Federal Reserve System

§ 223.61 How do sections 23A and 23B apply to U.S. branches and agencies of foreign banks?

(a) Applicability of sections 23A and 23B to foreign banks engaged in underwriting insurance, underwriting or dealing in securities, merchant banking, or insurance company investment in the United States. Except as provided in this subpart, sections 23A and 23B of the Federal Reserve Act and the provisions of this regulation apply to each U.S. branch, agency, or commercial lending company of a foreign bank in the same manner and to the same extent as if the branch, agency, or commercial lending company were a member bank.

(b) Affiliate defined. For purposes of this subpart, any company that would be an affiliate of a U.S. branch, agency, or commercial lending company of a

§ 223.56 What transactions are exempt from the market-terms requirement of section 23B?

The following transactions are exempt from the market-terms requirement of §223.51.

(a) Purchases of certain asset-backed commercial paper. Purchases of asset-backed commercial paper from an affiliated SEC-registered open-end investment company that holds itself out as a money market mutual fund under SEC Rule 2a-7 (17 CFR 270.2a-7), if the member bank:

(1) Purchases the asset-backed commercial paper on or after September 19, 2008;

(2) Pledges the asset-backed commercial paper to a Federal Reserve Bank to secure financing from the asset-backed commercial paper lending facility (AMLF) established by the Board on September 19, 2008; and

(3) Has not been specifically informed by the Board, after consultation with the member bank’s appropriate Federal banking agency, that the member bank may not use this exemption.

(b) [Reserved]

[Reg. W, 74 FR 6228, Feb. 6, 2009]

Subpart G—Application of Sections 23A and 23B to U.S. Branches and Agencies of Foreign Banks

§ 223.55 What are the standards under which the Board may grant exemptions from the requirements of section 23B?

The Board may prescribe regulations to exempt transactions or relationships from the requirements of section 23B and subpart F of this part if it finds such exemptions to be in the public interest and consistent with the purposes of section 23B.

§ 223.54 What advertisements and statements are prohibited by section 23B?

(a) In general. A member bank and its affiliates may not publish any advertisement or enter into any agreement stating or suggesting that the member bank will in any way be responsible for the obligations of its affiliates.

(b) Guarantees, acceptances, letters of credit, and cross-affiliate netting arrangements subject to section 23A. Paragraph (a) of this section does not prohibit a member bank from:

(1) Issuing a guarantee, acceptance, or letter of credit on behalf of an affiliate, confirming a letter of credit issued by an affiliate, or entering into a cross-affiliate netting arrangement, to the extent such transaction satisfies the quantitative limits of §§223.11 and 223.12 and the collateral requirements of §223.14, and is otherwise permitted under this regulation; or

(2) Making reference to such a guarantee, acceptance, letter of credit, or cross-affiliate netting arrangement if otherwise required by law.

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(3) Has not been specifically informed by the Board, after consultation with the member bank’s appropriate Federal banking agency, that the member bank may not use this exemption.

(b) [Reserved]

[Reg. W, 74 FR 6228, Feb. 6, 2009]
§ 223.71

Subpart H—Miscellaneous Interpretations

§ 223.71 How do sections 23A and 23B apply to transactions in which a member bank purchases an asset relating to another affiliate?

(a) In general. In some situations in which a member bank purchases an asset from an affiliate, the asset purchase qualifies for an exemption under this regulation, but the member bank’s resulting ownership of the purchased asset also represents a covered transaction (which may or may not qualify for an exemption under this part). In these situations, the transaction engaged in by the member bank would qualify as two different types of covered transaction. Although an asset purchase exemption may suffice to exempt the member bank’s asset purchase from the first affiliate, the asset purchase exemption does not exempt the member bank’s resulting covered transaction with the second affiliate. The exemptions subject to this interpretation include §§223.31(e), 223.41(a) through (d), and 223.42(e), (f), (i), (j), (k), and (m).

(b) Examples—(1) The (d)(6) exemption. A member bank purchases from Affiliate A securities issued by Affiliate B in a purchase that qualifies for the (d)(6) exemption in section 23A. The member bank’s asset purchase from Affiliate A would be an exempt covered transaction under §223.42(e); but the member bank would have acquired an investment in securities issued by Affiliate B, which would be a covered transaction between the member bank and Affiliate B under §223.3(h)(2) that does not qualify for the (d)(6) exemption. The (d)(6) exemption, by its terms, only exempts asset purchases by a member bank from an affiliate; hence, the (d)(6) exemption cannot exempt a member bank’s investment in securities issued by an affiliate (even if the securities would qualify for the (d)(6) exemption).

(2) The sister-bank exemption. A member bank purchases from Sister-Bank Affiliate A a loan to Affiliate B in a purchase that qualifies for the sister-bank exemption in section 23A. The member bank’s asset purchase from...