

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 9221
December 30, 1981]

INTERNATIONAL BANKING FACILITIES

**Interpretation Regarding Purchases and Sales
of Financial Assets in the Secondary Market**

*To All Depository Institutions in the Second
Federal Reserve District, and Others Concerned:*

Following is the text of a statement by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has issued an interpretation of its rules for International Banking Facilities with respect to purchases and sales of financial assets in the secondary market.

IBFs are banking facilities that may be established — beginning December 3 — in the United States by U.S. depository institutions, by Edge and Agreement corporations and by branches and agencies in the United States of foreign banks. When operated under the Board's rules, their deposits are free of reserve requirements and interest rate ceilings. They may accept deposits from and extend credit only to foreign residents, their establishing entity and other IBFs.

The question has arisen with whom IBFs may deal in buying and selling, in the secondary market, such assets as loans, securities, Eurodollar certificates of deposit and bankers' acceptances.

The Board decided that since purchases and sales of assets do not result in extensions of credit, IBFs may buy assets eligible to be held by IBFs from, or sell them to, both domestic and foreign parties, under certain conditions.

The Board's interpretation, and conditions, are set forth in the attached letter to the presidents of the Federal Reserve Banks.

Printed on the following pages is a copy of the Board's letter, dated December 16, 1981, referred to in the above statement. Questions on this matter may be directed to our Legal Department (Tel. No. 212-791-5031).

ANTHONY M. SOLOMON,
President.



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

December 16, 1981

Questions have been raised concerning the extent to which International Banking Facilities may purchase (or sell) IBF-eligible assets such as loans (including loan participations), securities, CDs, and bankers' acceptances from (or to) third parties. Under the Board's regulations, as specified in § 204.8 of Regulation D, IBFs are limited, with respect to making loans and accepting deposits, to dealing only with certain customers, such as other IBFs and foreign offices of other organizations, and with the entity establishing the IBF. In addition, an IBF may extend credit to a nonbank customer only to finance the borrower's non-U.S. operations and may accept deposits from a nonbank customer that are used only to support the depositor's non-U.S. business.

Consistent with the Board's intent, IBFs may purchase IBF-eligible assets^{1/} from, or sell such assets to, any domestic or foreign customer provided that the transactions are at arm's length without recourse. Therefore, an IBF may not purchase such assets from, or sell such assets to, affiliates of the institution establishing the IBF. (However, this restriction does not affect the IBF's ability to purchase (or sell) assets directly from (or to) the institution establishing the IBF; such purchases from the institution establishing the IBF would continue to be subject to Eurocurrency reserve requirements except during the initial four-week transition period.) Since repurchase agreements are regarded as loans, transactions involving repurchase agreements are permitted only with customers who are otherwise eligible to deal with IBFs, as specified in Regulation D.

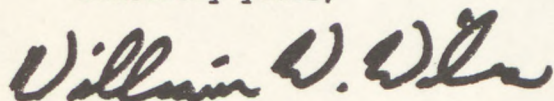
In the case of purchases of assets, in order to determine that the Board's use-of-proceeds requirement has been met, it is necessary for the IBF (1) to ascertain that the applicable IBF notices and acknowledgments have been provided, or (2) in the case of loans or securities, to review the documentation underlying the loan or security, or accompanying the security (e.g., the prospectus or offering statement), to determine

^{1/} In order for an asset to be eligible to be held by an IBF, the obligor or issuer of the instrument, or in the case of bankers' acceptances, the customer and any endorser or acceptor, must be an IBF-eligible customer.

that the proceeds are being used only to finance the obligor's operations outside the U.S., or (3) in the case of loans, to obtain a statement from either the seller or borrower that the proceeds are being used only to finance operations outside the U.S., or in the case of securities, to obtain such a statement from the obligor, or (4) in the case of bankers' acceptances, to review the underlying documentation to determine that the proceeds are being used only to finance the parties' operations outside the United States.

Under the Board's regulations, IBFs are not permitted to issue negotiable Euro-CDs, bankers' acceptances, or similar instruments. Accordingly, consistent with the Board's intent in this area, IBFs may sell such instruments issued by third parties that qualify as IBF-eligible assets provided that the IBF, its establishing institution and any affiliate of the institution establishing the IBF do not endorse, accept, or otherwise guarantee the instrument.

Sincerely yours,



William W. Wiles
Secretary

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS
AND OFFICERS IN CHARGE OF BRANCHES