FEDERAL RESERVE BANK OF NEW YORK

[Circular No. 7310
December 28, 1973]

Revised Voluntary Foreign Credit Restraint Guidelines

Effective January 1, 1974

To All Banks and Other Financial Institutions in the Second Federal Reserve District:

The following statement was issued December 26 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today issued amendments to its Voluntary Foreign Credit Restraint (VFCR) Guidelines that will increase foreign lending and investment ceilings for banks and other financial institutions subject to the program and that will eliminate differences in the degrees of restraint on lending in developed countries.

The announcement is being made in conjunction with actions by the Treasury and Commerce Departments to change the Interest Equalization Tax (IET) and the Foreign Direct Investment Regulations. The three programs constitute a set of restraints on capital outflow that have been part of an overall Government program to help the U.S. balance of payments. The Federal Reserve has administered the VFCR program since early 1965 at the request of the President.

The VFCR amendments approved by the Board, effective January 1, 1974, are as follows:

(1) The present ceiling for each commercial bank is increased to $10 million or to an amount 4 percent above the ceiling in effect immediately prior to the present revision. Heretofore ceilings have ranged upward in size from $500,000, depending on the size of the bank or on its historical record in foreign lending. Banks without ceilings could hold foreign assets of types subject to restraint up to the lesser of (a) $500,000 or (b) 2 percent of their end-of-1970 total assets. Under the amendment, the $500,000 minimum figure for banks with ceilings is now $10 million. Banks previously without ceilings but adopting them under the amendment will be expected to observe the established principle that the ceilings are for loans generated directly by the "newcomer" bank and not for loans initiated by other U.S. banks.

(2) The request that banks refrain from making non-export loans with maturities of over one year to residents of the developed countries of continental Western Europe is eliminated. Such loans by a bank will be left to compete for the bank's available guideline ceiling with loans to borrowers in other foreign areas. In general, such loans are, and will at this time remain, subject to the IET.

(3) U.S. agencies and branches of foreign banks will have a ceiling of at least $10 million for making foreign loans and other investments of types restrained under the program. The present minimum ceiling is $1,000,000.

(4) Agencies and branches will be able to recalculate the "base net foreign position", which determines the relationship between their foreign lending and foreign borrowing, by using 96 percent of their foreign liabilities for June 30, 1973. They will thereby be allowed to increase foreign assets, or to decrease foreign liabilities, by approximately 4 percent from amounts determined by the previous formula.

(5) The restraint against term loans to the developed countries of continental Western Europe will be dropped for agencies and branches, as it is being dropped for banks.

(6) The ceiling of each nonbank financial institution (which includes, among others, insurance companies, finance companies, and mutual funds) will be increased to an amount 5 percent above that in effect as of December 31, 1972 or to $2 million, whichever is higher.

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(7) The request that nonbank financial institutions refrain from increasing their loans and investments in the developed countries of continental Western Europe beyond the amount held at the end of 1968 is eliminated. Any increase in such investments is left to compete for available latitude under an institutions Guideline ceiling with other foreign loans and investments. The IET will continue to apply to some of these loans and investments.

(8) Periodic reports will continue to be filed by all banking institutions with $500,000 or more in foreign assets and by all nonbank financial institutions with $500,000 or more in foreign assets of types subject to restraint or with $5 million or more of total foreign assets.

The text of the revised guidelines is printed below.

Our Foreign Department (Telephone No. 212-791-5694 or 212-791-5690) will be pleased to confer with you on any questions regarding the guidelines. Questions on the reports to be filed under the guidelines should be directed to our Balance of Payments Division (Telephone No. 212-791-5557).

Additional copies of this circular will be furnished upon request.

Alfred Hayes,
President.

Federal Reserve Foreign Credit Restraint Guidelines

I. GENERAL PURPOSE

In order to help to strengthen the U.S. balance of payments, U.S. financial institutions are asked to restrain their foreign credit and investments, except credit that finances U.S. exports. Within these restraints, they are asked to give priority to meeting the credit needs of developing countries.

