



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

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

**AUG 31 2007**

Paul E. Glotzer, Esq.  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006

Dear Mr. Glotzer:

This letter concerns the notice filed July 5, 2007, under section 4 of the Bank Holding Company Act (“BHC Act”) by BNP Paribas (“BNPP”), Paris, France, to engage on a limited basis in physical commodity trading activities (“Commodity Trading Activities”) in the United States.<sup>1</sup>

BNPP states in the notice that it currently engages in commodity derivatives activities that are permissible for bank holding companies under the BHC Act (“Commodity Derivatives Activities”). These activities include trading in cash-settled swaps, forwards, options, and other derivatives based on commodities.<sup>2</sup> BNPP has requested approval to expand its current trading activities in the United States to include engaging in physically settled commodity derivatives, taking or making delivery of commodities in settlement of those derivatives, taking inventory positions in physical commodities, and trading in the spot market in physical commodities.

The Board has previously determined that taking and making delivery of a physical commodity complements the financial activity of

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<sup>1</sup> BNPP would engage in Commodity Trading Activities through a wholly owned U.S. subsidiary, which would be either a newly established limited liability company or an existing inactive subsidiary company of BNPP.

<sup>2</sup> 12 CFR 225.28(b)(8)(ii).

engaging regularly as principal in Commodity Derivatives Activities based on that commodity pursuant to Regulation Y.<sup>3</sup> The Board has delegated to the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, the authority to approve requests by financial holding companies to engage in Commodity Trading Activities as an activity that is complementary to Commodity Derivatives Activities, if the proposal meets the conditions imposed by the Board in approving previous requests to engage in Commodity Trading Activities and does not raise significant legal, policy, or supervisory issues.<sup>4</sup>

In evaluating the risks posed by the proposal, the Director and the General Counsel have considered that BNPP already incurs the price risk of commodities through its Commodity Derivatives Activities. Permitting BNPP to engage in the limited amount and types of physical commodity trading activities described above, within the limits described in the appendix to this letter, would not appear to increase significantly its potential exposure to commodity price risk. To minimize potential increased risks associated with the Commodity Trading Activities (including, but not limited to, storage,

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<sup>3</sup> See 12 CFR 225.28(b)(8)(ii); Board Letters regarding Bank of America Corporation (April 24, 2007), Credit Suisse Group (March 27, 2007), Fortis S.A./N.V. (September 29, 2006), and Wachovia Corporation (April 13, 2006); Société Générale, 92 Fed. Res. Bull. C113 (2006); Deutsche Bank AG, 91 Fed. Res. Bull. C54 (2005); JPMorgan Chase & Co., 91 Fed. Res. Bull. C57 (2005); Barclays Bank PLC, 90 Fed. Res. Bull. 511 (2004); UBS AG, 90 Fed. Res. Bull. 215 (2004); and Citigroup Inc., 89 Fed. Res. Bull. 508 (2003).

<sup>4</sup> BNPP has indicated that the transactions in which it intends to engage after approval of this notice include, among other things, volumetric production payment transactions (“VPPs”) on oil or natural gas. VPPs are considered permissible credit transactions under 12 CFR 225.28(b)(1) if a bank holding company sells any commodities it receives under the VPP to third parties prior to delivery. See Letter from Scott G. Alvarez, Esq. to Elizabeth T. Davy, Esq., dated May 15, 2006. BNPP would rely on approval of this notice to retain ownership of commodities delivered to it under a VPP. BNPP has committed to the Board in connection with this notice that the market value of any such commodities it retains would be included in the limit of 5 percent of tier 1 capital on the value of its physical commodity inventory, as detailed in the appendix to this letter.

