

FEDERAL RESERVE BANK
OF NEW YORK

AT 10 213

December 15, 1987

REVOCATION OF BOARD INTERPRETATION OF REGULATION Y

Data Processing Services

*To All Bank Holding Companies and Branch and Agencies
of Foreign Banks in the Second Federal Reserve District,
and Others Concerned:*

The Board of Governors of the Federal Reserve System has revoked an interpretation of its Regulation Y (12 CFR 225.123 (e) (4)), concerning the permissibility of bank holding companies offering computer output to microfilm services ("COM") as an activity incident to their data processing services.

Printed on the reverse side is the text of the Board's ruling in this matter, which has been reprinted from the *Federal Register* of November 25, 1987.

Questions regarding this matter may be directed to our Domestic Banking Applications Division (Tel. No. 212-720-5861).

E. GERALD CORRIGAN,
President.

(over)

BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

REGULATION Y

(effective November 25, 1987)

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0619]

Data Processing Activities; Bank Holding Company Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In light of the technological developments in the Com industry and the Board's expansion of the permissible data processing activities of Regulation Y in 1982, the Board is revoking its interpretation, 12 CFR 225.123(e)(4), concerning the permissibility of providing computer output to microfilm services ("Com") as a permissible incidental data processing activity.

EFFECTIVE DATE: November 25, 1987.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Deputy General Counsel (202/452-3430), Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (202/452-3544).

SUPPLEMENTARY INFORMATION: In 1975, the Board issued an interpretation that a bank holding company may offer Com services as a permissible incidental data processing activity, only if the Com services were offered as an output option for data otherwise being permissibly processed by the bank holding company system and not as a separate line of endeavor, § 225.123(e)(4) of the Board's Regulation Y, 12 CFR 225.123(e)(4).

In 1982, the Board significantly expanded the scope of permissible data processing activities in which a bank holding company may engage to include the provision of data processing and data transmission services by any technological means provided that the data to be processed is limited to

financial, banking or economic data, § 225.25(b) (8) of the Board's Regulation Y, 12 CFR 225.25(b) (8). The Board's action expanding the scope of permissible data processing activities was upheld in *Association of Data Processing Service Organizations, Inc. v. Board of Governors*, 745 F.2d 677 (D.C. Cir. 1984). However, in 1982, when the Board amended Regulation Y to expand the scope of permissible data processing activities, the Board did not revise its 1975 interpretation regarding the provision of Com services by a bank holding company.

Thus, the Board's 1975 Com services interpretation fails to take cognizance of the substantial technological changes in data processing that the Board relied upon in expanding its data processing regulation in 1982. Specifically, the Com services presently available are materially different from the type of Com services which were being performed when the Board adopted its 1975 interpretation. For example, technological improvements in the Com industry allow for the manipulation, sorting and arranging of data in a way that constitutes a substantive change to data, which is the touchstone of the Board's definition of data processing, and, as such would qualify as data processing under section 225.25(b) (8) of the Board's Regulation Y, 12 CFR 225.25(b) (8).

On October 14, 1987, the Board approved the application of MCorp, Dallas, Texas, and MCorp Financial, Inc., Wilmington, Delaware, to acquire Kalvar Corporation, Minneapolis, Minnesota, a company engaged in data processing activities, including offering enhanced Com services. *MCorp*, 73 Federal Reserve Bulletin (Order dated October 14, 1987). The Board in that case noted its intention, in light of the technological developments in the Com industry and the Board's expansion of the permissible data processing activities of Regulation Y in 1982, to

revoke its 1975 Com services interpretation. Accordingly, the Board hereby revokes its 1975 Com services interpretation. 12 CFR 225.123(e) (4).

Public Comment

The provisions of 5 U.S.C. 553 relating to notice, public participation, and deferred effective date, have not been followed in connection with the adoption of this amendment because the change does not constitute a substantive rule subject to the requirements of that section. The Board's expanded rulemaking procedures have not been followed for the same reason.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendment will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 225

Banks, banking, Federal Reserve System, Holding Companies.

For the reasons set forth above, 12 CFR Part 225 is amended as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for 12 CFR Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j) (13), 1818, 1843(c) (8), 1844(b), 3106, 3108, 3907 and 3909.

2. Section 225.123 is amended by removing paragraph (e)(4) which states:

"Supplying formatting for computer output microfilm and supplying computer output microfilm only as an output option for data otherwise being permissibly processed by the holding company system."

By order of the Board of Governors of the Federal Reserve System, November 19, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-27145 Filed 11-24-87; 8:45 am]

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