II. BANKS

A. Ceilings for Nonexport Financing

1. *Basic restraint on nonexport financing*

A bank is requested not to hold claims on foreigners or other foreign assets in excess of its ceiling.

2. *Calculation of ceilings*

A bank will have a ceiling which will be the greatest of the following:

a. 4 per cent above its ceiling in effect immediately prior to this revision.

b. $10,000,000 if it had a ceiling on December 31, 1973.

3. *Banks previously without ceilings*

A bank that did not have a ceiling under the previous guidelines may adopt a ceiling equal to (a) 2 per cent of its total assets, as of December 31, 1970 or (b) $10,000,000. The purpose of making a ceiling available to a bank that did not have one is to enable the bank to engage directly in foreign financing. The ceiling should not be used to purchase from other U.S. financial institutions loans that the latter have already extended to foreigners. The ceiling should be used only where the bank (a) takes the initiative to arrange credit that it extends, (b) assumes the principal burden of judging the creditworthiness of the borrower, and (c) bears responsibility for the administrative details concerning the extension and the repayment of the credit.

Before adopting a ceiling under this subparagraph, a bank should consult with the Federal Reserve Bank in the district in which it is located to apprise itself of the guidelines and reporting requirements and to notify the Federal Reserve Bank of the amount of its ceiling.

4. *Sales of foreign assets*

a. *Sales without recourse.* Banks are requested not to sell foreign assets that are subject to the guideline ceilings, without recourse, to a U.S. resident other than a financial institution participating in the Federal Reserve foreign credit restraint program or other than a direct investor subject to the Foreign Direct Investment Program administered by the Department of Commerce.

b. *Sales with recourse.* A bank that sells a foreign asset that is subject to its Ceiling, with recourse, to a U.S. resident should continue to report that asset under its Ceiling, unless the U.S. resident is a financial institution participating in the Federal Reserve Foreign Credit Restraint Program or is a direct investor subject to the Foreign Direct Investment Program administered by the Department of Commerce.

5. *Foreign borrowings*

In principle, the restraints under these guidelines are imposed on gross foreign assets, including gross claims

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on foreigners. However, certain liabilities to foreigners may be counted as offsets to foreign assets, provided that the liabilities arise from borrowings abroad that substitute for direct investment capital outflow from the United States. Such offsetting may be done in the manner described below.

a. *Banks, bank holding companies, Edge Act Corporations, and Agreement Corporations.* A bank, a bank holding company, an "Edge Act" Corporation, or an "Agreement" Corporation may not count its borrowings from, or its other liabilities to, foreigners as offsets to its claims on foreigners and other foreign assets.

b. *Domestic subsidiaries.* A domestically chartered nonbank subsidiary (for example, a so-called Delaware subsidiary) of a bank holding company, of an Edge Act Corporation or of an Agreement Corporation may count the outstanding amount of its borrowings from foreigners as offsets to its claims on foreigners and to its other foreign assets, provided those borrowings are of an original maturity of 3 years or more. Such borrowings would include debentures, promissory notes, or other debt obligations of the domestic subsidiary to a foreigner. The amount of the offset at any time would be equal to the amount of the outstandings after deducting (i) any repayments of principal and (ii) in the case of convertible debt issues, any conversions. This offsetting principle may be used to reduce the value of foreign assets of the subsidiary in computing the value of foreign assets to be consolidated for reporting purposes with those of the parent institution; any excess of outstanding borrowings of the subsidiary over foreign assets of the subsidiary may not be used to reduce the reportable value of foreign assets of the parent institution.

6. *Total assets*

For the purpose of calculating the ceiling, total assets are those shown in the Official Report of Condition submitted to the relevant supervisory agency as of December 31, 1970.

