

## **EXAMINATION PERSONNEL--Investment Policy, Borrowing Prohibitions, Recusal from Examinations and Inspections**

### **I. Coverage**

The conflict-of-interest rules contained in this policy statement apply to all Federal Reserve examiners.<sup>1</sup> In addition, Federal Reserve examiners, as well as other Reserve Bank staff, participating in supervisory matters other than examinations and inspections are subject to the conflict-of-interest rules outlined at [5-035](#). (see section I.C., “Application to Federal Reserve Examiners”). Other conflict-of-interest rules that apply to all Reserve Bank personnel are contained in each Reserve Bank's code of conduct and are uniform throughout the System.

To the extent that the rules contained in this policy statement set more stringent standards than those contained in the Reserve Bank's code of conduct, the rules in this policy statement are to be followed. For example, an examiner may not accept a \$15 sweatshirt from a bank that he or she examines even though the Reserve Bank code of conduct would permit other Bank personnel to accept such a gift given its de minimis value.

A Reserve Bank examiner may not participate in the examination or inspection of an institution if the examiner has a relationship that might result in a conflict of interest or the appearance of a conflict of interest. It is the responsibility of each Reserve Bank to arrange examination and inspection assignments to ensure that this general principle and the specific principles covered in this policy statement are scrupulously adhered to. Thus, a Reserve Bank should maintain careful records concerning the nature of an examiner's authority and establish a system of assigning examiners to jobs that ensures compliance with System policies.

### **II. General Procedures**

A. **Reporting.** Each Reserve Bank will require examining personnel to submit periodic reports, at least annually, disclosing (1) debt and equity interests of the examiner and the examiner's spouse and dependent children in a depository institution or a depository institution affiliate, including such interests held through a prior employer's pension or

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<sup>1</sup> The term “examiner” is defined in this policy statement to include all individuals holding a valid credential approved and issued by the Board. However, section IV, “Examiner Borrowing Prohibitions,” does not generally apply to individuals holding temporary or ad hoc credentials.

retirement plan; (2) borrowing relationships (other than credit card debt, unless a Reserve Bank chooses for operational reasons to require credit card debt reporting) of the examiner, the examiner's spouse and dependent children, and any related entity (as defined below) at a financial institution<sup>2</sup>, or its affiliates; (3) outside employment positions held by the examiner; (4) employment at a financial institution or its affiliate of an immediate family member (spouse, child, parent, sibling); and (5) any other relationship posing a potential conflict of interest with a financial institution or its affiliate.

“Related entity” is defined to mean a company or business where the employee or the employee's spouse or dependent child owns or controls more than 10 percent of its equity, or a partnership where the employee or the employee's spouse is a general partner.

An examiner should report debt of a spouse, dependent child, and any related entity to the best of his or her knowledge. In addition, any change occurring between reporting periods that may affect an examiner's restrictions must be reported by an examiner to the examiner's supervisor or the Bank's ethics official as soon as possible after the change has occurred. In circumstances where an examiner does not have control over such a change (e.g., where a loan is transferred or sold by the originator, or a loan is originated by a spouse or related entity), the examiner must report the change, to the best of his or her knowledge. The examiner should make a reasonable effort to obtain such current information.

**B. *Review and restrictions list.*** Each Reserve Bank shall regularly review investment, debt, employment, and other information submitted by an examiner and determine whether divestiture, recusal, or some other action is necessary. Using information contained on each disclosure form, a Reserve Bank should routinely prepare a list(s) of restrictions to be imposed on examination personnel to prevent actual or apparent conflicts of interest and to restrict assignments in accordance with System policy requirements.

**C. *Documentation.*** Each Reserve Bank should appropriately document the review and resolution of conflict-of-interest issues, with such documentation made available upon request for review by Board staff.

