

FEDERAL RESERVE BANK  
OF NEW YORK

[Circular No. 8651]  
October 5, 1979]

CHANGES IN RULES REGARDING DELEGATION OF AUTHORITY

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

The Board of Governors of the Federal Reserve System has amended its Rules Regarding Delegation of Authority to expand the scope of authority delegated to Federal Reserve Banks to approve bank holding company and merger applications that are under the jurisdiction of the Board of Governors, and to authorize the Reserve Banks to furnish to the Comptroller of the Currency and the Federal Deposit Insurance Corporation competitive factor reports on mergers required to be approved by one of those agencies. The enclosed copy of the Board's official notice of the amendments provides the details of the new delegation, including the types of applications to which it applies.

Questions regarding the amendments, effective September 21, 1979, may be directed to our Domestic Banking Applications Department (Tel. No. 212-791-5861).

THOMAS M. TIMLEN,  
*First Vice President.*

# Board of Governors of the Federal Reserve System

## RULES REGARDING DELEGATION OF AUTHORITY

### AMENDMENTS

(effective September 21, 1979)

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#### 12 CFR Part 265

#### Rules Regarding Delegation of Authority

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** In order to expedite and facilitate performance of certain of its functions, the Board of Governors has amended its Rules Regarding Delegation of Authority. The amendments are intended to expand the scope of authority previously delegated for bank holding company formations, bank share acquisitions by existing bank holding companies, mergers of bank holding companies, acquisitions and retentions of companies engaged in nonbanking activities by bank holding companies, bank holding companies engaging *de novo* in activities determined by the Board to be permissible for bank holding companies and bank mergers.

**EFFECTIVE DATE:** September 21, 1979.

**FOR FURTHER INFORMATION CONTACT:**  
Michael E. Bleier, Senior Counsel (202-452-3721), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** The Bank Holding Company Act (12 U.S.C. 1841 *et seq.*) generally prohibits, except with prior approval of the Board, any action to be taken that causes any company to become a bank holding company; any bank holding company to acquire direct or indirect ownership or control of any voting shares of a bank if, after the acquisition, the company would directly or indirectly own or control more than 5 per cent of the voting shares of the bank; any bank holding company to merge or consolidate with any other bank holding

company; any bank holding company to acquire or retain companies engaged in nonbanking activities, or engage *de novo* in nonbanking activities the Board has previously determined to be permissible for bank holding companies. Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) generally prohibits, except with prior approval of the Board, the merger, consolidation, acquisition of assets, or assumption of liabilities of insured banks where the resulting bank would be a State-chartered bank that is a member of the Federal Reserve System.

The Reserve Banks presently have delegated authority to approve, under certain conditions, formations of bank holding companies, mergers and consolidations of bank holding companies, acquisitions by existing bank holding companies of banks and bank shares, acquisitions by bank holding companies of certain existing finance companies, industrial banks, and insurance companies, applications to engage *de novo* in certain nonbanking activities the Board has previously determined to be permissible for bank holding companies, and bank mergers where the resulting bank would be a member of the Federal Reserve System.

After evaluating the manner in which such delegated authority has been exercised and the Board's experience in considering applications filed under sections 3(a) and 4(c)(8) of the Bank Holding Company Act and section 18(c) of the Federal Deposit Insurance Act, the Board has, by the instant amendments, expanded the scope of that delegated authority so that Reserve Banks may approve all applications, including retention applications and applications to engage *de novo* in permissible nonbanking activities, filed under sections 3(a) and 4(c)(8) of the Bank Holding Company Act and section

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For these Rules to be complete, retain:

- 1) Pamphlet amended effective August 2, 1978.
- 2) Amendments effective October 17, 1978, October 19, 1978, January 1, 1979, March 10, 1979, March 21, 1979, and April 26, 1979.
- 3) This slip sheet.

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18(c) of the Federal Deposit Insurance Act, and under the provisions of section 18(c)(4) of the Federal Deposit Insurance Act, to furnish to the Comptroller of the Currency and the Federal Deposit Insurance Corporation reports on competitive factors involved in a bank merger required to be approved by one of those agencies, unless one or more of the following criteria is present:

- (1) A member of the Board of Governors has indicated an objection prior to the Reserve Bank's action; or
  - (2) The Board has indicated that the delegated authority shall not be exercised in whole or in part; or
  - (3) A written substantive objection to the application has been properly made; or
  - (4) The application raises a significant policy issue or legal question; or
- In formations, bank acquisitions or mergers.
- (5) The transaction involves two or more banking organizations:
    - (i) That rank among a State's ten largest banking organizations; or
    - (ii) Each banking organization has over \$100 million in market deposits and after consummation the acquiring organization would control over 5 per cent of market deposits; or
- In nonbank acquisitions.

(6) The nonbanking activities involved do not clearly fall within activities the Board has previously determined to be permissible; or

(7) The bank holding company has total domestic banking assets of over \$1 billion and seeks to acquire a nonbanking organization that appears to have a significant presence in a permissible nonbanking activity.