7. *U.S. agencies and branches of foreign banks*

a. An agency or branch of a foreign bank will be acting in accordance with the spirit of the guidelines if its holdings of foreign assets of types subject to restraint do not exceed $10,000,000 and if its foreign lending and investments otherwise correspond to the provisions of the guidelines that U.S. banks are requested to observe.

b. A U.S. agency or branch of a foreign bank holding more than $10,000,000 in foreign assets of types subject to restraint ("covered assets") should not incur a "net foreign position" greater than its "base net foreign position," as explained in "d" below.

c. The "base net foreign position" is the value resulting from subtracting from "covered assets," as of June 30, 1973, 96 per cent of total liabilities to non-U.S. residents as of June 30, 1973.

d. An agency or branch with a "base net foreign position" that showed an excess of the respective liabilities over "covered assets" should maintain at least an equal excess of total foreign liabilities over "covered assets;" an agency or branch with a "base net foreign position" that showed an excess of "covered assets" over the respective liabilities should not hold a greater excess of "covered assets" over total foreign liabilities.

For the purpose of calculating liabilities under (a) through (d), residents of Puerto Rico, the Virgin Islands and other territories and possessions included in the definition of the United States for Treasury Foreign Exchange Reports should be treated as residents of the United States.

B. Exclusions

1. *Export credits*

a. *Basic exemption.* Export credits, defined in Part IV-3, are exempted from restraint under these guidelines. Banks should maintain adequate information and otherwise take all reasonable measures to provide assurance that credits meet the definition before treating them as exempted.

b. *Acquisition of previous foreign export credits.* The purpose of the exemption for export credits is to ensure that, as of the date of issuance of these revised guidelines, no restraint is applied to the granting of credit that will finance U.S. exports. A bank should report under its ceiling any outstanding loans that it purchases or repurchases from a foreigner, including its own branch, if that loan financed U.S. exports shipped (or financed U.S. services performed abroad) prior to November 11, 1971.

2. *Canada*

The extension of credit to residents of Canada or other acquisition of Canadian assets is exempted from restraint under these guidelines.

3. *Securities of certain international institutions*

All direct obligations of international institutions of which the United States is a member are exempted from a bank's ceiling.

4. *Insurance and guaranty settlements of OPIC*

A foreign asset acquired directly or through purchase of a participation in a pool of foreign assets, provided the foreign asset or the participation is covered by a payment guarantee issued by the U.S. Overseas Private Investment Corporation (OPIC) under its insurance and guaranty claims settlement authority, is exempted from an institution's ceiling.

C. Banks over ceilings

Banks are expected to observe their ceilings throughout the monthly reporting periods. Banks are not expected routinely to sell foreign assets immediately

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prior to the reporting date or otherwise engage in "windowdressing" activities.

A bank whose foreign assets are in excess of its ceiling or otherwise conflict with these restraints and which does not show improvement will be expected periodically to discuss with the Federal Reserve Bank in its district the steps it has taken and that it proposes to take to bring the amount of its foreign assets into conformity with these guidelines.

D. Applicability to banks and bank-related financial institutions

1. *General*

The guidelines are applicable to all U.S. banks (exclusive of trust departments of commercial banks, which should follow the guidelines for nonbank financial institutions in Part III), to their domestically chartered subsidiaries at any level, and to bank holdings companies and their domestically chartered subsidiaries at any level, except where those subsidiaries are covered by other U.S. capital restraint programs as noted in subparagraph 3b and to U.S. agencies and branches of foreign banks.

2. *Edge Act and Agreement Corporations*

a. *Policy of limiting aggregate ceilings.* It is intended that the establishment of new Edge Act Corporations or Agreement Corporations not result in the expansion of aggregate ceilings under these guidelines.

b. *One-bank-owned corporations.* An Edge Act or Agreement Corporation that is owned by one bank and that, under the previous guidelines, had a ceiling separate from that of its parent bank may continue to have a ceiling separate from that of its parent or may combine its ceiling with that of its parent.

(i) The ceiling to which it would be entitled if it did not combine would be calculated as under Section A-2 for the corporation as a separate entity.

