under the Bank Holding Company Act of 1956, 12 U.S.C. 1841 *et seq.*, (for example, a credit card bank, a nonbank bank or a grandfathered bank holding company), and the holding company's predominant activity is not the ownership or operation of banks and thrifts;

(ii) Owns a thrift and its predominant activity is not the ownership or operation of banks and thrifts; or

(iii) Owns a primary government securities dealer and its predominant activity is not the ownership or operation of banks, thrifts or securities firms.

(2) *Mutual funds.* A publicly traded or publicly available mutual fund or other collective investment fund if:

(i) The fund does not have a stated policy of concentration in the financial services industry; and

(ii) Neither the employee nor the employee's spouse exercises or has the ability to exercise control over the financial interests held by the fund or their selection.

(3) *Pension plans.* A widely held, diversified pension or other retirement fund that is administered by an independent trustee.

(c) *Waivers.* The Board's Designated Agency Ethics Official, in consultation with Division management, may grant a written waiver permitting the employee to own or control a debt or equity interest prohibited by paragraph (a) of this section if:

(1) Extenuating circumstances exist, such as that ownership or control was acquired:

(i) Prior to Federal Reserve employment;

(ii) Through inheritance, gift, merger, acquisition, or other change in corporate structure, or otherwise without specific intent on the part of the employee, spouse, or minor child to acquire the debt or equity interest; or

(iii) By an employee's spouse as part of a compensation package in connection with the spouse's employment or prior to marriage to the employee;

(2) The employee makes a prompt and complete written disclosure of the interest;

(3) The employee's disqualification from participating in any particular matter having a direct and predictable effect on the institution or any of its affiliates does not unduly interfere with the full performance of the employee's duties; and

(4) Granting the waiver would be consistent with Division policy.

(d) *Disqualification.* If an employee or an employee's spouse or minor child holds an interest in an entity under paragraph (b)(1) or (c) of this section, the employee must consult the Designated Agency Ethics Official in order to determine whether the employee must be disqualified from participating in any particular matter involving that entity or affiliate under the conflicts of interest rules of the Office of Government Ethics.

[61 FR 53828, Oct. 16, 1996, as amended at 64 FR 68616, Dec. 8, 1999]

§ 6801.104 Speculative dealings. [Reserved]

§ 6801.105 Prohibition on preferential terms from regulated institutions.

An employee may not accept a loan from, or enter into any other financial relationship with, an institution regulated by the Board, if the loan or financial relationship is governed by terms more favorable than would be available in like circumstances to members of the public.

§ 6801.106 Prohibition on supervisory employees' seeking credit from institutions involved in work assignments.

(a) *Prohibition on supervisory employee's seeking credit.* (1) A supervisory employee may not, on his or her own behalf, or on behalf of his or her spouse or child or anyone else (including any business or nonprofit organization), seek or accept credit from, or renew or renegotiate credit with, a depository institution or any of its affiliates if the institution or affiliate is a party to an application, enforcement action, investigation, or other particular matter involving specific parties pending before the Board and:

(i) The supervisory employee is assigned to the matter; or

(ii) The supervisory employee is aware of the pendency of the matter and knows that he or she will participate in the matter by action, advice or recommendation.

(2) The prohibition in paragraph (a)(1) of this section also applies for three months after the supervisory employee's participation in the matter has ended.

(b) *Credit sought by spouse and other related persons.* A supervisory employee must disqualify himself or herself from participating (by action, advice or recommendation) in any application, enforcement action, investigation or other particular matter involving specific parties to which a depository institution or any of its affiliates is a party as soon as the supervisory employee learns that any of the following related persons are seeking or have sought or accepted credit from, or have renewed or renegotiated credit with, the depository institution or any of its affiliates while the matter is pending before the Board:

(1) The employee's spouse or dependent child;

(2) A company or business if the employee or the employee's spouse or dependent child owns or controls more than 10 percent of its equity; or

(3) A partnership if the employee, or the employee's spouse or dependent child is a general partner.

(c) *Exception.* The prohibition in paragraph (a) of this section and the disqualification requirement in paragraph (b) of this section do not apply with respect to credit obtained through the use of a credit card or overdraft protection on terms and conditions available to the public.

(d) *Waivers.* The Board's Designated Agency Ethics Official, after consulting with the relevant division director, may grant a written waiver from the prohibition in paragraph (a) of this section, or the disqualification requirement in paragraph (b) of this section, based on a determination that participation in matters otherwise prohibited by this section would not create an appearance of loss of impartiality or use of public office for private gain, and would not otherwise be inconsistent with the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635) or prohibited by law.

§6801.107 Disqualification of supervisory employees from matters involving lenders.

(a) *Disqualification required.* A supervisory employee may not participate by action, advice or recommendation in any application, enforcement action, investigation, or other particular matter involving specific parties to which a depository institution or its affiliate is a party if any of the following are indebted to the depository institution or any of its affiliates:

(1) The employee;

(2) The spouse or dependent child of the employee;

(3) A company or business if the employee or the employee's spouse or dependent child owns or controls more than 10 percent of its equity; or

(4) A partnership if the employee or the employee's spouse or dependent child is a general partner.

(b) *Exceptions*—(1) *Consumer credit on nonpreferential terms.* Disqualification of a supervisory employee is not required by paragraph (a) of this section for the following types of indebtedness if payment on the indebtedness is current and the indebtedness is on terms and conditions offered to the public:

(i) Credit extended through the use of a credit card;

(ii) Credit extended through use of an overdraft protection line;

(iii) Amortizing consumer credit (e.g., home mortgage loans, automobile loans); and

(iv) Credit extended under home equity lines of credit.

(2) *Indebtedness of a spouse or dependent child.* Disqualification is not required with respect to any indebtedness of the employee's spouse or dependent child, or a company, business or partnership in which the spouse or dependent child has an interest described in paragraphs (a)(3) and (a)(4) of this section, if:

(i) The indebtedness represents the sole financial interest or responsibility of the spouse, child, company, business or partnership and is not derived from the employee's income, assets or activities; and

(ii) The employee has no knowledge of the identity of the lender.