

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. 9588  
November 29, 1983 ]

CREDIT LIFE, ACCIDENT, AND HEALTH INSURANCE UNDERWRITING BY  
BANK HOLDING COMPANIES

Proposed Amendment to Regulation Y

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

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

The Federal Reserve Board has requested comment on a proposed amendment to its Regulation Y — Bank Holding Companies and Change in Bank Control — to eliminate the requirement that bank holding companies engaging in credit life, accident and health insurance underwriting must provide rate reductions or increased policy benefits.

The Board has required evidence of such specific public benefit since it approved the underwriting of credit insurance by bank holding companies in 1972. The requirement grew out of the statutory rule that bank holding company activities must result in public benefits that outweigh any adverse effects, and the Board's finding that there are potential adverse effects associated with the underwriting of credit insurance by bank holding company subsidiaries.

Commentors on a recent proposal by the Board to overhaul Regulation Y, as part of the Board's regulatory improvement program, have suggested that this requirement be eliminated. These commentors stated that in their view the requirement puts bank holding companies at a disadvantage with respect to other providers of this service and that they know of no significant evidence that provision of such insurance by bank holding companies has resulted in the adverse effects on the public considered by the Board in its 1972 decision.

Since the Board is continuing to receive applications to engage in this activity, under the Bank Holding Company Act and the recent Bank Service Corporation Act, the Board is publishing for comment a proposal to eliminate the requirement.

Following is the text of the proposed amendment to Regulation Y, which has been reprinted from the *Federal Register* of November 25, 1983. Comments should be submitted by January 24, 1984, and may be sent to our Domestic Banking Applications Department.

ANTHONY M. SOLOMON,  
*President.*

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0491]

**Bank Holding Companies and Change in Bank Control; Regulation Y; Nonbanking Activity: Elimination of Rate Reduction Requirement From Credit Life and Credit Accident and Health Insurance Underwriting**

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

**ACTION:** Proposed rulemaking.

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**SUMMARY:** The Board is seeking public comment regarding a revision of 12 CFR Part 225 of the Board's Regulation Y by removing footnote 10a from § 225.4(a)(10). That note requires an applicant seeking approval to engage in the activity of credit life and credit accident and health insurance underwriting to provide rate reductions or increased policy benefits for such insurance.

This proposed rulemaking is a result of the suggestions of several commentors to the Board's recent proposal to revise Regulation Y, who advocated elimination of the rate reduction requirement from the

regulation. Accordingly, the instant proposal seeks public comment regarding the elimination of this specific requirement from activity 10 of Regulation Y. The generalized net public benefits test, of course, would still apply to all applicants seeking approval under section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8), to engage in any activity listed in Regulation Y.

**DATE:** All comments should be received by the Board no later than January 24, 1984.

**ADDRESS:** All comments, which should

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refer to Docket No. R-0491 should be mailed to Williams W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to room B-2223, 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

**FOR FURTHER INFORMATION CONTACT:** J. Virgil Mattingly, Associate General Counsel (202/452-3430); or Michael J. O'Rourke, Attorney (202/452-3288), Legal Division, Board of Governors of the Federal Reserve System.

**SUPPLEMENTARY INFORMATION:** The Bank Holding Company Act of 1956, as amended 12 U.S.C. 1841 *et seq.* ("BHC Act"), generally prohibits a bank holding company from engaging in nonbanking activities or acquiring voting securities of a nonbanking company. However, section 4(c)(8) of the BHC Act establishes an exception for activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Under authority of this section, the Board has found by regulation that 15 nonbanking activities are closely related to banking within the meaning of section 4(c)(8). These activities are specified in the Board's Regulation Y. 12 CFR Part 225. Among the activities approved by the Board in Regulation Y is acting as underwriter for credit life and credit accident and health insurance that is directly related to extensions of credit by the bank holding company system. 12 CFR 225.4(a)(10). The Board's decision in 1972 to amend Regulation Y to add this activity followed consideration of the record of a hearing on the subject of credit insurance underwriting, together with the Board's prior experience in the field of bank holding company insurance activities.

In addition to requiring that activities be closely related to banking, section 4(c)(8) of the BHC Act also imposes a net public benefits test on bank holding companies seeking to engage in activities listed in Regulation Y. That is:

In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration

of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. 12 U.S.C. 1843(c)(8).

In its 1972 decision adopting as a permissible nonbanking activity the underwriting of credit life and credit accident and health insurance, the Board determined that there were potential adverse effects associated with its performance by bank holding companies. Therefore, in order to outweigh these adverse effects, and to satisfy the net public benefits test contained in the BHC Act, the Board required by regulation that bank holding companies desiring to engage in the activity provide rate reductions or increased policy benefits. The Board's regulation states:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing will be made by a projected reduction in rate or increase in policy benefits due to bank holding company performance of this service. 12 CFR 225.4(a)(10) n.10a.

In 1976, the Board issued an interpretation of Regulation Y that imposed upon bank holding companies engaged in credit life and credit accident and health insurance underwriting the obligation to maintain these rate reductions or increased policy benefits on a continuing basis. 12 CFR 225.135(d). To implement these requirements, Board staff has published schedules of the rate reductions required in specified states in order to obtain the Board's approval.

As a result of these actions, all applications to engage in credit insurance underwriting approved by the Board since 1971 have contained rate reductions.<sup>1</sup> However, in connection with the Board's recent proposal to revise Regulation Y, several commentators suggested that the Board eliminate the requirement imposed by note 10a of Regulation Y that bank holding companies engaging in this activity provide rate reductions or increased policy benefits. These commentators alleged that this requirement placed bank holding company providers of this service at a competitive disadvantage to other participants in the market and that no significant evidence of the potential adverse effects considered by the Board eleven years ago has come to light.

<sup>1</sup> At least two applications also have contained commitments to increase policy benefits by an actuarially-assigned value in substitution for a larger rate reduction amount. As indicated above, the Board specifically authorized such increases in policy benefits in lieu of a rate reduction.

Consequently, on November 1, 1983, the Board announced in connection with its approval of the application under the Bank Service Corporation Act by Louisiana National Bank to underwrite credit life and credit accident and health insurance, that the Board promptly would publish for comment a proposal to eliminate this requirement from Regulation Y. The proposed rulemaking effectuates the Board's announcement.

#### Regulatory Flexibility Act Analysis

The Board certifies that adoption of this proposal would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605(b)). Indeed, to the extent that a rate reduction is not required in order to demonstrate net public benefits, the proposal may have a positive economic impact on any company wishing to engage in the activity. This proposal would liberalize the requirements to engage in this activity for all bank holding companies; yet no bank holding company could commence this activity without first applying to the Board under the procedures and safeguards of section 4(c)(8) of the BHC Act.

#### List of Subjects in 12 CFR Part 225

Banks, Banking, Federal Reserve System, Holding companies, Securities, Reporting requirements.

#### PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

For the reasons set out in the preamble, and pursuant to the Board's authority under sections 4(c)(8) and 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(8) and 1844(b)), the Board proposes to revise 12 CFR Part 225 of the Board's Regulation Y by removing footnote 10a from §225.4(a)(10), to read as follows:

#### § 225.4 Nonbanking activities.

(a) \* \* \*

(10) Acting as underwriter for credit life insurance and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system.

By order of the Board of Governors of the Federal Reserve System, November 18, 1983.

William W. Wiles,

Secretary of the Board.

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