

Federal Reserve Issues Supplemental Notice of Proposed Rulemaking on Requirements for Determining Whether Companies are Predominantly Engaged in Financial Activities

On April 2, 2012, the Board of Governors of the Federal Reserve System (the “**Federal Reserve**”) issued a Supplemental Notice of Proposed Rulemaking (the “**Supplemental NPR**”) and request for comment on the scope of activities that are considered financial for purposes of determining whether a company may be designated as a nonbank financial company under Title I of the Dodd-Frank Act. The Supplemental NPR amends the February 11, 2011 Notice of Proposed Rulemaking (“**February 2011 NPR**”) in order to clarify the scope of activities considered financial. The Federal Reserve also issued an appendix, set forth in Annex A to this newsflash, that lists all activities considered to be financial activities as of April 2, 2012. Comments on the Supplemental NPR are due on or before May 25, 2012.

February 2011 NPR

The February 2011 NPR set forth a suggested definition of the term “predominantly engaged in financial activities” for purposes of Title I of the Dodd-Frank Act. Under the Dodd-Frank Act, absent evasion, the Financial Stability Oversight Council (“**FSOC**”) may designate as systemically important nonbank financial companies only those companies that are “predominantly engaged in financial activities.” In defining this term, the February 2011 NPR incorporated the extensive list of activities in which a financial holding company is permitted to engage under the Bank Holding Company Act (the “**BHC Act**”), a list derived from Section 4(k) of the BHC Act and the Federal Reserve’s Regulation Y. Notably, the February 2011 NPR did not include those activities that are considered to be “incidental” or “complementary” to a financial activity, such as trading in physical commodities like oil, natural gas and agricultural products.

The Federal Reserve also indicated in the February 2011 NPR that the conditions imposed on financial holding companies when engaging in financial activities in Section 4(k) of the BHC Act and the Federal Reserve’s Regulation Y – but no other legal authorities – must be considered when analyzing whether a potentially systemic nonbank firm meets the “predominantly engaged” test.

Supplemental NPR

The Supplemental NPR amends the February 2011 NPR so that those conditions imposed on bank holding companies that do not define a financial activity itself are not to be considered when determining whether a nonbank company’s activities are financial. Conditions that do not define the activity itself include conditions designed to ensure that the activity is conducted in a safe and sound manner, to prevent a financial holding company from controlling a commercial firm, or to comply with other provisions of law. Consistent with the proposed amendment to the February 2011 NPR, the list of activities in the appendix to the Supplemental NPR excludes those non-definitional conditions contained in the Section 4(k) list of activities.

The Supplemental NPR thus proposes that not all conditions in the Section 4(k) list of activities are to be considered when determining whether a company is “predominantly engaged in financial activities.” This means that the Supplemental NPR has enlarged the scope of companies potentially subject to systemic designation by the FSOC, including, for example, mutual fund companies, futures commission merchants, private equity firms, and certain thrift holding companies and real estate financing companies.

Justifications for the Supplemental NPR

The Federal Reserve stated that many of the conditions imposed on financial activities in Regulation Y are designed to ensure that bank holding companies engage in those activities without threatening the safety and soundness of their subsidiary depository institutions and do not relate to the nature of the activity itself. The Federal Reserve also noted that if these non-definitional conditions were considered when analyzing whether a potentially systemic nonbank firm meets the “predominantly engaged” test, some companies could avoid designation by simply not abiding by those conditions.

The Federal Reserve stated that the Supplemental NPR was consistent with the purpose and legislative history of Title I, which it viewed as granting the FSOC authority to designate for supervision financial companies that are engaged in a broad range of financial activities with the potential to threaten financial stability. Finally, the Federal Reserve stated that it considered the anti-evasion authority of the FSOC under Section 113(c) of the Dodd-Frank Act – which allows the FSOC to designate for supervision the financial activities of *any* company that attempts to evade application of Title I – a further indication of Congress’s intent to define “nonbank financial companies” broadly.

