Federal Reserve System

§ 225.31 Control and Divestiture Proceedings

(c) Hearing and final determination. (1) The Board shall order a formal hearing or other appropriate proceeding upon the request of a company that contests a preliminary determination that the company has the power to exercise a controlling influence over the management or policies of a bank or other company, if the Board finds that material facts are in dispute. The Board may also in its discretion order a formal hearing or other proceeding with respect to a preliminary determination that the company controls voting securities of the bank or other company under the presumptions in paragraph (d)(1) of this section.

(2) At a hearing or other proceeding, any applicable presumptions established by paragraph (d) of this section shall be considered in accordance with the Federal Rules of Evidence and the Board’s Rules of Practice for Formal Hearings (12 CFR part 263).

(3) After considering the submissions of the company and other evidence, including the record of any hearing or other proceeding, the Board shall issue a final order determining whether the company controls voting securities, or has the power to exercise a controlling influence over the management or policies of a bank or other company.

(d) Rebuttable presumptions of control. The following rebuttable presumptions shall be used in any proceeding under this section:

(1) Control of voting securities—(i) Securities convertible into voting securities. A company that owns, controls, or holds securities that are immediately convertible, at the option of the holder or owner, into voting securities of a bank or other company, controls the voting securities.

(ii) Option or restriction on voting securities. A company that enters into an agreement or understanding under which the rights of a holder of voting securities of a bank or other company are restricted in any manner controls the securities. This presumption does not apply if the company notifies the Board that voting securities of a bank or other company are subject to the same restriction.

(ii) A company conducting data processing, data storage, and data transmission activities may conduct data processing, data storage, and data transmission activities not described in paragraph (b)(14)(i) of this section if the total annual revenue derived from those activities does not exceed 49 percent of the company’s total annual revenues derived from data processing, data storage and data transmission activities.

§ 225.41 Transactions requiring prior notice.

(a) Prior notice requirement. Any person acting directly or indirectly, or through or in concert with one or more persons, shall give the Board 60 days’ written notice, as specified in §225.43 of this subpart, before acquiring control of a state member bank or bank holding company, unless the acquisition is exempt under §225.42.

(b) Definitions. For purposes of this subpart:

(1) Acquisition includes a purchase, assignment, transfer, or pledge of voting securities, or an increase in percentage ownership of a state member.