



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

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

June 30, 2010

Kathryn V. McCulloch, Esq.
Senior Vice President
and Associate General Counsel
JPMorgan Chase & Co.
270 Park Avenue, 38th Floor
New York, New York 10017

Dear Ms. McCulloch:

This letter concerns the notices filed December 30, 2009, under section 4 of the Bank Holding Company Act (“BHC Act”)¹ by JPMorgan Chase & Co., New York, New York (“JPMC”), to (1) enter into physically settled tolling agreements with power plant owners (“Energy Tolling”) and (2) provide energy management services to owners of power generation facilities under energy management agreements (“Energy Management Services”). The Board previously has determined pursuant to Regulation Y that Energy Tolling and Energy Management Services complement the financial activity of engaging in Commodity Derivatives Activities and Derivatives Advisory Services (discussed below).²

JPMC is a financial holding company for purposes of the BHC Act. JPMC currently engages in commodity derivatives activities that are permissible for bank holding companies under the BHC Act (“Commodity Derivatives Activities”)³ and also provides financial and investment advisory services for derivatives transactions (“Derivatives Advisory Services”) that are permissible

¹ 12 U.S.C. § 1843.

² See The Royal Bank of Scotland Group PLC, 94 Federal Reserve Bulletin C60 (2008) (“RBS Order”) and Fortis S.A./N.V., 94 Federal Reserve Bulletin C20 (2008).

³ See 12 U.S.C. § 1843(k)(4)(F).

for bank holding companies under the BHC Act. The Board previously authorized JPMC to engage in Physical Commodity Trading as an activity that is complementary to Commodity Derivatives Activities.⁴ JPMC conducts Physical Commodity Trading primarily through a nonbank subsidiary, J.P. Morgan Ventures Energy Corporation, New York, New York. JPMC has requested:

1. authority to engage in Energy Tolling, on a limited basis, as an activity that is complementary to Commodity Derivatives Activities;
2. authority to engage in Energy Management Services, on a limited basis, as an activity that is complementary to both Commodity Derivatives Activities and Derivatives Advisory Services; and
3. confirmation that JPMC's proposed long-term electricity supply contracts are consistent with its Physical Commodity Trading authority.

Energy Tolling

JPMC has requested approval to expand its current activities to include Energy Tolling. Under the energy tolling agreements to which JPMC would be a party, JPMC would make periodic fixed payments to the owner of a power generation facility ("capacity payments") in exchange for the right to all or part of the plant's power output. JPMC would also generally supply fuel and make payments to cover the owner's variable costs plus a profit margin. The plant owner, however, would retain control over the day-to-day operations of the plant and physical plant assets at all times.

JPMC has committed to conduct Energy Tolling activities in accordance with the restrictions, definitions, and conditions previously imposed by the Board on the conduct of those activities. In connection with the Board's approval of JPMC's Physical Commodity Trading activities, JPMC 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

⁴ JPMorgan Chase & Co., 92 Federal Reserve Bulletin C57 (2006).

of JPMC's tier 1 capital. JPMC also has committed that it will include the present value of capacity payments associated with Energy Tolling contracts in that 5 percent limit. As a result, JPMC's potential exposure to commodity price risk will not increase by engaging in Energy Tolling activities.

Energy Management Services

JPMC has also requested approval to provide Energy Management Services pursuant to an energy management agreement with a power plant owner as an activity that is complementary to its Commodity Derivatives Activities and Derivatives Advisory Services. As an energy manager, JPMC proposes to provide transactional and advisory services to power plant owners. The transactional services would consist primarily of acting as a financial intermediary, substituting its credit and liquidity for those of the owner to facilitate the owner's purchase of fuel and sale of power. JPMC's advisory services would include providing market information to assist the owner in developing and refining a risk-management plan for the plant and providing a variety of administrative services to support these transactions.

JPMC has committed to provide Energy Management Services in accordance with the restrictions, definitions, and conditions previously imposed by the Board on the conduct of those activities. JPMC has made all the commitments that were required in connection with the Board's previous approvals of Energy Management Services. Those commitments generally limit the scope of the activities that JPMC may perform as energy manager to ensure that JPMC incurs only those risks that are consistent with the agency nature of Energy Management Services and limit the revenues attributable to JPMC's Energy Management Services to 5 percent of JPMC's total consolidated operating revenues.⁵ The authority to act as energy manager should not expand JPMC's ability to engage in physical commodity trading beyond what it is currently allowed to do under its Physical Commodity Trading authority.

