AT 6352

FEDERAL RESERVE BANK OF NEW YORK

June 20, 1969

Interpretation of Regulations K and M

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

The Board of Governors of the Federal Reserve System recently considered whether foreign subsidiaries of member banks and Edge and Agreement corporations should be permitted to acquire, without its consent, "rights" to acquire shares in companies organized or doing business in the United States, in connection with extensions of credit to foreign affiliates of such companies.

The Board concluded that section 25(a) does not require its consent in such cases. The Board, therefore, declared that, subject to certain specified conditions, Board consent is no longer necessary for the acquisition of such "rights" incident to credit extensions or the purchase of debt obligations by such foreign subsidiaries. Printed below is an excerpt from the Federal Register of June 19, containing the text of the interpretation reflecting these conclusions.

Additional copies of this circular will be furnished upon request.

Alfred Hayes,
President.

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. K]

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT

Acquisition of "Rights"

§ 211.104 Acquisition of rights to acquire shares incident to extensions of credit.

(a) When the Board grants its specific consent for a member bank or a corporation organized under section 25(a) of the Federal Reserve Act (an "Edge" corporation) or operating pursuant to an agreement with the Board under section 25 thereof (an "Agreement" corporation) to acquire a controlling stock interest in another corporation, the terms of such consent ordinarily condition the continued holding of such stock upon the requirement that the subsidiary limit its activities to those permissible for an Edge corporation. Except for investments in the shares of "foreign corporations not doing business in the United States" to the limited extent authorized by the general consent in § 211.8(a) or as otherwise permitted in § 211.8 (b) or (c)(2), specific consent of the Board is required before an Edge corporation may acquire "shares" in another corporation. Section 211.8(c)(2) provides that "unless otherwise specified, 'shares' in this section includes any rights to acquire shares * * *".

(b) In borrowing abroad through affiliates to finance their overseas operations, U.S. corporations have made increasing use of obligations convertible into shares of the parent corporation or have offered rights to acquire such shares (both such convertible obligations and rights hereinafter being collectively referred to as "rights"). Since many foreign subsidiaries of member banks and Edge and Agreement corporations are important sources for such financing, the question has arisen whether the Board should permit such subsidiaries to acquire, without its consent, such "rights" to acquire shares of corporations which are organized or doing business in the United States.

(c) Having concluded that such subsidiaries should in certain circumstances be permitted to acquire such "rights" without its consent and that section 25 (a) does not require otherwise, the Board hereby specifies that, as used in § 211.8 (b), the term "shares" does not include "rights" to acquire shares of other corporations, even those organized or doing business in the United States: *Provided*, That such "rights" (1) are exercised only with specific consent of the Board, (2) are acquired incident to an extension of credit or the purchase of a debt obligation, (3) have an investment value relatively small in relation to the obligation to which they pertain, and (4) will not cause the subsidiary to have invested more than $500,000 in the "rights" and shares of any corporation.

(d) In this connection it is noted that section 25(a) prohibits the purchase and holding of stock (including the exercise of "rights") if the issuer is "engaged in the general business of buying or selling goods, wares, mechandise or commodities in the United States (or transacts) any business in the United States except such as in the judgment of the Board * * * may be incidental to its international or foreign business * * *".

(12 U.S.C. 615. Interprets or applies 12 U.S.C. 615(c))

Dated at Washington, D.C., this 5th day of June 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-7222; Filed, June 18, 1969; 8:45 a.m.]

[Reg. M]

PART 213—FOREIGN ACTIVITIES OF NATIONAL BANKS

Acquisition of "Rights"

§ 213.102 Acquisition of rights to acquire shares incident to extensions of credit.

For text of this interpretation, see § 211.104 of this subchapter.

(12 U.S.C. 601. Interprets or applies 12 U.S.C. 601)

Dated at Washington, D.C., this 5th day of June 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

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