

**Final Volcker Rule Amended Regulations
(Volcker 2.1 – Covered Funds)**

July 14, 2020

**FLOWCHARTS: COVERED FUNDS
SUBSTANTIVE RULES**

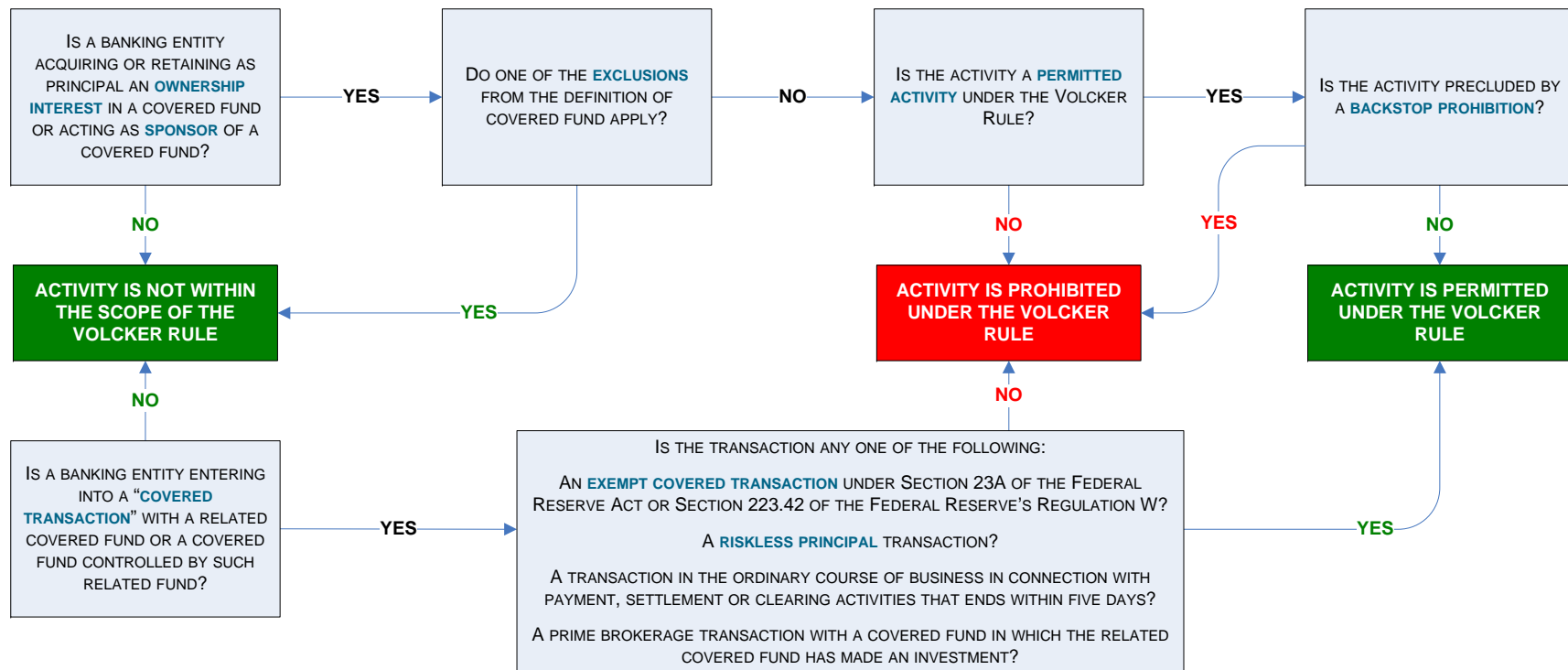
The Volcker Rule was enacted in 2010, as part of the Dodd-Frank Act, as Section 13 of the Bank Holding Company Act of 1956. The original regulations implementing the Volcker Rule were adopted by the five Volcker Rule agencies—the Federal Reserve, FDIC, OCC, SEC and CFTC (Agencies)—in 2013 (2013 Final Rule). The Economic Growth, Regulatory Relief, and Consumer Protection Act amended the Volcker Rule in 2018 to exempt small banking entities that are not significantly engaged in trading activities, and regulations were adopted to implement those amendments in 2019. The Agencies amended the regulations relating primarily to the proprietary trading portion of the Volcker Rule in 2019 (2019 Final Rule).

The Agencies amended the regulations relating primarily to the covered funds portion of the Volcker Rule in 2020 (2020 Final Rule).

These Davis Polk flowcharts visually depict permissible and impermissible covered fund activities, investments and relationships under the Volcker Rule and its implementing regulations.

Davis Polk’s proprietary trading flowcharts are available at www.volckerrule.com

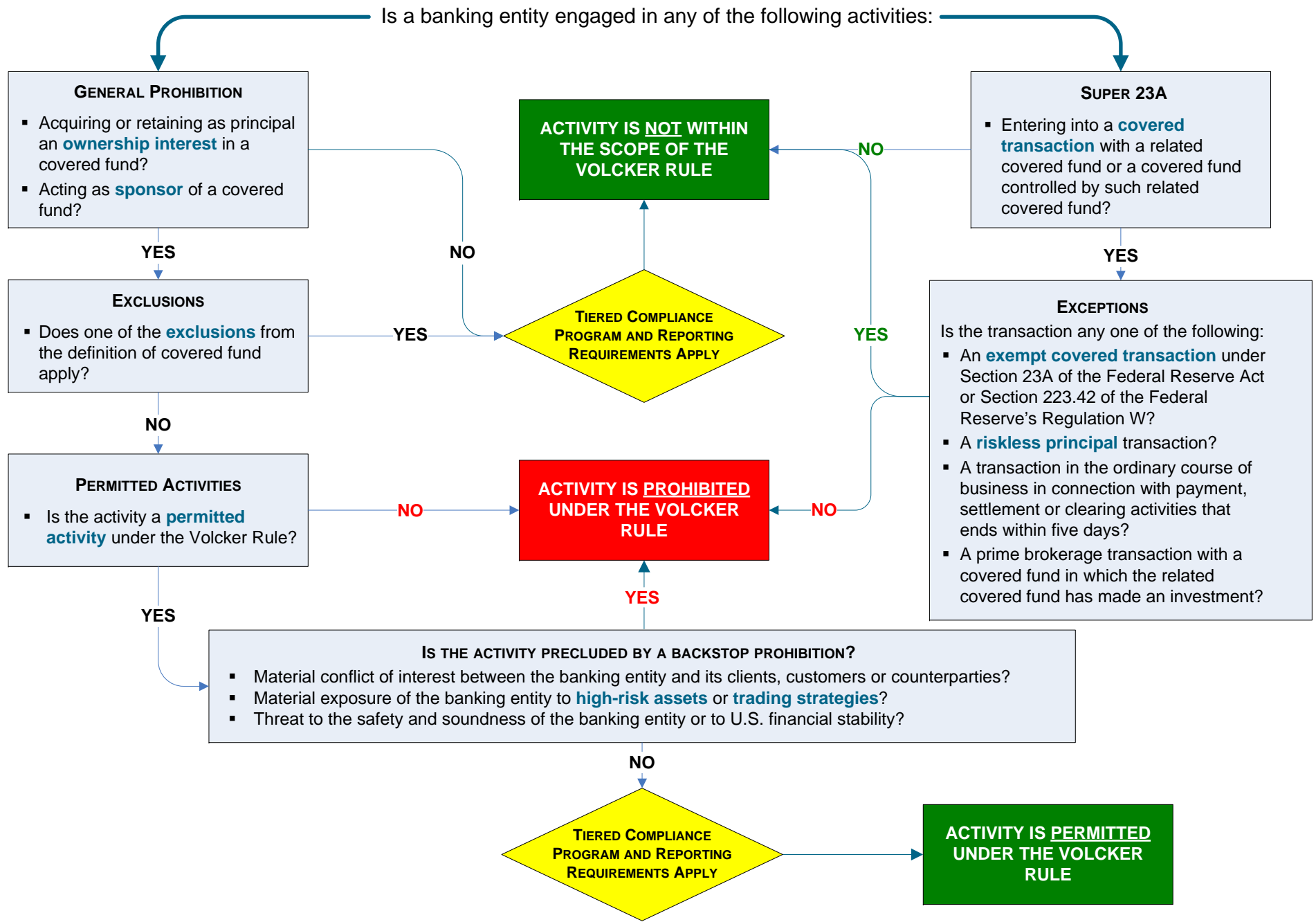
SAMPLE GRAPHIC

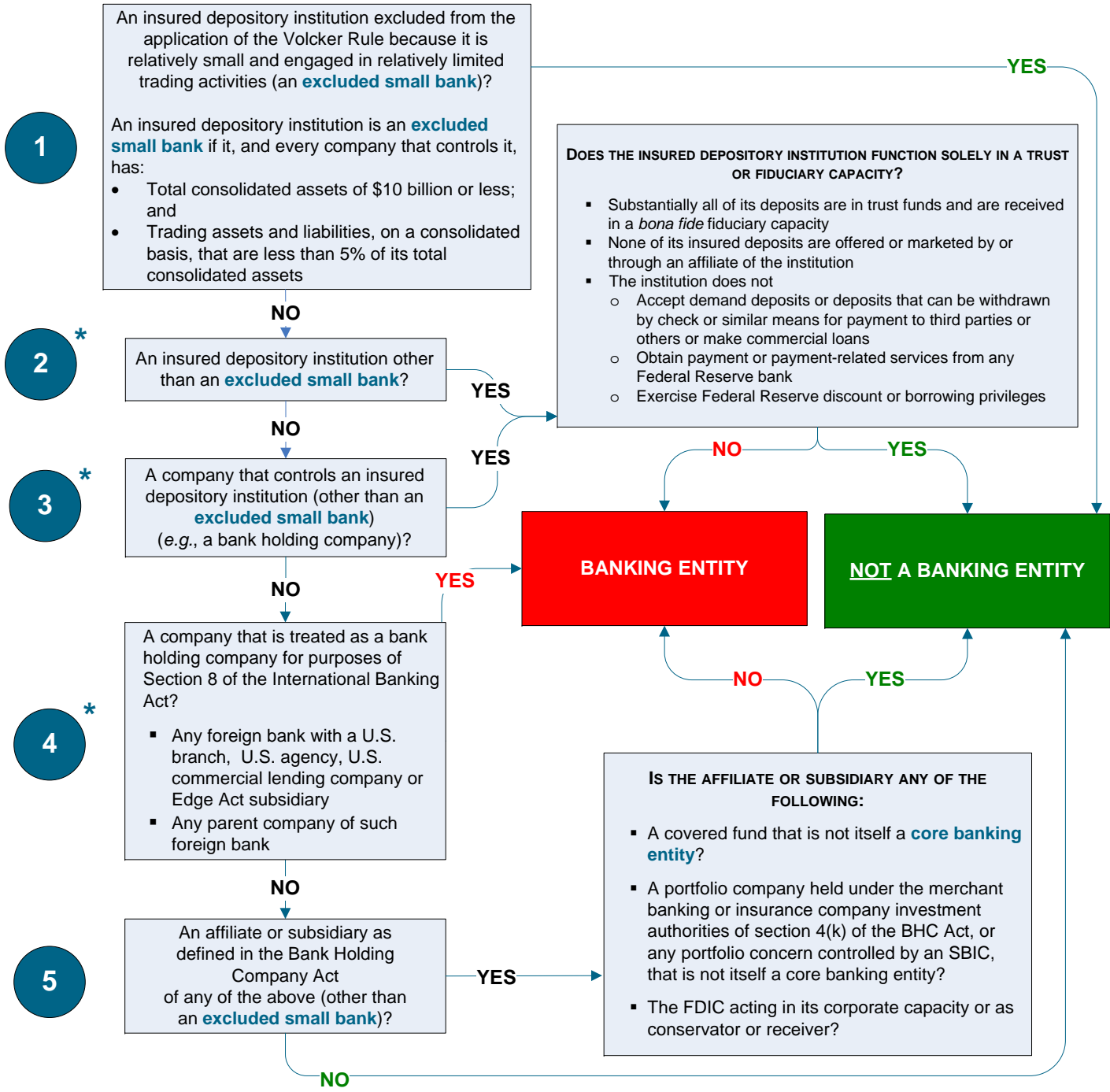


July 14, 2020

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RICs, BDCs AND FPFs

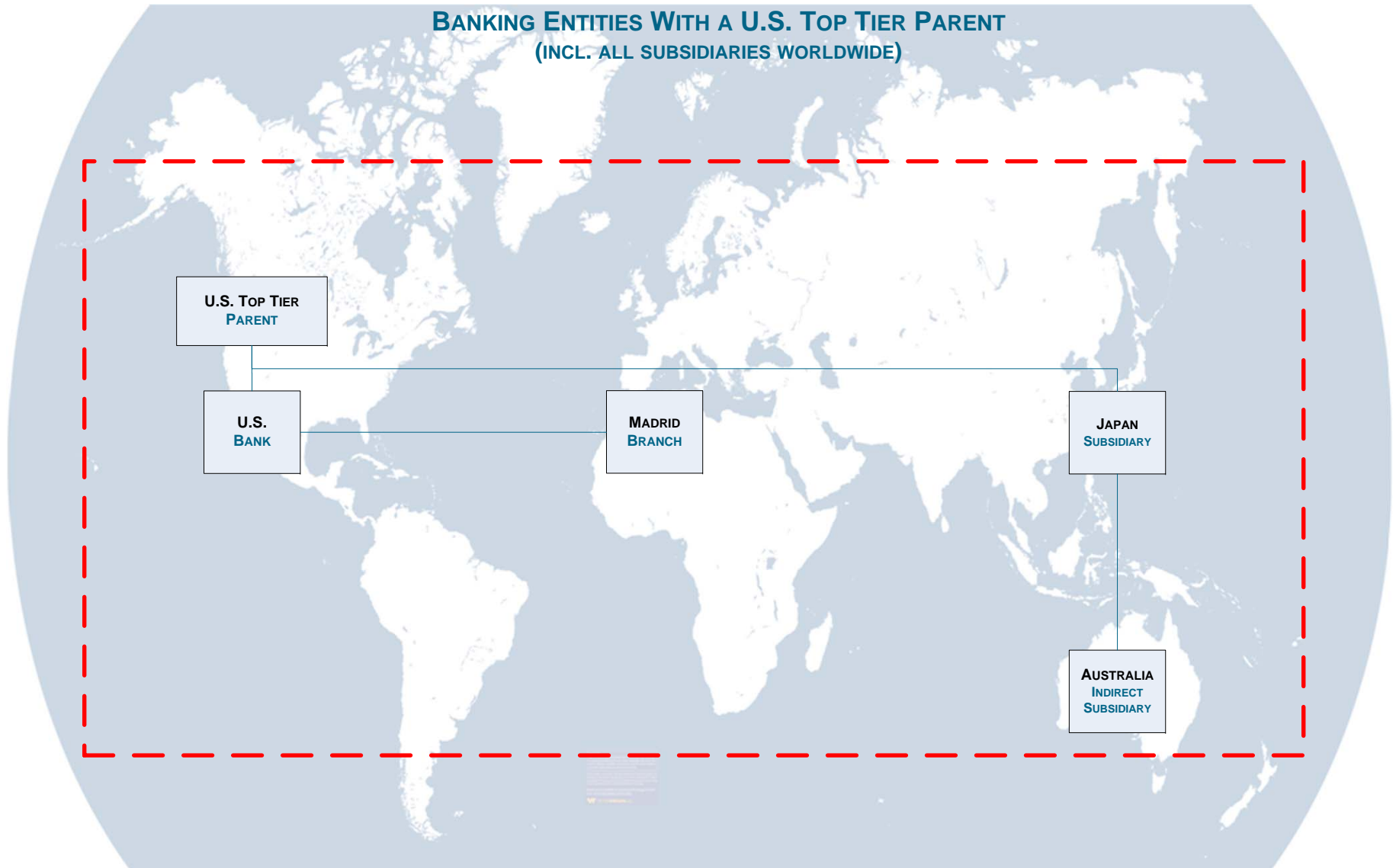
Absent other facts and circumstances establishing that a **core banking entity** or any of its affiliates has control over a RIC, BDC or FPF, the RIC, BDC or FPF will not be treated as a banking entity or an affiliate of a banking entity for purposes of the Volcker Rule if all of the following conditions are satisfied:

- No **core banking entity** or any of its affiliates:
 - Owns, controls or holds with the power to vote 25% or more of the voting shares, or appoints or has the power to appoint 25% or more of the directors, trustees or other managers, of the RIC, BDC or FPF, or
 - Provides any investment advisory, commodity trading advisory, administrative or other services to the RIC, BDC or FPF other than in compliance with any limitations under applicable regulation, order or other authority, and
- The RIC, BDC or FPF is not itself a **core banking entity**.

