

(b) Telegraphic communications from the President, First Vice President, Secretary or General Counsel of a Reserve Bank to the Board of Governors on behalf of a director and setting forth the precise nature of both the particular matter before the board and the financial interest involved shall be considered to meet the director's duty of full disclosure set forth in § 264a.4(a). Telegraphic response to the same identified officials of the Reserve Bank by the Board of Governors, or its designee, shall be deemed to meet the requirement of a written determination by the Board of Governors set forth in § 264a.4.

§ 264a.5 Exemption of remote or inconsequential financial interests.

(a) Pursuant to the provisions of 18 U.S.C. 208(b)(2), certain actions of directors of Federal Reserve Banks may be exempted from the prohibitions of 18 U.S.C. 208(a) and § 264a.3 of this part, if by general rule or regulation published in the FEDERAL REGISTER, the financial interest involved has been determined to be too remote or too inconsequential to affect the integrity of directors' services. Financial interests will be viewed as too remote or too inconsequential:

(1) In circumstances in which a director's action on a matter will not directly, substantially, and predictably affect the financial interest; or

(2) In circumstances in which a director's independence of judgment will not be affected by the financial interest.

(b) The Board of Governors has determined that the financial interests of a director, the director's spouse or minor child, or related persons in the following matters are too remote or too inconsequential to affect the integrity of directors' services and, accordingly, the prohibitions of 18 U.S.C. 208(a) and § 264a.3 of this part shall not apply to a director's participation in such matters:

(1) Deliberations concerning or ratification of extensions of credit, advances, or discounts to any bank that has not been determined to be in hazardous financial condition by the President of the Reserve Bank, provided such credit extensions, advances, or discounts are made under appropriate provisions of the Federal Re-

serve Act, regulations and policies of the Board of Governors and the Federal Reserve Banks, and the established operating procedures at the director's Reserve Bank;

(2) Deliberations concerning or affecting any financial institution, to the extent the financial interest in such matters results from:

(i) Maintenance at the financial institution of a checking or other deposit account covered by Federal Insurance;

(ii) A fiduciary relationship involving the utilization of the financial institution's trust or investment advisory services;

(iii) The receipt from the financial institution of consumer credit, as that term is defined in Regulation Z (12 CFR 226.2(p)); or

(iv) Participation in Federal funds or foreign exchange transactions with the financial institution;

(3) Deliberations concerning or affecting any financial institution or other enterprise to the extent the financial interest results from ownership of stock, stock options, bonds, notes, or other forms of indebtedness, the market value of which is less than \$100,000 and represents less than 1 percent of the value of that class of stock, stock option, bond, note or other form of indebtedness issued by the financial institution or other enterprise.

(4) Deliberations concerning or affecting any financial institution or other enterprise to the extent the financial interest results from holdings in a diversified and widely held mutual fund, investment company, pension or retirement plan that, in turn, may have invested in the financial institution, provided that the director does not contribute to investment decisions of the fund, company, or plan.

(c) Section 264a.3(b) of this part specifically identifies certain financial interests, the existence and knowledge of which will preclude a director from participating in deliberations or decisions of a Reserve Bank board (except through recourse to the procedures set forth in § 264a.4) when the question presented is whether the board should approve or ratify an extension of credit, advance, or discount by a Reserve Bank to a bank which is, in the opinion of the President of the Reserve Bank,

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in hazardous financial condition. Financial interests identified in §264a.3(b) are viewed by the Board as offering a clear potential for conflict. The Board has determined that any other financial interest that a director, the director's spouse or minor child, or related persons may have in such extensions of credit, advances, or discounts to banks in hazardous condition are too remote or too inconsequential to affect the integrity of directors' services and, accordingly, the prohibitions of 18 U.S.C. 208(a) and §264a.3 of this part shall not apply to a director's participation in such matters. These would include, for example, financial interests that might result from:

(1) A director's ownership of stock of a bank or business, other than a registered parent holding company of the borrowing bank, that may have an interest in the condition of the borrowing bank; or

(2) A director's service as a director or trustee of a business or other organization, other than a bank or the registered parent holding company of the borrowing bank, that may, itself or through a subsidiary, have an interest in the condition of the borrowing bank.

(d) The functions of directors often include their participation in discussions concerning (1) international, national, and regional economic and financial conditions, (2) monetary policy, (3) general conditions, trends or issues with respect to bank credit, (4) establishment of rates to be charged for all advances and discounts by Federal Reserve Banks, subject to review and determination of the Board of Governors pursuant to the Federal Reserve Act, (5) matters intended to have generally uniform application to banks within the Reserve Bank district, and (6) statutes and proposed or pending legislation in which the Federal Reserve System has a legitimate interest. The foregoing matters are not particular matters of the type described in 18 U.S.C. 208 and, therefore, that statute is not applicable to participation in such matters. However, even if the statute were held to be applicable to participation in such matters, the Board of Governors has determined that the financial interests of a director, the director's spouse or minor

child, or related persons in such matters are too remote or too inconsequential to affect the integrity of directors' services and, accordingly, the prohibitions of 18 U.S.C. 208(a) and §264a.3 of this part shall not apply to a director's participation in such matters.

(e) Nothing in this section shall preclude a director from refraining, to the extent consistent with responsibilities imposed upon the directors by the Federal Reserve Act, from participation in a particular matter. The Board hereby gives notice of its intention to undertake a continuing review of the experience of Reserve Bank boards under this regulation with a view to assuring preservation of and adherence to the intent of both the Federal Reserve Act and 18 U.S.C. 208, as amended. In the course of such review, particular attention will be given to the provisions of this section.

PART 264b—RULES REGARDING FOREIGN GIFTS AND DECORATIONS

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AUTHORITY: 5 U.S.C. 552, 7342; and 12 U.S.C. 248(i).

SOURCE: 44 FR 64399, Nov. 7, 1979, unless otherwise noted.

§264b.1 Purpose and scope.

This regulation implements the 1977 Amendments to the Foreign Gifts and Decorations Act, Pub. L. 95-105, which restricts Board Members' and employees' acceptance of foreign gifts and decorations. The restrictions apply to gifts whether they are tangible or intangible. Different rules apply depending on whether the gift has only "minimal value." There are also rules regarding acceptance of decorations from foreign governments.