



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D.C. 20551

DIVISION OF BANKING
SUPERVISION AND REGULATION

DIVISION OF CONSUMER AND
COMMUNITY AFFAIRS

SR 16-16

CA 16-7

November 16, 2016

**TO THE OFFICER IN CHARGE OF SUPERVISION
AT EACH FEDERAL RESERVE BANK**

SUBJECT: Special Post-Employment Restriction for Senior Examiners

Applicability: This letter applies to: (1) examiners who have served as a “senior examiner” for a depository institution or depository institution holding company for two or more months during the examiner’s final twelve months of employment with a Reserve Bank, and (2) any examiner or Reserve Bank supervision staff who accepts employment with a depository institution or depository institution holding company that he or she examined in the twelve months prior to his or her departure from the Reserve Bank.

This letter is being issued to announce the recent amendment to the Board’s rule on Post-Employment Restrictions for Senior Examiners (12 CFR 264a) that expands the definition of “senior examiner.” This amendment is intended to promote consistency in post-employment ethics rules across the Federal Reserve System and to address the risk associated with individuals leaving the Federal Reserve for employment with a regulated entity. Further, Reserve Banks are required to notify their employees when they are considered a “senior examiner” and subject to the post-employment restriction.

Summary of the Special Post-Employment Restriction

In 2005, the federal bank regulatory agencies¹ issued rules to implement the special post-employment restriction set forth in the Intelligence Reform and Terrorism Prevention Act of 2004 (referred to as the “Act”). The special post-employment restriction set forth in the Act prohibits an examiner who served as a “senior examiner” for a depository institution or depository institution holding company for two or more months during the examiner’s final twelve months of employment with a Reserve Bank from knowingly accepting compensation as an employee, officer, director, or consultant from that depository institution or depository institution holding company, or from certain related entities.

¹ The federal bank regulatory agencies are the Board of Governors of the Federal Reserve System (Board), Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation.

For purposes of this rule, an officer or employee of the Federal Reserve is considered to be a “senior examiner” for a particular depository institution or depository institution holding company² if the individual meets all of the following criteria:

- The officer or employee has been authorized by the Board to conduct examinations or inspections on behalf of the Board.
- The officer or employee has been assigned continuing, broad, and lead responsibility for examining or inspecting that depository institution or depository institution holding company.
- The officer’s or employee’s responsibilities for examining, inspecting, and supervising the depository institution or depository institution holding company:
 - represent a substantial portion of the officer’s or employee’s assigned responsibilities, and
 - require the officer or employee to interact routinely with officers or employees of the depository institution or depository institution holding company.

This rule applies only to an individual serving in a leadership role who is dedicated to supervising a *single* depository institution (or group of affiliated depository institutions) or depository institution holding company. Specifically, the rule applies to senior supervisory officers (SSOs), deputy SSOs, enterprise risk officers (EROs),³ central points of contact (CPCs), deputy CPCs, and supervisory team leaders.⁴

The rule does *not* cover an individual who:

- is dedicated to supervising a single depository institution (or group of affiliated depository institutions) or depository institution holding company, but does not have leadership responsibilities in conjunction with this role;
- serves in a leadership role for *multiple* unaffiliated depository institutions or depository institution holding companies at the same time; or
- performs only periodic, short-term examinations of a depository institution or depository institution holding company, dedicating less than two months in a year to that institution.

Table 1 summarizes how the restriction applies to “senior examiners” of the different types of organizations within the Federal Reserve’s jurisdiction.

² This is applicable to financial market utilities (FMUs), and nonbank financial companies (NFCs) that are designated by the Financial Stability Oversight Council (FSOC) for supervision by the Federal Reserve, only to the extent that they are depository institutions or depository institution holding companies.

³ SSOs, Deputy SSOs, and EROs are job titles used by the Federal Reserve Bank of New York for senior officers serving on dedicated teams for Large Institution Supervision Coordinating Committee (LISCC) firms. For comparative purposes, the SSO job title is considered equivalent to the CPC job title, while the ERO job title is equivalent to the deputy SSO/CPC job title.

⁴ A supervisory team leader is defined as any Reserve Bank officer or employee who serves in a leadership role as part of a dedicated supervisory team. Examples of supervisory team leaders may include risk team leaders, business line team leaders, and the chief operating officers assigned to or supporting a dedicated supervisory team. The application of this rule is determined based on the roles and responsibilities of individuals rather than their specific job title. Questions regarding applicability and interpretation should be directed to the Board’s Division of Banking Supervision and Regulation conflicts staff.