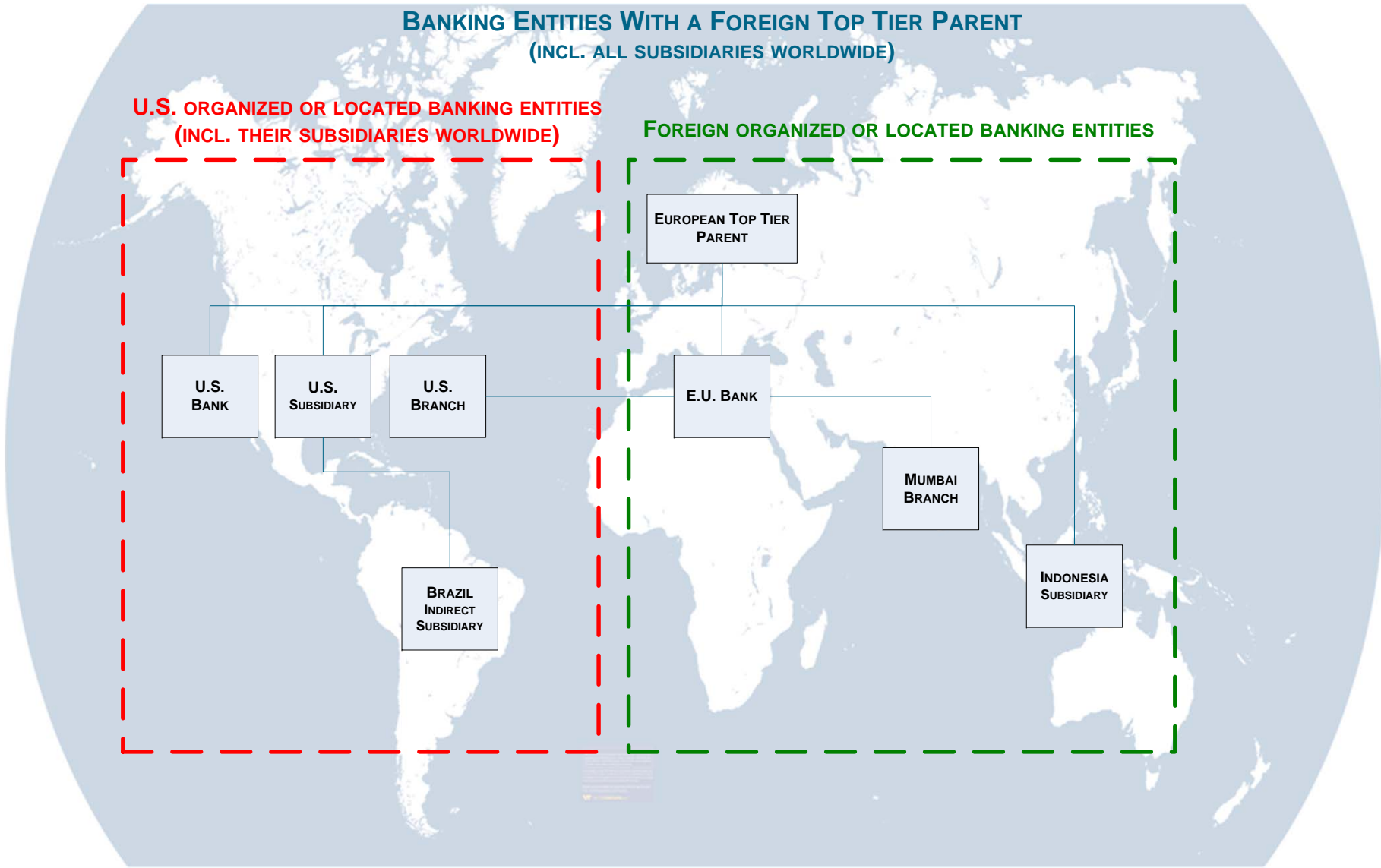
FAQs 14 and 16 state that a foreign public fund would not be considered a banking entity so long as no banking entity owns 25% or more of the voting shares of the fund after its **seeding period** and that a RIC, BDC or FPF would not be treated as a banking entity solely on the basis of the level of ownership of the fund by a banking entity during its seeding period.

***CORE BANKING ENTITY**

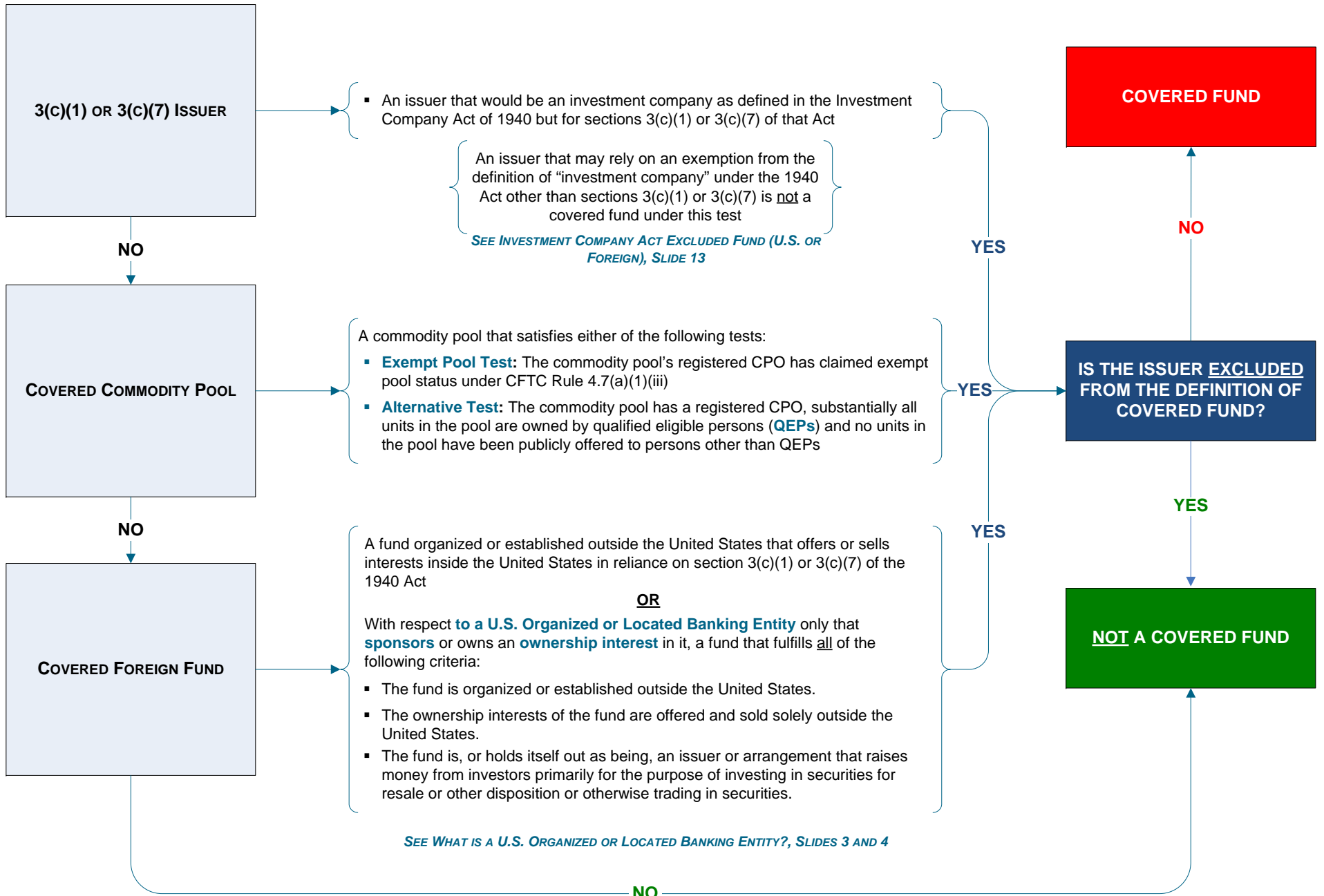
- A "**core banking entity**" means a banking entity as defined in boxes 2, 3 or 4.



SEE *WHAT IS A COVERED FUND?* AND *FOREIGN PUBLIC FUND*, SLIDES 5 AND 14

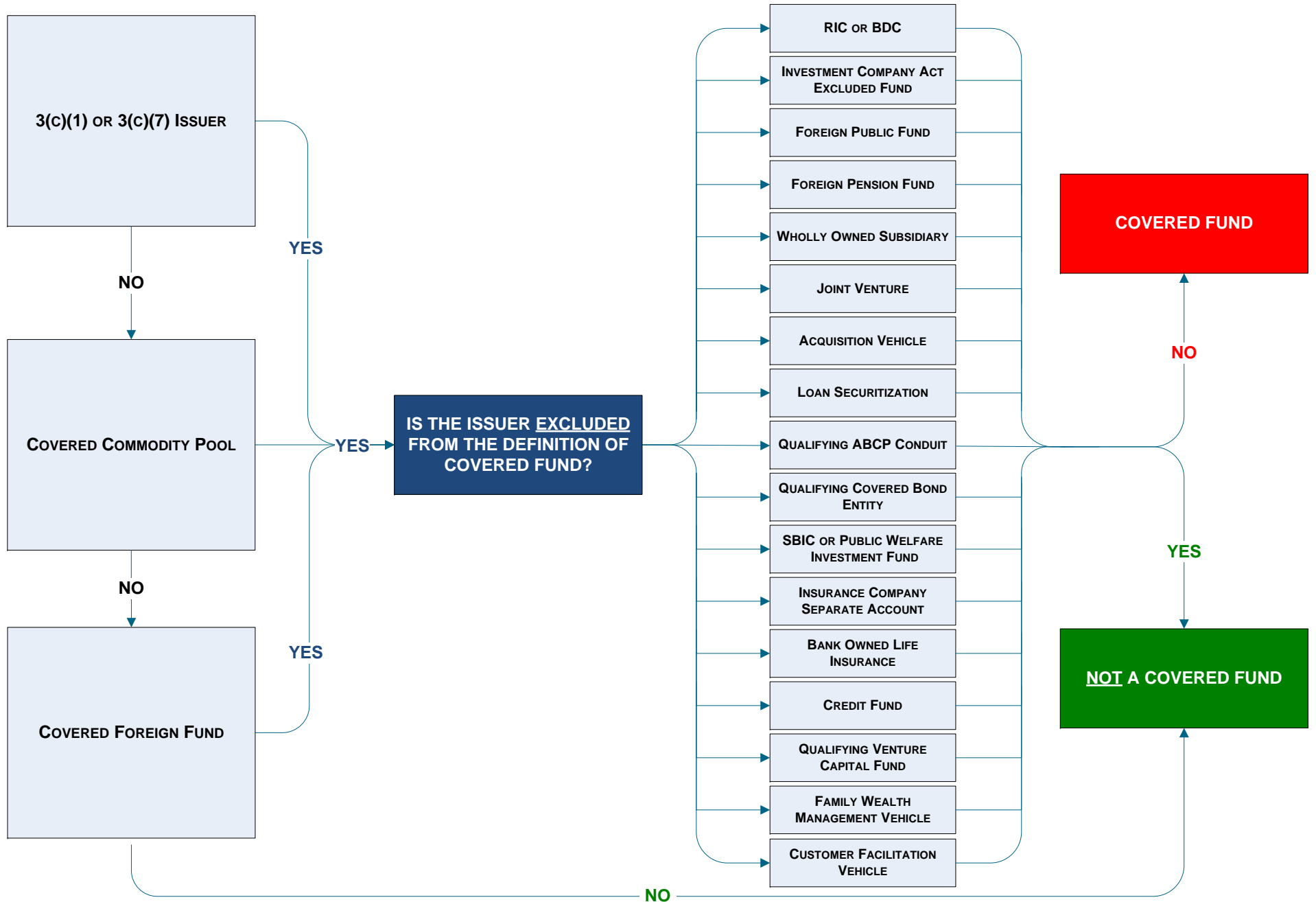


SEE WHAT IS A COVERED FUND?, FOREIGN PUBLIC FUND AND OFFSHORE EXEMPTION, SLIDES 5, 14 AND 39

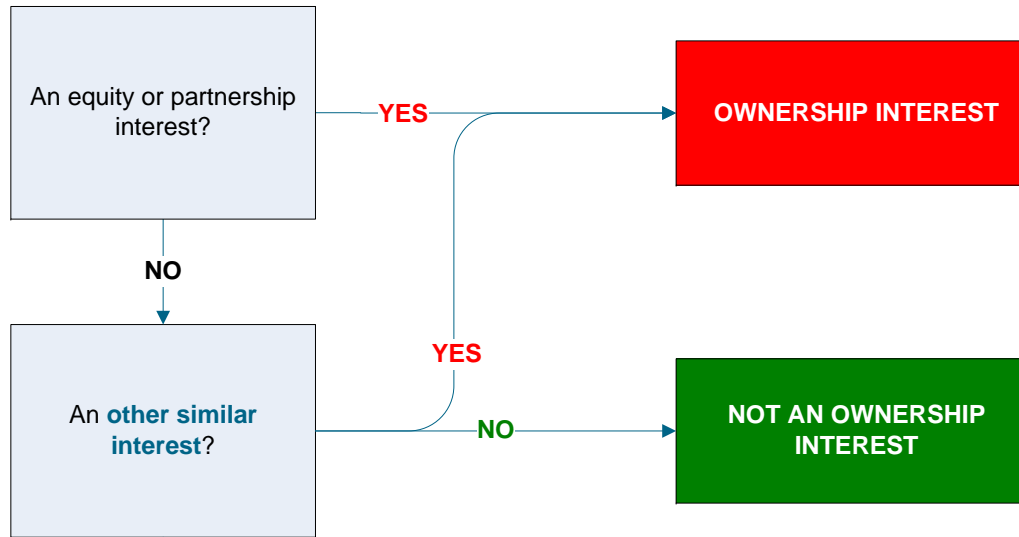


EXCLUSIONS FROM THE DEFINITION OF COVERED FUND

COVERED FUND



Other than a **restricted profit interest** (carried interest) or a **senior loan or senior debt interest** that qualifies for the safe harbor, is the interest in the covered fund acquired or retained by the banking entity:



SEE EXCLUSION FOR RESTRICTED PROFIT INTEREST (CARRIED INTEREST), SLIDE 8

SEE EXCLUSION FOR SENIOR LOAN OR SENIOR DEBT INTEREST, SLIDE 9

SPECIFIED CHARACTERISTICS OF AN “OTHER SIMILAR INTEREST”

An “**other similar interest**” includes any interest in or security issued by a covered fund that exhibits any of the following characteristics on a current, future or contingent basis:

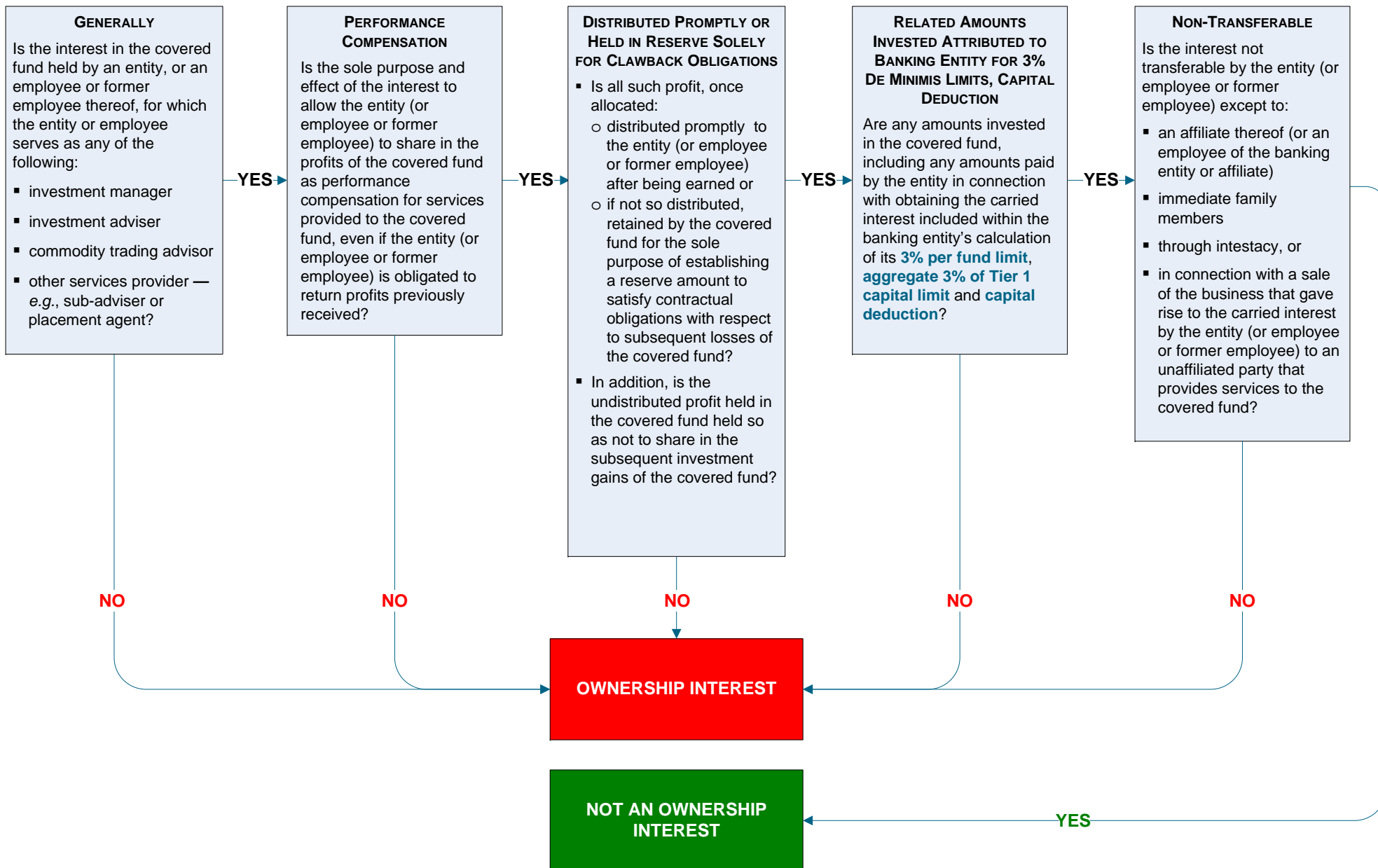
- **Selection or removal of manager.** The right to participate in the selection or removal of a general partner, managing member, member of the board of directors or trustees, investment manager, investment adviser or commodity trading advisor of the covered fund (excluding the rights to exercise remedies upon the occurrence of an event of default or acceleration event, to participate in the removal of an investment manager for **cause for removal**, or to participate in the selection of a replacement manager upon an investment manager’s resignation or removal)
- **Share in income, gains or profits.** The right under the terms of the interest to receive a share of the income, gains or profits of the covered fund, whether or not pro rata with other owners or holders of interests
- **Residual interest in assets.** The right to receive the underlying assets of the covered fund after all other interests have been redeemed or paid in full (excluding the rights of a creditor upon an event of default or acceleration)
- **Excess spread.** The right to receive all or a portion of excess spread (i.e., the positive difference, if any, between the aggregate interest payments received from the underlying assets of the covered fund and the aggregate interest paid to the holders of other outstanding interests)
- **Write-down of amounts payable due to losses.** Provides that, under the terms of the interest, the amounts payable by the covered fund with respect to the interest could be reduced based on losses arising from the underlying assets of the covered fund, such as allocation of losses, write-downs or charge-offs of the outstanding principal balance, or reductions in the amount of interest due and payable on the interest
- **Return based on performance of assets.** Receives income on a pass-through basis or has a rate of return that is determined by reference to the performance of the underlying assets of the covered fund
- **Synthetic rights.** Synthetic right to have, receive or be allocated any of the rights above

