

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 6001]
July 11, 1967]

Board of Governors' New Regulation, Effective July 1, 1967
"Rules Regarding Delegation of Authority"

*To All Member Banks, and Others Concerned,
in the Second Federal Reserve District:*

The following statement was recently made public by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System announced it was delegating, effective July 1, 1967, certain of its administrative and bank supervisory functions to the Federal Reserve Banks and to specified officials on the Board's staff.

The action, which marks the initial implementation of authority granted to the Board by the Congress in November 1966, takes the form of a new regulation, "Rules Regarding Delegation of Authority." The handling of several types of administrative action, in accordance with standards prescribed in the regulation, will be expedited by the new procedure.

Authority to approve domestic branches of State-chartered member banks is among the more significant matters delegated by the Board — in this case to the Federal Reserve Banks. Examples of other delegated actions, which formerly required specific Board approval, include extensions of time for registration by a bank holding company, extensions of time for registration of securities of State member banks, waiver of the six months' notice that a State member bank must give before withdrawing from membership, approval of an investment by a State member bank in bank premises in excess of its capital stock, and the declaration of dividends by a State member bank in certain circumstances.

The new regulation provides for review by the Board of Governors of any action taken by those to whom authority has been delegated in the event that any person claims to have been adversely affected.

It is expected that the efficient and expeditious performance of the Board's major responsibilities, both in the field of monetary and credit policy and in the field of bank supervision and regulation, will be facilitated by the delegation of many functions that formerly had to be performed in all cases by the Board itself.

Enclosed is a copy of the new regulation; additional copies will be furnished upon request.

ALFRED HAYES,
President.

BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

RULES REGARDING
DELEGATION OF AUTHORITY
(12 CFR 265)

Effective July 1, 1967



INQUIRIES WITH RESPECT TO THIS REGULATION

Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve district in which the inquiry arises.

STATUTORY AUTHORITY

This regulation is issued under authority of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), which reads as follows:

Sec. 11. The Board of Governors of the Federal Reserve System shall be authorized and empowered:

* * * * *

(k) To delegate, by published order or rule and subject to the Administrative Procedure Act, any of its functions, other than those relating to rulemaking and pertaining principally to monetary and credit policies, to one or more hearing examiners, members or employees of the Board, or Federal Reserve banks. The assignment of responsibility for the performance of any function that the Board determines to delegate shall be a function of the Chairman. The Board shall, upon the vote of one member, review action taken at a delegated level within such time and in such manner as the Board shall by rule prescribe.

C O N T E N T S

	Page
SEC. 265.1—DELEGATION OF FUNCTIONS GENERALLY -----	1
SEC. 265.2—SPECIFIC FUNCTIONS DELEGATED -----	1
(a) The Secretary of the Board -----	1
(b) The General Counsel of the Board -----	1
(c) The Director of the Division of Examinations ---	2
(d) The Director of the Division of Bank Operations	3
(e) The Director of the Division of Personnel Adminis- tration-----	4
(f) Each Federal Reserve Bank -----	4
SEC. 265.3—REVIEW OF ACTION AT DELEGATED LEVEL -----	7

RULES REGARDING DELEGATION OF AUTHORITY*

(12 CFR 265)

Effective July 1, 1967

SECTION 265.1—DELEGATION OF FUNCTIONS GENERALLY

Pursuant to the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board of Governors of the Federal Reserve System delegates authority to exercise those of its functions described in this part, subject to the limitations and guidelines herein prescribed. The Chairman of the Board of Governors assigns the responsibility for the performance of such delegated functions to the persons herein specified. A delegee may submit any matter to the Board for determination if he considers such submission appropriate because of the importance or complexity of the matter.

SECTION 265.2—SPECIFIC FUNCTIONS DELEGATED

(a) **The Secretary of the Board** (or, in his absence, the Acting Secretary) is authorized:

(1) Under the provisions of part 261 of this chapter, to make available, upon request, information in the records of the Board.

(2) Under the provisions of section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)), to certify to the Federal Deposit Insurance Corporation that, with respect to the admission of a State-chartered bank to Federal Reserve membership, the factors specified in section 6 of that Act (12 U.S.C. 1816) were considered.

(b) **The General Counsel of the Board** (or, in his absence, the Acting General Counsel) is authorized:

(1) Under the provisions of section 2(g) of the Bank Holding Company Act (12 U.S.C. 1841(g)), to determine whether a company that transfers shares to any of the types of transferees specified therein is incapable of controlling the transferee.

