

PART 6800 [RESERVED]

PART 6801—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

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AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 244, 248; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p.215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p.306; 5 CFR 2635.105, 2635.403(a), 2635.502, 2635.803.

SOURCE: 61 FR 53828, Oct. 16, 1996, unless otherwise noted.

§ 6801.101 Purpose.

In accordance with 5 CFR 2635.105, the regulations in this part supplement the Standards of Ethical Conduct for Employees of the Executive Branch found at 5 CFR part 2635. They apply to members and other employees of the Board of Governors of the Federal Reserve System ("Board").

§ 6801.102 Definitions.

For purposes of this part:

(a) *Affiliate* means any company that controls, is controlled by, or is under common corporate control with another company.

(b) (1) *Debt or equity interest* includes secured and unsecured bonds, debentures, notes, securitized assets, commercial paper, and preferred and common stock. The term encompasses both current and contingent ownership interests therein; any such beneficial or legal interest derived from a trust; any right to acquire or dispose of any long or short position in debt or equity interests; any interests convertible into

debt or equity interests; and any options, rights, warrants, puts, calls, straddles, and derivatives with respect thereto.

(2) *Debt or equity interest* does not include deposits; credit union shares; any future interest created by someone other than the employee, his or her spouse, or dependent; or any right as a beneficiary of an estate that has not been settled.

(c) *Dependent child* means an employee's son, daughter, stepson, or stepdaughter if:

(1) Unmarried, under the age of 21, and living in the employee's household; or

(2) Claimed as a "dependent" on the employee's income tax return.

(d) *Depository institution* means a bank, trust company, thrift institution, or any institution that accepts deposits, including a bank chartered under the laws of a foreign country.

(e) *Employee* means an officer or employee of the Board, including a Board member. It does not include a special Government employee.

(f) *Primary government securities dealer* means a firm with which the Federal Reserve conducts its open market operations.

(g) *Supervisory employee* means an employee who is a member of the professional staff at the Board with responsibilities in the area of banking supervision and regulation.

§ 6801.103 Prohibited financial interests.

(a) *Prohibited interests*. Except as permitted by this section, an employee, or an employee's spouse or minor child, shall not own or control, directly or indirectly, any debt or equity interest in:

(1) A depository institution or any of its affiliates; or

(2) A primary government securities dealer or any of its affiliates, if such employee has regular, ongoing access to Class I Federal Open Market Committee information.

(b) *Exceptions*. The prohibition in paragraph (a) of this section does not apply to the ownership or control of a debt or equity interest in the following:

(1) *Nonbanking holding companies*. A publicly traded holding company that:

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(i) Owns a bank and either the holding company or the bank is exempt under the Bank Holding Company Act of 1956, 12 U.S.C. 1841 *et seq.*, (for example, a credit card bank, a nonbank bank or a grandfathered bank holding company), and the holding company's predominant activity is not the ownership or operation of banks and thrifts;

(ii) Owns a thrift and its predominant activity is not the ownership or operation of banks and thrifts; or

(iii) Owns a primary government securities dealer and its predominant activity is not the ownership or operation of banks, thrifts or securities firms.

(2) *Mutual funds.* A publicly traded or publicly available mutual fund or other collective investment fund if:

(i) The fund does not have a stated policy of concentration in the financial services industry; and

(ii) Neither the employee nor the employee's spouse exercises or has the ability to exercise control over the financial interests held by the fund or their selection.

(3) *Pension plans.* A widely held, diversified pension or other retirement fund that is administered by an independent trustee.

(c) *Waivers.* The Board's Designated Agency Ethics Official, in consultation with Division management, may grant a written waiver permitting the employee to own or control a debt or equity interest prohibited by paragraph (a) of this section if:

(1) Extenuating circumstances exist, such as that ownership or control was acquired:

(i) Prior to Federal Reserve employment;

(ii) Through inheritance, gift, merger, acquisition, or other change in corporate structure, or otherwise without specific intent on the part of the employee, spouse, or minor child to acquire the debt or equity interest; or

(iii) By an employee's spouse as part of a compensation package in connection with the spouse's employment or prior to marriage to the employee;

(2) The employee makes a prompt and complete written disclosure of the interest;

(3) The employee's disqualification from participating in any particular

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matter having a direct and predictable effect on the institution or any of its affiliates does not unduly interfere with the full performance of the employee's duties; and

(4) Granting the waiver would be consistent with Division policy.

(d) *Disqualification.* If an employee or an employee's spouse or minor child holds an interest in an entity under paragraph (b)(1) or (c) of this section, the employee must consult the Designated Agency Ethics Official in order to determine whether the employee must be disqualified from participating in any particular matter involving that entity or affiliate under the conflicts of interest rules of the Office of Government Ethics.

[61 FR 53828, Oct. 16, 1996, as amended at 64 FR 68616, Dec. 8, 1999]

§ 6801.104 Speculative dealings. [Reserved]

§ 6801.105 Prohibition on preferential terms from regulated institutions.