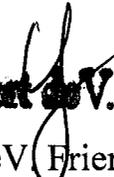
transportation, legal, and environmental risks), BNPP has committed to the Board that in the United States it will not (i) own, operate, or invest in facilities for the extraction, transportation, storage, or distribution of commodities; or (ii) process, refine, store, or otherwise alter a physical commodity itself. BNPP has further committed to the Board that it will limit the aggregate market value of physical commodities that it and any of its subsidiaries hold at any one time to 5 percent of BNPP's tier 1 capital. In addition, BNPP has established and maintained policies and systems for monitoring and controlling the risks associated with the Commodity Trading Activities. Going forward, BNPP is expected to continue to maintain effective risk-management policies and systems for its Commodity Trading Activities. Approval of the proposal would likely benefit BNPP's customers by enhancing BNPP's ability to provide efficiently a full range of commodity-related services and improving its understanding of the commodity markets.

Based on the 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 Commodity Trading Activities are complementary to the Commodity Derivatives Activities conducted by BNPP; that the proposal does not appear to 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 relied on all the information, representations, and commitments provided by BNPP to the Board in connection with the notice and, in particular, the commitments set forth in the appendix to this letter and those conditions contained in the previous decisions noted above regarding these activities. These commitments and conditions are critical to the determination that the Commodity Trading Activities would not pose a substantial risk to the safety and soundness of BNPP, other financial institutions, or the financial system generally. These commitments and conditions 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. This determination is also subject to all the conditions set forth in Regulation Y,

including those in section 225.7,<sup>5</sup> to the conditions contained in the Board's previous decisions noted above regarding these activities, and 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.

Sincerely yours,

  
(Signed) Robert deV. Frierson

Robert deV. Frierson  
Deputy Secretary of the Board

Attachment

cc: Federal Reserve Bank of New York

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<sup>5</sup> 12 CFR 225.7.

## Appendix

## Commitments

1. BNPP commits to the Board of Governors of the Federal Reserve System (“Board”) that it will limit the aggregate market value of physical commodities that it holds at any one time as a result of the Commodity Trading Activities to 5 percent of BNPP’s consolidated tier 1 capital. BNPP will include in this 5 percent limit the market value of any physical commodities it holds as a result of a failure of reasonable efforts to avoid taking delivery in commodities transactions conducted pursuant to section 225.28(b)(8)(ii)(B) of Regulation Y. In addition, BNPP agrees to notify the Federal Reserve Bank of New York if the aggregate market value of commodities held by it under the approval exceeds 4 percent of BNPP’s consolidated tier 1 capital.
2. BNPP commits to the Board that it will assure proper risk management and controls over the Commodity Trading Activities. BNPP will apply the control infrastructure that it has developed and tested with respect to Commodity Derivatives Activities to its Commodity Trading Activities.
3. BNPP commits to the Board that it will take and make physical delivery of, or store, only commodities for which derivative contracts have been authorized for trading on U.S. futures exchanges by the Commodity Futures Trading Commission (unless specifically excluded by the Board) or other commodities that have been specifically authorized by the Board.
4. In the United States, BNPP commits to the Board that it (1) will not own, operate, or invest in facilities for the extraction, transportation, storage, or distribution of commodities (except in satisfaction of debts previously contracted or in connection with a nonperforming loan, or where such investment is otherwise permissible for a financial holding company); (2) will act solely as a financial intermediary in the physical commodities markets; (3) will not process, refine, store, or otherwise alter a physical commodity; and (4) in conducting Commodity Trading Activities, will contract with a third party for any services that are needed in connection with the handling of any commodity and use appropriate storage and transportation facilities owned and operated by third parties.

5. In the United States, BNPP commits to the Board that it will only use storage and transportation facilities owned and operated by third parties, and will enter into service agreements only with accredited, reputable independent third-party facilities.

6. BNPP commits to the Board that it will conduct the Commodity Trading Activities in the United States exclusively pursuant to the authority of section 4 of the BHC Act and in accordance with the limitations that the Board has placed on the conduct of such activities, and will not 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 Board's Regulation K.

7. BNPP commits to the Board that it will not, without prior Board approval, enter into any physically settled tolling agreements in the United States.