

## Cabinet News and Views

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### Banking Agencies Extend Reg. O Relief



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On December 22, just before many of us may have started turning to our holiday breaks, the Federal Reserve Board (“FRB”), Federal Deposit Insurance Corporation (“FDIC”) and Office of the Comptroller of the Currency (“OCC”) issued an extension of the no-action relief they had previously given. The [interagency statement](#) reiterates what the agencies have said for the past few years that they “will continue to exercise discretion to not take enforcement action against either an asset manager that is a principal shareholder of a bank, or a bank for which an asset manager is a principal shareholder, with respect to extensions of credit by the bank to the related interests of such asset manager that otherwise would violate Regulation O.”

[Regulation O \(12 CFR Part 215\)](#) places limits and reporting obligations on extensions of credit by insured depository institutions (“IDI”) to executive officers, directors, or principal shareholders of the IDI (“Insiders”) and to companies controlled by such Insiders. As the Interagency Statement points out, the issue that has arisen in recent years is when investment fund complexes acquire more than 10% of banks or their parent bank holding companies. These investment fund complexes often also have 10% of other companies. Thus, companies in which an investment fund complex has a greater than 10% investment would be a “related interest” under Regulation O, and loans to portfolio companies of such investment fund complexes would be subject to the Regulation O limits and upset many existing extensions of credit throughout the economy.

The renewal of this no-action position by the banking agencies until January 1, 2024 continues the relief the agencies have been offering, subject to certain supervisory expectations articulated in the statement that provide more leeway for index funds. The FRB noted that it “continues to actively consider whether to amend Regulation O to address the treatment of extensions of credit to fund complex-controlled portfolio companies under Regulation O.”

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