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United States General Accounting Office  
Washington, DC 20548

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March 11, 2003

The Honorable John Dingell  
Ranking Member, Committee on Commerce and Energy  
House of Representatives

Subject: Tying Practices at Large Banks

Dear Mr. Dingell:

This letter confirms our commitment to study tying practices at large banks based on your letter to the Comptroller General. In our meetings with your staff on November 12, 2002 and January 17, 2003 we outlined our approach to designing the study. Based on that design and as agreed in discussions with your staff on March 11, 2003, we will complete our work and issue a report to you by October 6, 2003. The enclosure to this letter sets forth the understanding reached with your staff on the key aspects of the study.

We look forward to working with you and your staff on this assignment. Should you have any questions, please contact me on (202) 512-9073 or James McDermott, Assistant Director, on (202) 512-5373.

Sincerely yours,

Richard J. Hillman  
Director, Financial Markets and Community Investment

Enclosure

cc: Consuela Washington

# Terms of the Work

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## Objectives/Key Questions

We will conduct a review of the potential for large commercial banks with investment bank affiliates (commercial banks) to engage tying activities in violation of Section 106 of the Bank Holding Company Act and/or violate Section 23B of the Federal Reserve Act. This review involves a descriptive analysis of any qualitative and quantitative evidence that could be indicative of illegal tying and/or violations of Section 23B, including competitive issues such as pricing in commercial lending, and capital and accounting differences for commercial banks and stand-alone investment banks. The review also will examine the measures that the banking regulators take to detect and deter illegal tying. Key questions to the review are as follows:

1. What evidence, if any, suggests that commercial banks with investment bank affiliates engage in illegal tying and/or violate Section 23B of the Federal Reserve Act?
2. What, if any, competitive advantages do commercial banks with investment bank affiliates have over stand-alone investment banks because of differences in capital requirements and accounting practices for credit?
3. What measures have the federal financial regulators used to detect and deter illegal tying and violations of Section 23B of the Federal Reserve Act?

## Scope

We will review changes in legislation affecting the ability of large financial institutions to package financial services, and current business practices affecting bank/customer relationships. We will describe the types of products that commercial banks allegedly tie and what measures commercial banks take to abide by Section 106 of the Bank Holding Company Act and Section 23B of the Federal Reserve Act. The review will also describe whether the anecdotal or quantitative evidence about the commercial lending market is indicative of illegal tying among other possible explanations. We will describe the competitive issues between commercial banks and investment banks associated with their respective capital requirements and accounting standards. We will also describe the past and current measures of the federal financial regulators to detect and deter illegal tying by large commercial banks. Our review will focus on commercial banks involved in commercial and wholesale lending rather than retail lending. Our review will include an extensive background describing the sections of law and current regulatory guidance.

## Methodology

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We will conduct research of laws and regulations and interview the financial regulators and legal experts to identify the legal and regulatory changes affecting the ability of financial institutions to package financial services. To identify the changes in commercial lending and investment banking that affect commercial banks' potential to illegally tie, we will interview leading commercial banks, large and medium sized bank customers, banking industry representatives, and leading investment banks. We will also review the regulators' examinations on commercial banks. Given the complexity of analyzing loan pricing and the limitations of the available data, we do not propose an econometric or statistical analysis. Our review will be completed in accordance with Generally Accepted Government Auditing Standards.

## Product Type

We will conclude the review in a chapter or letter report. We will obtain comments from the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission and NASD.

## Product Delivery Date(s)

The report will be issued by October 6, 2003.

## Reporting on Job Status

We will continue to keep in contact with the requester, as needed, through periodic meetings and telephone calls with staff.