

## §211.11

## 12 CFR Ch. II (1–1–05 Edition)

closely related to banking under section 4(c)(8) of the BHC Act (12 U.S.C. 1843(c)(8)).

(c) *Specific approval.* With the Board's specific approval, an investor may engage in other activities that the Board determines are usual in connection with the transaction of the business of banking or other financial operations abroad and are consistent with the FRA or the BHC Act.

### §211.11 Advisory opinions under Regulation K.

(a) *Request for advisory opinion.* Any person may submit a request to the Board for an advisory opinion regarding the scope of activities permissible under any subpart of this part.

(b) *Form and content of the request.* Any request for an advisory opinion under this section shall be:

(1) Submitted in writing to the Board;

(2) Contain a clear description of the proposed parameters of the activity, or the service or product, at issue; and

(3) Contain a concise explanation of the grounds on which the submitter contends the activity is or should be considered by the Board to be permissible under this part.

(c) *Response to request.* In response to a request received under this section, the Board shall:

(1) Direct the submitter to provide such additional information as the Board may deem necessary to complete the record for a full consideration of the issue presented; and

(2) Provide an advisory opinion within 45 days after the record on the request has been determined to be complete.

### §211.12 Lending limits and capital requirements.

(a) *Acceptances of Edge corporations.*

(1) *Limitations.* An Edge corporation shall be and remain fully secured for acceptances of the types described in section 13(7) of the FRA (12 U.S.C. 372), as follows:

(i) All acceptances outstanding in excess of 200 percent of its tier 1 capital; and

(ii) All acceptances outstanding for any one person in excess of 10 percent of its tier 1 capital.

(2) *Exceptions.* These limitations do not apply if the excess represents the international shipment of goods, and the Edge corporation is:

(i) Fully covered by primary obligations to reimburse it that are guaranteed by banks or bankers; or

(ii) Covered by participation agreements from other banks, as described in 12 CFR 250.165.

(b) *Loans and extensions of credit to one person—*(1) *Loans and extensions of credit defined.* *Loans and extensions of credit* has the meaning set forth in §211.2(q) of this part<sup>8</sup> and, for purposes of this paragraph (b), also include:

(i) Acceptances outstanding that are not of the types described in section 13(7) of the FRA (12 U.S.C. 372);

(ii) Any liability of the lender to advance funds to or on behalf of a person pursuant to a guarantee, standby letter of credit, or similar agreements;

(iii) Investments in the securities of another organization other than a subsidiary; and

(iv) Any underwriting commitments to an issuer of securities, where no binding commitments have been secured from subunderwriters or other purchasers.

(2) *Limitations.* Except as the Board may otherwise specify:

(i) The total loans and extensions of credit outstanding to any person by an Edge corporation engaged in banking, and its direct or indirect subsidiaries, may not exceed 15 percent of the Edge corporation's tier 1 capital;<sup>9</sup> and

(ii) The total loans and extensions of credit to any person by a foreign bank or Edge corporation subsidiary of a member bank, and by majority-owned subsidiaries of a foreign bank or Edge

<sup>8</sup>In the case of a foreign government, these includes loans and extensions of credit to the foreign government's departments or agencies deriving their current funds principally from general tax revenues. In the case of a partnership or firm, these include loans and extensions of credit to its members and, in the case of a corporation, these include loans and extensions of credit to the corporation's affiliates, where the affiliate incurs the liability for the benefit of the corporation.

<sup>9</sup>For purposes of this paragraph (b), *subsidiaries* includes subsidiaries controlled by the Edge corporation, but does not include companies otherwise controlled by affiliates of the Edge corporation.

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corporation, when combined with the total loans and extensions of credit to the same person by the member bank and its majority-owned subsidiaries, may not exceed the member bank's limitation on loans and extensions of credit to one person.

(3) *Exceptions.* The limitations of paragraph (b)(2) of this section do not apply to:

(i) Deposits with banks and federal funds sold;

(ii) Bills or drafts drawn in good faith against actual goods and on which two or more unrelated parties are liable;

(iii) Any banker's acceptance, of the kind described in section 13(7) of the FRA (12 U.S.C. 372), that is issued and outstanding;

(iv) Obligations to the extent secured by cash collateral or by bonds, notes, certificates of indebtedness, or Treasury bills of the United States;

(v) Loans and extensions of credit that are covered by bona fide participation agreements; and

(vi) Obligations to the extent supported by the full faith and credit of the following:

(A) The United States or any of its departments, agencies, establishments, or wholly owned corporations (including obligations, to the extent insured against foreign political and credit risks by the Export-Import Bank of the United States or the Foreign Credit Insurance Association), the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, the Inter-American Development Bank, the African Development Bank, the Asian Development Bank, or the European Bank for Reconstruction and Development;

(B) Any organization, if at least 25 percent of such an obligation or of the total credit is also supported by the full faith and credit of, or participated in by, any institution designated in paragraph (b)(3)(vi)(A) of this section in such manner that default to the lender would necessarily include default to that entity. The total loans and extensions of credit under this paragraph (b)(3)(vi)(B) to any person shall at no time exceed 100 percent of the tier 1 capital of the Edge corporation.

(c) *Capitalization.* (1) An Edge corporation shall at all times be capitalized in an amount that is adequate in relation to the scope and character of its activities.

(2) In the case of an Edge corporation engaged in banking, the minimum ratio of qualifying total capital to risk-weighted assets, as determined under the Capital Adequacy Guidelines, shall not be less than 10 percent, of which at least 50 percent shall consist of tier 1 capital.

(3) For purposes of this paragraph (c), no limitation shall apply on the inclusion of subordinated debt that qualifies as tier 2 capital under the Capital Adequacy Guidelines.

### §211.13 Supervision and reporting.

(a) *Supervision.* (1) *Foreign branches and subsidiaries.* U.S. banking organizations conducting international operations under this subpart shall supervise and administer their foreign branches and subsidiaries in such a manner as to ensure that their operations conform to high standards of banking and financial prudence.

(i) Effective systems of records, controls, and reports shall be maintained to keep management informed of their activities and condition.

(ii) Such systems shall provide, in particular, information on risk assets, exposure to market risk, liquidity management, operations, internal controls, legal and operational risk, and conformance to management policies.

(iii) Reports on risk assets shall be sufficient to permit an appraisal of credit quality and assessment of exposure to loss, and, for this purpose, provide full information on the condition of material borrowers.

(iv) Reports on operations and controls shall include internal and external audits of the branch or subsidiary.

(2) *Joint ventures.* Investors shall maintain sufficient information with respect to joint ventures to keep informed of their activities and condition.

(i) Such information shall include audits and other reports on financial performance, risk exposure, management policies, operations, and controls.

(ii) Complete information shall be maintained on all transactions with