



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-85-2019
December 27, 2019

Status of Certain Investment Funds and Their Portfolio Investments for Purposes of Regulation O and Reporting Requirements under Part 363 of FDIC Regulations

Summary: The Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (together “federal banking agencies”) are issuing the attached interagency statement to explain that the federal banking agencies will exercise discretion to not take enforcement action against depository institutions or asset managers that become principal shareholders of institutions with respect to certain extensions of credit by institutions that otherwise would violate Federal Reserve Regulation O.

Statement of Applicability to Institutions with Total Assets under \$1 Billion: This Financial Institution Letter applies to all FDIC-supervised institutions.

Suggested Distribution:

FDIC-Supervised institutions

Suggested Routing:

Board of Directors
Chief Executive Officer
Chief Financial Officer
Chief Operating Officer
Chief Risk Officer

Attachment:

[Statement Regarding Status of Certain Investment Funds and Their Portfolio Investments for Purposes of Regulation O and Reporting Requirements Under Part 363 of FDIC Regulations](#)

Related Topics:

[Federal Reserve Act Section 22\(h\)](#)

[Regulation O](#)

[12 CFR Part 363](#)

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Highlights:

- Regulation O places quantitative limits and qualitative restrictions on extensions of credit by depository institutions to executive officers, directors, principal shareholders, and related interests of such persons. The popularity of mutual funds, exchange-traded funds, and similar index-based investment products has resulted in several large asset management companies becoming principal shareholders of a number of institutions, and has triggered the Regulation O presumption of control of a related interest over an increasing number of companies in the asset managers' portfolios.
- The federal banking agencies are providing this temporary relief while the FRB, in consultation with the other federal banking agencies, considers whether to amend Regulation O to address this issue. As detailed in the statement, the agencies will exercise discretion in not bringing enforcement actions against asset managers and institutions for extensions of credit that would otherwise violate Regulation O, provided the asset managers and institutions satisfy certain conditions designed to ensure that there is a lack of control by the asset manager over the institution. In addition, the agencies would not take action against institutions for failure to report, for purposes of section 363.2 of the FDIC's regulations (12 CFR 363.2), extensions of credit that would otherwise violate Regulation O but are covered by this Regulation O no-action position. The FRB and OCC are taking similar action with respect to the institutions they supervise.