

Board of Governors of the Federal Reserve System

Post-Employment Restrictions for Senior Examiners

12 CFR 264a; as amended effective September 13, 2011



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Section

- 264a.1 What is the purpose and scope of this part?
- 264a.2 Who is considered a senior examiner of the Federal Reserve?
- 264a.3 What special post-employment restrictions apply to senior examiners?
- 264a.4 When do these special restrictions become effective and may they be waived?
- 264a.5 What are the penalties for violating these special post-employment restrictions?
- 264a.6 What other definitions and rules of construction apply for purposes of this part?

member bank, bank holding company, savings and loan holding company, or foreign bank; and

(c) The officer's or employee's responsibilities for examining, inspecting, and supervising the state member bank, bank holding company, savings and loan holding company, or foreign bank—

(1) Represent a substantial portion of the officer's or employee's assigned responsibilities; and

(2) Require the officer or employee to interact routinely with officers or employees of the state member bank, bank holding company, savings and loan holding company, or foreign bank or its affiliates.

AUTHORITY: 12 U.S.C. 1820(k).

8-575

SECTION 264a.1—What is the purpose and scope of this part?

This part identifies those officers and employees of the Federal Reserve that are subject to the special post-employment restrictions set forth in section 10(k) of the Federal Deposit Insurance Act (FDI Act) and implements those restrictions as they apply to officers and employees of the Federal Reserve.

8-576

SECTION 264a.2—Who is considered a senior examiner of the Federal Reserve?

For purposes of this part, an officer or employee of the Federal Reserve is considered to be the "senior examiner" for a particular state member bank, bank holding company, savings and loan holding company, or foreign bank if—

- (a) The officer or employee has been authorized by the Board to conduct examinations or inspections on behalf of the Board;
- (b) The officer or employee has been assigned continuing, broad, and lead responsibility for examining or inspecting the state

8-577

SECTION 264a.3—What special post-employment restrictions apply to senior examiners?

(a) *Senior examiners of state member banks.* An officer or employee of the Federal Reserve who serves as the senior examiner of a state member bank for two or more months during the last 12 months of such individual's employment with the Federal Reserve may not, within one year after leaving the employment of the Federal Reserve, knowingly accept compensation as an employee, officer, director or consultant from—

- (1) the state member bank; or
- (2) any company (including a bank holding company) that controls the state member bank.

(b) *Senior examiners of bank holding companies.* An officer or employee of the Federal Reserve who serves as the senior examiner of a bank holding company for two or more months during the last 12 months of such individual's employment with the Federal Reserve may not, within one year of leaving the employment of the Federal Reserve, knowingly accept compensation as an employee, officer, director or consultant from—

- (1) the bank holding company; or

(2) any depository institution that is controlled by the bank holding company.

8-578

(c) *Senior examiners of foreign banks.* An officer or employee of the Federal Reserve who serves as the senior examiner of a foreign bank for two or more months during the last 12 months of such individual's employment with the Federal Reserve may not, within one year of leaving the employment of the Federal Reserve, knowingly accept compensation as an employee, officer, director or consultant from—

- (1) the foreign bank; or
- (2) any branch or agency of the foreign bank located in the United States; or
- (3) any other depository institution controlled by the foreign bank.

(d) *Senior examiners of savings and loan holding companies.* An officer or employee of the Federal Reserve who serves as the senior examiner of a savings and loan holding company for two or more months during the last twelve months of such individual's employment with the Federal Reserve may not, within one year of leaving the employment of the Federal Reserve, knowingly accept compensation as an employee, officer, director or consultant from—

- (1) the savings and loan holding company; or
- (2) any depository institution that is controlled by the savings and loan holding company.

8-579

SECTION 264a.4—When do these special restrictions become effective and may they be waived?

The post-employment restrictions set forth in section 10(k) of the FDI Act and section 264a.3 do not apply to any officer or employee of the Federal Reserve, or any former officer or employee of the Federal Reserve, if—

- (a) the individual ceased to be an officer or employee of the Federal Reserve before December 17, 2005; or
- (b) the chairman of the Board of Governors

certifies, in writing and on a case-by-case basis, that granting the individual a waiver of the restrictions would not affect the integrity of the Federal Reserve's supervisory program.

8-580

SECTION 264a.5—What are the penalties for violating these special post-employment restrictions?

(a) *Penalties under section 10(k) of FDI Act.* A senior examiner of the Federal Reserve who, after leaving the employment of the Federal Reserve, violates the restrictions set forth in section 264a.3 shall, in accordance with section 10(k)(6) of the FDI Act, be subject to one or both of the following penalties:

- (1) an order—
 - (i) removing the individual from office or prohibiting the individual from further participation in the affairs of the relevant state member bank, bank holding company, savings and loan holding company, foreign bank, or other depository institution or company for a period of up to five years; and
 - (ii) prohibiting the individual from participating in the affairs of any insured depository institution for a period of up to five years; and/or
- (2) a civil monetary penalty of not more than \$250,000.

(b) *Imposition of penalties.* The penalties described in paragraph (a) of this section shall be imposed by the appropriate federal banking agency as determined under section 10(k)(6) of the FDI Act, which may be an agency other than the Federal Reserve.

8-581

(c) *Scope of prohibition orders.* Any senior examiner who is subject to an order issued under paragraph (a) of this section shall, as required by section 10(k)(6)(B) of the FDI Act, be subject to paragraphs (6) and (7) of section 8(e) of the FDI Act in the same manner and to the same extent as a person subject to an order issued under section 8(e).

(d) *Procedures.* The procedures applicable to

actions under paragraph (a) of this section are provided in section 10(k)(6) of the FDI Act.

(e) *Other penalties.* The penalties set forth in paragraph (a) of this section are not exclusive, and a senior examiner who violates the restrictions in section 264a.3 also may be subject to other administrative, civil, or criminal remedies or penalties as provided in law.

2 of the Bank Holding Company Act, with respect to banking holding companies, and has the meaning given in section 10 of the Home Owners' Loan Act, with respect to savings and loan holding companies.

(d) *Depository institution* has the meaning given in section 3 of the FDI Act and includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any state.

8-582

SECTION 264a.6—What other definitions and rules of construction apply for purposes of this part?

For purposes of this part:

(a) *Bank holding company* means any company that controls a bank (as provided in section 2 of the Bank Holding Company Act of 1956 (12 USC 1841 et seq.)).

(b) A *person* shall be deemed to act as a consultant for a bank or other company only if such person works directly on matters for, or on behalf of, such bank or other company.

(c) *Control* has the meaning given in section

(e) *Federal Reserve* means the Board of Governors of the Federal Reserve System and the Federal Reserve Banks.

(f) *Foreign bank* means any foreign bank or company described in section 8(a) of the International Banking Act of 1978 (12 USC 3106(a)).

(g) *Insured depository institution* has the meaning given in section 3 of the FDI Act.

(h) *Savings and loan holding company* means any company that controls a savings association (as provided in section 10 of the Home Owners' Loan Act (12 U.S.C. 1461 et seq.)).