An employee may not accept a loan from, or enter into any other financial relationship with, an institution regulated by the Board, if the loan or financial relationship is governed by terms more favorable than would be available in like circumstances to members of the public.

§ 6801.106 Prohibition on supervisory employees' seeking credit from institutions involved in work assignments.

(a) *Prohibition on supervisory employee's seeking credit.* (1) A supervisory employee may not, on his or her own behalf, or on behalf of his or her spouse or child or anyone else (including any business or nonprofit organization), seek or accept credit from, or renew or renegotiate credit with, a depository institution or any of its affiliates if the institution or affiliate is a party to an application, enforcement action, investigation, or other particular matter involving specific parties pending before the Board and:

(i) The supervisory employee is assigned to the matter; or

(ii) The supervisory employee is aware of the pendency of the matter

and knows that he or she will participate in the matter by action, advice or recommendation.

(2) The prohibition in paragraph (a)(1) of this section also applies for three months after the supervisory employee's participation in the matter has ended.

(b) *Credit sought by spouse and other related persons.* A supervisory employee must disqualify himself or herself from participating (by action, advice or recommendation) in any application, enforcement action, investigation or other particular matter involving specific parties to which a depository institution or any of its affiliates is a party as soon as the supervisory employee learns that any of the following related persons are seeking or have sought or accepted credit from, or have renewed or renegotiated credit with, the depository institution or any of its affiliates while the matter is pending before the Board:

(1) The employee's spouse or dependent child;

(2) A company or business if the employee or the employee's spouse or dependent child owns or controls more than 10 percent of its equity; or

(3) A partnership if the employee, or the employee's spouse or dependent child is a general partner.

(c) *Exception.* The prohibition in paragraph (a) of this section and the disqualification requirement in paragraph (b) of this section do not apply with respect to credit obtained through the use of a credit card or overdraft protection on terms and conditions available to the public.

(d) *Waivers.* The Board's Designated Agency Ethics Official, after consulting with the relevant division director, may grant a written waiver from the prohibition in paragraph (a) of this section, or the disqualification requirement in paragraph (b) of this section, based on a determination that participation in matters otherwise prohibited by this section would not create an appearance of loss of impartiality or use of public office for private gain, and would not otherwise be inconsistent with the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive

Branch (5 CFR part 2635) or prohibited by law.

§ 6801.107 Disqualification of supervisory employees from matters involving lenders.

(a) *Disqualification required.* A supervisory employee may not participate by action, advice or recommendation in any application, enforcement action, investigation, or other particular matter involving specific parties to which a depository institution or its affiliate is a party if any of the following are indebted to the depository institution or any of its affiliates:

(1) The employee;

(2) The spouse or dependent child of the employee;

(3) A company or business if the employee or the employee's spouse or dependent child owns or controls more than 10 percent of its equity; or

(4) A partnership if the employee or the employee's spouse or dependent child is a general partner.

(b) *Exceptions—(1) Consumer credit on nonpreferential terms.* Disqualification of a supervisory employee is not required by paragraph (a) of this section for the following types of indebtedness if payment on the indebtedness is current and the indebtedness is on terms and conditions offered to the public:

(i) Credit extended through the use of a credit card;

(ii) Credit extended through use of an overdraft protection line;

(iii) Amortizing consumer credit (e.g., home mortgage loans, automobile loans); and

(iv) Credit extended under home equity lines of credit.

(2) *Indebtedness of a spouse or dependent child.* Disqualification is not required with respect to any indebtedness of the employee's spouse or dependent child, or a company, business or partnership in which the spouse or dependent child has an interest described in paragraphs (a)(3) and (a)(4) of this section, if:

(i) The indebtedness represents the sole financial interest or responsibility of the spouse, child, company, business or partnership and is not derived from the employee's income, assets or activities; and

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(ii) The employee has no knowledge of the identity of the lender.

(c) *Waivers.* The Board's Designated Agency Ethics Official, after consulting with the relevant Division director, may grant a written waiver from the disqualification requirement in paragraph (a) of this section using the authorization process set forth in the Office of Government Ethics' Standards of Ethical Conduct at 5 CFR 2635.502(d).

§ 6801.108 Restrictions resulting from employment of family members.

A supervisory employee may not participate in any particular matter to which a depository institution or its affiliate is a party if the depository institution or affiliate employs his or her spouse, child, parent or sibling unless the supervising officer, with the concurrence of the Board's Designated Agency Ethics Official, has authorized the employee to participate in the matter using the authorization process set forth in the Office of Government Ethics' Standards of Ethical Conduct at 5 CFR 2635.502(d).

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§ 6801.109 Prior approval for compensated outside employment.

(a) *Approval requirement.* An employee shall obtain prior written approval from his or her Division director (or the Division director's designee) and the concurrence of the Board's Designated Agency Ethics Official before engaging in compensated outside employment.

(b) *Standard for approval.* Approval will be granted unless a determination is made that the prospective outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(c) *Definition of employment.* For purposes of this section, the term compensated outside employment means any form of compensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker.

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