



ACTIVITIES OF INSURED DEPOSITORY INSTITUTIONS

FIL-1-2001  
January 8, 2001

TO: CHIEF EXECUTIVE OFFICER

SUBJECT: *Final Rule Governing Activities of Insured State Banks  
(Part 362 of FDIC's Rules and Regulations)*

The Federal Deposit Insurance Corporation's (FDIC) Board of Directors has revised the agency's regulation governing the activities of insured state banks—Part 362 of the FDIC's rules and regulations. The revisions reflect statutory changes made pursuant to the new financial modernization law, the Gramm-Leach-Bliley Act (GLBA). The final rule, which is attached, takes effect immediately.

The revised final rule provides the framework for subsidiaries of state nonmember banks to engage in financial activities—including securities underwriting—that the new law permits national banks to conduct through a financial subsidiary. As in the past, all contemplated activities must be permitted by the institution's chartering authority.

- Under the final rule, a state nonmember bank must submit a notice to the FDIC to engage in financial activities through a subsidiary. The final rule contains a self-certification process that is effective upon receipt of the notice. The rule specifies information that must be certified by the bank and clarifies that the FDIC may impose any limitations on the conduct of activities when the bank fails to continue to meet the regulation's requirements. To engage in financial activities under the new GLBA authority, the insured state nonmember bank must certify that:
  - it is well-managed, and
  - it and all of its insured depository institutions are well-capitalized after deducting its investment in the subsidiary.

The insured state nonmember bank must also meet, and continue to meet, the following additional requirements:

- Disclose, and continue to disclose, the capital deduction in any published financial statements;
- Comply with sections 23A and 23B of the Federal Reserve Act; and
- Comply with the required financial and operational safeguards.

When the state nonmember bank submits its notice, the bank and all of its depository institution affiliates must have a Community Reinvestment Act compliance rating of no less than satisfactory. The notice required under the rule must be filed before acquiring an interest in a subsidiary that engages in financial activities or commencing a new financial activity.

Because the final rule provides for a self-certification process rather than the 30-day process included in the interim rule, the final rule provides that a state nonmember bank certify that it is

well-managed before it engages in activities pursuant to section 46. The FDIC considers this requirement necessary for safety and soundness reasons; however, the FDIC will consider applications for relief from this requirement in appropriate circumstances.

The Board has also eliminated section 337.4 of the FDIC's regulations relating to securities activities of insured state nonmember banks, and incorporated its remaining provisions into Subpart B of Part 362. In making this change, the FDIC is making its rules for bank affiliation with a securities firm consistent with its rules for bank ownership of a subsidiary engaging in general securities underwriting activities. The FDIC is retaining limited separation standards for financial subsidiaries engaging in general securities underwriting activities.

For further information, please contact Curtis Vaughn (202-898-6759), Examination Specialist in the Division of Supervision; or Linda Stamp (202-898-7310), Counsel in the Legal Division.

Michael J. Zamorski  
Acting Director

Attachment: Jan. 5, 2001, *Federal Register*, pages 1018-1031 [HTML](#) or [PDF](#) (169 KB File - [PDF Help](#) or [Hard Copy](#))

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