Predominantly engaged in “financial activities”

Mutual funds

The activity of organizing, sponsoring, and managing a mutual fund is a financial in nature activity.¹ Although Regulation Y prohibits bank holding companies from exerting managerial control over companies in which the fund invests and requires bank holding companies to reduce their ownership to less than 25% of the equity in the fund within one year of sponsoring the fund, the Supplemental NPR states that this condition was designed to prevent circumvention of the investment restrictions in the BHC Act and is therefore not to be considered in determining whether a nonbank company is engaged in financial activities.

Merchant Banking

Since the passage of the Gramm-Leach-Bliley Act (the “**GLB Act**”), merchant banking and private equity activities, including sponsoring private equity funds, have been considered financial in nature, subject to certain conditions.²

The Supplemental NPR proposes that not all of these conditions be considered for purposes of FSOC designation. The Federal Reserve has included the condition that shares be held for a certain period of time to enable their sale or disposition on a reasonable basis consistent with the financial viability of the company’s underwriting, merchant or investment banking activities, on the grounds that this condition is consistent with the typical investment strategies of private equity firms. Similarly, the Federal Reserve retained the condition that prohibits the routine management and operation of investee companies.

Significantly, however, the Federal Reserve indicated that the particular requirements relating to these conditions set forth in Regulation Y will **not** apply. Under this interpretation, private equity firms will not be able to avoid designation by noting that all of their investments do not comply with the time periods set forth in Regulation Y, or by demonstrating that they have veto rights and contractual provisions that are broader than those permitted to financial holding companies under the Merchant Banking Rule.

¹ 12 U.S.C. § 1843(k)(4)(G); 12 CFR 255.86(b)(3).

² 12 U.S.C. § 1843(k)(4)(H).

In addition, the Federal Reserve did not include certain other conditions, including those that prohibit shares from being acquired or held by a depository institution and that require that the investment be in a company engaged in any activity not authorized under section 4 of the BHC Act, on the grounds that these conditions were not essential to the nature of the activities themselves.

Securitization

The activity of issuing or selling instruments representing interests in a pool of assets is an activity financial in nature that was authorized by the GLB Act.³ The condition imposed on this activity by the GLB Act requires that the assets being securitized are permissible for a bank to hold directly. Since the Federal Reserve considers this condition to have been imposed to ensure that the activity is conducted in a safe and sound manner and to ensure compliance with other laws, the condition is not to be considered for purposes of systemic designation.

Real Estate Credit

Activities relating to extending credit, including acting as an intermediary for commercial or industrial real estate financing, engaging in asset management, servicing and collection activities, acquiring debt in default, and providing real estate settlement services, have been determined to be closely related to banking and thus a permissible financial activity.⁴

By contrast, although Regulation Y prohibits a bank holding company from having an interest in managing, developing, promoting, or sponsoring the development of the property for which it is arranging commercial real estate equity financing, the Federal Reserve stated that it does not consider this condition to be essential to the activity of arranging commercial real estate equity financing. In addition, bank holding companies engaged in asset management activities are prohibited from also engaging in real estate property management or real estate brokerage. Since this condition could be interpreted as entirely excluding asset management activities from being considered financial if the company is also involved in real estate property management or real estate brokerage, the Federal Reserve did not include this condition in its appendix. The Supplemental NPR states that a company may engage in real estate brokerage and real estate management and still be predominantly engaged in financial activities as long as the 85% financial activity test for “predominance” is met.

Owning a thrift

Owning, controlling, and operating nonbank depository institutions including thrifts are activities that the Federal Reserve has determined to be closely related to banking.⁵ Although Regulation Y requires a thrift owned by a financial holding company to be engaged only in deposit-taking activities and activities permissible for bank holding companies, the Federal Reserve stated that this condition is not essential to the activity of owning a thrift and is thus not pertinent for purposes of systemic designation.