JPMC has committed to conduct Energy Tolling and provide Energy Management Services in accordance with the restrictions, definitions,

⁵ "Total operating revenues" is defined as net interest income and all non-interest revenue, including net securities gains but excluding extraordinary items.

and conditions previously relied on by the Board in authorizing those activities. JPMC also has established and maintained policies and systems for monitoring and controlling the risks associated with Energy Tolling and Energy Management Services and is expected to continue to maintain effective risk-management policies and systems for each of those activities. Approval of the request to engage in Energy Tolling and Energy Management Services likely would benefit JPMC's customers by enhancing JPMC's ability to provide efficiently a full range of commodity-related services consistent with existing market practice. Approval also would enable JPMC to improve its understanding of the physical commodity and commodity derivatives markets and its ability to serve as an effective competitor in those markets.

Long-Term Electricity Supply Contracts

As part of its energy trading business, JPMC proposes to enter into long-term electricity supply contracts with large commercial and industrial end-users. JPMC's current Physical Commodity Trading authority permits it to take a position in a commodity and does not limit the duration of, or counterparties to, its contracts. Most commodities that JPMC is permitted to trade under the Physical Commodity Trading authority, however, tend by their nature to be limited to the wholesale market. Electricity, on the other hand, has a greater potential to be sold not only to end-users generally but also to small retail customers who are unlikely to be participants in the market for energy-related derivatives products. JPMC requests confirmation that entering into long-term electricity supply contracts with large commercial and industrial end-users is consistent with its Physical Commodity Trading authority.

To ensure that JPMC's activities remain complementary to the activities permitted under the Physical Commodity Trading authority, and consistent with previous approvals,⁶ JPMC has committed that it will enter into long-term electricity supply contracts only with commercial and industrial customers that consume electricity at a rate of at least (1) 800 megawatt-hours per year or (2) the minimum consumption level for commercial and industrial customers under applicable state law, whichever is greater. Requiring that JPMC contract only with customers that consume electricity at these high levels should help ensure that JPMC transacts with financially sophisticated purchasers

⁶ See RBS Order.

(and not with retail purchasers) and, thus, remains essentially a wholesale intermediary.

Based on the record, the Board has determined that (1) the proposed Energy Tolling is complementary to JPMC's Commodity Derivatives Activities and (2) the proposed Energy Management Services are complementary to JPMC's Commodity Derivatives Activities and Derivatives Advisory Services. In approving the proposed Energy Tolling and Energy Management Services, the Board also has determined that the proposed activities do not pose a substantial risk to the safety or soundness of JPMC, its depository institutions, or the financial system generally and can reasonably be expected to produce benefits to the public that outweigh any potential adverse effects. The Board also confirms that JPMC's proposal to enter into long-term electricity supply contracts is consistent with its Physical Commodity Trading authority.

In making these determinations, the Board relied on all the information, representations, and commitments provided by JPMC to the Board in connection with the notices.⁷ These commitments and conditions are critical to the determination that Physical Commodity Trading, Energy Tolling, and Energy Management Services would not pose a substantial risk to the safety and soundness of JPMC, other financial institutions, or the financial system generally. These determinations also are subject to all the conditions set forth in Regulation Y, including those in section 225.7,⁸ and to the conditions contained in the Board's previous decisions noted above. These commitments and conditions shall be deemed to be conditions imposed in writing in connection with the notices and this approval and, as such, may be enforced in proceedings under applicable law.

These determinations should not be construed as granting relief from any other conditions or commitments to which JPMC may be subject. In addition, these determinations are subject to the Board's authority to require modification or termination of the activities of a bank holding company or any

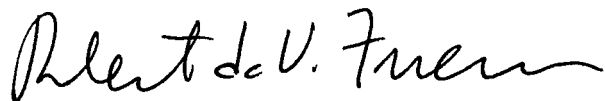
⁷ See appendix for a complete list of the commitments JPMC has made in connection with these proposals.

⁸ 12 CFR 225.7.

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.