(ii) An Edge Act or Agreement Corporation that is owned by one bank and that was established after March 3, 1965, should share the ceiling of its parent bank.

c. *Multibank-owned corporations*

(i) *Separate ceilings.* An Edge Act or Agreement Corporation that is owned by more than one bank or by a multibank holding company will have a ceiling separate from that of its parent and from those of the banks in its parent holding company. The corporation's ceiling is to be determined in accordance with Section A-2 and, as appropriate, A-3 or A-4.

(ii) *Transfer of parent's ceiling.* To acquire or to increase a ceiling, such an Edge Act or Agreement Corporation may receive from one or more of its parent banks (including banks of its parent holding company) a share of the ceilings of the parent or parents. Once transferred to the corporation, the ceiling should not be transferred in whole or in part back to the parent or parents, except to meet unforeseen and overriding developments. If any such exceptional need for transfer should arise, the corporation and its parent or parents should consult in advance with the Federal Reserve Banks in their respective districts.

d. *Domestic subsidiaries of Edge Act and Agreement Corporations.* The foreign assets of domestically chartered subsidiaries of Edge Act and Agreement Corporations (net of foreign borrowings offset under Section A-7b, above) should be consolidated with the foreign assets of the parent corporation for the purposes of the guidelines.

3. *Bank holding companies*

a. *Holding companies as banks.* A bank holding company is to be treated as a bank for the purpose of these guidelines.

b. *Holding companies with one bank.* A holding company with one bank, which bank subsidiary has a ceiling under these guidelines, together with that bank subsidiary and any nonbank subsidiary should report on a consolidated basis. However, the ceiling is to be calculated on the basis of the ceiling of the bank subsidiary. Furthermore, to minimize changes from earlier established procedures, any nonbank subsidiary that was reporting prior to December 1, 1969, to the Department of Commerce under the Foreign Direct Investment Program or to a Federal Reserve Bank under the nonbank financial institution part of the guidelines should not report under these bank guidelines.

c. *Holding companies with more than one bank.* A multibank holding company should share the ceiling of one or more of its banks.

d. *Consolidation of ceilings of bank subsidiaries of holding companies.* A bank subsidiary (including a bank, Edge Act Corporation, or Agreement Corporation) of a bank holding company may elect to consolidate its ceiling with that of one or more of the holding company's other bank subsidiaries only if each bank subsidiary involved in the contemplated consolidation had a ceiling under the previous guidelines. Such election should be made known in advance to the respective Federal Reserve Banks. Ceilings adopted under the present guidelines should not be consolidated. Ceilings that were consolidated before March 9, 1972, in conformity with the guidelines may remain consolidated.

4. *Foreign branches and foreign subsidiaries of U.S. banks and banking institutions*

a. The guidelines are not intended to restrict the extension of foreign credit by foreign branches, or foreign subsidiaires, of (i) U.S. banks, (ii) Edge Act Corporations, or (iii) Agreement Corporations, except as the result of the restraints on banks, and on Edge and Agreement Corporations (and their domestic subsidiaries), with respect to foreign credit to, or foreign

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investment in, such foreign branches or foreign subsidiaries.

b. Claims of a bank's, or banking institution's, domestic offices on its foreign branches and foreign subsidiaries (including permanent capital invested in, as well as balances due from, such foreign branches and foreign subsidiaries) represent foreign assets subject to the guidelines.

E. Conformity with objectives of guidelines

1. *Department of Commerce program and nonbank financial institution guidelines*

Banks should avoid making loans that would directly or indirectly enable borrowers to use funds abroad in a manner inconsistent with the Department of Commerce Foreign Direct Investment Program or with the guidelines for nonbank finanical institutions.

2. *Substitute loans*

Banks should not extend to U.S. resident subsidiaries, or branches, of foreign companies, loans that otherwise might have been made by the banks to the foreign parent or other affiliate of the company or that normally would have been obtained abroad.

