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Federal or state law, regulation or interpretation applicable to the subsidiary.

§ 208.75 What happens if the state member bank or any of its insured depository institution affiliates receives less than a "satisfactory" CRA rating?

(a) *Limits on establishment of financial subsidiaries and expansion of existing financial subsidiaries.* If a state member bank, or any insured depository institution affiliate of the bank, has received less than a ''satisfactory'' rating in meeting community credit needs in its most recent examination under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*):

(1) The state member bank may not, directly or indirectly, acquire control of any financial subsidiary; and

(2) Any financial subsidiary controlled by the state member bank may not commence any additional activity or acquire control, including all or substantially all of the assets, of any company.

(b) *Exception for certain activities.* The prohibition in paragraph (a)(2) of this section does not apply to any activity, or to the acquisition of control of any company that is engaged only in activities, that the state member bank is permitted to conduct directly and that are conducted on the same terms and conditions that govern the conduct of the activity by the state member bank.

(c) *Duration of prohibitions.* The prohibitions described in paragraph (a) of this section shall continue in effect until such time as the state member bank and each insured depository institution affiliate of the state member bank has achieved at least a ''satisfactory'' rating in meeting community credit needs in its most recent examination under the Community Reinvestment Act.

§ 208.76 What Federal Reserve approvals are necessary for financial subsidiaries?

(a) *Notice requirements.* (1) A state member bank may not acquire control of, or an interest in, a financial subsidiary unless it files a notice (in letter form, with enclosures) with the appropriate Reserve Bank.

(2) A state member bank may not engage in any additional activity pursuant to § 208.72(a)(1) or (2) through an existing financial subsidiary unless the state member bank files a notice (in letter form, with enclosures) with the appropriate Reserve Bank.

(b) *Contents of Notice.* Any notice required by paragraph (a) of this section must:

(1) In the case of a notice filed under paragraph (a)(1) of this section, describe the transaction(s) through which the bank proposes to acquire control of, or an interest in, the financial subsidiary;

(2) Provide the name and head office address of the financial subsidiary;

(3) Provide a description of the current and proposed activities of the financial subsidiary and the specific authority permitting each activity;

(4) Provide the capital ratios as of the close of the previous calendar quarter for all relevant capital measures, as defined in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), for the bank and each of its depository institution affiliates;

(5) Certify that the bank and each of its depository institution affiliates was well capitalized at the close of the previous calendar quarter and is well capitalized as of the date the bank files its notice;

(6) Certify that the bank and each of its depository institution affiliates is well managed as of the date the bank files its notice;

(7) Certify that the bank meets the debt rating or alternative requirement of § 208.71(b), if applicable; and

(8) Certify that the bank and its financial subsidiaries are in compliance with the asset limit set forth in § 208.71(a)(2) both before the proposal and on a pro forma basis.

(c) *Insurance activities.* (1) If a notice filed under paragraph (a) of this section relates to the initial affiliation of the bank with a company engaged in insurance activities, the notice must describe the type of insurance activity that the company is engaged in or plans to conduct and identify each state where the company holds an insurance license and the state insurance regulatory authority that issued the license.

(2) The appropriate Reserve Bank will send a copy of any notice described in paragraph (c)(1) of this section to the appropriate state insurance regulatory authorities and provide such authorities with an opportunity to comment on the proposal.

(d) *Approval procedures.* A notice filed with the appropriate Reserve Bank under paragraph (a) of this section will be deemed approved on the fifteenth day after receipt of a complete notice by the appropriate Reserve Bank, unless prior to that date the Board or the appropriate Reserve Bank notifies the bank that the notice is approved, that the notice will require additional review, or that the bank does not meet the requirements of this subpart. Any notification of early approval of a notice must be in writing.

§ 208.77 Definitions.

The following definitions shall apply for purposes of this subpart:

(a) *Affiliate, Company, Control, and Subsidiary.* The terms ''affiliate'', ''company'', ''control'', and ''subsidiary'' have the meanings given those terms in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

(b) *Appropriate Federal Banking Agency, Depository Institution, Insured Bank and Insured Depository Institution.* The terms ''appropriate Federal banking agency'', ''depository institution'', ''insured bank'' and ''insured depository institution'' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) *Capital-related definitions.*

(1) The terms ''Tier 1 capital'', ''tangible equity'', ''risk-weighted assets'' and ''total assets'' have the meanings given those terms in §208.41 of this part.

(2) The terms ''Tier 2 capital'' and ''average total assets'' have the meanings given those terms in Appendix A and Appendix B of this part, respectively.

(d) *Eligible Debt.* The term ''eligible debt'' means unsecured debt with an initial maturity of more than 360 days that:

(1) Is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

(2) Is not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

(e) *Financial Subsidiary*—(1) *In general.* The term ''financial subsidiary'' means any company that is controlled by one or more insured depository institutions *other than:*

(i) A subsidiary that engages only in activities that the state member bank is permitted to engage in directly and that are conducted on the same terms and conditions that govern the conduct of the activities by the state member bank; or

(ii) A subsidiary that the state member bank is specifically authorized by the express terms of a Federal statute (other than section 9 of the Federal Reserve Act (12 U.S.C. 335)), and not by implication or interpretation, to control, such as by section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a, 611–631) or the Bank Service Company Act (12 U.S.C. 1861 *et seq.*).

(2) *Subsidiaries of financial subsidiaries.* A financial subsidiary includes any company that is directly or indirectly controlled by the financial subsidiary.

(f) *Long-term Issuer Credit Rating.* The term ''long-term issuer credit rating'' means a written opinion issued by a nationally recognized statistical rating organization of the bank's overall capacity and willingness to pay on a timely basis its unsecured, dollar-denominated financial obligations maturing in not less than one year.

(g) *Well Capitalized*—(1) *Insured depository institutions.* An insured depository institution is ''well capitalized'' if it has and maintains at least the capital levels required to be well capitalized under the capital adequacy regulations or guidelines adopted by the institution's appropriate Federal banking agency under section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o).

(2) *Uninsured depository institutions.* A depository institution the deposits of which are not insured by the Federal Deposit Insurance Corporation is ''well capitalized'' if the institution has and