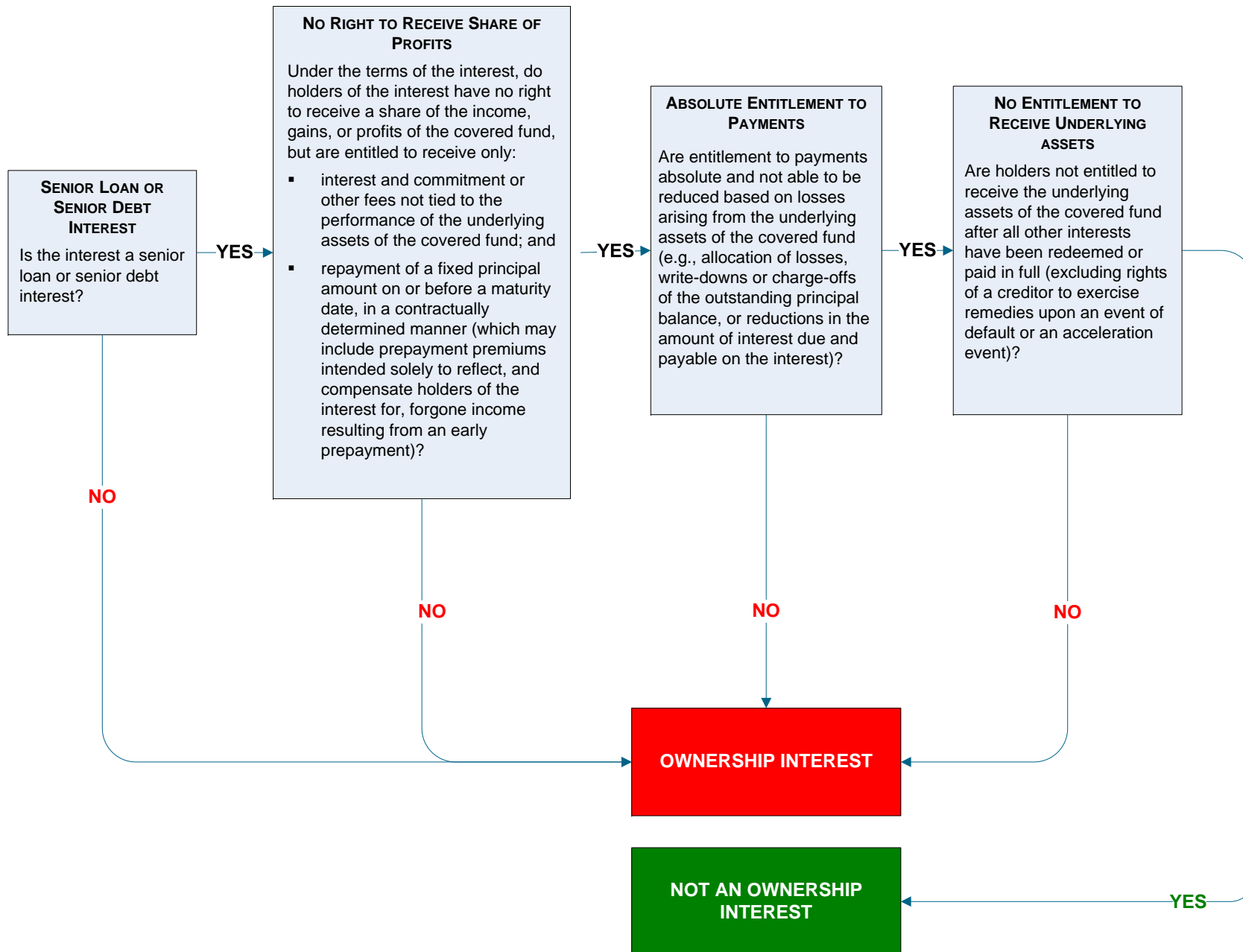
CAUSE FOR REMOVAL

Cause for removal of an investment manager means one or more of the following events:

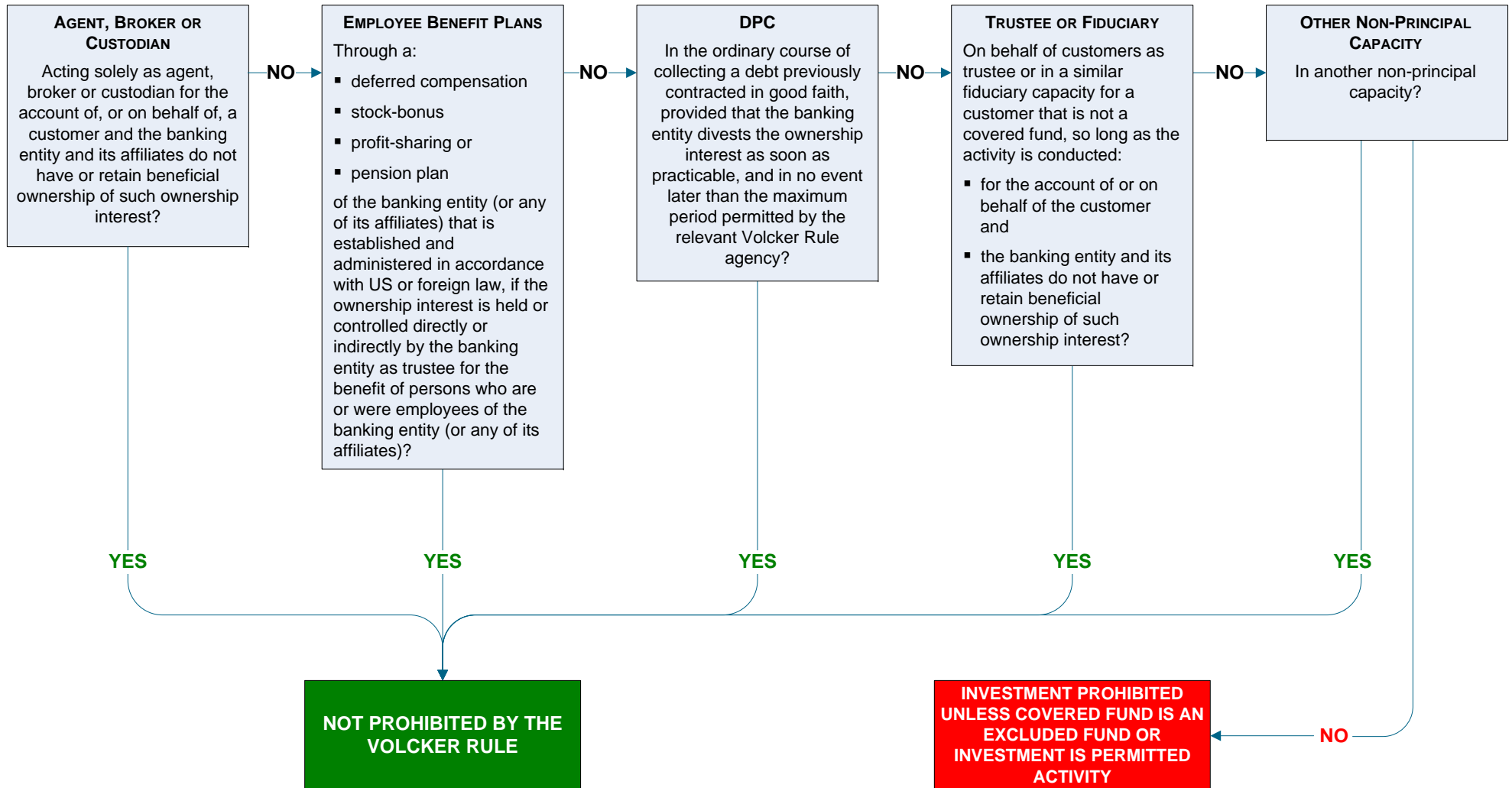
- bankruptcy, insolvency, conservatorship or receivership of the investment manager;
- breach by the investment manager of any material provisions of the covered fund’s transaction agreements applicable to the investment manager, or breach by the investment manager of material representations or warranties
- fraud or criminal activity in the performance of investment manager’s obligations
- indictment of the investment manager for a criminal offense, including in some cases the indictment of any officer, member, partner or other principal of the investment manager
- change in control with respect to the investment manager
- loss, separation or incapacitation of an individual critical to the operation of the investment manager or primarily responsible for the management of the covered fund’s assets
- other similar events that constitute “cause” for removal of an investment manager not solely related to the performance of the covered fund or the investment manager’s exercise of investment discretion

EXCLUSION FOR RESTRICTED PROFIT INTEREST (Carried Interest)

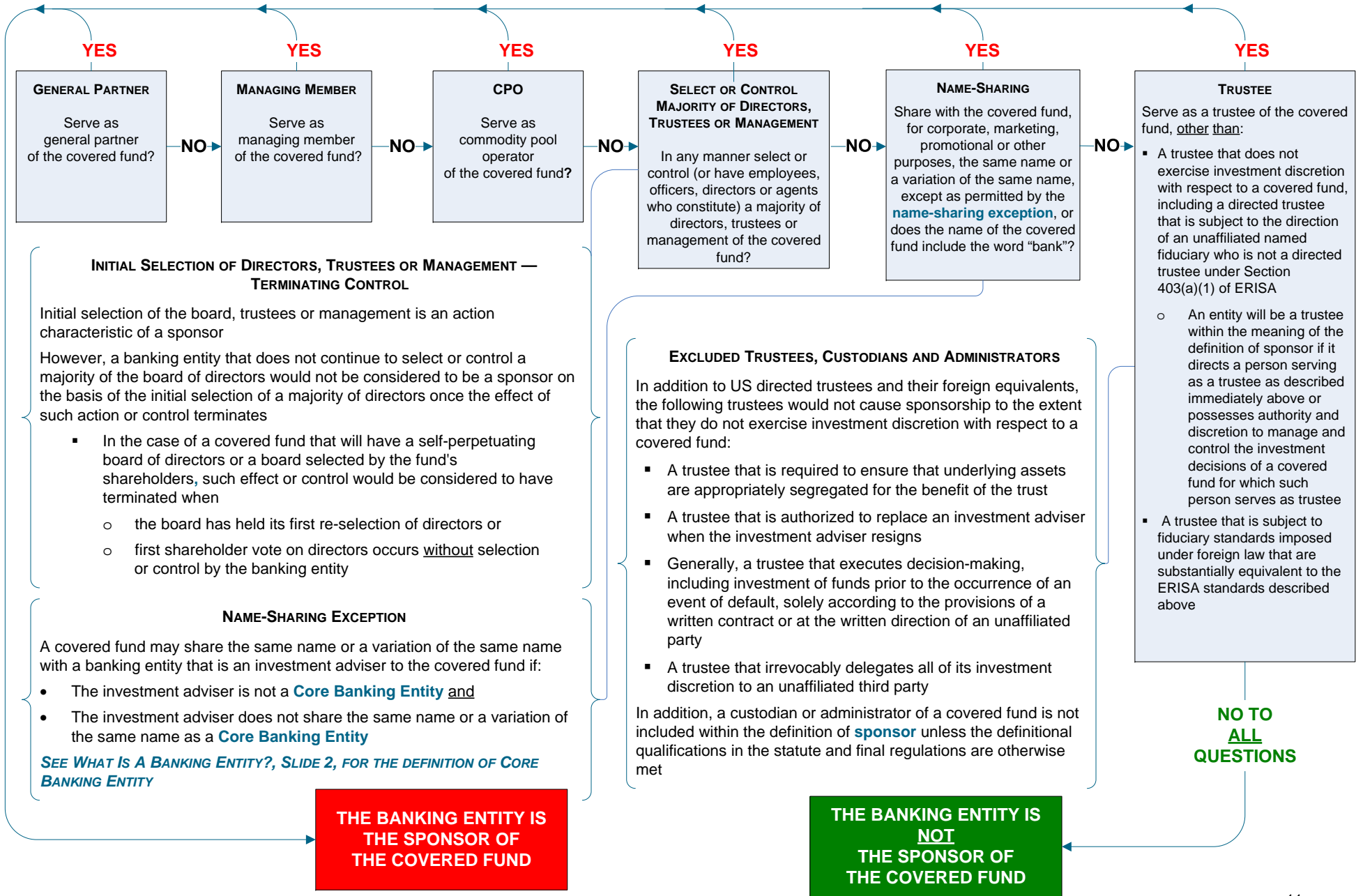




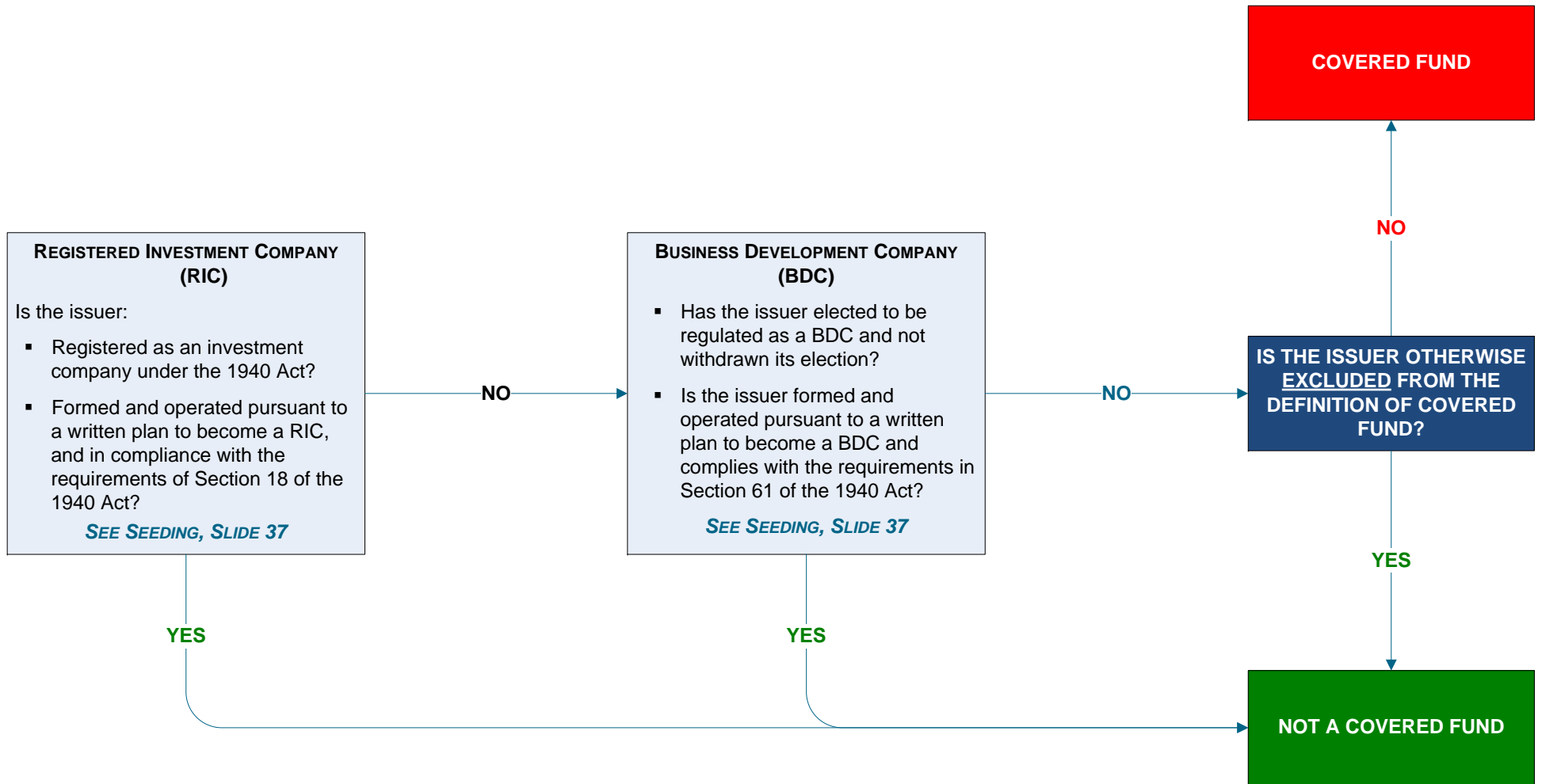
Is the **ownership interest** in the covered fund acquired or retained by the banking entity:



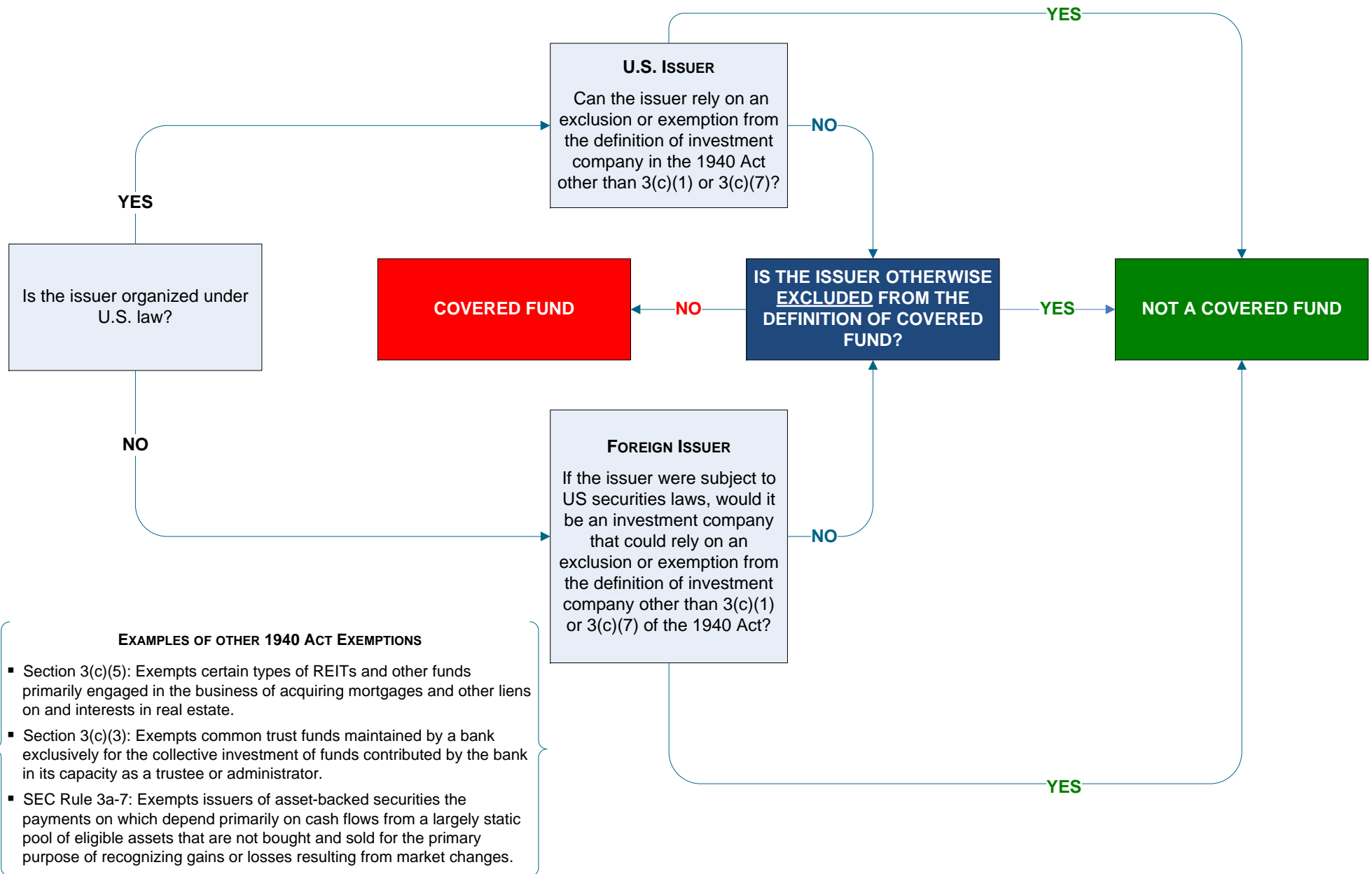
With respect to a covered fund, does the banking entity:



EXCLUSIONS FROM DEFINITION OF COVERED FUND RIC or BDC

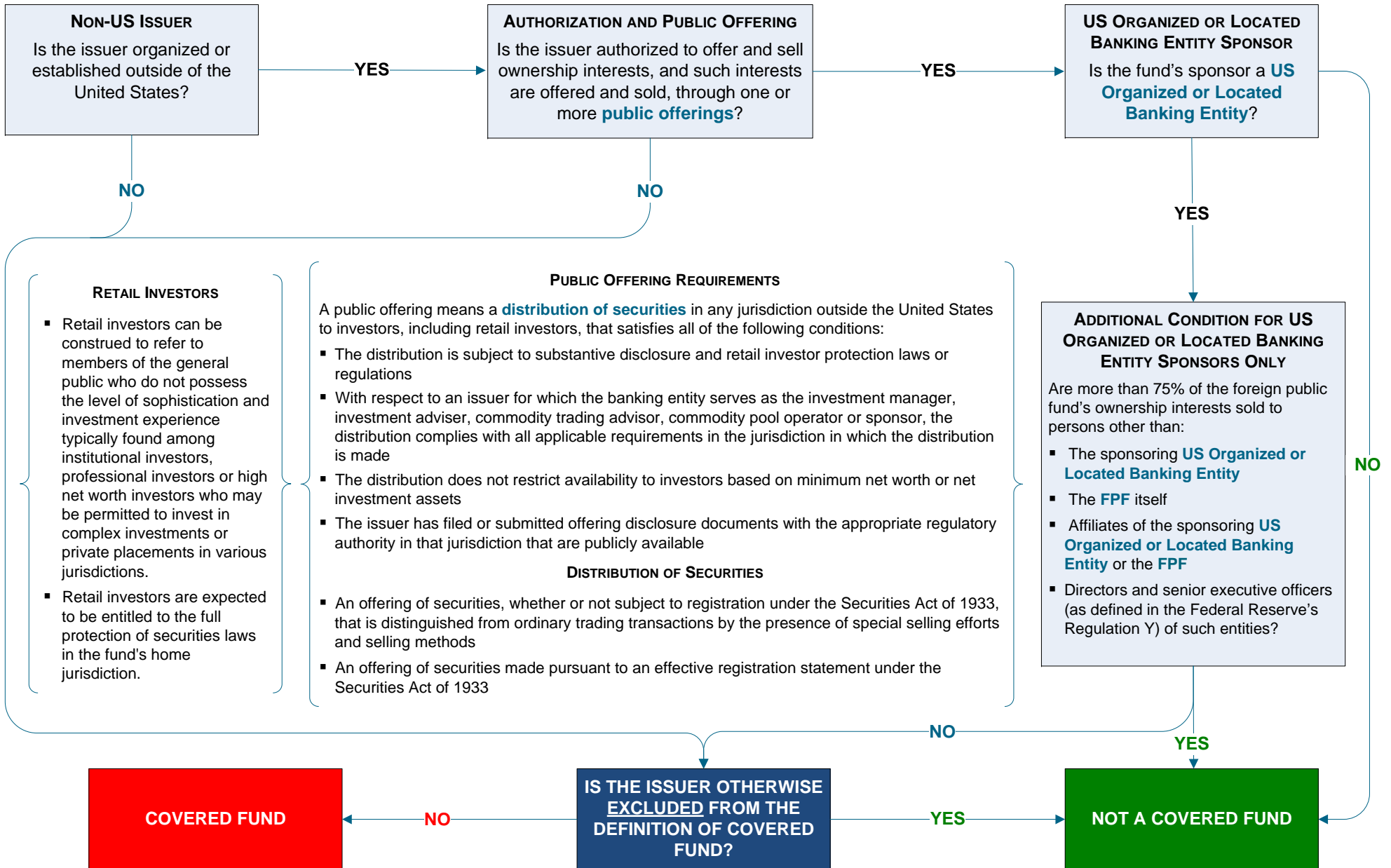


Investment Company Act Excluded Fund (U.S. or Foreign)



EXCLUSIONS FROM DEFINITION OF COVERED FUND

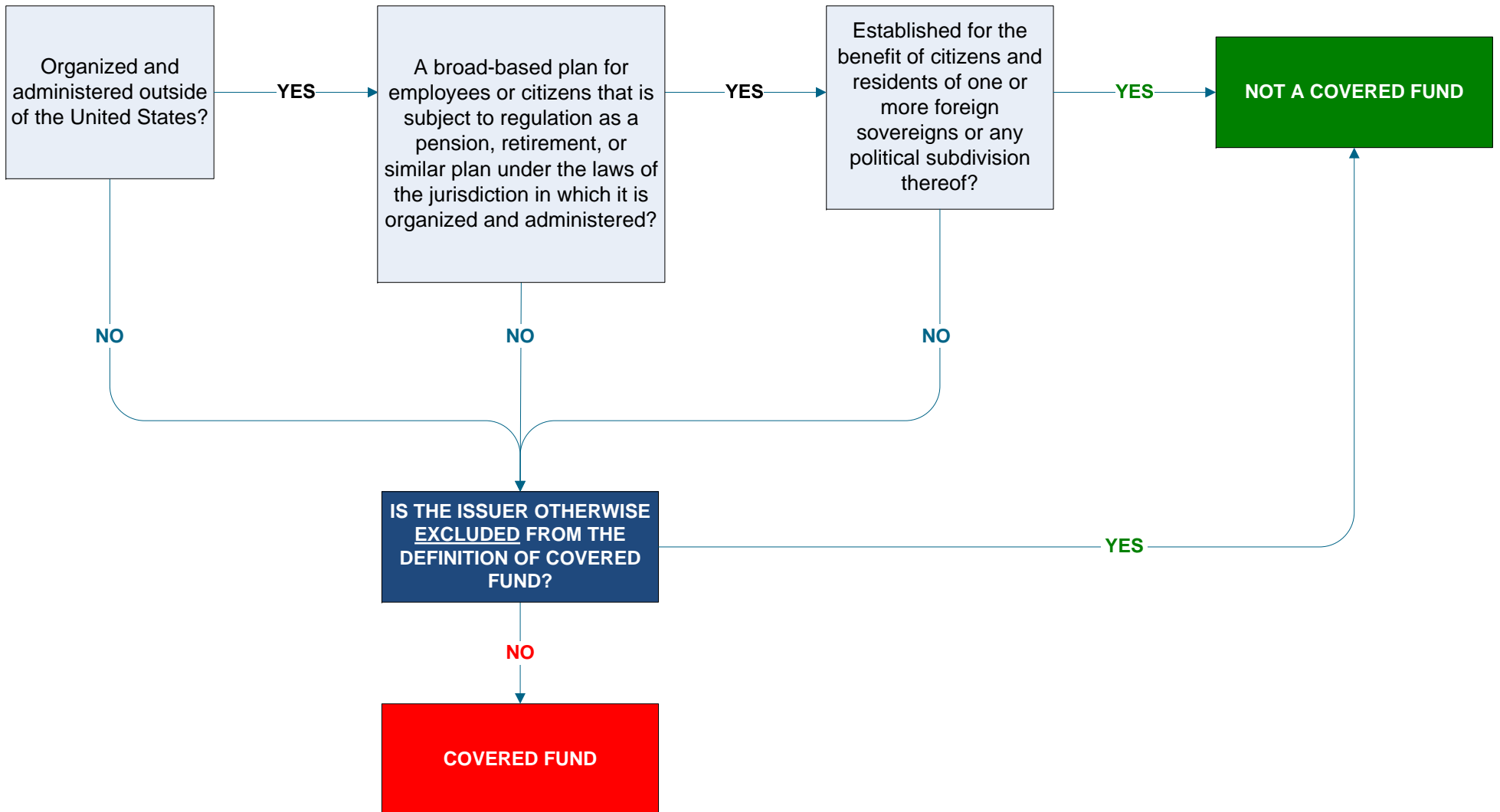
Foreign Public Fund (FPF)



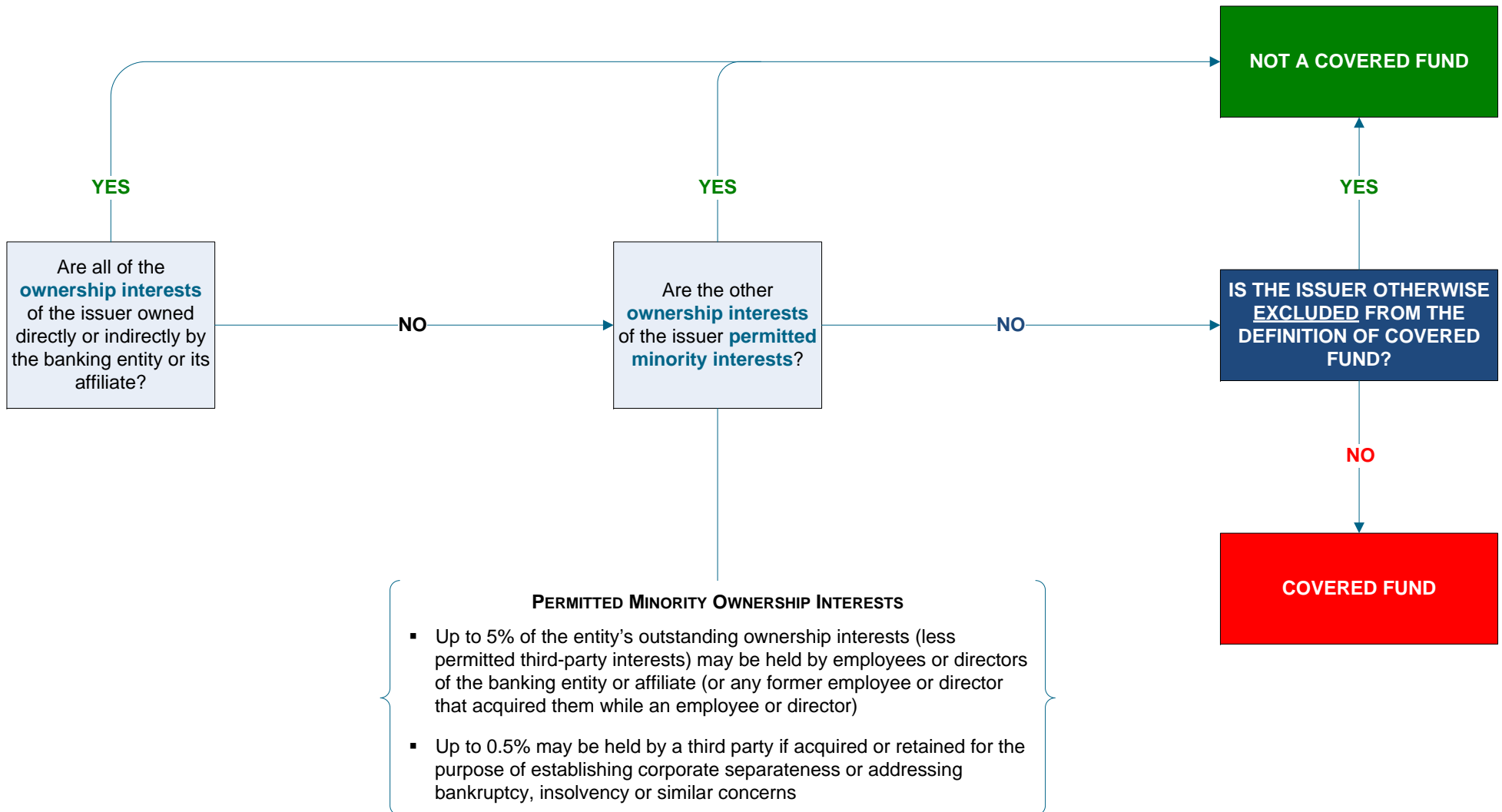
EXCLUSIONS FROM THE DEFINITION OF COVERED FUND

Foreign Pension Fund

Is the plan, fund or program providing pension, retirement or similar benefits:

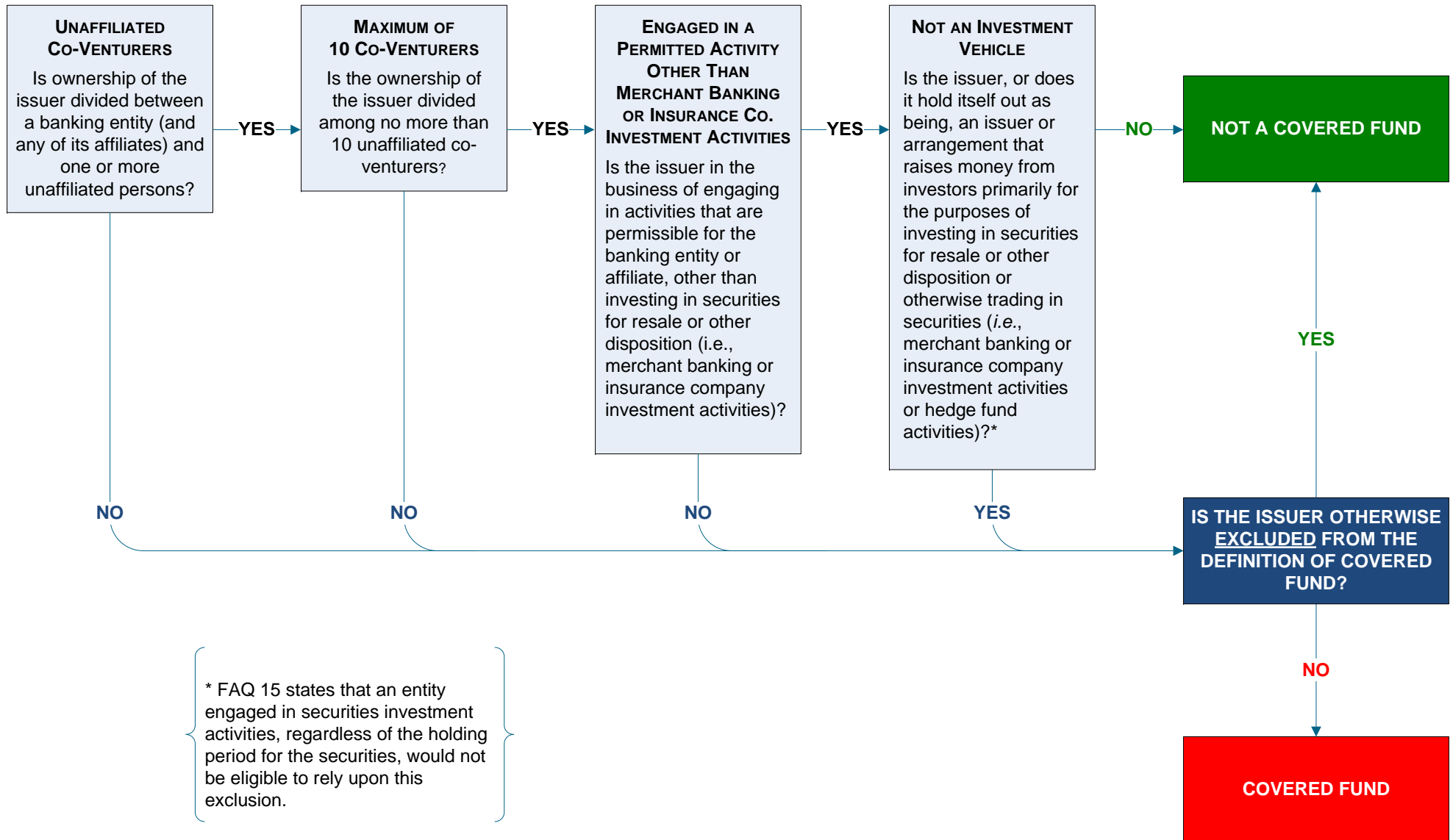


EXCLUSIONS FROM THE DEFINITION OF COVERED FUND Wholly Owned Subsidiary



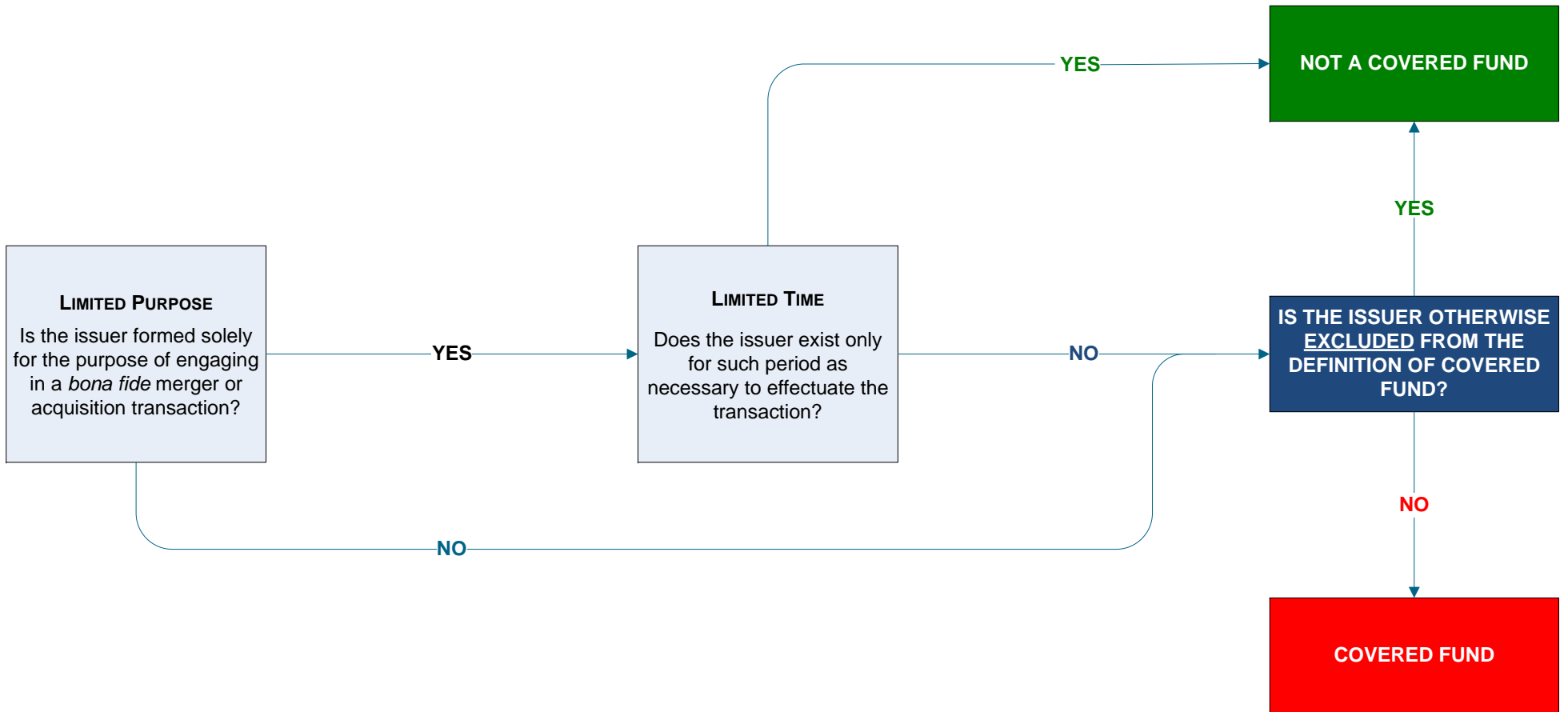
EXCLUSIONS FROM THE DEFINITION OF COVERED FUND

Joint Venture

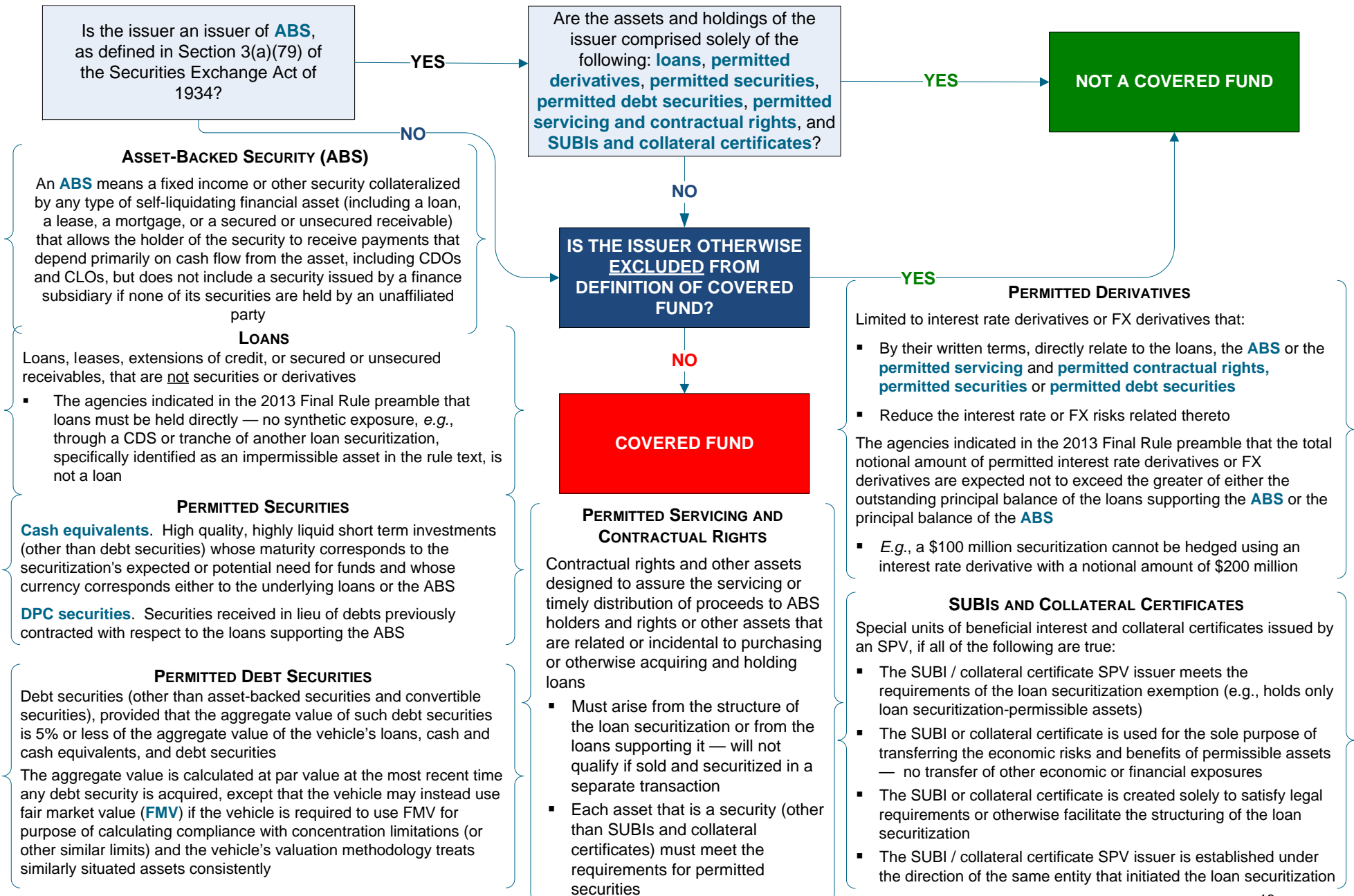


* FAQ 15 states that an entity engaged in securities investment activities, regardless of the holding period for the securities, would not be eligible to rely upon this exclusion.

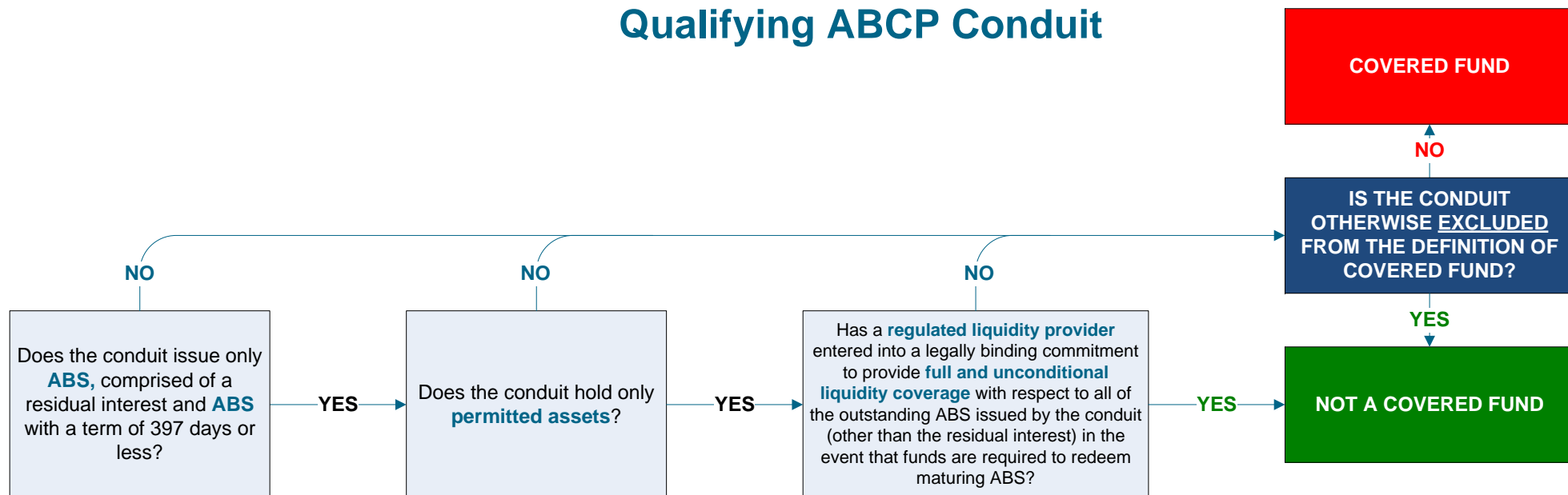
EXCLUSIONS FROM THE DEFINITION OF COVERED FUND Acquisition Vehicle



Loan Securitization



Qualifying ABCP Conduit



PERMITTED ASSETS

Assets permissible for a loan securitization

- Loans
- Permitted servicing and contractual rights
- Permitted securities
- Permitted derivatives
- SUBIs and collateral certificates

ABS supported solely by assets permissible for a loan securitization

- See above

SEE LOAN SECURITIZATION, SLIDE 19

REGULATED LIQUIDITY PROVIDER

A regulated liquidity provider is any of the following:

- Insured depository institution
- Bank holding company or any of its subsidiaries
- Savings and loan holding company provided that all or substantially all of its activities are permissible for a financial holding company under Section 4(k) of the BHC Act
- Foreign bank whose home country supervisor has adopted capital standards consistent with Basel III and that is subject to such standards, or any of its subsidiaries
- The United States or a foreign sovereign

FULL AND UNCONDITIONAL LIQUIDITY COVERAGE

Full and unconditional liquidity coverage means that:

- in the event the conduit is unable for any reason to repay maturing asset-backed securities issued by the conduit, the total amount for which the regulated liquidity provider may be obligated is equal to 100 percent of the amount of ABS outstanding plus accrued and unpaid interest

PERMISSIBLE FORMS OF LIQUIDITY COVERAGE

- Lending facility
- Asset purchase agreement
- Repurchase agreement or
- Similar arrangement

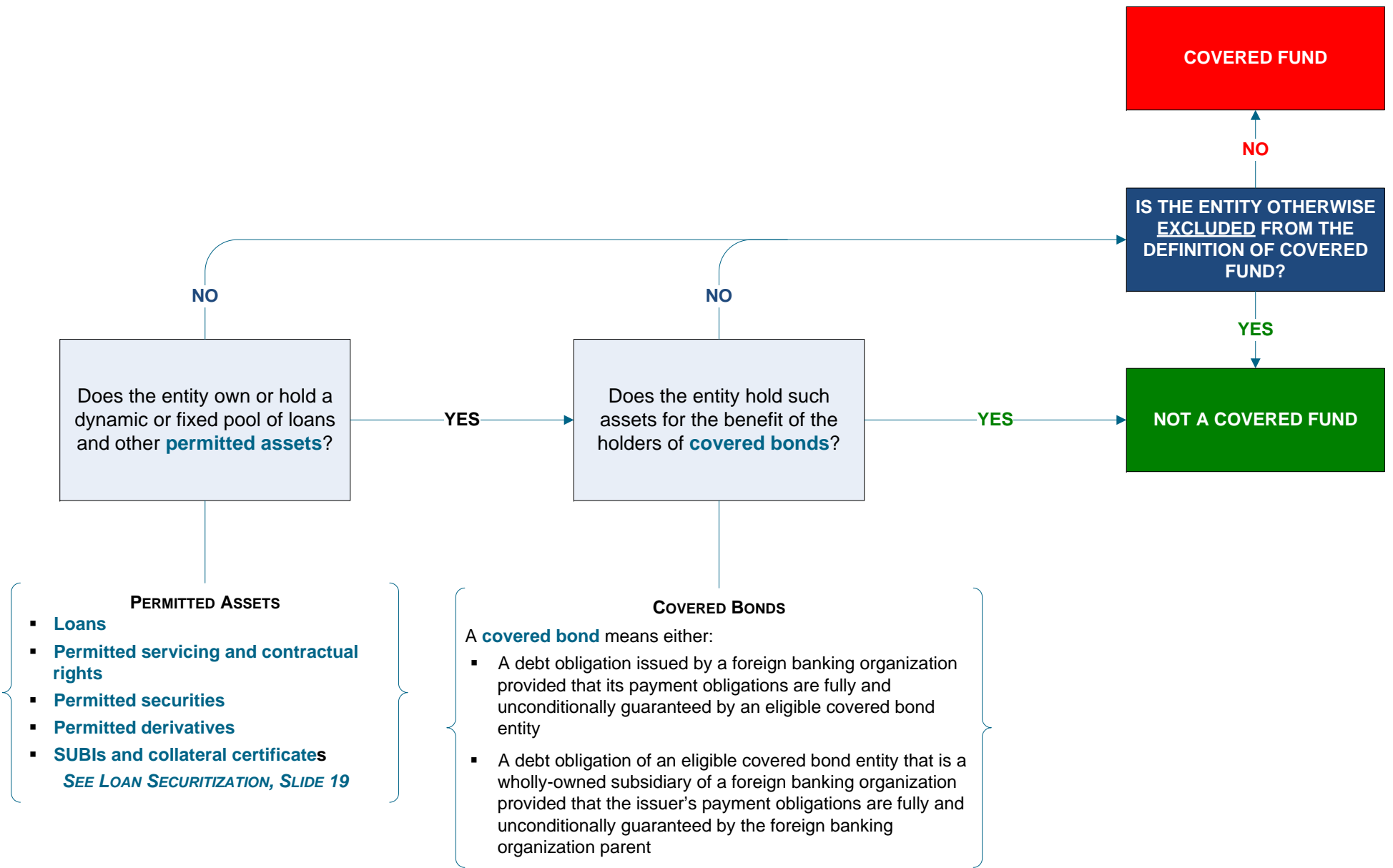
INITIAL ISSUANCE

Permitted ABS must have been acquired by the ABCP conduit as part of an initial issuance either directly from the issuing entity of the asset-backed securities or an underwriter in the distribution of such securities.

