



Ohio Revised Code

Section 1109.53 Transactions with affiliates definitions.

Effective: January 1, 1997

Legislation: House Bill 538 - 121st General Assembly

For purposes of this section and sections 1109.54, 1109.55, and 1109.56 of the Revised Code:

(A)(1) "Affiliate" means any of the following:

- (a) A company that controls the bank and any other company controlled by the company that controls the bank;
- (b) A bank subsidiary of the bank;
- (c) A company that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the bank or any company that controls the bank;
- (d) A company in which a majority of the directors or trustees constitute a majority of the directors or trustees of the bank or any company that controls the bank;
- (e) A company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the bank or a subsidiary of the bank;
- (f) An investment company to which the bank or one of its affiliates is an investment advisor as defined in section 2(a)(20) of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-2(a)(20), as amended;
- (g) A company the superintendent of financial institutions determines by rule or order to have a relationship with the bank or one of its subsidiaries or affiliates such that covered transactions by the bank or its subsidiary with that company may be affected by the relationship to the detriment of the bank or its subsidiary.



(2) "Affiliate" does not include any of the following:

(a) A company, other than a bank, that is a subsidiary of a bank, unless a determination is made under division (A)(1)(g) of this section not to exclude the subsidiary company from the definition of affiliate;

(b) A company engaged solely in holding the premises of the bank;

(c) A company engaged solely in conducting a safe-deposit business;

(d) A company engaged solely in holding obligations of the United States or its agencies or instrumentalities or obligations fully guaranteed as to principal and interest by the United States or its agencies or instrumentalities;

(e) A company where control results from the exercise of rights arising out of a bona fide debt previously contracted, but only for a period of two years from the date the rights are exercised, subject to extensions granted by the superintendent of not more than one year at a time nor three years in the aggregate.

(B) "Aggregate covered transactions" means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions.

(C) "Company" means a corporation, partnership, business, trust, association, or similar organization and, unless specifically excluded by this section or section 1109.54, 1109.55, or 1109.56 of the Revised Code, a bank.

(D)(1) "Covered transaction" means, with respect to an affiliate of a bank, any of the following:

(a) A loan or extension of credit to the affiliate;

(b) A purchase of or an investment in securities issued by the affiliate;

(c) A purchase of assets, including assets subject to an agreement to repurchase, from the affiliate,



except the purchase of real or personal property as specifically exempted by the superintendent by rule or order;

(d) The acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person or company;

(e) The issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit to any person or company.

(2) "Covered transaction" does not include any of the following:

(a) A transaction with another bank if either of the following apply:

(i) One of the banks controls eighty per cent or more of the voting shares of the other bank.

(ii) The same company controls eighty per cent or more of the voting shares of both banks.

(b) Making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions the superintendent may prescribe by rule or order;

(c) Giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

(d) Making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by one of the following:

(i) Obligations of the United States or its agencies or instrumentalities;

(ii) Obligations fully guaranteed as to principal and interest by the United States or its agencies or instrumentalities;

(iii) A segregated, earmarked deposit account with the bank.



(e) Purchasing securities issued by a company engaged solely in one or more of the following activities:

(i) Holding or operating properties used or to be used wholly or substantially by any bank subsidiary of a company that controls the bank in the operations of the bank subsidiary;

(ii) Conducting a safe-deposit business;

(iii) Furnishing services to or performing services for a company that controls the bank or its subsidiaries;

(iv) Liquidating assets acquired from a company that controls the bank or its banking subsidiaries.

(f) Purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or purchasing loans on a nonrecourse basis from affiliated banks;

(g) Purchasing from an affiliate a loan or extension of credit that was originated by the bank and sold to the affiliate subject to a repurchase agreement or with recourse.

(E) "Low quality asset" means an asset that is one or more of the following:

(1) An asset classified as "substandard," "doubtful," or "loss," or treated as "other loans especially mentioned" in the most recent report of examination or inspection of an affiliate prepared by any of the federal deposit insurance corporation, the federal reserve, the office of the comptroller of the currency, the office of thrift supervision, the division of financial institutions, or the financial institution regulators of other states of the United States;

(2) An asset in a nonaccrual status;

(3) An asset on which principal or interest payments are more than thirty days past due;

(4) An asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.



(F) "Securities" means, except as provided in section 1109.55 of the Revised Code, stocks, bonds, debentures, notes, or other similar obligations.

(G) "Subsidiary" means, with respect to a specified company, a company that is controlled by the specified company.

(H)(1) Subject to division (H)(2) of this section, a company or shareholder is deemed to have control over another company, if any of the following apply:

(a) The company or shareholder, directly or indirectly, or acting through one or more other persons, owns, controls, or has the power to vote twenty-five per cent or more of any class of voting securities of the other company.

(b) The company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company.

(c) The superintendent determines, after notice and opportunity for a hearing, the company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company.

(2) No company shall be found to own or control another company by virtue of the ownership or control of securities in a fiduciary capacity, except either as provided in divisions (A)(1)(c) and (d) of this section or if the company owning or controlling the securities is a business trust.

(I) Any transaction by a bank with any person shall be considered a transaction with an affiliate to the extent the proceeds of the transaction are used for the benefit of, or transferred to, an affiliate.