

credit. The Board believes it is reasonable to expect an employee to make inquiries in order to ascertain the identity of a lender prior to engaging in a credit transaction. Similarly, the same commenter suggested that, for purposes of § 3201.102(c)(ii), the headquarters of a credit card issuer might not be readily apparent. The Board believes it is also reasonable to expect employees of the Division of Supervision and the Division of Compliance and Consumer Affairs to make inquiries to ascertain the location of the headquarters of a credit card issuer.

The Corporation did not adopt the suggestion of one employee, in reference to § 3201.102(d) and § 3201.103(c), to restate in part 3201 the text of certain definitions found in the Executive Branch-wide Standards and referred to in such part. Since part 3201 is a supplement to the Executive Branch-wide Standards, it is appropriate to make references to the text of the primary regulation.

The Corporation did not adopt the suggestions of two employees to narrow or remove the provisions of the regulation found at §§ 3201.102(a), as well as at 3201.103(a) and 3201.104(a), under which the interests of an employee's spouse or minor child are to be considered as if they were the interests of the employee. The Board determined that the application of the prohibitions in §§ 3201.102 to 3201.104 to the interests of a spouse or minor child of an employee is necessary to avoid the appearance of a lack of impartiality by the employee in his or her official dealings and to avoid a significant number of recusals which would hinder program operations. The application of these provisions to the interests of a spouse or minor child is consistent with such application in § 2635.403(a) of the Executive Branch-wide Standards.

The trade association, commenting on the proposed rule, expressed support for the provisions of § 3201.102 but expressed concern that an unreasonable recordkeeping burden might result from the two-year prohibition on acceptance of credit found at § 3201.102(d). The Board does not believe that compliance with the provision would create an unreasonable recordkeeping burden since employees have the responsibility to keep track of matters in which they have participated and since such requirement imposes no greater burden on an employee than is imposed by other ethics provisions, such as the statutory post-employment restrictions found at 18 U.S.C. 207 (a)(1) and (a)(2).

Section 3201.103 Prohibitions on Ownership of Securities of FDIC-Insured Depository Institutions

One employee and the trade association commented that the exception dealing with the ownership of interests in investment funds set forth at § 3201.103(b)(5) was too restrictive since its practical application would prohibit ownership interests in investment funds which might not hold interests in FDIC-insured depository institutions. Based upon the comments, the reference to a fund "concentrating its investments in the financial services sector" was deleted and replaced with language which prohibits an employee from acquiring an interest in a fund which, at the time an employee acquires an interest, holds more than 30 percent of its investments in FDIC-insured depository institutions or FDIC-insured depository institution holding companies. Under the revised provision, an employee is required to verify the holdings of the investment fund at any time the employee acquires an interest in the fund, unless the acquisition results from the ordinary reinvestment of earnings the employee has accrued from ownership interests in the fund. The revised provision addresses the Corporation's concern over employees holding ownership interests in the institutions that it insures by prohibiting the acquisition of interests in banking sector funds and provides employees with broader investment opportunities than would have been provided by the proposed rule.

Section 3201.104 Restrictions Concerning the Purchase of Property Held by the Corporation or the RTC as Conservator, Receiver, or Liquidator of the Assets of an Insured Depository Institution, or by a Bridge Bank Organized by the Corporation

One commenter asked whether the term "property" as used in § 3201.104(a) includes furniture, fixtures, equipment, securities and other items. The term "property" is intended to include all of the items specified as well as other assets held by the Corporation or the RTC as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation.

One employee suggested that the prohibition on employee purchases of property held by the FDIC or RTC be expanded to prohibit employees of FDIC contractors from purchasing such assets. No change was made to the provision since the application of the rule is limited to FDIC employees. Employees of contractors would only be covered by

the rule when such contractor employees are considered employees of the FDIC as delineated in § 3201.101(d)(4).

Section 3201.105 Prohibitions on Dealings With Former Employers, Associates, and Clients

One employee suggested that the discretionary extension of the one-year disqualification on dealings with former employers, associates, and clients at § 3201.105(c) specify that the discretion to impose the extension would only be applicable after an individual becomes an employee of the Corporation. No change was made to accommodate this suggestion since the rule, as proposed, is only applicable to those who have become Corporation employees.

In response to the suggestion of the trade association that, in the case of an employee who was unemployed for the one-year period immediately preceding entry on duty with the Corporation, the prohibition on dealings with former employers be extended to include a one-year prohibition on dealings with the last employer of the employee regardless of when the employee was last employed, § 3201.105(c) was modified to provide the Corporation with discretion to extend the one-year period preceding an employee's entrance on duty with the Corporation, during which extended period employment will trigger disqualification from matters affecting that former employer. The interests of the Corporation in avoiding the appearance of a lack of impartiality by an employee in his or her official dealings is better served by extending the rule on a case-by-case basis as circumstances warrant.

Section 3201.106 Employment of Family Members Outside the Corporation

The Board did not adopt the suggestion of one employee to define separately the terms "family" and "household." The term "family" is used only in the title of § 3201.106 with specific classifications of family members set forth in that section. The phrase "member of the employee's household" is generally understood, and is used without specific regulatory definition in the Executive Branch-wide Standards at § 2635.502. The same employee also commented that an undue burden would be created by requiring employees to report the employment of family members not residing with the employee by FDIC-insured depository institutions. Because the reporting requirement applies only to the employment of spouses, children, parents, and siblings, the Board does not