(2) Under the provisions of section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)), to determine that a company engaged in activities of a financial, fiduciary, or

* This text corresponds to the Code of Federal Regulations, Title 12, Chapter II, Part 265, cited as 12 CFR 265.

insurance nature falls within the exemption described therein permitting retention or acquisition of control thereof by a bank holding company.

(3) Under the provisions of sections 1101-1103 of the Internal Revenue Code (26 U.S.C. 1101-1103), to make certifications (prior and final) for federal tax purposes with respect to distributions pursuant to the Bank Holding Company Act.

(c) **The Director of the Division of Examinations** (or, in his absence, the Acting Director) is authorized:

(1) Under the provisions of the seventh paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 325), to select or to approve the appointment of Federal Reserve bank examiners, assistant examiners, and special examiners.

(2) Under the provisions of the nineteenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 625) and section 211.9(e) of this chapter (Regulation K), to require submission and publication of reports by an "Edge Act" corporation.

(3) Under the provisions of section 5 of the Bank Holding Company Act (12 U.S.C. 1844), after having received clearance from the Bureau of the Budget (where necessary) and in accordance with the law of Administrative Procedure (5 U.S.C. 553), to promulgate registration, annual report, and other forms for use in connection with the administration of such Act.

(4) Under the provisions of section 12(g) of the Securities Exchange Act (15 U.S.C. 78l (g)):

(i) to accelerate the effective date of a registration statement filed by a member State bank with respect to its securities;

(ii) to accelerate termination of the registration of such a security that is no longer held of record by 300 persons; and

(iii) to extend the time for filing a registration statement by a member State bank.

(5) Under the provisions of section 12(d) of the Securities Exchange Act (15 U.S.C. 78l (d)), to accelerate the effective date of an application by a member State bank for registration of a security on a national securities exchange.

(6) Under the provisions of section 12(f) of the Securities Exchange Act (15 U.S.C. 78l (f)), to issue notices with respect

to an application by a national securities exchange for unlisted trading privileges in a security of a member State bank.

(7) Under the provisions of section 12(h) of the Securities Exchange Act (15 U.S.C. 78l(h)), to issue notices with respect to an application by a member State bank for exemption from registration.

(8) Under the provisions of section 206.5(f) and (i) of this chapter (Regulation F), to permit the mailing of proxy and other soliciting materials by a member State bank before the expiration of the time prescribed therein.

(9) Under the provisions of sections 206.41, 206.42, and 206.43 (Instructions as to Financial Statements 9, 4, and 3, respectively) of this chapter (Regulation F), to permit the omission of financial statements from reports by a member State bank and/or to require other financial statements in addition to, or in substitution for, the statements required therein.

(d) The Director of the Division of Bank Operations (or, in his absence, the Acting Director) is authorized:

(1) Under the provisions of the sixteenth paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 304), to classify member banks for the purposes of electing Federal Reserve bank class A and class B directors, giving consideration to (i) the statutory requirement that each of the three groups shall consist as nearly as may be of banks of similar capitalization and (ii) the desirability that every member bank have the opportunity to vote for a class A or a class B director at least once every three years.

(2) Under the provisions of the third paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 413), to apportion credit among the Reserve banks for unfit notes that are destroyed, giving consideration to the net number of notes of each denomination that were issued by each Reserve bank during the preceding calendar year.

(3) Under the provisions of section 19(b) of the Federal Reserve Act (12 U.S.C. 461) and section 204.2(a)(2) of this chapter (Regulation D), to permit a member bank in a reserve city to maintain reserves at the ratios prescribed for banks not in reserve cities, except a bank with demand deposits larger than the amount of demand deposits of the largest bank in the city that is permitted to maintain reserves at such lower ratio, giving consideration to factors such as the amount of the bank's

resources, total deposits, demand deposits, demand deposits owing to banks, types of depositors and borrowers, turnover of demand deposits, geographical location within the city, and competitive position with relation to other banks in the city.

(e) **The Director of the Division of Personnel Administration** (or, in his absence, the Acting Director) is authorized, under the provisions of the twenty-first paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 306), to approve the appointment of assistant Federal Reserve agents (including representatives and alternate representatives of such agents).

