



BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

December 5, 2008

Robert L. Tortoriello, Esq.  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006-1470

Dear Mr. Tortoriello:

This letter concerns the notice filed November 19, 2008, under section 4 of the Bank Holding Company Act (“BHC Act”) by BNP Paribas (“BNPP”), Paris, France, to enter into physically settled tolling agreements with power plant owners (“Energy Tolling”) and to provide energy management services to power plant owners (“Energy Management Services”) in the United States, indirectly through its proposed subsidiary, Fortis Bank S.A./N.V. (“Fortis Bank Belgium”), Brussels, Belgium.<sup>1</sup>

BNPP and Fortis Bank Belgium have each received Board approval to engage in physical commodity trading in the United States (“Physical Commodity Trading”) as an activity that is complementary to the financial activity of engaging in commodity derivatives transactions (“Commodity Derivatives Activities”).<sup>2</sup> Fortis also has received Board approval to engage in

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<sup>1</sup> The Belgian government acquired a controlling interest in Fortis Bank Belgium from its parent companies, Fortis S.A./N.V. and Fortis Brussels S.A./N.V., earlier this year as part of a financial assistance effort. BNPP is expected to acquire a controlling interest in Fortis Bank Belgium from the Belgian government this month.

<sup>2</sup> See Board letters regarding BNPP (August 31, 2007) and Fortis S.A./N.V. (September 29, 2006) (“Fortis PCT Approval”). BNPP and Fortis Bank Belgium have entered into commitments with the Board that limit the amount of risk that they may incur through Physical Commodity Trading. Their commitments are substantially the same, except that BNPP has also committed to conduct Physical Commodity Trading in the United States exclusively under the authority of section 4 of the BHC Act and not to conduct such activities in the United States in reliance on section 2(h)(2) of the BHC Act or 211.23(f)(5) of the

Energy Tolling<sup>3</sup> and to provide Energy Management Services<sup>4</sup> in the United States as activities that are complementary to Commodity Derivatives Activities and, in the case of Energy Management Services, also complementary to providing financial and investment advisory services for derivatives transactions (“Derivative Advisory Services”).<sup>5</sup>

BNPP has requested approval to engage in Energy Tolling and to provide Energy Management Services, indirectly through Fortis Bank Belgium, after it acquires a controlling interest in that bank. Fortis Bank Belgium conducts these activities primarily through a nonbank subsidiary, Fortis Energy Marketing & Trading GP (“FEMT”). A separate request for approval would be required for BNPP to engage in Energy Tolling and to provide Energy Management Services other than indirectly through Fortis Bank Belgium.

The Board has delegated to the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, authority to approve requests by financial holding companies to engage in Energy Tolling and to provide Energy Management Services, if the proposal meets the conditions imposed by the Board when approving previous requests and does not raise significant legal, policy, or supervisory issues.

BNPP has represented to the Board that after its acquisition of Fortis Bank Belgium, it does not plan to change (1) the legal structure of Fortis Bank Belgium or FEMT or (2) any of the policies, procedures, systems, controls, operations, risk management, or legal and compliance standards currently being applied by Fortis Bank Belgium and FEMT in conducting

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Board’s Regulation K. On consummation of the proposal, BNPP’s commitments will apply to the entire BNPP organization, including Fortis Bank Belgium.

<sup>3</sup> Board letter regarding Fortis S.A./N.V. (May 21, 2008) (“Fortis ET Approval”).

<sup>4</sup> Fortis S.A./N.V., 94 Federal Reserve Bulletin C20 (2008) (together with the Fortis ET Approval, “Fortis Energy Approvals”).

<sup>5</sup> The Board has determined by regulation prior to November 12, 1999, that Commodity Derivatives Activities and Derivative Advisory Services are closely related to banking. 12 CFR 225.28(b)(8) and (b)(6). These activities are, therefore, financial in nature for purposes of the BHC Act. See 12 U.S.C. § 1843(k)(4)(F).

Energy Tolling and providing Energy Management Services. In addition, BNPP also has represented that it would subject FEMT to specific internal audit and reporting requirements and other controls that are substantially similar to those BNPP currently applies to its U.S. nonbanking subsidiaries.

Moreover, BNPP has committed to the Board that, unless it receives the Board's prior approval, it will only conduct Energy Tolling and provide Energy Management Services indirectly through Fortis Bank Belgium. BNPP has also committed to engage only in those Energy Management Services and Energy Tolling activities that are authorized by the Fortis Energy Approvals and not to expand the size or scope of Fortis Bank Belgium's Energy Tolling and Energy Management Services beyond that already authorized by the Fortis Energy Approvals. In addition, BNPP has committed that it will conduct Energy Tolling and Energy Management Services consistent with the terms and conditions of the Fortis Energy Approvals and in compliance with each of commitments made by Fortis Bank Belgium in connection with the Fortis Energy Approvals and Fortis PCT Approval. These conditions and commitments are designed to limit the amount of risk incurred in connection with those activities.

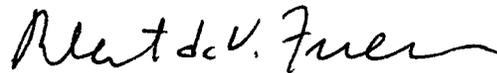
Approval of the current proposal would likely benefit BNPP's and Fortis Bank Belgium's customers by enabling Fortis Bank Belgium's customers to continue to benefit from the provision of Energy Tolling and Energy Management Services, allowing BNPP to offer its customers these services through Fortis Bank Belgium, and enabling Fortis Bank Belgium to continue to serve as an effective competitor in physical commodity and commodity derivatives markets.

Based on all the facts of record, including all the commitments made to the Board in connection with the notice and the conditions imposed by the Board in previous cases, the Director, with the concurrence of the General Counsel, has determined that the proposed activities would not pose a substantial risk to BNPP, depository institutions operated by BNPP, or the financial system generally and that the proposal can reasonably be expected to produce benefits to the public that outweigh any potential adverse effects.

In making these determinations, the Director and the General Counsel have relied on all the information, representations, and commitments

provided by BNPP to the Board in connection with the notice and the conditions contained in the previous decisions noted above. Those commitments and conditions are critical to the determination that the proposed activities would not pose a substantial risk to the safety and soundness of BNPP, other financial institutions, or the financial system generally. In addition, the determinations in this letter are subject to the Board's authority to require modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, or to prevent evasion of, the provisions and purposes of the BHC Act and the Board's regulations and orders issued thereunder. These determinations are specifically conditioned on compliance with all the commitments and conditions made in connection with this notice, including the commitments and conditions discussed in this letter, and the conditions in the Board's previous decisions noted above. The commitments and conditions relied on in making these determinations are deemed to be conditions imposed in writing by the Board in connection with the notice and this approval and, as such, may be enforced in proceedings under applicable law.

Sincerely yours,

A handwritten signature in cursive script, reading "Robert deV. Frierson".

Robert deV. Frierson  
Deputy Secretary of the Board

cc: Ivan J. Hurwitz, Vice President  
Federal Reserve Bank of New York