3. *Management of liquid assets*

A bank should not hold its own funds abroad in liquid form for short-term investment purposes whether such investments are payable in foreign currencies or in U.S. dollars. This is not intended to preclude its maintaining necessary working balances held with its own foreign branches or with foreign correspondents.

4. *Transactions for customers*

While recognizing that it must follow a customer's instruction, a bank should discourage customers from placing liquid funds outside the United States. A bank should not place with a customer foreign obligations that, in the absence of the guidelines, it would have acquired or held for its own account.

5. *U.S. branches and agencies of foreign banks*

Branches and agencies of foreign banks located in the United States are requested to act in accordance with the spirit of these guidelines and, as they may be requested from time to time, to consult with the Federal Reserve Bank in the district in which they are located.

6. *Banks without ceilings*

A bank that has not adopted a ceiling will be acting in conformity with the objectives of the Guidelines (a) if its foreign assets of types subject to restraint do not exceed the lesser of (i) $500,000 or (ii) 2 per cent of its end-of-1970 total assets and (b) if those foreign assets are otherwise in conformity with the Guidelines, for example, with the request against holding funds abroad in liquid form except for necessary working balances.

F. Reporting

Each U.S. bank (whether or not it has a ceiling), and each U.S. agency and branch of a foreign bank, that on a reporting date had $500,000 or more in foreign assets (whether or not subject to restraint under the guidelines) should file a Monthly Report on Foreign Assets (for U.S. Banks or for U.S. Agencies and Branches of Foreign Banks, as appropriate) with the Federal Reserve Bank in the District in which the institution is located within 15 days after the end of the reporting period. (Forms are available at the Federal Reserve Banks.)

III. NONBANK FINANCIAL INSTITUTIONS

A. Applicability to financial institutions

This part of the guidelines applies to all U.S. nonbank financial institutions, including: trust companies, trust departments of commercial banks; mutual savings banks; insurance companies; investment companies; financial companies; employee retirement and pension funds; college endowment funds; charitable foundations; U.S. branches of foreign insurance companies and of other foreign nonbank financial corporations; and holding companies (other than bank holding companies) whose domestic assets consist primarily of the stock of operating nonbank financial institutions. Investment underwriting firms, securities brokers and dealers, and investment counseling firms also are covered with respect to foreign financial assets held for their own account and are requested to inform their customers of the program in those cases where it appears applicable.

Business whose principal activity is the leasing of property and equipment, and which are not owned or controlled by a financial institution, are not defined as financial institutions. Real estate investment trusts whose assets consist primarily of real property as contrasted with financial assets (such as mortgages) also are not covered by these Guidelines.

B. Ceiling and Priorities

1. *Ceiling*

Each institution is requested to limit its aggregate holdings of foreign assets covered by the program to no more than its ceiling as described in Section C, except for special situations discussed in Section J, below.

2. *Liquid foreign balances*

Institutions generally are expected to hold no foreign deposits or foreign money market instruments, except such minimum working balances abroad as are needed for the efficient conduct of its foreign business activities.

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3. *Developing countries*

Among the foreign assets that are subject to the guideline ceiling ("covered assets"), institutions are asked to give priority to credits which directly benefit the economies of developing countries.

4. *Conformity with objectives of guidelines*

Institutions may invest in noncovered foreign assets generally as desired. However, they are requested to refrain from making any nonexport loans or investments, noncovered as well as covered, that appear to be inconsistent with other aspects of the U.S. balance of payments program. Among these are the following:

a. Noncovered credits under this program that substitute directly for loans that commercial banks would have made in the absence of that part of the program applicable to them.

b. Noncovered credits to developing country subsidiaries of U.S. corporations that would not have been permitted under the Department of Commerce Foreign Direct Investment Program if made by the U.S. parent directly.

c. Credits to U.S. borrowers that would enable them to make foreign loans and investments inconsistent with the Foreign Direct Investment Program.

d. Credits to U.S. subsidiaries and branches of foreign companies that otherwise would have been made to the foreign parent or that would substitute for funds normally obtained from foreign sources.

