

Amendments to Regulation Y Bank Holding Companies and Change in Bank Control January 2004*

1. *Effective August 4, 2003, section 225.28(b)(8)(ii)(B) is amended to read as follows:*

(ii) *Investing and trading activities.* * * *

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(B) forward contracts, options, futures, options on futures, swaps, and similar contracts, whether traded on exchanges or not, based on any rate, price, financial asset (including gold, silver, platinum, palladium, copper, or any other metal approved by the Board), nonfinancial asset, or group of assets, other than a bank-ineligible security,⁹ if—

(1) a state member bank is authorized to invest in the asset underlying the contract;

(2) the contract requires cash settlement;

(3) the contract allows for assignment, termination, or offset prior to delivery or expiration, and the company—

(i) makes every reasonable effort to avoid taking or making delivery of the asset underlying the contract; or

(ii) receives and instantaneously transfers title to the underlying asset, by operation of contract and without taking or making physical delivery of the asset; or

(4) the contract does not allow for assignment, termination, or offset prior to delivery or expiration and is based on an asset for which futures

contracts or options on futures contracts have been approved for trading on a U.S. contract market by the Commodity Futures Trading Commission, and the company—

(i) makes every reasonable effort to avoid taking or making delivery of the asset underlying the contract; or

(ii) receives and instantaneously transfers title to the underlying asset, by operation of contract and without taking or making physical delivery of the asset.

⁹ A bank-ineligible security is any security that a state member bank is not permitted to underwrite or deal in under 12 USC 24 and 335.

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2. *Effective January 8, 2004, section 225.28(b)(14) is amended to read as follows:*

(14) *Data processing.*

(i) Providing data processing, data storage, and data transmission services, facilities (including data processing, data storage, and data transmission hardware, software, documentation, or operating personnel), databases, advice, and access to such services, facilities, or databases by any technological means, if—

(A) the data to be processed, stored, or furnished are financial, banking, or economic; and

(B) the hardware provided in connection therewith is offered only in conjunction with software designed and marketed for the processing, storage, and transmission of financial, banking, or economic data, and where the general-purpose hardware does not constitute more

* A complete Regulation Y, as amended effective January 8, 2004, consists of—

- the regulation pamphlet dated July 2002 (see inside front cover) and
- this slip sheet.

Item 2 is new. Item 1 was included in the previous slip sheet.

than 30 percent of the cost of any packaged offering.

(ii) A company conducting data processing, data storage, and data transmission activities may conduct data processing, data storage, and data transmission activities not described

in paragraph (b)(14)(i) of this section if the total annual revenue derived from those activities does not exceed 49 percent of the company's total annual revenues derived from data processing, data storage, and data transmission activities.