

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Date: November 25, 2025
To: Board of Governors
From: Staff¹
Subject: Rescission of Existing Policy Statement and Issuance of New Policy Statement on Section 9(13) of the Federal Reserve Act

Actions Requested: Staff requests that the Board (i) rescind its 2023 policy statement interpreting section 9(13) of the Federal Reserve Act (FRA) (2023 Policy Statement), (ii) withdraw from the record the accompanying Supplementary Information to the 2023 Policy Statement (2023 Preamble), and (iii) approve the attached policy statement for publication in the Federal Register (2025 Policy Statement). Staff also requests authority to make technical, non-substantive changes to the draft policy statement prior to publication in the Federal Register.

Executive Summary:

- The 2023 Policy Statement interpreted section 9(13) of the FRA, setting out a presumption for how the Board intended to use its authority under the provision and elaborating on supervisory expectations at that time regarding “novel and unprecedented” activities. The 2023 Preamble discussed how the Board would presumptively apply the 2023 Policy Statement to particular sets of facts related to certain crypto-assets at the time.
- The 2023 Policy Statement was part of a series of Board or Board staff issuances in 2022 and 2023 related to crypto-asset activities and supervisory expectations for such activities. Recently, most of those issuances have been rescinded or withdrawn. Staff believes that the 2023 Policy Statement and 2023 Preamble should similarly be rescinded and replaced with the 2025 Policy Statement.
- The 2025 Policy Statement seeks to facilitate innovation by distinguishing between insured and uninsured state member banks with respect to the potential scope of permissible activities conducted as principal. The 2023 Policy Statement treated insured and uninsured state member banks the same, taking the position that the same activity presenting the same risks should be subject to the same regulation – regardless of whether the bank is insured. The 2025 Policy Statement retains this principle, but also articulates the reciprocal principle that a different activity, presenting different risks, should be subject to different regulation. In alignment with this second principle, the 2025 Policy Statement acknowledges that uninsured state member banks may be permitted by the Board to engage in activities as principal that are impermissible for insured state member banks, provided that such activities are conducted in a manner consistent with bank safety and soundness and preserving the stability of the U.S. financial system.

¹ Mark Van Der Weide, Reena Sahni, Asad Kudiya, and Kelley O’Mara, (Legal Division); Randall Guynn, Juan Climent, and Jeff Ernst (Division of Supervision and Regulation).

- The 2025 Policy Statement also provides guidance to uninsured state member banks and uninsured state-chartered bank applicants for membership who may seek to engage in activities as principal that are not otherwise permissible for insured state-chartered banks.

Background:

Under section 9(13) of the FRA, the Board “may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the [FDIA].”² Section 24 prohibits an insured State bank from engaging “as principal in any type of activity that is not permissible for a national bank unless—(A) the [Federal Deposit Insurance Corporation (FDIC)] has determined that the activity would pose no significant risk to the Deposit Insurance Fund; and (B) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.”³

2023 Policy Statement and 2023 Preamble

In the 2023 Policy Statement, the Board set out a rebuttable presumption that it would exercise its discretion under section 9(13) of the FRA to limit the authority of state member banks to engage as principal in only those activities that are permissible for national banks—in each case, subject to the terms, conditions, and limitations placed on national banks with respect to the activity—unless those activities are permissible for state-chartered banks by federal statute or under part 362 of the FDIC’s regulations.⁴ The 2023 Policy Statement also (i) reiterated to state member banks that legal permissibility is a necessary, but not sufficient, condition to establish that a state member bank may engage in a particular activity; (ii) reminded state member banks that they must at all times conduct their business and exercise their powers with due regard to safety and soundness, including by having in place appropriate internal controls and information systems; and (iii) highlighted particular risks associated with, and supervisory expectations for, “novel and unprecedented” activities. Furthermore, the 2023 Preamble discussed how the 2023 Policy Statement would presumptively apply to particular sets of facts related to certain crypto-asset activities at the time.