Agency transactional services

Agency transactional services, including providing securities brokerage services, acting as a riskless principal, providing private placement services, and acting as a futures commission merchant, are all “closely related to banking” activities.⁶ In the Supplemental NPR, however, the Federal Reserve did not include the conditions that it has imposed on bank holding companies engaged in these activities for

³ 12 U.S.C. § 1843(k)(4)(D).

⁴ 12 U.S.C. § 1843(k)(4)(F); 12 CFR 255.28(b)(2).

⁵ 12 U.S.C. § 1843(k)(4)(F); 12 CFR 255.28(b)(4).

⁶ 12 U.S.C. § 1843(k)(4)(F); 12 CFR 255.28(b)(7).

purposes of systemic designation, on the ground that they were designed to prevent circumvention of the Glass-Steagall Act or for safety and soundness reasons. For example, bank holding companies providing private placement services are prohibited from purchasing or repurchasing for their own account the securities being placed or from holding inventory in unsold portions of issues of those securities. In addition, bank holding companies acting as a riskless principal are subject to conditions relating to bank-ineligible securities.

Similarly, the conditions imposed on bank holding companies that act as futures commission merchants and that provide agency transactional services to customers on certain commodity derivatives transactions are not to be considered for systemic designation purposes, also because they were imposed for safety and soundness reasons.

Investment transactions as principal

Engaging in principal investment transactions, including underwriting and dealing in government obligations, are activities determined by the Federal Reserve to be closely related to banking.⁷ The conditions imposed on bank holding companies engaged in these activities, however, are not included, as they were intended to prevent circumvention of the Glass-Steagall Act. Similarly, conditions imposed on derivatives activities – such as the condition that the derivative contract itself not be on a bank-ineligible security and that the asset underlying the contract be a bank permissible asset or that the contract contain protections against physical settlement – are not included, having been designed to prevent circumvention of the Glass-Steagall Act's limitations on underwriting and dealing activities and for safety and soundness reasons.

Management Consulting

The Federal Reserve has determined that management consulting services provided to an unaffiliated depository institution on any matter, and to any other company on any financial, economic, accounting, or audit matter, are closely related to banking⁸ and are included in the appendix. The Federal Reserve's regulations prohibit bank holding companies that are engaged in management consulting services from owning more than 5% of the client institution or from having a management interlock. Since these conditions were imposed to ensure that bank holding companies do not exert control over a client company through management consulting contracts and to prevent conflicts of interest, they have not been included in the appendix. The Federal Reserve sought comment on whether the activity of management consulting is subsumed by the broader authority to engage in management consulting services outside the United States pursuant to Regulation K.

Data processing

Data processing services and related activities with respect to financial, banking, or economic data are closely related to banking.⁹ Under Regulation Y, hardware provided in connection with data processing services must be offered only in conjunction with software related to the processing, storage, and transmission of financial, banking, or economic data, and where general purpose hardware does not constitute more than 30% of the cost of any packaged offering. The Federal Reserve does not consider these conditions to define the activity itself and has excluded them from the appendix.

⁷ 12 U.S.C. § 1843(k)(4)(F); 12 CFR 255.28(b)(8).

⁸ 12 U.S.C. § 1843(k)(4)(F); 12 CFR 255.28(b)(9)(i).

⁹ 12 U.S.C. § 1843(k)(4)(F); 12 CFR 255.28(b)(14).