(f) **Each Federal Reserve Bank** is authorized, as to member banks or other indicated organizations headquartered in its district:

(1) Under the provisions of the third paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321), section 5155 of the Revised Statutes (12 U.S.C. 36), and section 208.8 of this chapter (Regulation H), to permit a State member bank to establish a domestic branch if:

(i) the bank's capitalization is adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management;

(ii) the bank's management is adequate to all of its responsibilities, has the ability to cope successfully with existing or foreseeable problems, and has sufficient depth to staff the proposed branch without any significant deterioration in the overall management situation;

(iii) the convenience and needs of the community will be better served if the proposed branch is established;

(iv) the establishment of the proposed branch will not tend to create an undesirable competitive situation (either actual or potential);

(v) there are good prospects for profitable operations of the proposed branch within a reasonable time, and the bank's earnings are adequate to sustain the operational losses of the proposed branch until it becomes profitable;

(vi) the bank's investment in bank premises after the expenditure for the proposed branch will be reasonable;

(vii) counsel for the Reserve bank considers that establishment of the branch would be in conformity with the provisions of section 5155 of the Revised Statutes and section 208.8 of this chapter; and

(viii) the establishment of the proposed branch has been approved by the appropriate State authority.

(2) Under the provisions of the sixth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) and the provisions of section 5199 of the Revised Statutes (12 U.S.C. 60), to permit a State member bank to declare dividends in excess of net profits for the calendar year combined with its retained net profits of the preceding two years, less any required transfers to surplus or a fund for the retirement of any preferred stock, if:

(i) the bank's capitalization is adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management; and

(ii) after payment of the proposed dividend, the bank's capitalization would still be adequate in accordance with such considerations.

(3) Under the provisions of the tenth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 328), to waive six months' notice by a bank of its intention to withdraw from Federal Reserve membership.

(4) Under the provisions of the eleventh paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 329), to permit a State member bank to reduce its capital stock if its capitalization thereafter will be:

(i) in conformity with the requirements of federal law, and

(ii) adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

(5) Under the provisions of the seventeenth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 334), to extend

the time, for good cause shown, within which an affiliate of a State member bank must file reports.

(6) Under the provisions of the seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372), to permit a member bank to accept commercial drafts in an aggregate amount at any one time up to 100 per cent of its capital and surplus.

(7) Under the provisions of section 24A of the Federal Reserve Act (12 U.S.C. 371d), to permit a State member bank to invest in bank premises in an amount in excess of its capital stock, if:

(i) the bank's capitalization is adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management; and

(ii) upon completion of the proposed investment, the bank's aggregate investment (direct and indirect) in bank premises plus the indebtedness of any wholly-owned bank premises subsidiary will not exceed 40 per cent of its total capital funds (including capital notes and debentures) plus reserves other than valuation reserves.

(8) Under the provisions of the ninth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615), to extend the time in which an "Edge Act" corporation must divest itself of stock acquired in satisfaction of a debt previously contracted.

(9) Under the provisions of the twenty-second paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 628), to extend the period of corporate existence of an "Edge Act" corporation.

(10) Under the provisions of section 5(a) of the Bank Holding Company Act (12 U.S.C. 1844(a)), to extend the time within which a bank holding company must file a registration statement.

(11) Under the provisions of section 4(a) of the Bank Holding Company Act (12 U.S.C. 1843(a)), to extend the time within which a bank holding company must divest itself of interests in nonbanking organizations.

(12) Under the provisions of section 4(c) (2) of the Bank

Holding Company Act (12 U.S.C. 1843(c)), to extend the time within which a bank holding company must divest itself of interests in a nonbanking organization acquired in satisfaction of a debt previously contracted.

(13) Under the provisions of section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)), to require reports under oath to determine whether a company is complying with the provisions of such Act and the Board's regulations promulgated thereunder.

SECTION 265.3—REVIEW OF ACTION AT DELEGATED LEVEL

Any action taken at a delegated level shall be subject to review by the Board only if such review is requested by a member of the Board either on his own initiative or on the basis of a petition for review by any person claiming to be adversely affected by the action. Any such petition for review must be received by the Secretary of the Board not later than the fifth day after the date of such action. Notice of any such review shall be given to the person with respect to whom such action was taken and be received by such person not later than the close of the tenth day following the date of such action. Upon receipt of such notice, such person shall not proceed further in reliance upon such action until he is notified of the outcome of review thereof by the Board.