

INTERPRETIVE LETTER 94-022 (OCTOBER 4, 1994)

Transactions between affiliates that are at least 80% commonly owned are not subject to the limitations set forth in Section 35.2 if conducted in a safe and sound manner and do not involve purchase of low quality assets.

This is in reply to your letter dated *, regarding fed fund transactions between affiliated banks. Specifically, you inquired whether the limitations of Section 35.2 of the Illinois Banking Act ("Act"), 205 ILCS 5/35.2 (1992), apply to fed fund transactions between affiliated banks that are at least 98% commonly owned by *. For the reason explained below, the Commissioner of Banks and Trust Companies ("Commissioner") concludes that the transactions in question are not subject to the restrictions of Section 35.2.

Transactions between an Illinois state-chartered bank and its affiliates are generally subject to the limitations and requirements of Section 35.2. Such limitations and requirements include maximum dollar amounts for "covered transactions" with affiliates (i.e., 10% of the bank's unimpaired capital and unimpaired surplus for transactions with any one affiliate; 20% for transactions with all affiliates), as well as specific collateral requirements. However, subsection (d)(1)(C) of Section 35.2 provides an exemption from those limitations and requirements if the transactions are between the state-chartered bank and another bank "in which 80% or more of the voting shares are controlled by the company that controls 80% or more of the voting shares of the state bank." Transactions between banks that are at least 80% commonly owned are not subject to monetary limits, collateral requirements or any other provisions of Section 35.2, as long as the transactions are conducted in a safe and sound manner and do not involve the purchase of a low-quality asset.

The Commissioner concludes that the exemption in Section 35.2(d)(1)(C) would apply to fed fund transactions between state-chartered banks that are at least 98% commonly owned by *. Therefore, such transactions would not be subject to the monetary limits and collateral requirements of Section 35.2 or of any other section of the Act.