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Financial Activities for Purposes of Title I

1. Lending, exchanging, transferring, investing for others, or safeguarding money and securities.
2. Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing, in any state.
3. Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).
4. Issuing or selling instruments representing interests in pools of assets.
5. Underwriting, dealing in, or making a market in securities.
6. Extending credit and servicing loans. Making, acquiring, brokering, or servicing loans or other extensions of credit (including factoring, issuing letters of credit and accepting drafts) for the company's account or for the account of others.
7. Activities related to extending credit. Any activity usual in connection with making, acquiring, brokering or servicing loans or other extensions of credit, including the following activities:
 - (i) Real estate and personal property appraising. Performing appraisals of real estate and tangible and intangible personal property, including securities.
 - (ii) Arranging commercial real estate equity financing. Acting as intermediary for the financing of commercial or industrial income-producing real estate by arranging for the transfer of the title, control, and risk of such a real estate project to one or more investors.
 - (iii) Check-guaranty services. Authorizing a subscribing merchant to accept personal checks tendered by the merchant's customers in payment for goods and services, and purchasing from the merchant validly authorized checks that are subsequently dishonored.
 - (iv) Collection agency services. Collecting overdue accounts receivable, either retail or commercial.
 - (v) Credit bureau services. Maintaining information related to the credit history of consumers and providing the information to a credit grantor who is considering a borrower's application for credit or who has extended credit to the borrower.
 - (vi) Asset management, servicing, and collection activities. Engaging under contract with a third party in asset management, servicing, and collection¹⁰ of assets of a type that an insured depository institution may originate and own.
 - (vii) Acquiring debt in default. Acquiring debt that is in default at the time of acquisition.
 - (viii) Real estate settlement servicing. Providing real estate settlement services.¹¹
8. Leasing personal or real property. Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if:

¹⁰ Asset management services include acting as agent in the liquidation or sale of loans and collateral for loans, including real estate and other assets acquired through foreclosure or in satisfaction of debts previously contracted.

¹¹ For purposes of this section, real estate settlement services do not include providing title insurance as principal, agent, or broker.

- (i) The lease is on a nonoperating basis;¹²
 - (ii) The initial term of the lease is at least 90 days; and
 - (iii) In the case of leases involving real property:
 - (A) At the inception of the initial lease, the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease from rental payments, estimated tax benefits, and the estimated residual value of the property at the expiration of the initial lease; and
 - (B) The estimated residual value of property for purposes of paragraph (b)(3)(iii)(A) of this section shall not exceed 25 percent of the acquisition cost of the property to the lessor.
9. Operating nonbank depository institutions
- (i) Industrial banking. Owning, controlling, or operating an industrial bank, Morris Plan bank, or industrial loan company that is not a bank for purposes of the BHC Act.
 - (ii) Operating savings associations. Owning, controlling, or operating a savings association.
10. Trust company functions. Performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law that is not a bank for purposes of section 2(c) of the Bank Holding Company Act.
11. Financial and investment advisory activities. Acting as investment or financial advisor to any person, including (without, in any way, limiting the foregoing):
- (i) Serving as investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940, 15 U.S.C. 80a-2(a)(20)), to an investment company registered under that act, including sponsoring, organizing, and managing a closed-end investment company;
 - (ii) Furnishing general economic information and advice, general economic statistical forecasting services, and industry studies;
 - (iii) Providing advice in connection with mergers, acquisitions, divestitures, investments, joint ventures, leveraged buyouts, recapitalizations, capital structurings, financing transactions and similar transactions, and conducting financial feasibility studies;¹³
 - (iv) Providing information, statistical forecasting, and advice with respect to any transaction in foreign exchange, swaps, and similar transactions, commodities, and any forward contract, option, future, option on a future, and similar instruments;
 - (v) Providing educational courses, and instructional materials to consumers on individual financial management matters; and

¹² The requirement that the lease be on a nonoperating basis means that the company may not, directly or indirectly, engage in operating, servicing, maintaining, or repairing leased property during the lease term. For purposes of the leasing of automobiles, the requirement that the lease be on a nonoperating basis means that the company may not, directly or indirectly: (1) Provide servicing, repair, or maintenance of the leased vehicle during the lease term; (2) purchase parts and accessories in bulk or for an individual vehicle after the lessee has taken delivery of the vehicle; (3) provide the loan of an automobile during servicing of the leased vehicle; (4) purchase insurance for the lessee; or (5) provide for the renewal of the vehicle's license merely as a service to the lessee where the lessee could renew the license without authorization from the lessor. The company may arrange for a third party to provide these services or products.

