

February 25, 1970.

The following recommendations for additional delegations of authority in the foreign area are made with the concurrence of Governor Brimmer.

1. Issuance of obligations by Edge and Agreement corporations

I recommend that authority to permit an Edge Act or Agreement corporation to issue or have outstanding debentures, bonds, promissory notes (with a maturity of more than one year), and similar obligations, be delegated to a specified Board member, subject to a guideline that the corporation be determined to be in satisfactory condition. To implement this recommendation, section 265.1a of the Board's Rules Regarding Delegation of Authority would need to be amended to add to the functions delegated to specified Board members the following:

"(d) Under § 211.4 of this chapter (Regulation K), to approve the issuance by an Edge or Agreement corporation of debentures, bonds, promissory notes (with a maturity of more than one year), or similar obligations, provided that such corporation is determined to be in satisfactory condition and the delegatee is satisfied that the case involves no question of general policy."

Section 25(a) of the Federal Reserve Act authorizes Edge Act corporations "to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the

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Board of Governors of the Federal Reserve System may prescribe." Section 211.4 of Regulation K provides:

"Except in accordance with prior Board approval, no Corporation may issue or have outstanding any debentures, bonds, promissory notes (other than notes due within one year), or similar obligations."

Actions under this provision are not frequently required. However, several such actions have recently appeared on Board agendas; and in no case, as far as I know, has the Board failed to give its approval. Most such cases have concerned borrowings by subsidiaries of corporations. Some have involved the issuance of long-term Euro-bonds; others have involved the issuance of medium-term notes in local financial markets by subsidiary finance companies. The only questions raised in connection with these applications have concerned the status of such borrowings and the uses of their proceeds under the Foreign Credit Restraint Program, and the status of such borrowings with respect to Regulations D and Q where the parent bank or corporation has guaranteed the foreign borrowing.

2. Investments by Edge Act and Agreement corporations and acquisitions of stock of foreign banks by member banks

I recommend that the Board delegate to a specified Board member authority to approve all stock acquisitions by Edge Act and Agreement corporations and member bank acquisitions of stock of foreign banks, including such acquisitions that result in effective control, subject to the following guidelines: (1) the corporation the stock of which is to be acquired must be a foreign financial corporation;

(2) it does not transact any business in the United States (whether through offices in the United States or otherwise); and (3) it has no equity interest in any company transacting a business in the United States.

This recommendation would be implemented by amending section 265.1a, relating to functions delegated to specified Board members, to read as follows:

"(b) To grant specific consent, subject to such conditions as the Board has prescribed as a matter of policy, for member banks and Edge and Agreement corporations to acquire, directly or indirectly, shares of stock or other certificates of ownership in foreign financial institutions not transacting any business in the United States and not holding (directly or through a subsidiary) any equity interest in companies transacting any such business, and to approve such acquisitions which may exceed the limitations in section 25(a) based on such a corporation's capital and surplus."

Under Regulation K, the Board has given "general consent" for investments by Edge Act corporations in the shares of foreign corporations not doing business in the United States where the investment will not cause an Edge Act corporation to have more than \$500,000 invested in such shares or to hold more than 25 per cent of the shares of such a foreign corporation. In other cases, the Regulation requires the prior "specific consent" of the Board. Regulation M requires the Board's prior consent before a national bank (or a State member bank) may acquire the stock of a foreign bank.

The Board's present delegation rules delegate to a specified Board member (at present, Governor Brimmer) authority to grant specific consent to stock acquisitions by a member bank or an Edge or Agreement corporation only if the acquisition will not result in "effective control" of the foreign institution. Under my recommendation, this authority would be broadened to embrace all such stock acquisitions, including those resulting in control. In doing so, the Board would rely upon the delegatee to present to the Board for consideration any case of more than routine importance.

3. Foreign branches of member banks and of Edge Act and Agreement corporations

I recommend that the Board delegate to a specified Board member authority to approve (where Board approval is required by Regulations K and M) applications for the establishment, directly or indirectly, of foreign branches by member banks and by Edge Act and Agreement corporations subject to the following guidelines (similar to those now applied to authority delegated to the Reserve Banks with respect to domestic branches): (1) that the branch has been approved by the appropriate State banking authority, in the case of a State member bank; and (2) that consideration is given to the financial condition and management of the applicant. (Presumably, the State Department would continue to be consulted, as at present; but this requirement would not need to be specifically prescribed in amending the Board's delegation rules.)