C. Calculation of ceiling

The ceiling for each nonbank financial institution will be:

1. The greater of:

a. 105 per cent of its ceiling as of December 31, 1972, or

b. $2,000,000.

2. Minus equity securities of companies established in developed countries (except Canada) that are included in Section C-1 but had been sold to American investors after September 30, 1971.

3. Plus, or minus, the difference between sales proceeds and "carrying" value of covered equities sold after September 30, 1971, to other than American investors or in other than U.S. markets. On each reporting date, "carrying" value should be the value reflected in the institution's report (on Form FR 393R-68) for December 31, 1967, in the case of equities held on that date, and it should be cost in the case of equities purchased after that date.

D. Covered assets — subject to ceiling

Foreign financial assets subject to the ceiling (covered assets) include investments of the following types (but see exclusions in Section E):

1. Liquid funds in all foreign countries. This category comprises foreign bank deposits, including deposits in foreign branches of U.S. banks, and liquid money market claims on foreign obligors, generally defined to include marketable negotiable instruments maturing in one year or less.

2. All other claims on foreign obligors written, at date of acquisition, to mature in 10 years or less. This category includes bonds, notes, mortgages, loans, and other credits.

3. Net financial investment in foreign branches, subsidiaries, and affiliates located in developed countries other than Canada. Such financial investment includes payments into equity and other capital accounts of, and net loans and advances to, any foreign business in which the U.S. institution has an ownership interest of 10 per cent or more. Excluded are earnings of such a foreign business if they are directly retained in its capital accounts.

4. Long-term credits entered into after November 11, 1971, to finance the construction or operation of foreign-built vessels unless the financing involves a corresponding transfer of capital by a direct investor under the Foreign Direct Investment Program. Included in this category are bonds, notes, mortgages, loans, leases, and other credits. A credit is long-term if at least 10 per cent of the amount to be repaid to the lender is scheduled, at the time of acquisition, to be repaid after 10 years.

5. Long-term credits of foreign obligors established in developed countries other than Canada. (Long-term credits are as defined in paragraph 4.)

6. Equity securities (including American Depositary Receipts) of foreign corporations established in developed countries other than Canada, except those acquired after September 30, 1965, in U.S. markets from American investors. Exclusion from ceiling normally will be indicated if, in acquiring an equity security that otherwise would be covered, the purchasing institution receives a certificate of prior American ownership or brokerage confirmation thereof. Securities acquired from a broker who purchased them from a foreigner in anticipation of early resale are not deemed to be acquisitions from a prior American investor.

7. Investments made by trust departments of commercial banks or by trust companies with trust funds over which the trustee (or co-trustee) has at least some influence over investment policy and not separately reported by another financial institution.

E. Noncovered assets — exclusions

The following foreign financial assets are excluded from the guidelines ceiling:

1. Export credits, as defined in Part IV-3. Institutions should maintain adequate information and other-

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wise take all reasonable measures to provide assurance that credits meet the definition before treating them as exempted.

2. All financial assets in, or claims on residents of, Canada.

3. All direct obligations of international institutions of which the United States is a member.

4. Long-term investments in all developing countries (except as noted in Section D-4), including direct investment in subsidiaries and affiliates, credit instruments of the types and maturity described in Section B-4, and all equity securities issued by firms established in these countries.

5. Equity securities of firms in developed countries other than Canada that have been acquired in U. S. markets from American investors. (See Section D-6.)

6. Foreign assets of types subject to ceiling but acquired after December 31, 1967, as "free delivery" items — that is, acquired as gifts or, in the case of trust companies or trust departments of commercial banks, deposited with the institution in new accounts.

7. A foreign asset acquired directly or through purchase of a participation in a pool of foreign assets, provided the foreign asset or the participation is covered by a payment guarantee issued by the U. S. Overseas Private Investment Corporation (OPIC) under its insurance and guaranty claims settlement authority, is exempted from an institution's ceiling.

