



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

June 23, 2009

Mr. Brian Short
215 Holding Co.
215 S. 11th Street
Minneapolis, Minnesota 55403

Dear Mr. Short:

This is in response to the request by First Farmers & Merchant State Bank of Grand Meadow (“Bank”), Grand Meadow, for a retroactive exemption from section 23A of the Federal Reserve Act and the Board’s Regulation W to permit Bank to acquire the bank’s premises from its parent, 215 Holding Co. (“Parent”), Minneapolis, both of Minnesota.¹ Bank purchased the premises from Parent on June 30, 2008, for \$893,000 and has provided an independent appraisal of the building, which states that the fair market value of the building is approximately \$960,000.

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 limit the amount of covered transactions between a bank and all its affiliates to 20 percent of the bank’s capital stock and surplus.² In addition, section 23A and Regulation W prohibit a bank from purchasing low-quality assets from an affiliate.³ Bank’s purchase of the premises was a covered transaction and, based on Bank’s capital and surplus at the time of the purchase, would have been limited to \$590,000.⁴

¹ 12 U.S.C. § 371c; 12 CFR part 223.

² 12 U.S.C. § 371c(a)(1); 12 CFR 223.11 and 223.12.

³ 12 U.S.C. § 371c(a)(3) and (4).

⁴ For purposes of section 23A, Bank’s capital and surplus totaled approximately \$5.9 million, as of June 30, 2008.

Section 23A authorizes the Board by order or regulation to grant exemptions from the Federal Reserve Act's restrictions and specifically recognizes that the Board may exempt from the definition of "purchase of assets" a bank's purchase of real or personal property from its affiliates.⁵ The legislative history of this section indicates that Congress has given the Board the authority to permit a bank to purchase from an affiliate certain expensive properties such as a computer or building because "such transactions are not the type of transactions that section 23A is designed to cover."⁶

The Board has approved exemptions under section 23A for one-time purchases of property of this nature by a bank.⁷ As in previous cases reviewed by the Board, Bank's purchase of the building appears to be the type of transaction that Congress anticipated would be exempted by the Board from the limits of the statute. In addition, the purchase of Bank's premises would strengthen Bank's capital position and reduce its operating expenses.

Section 23B of the Federal Reserve Act requires that any covered transaction with an affiliate be on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to the bank or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies. In light of the appraisal provided by Bank and the actual purchase price of the property, it appears that the transaction is consistent with the requirements of section 23B. In addition, the Federal Deposit Insurance Corporation has reviewed this transaction and has not objected.

In light of these considerations and all the facts you have presented, the transaction appears to be consistent with safe and sound banking practices and on terms that would ensure the quality of the assets transferred. Accordingly, the transaction appears to be consistent with the purposes of section 23A, and the Director of the Division of Banking Supervision and Regulation, pursuant to authority delegated by the Board and with the concurrence of the General Counsel, hereby grants the requested exemption.

⁵ 12 U.S.C. §§ 371c(f)(2) and 371c(b)(7)(C).

⁶ S. Rep. No. 536, 97th Cong., 2d Sess. 32 (1982).

⁷ See Board letters dated November 22, 2005, to Barry Lake, Esq. (FirsTier Bank), and April 8, 2005, to Irwin M. Berman (Omni National Bank).

This determination is specifically conditioned on compliance by Bank and Parent with all the commitments and representations made in connection with the exemption request. These commitments and representations are deemed to be conditions imposed in writing in connection with granting the request and, as such, may be enforced in proceedings under applicable law. This determination is based on the specific facts and circumstances of the proposed transaction and may be revoked if there is a material change in those facts and circumstances or failure by Bank and Parent to observe its commitments or representations. Granting this exemption does not represent a determination concerning the permissibility of any other transactions engaged in by Bank or Parent that are subject to section 23A or Regulation W.

Sincerely yours,

Robert deV. Frierson
Deputy Secretary of the Board

cc: Federal Reserve Bank of Minneapolis
Federal Deposit Insurance Corporation