To implement this recommendation, subsection (a) of section 265.1a, relating to delegations to Board members, would be amended as

follows:

"(a) To approve the establishment, directly or indirectly, of a foreign branch ~~or agency~~ by a member bank or A FOREIGN BRANCH OR AGENCY BY A corporation organized under section 25(a) (an 'Edge' corporation) or operating under an agreement with the Board pursuant to section 25 (an 'Agreement' corporation) which ~~has already established, or has been authorized to establish, branches in two or more foreign countries, IF APPROVAL FOR SUCH ESTABLISHMENT HAS BEEN GIVEN BY THE APPROPRIATE STATE AUTHORITY, WHERE SUCH APPROVAL IS NECESSARY, AND IF THE DELEGEES IS SATISFIED THAT APPROVAL IS WARRANTED IN THE LIGHT OF THE FINANCIAL CONDITION AND MANAGEMENT OF THE APPLICANT AND THAT THE CASE DOES NOT INVOLVE A QUESTION OF GENERAL POLICY."~~

At present, a member of the Board (Governor Brimmer) has delegated authority to approve the establishment, directly or indirectly, of foreign branches by a member bank or by an Edge or Agreement corporation if such bank or corporation has already been authorized to establish branches in two or more foreign countries. Applications for foreign branches that are not within this authority are mainly for the first overseas branch of a member bank. In all likelihood, such applications will in the future be principally for a branch in Nassau or possibly London. Accordingly, it is believed that the present

delegation might be expanded as here suggested. The only argument against such delegation would be that even routine action by the Board on such applications would keep the Board abreast of the pace of new entrants into foreign branching, the character of the banks involved, and the types of branching contemplated.

Under the Board's present delegation rules, the approval of the Board itself is necessary if a foreign subsidiary of a member bank or of an Edge Act or Agreement corporation wishes to establish a first branch in the country in which the subsidiary is located, even though the member bank itself or the parent bank of the corporation may have foreign branches in many countries. Similarly, Board approval is necessary where such a subsidiary seeks to establish a branch outside the country in which it is domiciled until such a time as it has branches in at least two other countries. The indirect establishment of foreign branches through foreign subsidiaries would be covered by the general delegation here suggested. If this general delegation is not approved, I would recommend that the present rules be broadened at least to delegate authority to approve such routine establishment of branches of foreign subsidiaries.

4. Making the 30-day period for establishment of additional foreign branch inapplicable

I recommend that the Board delegate to a specified Board member authority to advise a member bank that already has a branch in a foreign country that the provision authorizing establishment of an additional branch in such country after 30-days' notice to the Board shall be inapplicable in a particular case.

To implement this recommendation, section 265.1a of the Board's delegation rules, relating to functions delegated to Board members, would be amended by the addition of the following paragraph:

"(e) Under subsection (a) of § 213.3 of Part 213 (Regulation M), (i) to advise a member bank that has established a branch in a foreign country that the second sentence of that subsection authorizing establishment of an additional branch in such country after 30-days' notice to the Board shall not be applicable in a particular case, and (ii) subsequently to grant permission for such additional branch."

Section 213.3(a) of Regulation M provides:

"(a) Establishing foreign branches. - A foreign branch may be established with prior Board permission. If a national bank has established a branch in a foreign country, it may, unless otherwise advised by the Board, establish other branches in that country after thirty days' notice to the Board with respect to each such branch."

Cases involving advice by the Board that the 30-day provision will not be applicable have been rare. The only recent instances have involved (1) an additional branch in Puerto Rico when the Board required additional time to obtain assurances that the Puerto Rican authorities did not object, (2) an additional branch in the Canal Zone, on which the Department of State requested additional time to consider because of diplomatic representations from Panama, and (3) an additional branch in Switzerland where there was a question of access to information. Following resolution of the first two points, the branches were routinely approved. In the third case, the Board revised the language relating to access to information.

If the general delegation of authority to approve all foreign branches proposed under section 3 of this memorandum is approved, clause (ii) of the above-suggested amendment to the delegation rules would be unnecessary, since the specified Board member could approve the additional branch under such general delegation.