² 12 U.S.C. § 330 (as amended by Federal Deposit Insurance Corporation Improvement Act of 1991 § 303(b), Pub. L. 102-242, 105 Stat. 2236, 2353).

³ 12 U.S.C. § 1831a(a). *See* 12 CFR part 362.

⁴ 88 Fed. Reg. 7848 (Feb. 7, 2023); 12 CFR 208.11.

The 2023 Policy Statement was part of a series of Board or Board staff issuances in 2022 and 2023 related to crypto-asset activities and supervisory expectations for such activities. Recently, most of those issuances have been rescinded or withdrawn.⁵ Staff believed these statements were no longer appropriate given the evolving understanding of the risks of the crypto-asset sector. For the same reasons, staff believes that the 2023 Policy Statement and 2023 Preamble are no longer appropriate. Accordingly, staff recommends the rescission of the 2023 Policy Statement and 2023 Preamble.

2025 Policy Statement

Staff continues to believe that it is beneficial to provide transparency to the public regarding the Board's interpretation of section 9(13) of the FRA, as well as how it intends to use its authority under the provision. Accordingly, the 2025 Policy Statement would replace the 2023 Policy Statement in its entirety, maintaining the core legal interpretation, but signaling an intent to apply the Board's authority under section 9(13) of the FRA differently with respect to insured and uninsured state member banks.

The 2025 Policy Statement, like the 2023 Policy Statement, applies to insured and uninsured state member banks. Insured state member banks, however, are already required by section 24 of the FDIA and part 362 of the FDIC's regulations to seek approval from the FDIC when seeking to conduct an activity as principal that is not permissible for national banks. As established under those provisions, insured state member banks may generally not engage as principal in any type of activity that is not permissible for a national bank, or that has not been approved by rule for insured state-chartered banks by the FDIC.⁶ If there is no authority for an insured state-chartered bank to engage in a particular activity as principal under federal statute or

⁵ See, e.g., Press Release: Federal Reserve Board announces the withdrawal of guidance for banks related to their crypto-asset and dollar token activities and related changes to its expectations for these activities (Apr. 24, 2025), *available at* <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250424a.htm>; Press Release, Federal Reserve Board announces it will sunset its novel activities supervision program and return to monitoring banks' novel activities through the normal supervisory process (Aug. 15, 2025), *available at* <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250815a.htm>.

⁶ 12 U.S.C. § 1831a(a)(1).

part 362 of the FDIC's regulations, an insured state member bank should apply to the FDIC for permission to engage in the activity as principal under part 362 of the FDIC's regulations.⁷

Uninsured state member banks may, however, be permitted by the Board to engage as principal in activities that are not authorized for national banks or insured state-chartered banks, provided that the Board finds that the uninsured state member bank would be capable of engaging in such activity in a manner consistent with bank safety and soundness and preserving the stability of the U.S. financial system. The Board may make such determinations by rule, order, or other means, including under section 208.3(d)(2) of the Board's Regulation H.⁸

The 2025 Policy Statement also provides guidance to uninsured state member banks and uninsured state-chartered bank applicants for membership who may seek to engage in activities as principal that are not otherwise permissible for insured state-chartered banks. The 2025 Policy Statement lists examples of factors that the Board may consider to assess whether the uninsured state member bank would be capable of engaging in such activity in a safe and sound manner and in a manner that is consistent with preserving the stability of the U.S. financial system.

Staff Recommendation

Staff recommends that the Board rescind the 2023 Policy Statement, withdraw from the record the 2023 Preamble, and approve publication of the 2025 Policy Statement in the Federal Register. Staff also recommends that the Board authorize staff to make technical, non-substantive changes to the draft policy statement prior to publication in the Federal Register.

Attachment

⁷ See 12 CFR Part 303, Subpart G.

⁸ 12 CFR 208.3(d)(2).