As you are aware, legislation is pending that would impose constraints on the ability of banking institutions to engage in proprietary trading and derivatives activities. You have represented that most, if not all, of the activities to be conducted under the Energy Tolling and Energy Management Services authority that JPMC has requested would be permissible under that proposed legislation. To the extent that any activity becomes impermissible, the Board expects that JPMC would conform such activities to the requirements of the law within the required time periods.

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

Appendix

JPMC, together with its subsidiaries, including those attributable to JPMC's acquisition of The Bear Stearns Companies, Inc. (collectively, "JPMC"), commits with respect to the notices ("Notices") it has filed with the Board to engage in Energy Tolling and Energy Management Services that:

Physical Commodity Trading Activities

1. JPMC will include in the 5 percent aggregate market value limit for physical commodities that it holds at any one time as a result of Physical Commodity Trading 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, JPMC agrees to notify the Federal Reserve Bank of New York if the aggregate market value of commodities held under this approval exceeds 4 percent of JPMC's tier 1 capital.
2. JPMC will take and make physical delivery only of physical commodities for which derivative contracts have been authorized for trading on a U.S. futures exchange by the Commodity Futures Trading Commission or physical commodities of which the Board has specifically authorized JPMC to take and make physical delivery (collectively, "Approved Commodities").
3. JPMC will enter into long-term electricity supply contracts only with large commercial and industrial end-users that consume electricity at a rate of at least (i) 800 megawatt-hours/year or (ii) the minimum consumption level for large commercial and industrial customers under applicable state law, whichever is greater.
4. JPMC will conform to the requirements of the BHC Act, including by divestiture if necessary, the activities of (i) owning, investing in, or operating storage facilities for commodities that it is not permitted to hold or store under the BHC Act and (ii) making and taking physical delivery of commodities that are not Approved Commodities, including metal concentrates, acquired in connection with the transactions contemplated

by the Notices within two years of consummation of the transactions, or such longer period as the Federal Reserve in its discretion may grant.

5. After consummation of the transactions contemplated by the Notices, JPMC will not expand its direct or indirect activities or investments in the activities of (i) owning, investing in, or operating storage facilities for commodities that it is not permitted to hold or store under the BHC Act and (ii) making and taking physical delivery of commodities that are not Approved Commodities, including metal concentrates. JPMC will not expand these activities or investments beyond those engaged in by RBS Sempra Commodities LLP immediately prior to the date of the consummation of the proposed transaction by directly or indirectly (1) acquiring direct control of a company engaged in any activity, or acquiring any assets or business lines of another company that engages in impermissible activities, (2) increasing the types of investments, products, or services to be engaged in or provided by JPMC, or (3) any similar transactions that would result in an expansion of these activities.

Energy Tolling

6. JPMC will include the present value of all capacity payments to be made by JPMC in connection with energy tolling agreements in calculating its compliance with the limit of 5 percent of tier 1 capital on the aggregate market value of the physical commodities that it and any of its subsidiaries hold at any one time as a result of Physical Commodity Trading.

Volumetric Production Payment Transactions

7. JPMC will include any commodities that JPMC receives under a volumetric production payment transaction and does not immediately sell to a third party in calculating its compliance with the limit of 5 percent of tier 1 capital on the aggregate market value of the physical commodities that it and any of its subsidiaries hold at any one time as a result of Physical Commodity Trading.

Energy Management Services

8. Revenues attributable to JPMC's Energy Management Services will not exceed 5 percent of its total consolidated operating revenues.⁹
9. JPMC will only act as energy manager if the energy management agreement under which it performs its Energy Management Services provides that:
 - a. The owner of the facility retains the right to market and sell power directly to third parties, which may be subject to the energy manager's right of first refusal;
 - b. The owner of the facility retains the right to determine the level at which the facility will operate (i.e., to dictate the power output of the facility at any given time);
 - c. Neither the energy manager nor its affiliates guarantee the financial performance of the facility; and
 - d. Neither the energy manager nor its affiliates bear any risk of loss if the facility is not profitable.

JPMC agrees that the foregoing commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision on the notices filed by JPMC to engage in Energy Tolling and Energy Management Services under section 225.89 of Regulation Y and, as such, may be enforced in proceedings under applicable law.

⁹ Total operating revenues are defined as net interest income and all non-interest revenue, including net securities gains but excluding extraordinary items.