

**FEDERAL RESERVE BANK
OF NEW YORK**

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[Circular No. 9889
July 2, 1985]

BANK HOLDING COMPANIES

**Applications by Bankers Trust New York Corporation and
J.P. Morgan & Co. Incorporated to Engage in
Certain Commercial Paper Activities**

*To All Bank Holding Companies, Branches and Agencies of Foreign Banks,
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 public comment on applications by Bankers Trust New York Corporation and J.P. Morgan & Co. Incorporated to engage, to a limited extent, in commercial paper advisory and placement activities consisting of acting as agent for issuers in connection with the placement of such notes with institutional investors. The Board has not previously found the proposed activities to be permissible for bank holding companies under the Bank Holding Company Act.

Comments should be received by July 22, 1985.

Enclosed — for bank holding companies and branches and agencies of foreign banks — is the complete text of the Board's notice, which will be published shortly in the *Federal Register*; copies will be furnished to others upon request directed to the Circulars Division of this Bank (Tel. No. 212-791-5216). Comments thereon should be submitted by July 22, 1985, and may be sent to our Domestic Banking Applications Department.

E. GERALD CORRIGAN,
President.

4510-68-8

FEDERAL RESERVE SYSTEM

BANKERS TRUST NEW YORK CORPORATION

Proposal to Engage in Commercial Paper
Advisory and Placement Activities

Bankers Trust New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.23(a)(3) of the Board's Regulation Y (12 C.F.R. § 225.23(a)(3)), for permission to engage in the activity of acting as agent for issuers of short-term promissory notes (commonly known as commercial paper) in connection with the placement of such notes with institutional investors. In addition to acting as agent for issuers of commercial paper, Company may provide information to issuers about market conditions.

Applicant would engage in the activities indirectly through BT Commercial Corporation, Chicago, Illinois ("Company"), which is a wholly-owned subsidiary of Applicant's direct subsidiary, B.T. Leasing Services, Inc., New York, New York. Company is currently engaged in commercial finance activities on a nationwide basis at various offices in the United States. Applicant proposes to expand Company's activities by transferring to it commercial paper placement activities currently being performed by Applicant's banking subsidiary, Bankers Trust Company. The activities would be performed through Company's offices in New York, Chicago and Los Angeles, serving customers throughout the United States.

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Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "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." The Board has not previously approved the proposed activities for bank holding companies.

Applicant states that the activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis that banks engage in the activities, and because the activities are the functional equivalent of extending a short-term commercial bank loan to customers.

Commercial paper constitutes a security for purposes of the Glass-Steagall Act, which restricts the third party securities activities of banks and affiliates of banks. Section 20 of that Act (12 U.S.C. § 377) prohibits affiliates of banks from being "engaged principally in the issue, flotation, underwriting, public sale, or distribution" of securities. In Applicant's opinion, it would not be engaged in such activities on the basis that the activities are limited to acting solely as agent for the customer and would not involve a public distribution of securities. The Board recently ruled that such activities conducted by Applicant's banking subsidiary, Bankers Trust Company, would not violate the

Glass-Steagall Act provisions applicable to banks on that basis. Statement Concerning Applicability of the Glass-Steagall Act to the Commercial Paper Placement Activities of Bankers Trust Company, (Press Release dated June 4, 1985).

Applicant also states that it would not be "engaged principally" in such activities on the basis of a test that would limit the amount of commercial paper placement activity to a minor portion of the total activity conducted by Company. Under the test stated by Applicant, the gross revenue to be derived from the activity would approximate not more than 5 percent of Company's total gross revenue.

Comments are requested on the scope of activity permitted by the phrase "engaged principally" under the Glass-Steagall Act, including whether the phrase contemplates the type of test proposed by the Applicant, which is based on a percentage of the affiliate's total business activities, measured in terms of gross revenue. The Board also seeks comment on whether the term "engaged principally" in section 20 would preclude a member bank affiliate from engaging in activities restricted by this section on a substantial and regular or non-incidental basis and without regard to the amount of other activities conducted by the affiliate. While the Board has decided to publish Bankers Trust's proposal for comment, the Board does not thereby take any position on the "engaged principally" issue under the Glass-Steagall Act.