¹³ Feasibility studies do not include assisting management with the planning or marketing for a given project or providing general operational or management advice.

- (vi) Providing tax-planning and tax-preparation services to any person.
12. Agency transactional services for customer investments.
- (i) Securities brokerage. Providing securities brokerage services (including securities clearing and/or securities execution services on an exchange), whether alone or in combination with investment advisory services, and incidental activities (including related securities credit activities and custodial services).
 - (ii) Riskless principal transactions. Buying and selling in the secondary market all types of securities on the order of customers as a "riskless principal" to the extent of engaging in a transaction in which the company, after receiving an order to buy (or sell) a security from a customer, purchases (or sells) the security for its own account to offset a contemporaneous sale to (or purchase from) the customer.
 - (iii) Private placement services. Acting as agent for the private placement of securities in accordance with the requirements of the Securities Act of 1933 (1933 Act) and the rules of the Securities and Exchange Commission.
 - (iv) Futures commission merchant. Acting as a futures commission merchant (FCM) for unaffiliated persons in the execution, clearance, or execution and clearance of any futures contract and option on a futures contract.
 - (v) Other transactional services. Providing to customers as agent transactional services with respect to swaps and similar transactions, any transaction described in paragraph (b)(8) of this section, any transaction that is permissible for a state member bank, and any other transaction involving a forward contract, option, futures, option on a futures or similar contract (whether traded on an exchange or not).
13. Investment transactions as principal.
- (i) Underwriting and dealing in government obligations and money market instruments. Underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including banker's acceptances and certificates of deposit.
 - (ii) Investing and trading activities. Engaging as principal in:
 - (A) Foreign exchange;
 - (B) Forward contracts, options, futures, options on futures, swaps, and similar contracts, whether traded on exchanges or not, based on any rate, price, financial asset (including gold, silver, platinum, palladium, copper, or any other metal), nonfinancial asset, or group of assets.
 - (C) Forward contracts, options, futures, options on futures, swaps, and similar contracts, whether traded on exchanges or not, based on an index of a rate, a price, or the value of any financial asset, nonfinancial asset, or group of assets.
 - (1) Buying and selling bullion, and related activities. Buying, selling and storing bars, rounds, bullion, and coins of gold, silver, platinum, palladium, copper, and any other metal for the company's own account and the account of others, and

providing incidental services such as arranging for storage, safe custody, assaying, and shipment.

14. Management consulting and counseling activities

- (i) Management consulting. Providing management consulting advice:¹⁴
 - (1) On any matter to unaffiliated depository institutions, including commercial banks, savings and loan associations, savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks, industrial loan companies, trust companies, and branches or agencies of foreign banks;
 - (2) On any financial, economic, accounting, or audit matter to any other company.
- (ii) Employee benefits consulting services. Providing consulting services to employee benefit, compensation and insurance plans, including designing plans, assisting in the implementation of plans, providing administrative services to plans, and developing employee communication programs for plans.
- (iii) Career counseling services. Providing career counseling services to:
 - (A) A financial organization¹⁵ and individuals currently employed by, or recently displaced from, a financial organization;
 - (B) Individuals who are seeking employment at a financial organization; and
 - (C) Individuals who are currently employed in or who seek positions in the finance, accounting, and audit departments of any company.

15. Support services.

- (i) Courier services. Providing courier services for:
 - (A) Checks, commercial papers, documents, and written instruments (excluding currency or bearer-type negotiable instruments) that are exchanged among banks and financial institutions; and
 - (B) Audit and accounting media of a banking or financial nature and other business records and documents used in processing such media.¹⁶
- (ii) Printing and selling MICR-encoded items. Printing and selling checks and related documents, including corporate image checks, cash tickets, voucher checks, deposit slips, savings withdrawal packages, and other forms that require Magnetic Ink Character Recognition (MICR) encoding.