**D. *Sharing examination personnel.*** Prior to lending a member of its examining staff to assist in an examination or inspection conducted by another Federal Reserve Bank, a

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<sup>2</sup> The term “financial institution” is defined here to include any lending institution. This would of course include any entity regulated by the Federal Reserve or any entity that could legally be acquired by an entity regulated by the Federal Reserve, for example, a mortgage company, a consumer finance company, a broker-dealer, or an insurance company.

Reserve Bank should determine that for any proposed assignment there exists no relationship between that individual and the supervised institution in the other District that might result in a violation of Federal Reserve policy. In instances where the assignment is not known in advance, the host Reserve Bank is responsible for ensuring that all assignments made to borrowed staff are consistent with System conflict-of-interest policy governing recusal requirements.

### **III. Investment Policy**

A. **General rule.** A Federal Reserve examiner is subject to the same investment prohibitions as other System employees. These prohibitions, which are uniform throughout the System, are set forth in each Reserve Bank's code of conduct. In general, an examiner, and his or her spouse, and minor child may not own or control a debt or equity interest in a depository institution or its affiliate, with certain limited exceptions, as described in the uniform code of conduct.

B. **Divestiture.** An examiner is generally provided a maximum of 90 days to divest a prohibited debt or equity interest. Therefore, a new employee holding a prohibited debt or equity interest and applying for an examiner credential will typically be issued a standard credential by the Board that expires after 90 days. A permanent standard credential will be reissued to the individual upon notification by the Reserve Bank to the Board that the prohibited debt or equity interest has been divested as agreed. With this notification, a Reserve Bank should also provide supporting documentation relevant to the transaction.

C. **Waivers.** In accordance with section 5.3(E) of the Uniform Code of Conduct, an examiner may request a waiver from investment prohibitions when extenuating circumstances exist. When considering a waiver for a supervision and regulation employee, Reserve Banks should consult with the Board's Division of Banking Supervision and Regulation to determine whether a waiver would be appropriate. Any waiver granted to an examiner under this section should be in writing, consider whether or not the investment would unduly interfere with the examiner's duties, assess the examiner's potential access to confidential supervisory information related to the institution and its affiliates, and take into account the potential appearance of a conflict of interest. A copy of the waiver should be sent to the Board's Division of Banking Supervision and Regulation. The waiver itself should state that the examiner should give prior notice to officer in charge of supervision before selling the financial interest subject to the waiver.

D. **Recusal requirement.** When an examiner, or his or her spouse or minor child is permitted to retain an investment otherwise prohibited under System policy, the examiner generally must be disqualified from participating in any particular matter affecting the organization or its affiliates, and must refrain from discussing or accessing confidential

information pertaining to that organization. Any exception to this recusal requirement must be approved in writing by the Reserve Bank's legal department.

**E. Other guidance.**

(1) **Mutual funds.** The Board believes that an investment in a mutual fund, even a proprietary mutual fund, serviced or advised by a bank or bank holding company, does not require an examiner to refrain from participating in matters involving that bank or bank holding company. An investor in a mutual fund has an interest in the fund and not in the bank or bank holding company that services or advises the fund. While the Board recognizes that banks and bank holding companies benefit financially from their mutual fund activities, this fact alone does not create a conflict of interest or an appearance of a conflict of interest. However, Reserve Bank employees, including examiners, are prohibited from investing in a mutual fund that has a stated policy of concentrating in the financial services industry. The prospectus of each mutual fund is required to state whether the fund has a policy of concentrating its assets in any particular industry. Reserve Bank employees may rely on the prospectus in applying this rule.

Finally, an examiner may not engage in a financial transaction as a result of relying on confidential information obtained in the course of an examination or inspection, including confidential information about a mutual fund.