Publication of the proposal has been ordered by the Board solely in order to seek the views of interested persons on this question as well as other issues raised by the application.

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole 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." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board

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of Governors of the Federal Reserve System, Washington, D.C.
20551, not later than July 22, 1985.

Board of Governors of the Federal Reserve System,
June 13, 1985.

William W. Wiles
Secretary of the Board

FEDERAL RESERVE SYSTEM

J. P. MORGAN & CO. INCORPORATED

Proposal to Engage in Commercial Paper
Advisory and Placement Activities

J.P. Morgan & Co. Incorporated, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.23(a)(3) of the Board's Regulation Y (12 C.F.R. § 225.23(a)(3)), for permission to engage in the activities of acting as agent for issuers of short-term notes exempt from registration under the Securities Act of 1933 ("commercial paper"). In addition to acting as agent for issuers of commercial paper, Company may provide advisory services to the issuer consisting of information concerning market conditions, Company's views on the preferred maturities and yields in the market, and assistance in preparing brochures to be sent to prospective investors summarizing the issuer's business and generally providing summary financial data.

Applicant would engage in the activities indirectly through J.P. Morgan Securities Inc., New York, New York ("Company"), which is a wholly-owned subsidiary of Applicant's direct subsidiary, J.P. Morgan Securities Holdings Inc., New York, New York. Company is currently engaged in underwriting and dealing in securities that a state member bank may underwrite and deal in under the Glass-Steagall Act, including U.S. government securities, money market instruments and,

through a wholly-owned subsidiary, J.P. Morgan Municipal Finance Inc., certain municipal securities. Applicant proposes to expand Company's activities by transferring to it the commercial paper placement activities currently being performed by Applicant's banking subsidiary, Morgan Guaranty Trust Company of New York. The activities would be performed through Company's offices in New York, serving customers in the United States and abroad.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "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." The Board has not previously approved the proposed activities for bank holding companies.

Applicant states that the activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis that banks engage in the activities, and because the activities are the functional equivalent of extending a short-term commercial bank loan to customers.

Commercial paper constitutes a security for purposes of the Glass-Steagall Act, which restricts the third party securities activities of banks and affiliates of banks. Section 20 of that Act (12 U.S.C. § 377) prohibits affiliates

of banks from being "engaged principally in the issue, flotation, underwriting, public sale, or distribution" of securities. In Applicant's opinion, it would not be engaged in such activities on the basis that the activities are limited to acting solely as agent for the customer and would not involve a public distribution of securities. The Board recently ruled that such activities conducted by Bankers Trust Company, a state member bank, would not violate the Glass-Steagall Act provisions applicable to banks on that basis. Statement Concerning Applicability of the Glass-Steagall Act to the Commercial Paper Placement Activities of Bankers Trust Company, (Press Release dated June 4, 1985).

Applicant also states that it would not be "engaged principally" in such activities on the basis of a test that would limit the amount of commercial paper placement activity relative to the total activity conducted by Company. Under the test stated by Applicant, the gross income to be derived from Company's commercial paper activities would not, during any rolling two year period, exceed 5 percent of the gross income of Company, measured on a consolidated basis that would include the income derived from Company's U.S. government securities and money market instruments business as well as the income derived from the municipal securities business of Company's subsidiary, J.P. Morgan Municipal Finance Corp.

Comments are requested on the scope of activity permitted by the phrase "engaged principally" under the Glass-Steagall Act, including whether the phrase contemplates

the type of test proposed by the Applicant, which is based on a percentage of the affiliate's total business activities, measured in terms of gross income. The Board also seeks comment on whether the term "engaged principally" in section 20 would preclude a member bank affiliate from engaging in activities restricted by this section on a substantial and regular or non-incidental basis and without regard to the amount of other activities conducted by the affiliate. While the Board has decided to publish J.P. Morgan's proposal for comment, the Board does not thereby take any position on the "engaged principally" issue under the Glass-Steagall Act or other issues raised by the proposal.

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole 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." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 22, 1985.

Board of Governors of the Federal Reserve System,
June 14, 1985.

William W. Wiles
Secretary of the Board