16. Insurance agency and underwriting.

- (i) Credit insurance. Acting as principal, agent, or broker for insurance (including home mortgage redemption insurance) that is:

¹⁴ In performing this activity, companies are not authorized to perform tasks or operations or provide services to client institutions either on a daily or continuing basis, except as necessary to instruct the client institution on how to perform such services for itself. See also the Federal Reserve's interpretation of bank management consulting advice (12 CFR 225.131).

¹⁵ Financial organization refers to insured depository institution holding companies and their subsidiaries, other than nonbanking affiliates of diversified savings and loan holding companies that engage in activities not permissible under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(c)(8)).

¹⁶ See also the Federal Reserve's interpretation on courier activities (12 CFR 225.129), which sets forth conditions for company entry into the activity.

- (A) Directly related to an extension of credit by the company or any of its subsidiaries; and
 - (B) Limited to ensuring the repayment of the outstanding balance due on the extension of credit¹⁷ in the event of the death, disability, or involuntary unemployment of the debtor.
- (ii) Finance company subsidiary. Acting as agent or broker for insurance directly related to an extension of credit by a finance company¹⁸ that is a subsidiary of a company, if:
- (A) The insurance is limited to ensuring repayment of the outstanding balance on such extension of credit in the event of loss or damage to any property used as collateral for the extension of credit; and
 - (B) The extension of credit is not more than \$10,000, or \$25,000 if it is to finance the purchase of a residential manufactured home¹⁹ and the credit is secured by the home; and
 - (C) The applicant commits to notify borrowers in writing that:
 - (1) They are not required to purchase such insurance from the applicant;
 - (2) Such insurance does not insure any interest of the borrower in the collateral; and
 - (3) The applicant will accept more comprehensive property insurance in place of such single interest insurance.
- (iii) Insurance in small towns. Engaging in any insurance agency activity in a place where the company or a subsidiary has a lending office and that:
- (A) Has a population not exceeding 5,000 (as shown in the preceding decennial census); or
 - (B) Has inadequate insurance agency facilities, as determined by the Federal Reserve, after notice and opportunity for hearing.
- (iv) Insurance-agency activities conducted on May 1, 1982. Engaging in any specific insurance agency activity²⁰ if the company, or subsidiary conducting the specific activity, conducted such activity on May 1, 1982, or received Federal Reserve approval to conduct such activity on or before May 1, 1982.²¹ A company or subsidiary engaging in a specific insurance agency activity under this clause may:
- (A) Engage in such specific insurance agency activity only at locations:
 - (1) In the state in which the company has its principal place of business (as defined in 12 U.S.C. 1842(d));

¹⁷ Extension of credit includes direct loans to borrowers, loans purchased from other lenders, and leases of real or personal property so long as the leases are nonoperating and full-payout leases that meet the requirements of paragraph (b)(3) of this section.

¹⁸ Finance company includes all non-deposit-taking financial institutions that engage in a significant degree of consumer lending (excluding lending secured by first mortgages) and all financial institutions specifically defined by individual states as finance companies and that engage in a significant degree of consumer lending.

¹⁹ These limitations increase at the end of each calendar year, beginning with 1982, by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

²⁰ Nothing contained in this provision shall preclude a company subsidiary that is authorized to engage in a specific insurance-agency activity under this clause from continuing to engage in the particular activity after merger with an affiliate, if the merger is for legitimate business purposes and prior notice has been provided to the Federal Reserve.

²¹ For the purposes of this paragraph, activities engaged in on May 1, 1982, include activities carried on subsequently as the result of an application to engage in such activities pending before the Federal Reserve on May 1, 1982, and approved subsequently by the Federal Reserve or as the result of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition.

