

§ 250.244

of section 23B, which applies to “any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or any other person.”²

[66 FR 24229, May 11, 2001]

EFFECTIVE DATE NOTE: At 67 FR 76622, Dec. 12, 2002, § 250.243 was removed, effective Apr. 1, 2003.

§ 250.244 Exemption from section 23A of the Federal Reserve Act for certain loans and extensions of credit by an insured depository institution to a nonaffiliate to enable the nonaffiliate to purchase securities through a registered broker-dealer affiliate of the institution that is acting exclusively as riskless principal in the securities transaction.

(a) A loan or extension of credit by an insured depository institution (“depository institution”) to any person other than an affiliate of such depository institution is exempted from section 23A of the Federal Reserve Act (12 U.S.C. 371c) if—

(1) The loan or extension of credit is on terms that are consistent with safe and sound banking practices; and

(2) The proceeds of the loan or extension of credit are used to purchase a security through an affiliate of the depository institution that is a broker-dealer registered with the Securities and Exchange Commission, where

(i) The affiliate is acting exclusively as a riskless principal in the securities transaction; and

(ii) The security is not issued or underwritten by, or sold out of the inventory of, any affiliate of the depository institution.

(b) This grant of exemption is applicable to a loan or extension of credit covered by paragraph (a) of this section even if a portion of the proceeds of the loan or extension of credit is used by the borrower to pay a riskless principal mark-up to the affiliate, provided that the mark-up is substantially the same as, or lower than, those prevailing at the same time for comparable transactions with or involving other non-affiliated companies, in accordance

²12 U.S.C. 371c-1(a)(2)(D).

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with section 23B of the Federal Reserve Act (12 U.S.C. 371c-1).

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§ 250.245 Exemption from section 23A of the Federal Reserve Act for certain loans and extensions of credit by an insured depository institution to a nonaffiliate made pursuant to a preexisting line of credit.

Section 23A of the Federal Reserve Act (12 U.S.C. 371c) shall not apply to an extension of credit by an insured depository institution (“depository institution”) to any person other than an affiliate of such depository institution if—

(a) The proceeds of the loan or extension of credit are used to purchase a security from or through an affiliate of the depository institution that is a broker-dealer registered with the Securities and Exchange Commission; and

(b) The loan or extension of credit is made pursuant to, and consistent with any conditions imposed in, a pre-existing line of credit that was not established in contemplation of the purchase of securities from or through an affiliate of the depository institution.

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§ 250.246 Applicability of section 23A of the Federal Reserve Act to the purchase of a security by an insured depository institution from an affiliate.

(a) The purchase of a security by an insured depository institution from an affiliate that is a broker-dealer registered with the Securities and Exchange Commission is exempt from section 23A of the Federal Reserve Act (12 U.S.C. 371c) under paragraph (d)(6) of that statute if:

(1) The security has a “ready market,” as defined in 17 CFR 240.15c3-1(c)(11)(i);

(2) The security is eligible for a State member bank to purchase directly, subject to the same terms and conditions that govern the investment activities of a State member bank, and