Attachment C

Situations in Which Holding Companies May Expect Expedited Consultation

This attachment provides clarity regarding the process that the Federal Reserve uses when consulting with holding companies as described in SR 09-4, “Applying Supervisory Guidance and Regulations on the Payment of Dividends, Stock Redemptions, and Stock Repurchases at Bank Holding Companies.” It provides insight into the Federal Reserve’s application of its 1985 Policy on Cash Dividends and describes the circumstances in which a holding company can expect expedited consultation with its Reserve Bank. The attachment describes criteria that the Federal Reserve considers when evaluating the level of analysis it will bring to a consultation. The attachment does not change the Federal Reserve’s current practice on distribution policies for those firms. The Federal Reserve’s regulatory capital rule (Regulation Q) limits the amount of capital a bank holding company may distribute under certain circumstances.

Generally, a holding company considering paying a dividend that exceeds earnings for the period for which the dividend is being paid may expect a response from the relevant Reserve Bank supervisory staff within two business days if the holding company:

(1) has net income available to common shareholders over the past year sufficient to fully fund the dividend (and previous dividends over the past four quarters);
(2) is not considering making stock repurchases/redemptions in the current quarter;
(3) does not have concentrations in commercial real estate lending that exceed the thresholds described in SR 07-1, “Interagency Guidance on Concentrations in Commercial Real Estate”; and
(4) is in good supervisory condition, as generally indicated by:
   a. overall condition: current capital and asset quality subcomponent ratings under the RFI rating system of 1 or 2 (or capital and asset quality ratings of 1 or 2 for the lead bank of noncomplex holding companies with total assets less than $3 billion); and
   b. asset quality risk: a ratio of (restructured loans + noncurrent loans + other real estate owned) / (tier 1 capital + reserves) < 25% for the current reporting period.

A banking organization that does not meet the criteria above and is considering paying dividends that exceed earnings for the period for which the dividend is being paid should consult with its Reserve Bank supervisory staff. In most cases Federal Reserve supervisory staff will provide a response to the consultation within five business days of the company providing its internal analysis supporting its capital decision. Typically an institution considering paying dividends that exceed earnings for the period for which the dividend is being paid will assess the level and trend of noncurrent assets; criticized and classified assets; the adequacy of its allowance for loan and lease losses; potential risk resulting from asset concentrations; and prospective earnings relative to its capital position, including in consideration of current economic conditions, to ensure an appropriate capital position can be maintained.