



PUERTO RICO BANKERS ASSOCIATION

July 7, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue
N.W., Washington, DC 20551

RE: **Docket No, R-1193**
Risk Based Capital Standards-
Trust Preferred Securities

Dear Ms. Johnson:

On behalf of the Puerto Rico Bankers Association (the "Bankers Association"), we hereby submit comments regarding the term "internationally active banking organizations" used in the proposed revisions to the risk-based capital guidelines contained in Regulation Y¹ issued by the Board of Governors of the Federal Reserve System (the "Board"). The Bankers Association is a non-profit organization that represents commercial banks in Puerto Rico before government and the community. The Bankers Association is currently composed of nine active members².

The Board recently published a notice of proposed rulemaking seeking comments on certain proposed amendments to its current risk-based capital guidelines. At present, such guidelines allow bank holding companies ("BHCs") to include in their tier 1 capital trust preferred securities. The amendments allow

the continued inclusion of trust preferred securities in the tier 1 capital of BHCs, subject to stricter standards in terms of quality and quantity.

¹ 12 C.F.R. Part 225.

² The ten banks that compose the Bankers Association are the following: Banco Popular de Puerto Rico, Citibank N.A., Banco Bilbao Vizcaya Argentaria Puerto Rico, Banco Santander Puerto Rico, FirstBank Puerto Rico, Doral Bank, R-G Premier Bank of Puerto Rico, Scotiabank Puerto Rico and Eurobank.

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Regarding the quantitative standard, the Board will continue to subject trust preferred securities and cumulative perpetual preferred stock to a limit of no more than 25 percent of a BHC's core capital elements. However, it is proposing to require other capital elements in the form of minority interest in the equity accounts of consolidated subsidiaries to be subject to the same limit of 25 percent.

The Board is also proposing to amend its capital guidelines to express the Board's expectation that "internationally active banking organizations" limit the amount of restricted core capital elements included in tier 1 capital to 15 percent of the sum of all core capital elements, net of goodwill. Specifically, the proposed amendment to Appendix A to Part 225 of Regulation Y on the limits on restricted core capital elements for this type of organization reads as follows:

"3. The Federal Reserve generally expects internationally active banking organizations to limit the aggregate amount of restricted core capital elements included in tier 1 capital to 15 percent of the sum of all core capital elements, including restricted core capital elements, net of goodwill."

The "Supplementary Information" section included in the Notice of Proposed Rulemaking states that an internationally active banking organization "is one that has significant activity in non-U.S. markets or that is considered a candidate for the Advanced Internal Ratings Based Approach under the proposals for a new Basel Accord." The proposed amendment does not specify which markets are considered non-U.S. for purposes of this definition. The Board is seeking comment on whether it should include a more explicit definition of internationally active banking organizations.

For the reasons set forth below and in light of the inconsistency with which Puerto Rico is treated in federal banking regulations regarding its foreign or domestic status, we respectfully request the Board to clarify in the proposed amendments that BHCs organized under the laws of the Commonwealth of Puerto Rico and authorized under Section 3 of the Bank Holding Act whose principal activities are carried out within the United States, Puerto Rico and the Virgin Islands are not covered by the definition of internationally active banking organization inasmuch as Puerto Rico should not be regarded as a non-U.S. market for purposes of such rule.

BHCs organized under Puerto Rico law are subject to the Board's current Capital Adequacy Guidelines contained in Appendix A to Part 225. Please note that the definition of the term "United States" contained in Section 225.2(p) of

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Regulation Y³ includes any territory of the United States, Puerto Rico and the Virgin Islands.

In addition, it is important to refer to the content of footnote number seven (7) of the proposed amendments to Annex A of Regulation Y relating to qualifying minority interests. The new guidelines distinguish among three (3) different types of qualifying minority interests: Class A, B and C minority interest. In defining Class A minority interest, the new guidelines mention the concept of a "U.S. depository institution". Such term is defined in footnote number seven (7) to include branches of depository institutions chartered and headquartered in Puerto Rico and U.S. territories. Therefore, even though the proposed guidelines do not specifically state that BHCs organized under Puerto Rico law are not "internationally active banking organizations", the above reference in the guidelines may be used to support the clarification that such BHCs are to be considered domestic companies.

Based on the foregoing, the Bankers Association respectfully requests the Board to clarify in the final rule to be adopted on capital guidelines, that BHCs organized under Puerto Rico law are not to be considered internationally active banking organizations and that, therefore, trust preferred securities and cumulative perpetual preferred stock issued by Puerto Rico BHCs would be subject to a limit of 25 percent of a BHC's core capital elements.

Should you have any questions or comments, please call the undersigned at (787) 753-8630,

Cordially,



Arturo L. Carrión
Executive Vice President

³ 12 C.F.R. 225.2(p).