

Foreign Banks as U.S. Financial Holding Companies (Chapter 10)

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This Chapter discusses the expanded powers that a foreign bank or its parent [herein foreign banking organization or FBO] may exercise in the United States if it successfully elects to be treated as a U.S. financial holding company [herein FHC]. We first describe the restrictions imposed by the Bank Holding Company Act of 1956 [herein BHC Act] on an FBO's power to engage in nonbanking activities or make nonbanking investments in the United States if it owns or controls a U.S. bank or otherwise has or acquires a U.S. commercial banking presence, ² but does not qualify for or elect to be treated as a financial holding company. We then summarize the expanded powers that an FBO may exercise if it qualifies and elects to be treated as a financial holding company under the BHC Act. We next set forth the conditions and procedures for becoming an FHC. We then elaborate on an FHC's expanded powers, focusing on securities underwriting and dealing, insurance underwriting, merchant banking, insurance company portfolio investments, commodities, hedge funds and real estate powers. Finally, we discuss the streamlined notice and approval procedures available to FHCs, the consequences of becoming an FHC and the consequences of failing to maintain the FHC conditions.

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