F. Credits to certain U. S. corporations

1. Any loan or investment acquired by a nonbank financial institution after June 30, 1968, that involves the advance of funds to a domestic corporation which is simply a financing conduit (commonly known as a "Delaware subsidiary") and which in turn will transmit the funds to a foreign business is a foreign asset if one or more foreigners own a majority of the domestic corporation. The amounts of such foreign loans or investments should be classified according to the country where the funds are actually to be used, not according to the residence of the owners of the domestic corporation.

2. If U. S. residents, other than the lending institution, hold a majority ownership interest in the domestic corporation, no part of a loan or of an investment in such a corporation is to be regarded as a foreign asset of the institution.

G. Leasing of physical goods

The foreign leasing activities of firms that engage primarily in the leasing of physical assets (e.g., computers, real property, ships, aircraft) and that are not owned or controlled by a U. S. financial institution are not subject to these guidelines. However, such activities are subject to these guidelines when they are undertaken by nonbank financial institutions.

H. Investment in certain foreign insurance ventures

Net investment in foreign insurance ventures should be reported. In the case only of a foreign insurance venture in which a U.S. nonbank financial institution had an investment before 1965, if it is not feasible to segregate the net investment of the U.S. nonbank financial, the latter may exclude from its foreign assets subject to ceiling the aggregate of the larger of the following in each foreign country in which a foreign affiliate sells insurance: (a) 110 per cent of assets held in the foreign country as reserves against insurance sold to residents of that country by the foreign affiliate or (b) the minimum deposit of cash or securities required by foreign authorities as a condition of doing insurance business in that country.

I. Reporting requirement

Each nonbank financial institution holding, on any quarterly reporting date, covered assets of $500,000 or more, or total foreign financial assets of $5 million or more, should file a statistical report covering its total holdings on that date with the Federal Reserve Bank of the Federal Reserve District in which its principal office is located. The reports are due within 20 days following the close of each calendar quarter, and forms may be obtained from the Federal Reserve Bank. (See also Section J-2.)

J. Covered assets in excess of ceiling

1. In view of the balance-of-payments objectives of the program, covered investments of nonbank financial institutions may be permitted to exceed the guideline ceiling to the extent that the funds for such investment are (a) borrowed abroad for investment in the same country or in countries that are subject to the same or more liberal guideline restraint or (b) derived from equity securities issued by the nonbank financial institution and sold to residents of foreign developed countries (other than Canada), provided that the nonbank financial institution promptly treats as a charge against its ceiling the amount of any such equity securities at any moment it is unable to assure itself fully that any such securities continue in the possession of such foreigners. (For reporting purposes, the amount of such securities held by foreigners should be included with borrowings in foreign countries.) Thus, for the purpose of the offset provision, funds borrowed in the developed countries may be used to finance investments in these countries and elsewhere, but funds borrowed in the developing countries should not be used to finance investment in the developed countries. Any institution desiring to offset foreign borrowing against foreign investment, however, should discuss its plans with the Federal Reserve Bank before entering into such an arrangement.

2. An institution with a guideline ceiling of less than $2,000,000 may hold covered assets up to this amount if its investments are consistent with guideline

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restraints other than its ceiling, namely, those with respect to liquid funds, and concerning possible conflict with program objectives, as noted in Section B-2 and 4.

The institution is expected to file an initial statement of its holdings with its Federal Reserve Bank and thereafter to file a statement with the Bank within 20 days after the end of any calendar quarter when its total holdings of covered foreign assets have changed by as much as $100,000 since its previous report even though its total holdings remain below the minimum reporting levels stipulated in the guidelines.

IV. DEFINITIONS

The following definitions apply to both the bank and nonbank financial institution parts of the guidelines.