The Reserve Banks' delegated authority also includes authority to approve applications filed under section 3(a) of the Bank Holding Company Act and section 18(c) of the Federal Deposit Insurance Act where it is found that an emergency exists requiring expeditious action or immediate action is required to prevent the probable failure of a bank or bank holding company. The authority to approve bank share acquisitions includes authority to approve acquisition by a bank holding company of bank shares acquired through the

exercise of *pro rata* stock rights, retention of bank shares acquired in a fiduciary capacity, and acquisition of additional shares of a bank in which the bank holding company already owns 25 per cent or more of any class of voting securities.

The Board continues to be of the view that, as a matter of general policy, it is not appropriate for a Reserve Bank to act on applications when a director or senior officer of (1) the holding company, (2) any subsidiary bank of the holding company, (3) the merging banks, or (4) the nonbanking company to be acquired or retained, is a director of a Federal Reserve Bank or branch. In such a situation, the Secretary of the Board will have the authority to approve such applications if all of the other regulatory criteria for approval under delegated authority have been met.

Applications falling outside the standards for delegated authority will be submitted to the Board for further consideration.

The provisions of section 553 of Title 5, United States Code, relating to notice, public participation, and deferred effective date are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute a substantive rule subject to the requirements of such section. The amendments are effective September 21, 1979.

1. In order to accomplish this delegation, § 265.2(a) is amended by deleting subparagraphs (3), (4), (5), (6), and (7), renumbering subparagraphs (8), (9), (10), (11), (12), (13), (14), (15), (16), (17) and (18) as subparagraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13), respectively, and amending subparagraph (2) to read as follows:

**§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.**

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

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(2) Under the provisions of sections 18(c) and 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c) and 1828(c)(4)), §§ 3(a) and 4(c)(8) of the

Bank Holding Company Act (12 U.S.C. 1842(a) and 1843(c)(8)) and §§ 225.3(b) and (c), and §§ 225.4(a) and (b) of Regulation Y (12 CFR 225.3(b) and (c), and 225.4(a) and (b)), to furnish reports on competitive factors involved in a bank merger to the Comptroller of the Currency and the Federal Deposit Insurance Corporation and to approve applications the Reserve Bank could approve under subparagraph (20) of paragraph (f) of this section, except for the fact that condition (ii) of that subparagraph has not been met because a director or senior officer of any holding company, bank, or company to be acquired or retained, involved in the transaction, is a director of a Federal Reserve Bank or branch.

\* \* \* \* \*

2. In order to accomplish this delegation, § 265.2(c) is amended by deleting subparagraph 18 and renumbering subparagraphs (17), (18), (19), (20), (21), (22), (23), (24), and (25) as subparagraphs (16), (17), (18), (19), (20), (21), (22), (23), and (24). Section 265.2(f) is amended by deleting subparagraphs (22), (23), (24), (28), (29), (30), (31), (32), (33), and (52), and footnotes (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12), and renumbering subparagraphs (25), (26), (27), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (44), (45), (46), (47), (48), (49), (50), (51), (53), (54), (55), and (56) as subparagraphs (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (44), (45), (46), (47), (48) and (49), respectively, and amending subparagraph (20) to read as follows:

**§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks**

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

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(20) Under the provisions of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), 3(a) and 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(a) and 1843(c)(8)) and §§ 225.3(b) and (c), and §§ 225.4(a) and

(b) of Regulation Y (12 CFR 225.3(b) and (c), and 225.4(a) and (b)), to approve applications requiring prior approval of the Board, and under the provisions of section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4))), to furnish to the Comptroller of the Currency and the Federal Deposit Insurance Corporation reports on competitive factors involved in a bank merger required to be approved by one of those agencies, unless one or more of the following conditions is present:

- (i) A member of the Board has indicated an objection prior to the Reserve Bank's action; or
- (ii) The Board has indicated that such delegated authority shall not be excercised by the Reserve Bank in whole or in part; or
- (iii) A written substantative objection to the application has been properly made; or
- (iv) The application raises a significant policy issue or legal question on which the Board has not established its position; or

In formations, bank acquisitions or mergers:

- (v) The proposed transaction involves two or more banking organizations:
  - (a) That rank among a State's ten largest banking organizations in terms of total domestic banking assets; or
  - (b) Each of which has more than \$100 million of total deposits in banking offices in the same local banking market that, after consummation of the proposal, would control over 5 per cent of total deposits in banking offices in that local market; or

In nonbank acquisitions:

- (vi) The nonbanking activities involved do not clearly fall within activities that the Board has designated as permissible for bank holding companies under § 225.4(a) of Regulation Y; or

- (vii) The proposal would involve the acquisition by a banking organization that has total domestic banking assets of \$1 billion or more of a nonbanking organization that appears to have a

significant presence in a permissible nonbanking activity<sup>2</sup>  
(12 U.S.C. 248k)

*Effective date:* This amendment is effective on all applications pending on September 21 and on all future applications.

<sup>2</sup> While other situations may involve the issue of significant presence, the Board regards, as a general guideline, any company that ranks among the 20 largest independent firms in any industry as having a significant presence.

By order of the Board of Governors.  
September 21, 1979.

**Griffith L. Garwood,**  
*Deputy Secretary of the Board.*  
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