(2) **Credit reviews.** Section 208 of the Criminal Code prohibits a Bank employee from participating in a matter that directly and predictably affects the employee's financial interests or the financial interests of the employee's spouse, minor child, or general partners, or the financial interests of an organization of which the employee serves as officer, director, trustee, general partner, or employee (18 USC 208). Because of the possible application of this criminal law, an examiner should not participate in the review of a credit file during a Federal Reserve examination, inspection, or a Shared National Credit examination if the examiner (or a related person or entity as described above) has a financial interest in the borrower whose credits are being reviewed, or is negotiating for or has an agreement concerning future employment with the borrower. To participate in the assignment, the examiner must first seek the written approval of his or her supervising officer after consultation with the Bank's ethics official and, where necessary, receive a section 208 waiver. For example, if an examiner owns stock in ABC Hardware, the examiner should not evaluate a loan or credit facility of ABC Hardware during an examination or inspection without receiving the prior written approval of the examiner's supervising officer, after consultation with the Bank's ethics official and, where necessary, obtaining a section 208 waiver. If the examiner is in the process, for example, of arranging a job interview for his son at ABC Hardware, the examiner should also confer with the Bank's ethics official to determine if his participation is appropriate.

It is the responsibility of each Reserve Bank to advise its examiners that their review of a borrower's credit files during an examination or inspection may result in a violation of

criminal conflict-of-interest laws if they, their spouses or minor children, or related entities or persons (as described above) have a financial interest in the borrower whose loans and credit facilities are being reviewed.

(3) ***Insurance products.*** In the unusual situation that an examiner is asked to participate in an examination or inspection of an insurance company through which the examiner, his or her spouse, or a minor child, has an insurance policy or annuity, the examiner should not be permitted to participate in the examination or inspection without advance written approval by the Reserve Bank's ethics official.<sup>3</sup> This will allow for consideration of the type of policy (or annuity), a determination of the possible impact of the examiner's participation on the value of the policy (or annuity), and the consideration of other possible circumstances that may have a bearing on the examiner's financial interest.

An insurance policy, annuity, or a loan against a policy will not typically require an examiner to be restricted from participating in an examination or inspection of an affiliate of an insurance company where the examiner, his or her spouse, or a minor child has a policy or annuity. A Reserve Bank may determine, however, that it is necessary to restrict an examiner from participating in an examination or an inspection of an affiliate of the insurance company when the examiner, his or her spouse, or a minor child is in the process of filing or negotiating a claim, or if the insurance company is encountering financial difficulty, as the policy (or annuity) may represent a financial interest of the employee or raise an appearance issue. Such situations should be reviewed by the Reserve Bank's ethics official and advance written approval provided before the examiner is permitted to participate in the examination or inspection.

## **IV. Examiner Borrowing Prohibitions**

### ***A. Criminal code.***

(1) ***General guidance.*** Section 213 of the U.S. Criminal Code prohibits a bank examiner from accepting a loan or gratuity from any bank examined by the individual (18 USC 213). Section 212 of the U.S. Criminal Code prohibits an officer, director, or employee of a bank from making or granting any loan or gratuity to any examiner who examines or has authority to examine the bank (18 USC 212). Under these provisions, the term “loan” does not include credit card accounts and home mortgage loans meeting certain conditions (see below) These provisions of the Criminal Code also could be held applicable to a loan obtained by an employee who is issued a special, temporary, or ad hoc credential.

(2) ***Examination or inspection authority.*** An individual is not authorized to examine an institution until that individual (a) has a credential issued and approved by the Board and

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<sup>3</sup>. Of course, in such circumstances the Reserve Bank would also be required to obtain an ad hoc credential to authorize the examiner's participation in the examination or inspection (see FRAM [5-040](#), section II. D., “Ad Hoc Credentials”).

(b) has been assigned to an examination or inspection of the institution by the appropriate supervisor at the relevant Reserve Bank or at the Board.