1. "Claims on foreigners" are claims on foreigners held for an institution's own account. For banks, they include: foreign long-term securities; deferred payment letters of credit described in Treasury Department Supplemental Reporting Instruction No. 1, Treasury Foreign Exchange Reports, Banking Forms, dated May 10, 1968; participations purchased in loans to foreigners; loans to financial conduits incorporated in the United States, 50 per cent or more owned by foreigners; and foreign assets sold, with recourse, to U.S. residents other than financial institutions participating in the Federal Reserve Foreign Credit Restraint Program or other than direct investors subject to the controls administered by the Department of Commerce. They also include foreign customers' liability for acceptances executed, whether or not the accepted drafts are held by the accepting bank. "Claims on foreigners" exclude: contingent claims; unutilized credits; claims held for account of customers; and acceptances executed by other U.S. banks.

2. "Foreigners" include: individuals, partnerships, and corporations domiciled outside the United States, irrespective of citizenship, except their agencies or branches located within the United States; branches, subsidiaries, and affiliates of U.S. banks and other U.S. corporations that are located in foreign countries, and any government of a foreign country or official agency thereof and any official international or regional institution created by intergovernmental agreement, irrespective of location.

3. "Export Credit" means any claim on a foreigner for the demonstrable financing (a) of the export of U.S. goods or (b) of the performance abroad of U.S. services. (Items (a) and (b) are hereinafter referred to as "exports.") To be demonstrable, the financing must relate to a specific, individual, identifiable export for which shipping documents or other documents evidencing the export are obtainable.

Export credit may be direct or indirect. Direct credit is a credit that results in the direct acquisition of a debt obligation of a foreign obligor. An indirect credit is a credit extended to a foreign financial institution which, in consequence, itself acquires debt obligations of obligors resident outside the United States. Therefore, credit extended by a U.S. financial institution to a foreign buyer of U.S. exports directly or through a foreign financial institution may be an export credit. Also, an export credit may be extended through purchase of documented loan paper.

The cost of freight in connection with exportation, the cost of transport insurance in connection with exportation, and the cost of export credit guarantees and export credit insurance borne by the foreign buyer or the foreign financial institution may be included in the cost of export for the purpose of determining the amount of credit that is to be considered export credit. Any element of foreign duty is to be excluded for this purpose.

U.S. goods are goods grown, produced, or manufactured in the United States.

U.S. services performed abroad should be services performed outside the United States by U.S. domiciled or U.S. incorporated companies or by U.S. nationals temporarily resident abroad.

A particiular credit should be regarded as an export credit only if 85 percent or more of its total amount finances U.S. exports. However, a single credit agreement exclusively for services may be broken down to exclude non-U.S. services. The export credit may thereby be identified as that portion of credit financing the performance of services by U.S. firms and U.S. nationals, as well as financing the purchase (or lease) of U.S. goods incidental to the performance of those services.

A participation in export credits should be regarded as export credit of the financial institution purchasing the participation. However, a participation in a pool of loans would not be considered export credit by the institution purchasing the participation.

A credit that is of substantially longer maturity than is customary in international export financing practice for the type of transaction in question should not be regarded as an export credit.

4. "Developing countries" are all foreign countries other than: Abu Dhabi, Australia, Austria, the Bahamas, Bahrain, Belgium, Bermuda, Canada, Denmark, France, Germany (Federal Republic), Hong Kong, Iran, Iraq, Ireland, Italy, Japan, Kuwait, Kuwait-Saudi Arabia, Neutral Zone, Libya, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, Qatar, Republic of South Africa, San Marino, Saudi Arabia, Spain, Sweden, Switzerland, and the United Kingdom; and other than: Albania, Bulgaria, the People's Republic of China, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, Communist-controlled Korea, Latvia, Lithuania, Outer Mongolia, Poland (including any area under its provisional administration), Romania, Tibet, Union of Soviet Socialist Republics and the Kurile Islands, Southern Sakhalin, and areas in East Prussia that are under the provisional administration of the Union of Soviet Socialist Republics, and Communist-controlled Vietnam.

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