Office of the Comptroller of the Currency

Washington, DC 20219

Interpretive Letter #1189
January 2026

December 19, 2025

[redacted]

Subject: [redacted] – Section 23A Exemption Request

Dear [redacted]:

I am writing in response to your letter dated July 24, 2025 (Request), submitted on behalf of [redacted] Bank), requesting an exemption from the quantitative limits of Section 23A of the Federal Reserve Act (Section 23A) and the implementing regulations in 12 C.F.R Part 223 (Regulation W).[1] The exemption would enable [redacted] to merge the fixed income derivatives business of its nonbank affiliate, [redacted] with and into [redacted].[2]

[redacted] is a national bank with approximately $[redacted] billion in assets, as of September 30, 2025. The Bank is a direct wholly owned subsidiary of [redacted] and an indirect wholly owned subsidiary of [redacted] and [redacted] are registered financial holding companies under the Bank Holding Company Act.

Section 23A imposes certain qualitative and quantitative limits on covered transactions between member banks and their affiliates. Section 23A and Regulation W limit the amount of covered transactions between a bank and any single affiliate to 10 percent of the bank's capital stock and surplus and the aggregate amount of covered transactions between a bank and all of its affiliates to 20 percent of the bank's capital stock and surplus.[3] In addition, Section 23A and

[1] *See* 12 U.S.C. § 371c(f)(2)(B)(i); 12 C.F.R. § 223.43. *See also* 12 C.F.R. §§ 31.3(c)–31.3(d).

[2] Additional regulatory approvals are required to facilitate the [redacted] Merger, which involves the merger of a nonbank affiliate into the Bank. Additional applications must be filed under the Bank Merger Act (12 U.S.C. § 1828(c)) and under 12 U.S.C. § 215a-3 and 12 C.F.R. § 5.33. The Bank represents that at the time of the proposed merger all of the activities of [redacted] would be permissible for [redacted] to conduct as a national bank.

[3] *See* 12 U.S.C. § 371c(a)(1); 12 C.F.R. § 223.11-12. *See also* 12 C.F.R. § 223.3(d) and 223.3(h) for the definitions of "capital stock and surplus" and "covered transaction," respectively.

Regulation W prohibit a bank from purchasing low-quality assets from an affiliate[4] and also require that all covered transactions between a bank and an affiliate be on terms that are consistent with safe and sound banking practices.[5]

An affiliate with respect to a member bank includes any company that controls the member bank and any other company that is controlled by the company that controls the member bank.[6] The Bank and [redacted] are commonly controlled by [redacted] and, thus, are affiliates for purposes of Section 23A and Regulation W.

Section 23A and Regulation W define covered transaction to include a purchase of assets from an affiliate.[7] The merger of an affiliate into a member bank is deemed a purchase of assets if the member bank assumes any liabilities of the affiliate or pays any other form of consideration in the transaction.[8] As the Bank would assume liabilities of [redacted] the proposed [redacted] Merger would be a purchase of assets and, thus, a covered transaction under Section 23A and Regulation W.

A member bank's purchase of an asset from an affiliate is valued at the total amount of consideration given (including liabilities assumed) by the member bank in exchange for the asset.[9] [redacted] would pay no consideration for the acquisition of [redacted] but would assume all of its outstanding liabilities. As of September 30, 2025, the covered transaction is valued at $[redacted], which represents approximately [redacted] percent of the Bank's capital and surplus.[10] The Bank is requesting an exemption up to [redacted] percent of capital and surplus to cover potential fluctuations prior to completion of the [redacted].

The [redacted] exceeds the ten percent quantitative limit for a bank's covered transactions with a single affiliate and the twenty percent limit for a bank's covered transactions with all affiliates under Section 23A and Regulation W.[11] Accordingly, the [redacted] Merger transaction would be prohibited without an exemption from Section 23A.[12]

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[4] 12 U.S.C.§ 371c(a)(3); 12 C.F.R. § 223.15.

[5] 12 U.S.C.§ 371c(a)(4); 12 C.F.R. § 223.13.

[6] 12 U.S.C. § 371c(b)(1)(A); 12 C.F.R. § 223.2(a)(1)-(2).

[7] 12 U.S.C. § 371c(b)(7)(C); 12 C.F.R. § 223.3(h)(3).

[8] 12 C.F.R. § 223.3(dd).

[9] *Id.* § 223.22(a)(1).

[10] [redacted] would assume the total liabilities attributed to [redacted] of $[redacted], or approximately [redacted] percent of the bank's capital and surplus as of September 30, 2025. [redacted] is expected to provide approximately $[redacted] in capital support prior to or simultaneously with the [redacted] Merger. If adjusted for the holding company contribution to reduce liabilities, the covered transaction amount is [redacted], or [redacted] percent of capital and surplus. [redacted] had $[redacted] in capital and surplus as of September 30, 2025.

[11] The Bank's single affiliate limit and aggregate affiliate limit were approximately $[redacted] and $[redacted], respectively, as of September 30, 2025.

[12] Due to the size of the covered transaction, the proposed [redacted] Merger would not satisfy all the requirements to qualify for Regulation W's exemption for internal corporate reorganizations. *See* 12 C.F.R. § 223.41(d).

