

INTERPRETIVE LETTER 85-6 (DECEMBER 6, 1985)

Purchase by a state bank of certificate of deposit from another bank is limited to 10% of capital, surplus and undivided profits when the second bank is owned by a bank holding company owned by two persons, one of whom controls 30% of the first bank.

This is in response to your letter regarding the issue of whether [Bank #1] may invest \$100,000 in a certificate of deposit in [Bank #2]. As I understand the facts involved, [Bank #1] is owned by a bank holding company which is 100% owned by *. * also owns 30% of another bank holding company which owns 100% of [Bank #2]. Based on these facts, you have inquired whether [Bank #1] may engage in the proposed transaction in light of the prohibitions contained within Section 35.2 of the Illinois Banking Act (Ill. Rev. Stat. 1983, ch. 17, par. 345).

Transactions between a state bank and an affiliate are generally limited to 10% of the bank's capital, surplus, and undivided profits. An affiliate includes a company controlled by shareholders who also control the bank or the bank's holding company. For purposes of this Section, control is deemed to be 25% ownership. Therefore, it is clear that a transaction involving [Bank #1] and [Bank #2] is an affiliate transaction subject to the provisions of Section 35.2. Since this transaction does not appear to fall within any exemption contained within this Section, if [Bank #1] were to engage in the proposed transaction, it must comply with the quantitative and collateral requirements contained within the Section.