

AT 6742

FEDERAL RESERVE BANK OF NEW YORK

NEW YORK, N. Y. 10045

AREA CODE 212 732-5700

June 14, 1971

Nonbanking Activities of Bank Holding Companies

TO ALL BANKS AND OTHERS CONCERNED  
IN THE SECOND FEDERAL RESERVE DISTRICT

On May 28, 1971, the Board of Governors announced amendments to Regulation Y to permit expansion of bank holding companies into activities closely related to banking. These amendments, which implement Section 4(c)(8) of the Bank Holding Company Act of 1956, as amended, become effective on June 15, 1971. Section 222.4(c) of the amended regulation provides that three conditions shall apply to each acquisition consummated or activity engaged in on the authority of Section 4(c)(8) of the Bank Holding Company Act of 1956, as amended; the first of these conditions is that:

" . . . the provision of any credit, property or services involved shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970; . . ."

Enclosed is the text of section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C.A. §§ 1971-1978).

Additional copies of the enclosure will be furnished upon request.

FRED W. PIDERIT, JR.  
Vice President

2 U.S.C.A.  
§ 1971-1978  
106,  
Bank Holding  
Company Act  
Amendments  
of 1970  
P.L. 91-607)

## CHAPTER 22—TYING ARRANGEMENTS [NEW]

| Sec.  |   |   |
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### § 1971. Definitions

As used in this chapter, the terms "bank", "bank holding company", "subsidiary", and "Board" have the meaning ascribed to such terms in section 1841 of this title. For purposes of this chapter only, the term "company", as used in section 1841 of this title, means any person, estate, trust, partnership, corporation, association, or similar organization, but does not include any corporation the majority of the shares of which are owned by the United States or by any State. The term "trust service" means any service customarily performed by a bank trust department. Pub.L. 91-607, Title I, § 106(a), Dec. 31, 1970, 84 Stat. 1766.

### § 1972. Certain tying arrangements; prohibition; exceptions

A bank shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

- (1) that the customer shall obtain some additional credit, property, or service from such bank other than a loan, discount, deposit, or trust service;
- (2) that the customer shall obtain some additional credit, property, or service from a bank holding company of such bank, or from any other subsidiary of such bank holding company;
- (3) that the customer provide some additional credit, property, or service to such bank, other than those related to and usually provided in connection with a loan, discount, deposit, or trust service;
- (4) that the customer provide some additional credit, property, or service to a bank holding company of such bank, or to any other subsidiary of such bank holding company; or
- (5) that the customer shall not obtain some other credit, property, or service from a competitor of such bank, a bank holding company of such bank, or any subsidiary of such bank holding company, other than a condition or requirement that such bank shall reasonably impose in a credit transaction to assure the soundness of the credit.

The Board may by regulation or order permit such exceptions to the foregoing prohibition as it considers will not be contrary to the purposes of this chapter.

Pub.L. 91-607, Title I, § 106(b), Dec. 31, 1970, 84 Stat. 1766.

### § 1973. Jurisdiction of courts; duty of United States attorneys; equitable proceedings; petition; expedition of cases; temporary restraining orders; bringing in additional parties; subpoenas

The district courts of the United States have jurisdiction to prevent and restrain violations of section 1972 of this title and it is the duty of the United States attorneys, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. The proceedings may be by way of a petition setting forth the case and praying that the violation be enjoined or otherwise prohibited. When the parties complained of have been duly notified of the petition, the court shall proceed, as soon as possible, to the hearing and determination of the case. While the petition is pending, and before final decree, the court may at any time make such temporary restraining order or prohibition as it deems just. Whenever it appears to the court that the ends of justice require that other parties be brought before it, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and subpoenas to that end may be served in any district by the marshal thereof.

Pub.L. 91-607, Title I, § 106(c), Dec. 31, 1970, 84 Stat. 1767.

(Over)

**§ 1974. Actions by United States; subpoenas for witnesses**

In any action brought by or on behalf of the United States under section 1972 of this title, subpoenas for witnesses may run into any district, but no writ of subpoena may issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the prior permission of the trial court upon proper application and cause shown.

Pub.L. 91-607, Title I, § 106(d), Dec. 31, 1970, 84 Stat. 1767.

**§ 1975. Civil actions by persons injured; jurisdiction and venue; amount of recovery**

Any person who is injured in his business or property by reason of anything forbidden in section 1972 of this title may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, and shall be entitled to recover three times the amount of the damages sustained by him, and the cost of suit, including a reasonable attorney's fee.

Pub.L. 91-607, Title I, § 106(e), Dec. 31, 1970, 84 Stat. 1767.

**§ 1976. Injunctive relief for persons against threatened loss or damage; equitable proceedings; preliminary injunctions**

Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of section 1972 of this title, under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

Pub.L. 91-607, Title I, § 106(f), Dec. 31, 1970, 84 Stat. 1767.

**§ 1977. Limitation of actions; suspension of limitations**

(1) Subject to paragraph (2) of this section, any action to enforce any cause of action under this chapter shall be forever barred unless commenced within four years after the cause of action accrued.

(2) Whenever any enforcement action is instituted by or on behalf of the United States with respect to any matter which is or could be the subject of a private right of action under this chapter, the running of the statute of limitations in respect of every private right of action arising under this chapter and based in whole or in part on such matter shall be suspended during the pendency of the enforcement action so instituted and for one year thereafter: *Provided*, That whenever the running of the statute of limitations in respect of a cause of action arising under this chapter is suspended under this paragraph, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within the four-year period referred to in paragraph (1) of this section.

Pub.L. 91-607, Title I, § 106(g), Dec. 31, 1970, 84 Stat. 1768.

**§ 1978. Actions under other Federal or State laws unaffected; regulations or orders barred as a defense**

Nothing contained in this chapter shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this chapter. No regulation or order issued by the Board under this chapter shall in any manner constitute a defense to such action.

Pub.L. 91-607, Title I, § 106(h), Dec. 31, 1970, 84 Stat. 1768.