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APPENDIX A TO SUBPART Z OF PART 390—RISK-BASED CAPITAL REQUIREMENTS—INTERNAL-RATINGS-BASED AND ADVANCED MEASUREMENT APPROACHES

AUTHORITY: 12 U.S.C. 1819.

Subpart A also issued under 12 U.S.C. 1820.
 Subpart B also issued under 12 U.S.C. 1818.
 Subpart C also issued under 5 U.S.C. 504; 554–557; 12 U.S.C. 1464; 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; 15 U.S.C. 78l; 78o–5; 78u–2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.
 Subpart D also issued under 12 U.S.C. 1817; 1818; 1820; 15 U.S.C. 78l.
 Subpart E also issued under 12 U.S.C. 1813; 1831m; 15 U.S.C. 78.
 Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*
 Subpart G also issued under 12 U.S.C. 2810 *et seq.*, 2901 *et seq.*; 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.
 Subpart H also issued under 12 U.S.C. 1464; 1831y.
 Subpart I also issued under 12 U.S.C. 1831x.
 Subpart J also issued under 12 U.S.C. 1831p–1.
 Subpart K also issued under 12 U.S.C. 1817; 1818; 15 U.S.C. 78c; 78l.
 Subpart L also issued under 12 U.S.C. 1831p–1.
 Subpart M also issued under 12 U.S.C. 1818.
 Subpart N also issued under 12 U.S.C. 1821.
 Subpart O also issued under 12 U.S.C. 1828.
 Subpart P also issued under 12 U.S.C. 1470; 1831e; 1831n; 1831p–1; 3339.
 Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.
 Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.
 Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78l; 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.
 Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78w.
 Subpart U also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.
 Subpart V also issued under 12 U.S.C. 3201–3208.
 Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78p; 78w.
 Subpart X also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828; 3331 *et seq.*
 Subpart Y also issued under 12 U.S.C. 1831o.
 Subpart Z also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828 (note).

SOURCE: 76 FR 47655, Aug. 5, 2011, unless otherwise noted.

Subpart A—Restrictions on Post-Employment Activities of Senior Examiners

§ 390.1 What does this subpart do?

This subpart implements section 10(k) of the Federal Deposit Insurance

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Act (FDIA), (12 U.S.C. 1820(k)), which prohibits senior examiners from accepting compensation from certain companies following the termination of their employment. Except where otherwise provided, the terms used in this subpart have the meanings given in section 3 of the FDIA (12 U.S.C. 1813).

§ 390.2 Who is a senior examiner?

An individual is a senior examiner for a particular savings association or savings and loan holding company if—

(a) The individual was an officer or employee of the Office of Thrift Supervision (OTS) (including a special government employee) who was authorized by the OTS to conduct examinations or inspections of savings associations or savings and loan holding companies;

(b) The individual was assigned continuing, broad and lead responsibility for the examination or inspection of that savings association or savings and loan holding company; and

(c) The individual's responsibilities for examining, inspecting, or supervising that savings association or savings and loan holding company:

(1) Represented a substantial portion of the individual's assigned responsibilities at the OTS; and

(2) Required the individual to interact on a routine basis with officers and employees of the savings association, savings and loan holding company, or its affiliates.

§ 390.3 What post-employment restrictions apply to senior examiners?

(a) *Prohibition*— (1) *Senior examiner of savings association*. An individual who served as a senior examiner of a savings association for two or more of the last 12 months of his or her employment with OTS may not, within one year after the termination date of his or her employment with OTS, knowingly accept compensation as an employee, officer, director, or consultant from—

(i) The savings association; or

(ii) A savings and loan holding company, bank holding company, or any other company that controls the savings association.

(2) *Senior examiner of a savings and loan holding company*. An individual who served as a senior examiner of a

savings and loan holding company for two or more of the last 12 months of his or her employment with OTS may not, within one year after the termination date of his or her employment with OTS, knowingly accept compensation as an employee, officer, director, or consultant from—

(i) The savings and loan holding company; or

(ii) Any depository institution that is controlled by the savings and loan holding company.

(b) [Reserved]

(c) *Definitions*. For the purposes of this section—

Consultant. An individual acts as a consultant for a savings association or other company only if he or she directly works on matters for, or on behalf of, the savings association or company.

Control. Control has the same meaning given in 12 CFR part 391, subpart E.

§ 390.4 When will the FDIC waive the post-employment restrictions?

The post-employment restriction in § 390.3 will not apply to a senior examiner if the Chairperson, or his or her designee, certifies in writing and on a case-by-case basis that a waiver of the restriction will not affect the integrity of the FDIC's supervisory program.

§ 390.5 What are the penalties for violating the post-employment restrictions?

(a) *Penalties*. A senior examiner who violates § 390.3 shall, in accordance with 12 U.S.C. 1820(k)(6), be subject to one or both of the following penalties:

(1) An order—

(i) Removing the person from office or prohibiting the person from further participating in the conduct of the affairs of the relevant depository institution, savings and loan holding company, bank holding company or other company for up to five years, and

(ii) Prohibiting the person from participating in the affairs of any insured depository institution for up to five years.

(2) A civil money penalty not to exceed \$250,000.

(b) *Scope of prohibition orders*. Any senior examiner who is subject to an order issued under paragraph (a)(1) of