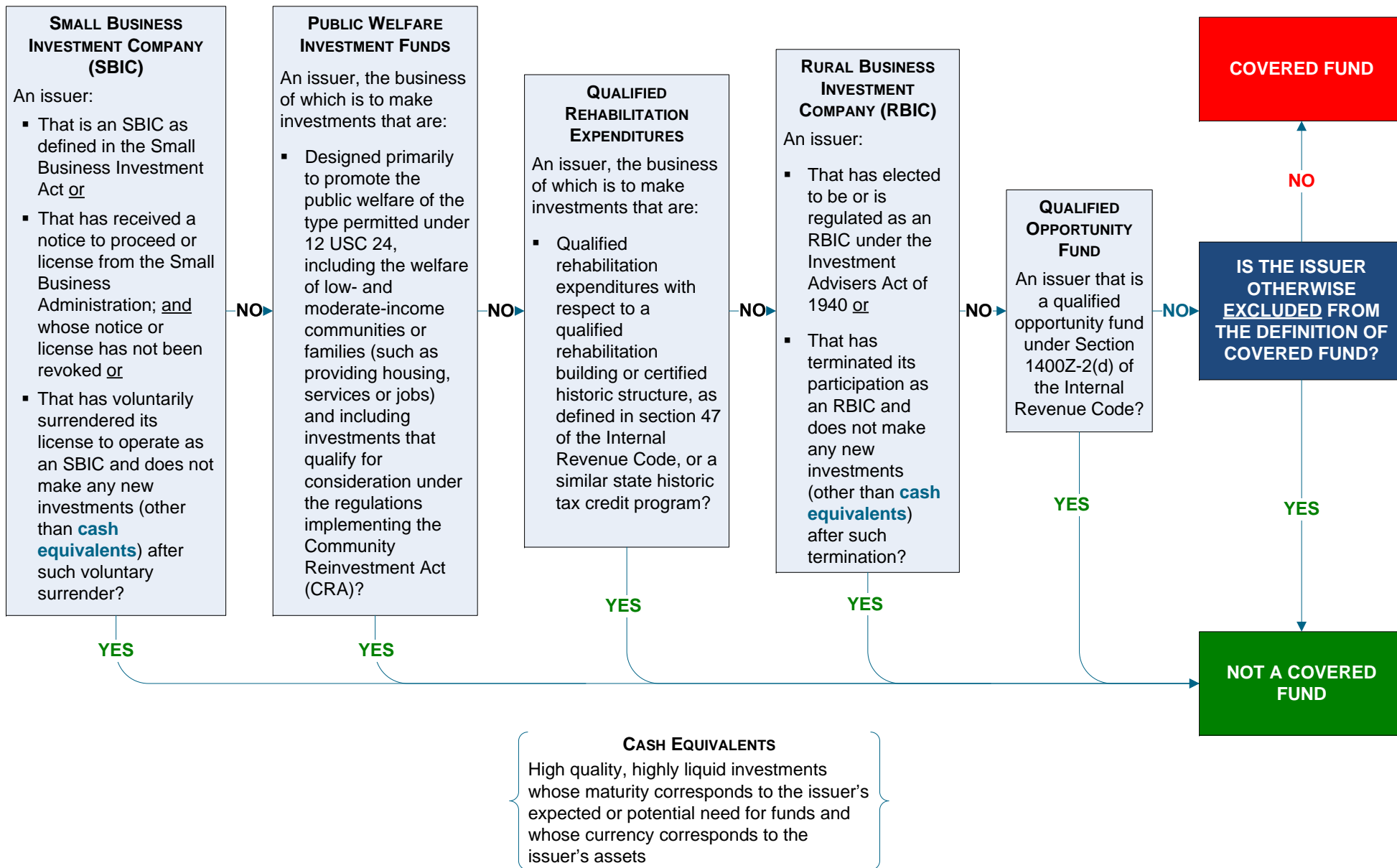
- i.e. no secondary market purchases

EXCLUSIONS FROM THE DEFINITION OF COVERED FUND

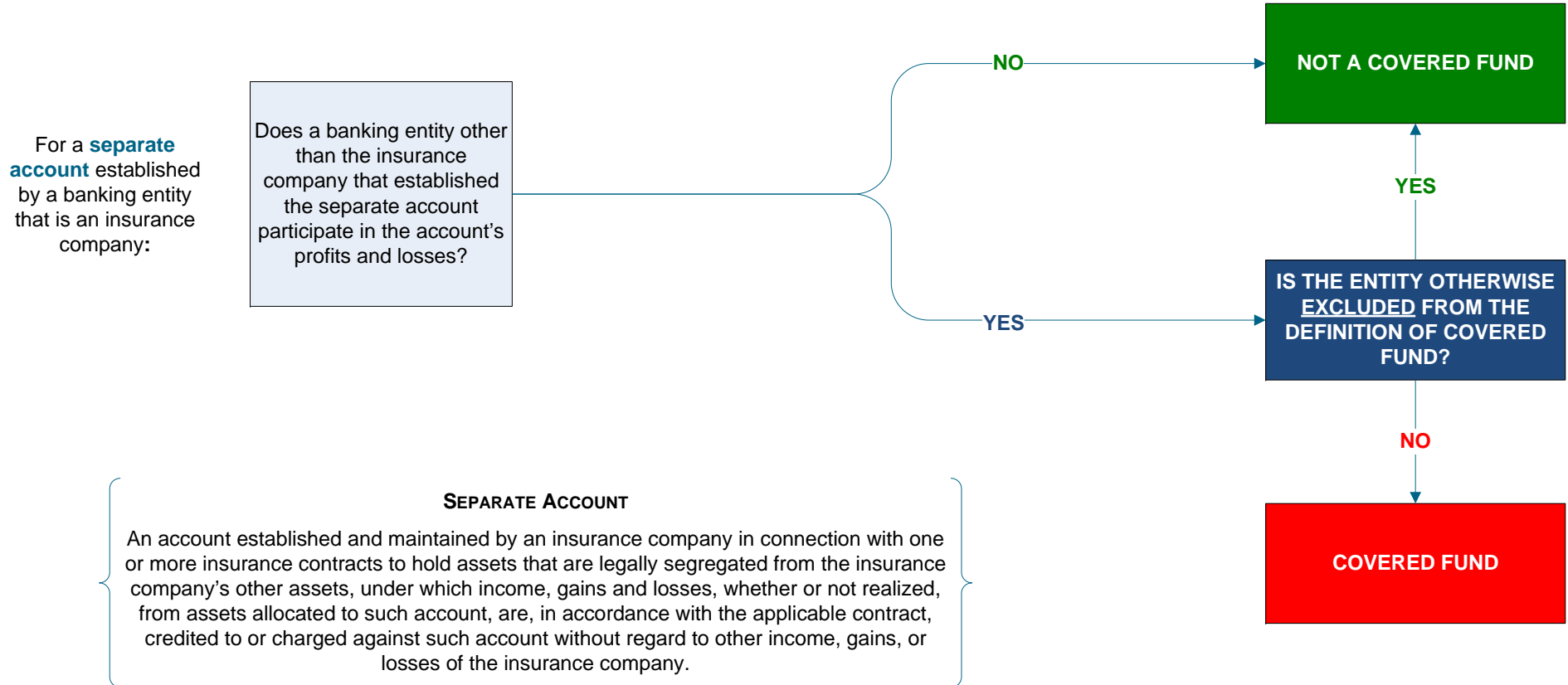
Qualifying Covered Bond Entity



EXCLUSIONS FROM THE DEFINITION OF COVERED FUND SBIC or Public Welfare Investment Fund

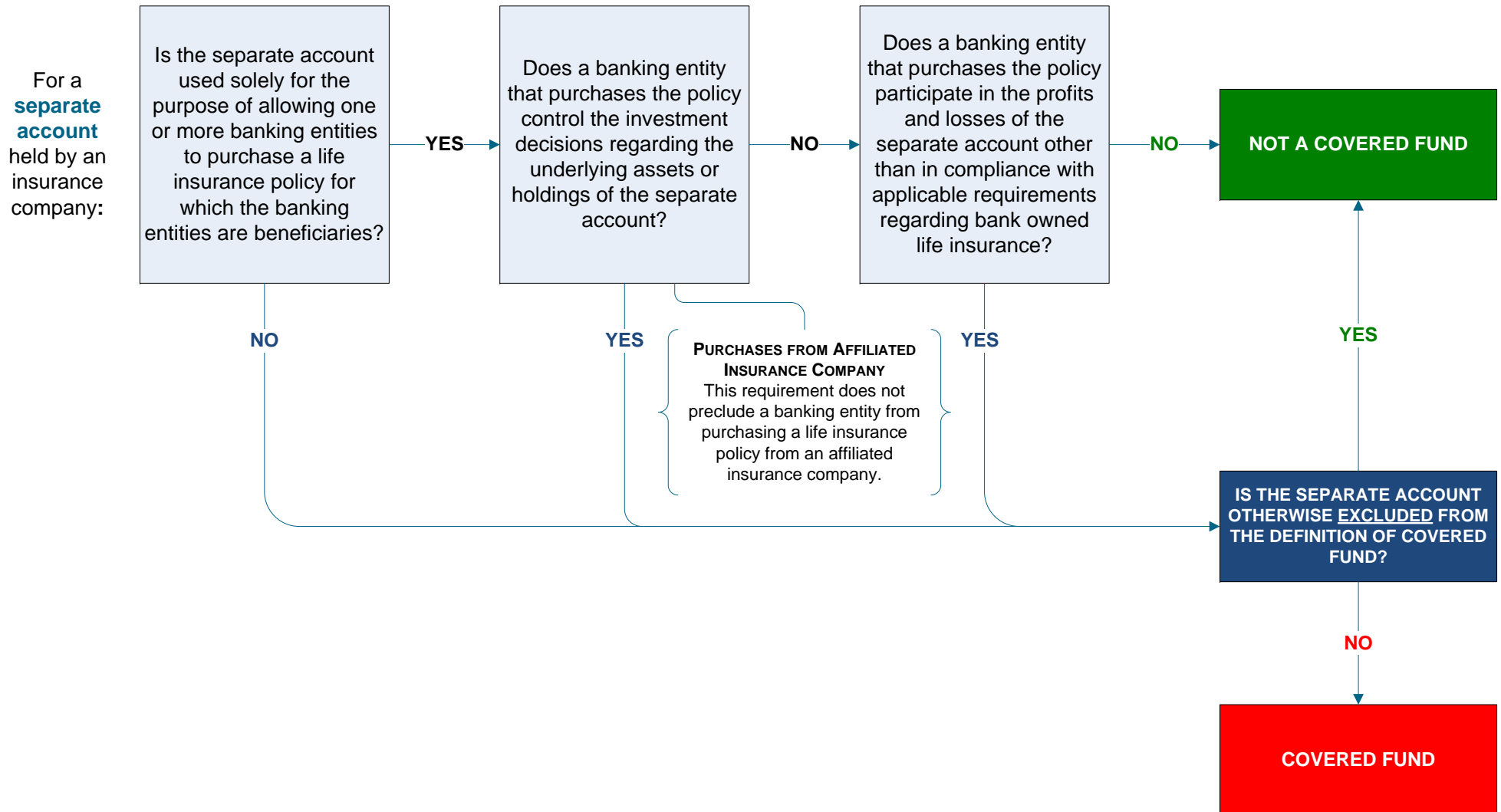


EXCLUSIONS FROM THE DEFINITION OF COVERED FUND Insurance Company Separate Account

