



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, DC 20551

January 18, 2018

Mr. Francisco Oliveira  
BNP Paribas  
787 Seventh Avenue  
New York, New York 10019-5016

Dear Mr. Oliveira:

This letter responds to your request on behalf of BNP Paribas (“BNPP”), Paris, France, for partial relief from certain commitments that BNPP made to the Board in connection with a notice filed by BNPP under section 4 of the Bank Holding Company Act of 1956 (“BHC Act”) to (1) engage in 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”), all in the United States.

In 2010, BNPP obtained approval (the “Approval”) from the Board to engage in Energy Tolling and Energy Management Services as complementary activities to a financial activity.<sup>1</sup> In connection with this approval, BNPP committed to limit to 5 percent of its consolidated tier 1 capital the sum of (1) the total amount of the present value of all capacity payments to be made by BNPP in the aggregate in connection with Energy Tolling activities, (2) the market value of commodities held by BNPP in the aggregate as a result of Physical Commodity Trading Activities, and (3) the market value of any commodities held by BNPP in the aggregate as a result of a failure of reasonable efforts to avoid taking delivery in commodities transactions conducted pursuant to

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<sup>1</sup> Board Letter to Robert L. Tortoriello, Esq., September 21, 2010. BNPP previously had received approval from the Board to engage in certain physical commodities trading activities (“Physical Commodity Trading Activities”). See Board Letter to Paul E. Glotzer, Esq., August 31, 2007. In connection with that approval, BNPP committed to limit the aggregate market value of physical commodities that BNPP held at any one time as a result of the activities to 5 percent of its consolidated tier 1 capital.

section 225.28(b)(8)(ii)(B) of the Board's Regulation Y ("Energy Tolling Commitment").<sup>2</sup>

At the time of the Approval, BNPP held an indirect interest in Transcor Astra Group S.A. ("Transcor"), a Belgian company with U.S. operations, and its wholly-owned U.S. subsidiary, Astra Oil Company LLC ("Astra"), and in Imerys S.A. ("Imerys"), a Belgian company with U.S. operations, through its controlling interest in ERBE S.A. ("ERBE"), also a Belgian company. At the time, BNPP held Transcor, Astra, and Imerys under section 2(h)(2) of the BHC Act.<sup>3</sup> Transcor and Astra engaged in certain Physical Commodities Trading Activities in the United States. Imerys engaged in mining in the United States. The Energy Tolling Commitment specifically required BNPP to include the Energy Tolling and Physical Commodities Trading Activities of Transcor and its subsidiaries, as well as of any other subsidiaries operating in the United States under section 2(h)(2) of the BHC Act in determining compliance with the commitment.

Also in connection with the Approval, BNPP committed not to engage directly or indirectly in Energy Tolling, Energy Management Services, or Physical Commodities Trading Activities with the U.S. operations of Transcor or Imerys or their control persons, including, without limitation, acting as a supplier, customer, agent, or counterparty in such a transaction ("Transactions Commitment"). Further, BNPP committed to not exercise routine operation or management over Transcor or Imerys, any of their respective subsidiaries, or any of their respective control persons, or attempt to exercise control or a controlling influence over Transcor or Imerys, any of their respective subsidiaries, or any of their respective control persons ("Control Commitment").

BNPP sold all of its interests in ERBE in December 2013, and BNPP no longer has any ownership interest in Transcor, Astra, or Imerys (the "Companies").

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<sup>2</sup> See 12 CFR 225.28(b)(8)(ii)(B) (listing as an activity so closely related to banking as to be a proper incident thereto engaging as principal in forward contracts, options, futures, options on futures, swaps, and similar contracts). The Energy Tolling Commitment superseded the commitment, referenced *supra* in footnote 1, provided in connection with the Physical Commodities Trading Activities approval.

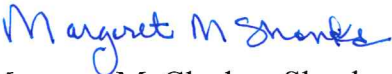
<sup>3</sup> See 12 U.S.C. § 1841(h)(2); 12 CFR 211.23(f)(5). Section 2(h)(2) permits a foreign bank holding company that is principally engaged in the banking business outside the United States to hold shares in a foreign company that engages in business in the U.S., provided that the foreign company is principally engaged in business outside of the U.S. and the U.S. activities are in the same line of business as activities conducted by the foreign company outside the U.S., as measured by the "establishment" categories of the Standard Industrial Classification.

Accordingly, BNPP requests relief from the Energy Tolling Commitment and the Transactions Commitment to the extent that they require BNPP to include the activities of the Companies in determining compliance with those commitments.<sup>4</sup>

BNPP no longer has any ownership of ERBE, Transcor, Astra, or Imerys and, therefore, is presumed not to control the Companies.<sup>5</sup> In addition, BNPP does not have any of the following: either representation on the boards of directors of ERBE, the Companies, or their affiliates; the right to appoint a director to or have representation on the boards of directors of ERBE, the Companies, or their affiliates, or the right to elect a majority of the directors of ERBE, the Companies, or their affiliates; employee interlocks with ERBE, the Companies, or their affiliates; formal or informal agreements with ERBE, the Companies, or their affiliates relating to the management or policies of ERBE or the Companies; or any relationships with other shareholders of ERBE or the Companies through which it might exert influence over ERBE, the Companies, or their affiliates. BNPP maintains *de minimis* arm's length, market terms business relationships with ERBE and the Companies and has no other contemplated business relationships with ERBE, the Companies, or their affiliates.

Based on all the facts of record, the Director of the Division of Supervision and Regulation, acting pursuant to authority delegated by the Board under section 265.7(a)(2) of the Board's Rules Regarding Delegation of Authority (12 CFR 265.7(a)(2)), and after consulting with the General Counsel, has approved BNPP's request for relief from the Energy Tolling and Transactions Commitments to the extent that they require BNPP to include the activities of the Companies in determining compliance with the commitments. This action is based on the representations and commitments set forth in all your communications and correspondence related to your request, including the representations discussed above. The commitments are conditions imposed in writing in connection with this decision and, as such, may be enforced in proceedings under applicable law. Any change in the facts presented could result in a different conclusion and should be reported to Board staff immediately. This determination should not be construed as granting relief from any other conditions or commitments to which BNPP may be subject.

Very truly yours,

  
Margaret McCloskey Shanks  
Deputy Secretary of the Board

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<sup>4</sup> BNPP does not seek relief from the Control Commitment or any other commitment that it entered into in connection with the Approval.

<sup>5</sup> 12 CFR 225.31(e).