Section 23A specifically authorizes the OCC by order to exempt transactions or relationships of a national bank from the requirements of the statute if: (i) the OCC and the Board of Governors of the Federal Reserve System (Board) jointly find that the exemption is in the public interest and consistent with the purposes of Section 23A; and (ii) the Federal Deposit Insurance Corporation (FDIC), within 60 days of receiving notice of such joint finding, does not object in writing to the finding based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.[13] The Board has stated that the dual purposes of Section 23A are: (i) to protect against a depository institution suffering losses in transactions with affiliates; and (ii) to limit the ability of a depository institution to transfer to its affiliates the subsidy arising from the institution's access to the federal safety net.[14]

An exemption may be in the public interest if, among other things, it reduces operational costs, increases efficiency, or improves a member bank's ability to serve its clients, or otherwise enhance the functioning of a particular market segment.[15] The Board, which had sole exemptive authority under Section 23A prior to the effective date of section 608 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, has also approved exemptions in conjunction with internal corporate reorganizations that are structured to ensure the quality of transferred assets. [16]

Granting the exemption is in the public interest because the [redacted] Merger would achieve a number of benefits to the public. The Bank represents that the [redacted] Merger would result in organizational efficiencies and cost savings for [redacted] and [redacted] and promote greater efficiency and competition in the derivatives markets that are currently concentrated among [redacted] incumbents [redacted]. The Bank represents that increased competitiveness should improve the Bank's ability to provide products and services to the communities it serves. The Bank also further represents that the [redacted] Merger would have benefits in terms of customer experience because [redacted]

[13] 12 U.S.C. § 371c(f)(2)(B)(i); 12 C.F.R. § 31.3(c). Prior to the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), the Board possessed exclusive authority to issue orders granting exemptions from the requirements of Section 23A. Section 608 of the Dodd-Frank Act transferred this authority to the OCC for national banks and federal savings associations, subject to the additional findings by the OCC, Board, and FDIC noted above. *See* Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010), codified at 12 U.S.C. § 371c(f)(2)(B). The evaluation criteria for exemptions under Section 23A has not changed post-Dodd-Frank Act.

[14] 67 Fed. Reg. 76560, 76560 (Dec. 12, 2002).

[15] *See*, *e.g.*, Board Letter to OCC Acting Comptroller Blake Paulson (Jan 29, 2021) (finding a proposed transaction to be in the public interest because of expected reduction in operating costs and resulting lower fees and better service for clients); Board Letter to FDIC Acting Chairman Martin Gruenberg (Nov. 23, 2022) (finding a proposed internal corporate reorganization transaction to be in the public interest because of the expectation that it would achieve efficiencies and cost savings and improve the bank's ability to provide products and services to customers).

[16] Board Letter (Apr. 13, 2009); Board Letter (Dec. 21, 2007); Board Letter (Oct. 24, 2006); Board Letter (June 30, 2006); Board Letter (May 1, 2006); Board Letter (May 14, 2004); Board Letter (Feb. 27, 2003); Board Letter (Oct. 11, 2002); Board Letter (Jan. 8, 2001).

Granting the exemption is also consistent with the dual purposes of Section 23A. The Bank represents that the [redacted] Merger would not pose a material financial risk to the Bank or a material risk of [redacted] improperly passing its federal subsidy to affiliates.

The Bank is not providing any consideration to [redacted] in exchange for the assets acquired in the [redacted] Merger. While the Bank is acquiring the liabilities of the nonbank affiliate, the risk inherent in these liabilities is offset in part by the projected financial benefits through the Bank's projected increase in revenues and the expected parental contribution of approximately $[redacted] from [redacted]. Based on Bank representations and supervisory assessment of the potential impact to the Bank, the [redacted] Merger should not pose a heightened risk of financial losses for the Bank.[17] The [redacted] Merger should also not pose a risk of a transfer of subsidy arising from transactions with an affiliate, because the merger would result in the transfer of [redacted]

In light of these considerations and all the facts presented, the OCC finds that the exemption is in the public interest and consistent with the purposes of Section 23A. The Board has informed the OCC that it similarly finds that the exemption is in the public interest and consistent with the purposes of Section 23A. Furthermore, the FDIC has informed the OCC that the exemption does not present an unacceptable risk to the Deposit Insurance Fund and did not object on the basis of the exemption presenting an unacceptable risk to the Deposit Insurance Fund within 60 days of that notification. Accordingly, the OCC hereby grants the requested exemption.

The granting of this exemption is based on the Bank's compliance with all the commitments and representations made in connection with its exemption request. It is also based on the specific facts and circumstances described in the Bank's correspondence and this letter. This action is also conditioned upon the Bank's receipt of all other regulatory approvals required for the [redacted] Merger and any conditions imposed in connection with the proposed transaction.

Sincerely,

/s/

Jonathan V. Gould
Comptroller of the Currency

cc: Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation

[17] [redacted] has represented that there are no low-quality assets associated with the [redacted] Merger. [redacted] has also made certain commitments to ensure the quality of transferred assets pursuant to the exemption request.