, Jr.

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0872]

Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to amend its Regulation Y (12 CFR 225) to eliminate the need for a bank holding company to file a request with the Board for a determination under section 2(g)(3) of the Bank Holding Company Act that it no longer controls shares or assets that it has sold to a third party with financing if: (i) the purchaser is not an affiliate or principal shareholder of the divesting holding company, or a company controlled by the principal shareholder; and (ii) there are no officers, directors, trustees or beneficiaries of the acquiror in common with or subject to control by the divesting company. The Board believes that the elimination of the requirement for a determination of control for these types of divestitures will reduce the regulatory burden on bank holding companies without undermining the purposes of the Bank Holding Company Act. This proposal has been identified in connection with the Board's continuing effort to eliminate obsolete or unnecessary regulations or applications.

DATES: Comments must be submitted on or before April 28, 1995.

ADDRESSES: Comments should refer to Docket No. R-0872 and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551, Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street N.W.) at any time. Comments may be inspected in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Pamela G. Nardolilli, Senior Attorney (202/452-3289), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Under section 2(g)(3) of the Bank Holding Company Act (12 U.S.C. § 1841(g)), shares transferred by a bank holding company to any transferee where the transferee is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with the transferor, are deemed to be controlled by the transferor unless the Board, after an opportunity for a hearing, determines that the transferor is not capable of controlling the transferee. The Board proposes to amend § 225.32 of the Board's Regulation Y (12 CFR 225.32) to exempt from the presumption of control those divestitures where a bank holding company is financing the sale of assets or shares that it acquired so long as (i) the property is not sold to an affiliate or principal shareholder of the divesting holding company, or a company controlled by such a principal shareholder; and (ii) there are no officers, directors, trustees, or beneficiaries of the acquiror in common with or subject to control by the divesting company.

A review of the 2(g)(3) determinations over the past ten years indicates that almost all control determinations under that section have arisen from bank holding companies selling property they acquired in satisfaction of a debt previously contracted ("dpc property") where the bank holding company

was trying to recoup its losses on a loan from the sale of the collateral. In these cases, the record indicates that the divestitures and financing arrangements have been conducted on an arm's-length basis, and there is no evidence of divesting companies exercising control of the assets after the sale. In other cases where a bank holding company sold an asset or subsidiary that it had acquired in the normal course of business and financed the sale of the asset or subsidiary, the assets were sold because, in most cases, the bank holding company was no longer interested in engaging in that business.

The elimination of the requirement to obtain a control determination will reduce the regulatory burden on bank holding companies without eliminating the Board's ability to supervise any attempt to control the divested asset in the future. Although the Board would no longer require a bank holding company to obtain a control determination, the Board, through the examination process, can review the authority under which a bank holding company controls the asset in question, and take appropriate supervisory action if any unlawful control is found to persist. In addition, the Board would continue to require a divesting company to obtain a 2(g)(3) determination if: (i) the asset were transferred to an affiliate or principal shareholder of the divesting holding company, or a company controlled by the principal shareholder; or (ii) an

interlock existed between the divesting company and the acquiring person. In these cases, staff believes that there is a greater potential for continued control by the bank holding company that should be reviewed. The General Counsel will continue to review these divestitures on a case by case basis to determine if a control determination is appropriate.

REGULATORY FLEXIBILITY ACT ANALYSIS

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Board certifies that the proposed amendment will not have a significant adverse economic impact on a substantial number of small entities and that any impact on those entities should be positive. The amendments would reduce regulatory burdens imposed by Regulation Y, and the amendment would have no particular adverse effect on other entities.

PAPERWORK REDUCTION ACT ANALYSIS

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501, et seq.) is contained in these changes.

List of Subjects 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding Companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 225 as set forth below:

PART 225 -- BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for 12 CFR part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331-3351, 3907, and 3909.

2. In § 225.32, paragraph (a)(2) is redesigned as paragraph (a)(3) and a new paragraph (a)(2) is added to read as follows:

§ 225.32 Divestiture proceedings.

(a) * * *

(2) The presumption of control in paragraph (a)(1)(i) of this section shall not apply to the sale or divestiture of assets or voting securities by a divesting company if:

(i) The acquiring person is not an affiliate or a principal shareholder of the divesting company, or a company controlled by such a principal shareholder; and

(ii) The acquiring person does not have any officer, director, trustee, or beneficiary in common with or subject to control by the divesting company.

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By order of the Board of Governors of the Federal Reserve System,
March 22, 1995.

(Signed) William W. Wiles

William W. Wiles,
Secretary of the Board.

W. W. W.