- (2) In any state or states immediately adjacent to such state; and
 - (3) In any state in which the specific insurance-agency activity was conducted (or was approved to be conducted) by such company or subsidiary thereof or by any other subsidiary of such company on May 1, 1982; and
 - (B) Provide other insurance coverages that may become available after May 1, 1982, so long as those coverages insure against the types of risks as (or are otherwise functionally equivalent to) coverages sold or approved to be sold on May 1, 1982, by the company or subsidiary.
 - (v) Supervision of retail insurance agents. Supervising on behalf of insurance underwriters the activities of retail insurance agents who sell:
 - (A) Fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the company or its subsidiaries; and
 - (B) Group insurance that protects the employees of the company or its subsidiaries.
 - (vi) Small companies. Engaging in any insurance-agency activity if the company has total consolidated assets of \$50 million or less. A company performing insurance-agency activities under this paragraph may not engage in the sale of life insurance or annuities except as provided in paragraphs (b)(1)(i) and (iii) of this section, and it may not continue to engage in insurance agency activities pursuant to this provision more than 90 days after the end of the quarterly reporting period in which total assets of the holding company and its subsidiaries exceed \$50 million.
 - (vii) Insurance-agency activities conducted before 1971. Engaging in any insurance-agency activity performed at any location in the United States directly or indirectly by a company that was engaged in insurance-agency activities prior to January 1, 1971, as a consequence of approval by the Federal Reserve prior to January 1, 1971.
17. Community development activities.
- (i) Financing and investment activities. Making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents.
 - (ii) Advisory activities. Providing advisory and related services for programs designed primarily to promote community welfare.
18. Money orders, savings bonds, and traveler's checks. The issuance and sale at retail of money orders and similar consumer-type payment instruments; the sale of U.S. savings bonds; and the issuance and sale of traveler's checks.
19. Data processing. Providing data processing, data storage and data transmission services, facilities (including data processing, data storage and data transmission hardware, software, documentation, or operating personnel), databases, advice, and access to such services, facilities, or data-bases by any technological means, if the data to be processed, stored or furnished are financial, banking or economic.
20. Providing administrative and other services to mutual funds.
21. Owning shares of a securities exchange.
22. Acting as a certification authority for digital signatures and authenticating the identity of persons conducting financial and nonfinancial transactions.

23. Providing employment histories to third parties for use in making credit decisions and to depository institutions and their affiliates for use in the ordinary course of business.
24. Check cashing and wire transmission services.
25. In connection with offering banking services, providing notary public services, selling postage stamps and postage-paid envelopes, providing vehicle registration services, and selling public transportation tickets and tokens.
26. Real estate title abstracting.
27. Providing management consulting services, including to any person with respect to nonfinancial matters, so long as the management consulting services are advisory.
28. Operating a travel agency in connection with financial services.
29. Organizing, sponsoring, and managing a mutual fund.
30. Directly, or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities, or otherwise, shares, assets, or ownership interests (including debt or equity securities, partnership interests, trust certificates, or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, if:
 - (i) such shares, assets, or ownership interests are acquired and held as part of a bona fide underwriting or merchant or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;
 - (ii) such shares, assets, or ownership interests are held for a period of time to enable the sale or disposition thereof on a reasonable basis consistent with the financial viability of the activities described in clause (i); and
 - (iii) during the period such shares, assets, or ownership interests are held, the company does not routinely manage or operate such company or entity except as may be necessary or required to obtain a reasonable return on investment upon resale or disposition.
31. Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities, or otherwise, shares, assets, or ownership interests (including debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity if--
 - (i) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance) or providing and issuing annuities;
 - (ii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and
 - (iii) during the period such shares, assets, or ownership interests are held, the company does not routinely manage or operate such company except as may be necessary or required to obtain a reasonable return on investment.
32. Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.
33. Providing any device or other instrumentality for transferring money or other financial assets.
34. Arranging, effecting, or facilitating financial transactions for the account of third parties.