Table 1--Summary of Prohibited Employment Based on Examination Responsibility

Senior Examiner Assignment	Corresponding Prohibition
<i>If, during two or more months of your last twelve months of service, you served as a “senior examiner” [for example, as an SSO, deputy SSO, ERO, CPC, deputy CPC, or supervisory team leader] for a:</i>	<i>Then, for one year after leaving the Federal Reserve System, you may not knowingly accept compensation as an officer, director, employee, or consultant from:</i>
State member bank	<ul style="list-style-type: none"> • The state member bank (including any subsidiary of the state member bank), or • Any company (including a bank holding company) that controls the state member bank.
Bank holding company (BHC) or savings and loan holding company (SLHC)	<ul style="list-style-type: none"> • The BHC or SLHC, or • Any depository institution controlled by the BHC or SLHC (including any subsidiary of the depository institution).
Foreign bank	<ul style="list-style-type: none"> • The foreign bank, • Any U.S. branch or agency of the foreign bank, or • Any U.S. depository institution controlled by the foreign bank (including any subsidiary of the depository institution).
Financial market utility (FMU)	<ul style="list-style-type: none"> • The FMU, but only if it is a depository institution or depository institution holding company, or • Any entity controlled by the FMU, but only if the FMU is a depository institution holding company (including any subsidiary of the entity).
Nonbank financial company (NFC) that is designated by the Financial Stability Oversight Council (FSOC) for supervision by the Federal Reserve	<ul style="list-style-type: none"> • The NFC if it is a depository institution or depository institution holding company, or • Any entity controlled by the NFC, but only if the NFC is a depository institution holding company (including any subsidiary of the institution).

Penalty for Violating “Senior Examiner” Restriction

The restriction applies to a covered individual for one year after the individual terminates his or her employment with the Reserve Bank. If an examiner violates the one-year restriction, the statute requires the appropriate federal bank regulatory agency to seek an order of removal and industry-wide employment prohibition for up to five years, a civil money penalty of up to \$250,000, or both. In special circumstances, the Chairman of the Board of Governors may waive the restriction for a “senior examiner” of the Federal Reserve by certifying in writing that granting the individual a waiver of the restriction would not affect the integrity of the Federal Reserve’s supervisory program.

Administrative Procedures for Implementing the “Senior Examiner” Restriction and Additional Guidelines

At a minimum, Reserve Banks shall adopt the following procedures to ensure that the “senior examiner” rule is properly implemented:

Notification to senior examiners: To help examiners comply with the statute, Reserve Banks shall establish procedures to periodically and regularly review examiners’ duties and promptly notify examiners in writing when a change in duties would cause an examiner to be considered a “senior examiner” or cease to be considered a “senior examiner” with respect to an institution or holding company for purposes of the rule. Reserve Banks should consult with Board staff if questions arise as to whether an examiner would be considered a “senior examiner.” The attachment to this letter provides a sample form for a Notice of Post-Employment Restriction that Reserve Banks can use for such notification.

Examiners’ responsibility: Examiners are responsible for becoming familiar with the rule and ensuring that they comply with the rule. Examiners should direct any questions they may have regarding the rule to the Reserve Bank’s designated ethics officers.

Monitoring of senior examiner assignments. Reserve Banks shall maintain electronic records of examiners covered by the rule. These records at a minimum shall include:

- the name of each “senior examiner;”
- the name of the depository institution or depository institution holding company for which the examiner is considered a “senior examiner;”
- the duration of the examiner’s service as a “senior examiner” for the depository institution or depository institution holding company; and
- if the “senior examiner” ends employment with the Reserve Bank, the last date of Reserve Bank employment, the reason for leaving, and the name of the organization with which the examiner has accepted employment, if available.

Work Paper review: If *any* examiner, regardless of whether he or she is designated as a “senior examiner,” accepts employment with a depository institution or depository institution holding company that he or she examined in the twelve months prior to his or her departure from Federal Reserve employment, the Reserve Bank shall review the work papers related to his or her assignment supervising that institution. The work paper review should be performed within 60 days of the examiner’s departure and should consider whether the examiner compromised examination findings or supervisory proceedings because of pending employment with the relevant depository institution or depository institution holding company (for example, the examiner failed to bring significant findings or concerns forward to examination management, or omitted important examination processes or elements of the examination scope).

Disciplinary procedures: If a Reserve Bank becomes aware that a former examiner has violated the rule, the Reserve Bank shall promptly notify the Reserve Bank’s officer-in-charge of supervision, its ethics officer, and the Board’s designated agency ethics officer.