***B. Borrowing prohibition.***

(1) ***General rule.*** Federal Reserve examiners<sup>4</sup> are prohibited from directly or indirectly borrowing from an institution for which the Federal Reserve is the primary supervisor, other than through certain credit cards or home mortgage loans (see section B(2) below.). The Federal Reserve is the primary supervisor for state member banks; bank holding companies; nonbank subsidiaries of bank holding companies that are not thrifts or functionally regulated subsidiaries;<sup>5</sup> Edge Act and agreement corporations; and U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks that are not functionally regulated subsidiaries. The Federal Reserve is not the primary supervisor for national banks, nonmember banks, limited special-purpose banks or nonbank banks authorized under section 4 of the Bank Holding Company Act (provided they are not state member banks), thrift institutions, and functionally regulated subsidiaries of bank holding companies. While the Federal Reserve may have umbrella supervisory authority over such organizations (i.e., when they are owned by bank holding companies), their primary supervisors are other federal or state regulatory agencies.

A Federal Reserve examiner may borrow from any institution for which the Federal Reserve is not the primary supervisor. Therefore, an examiner may borrow from a national bank or a thrift institution. An examiner may also have a margin account with a securities broker-dealer or borrow against the cash value of an insurance policy from an insurance company, even if the institution is owned by a bank holding company or is affiliated with a state member bank, an Edge Act or agreement corporation, or a foreign banking organization. However, when such a borrowing exists (except in the case of a credit card, certain primary residence mortgages, an overdraft protection line, and a loan against the cash value of an insurance policy), the examiner will need to be restricted from examining any affiliate of the lender (see section V., “Recusal from Examinations and Inspections”).

(2) ***Exceptions to the borrowing prohibition.***

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<sup>4</sup> The general borrowing prohibitions outlined in this section IV.B. apply to examiners holding standard or special credentials. An employee holding a temporary credential has the authority and status of an examiner only during the stated duration of the temporary credential. As such, an individual holding a temporary or ad hoc credential may not borrow from the institution or affiliate of an institution he or she is assigned to examine but is not generally subject to the borrowing prohibitions outlined in this section.

<sup>5</sup> Functionally regulated subsidiary means a registered broker or dealer, registered investment advisor, investment company, insurance company, or entity engaged in commodities activities as these entities are defined by section 5(c)(5) of the Bank Holding Company Act.

(a) ***Credit cards and Residential mortgage loans.*** The prohibition in paragraph B(1) shall not apply to any credit card account established under an open-end consumer credit plan or a loan (including a home equity line of credit) secured by residential real property that is the principal residence of the examiner, if (i.) the applicant satisfies any financial requirements for the credit card account or residential real property loan that are generally applicable to all applicants for the same type of credit card account or residential real property loan; and (ii.) the terms and conditions applicable with respect to such account or residential real property loan, and any credit extended to the examiner under such account or residential real property loan, are no more favorable generally to the examiner than the terms and conditions that are generally applicable to credit card accounts or residential real property loans offered by the same financial institution to other cardholders or borrowers in comparable circumstances under open-end consumer credit plans or residential real property loans.<sup>6</sup>

(b) ***Pre-existing debt.*** An examiner may retain any debt incurred prior to appointment as an examiner by the Board so long as (i) the debt is amortizing (i.e., a loan with regular payments of principal and interest); (ii) the debt is not renewed, renegotiated, or increased; (iii) payments are current; (iv) the credential issued by the Board authorizing the appointment of the examiner specifically excludes the creditor institution and its affiliates until such time that the debt is satisfied; (v) the examiner does not participate in any examination or inspection of the institution or its affiliates; and (vi) the examiner indicates, in writing, that he or she understands and will comply with these conditions while the debt remains outstanding.

An individual with other types of pre-existing debt that are prohibited under paragraph B(1), such as credit extended under a revolving line of credit or nonamortizing debt, must retire the debt or convert it to an amortizing facility within six months after appointment as an examiner. Until then, (i) the debt may not be increased; (ii) the examiner's credential must specifically exclude authority to examine the creditor institution and any affiliate; and (iii) the examiner may not examine the institution or any affiliate. A permanent credential will be issued to the individual upon notification by the Reserve Bank to the Board that the indebtedness has been terminated or converted in compliance with this policy. The Reserve Bank should obtain appropriate documentation to ensure that the actions required by this policy have been taken, and forward such documentation with the request to the Board. So that an individual's examination authority does not lapse, a permanent standard credential should be requested prior to the expiration of a restricted credential.

