

# Federal Reserve Act

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## Section 23B. Restrictions on Transactions with Affiliates

### (a) In General.

1. Terms. A member bank and its subsidiaries may engage in any of the transactions described in paragraph (2) only--
  - A. on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies, or
  - B. in the absence of comparable transactions, on terms and under circumstances, including credit standards, that in good faith would be offered to, or would apply to, nonaffiliated companies.
2. Transactions Covered. Paragraph (1) applies to the following:
  - A. Any covered transaction with an affiliate.
  - B. The sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase.
  - C. The payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise.
  - D. Any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person.
  - E. Any transaction or series of transactions with a third party--
    - i. if an affiliate has a financial interest in the third party, or
    - ii. if an affiliate is a participant in such transaction or series of transactions.
3. Transactions That Benefit An Affiliate. For the purpose of this subsection, any transaction by a member bank or its subsidiary with any person shall be deemed to be a transaction with an affiliate of such bank if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

### (b) Prohibited Transactions.

1. In General. A member bank or its subsidiary--
  - A. shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchase is permitted--
    - i. under the instrument creating the fiduciary relationship,
    - ii. by court order, or
    - iii. by law of the jurisdiction governing the fiduciary relationship; and
  - B. whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a

principal underwriter of that security is an affiliate of such bank.

2. Exceptions. Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank based on a determination that the purchase is a sound investment for the bank irrespective of the fact that an affiliate of the bank is a principal underwriter of the securities.
3. Definitions. For the purpose of this subsection--
  - A. the term "security" has the meaning given to such term in section 3(a)(10) of the Securities Exchange Act of 1934; and
  - B. the term "principal underwriter" means any underwriter who, in connection with a primary distribution of securities--
    - i. is in privity of contract with the issuer or an affiliated person of the issuer;
    - ii. acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or
    - iii. is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

**(c) Advertising Restriction.** A member bank or any subsidiary or affiliate of a member bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates.

**(d) Definitions.** For the purpose of this section--

1. the term "affiliate" has the meaning given to such term in section 23A (but does not include any company described in section (b)(2) of such section or any bank);
2. the terms "bank", "subsidiary", "person", and "security" (other than security as used in subsection (b)) have the meanings given to such terms in section 23A; and
3. the term "covered transaction" has the meaning given to such term in section 23A (but does not include any transaction which is exempt from such definition under subsection (d) of such section).

**(e) Regulations.**

1. In General. The Board may prescribe regulations to administer and carry out the purposes of this section, including--
  - A. regulations to further define terms used in this section; and
  - B. subject to paragraph (2), if the Board finds that an exemption or exclusion is in the public interest and is consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding, regulations to--
    - i. exempt transactions or relationships from the requirements of this section; and
    - ii. exclude any subsidiary of a bank holding company from the definition of affiliate for purposes of this section.
2. Exception. The Board may grant an exemption or exclusion under this subsection only if, during the 60-day period beginning on the date of receipt of notice of the finding from the Board under paragraph (1)(B), the Federal Deposit Insurance Corporation does not object,

in writing, to such exemption or exclusion, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

[12 USC 371c-1. As added by act of Aug. 10, 1987 (101 Stat. 564) and amended by acts of Nov. 12, 1999 (113 Stat. 1480) and July 21, 2010 (124 Stat. 1610).]

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