

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. 5376 ]  
August 23, 1963

FOREIGN BANKING AND FINANCING CORPORATIONS

Revision of Regulation K, Effective September 1, 1963

To the Member Banks of the  
Second Federal Reserve District:

Following is the text of a statement issued today by the Board of Governors of the Federal Reserve System:

The Board of Governors has adopted a revision, effective September 1, 1963, of its Regulation K affecting "corporations engaged in foreign banking and financing under the Federal Reserve Act." The revision follows a comprehensive review of the existing rules, in effect since January 15, 1957, that are applicable to so-called Edge Act and agreement corporations operating under sections 25 and 25(a) of the Federal Reserve Act. Presently there are 30 Edge Act corporations (including four which have not opened for business) and five agreement corporations.

The primary objective of the revision was to enable Edge Act and agreement corporations to operate more effectively in financing international and foreign commerce. Another important objective was to shorten and simplify the regulation by deleting provisions which merely reiterated statutory requirements.

The revision eliminates the formal distinction between "banking" and "financing" corporations. The substance of this distinction has also been considerably modified. For example, in sec. 211.2(d) it is stated, in effect, that a corporation is not engaged in "banking" unless its total demand deposits and acceptance liabilities exceed its capital and surplus. If a corporation is engaged in banking under this definition, it would be precluded by sec. 211.5(a) from engaging, even abroad, in the business of underwriting, selling, or distributing securities except to the extent permissible for member banks under section 5136 of the Revised Statutes for foreign branches of national banks under the new Regulation M; and the applicable limitation in sec. 211.9(b) on its total holdings of the liabilities of any one borrower would be 10 per cent of its capital and surplus (rather than 50 per cent thereof if it were not "engaged in banking").

Since Edge Act corporations were regarded under the former regulation as either "banking corporations" or "financing corporations," some may wish to combine these activities, as permitted by the revision, by amending their articles of association in accordance with the usual procedure. It is possible that some member banks having both types of corporations may want to merge them into a single corporation in view of the changes made in the revised regulation.

With respect to substantive matters the revision also differs from the former Regulation K in the following major respects:

1. For the first time the regulation would contain a statement of national purpose in sec. 211.1(b). It will also be noted that a statement of general policy concerning operations in the United States has been added in sec. 211.7(a).

2. Prior Board approval is required in sec. 211.4 with respect to the issuance by any corporation of debentures, bonds, or similar obligations. This provision for prior approval replaces detailed provisions of the former regulation.

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3. The procedure for establishing branches or agencies abroad has been simplified in sec. 211.6(b) so that a corporation which has established a branch or agency in a particular foreign country with Board approval may, unless otherwise advised by the Board, establish additional branches or agencies in that country after 30 days' notice to the Board.

4. The revision represents a substantial modification and simplification of the procedure by which corporations are allowed to invest in the stock of other corporations. For example, it would be unnecessary under sec. 211.8(a) for a corporation to apply for specific Board consent (1) to acquire shares incidental to an extension of credit, (2) to purchase less than 25 per cent of the voting shares of a foreign bank, or (3) to invest up to \$200,000 in the shares of a foreign corporation if such investment would be likely to further the development of United States foreign commerce.

5. The restrictions of the former regulation would be relaxed in sec. 211.7(c) (1) to allow corporations to accept time deposits from foreign depositors for the purpose of safekeeping or investment.

6. The provisions of the former regulation would also be relaxed in sec. 211.7(d) (2) to permit a corporation to take over or acquire participations in credits or obligations relating to transactions which it could have financed at inception.

7. The restrictions in sec. 211.7(b) regarding a corporation's investment in the United States of funds not currently employed in its international business would be tightened so as to preclude the purchase of open market commercial paper and domestic "investment securities," other than United States Government or State obligations.

8. The guarantee power of corporations has been patterned after that of foreign branches of national banks under the recently adopted revision of Regulation M (secs. 211.7(d) (3), 211.9(b) and (c) of the revision of Regulation K).

The revision has been prepared in light of comments received by the Board subsequent to publication of a proposed revision of the regulation in the *Federal Register* of March 16, 1963.

Copies of the revised regulation will be mailed to you as soon as they become available.

ALFRED HAYES,  
President.