

MAINE BUREAU OF FINANCIAL INSTITUTIONS

ORDER GRANTING A WAIVER OF CERTAIN SECTION 468 RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES TO RSGROUP TRUST COMPANY

RSGroup Trust Company ("RSTrust"), a Maine-chartered nondepository trust company organized pursuant to 9-B M.R.S.A. Chapter 121, has requested that the Bureau issue an Order exempting RSTrust from the requirements of 9-B M.R.S.A. Section 468(3). Section 468 imposes various restrictions on transactions by a financial institution with its affiliates. However, Section 468(6) also states that the Superintendent may establish exceptions or different requirements for limited purpose institutions organized pursuant to Part 12, which includes nondepository trust companies.

RSTrust is a wholly-owned subsidiary of Retirement System Group, Inc. ("RSGroup"), a full service retirement benefits consulting firm. RSGroup operates through a series of wholly-owned subsidiaries to provide complete services for both qualified and non-qualified retirement plans. The subsidiaries, and their primary functions, include:

- ✓ **RSGroup Trust Company:** Trust, custody and administrative services for qualified and non-qualified programs;
- ✓ **Retirement System Consultants Inc.:** Administrative, actuarial and recordkeeping services;
- ✓ **Retirement System Investors Inc.:** Registered investment advisor providing investment advisory and management services to mutual funds;
- ✓ **Retirement System Distributors Inc.:** Registered broker-dealer distributing proprietary mutual funds; and
- ✓ **RSG Insurance Agency Inc.:** Licensed insurance agency.

Section 468 was established to limit the risks to a financial institution from transactions with its affiliates. The law, which closely mirrored long-established federal law, requires all transactions between a financial institution and its affiliates to be on market terms (i.e., on terms and conditions that are substantially the same, or at least as favorable to the financial institution, as those prevailing at the time for comparable transactions with unaffiliated companies) and limits certain credit and investment-related transactions to a percentage of the financial institution's capital. Additionally, Section 468 requires extensions of credit to, or on behalf of, an affiliate to be appropriately secured.

During a recent routine examination of RSTrust by the Bureau, it was determined that RSTrust had receivables from affiliates that did not comply fully with the requirements of Section 468. However, if the inter-company receivables were deducted from RSTrust's capital, RSTrust's net capital would remain in excess of the Bureau's capital guidelines for nondepository trust companies.^[1] In addition, RSTrust maintained restricted bank deposits in excess of its initial equity capital.

In light of the interrelationship among RSTrust, RSGroup and other affiliates, the Bureau's acknowledged examination powers vis-à-vis inter-company transactions, and the absence of federal deposit insurance-related concerns, the Bureau hereby waives the quantitative limitations and the collateral requirements set forth in Section 468(3) and establishes the following requirements for RSTrust:

1. On an ongoing basis, net Tier 1 capital, defined as Tier 1 capital less total receivables from affiliates, shall not be less than \$300,000.
2. On an ongoing basis, net Tier 1 capital, as defined in #1 above, shall not be less than the sum of (1) 10 basis points (0.10%) of discretionary assets and (2) 5 basis points (0.05%) of nondiscretionary assets.
3. On an ongoing basis, RSTrust shall maintain restricted cash of not less than the greater of (a) \$300,000 or (b) the sum of [\(1\)](#) 10 basis points (0.10%) of discretionary assets and (2) 5 basis points (0.05%) of nondiscretionary assets. RSTrust shall not reduce its restricted cash without the prior written approval of the Superintendent.
4. If RSTrust fails to maintain net Tier 1 capital in the minimum amount specified above in Conditions #1 and #2, RSTrust shall be deemed to have inadequate capital and the Bureau shall have the authority to take any action authorized by Regulation #27.
5. Any transaction conducted between RSTrust and its affiliates must be on terms and conditions that are consistent with safe and sound banking practices.

This waiver may be revoked or amended at the Bureau's discretion.

Any person aggrieved by this Order shall be entitled to a review of the Order in accordance with the Maine Administrative Procedure Act, Title 5, Chapter 375, subchapter IV, by filing a request for hearing within thirty days after receiving a copy of this Order.

By order of the Superintendent, effective May 6, 2003.

/s/ Howard R. Gray, Jr.
Superintendent
May 6, 2003
August 9, 2006

[\[1\]](#) The Bureau generally requires nondepository trust companies to maintain Tier 1 capital, as defined in Regulation 27, of not less than the sum of (1) 10 basis points (0.10%) of discretionary assets and (2) 5 basis points (0.05%) of nondiscretionary assets.