Implementation

Reserve Banks are expected to implement this policy within 45 days from the date of this letter. In early 2017, a horizontal review will be conducted by each Reserve Bank’s Quality

Assurance function, in partnership with Board staff, to ensure that Reserve Banks have effectively implemented the new policy. In addition, Board staff may review compliance with this policy during the operations review program and may request local Reserve Bank departments, such as a Reserve Bank's Internal Audit function, to assist in validating compliance.

Questions regarding this supervisory letter should be directed to:

- Division of Banking Supervision and Regulation: Steven Merriett, Associate Director, at (202) 452-2531; Ryan Lordos, Deputy Associate Director, at (202) 452-2961; or Lori Jackson, Senior Supervisory Financial Analyst, at (202) 452-2048.
- Division of Consumer and Community Affairs: Phyllis Harwell, Associate Director, at (202) 452-3658; or Tracy Anderson, Manager, at (202) 736-1921.

In addition, individuals may send questions via the Board's public website.⁵

Michael S. Gibson
Director
Division of Banking Supervision
and Regulation

Eric S. Belsky
Director
Division of Consumer and Community
Affairs

Attachments:

- Sample Form for Notice of Post-Employment Restriction

Supersedes:

- SR letter 05-26, "Special Post-Employment Restriction Set Forth in the Intelligence Reform and Terrorism Prevention Act of 2004"

⁵ See <http://www.federalreserve.gov/apps/contactus/feedback.aspx>.

SR letter - Attachment
Notice of Post-Employment Restriction

TO: _____

DATE: _____

You have been identified by this Federal Reserve Bank as a “senior examiner” as described by section 10(k) of the Federal Deposit Insurance Act for the financial organization listed below.

Under the statute and the Board’s implementing rule (12 CFR 264a), an examiner who served as the “senior examiner” for a depository institution or depository institution holding company for two or more months during the examiner’s final twelve months of employment with a Reserve Bank is prohibited from knowingly accepting compensation as an employee, officer, director, or consultant from that institution or holding company, or from certain related entities.

For covered examiners, the restriction applies for one year after terminating employment with the Reserve Bank. If an examiner violates the one-year restriction, the statute requires the appropriate federal bank regulatory agency to seek an order of removal and industry-wide employment prohibition for up to five years, a civil money penalty of up to \$250,000, or both.

Name of Institution: _____ is a (check one below):

- state member bank bank holding company foreign bank
 savings and loan holding company
 financial market utility nonbank financial company

Use the following table to determine the applicable prohibition.

<u>Senior Examiner Assignment</u> <i>If, during two or more months of your last twelve months of service, you served as the senior supervisory officer (SSO), central point of contact (CPC), deputy SSO/CPC, enterprise risk officer, or supervisory team</i>	<u>Corresponding Prohibition</u> <i>Then, for one year after leaving, you may not knowingly accept compensation as an officer, director, employee or consultant from:</i>
State member bank	<ul style="list-style-type: none"> • The state member bank (including any subsidiary of the state member bank), or • Any company (including a bank holding company) that controls the state member bank.
Bank holding company (BHC) or savings and loan holding company (SLHC)	<ul style="list-style-type: none"> • The BHC or SLHC, or • Any depository institution controlled by the BHC or SLHC (including any subsidiary of the depository institution).
Foreign bank	<ul style="list-style-type: none"> • The foreign bank; • Any U.S. branch or agency of the foreign bank; or • Any U.S. depository institution controlled by the foreign bank (including any subsidiary of the depository institution).
Financial market utility (FMU)	<ul style="list-style-type: none"> • The FMU if it is a depository institution or a depository institution holding company, or • Any entity controlled by the FMU (including any subsidiary) if the FMU is a depository institution or a depository institution holding company.
Nonbank financial company (NFC) that is designated by the Financial Stability Oversight Council (FSOC) for supervision by the Federal Reserve	<ul style="list-style-type: none"> • The NFC if it is a depository institution or a depository institution holding company, or • Any entity controlled by the NFC (including any subsidiary) if the NFC is a depository institution or a depository institution holding company.

By signing below (either in paper or electronic PDF form), you acknowledge receipt of this letter and affirm that you have read the rule and understand your responsibilities under it. Please retain a copy for your records.

Signature: _____ Date: _____

Return completed signed form to: [designate appropriate Reserve Bank contact and phone]. Questions about this rule should be directed to: [designate appropriate Reserve Bank contact and phone].