

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7250]
October 15, 1973]

APPROVAL OF CERTAIN BANK HOLDING COMPANY APPLICATIONS
Amendment to Rules Regarding Delegation of Authority

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

The following statement was issued October 12 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today issued the attached amendment to its rules regarding the authority of Federal Reserve Banks to approve certain applications by bank holding companies to acquire additional banks.

The amendment eliminates one criterion that Reserve Banks consider in processing an application, namely that an equal offer be made to all shareholders of the bank to be acquired. The amendment represents acquiescence in a recent ruling by the United States Court of Appeals for the Tenth Circuit holding that the Board lacks statutory authority to deny an application solely on the basis that an equal offer has not been made to all shareholders.

In submitting the amendment for publication in the *Federal Register*, the Board of Governors made the following additional statement:

The Board's Rules Regarding Delegation of Authority presently provide that the Reserve Banks may approve applications under sections 3(a)(1) and 3(a)(3) of the Bank Holding Company Act which meet certain specified criteria. One of these criteria is that the applicant propose to make an equal offer to all shareholders of the bank to be acquired. The United States Court of Appeals for the Tenth Circuit has held in *Western Bancshares, Inc. v. Board of Governors*, 480 F.2d 749 (1973), that, while it had no argument with the Board's policy determination, the Board lacks statutory authority to deny an application under the Bank Holding Company Act solely on the basis that an equal offer has not been made. A petition for a writ of certiorari from the decision has not been filed and the Board has determined to acquiesce in the Court's holding. Accordingly, the Board is amending the Rules Regarding Delegation of Authority to eliminate this criterion from the Reserve Bank's consideration of an application.

Enclosed is a copy of the amendment to the Board of Governors' Rules Regarding Delegation of Authority. Additional copies of the enclosure will be furnished upon request.

ALFRED HAYES,
President.

Board of Governors of the Federal Reserve System

RULES REGARDING DELEGATION OF AUTHORITY

AMENDMENT

Effective October 12, 1973, section 265.2(f) is amended in the following respects:

1. §265.2(f)(22). Subparagraph (v) is deleted, and subparagraphs (vi) through (xiii) are renumbered (v) through (xii).
2. §265.2(f)(24). Subparagraph (v) is deleted, and subparagraphs (vi) through (xvii) are renumbered (v) through (xvi).
3. As an incident to this amendment, footnotes 4 and 5 are designated as footnotes 2 and 3.