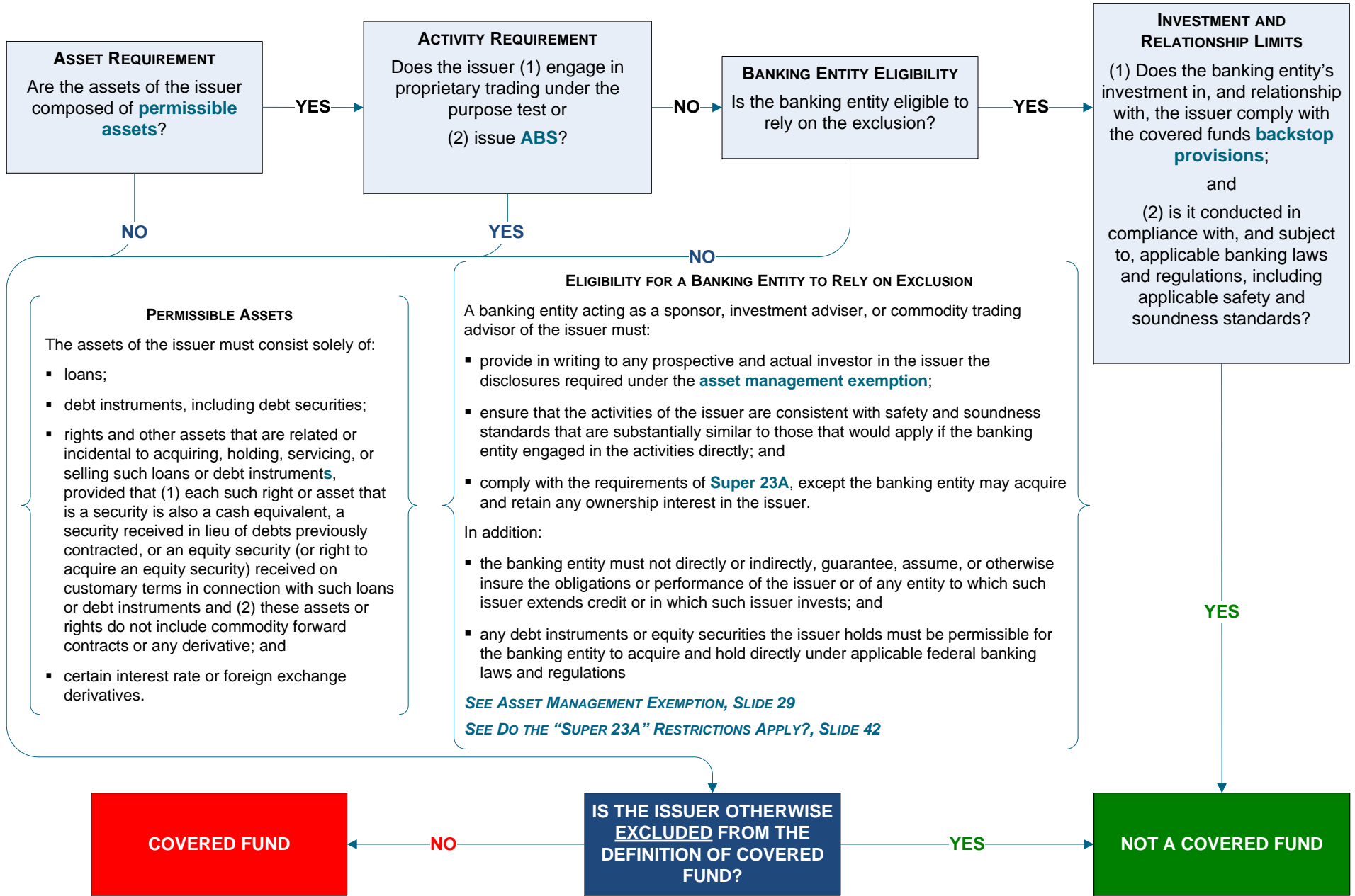


EXCLUSIONS FROM THE DEFINITION OF COVERED FUND

Bank Owned Life Insurance



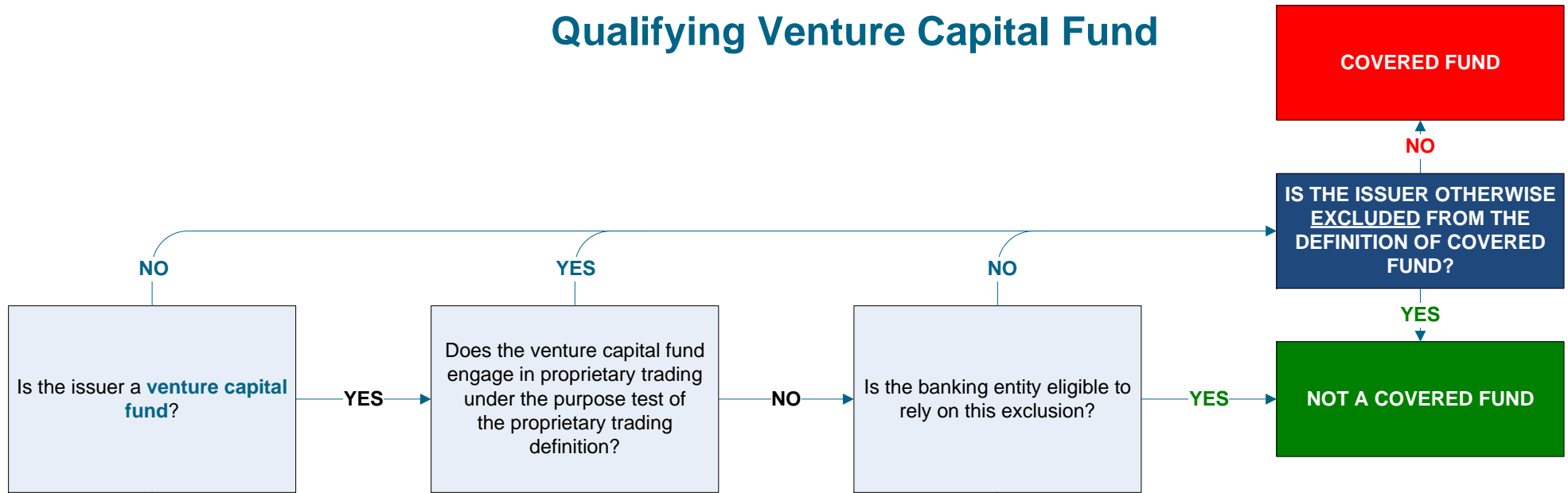
Credit Fund



EXCLUSIONS FROM THE DEFINITION OF COVERED FUND

Qualifying Venture Capital Fund

EXCLUSIONS



VENTURE CAPITAL FUND

Venture capital fund is defined by reference to Rule 203(l)-1 under the Investment Advisers Act of 1940 to include an issuer that:

- represents to investors and potential investors that it pursues a venture capital strategy;
- immediately after the acquisition of any asset, other than a “qualifying investment,” as defined in Rule 203(l)-1(c)(3), or short-term holdings, holds no more than 20% of the amount of the fund's aggregate capital contributions and uncalled committed capital in assets (other than short-term holdings) that are not qualifying investments, valued at cost or fair value, consistently applied by the fund;
- does not borrow, issue debt obligations, provide guarantees or otherwise incur leverage, in excess of 15% of the fund's aggregate capital contributions and uncalled committed capital, and any such borrowing, indebtedness, guarantee or leverage is for a non-renewable term of no longer than 120 calendar days, except that any guarantee by the fund of obligations of a qualifying portfolio company, as defined in Rule 203(l)-1(c)(4), up to the amount of the value of the fund's investment in the qualifying portfolio company is not subject to the 120 calendar day limit;
- only issues securities the terms of which do not provide a holder with any right, except in extraordinary circumstances, to withdraw, redeem or require the repurchase of such securities but may entitle holders to receive distributions made to all holders pro rata; and
- is not registered under section 8 of the Investment Company Act of 1940, and has not elected to be treated as a business development company pursuant to section 54 of that Act.

ELIGIBILITY FOR A BANKING ENTITY TO RELY ON EXCLUSION

A banking entity acting as a sponsor, investment adviser, or commodity trading advisor of the issuer must:

- provide in writing to any prospective and actual investors in the issuer the disclosures required under the **asset management exemption**;
- ensure that the activities of the issuer are consistent with safety and soundness standards that are substantially similar to those that would apply if the banking entity engaged in the activities directly; and
- comply with the requirements of **Super 23A**, except the banking entity may acquire and retain any ownership interest in the issuer.

In addition:

- the banking entity must not directly or indirectly, guarantee, assume, or otherwise insure the obligations or performance of the venture capital fund.

A banking entity's ownership interest in or relationship with a qualifying venture capital fund must:

- comply with the covered funds **backstop provisions**; and
- be conducted in compliance with, and subject to, applicable banking laws and regulations, including applicable safety and soundness standards.

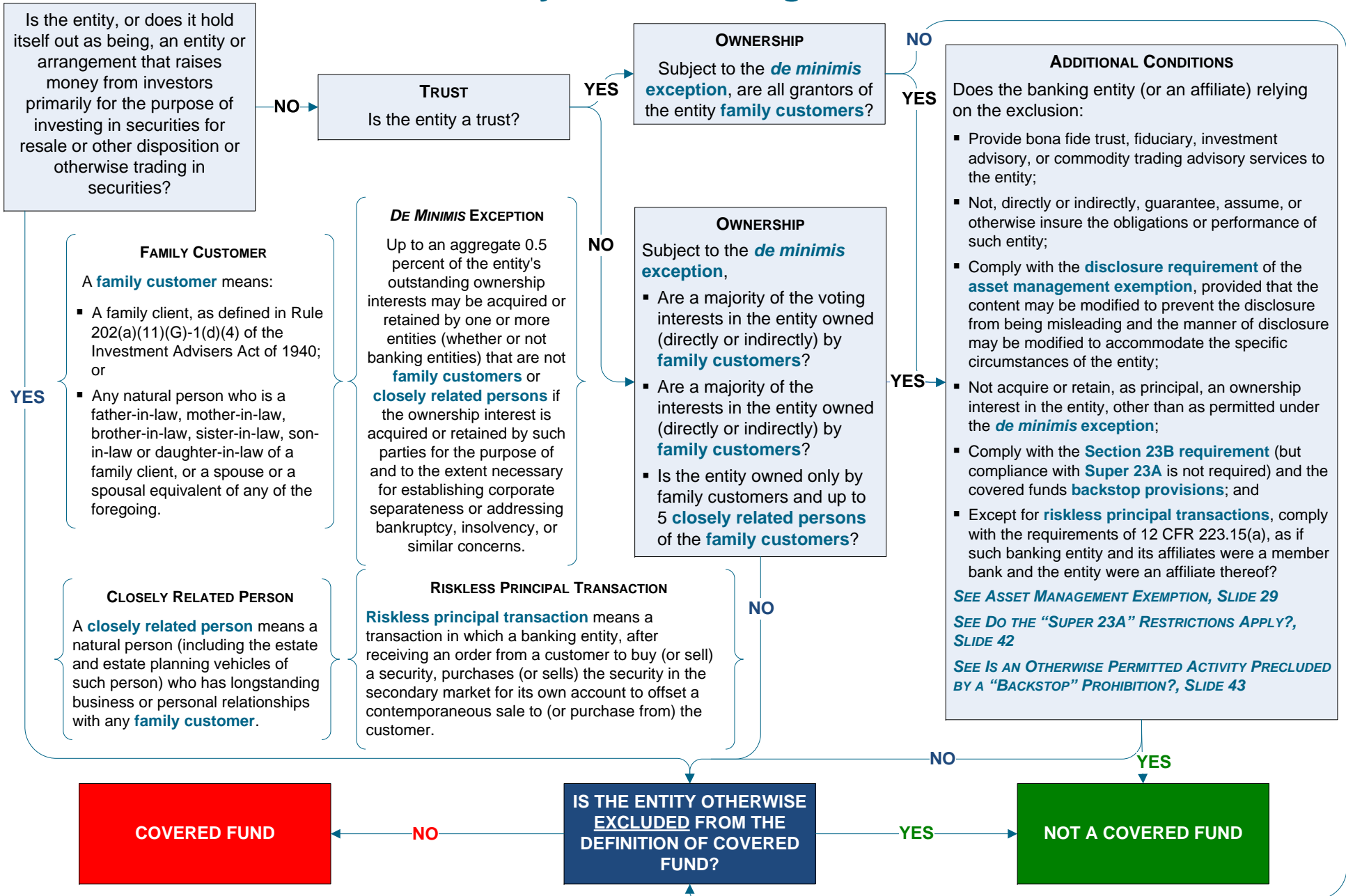
SEE ASSET MANAGEMENT EXEMPTION, SLIDE 29

SEE DO THE “SUPER 23A” RESTRICTIONS APPLY?, SLIDE 42

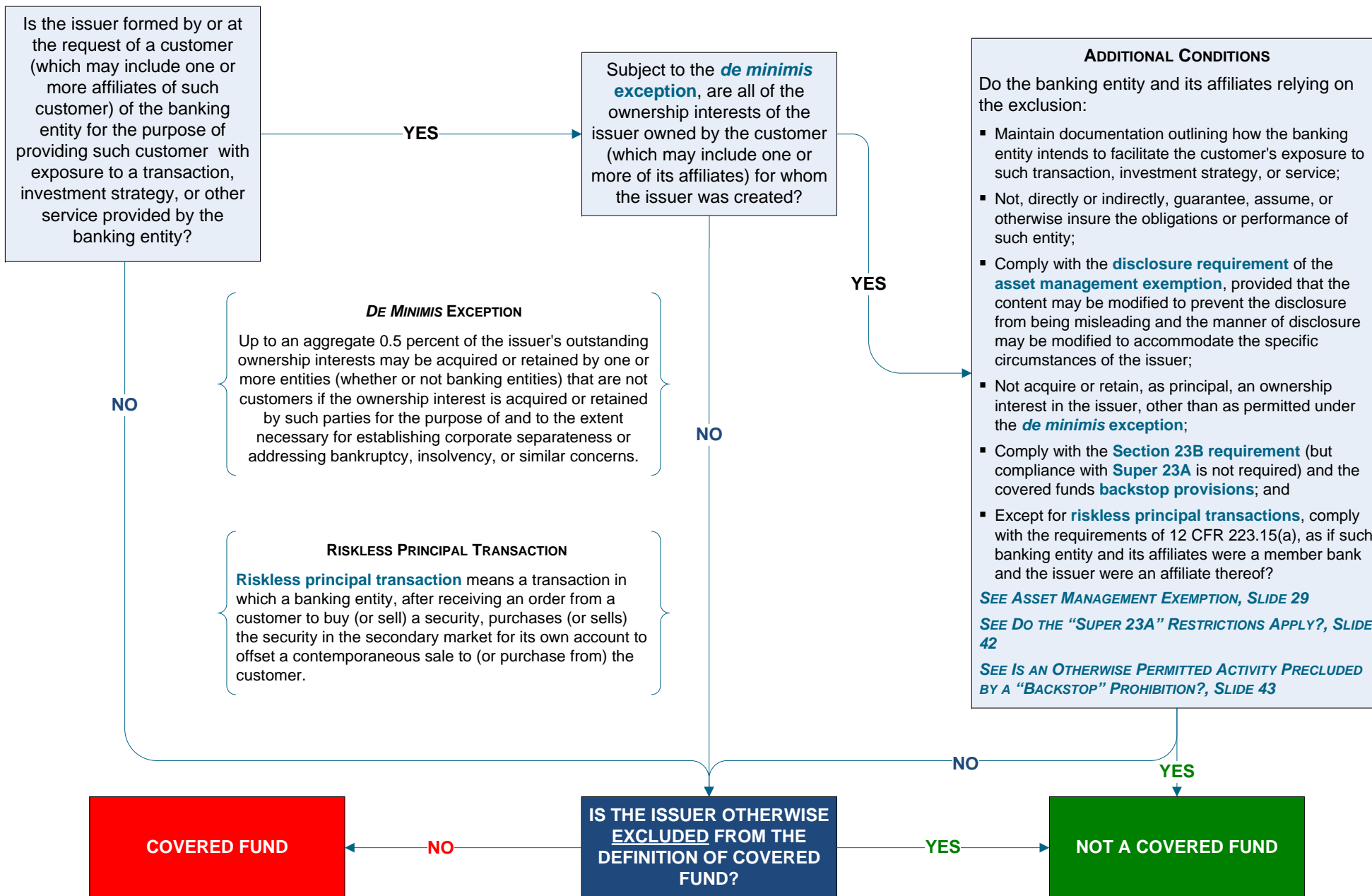
SEE IS AN OTHERWISE PERMITTED ACTIVITY PRECLUDED BY A “BACKSTOP” PROHIBITION?, SLIDE 43

EXCLUSIONS FROM DEFINITION OF COVERED FUND

Family Wealth Management Vehicle



Customer Facilitation Vehicle



PERMITTED ACTIVITIES

Asset Management Exemption

A banking entity may acquire or retain an ownership interest in, or act as a sponsor to, a covered fund, in connection with directly or indirectly organizing and offering the covered fund if:



1
PROVIDES BONA FIDE SERVICES

The banking entity or an affiliate provides *bona fide* trust, fiduciary, investment advisory or commodity trading advisory services

2
CUSTOMERS OF BONA FIDE SERVICES

The covered fund is organized and offered only in connection with the provision of *bona fide* trust, fiduciary, investment advisory or commodity trading advisory services and only to persons that are customers of such services of the banking entity or an affiliate

3
COMPLIANCE WITH INVESTMENT LIMITS

The banking entity and its affiliates do not acquire or retain an ownership interest in the covered fund other than a *de minimis* investment in compliance with investment limits

4
SUPER 23A

The banking entity and its affiliates comply with the Volcker Rule's **Super 23A** restrictions and **23B** restrictions

5
NO GUARANTEES

The banking entity and its affiliates do not, directly or indirectly, guarantee, assume or otherwise insure the obligations or performance of the covered fund or of any covered fund in which such covered fund invests

6
NO NAME SHARING

The covered fund, for corporate, marketing, promotional or other purposes, does not share the same name or a variation of the same name with the banking entity or its affiliates, except as permitted by the **name-sharing exception**, and the name of the covered fund does not include the word "bank"

7
RESTRICTIONS ON INVESTMENTS BY DIRECTORS AND EMPLOYEES

Only directors or employees of the banking entity or an affiliate directly engaged in providing investment advisory, commodity trading advisory or **other services** to the covered fund at the time the director or employee takes the ownership interest may invest in the covered fund

8
WRITTEN DISCLOSURES

The banking entity clearly and conspicuously makes certain **required written disclosures** to any prospective and actual investor in the covered fund

OTHER SERVICES

Directors and employees who provide any of the following examples of **"other services"** to a covered fund that enable the provision of investment advice or investment management — including any former director or employee who provided such services to the covered fund at the time of investment — may invest in or retain an investment in the covered fund:

- Oversight
- Risk Management
- Deal Origination
- Due Diligence
- Administrative
- Other Services

CUSTOMERS

Includes existing and new customers, but the banking entity must have a "written plan or similar documentation" outlining how the banking entity intends to provide advisory or similar services to its customers through organizing and offering the covered fund

NAME-SHARING EXCEPTION

A covered fund may share the same name or a variation of the same name with a banking entity that is an investment adviser to the covered fund if

- The investment adviser is not a **Core Banking Entity** and
- The investment adviser does not share the same name or a variation of the same name as a **Core Banking Entity**