(c) ***Loans sold, transferred, or acquired.*** As the sections of the Criminal Code are designed to prevent examiners from obtaining loans from banks examined by them or

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<sup>6</sup> A Reserve Bank may prohibit certain otherwise permissible in-district borrowings if it is deemed necessary for carrying out its operations.

which they have authority to examine, the statutes would not appear to apply to obligations of examiners obtained from permissible sources that later are acquired by institutions for which the Federal Reserve is the primary supervisor. Thus, if a debt that was permissible when it was originated becomes impermissible under section B(1) above as a result of having been acquired by an institution for which the System is the primary supervisor, the debt may be retained if: the debt is amortizing; the debt is not renewed, renegotiated or increased; payments are current; and the examiner is restricted from examining the institution which currently holds the debt.

(d) ***Charter conversions of change in membership.*** A loan originated at a lending institution that undergoes a charter conversion or change in membership, and as a result becomes an institution for which the Federal Reserve serves as the primary supervisor, is to be treated in the same manner as a loan sold or transferred among such institutions. Thus, if an examiner obtains an automobile loan from a national bank that later converts to a state charter and becomes a member of the Federal Reserve System, the examiner may retain the loan provided that the examiner does not participate in an examination of the state member bank and the debt is not renewed, renegotiated, or increased, and payments are current. When an institution undergoes such a charter conversion or change in membership between the time that a loan is approved and funded, the loan may be advanced.

(3) ***Waiver authority.*** The director of the Division of Banking Supervision and Regulation is authorized to waive the borrowing prohibitions for an examiner or an examiner's spouse or dependent child under the following conditions: (a) the examiner can demonstrate that the credit is not available from a permissible source on comparable terms and that absent a waiver financial hardship will ensue; (b) the examiner has never examined the lending institution; (c) it is feasible to restrict the examiner from examining the lender and its affiliates; and (d) the examiner is reissued a credential explicitly stating that the examiner is not authorized to examine the lender until such time as the debt is satisfied. It is anticipated that this waiver authority will be exercised rarely. A request for a waiver must be made by the Reserve Bank to the Board's Division of Banking Supervision and Regulation, in writing, and must outline the relevant circumstances.

(4) ***Borrowing by spouses and dependent children.*** The Department of Justice has attributed the debt of an examiner's spouse to the examiner in the context of the criminal laws. As a result, the borrowing prohibitions outlined above for examiners should be applied to borrowings by an examiner's spouse or dependent child unless such borrowing (1) is supported only by the income or independent means of the spouse or dependent child; (2) was obtained on terms and conditions no more favorable than those offered to the public; and (3) was not negotiated, endorsed, guaranteed, or co-signed by the examiner. Even if the borrowing by a spouse or dependent child meets these requirements, the examiner is required to disclose all such relationships, to the best of his or her knowledge, and must not be permitted to participate in an examination or

inspection of the organization or its affiliates unless the examiner would be permitted to participate under these rules if the borrowing were his or her own debt.

(5) ***In-District borrowing restriction.*** In its discretion, a Reserve Bank may prohibit examiners from borrowing from *any* subsidiary of an in-District bank holding company if such borrowing would hinder the Reserve Bank's ability to carry out its supervisory responsibilities by limiting staffing resources.

## **V. Recusal from Examinations and Inspections**

### **A. Borrowing Relationships.**

(1) ***General rule.*** An examiner may not examine any bank (including foreign subsidiaries or branches), Edge Act or agreement corporation, or a U.S. branch or agency of a foreign banking office, or inspect any holding company or nonbank subsidiary that is affiliated with or owned by any company or bank from which the examiner, the examiner's spouse or dependent child, or a related entity<sup>7</sup> is presently borrowing or seeking credit.

