FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429-9990

Financial Institution Letter
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Final Regulation R

Exceptions and Exemptions for Banks from the Definition of "Broker"

Summary: On October 3, 2007, the Board of Governors of the Federal Reserve System (Board) and the U.S. Securities and Exchange Commission (SEC) published the attached final rules that implement provisions of the Gramm-Leach-Bliley Act (GLBA) that except banks from the definition of "broker" under the Securities Exchange Act of 1934 when they conduct certain securities transactions. Known as "Regulation R," the rules clarify permissible bank brokerage activities that can be conducted under the GLBA exceptions. The Board and the SEC consulted with the FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision in all phases of the rulemaking. Financial Institutions will have until the first day of their first fiscal year that commences after September 30, 2008, to comply with the requirements in Regulation R.

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Related Topics:
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Attachment:
Definitions of Terms and Exemptions Relating To The "Broker" Exceptions For Banks

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Highlights:

Regulation R includes the following provisions:

- **Third-Party Brokerage (Networking) Arrangements -** Rule 700 defines the terms under which a bank employee may receive a nominal, non-contingent, one-time cash fee of a fixed-dollar amount for referring a customer to a broker- dealer. Rule 701 contains an exemption and related definitions that permit a bank employee to receive a higher, contingent fee for referring an institutional or high net-worth customer to a broker-dealer.

- **Trust and Fiduciary Activities -** Where a bank effects more than 500 securities transactions per year, the rules require trust operations to meet a "chiefly compensated" test unless related exemptions apply. Rules 721 through 723 define the terms "chiefly compensated" and "relationship compensation," and provide specific exemptions for banks effecting securities transactions in a trustee or fiduciary capacity, e.g., for short-term and transferred accounts.

- **Sweep Activities -** Rules 740 and 741 define terms and provide an exemption for banks sweeping funds into certain money market funds.

- **Safekeeping and Custody Activities -** Rule 760 provides exemptions for banks that accept orders to effect securities transactions from or for custody accounts. This rule comes into play when banks act in a custodial capacity for employee benefit plan accounts, for individual retirement accounts, and for accommodation trades for other custodial accounts.