

Federal Deposit Insurance Corporation

§ 362.9

§ 362.7 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Affiliate* has the same meaning contained in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(b) *Activity, company, control, equity security, insured state nonmember bank, security and subsidiary* have the same meaning as provided in subpart A of this part.

[63 FR 66326, Dec. 1, 1998, as amended at 66 FR 1028, Jan. 5, 2001]

§ 362.8 Restrictions on activities of insured state nonmember banks affiliated with certain securities companies.

(a) The FDIC has found that an unrestricted affiliation between an insured state nonmember bank and certain companies may have adverse effects on the safety and soundness of insured state nonmember banks.

(b) An insured state nonmember bank is prohibited from becoming or remaining affiliated with any securities underwriting affiliate company that directly engages in the public sale, distribution or underwriting of stocks, bonds, debentures, notes, or other securities activity, of a type not permissible for a national bank directly, unless the company is controlled by an entity that is supervised by a federal banking agency or the state nonmember bank submits an application in compliance with § 303.121 of this chapter and the FDIC grants its consent under the procedure in § 303.122(b) of this chapter, or the state nonmember bank and the securities underwriting affiliate company comply with the following requirements:

(1) The securities business of the affiliate is physically separate and distinct in its operations from the operations of the bank, provided that this requirement shall not be construed to prohibit the bank and its affiliate from sharing the same facility if the area where the affiliate conducts retail sales activity with the public is physically distinct from the routine deposit taking area of the bank;

(2) The affiliate conducts business pursuant to independent policies and procedures designed to inform customers and prospective customers of

the affiliate that the affiliate is a separate organization from the bank and the state-chartered depository institution is not responsible for and does not guarantee the obligations of the affiliate;

(3) The bank adopts policies and procedures, including appropriate limits on exposure, to govern its participation in financing transactions underwritten by an underwriting affiliate;

(4) The bank does not express an opinion on the value or the advisability of the purchase or sale of securities underwritten or dealt in by an affiliate unless it notifies the customer that the entity underwriting, making a market, distributing or dealing in the securities is an affiliate of the bank; and

(5) The bank complies with the investment and transaction limitations in sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c-1) with respect to the affiliate.

[66 FR 1028, Jan. 5, 2001]

Subpart C—Activities of Insured State Savings Associations

§ 362.9 Purpose and scope.

(a) This subpart, along with the notice and application procedures in subpart H of part 303 of this chapter, implements the provisions of section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) that restrict and prohibit insured state savings associations and their service corporations from engaging in activities and investments of a type that are not permissible for Federal savings associations and their service corporations. The phrase “activity permissible for a Federal savings association” means any activity authorized for Federal savings associations under any statute including the Home Owners’ Loan Act (HOLA, 12 U.S.C. 1464 *et seq.*), as well as activities recognized as permissible for a Federal savings association in regulations, official thrift bulletins, orders or written interpretations issued by the Office of Thrift Supervision (OTS), or its predecessor, the Federal Home Loan Bank Board.

(b) This subpart does not cover the following activities: