

On January 31, 2002, RUS published a proposed rule (67 FR 4679) to rescind RUS Bulletin 345–22, RUS Specification for Voice Frequency Loading Coils, PE–26, because of obsolescence. Comments on this proposed rule were due by April 1, 2002. One comment was received by this due date. The commenter agreed with RUS that the bulletin should be rescinded because of obsolescence. Since the commenter agreed with RUS, RUS will rescind RUS Bulletin 345–22, RUS Specification for Voice Frequency Loading Coils, PE–26.

#### List of Subjects in 7 CFR Part 1755

Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set out in the preamble, RUS amends Chapter XVII of title 7 of the Code of Federal Regulations as follows:

#### PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION.

1. The authority citation for part 1755 continues to read as follows:

**Authority:** 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

#### § 1755.97 [Amended]

2. Section 1755.97 is amended by removing the entry “RUS Bulletin No. 345–22” from the table.

Dated: January 3, 2003.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

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#### FEDERAL RESERVE SYSTEM

#### 12 CFR Part 211

#### Regulation K; Docket No. R–1143; International Banking Operations

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Interpretation.

**SUMMARY:** The Board of Governors of the Federal Reserve System has issued an interpretation concerning the underwriting by foreign banks of securities to be distributed in the United States. The interpretation clarifies that a foreign bank that wishes to engage in such activity must either be a financial holding company or have authority to engage in underwriting activity under section 4(c)(8) of the Bank Holding Company Act.

**EFFECTIVE DATE:** February 19, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Kathleen M. O'Day, Associate General Counsel (202/452–3786), Ann Misback, Assistant General Counsel (202/452–3788), or Michael Waldron, Counsel (202/452–2798), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. For users of Telecommunications Devices for the Deaf (TDD) only, contact 202/263–4869.

**SUPPLEMENTARY INFORMATION:** A number of foreign banks that are subject to the Bank Holding Company Act (“BHC Act”), but do not have authority to engage in underwriting activity in the United States, have participated as co-managers in the underwriting of securities that are to be distributed in the United States. The foreign banks use U.S. offices or affiliates to engage in activities conducted in support of the underwriting transaction for which the U.S. offices or affiliates are compensated by the foreign bank. The foreign bank becomes a member of the underwriting syndicate but does not distribute any of the securities in the United States or elsewhere. The foreign banks take the position that they are not engaged in underwriting in the United States because any underwriting obligation is booked outside the United States.

A foreign bank that is subject to the BHC Act may engage in underwriting activities in the United States only if it has been authorized under section 4 of that Act. Section 225.124 of the Board's Regulation Y states that a foreign bank will not be considered to be engaged in the activity of underwriting in the United States if the shares to be underwritten are distributed outside the United States. In the transactions in question, all of the securities were distributed in the United States.

Regulation K defines “engaged in business” and “engaged in activities” to mean conducting an activity through an office or subsidiary in the United States. In 1985, however, the Board amended another provision of Regulation K to clarify that, with respect to securities activities, the location of the prohibited activity was not dependent on being conducted through an office or subsidiary in the United States. Section 211.23(f)(5)(ii) of Regulation K states that a foreign banking organization shall not:

Directly underwrite, sell, or distribute, nor own or control more than 10 percent of the voting shares of a company that underwrites, sells, or distributes securities in the United States, except to the extent permitted bank holding companies;

In adopting the provision, the Board stated in part that it was intended to

clarify that no part of the prohibited underwriting process may take place in the United States. Thus, the prohibition did not depend on the activity being conducted through a U.S. office or subsidiary. The definition of “engaged in business” in Regulation K is not intended to operate as authority to allow banking organizations to avoid regulatory restrictions in the United States by conducting activities from abroad, as the 1985 revision of § 211.23(f)(5)(ii) made clear.

Technological and regulatory changes since the Regulation K definition of “engaged in business” was adopted in 1979 have eliminated some of the barriers to the delivery of cross-border services into the United States. Many of the services that can now be provided on a cross-border basis, including securities and insurance, were not permissible activities for banking organizations to conduct in the United States prior to the enactment of the Gramm-Leach-Bliley Act (“GLB Act”) and generally can be conducted by banking organizations in the United States today only in conformance with the requirements of that Act. To allow activities to be conducted in the United States from abroad would undermine the careful framework adopted in the GLB Act, which is available to both domestic and foreign banking organizations.

As a result, the Board believes it would be appropriate to issue this interpretation in order to clarify the scope of existing restrictions on underwriting by foreign banks. Specifically, the Board wishes to clarify that the underwriting by a banking organization subject to the BHC Act of securities to be distributed in the United States is an activity that is considered to be conducted in the United States. Such activity may only be conducted by a banking organization that is a financial holding company under the GLB Act or has so-called section 20 authority under section 4(c)(8) of the BHC Act.

#### List of Subjects in 12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

#### Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR Part 211 as follows: