



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

SCOTT G. ALVAREZ
GENERAL COUNSEL

September 29, 2006

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

Dear Mr. Tortoriello:

This is in response to your letter, on behalf of Barclays PLC and its subsidiaries (“Barclays”), requesting clarification of the application of sections 22(g) and 22(h) of the Federal Reserve Act (“FRA”) (12 U.S.C. §§ 375a, 375b) and the Board’s Regulation O (12 CFR part 215) to companies that control shares issued by a U.S. bank or holding company of a U.S. bank (“banking organization”) as part of their investment advisory functions. Specifically, you have asked whether a person that owns, controls, or has the power to vote shares issued by a banking organization in connection with the person’s investment advisory functions “owns, controls, or has the power to vote” such shares for purposes of the definitions of control and principal shareholder in sections 215.2(c), 215.2(m), and 215.11(a)(1) of Regulation O (12 CFR 215.2(c), 215.2(m), and 215.11(a)(1)).

Section 215.2(c) of Regulation O provides that a person controls a company if the person “directly or indirectly, or acting through or in concert with one or more other persons, owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the company.” Section 215.2(m) of Regulation O defines a principal shareholder of a bank as a person that “directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of [the] bank.” Section 215.11(a)(1) of Regulation O (which addresses public disclosure requirements for bank lending to insiders) defines a principal shareholder of a member bank as a person that “directly or indirectly, owns, controls, or has power to vote more than 10 percent of any class of voting securities of the member bank.”

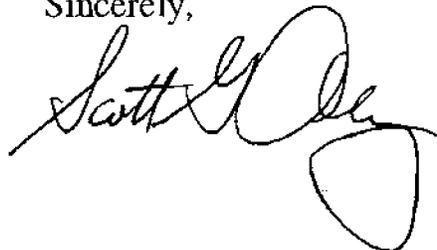
You have indicated that Barclays, as part of its global investment management functions, provides investment advisory services to a wide variety of mutual funds, other investment funds and collective investment vehicles, and separate accounts. In this context, Barclays often would have dispositive authority over portfolio shares issued by banking organizations and generally would have the power to vote these shares on behalf of its client funds and accounts.

You have argued that a person should not be deemed to own, control, or have the power to vote shares issued by a banking organization for purposes of Regulation O if the person is acting as an investment advisor. Sections 22(g) and 22(h) of the FRA and Regulation O, however, do not contain an exemption for shares owned, controlled, or voted as part of investment advisory functions, or any other exemption that applies to your factual situation. In addition, unlike sections 23A and 23B of the FRA, sections 22(g) and 22(h) of the FRA do not give the Board authority to exempt transactions and relationships from their requirements.¹ Consequently, the Board does not have statutory authority to exempt ownership of, control of, or power to vote shares held in connection with investment advisory functions from the requirements of Regulation O.

In light of the terms and underlying purposes of sections 22(g) and 22(h) of the FRA and Regulation O, it is my opinion that Barclays (i) would be a principal shareholder of a banking organization for purposes of Regulation O if Barclays has dispositive or voting power over more than 10 percent of any class of voting securities of the banking organization; and (ii) would control a banking organization for purposes of Regulation O if Barclays has dispositive or voting power over 25 percent or more of any class of voting securities of the banking organization.

This opinion applies only to the specific issues and circumstances described above and does not address any other issues or circumstances. Please do not hesitate to call Mark Van Der Weide (202-452-2263) or Amanda Allexon (202-452-3818) of my staff if you have any additional questions concerning this matter.

Sincerely,



¹ 12 U.S.C. § 371c(f)(2).