(2) ***Exceptions.*** (i) An examiner may examine any entity, including any affiliate of such entity, from which the examiner, the examiner's spouse or dependent child has obtained a credit card in accordance with Part IV, paragraph B(2)(a) above. (ii) An examiner may examine the affiliate of any entity from which the examiner, the examiner's spouse or dependent child: has a loan secured by residential real property in accordance with Part IV, paragraph B(2)(a) above; has an overdraft protection line; is borrowing against the cash value of a life insurance policy on the same terms and conditions offered to the public.

Thus, for example, an examiner with a student loan from a national bank subsidiary of a bank holding company would not be permitted to inspect the national bank or any of its affiliates, including the parent holding company. If, on the other hand, the examiner had an overdraft-protection line on his or her checking account at the national bank, the examiner would be permitted to examine or inspect any affiliate of the national bank, including the parent holding company.

(3) ***Waivers.*** In certain limited circumstances, a Reserve Bank may provide a waiver for an examiner to participate in the examination or inspection of an institution or an affiliate of an institution from which the examiner (spouse, dependent child, or related entity) is

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<sup>7</sup> As previously defined, "related entity" means a company or business where the examiner or the examiner's spouse or dependent child owns or controls more than 10 percent of its equity, or a partnership where the examiner or the examiner's spouse is a general partner.

borrowing.<sup>8</sup> under the following circumstances and conditions: (a) the borrowing relationship was not originated at the institution or its affiliates and transfer of the debt resulted from a merger, consolidation, loan sale, or other event outside of the examiner's control; (b) the borrowing relationship was originated more than six months prior to the proposed assignment; (c) the borrowing is either an amortizing consumer loan (including a first or second mortgage on a personal residence, a student loan, or a car lease) or a home-equity line of credit; (d) if the waiver will permit an examiner to examine the institution itself (not an affiliate) from which the examiner is borrowing, the loan must be either a credit card account or a mortgage on a primary residence meeting the conditions set forth in part IV B(2)(a) above; (e) the examiner's participation in the examination or inspection of an affiliate of the organization where the examiner is borrowing is deemed of critical importance, either because of the examiner's particular expertise, or due to resource constraints; and (f) the Reserve Bank's ethics official provides an opinion that the employee's participation in the proposed assignment is legal and will not present a conflict of interest. Such waivers must be in writing, satisfying criteria (a) through (f) above, and must be made available for review by Board staff upon request.

For example, Federal Reserve examiner John Sharp recently received a notice that the mortgage on his second home.<sup>9</sup>, which was originated seven months ago at Independent Savings and Loan, has been sold to a national bank subsidiary of MultiBank, Inc., the largest bank holding company in the District. John Sharp and two other Reserve Bank examiners are highly skilled in evaluating commercial real estate loans. Their participation in the upcoming inspection of MultiBank, Inc., and examination of its lead bank, Grand State Member Bank, is deemed of critical importance to the Reserve Bank, as the Bank has a large and complex real estate loan portfolio, and the three examiners are needed to complete the evaluation of the portfolio within the time frame required. The Reserve Bank deems a waiver appropriate for Mr. Sharp, having satisfied conditions (a) through (d), and will seek an opinion from the Reserve Bank's ethics official to satisfy condition (e). In no case, however, would John Sharp be permitted to participate directly in an examination of the national bank subsidiary from which he is borrowing, as this could be a violation of criminal examiner borrowing statutes.

(4) ***Servicing relationships.*** An examiner may participate in an examination, inspection, investigation, or other review of an organization servicing the examiner's loan, provided that the servicer does not retain a financial interest in the underlying value of the credit. A financial interest may exist if, for example, the servicing organization has a residual

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<sup>8</sup>. Borrowing from an affiliate through a credit card, certain residential mortgages, an overdraft-protection line, or against the cash value of a life insurance policy by an examiner, an examiner's spouse, or dependent child is already excepted from recusal requirements and, therefore, does not require a waiver.

