§ 225.26  Factors considered in acting on nonbanking proposals.

(a) In general. In evaluating a notice under §225.23 or §225.24, the Board shall consider whether the notificant’s performance of the activities can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, and gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, and unsound banking practices).

(b) Financial and managerial resources. Consideration of the factors in paragraph (a) of this section includes an evaluation of the financial and managerial resources of the notificant, including its subsidiaries and any company to be acquired, the effect of the proposed transaction on those resources, and the management expertise, internal control and risk-management systems, and capital of the entity conducting the activity.

(c) Competitive effect of de novo proposals. Unless the record demonstrates otherwise, the commencement or expansion of a nonbanking activity de novo is presumed to result in benefits to the public through increased competition.

(d) Denial for lack of information. The Board may deny any notice submitted under this subpart if the notificant neglects, fails, or refuses to furnish all information required by the Board.

(e) Conditional approvals. The Board may impose conditions on any approval, including conditions to address permissibility, financial, managerial, safety and soundness, competitive, compliance, conflicts of interest, or other concerns to ensure that approval is consistent with the relevant statutory factors and other provisions of the BHC Act.

§ 225.27  Procedures for determining scope of nonbanking activities.

(a) Advisory opinions regarding scope of previously approved nonbanking activities—(1) Request for advisory opinion. Any person may submit a request to the Board for an advisory opinion regarding the scope of any permissible nonbanking activity. The request shall be submitted in writing to the Board.