

Federal Banking Law Restrictions on Depository Institution Transactions with Affiliates

- **Source of Law:** The restrictions are codified in Sections 23A and 23B of the Federal Reserve Act and the Federal Reserve's Regulation W.
- **Scope:** All depository institutions are subject to restrictions on transactions with affiliates. This includes full-service banks, limited purpose banks and thrifts.
- **Purpose:** The restrictions are designed to protect depository institutions from harm in transactions with affiliates and to prevent depository institutions from transferring to affiliates the subsidy that arises from a depository institution's access to the federal safety net.
- **Definition of Affiliate:** "Affiliate" refers to a depository institution's top-tier holding company and every company that is directly or indirectly owned or controlled by the top-tier holding company, other than the depository institution itself and its own subsidiaries. Every parent company and sister company of a depository institution is an affiliate of the depository institution.
- **Section 23A:** Section 23A applies to "covered transactions," which include loans to an affiliate, loans collateralized by securities of an affiliate, purchases of assets from or securities of an affiliate, and the issuance of guarantees or letters of credit for the benefit of an affiliate.
 - Section 23A limits a depository institution's covered transactions with any one affiliate to 10% of the institution's capital and limits all of the institution's covered transactions to a total of 20% of the institution's capital.
 - Section 23A requires a depository institution to hold collateral for covered transactions that are loans or guarantees. The amount of collateral required ranges from 100% to 130% of the loan or guarantee, based on the type of collateral.
 - Section 23A prohibits a depository institution from purchasing "low-quality assets" from an affiliate. These assets include loans that are more than 30 days past due.
 - Section 23A requires a depository institution to conduct all transactions with an affiliate on terms and conditions that are consistent with safe and sound banking practices.
- **Section 23B:** Section 23B requires a depository institution to conduct its transactions with affiliates on market terms. This means that the terms of the transaction must be at least as favorable to the depository institution as in the depository institution's comparable transactions with non-affiliates.
- **Attribution Rule:** This rule extends the reach of Sections 23A and 23B. A transaction between a depository institution and a non-affiliate is deemed to be a transaction by the depository institution with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, the affiliate.