



Appendix A

RELATED-PARTY ASSET TRANSACTIONS IN A RESTRUCTURING

Legislative Authorities

- Subsection 494(4) of the [Bank Act](#)
- Subsection 482(4) of the [Trust and Loan Companies Act](#)
- Subsection 527(4) of the [Insurance Companies Act](#)
- Subsection 418(4) of the [Cooperative Credit Associations Act](#)

Information Requirements

The applicant is generally expected to provide:

1. a description of the transaction or series of transactions (the transaction), including:
 - a) the rationale for considering it to be an asset transaction as part of, or in the course of, a restructuring,
 - b) the rationale for the transaction and the impact on current business strategy,
 - c) the type of asset involved,
 - d) in the case of an acquisition, a description of the consideration to be paid by the applicant or its subsidiary, including the terms of payment and the source of funds supporting the transaction, and
 - e) in the case of a transfer, a description of the consideration to be received by the applicant or its subsidiary, including the terms of payment and the use of the proceeds;
2. an analysis of the effect the transaction will have on the financial position and risk profile of the applicant, including:
 - a) a comparative pro forma balance sheet (pre- and post-transaction) including relevant assumptions,
 - b) a comparative pro forma capital position (pre- and post-transaction) confirming compliance with OSFI's requirements, as applicable to the applicant, together with relevant assumptions and, in the case of:
 - i) a deposit-taking institution, a breakdown of all elements used to calculate the Capital Adequacy Requirements, including the risk-based Tier 1 capital ratio, the risk-based total capital ratio and the assets to capital multiple,
 - ii) a life insurance company or fraternal benefit society, a breakdown of all elements used to calculate the Minimum Continuing Capital and Surplus Requirements, including the Tier 1 capital and total capital required, or



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- iii) a property and casualty insurance company, details of the Minimum Capital Test, and
 - c) a confirmation that, following the transaction, the applicant will be in compliance with its liquidity policy;
- 3. with respect to the related party with whom the applicant is entering into the arrangement, a description of the nature of:
 - a) the applicant's affiliation with the related party, and
 - b) the benefit that would be received by the related party as part of the asset transaction;
- 4. evidence that the transaction has been evaluated and approved by:
 - a) if the transaction includes a restructuring of the business and affairs or corporate structure of the applicant, the applicant's board of directors, or
 - b) if the transaction encompasses a restructuring of the business and affairs or corporate structure of an entity within the applicant's group, other than the applicant, the board of directors of that entity; and
- 5. a copy of the minutes of the applicant's Conduct Review Committee meeting confirming that the committee has reviewed the transaction and is satisfied that it will be on terms and conditions that are at least as favourable to the applicant as market terms and conditions.

Administrative Guidance

- 1. For guidance on the circumstances under which OSFI would consider an application under the legislative authorities, the applicant should refer to the [*Regulatory & Legislative Advisory, Self-dealing – asset transactions in restructuring, No. 2003-03.*](#)
- 2. When assessing an application pursuant to the legislative authorities, OSFI will generally:
 - a) take into account the impact of the transaction on the applicant's asset mix, capital, income, liquidity position, and risk profile to ensure that the overall solvency of the applicant will not be unduly threatened;
 - b) ascertain whether the applicant has demonstrated that:
 - i) the transaction is in its best interests,
 - ii) the transaction will not adversely affect its business and operations (e.g., the depositors or policyholders will not be at risk), and
 - iii) the related party will not draw an inappropriate benefit from the transaction; and
 - c) ascertain the soundness and feasibility of the applicant's revised business strategy if the transaction would result in a material change in the applicant's business strategy.

The information requirements and administrative guidance are intended to satisfy typical applications. They have been derived from OSFI's experience in assessing applications. Applicants who provide all information and material requested can generally expect a more timely assessment of their applications. As appropriate to the circumstances, OSFI may request additional information, take into account other matters, impose terms and conditions, or require undertakings.