<sup>9</sup>. An examiner may examine affiliates of an institution from which the examiner has a mortgage on his primary residence under certain circumstances. See Part V, A (2) above.

credit interest in the loans it services, or is obligated to share in credit losses caused by a borrower.

**B. Former employer.**

(1) **General rule.** An examiner may not participate in an examination or inspection of a financial institution or its affiliates if the examiner was employed by the financial institution or any affiliate within the past 12 months. After the one-year period has elapsed, the Reserve Bank shall determine whether the examiner's former position and current responsibilities at the Reserve Bank indicate a need to continue the restriction in order to avoid the appearance of a conflict of interest. This determination should be appropriately documented and made available for subsequent review when requested by Board staff.

(2) **Exception.** The one-year recusal requirement may be waived if, after consultation with the Reserve Bank's ethics official and consideration of the relevant facts, the examiner's supervising officer determines that no violation of law or appearance of conflict of interest would occur as a result of the assignment. Factors to consider in making this determination include (a) the examiner's former position and years of employment at the institution; (b) the examiner's level of responsibility in the matter; and (c) the need for the examiner on the assignment. Any such determination must be appropriately documented and made available for subsequent review when requested by Board staff.

(3) **Pension plans.** If an examiner continues to participate in a pension or retirement plan obtained through prior employment at a financial institution or its affiliates, the examiner must be disqualified from participating in an examination or inspection of that institution or its affiliates, unless the examiner receives a written opinion from the Bank's legal department that such disqualification is not necessary because the pension does not represent a disqualifying financial interest under the criminal laws. Any debt or equity investment in a depository institution or a depository institution affiliate held through such plans must be fully disclosed (see section II.A., "Reporting"), and an appropriate waiver obtained (see section III.C., "Waivers"), should the employee seek to retain such investment.

**C. Employer of a family member.**

(1) **General rule.** An examiner may not participate in an examination or inspection of a financial institution or its affiliate if such financial institution or affiliate employs a member of the examiner's immediate family (i.e., spouse, child, parent, or sibling). A Reserve Bank may require recusal in other situations where an examiner has a relationship that could create an actual or apparent conflict of interest with a financial institution. For example, if a state member bank employs an examiner's sister-in-law, or if an examiner's parent is a principal shareholder of a bank holding company, the Reserve Bank may conclude that recusal is appropriate.

(2) **Exception.** In certain circumstances, recusal will not be required if, after a review of the relevant facts of each case and after consultation with the Reserve Bank's ethics official, the examiner's supervising officer determines that no violation of law or appearance of conflict of interest would occur as a result of the assignment. Factors to consider in making this determination include (a) the family member's position with the institution; (b) the employee's level of responsibility in the matter; and (c) the need for the employee on the assignment. Any determination must be appropriately documented and made available for subsequent review when requested by Board staff.

## **VI. Acceptance of Meals and Gratuities**

A. **General rule.** Consistent with the criminal laws and the need to avoid even the appearance of a conflict of interest, a Federal Reserve examiner may not accept a gratuity or a meal from an entity that the examiner has examined, examines, or is authorized to examine. An examiner may eat in the cafeteria of a regulated entity, even if the cafeteria is subsidized, provided that the examiner pays for the meal at the rate charged the general public (i.e., guests other than regulators visiting the premises). In no event should an examiner accept an invitation to eat, free of charge, in a private dining room or at a restaurant.

B. **Exceptions.** An examiner may accept modest items of food and refreshments such as soft drinks, coffee, and donuts offered other than as part of a meal. An examiner may also accept items with little intrinsic value, such as a pen or pencil or calendar, provided that such items are also offered to the general public. However, in all cases, an examiner should avoid situations which appear to call into question the objectivity and integrity of the supervisory process. S-2611; July 15, 2002.

*This letter supersedes S-2568 of Jan. 20, 1995, and S-2596 of June 1, 1999.*