SEE WHAT IS A BANKING ENTITY?, SLIDE 2, FOR THE DEFINITION OF CORE BANKING ENTITY

SUPER 23A, 23B

SEE DO THE "SUPER 23A" RESTRICTIONS APPLY?, SLIDE 42

INVESTMENT LIMITS AND CAPITAL DEDUCTION

SEE INVESTMENT LIMITS, SLIDES 32-36

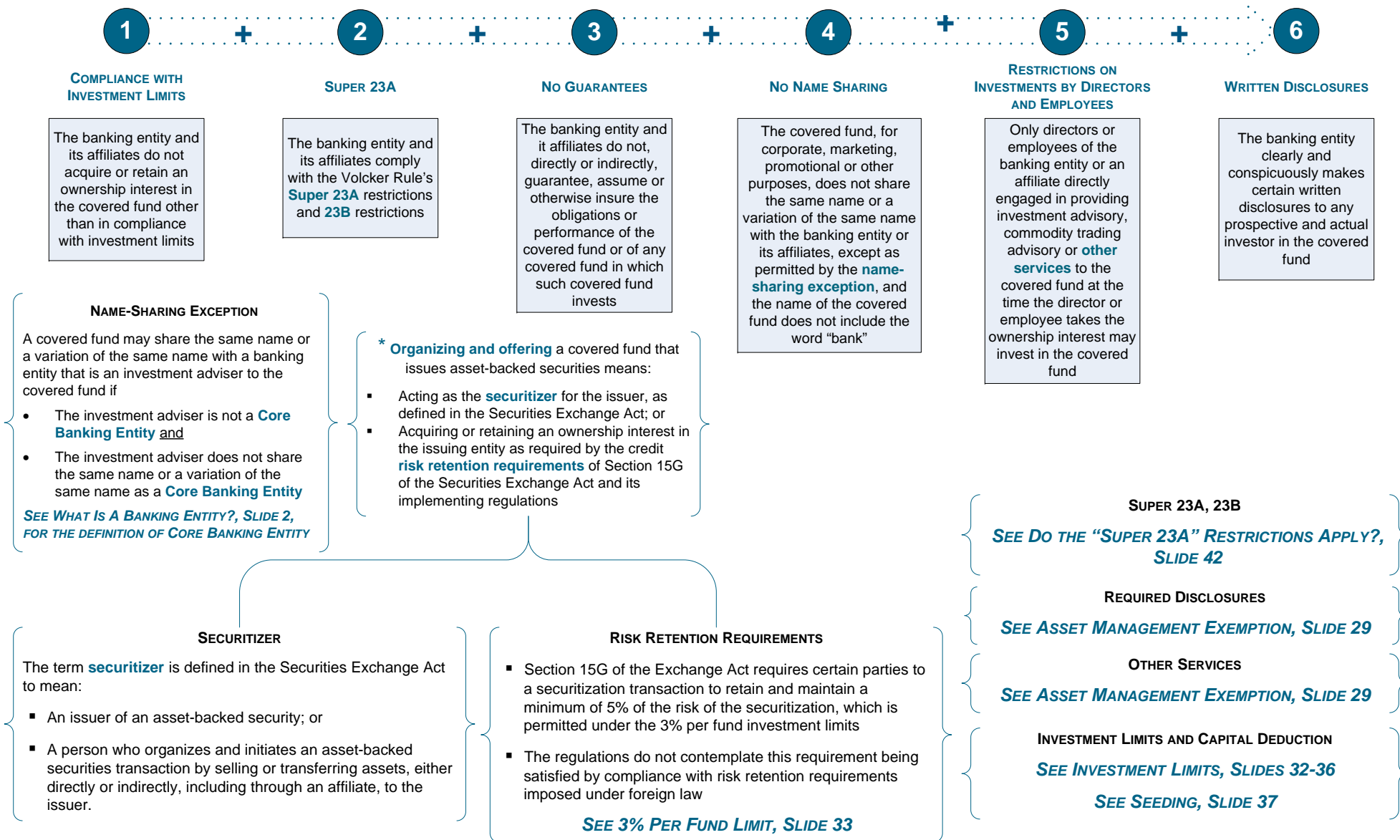
SEE SEEDING, SLIDE 37

REQUIRED DISCLOSURES

- Any losses in the covered fund will be borne solely by investors in the covered fund and not by the banking entity or its affiliates; therefore the banking entity's losses in the covered fund will be limited to losses attributable to the **ownership interests** in the covered fund held by the banking entity and any affiliate in its capacity as investor in the covered fund or as beneficiary of a carried interest held by the banking entity or any affiliate
- The prospective or actual investor should read the fund offering documents before investing in the covered fund
- Ownership interests in the covered fund are not insured by the FDIC, and are not deposits, obligations of, or endorsed or guaranteed in any way, by any banking entity (unless that happens to be the case)
- The role of the banking entity and its affiliates and employees in sponsoring or providing any services to the covered fund

PERMITTED ACTIVITIES ABS Issuer Exemption

A banking entity may acquire or retain an ownership interest in, or act as a sponsor to, a covered fund that issues **ABS** in connection with directly or indirectly **organizing and offering*** the covered fund, if:



Underwriting and Market Making Exemptions

1

A banking entity may acquire or retain ownership interests in a covered fund as underwriter or market maker if:

CONDUCTED IN ACCORDANCE WITH REQUIREMENTS APPLICABLE TO THE RELEVANT PROP TRADING PERMITTED ACTIVITY

The underwriting or market making-related activities are conducted in accordance with the requirements for permitted **underwriting** or **market making-related activities** in the proprietary trading provisions of the final regulations.

2

SUBJECT TO INVESTMENT LIMITS, AS APPLICABLE

THIRD PARTY COVERED FUNDS

The underwriting and market making exemptions apply to ownership interests in any covered fund, including covered funds organized, offered, sponsored, advised or controlled by an unaffiliated third party.

SUMMARY OF KEY APPLICABLE REQUIREMENTS – UNDERWRITING (§__.4(a))

- Banking entity is acting as an underwriter for a distribution of ownership interests in a covered fund and the trading desk's underwriting position is related to such distribution
- Amount and type of ownership interests in the trading desk's underwriting position are designed not to exceed the reasonably expected near term demands of clients, customers or counterparties
- Reasonable efforts are made to sell or otherwise reduce the underwriting position within a reasonable period
- Internal compliance program established and enforced (may include metrics requirements)
- Compensation arrangements designed not to reward or incentivize prohibited prop trading
- Banking entity is licensed or registered to engage in underwriting, if required

SUMMARY OF KEY REQUIREMENTS – MARKET MAKING (§__.4(b))

- Trading desk that acquires ownership interests in a covered fund routinely stands ready to purchase and sell such ownership interests
- Such trading desk is willing and available to quote, purchase and sell such ownership interests for its own account in commercially reasonable amounts throughout market cycles
- Amount, types and risks of ownership interests in the trading desk's market-maker inventory are designed not to exceed the reasonably expected near term demand of clients, customers or counterparties
- Internal compliance program established and enforced (may include metrics requirements)
- Prompt return to compliance when any limits exceeded
- Compensation arrangements designed not to reward or incentivize prohibited prop trading
- Banking entity is licensed or registered to engage in market making-related activities, if required

3% PER FUND LIMITS

Ownership interests acquired or retained by a banking entity are subject to the 3% per fund limits if they are or were issued by a covered fund:

- Asset management** or **ABS issuer exemptions**. For which the banking entity is a sponsor or in which the banking entity acquires and retains an ownership interest pursuant to the asset management or ABS issuer exemptions, or
- Other related covered funds. For which the banking entity is otherwise a sponsor, investment adviser or commodity trading advisor

The 3% per fund limit does not apply to ownership interests acquired or retained pursuant to the underwriting or market making exemptions in any covered fund organized and offered by the banking entity pursuant to the asset management or ABS exemptions during the **seeding period** for such fund.

The 3% per fund limit does not apply to ownership interests acquired or retained pursuant to the underwriting or market making exemptions in **third-party covered funds** or covered funds guaranteed by the banking entity.

The 3% per fund limit is calculated as of the end of each quarter, but if a banking entity becomes aware that it has exceeded the 3% limit for a given fund at any time, the agencies expect the banking entity to take steps to ensure that it complies promptly with the 3% per fund limit.

AGGREGATE 3% OF TIER 1 CAPITAL LIMIT AND CAPITAL DEDUCTIONS

- Ownership interests in any covered fund, other than a third-party covered fund or a fund guaranteed by the banking entity, which are acquired and retained by a banking entity pursuant to the underwriting or market making exemptions are subject to the aggregate 3% of Tier 1 capital limits and capital deductions.
- The aggregate 3% of Tier 1 capital limit is calculated as of the end of each quarter, but banking entities should monitor their investments in covered funds regularly and remain in compliance with the aggregate 3% of Tier 1 capital limit throughout the quarter.

SEE DAVIS POLK PROPRIETARY TRADING FLOWCHARTS, SLIDES 7-10 FOR DETAILS ON THESE PERMITTED ACTIVITIES

SEE INVESTMENT LIMITS, AND SEEDING SLIDES 32-37

PERMITTED ACTIVITIES

3% Per Fund Limit: Asset Management Exemption

Except as permitted during the **seeding period** and for **multi-tier fund investments**, the following rules apply for calculating a banking entity's ownership interests in a single covered fund that the banking entity organizes and offers or sponsors under the **asset management exemption**, including ownership interests acquired or retained under the **underwriting** or **market making exemptions**

3% PER FUND BY NUMBER AND VALUE

3% of Total Number or Value. The maximum permissible investment or other holding by a banking entity and its affiliates in a single covered fund under the asset management exemption, when aggregated with any ownership interests acquired or retained under the underwriting or market making exemptions, is 3% of the total number or value of the outstanding **ownership interests** of the covered fund (all measured without regard to funds committed but not yet called for investment):

- Total number: The total number of outstanding ownership interests held by the banking entity under the asset management, underwriting, or market making exemptions divided by the total ownership interests held by all investors or other holders in that fund
- **Total fair market value.** The aggregate fair market value of all investments or other holdings in and capital contributions made to the covered fund by the banking entity under the asset management, underwriting, or market making exemptions divided by the value of all investments or other holdings in and capital contributions made to the covered fund by all investors
 - If fair market value cannot be determined, then the value will be the historical cost basis of the investments or other holdings and capital contributions

CONSISTENCY OF CALCULATION

- Consistent with financial statements and regulatory reports. A banking entity should use the same methodology for valuing its investments and capital contributions as the banking entity uses to prepare its financial statements and regulatory reports
- Same manner and standards. Once a valuation methodology is chosen, the banking entity must calculate the value of its investment or other holding and the investments or other holdings of all others in the covered fund in the same manner and according to the same standards

TIMING

Quarterly. The 3% per fund limit is calculated as of the last day of each calendar quarter.

- 3% limit applies at all times. The 3% per fund limitations apply to investments or other holdings in covered funds under the asset management, underwriting, or market making exemptions at all times following the end of the **seeding period**
- Prompt compliance expected if 3% per fund limit exceeded. If a banking entity becomes aware that it has exceeded the 3% limit for a given fund at any time, the agencies expect the banking entity to take steps to ensure that it complies promptly with the 3% per fund limit

ATTRIBUTION *

SEE ATTRIBUTION RULES, SLIDES 35-36

OTHER 3% PER FUND LIMITS

SEE 3% PER FUND LIMIT: ABS ISSUER EXEMPTION, SLIDE 33

SEE UNDERWRITING AND MARKET MAKING EXEMPTIONS (3% PER FUND LIMITS — OTHER RELATED COVERED FUNDS), SLIDE 31

SEEDING PERIOD

SEE SEEDING, SLIDE 37

AGGREGATE 3% OF TIER 1 CAPITAL LIMIT**

SEE AGGREGATE 3% OF TIER 1 CAPITAL LIMIT, SLIDE 34

* Includes Multi-Tier Investments
** Includes Deductions from Capital

PERMITTED ACTIVITIES

3% Per Fund Limit: ABS Issuer Exemption

Except as permitted during the **seeding period** and for **multi-tier fund investments**, the following rules apply for calculating a banking entity's ownership interests in a single covered fund that the banking entity organizes and offers or sponsors under the **ABS issuer exemption**, including ownership interests acquired or retained under the **underwriting** or **market making exemptions**

3% DE MINIMIS OR 5% RISK RETENTION

The maximum permissible investment or other holding by a banking entity and its affiliates in a single covered fund organized and offered under the ABS issuer exemption, when aggregated with any ownership interests acquired or retained under the underwriting or market making exemptions, is:

- 3% of the total fair market value of the outstanding ownership interests in the fund
unless
- The banking entity and its affiliates are required to retain a greater percentage in compliance with the credit **risk retention requirements** of Section 15G of the Securities Exchange Act and its implementing regulations, in which case the investment by the banking entity and its affiliates in the covered fund may not exceed the amount, number, or value of ownership interests of the fund required thereunder.
- Risk retention requirements.** Section 15G requires certain parties to a securitization transaction to retain and maintain a minimum of 5% of the risk of the securitization
- No accommodation for foreign risk retention requirements. The regulations do not contemplate this requirement being satisfied by compliance with any risk retention requirements imposed under foreign law

VALUATION

- Fair market value of assets. The aggregate value of the outstanding ownership interests in the covered fund will be the fair market value of the assets transferred to the issuing entity of the securitization and any other assets otherwise held by the issuing entity at such time, determined in a manner that is consistent with its determination of the fair market value of those assets for financial statement purposes
- Not calculated by class or tranche. The 3% per fund limit for ownership interests in ABS issuers is calculated based only on the value of the **ownership interest** in relation to the value of all **ownership interests** in the issuing entity of the asset-backed security and are not calculated on a class by class, or tranche by tranche, basis
- Date of establishment. As of the date on which the assets were initially transferred into the ABS issuing entity or such earlier date on which the transferred assets have been valued for purposes of transfer to the covered fund
- Valuation consistency. The valuation methodology used to calculate the fair market value of the ownership interests must be the same for both the **ownership interests** held by the banking entity and the **ownership interests** held by all others in the covered fund in the same manner and according to the same standards

TIMING OF 3% PER FUND LIMIT CALCULATION:

NOT SUBJECT TO RISK RETENTION REQUIREMENTS
OR
COMPLETED PRIOR TO RISK RETENTION COMPLIANCE DATE

SUBJECT TO RISK RETENTION REQUIREMENTS AND AFTER RISK RETENTION COMPLIANCE DATE

As of the date on which the assets were initially transferred into the ABS issuing entity
or
Such earlier date on which the transferred assets have been valued for purposes of transfer to the covered fund

As of the date and pursuant to the methodology applicable pursuant to the **risk retention requirements** of section 15G of the Exchange Act and its implementing regulations

RECALCULATION ONLY UPON ADDITIONAL ISSUANCE

- Recalculation of the banking entity's 3% per fund limit is not required unless the covered fund sells additional securities

OTHER 3% PER FUND LIMITS

SEE 3% PER FUND LIMIT: ASSET MANAGEMENT EXEMPTION, SLIDE 32

SEE UNDERWRITING AND MARKET MAKING EXEMPTIONS (3% PER FUND LIMITS — OTHER RELATED COVERED FUNDS), SLIDE 31

ATTRIBUTION*

SEE ATTRIBUTION RULES, SLIDES 35-36

SEEDING PERIOD

SEE SEEDING, SLIDE 37

AGGREGATE 3% OF TIER 1 CAPITAL LIMIT**

SEE AGGREGATE 3% OF TIER 1 CAPITAL LIMIT, SLIDE 34

* Includes Multi-Tier Investments

** Includes Deductions from Capital

Aggregate 3% of Tier 1 Capital Limit/Capital Deductions

The aggregate value of all ownership interests in covered funds acquired and retained by a banking entity under the **asset management and ABS issuer exemptions**, and in related covered funds from the **underwriting and market making exemptions** will be the sum of all amounts paid or contributed by the banking entity in connection with acquiring or retaining an ownership interest in covered funds (together with any amounts of investments made by the entity, or any of its employees, in connection with obtaining a restricted profit or carried interest).

GRAPHICS ON THIS PAGE

BLUE DOTTED LINES: Entities for which aggregate 3% of Tier 1 capital limit must be calculated and complied with on a consolidated basis and investments and other holdings must be deducted from consolidated Tier 1 capital.

RED DOTTED LINES: Entities for which aggregate 3% of Tier 1 capital limit must be calculated in accordance with home country standards and complied with on a consolidated basis; no capital deduction required.

GREEN DOTTED LINES: Entities for which the aggregate limit is based on 3% of shareholders' equity, as determined under applicable accounting standards, not Tier 1 capital; no capital deduction required.

CALCULATION OF THE AGGREGATE 3% OF TIER 1 CAPITAL LIMIT

- Valuation Method. The investments or holdings are valued at historical cost.
- Monitoring. Banking entities are expected to monitor investments in covered funds regularly and remain in compliance with the limitations on covered fund investments throughout the quarter and that the agencies intend, through their respective supervisory processes, to monitor covered fund investment activity to ensure that a banking entity is not attempting to evade the requirements of the Volcker Rule.

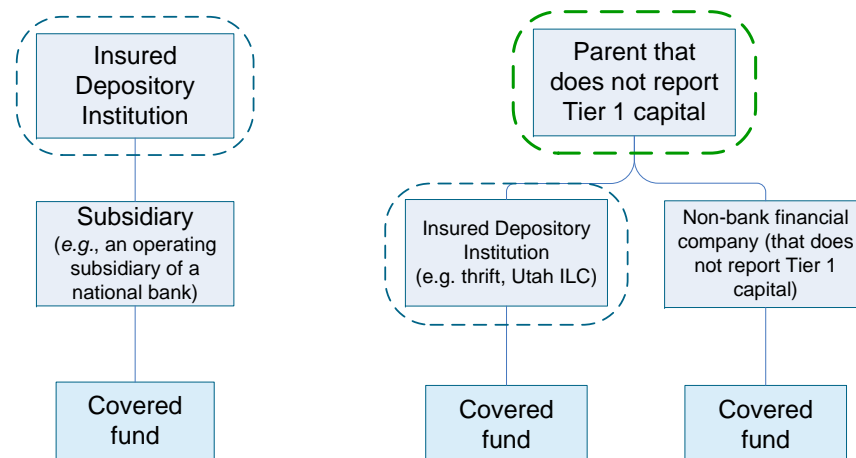
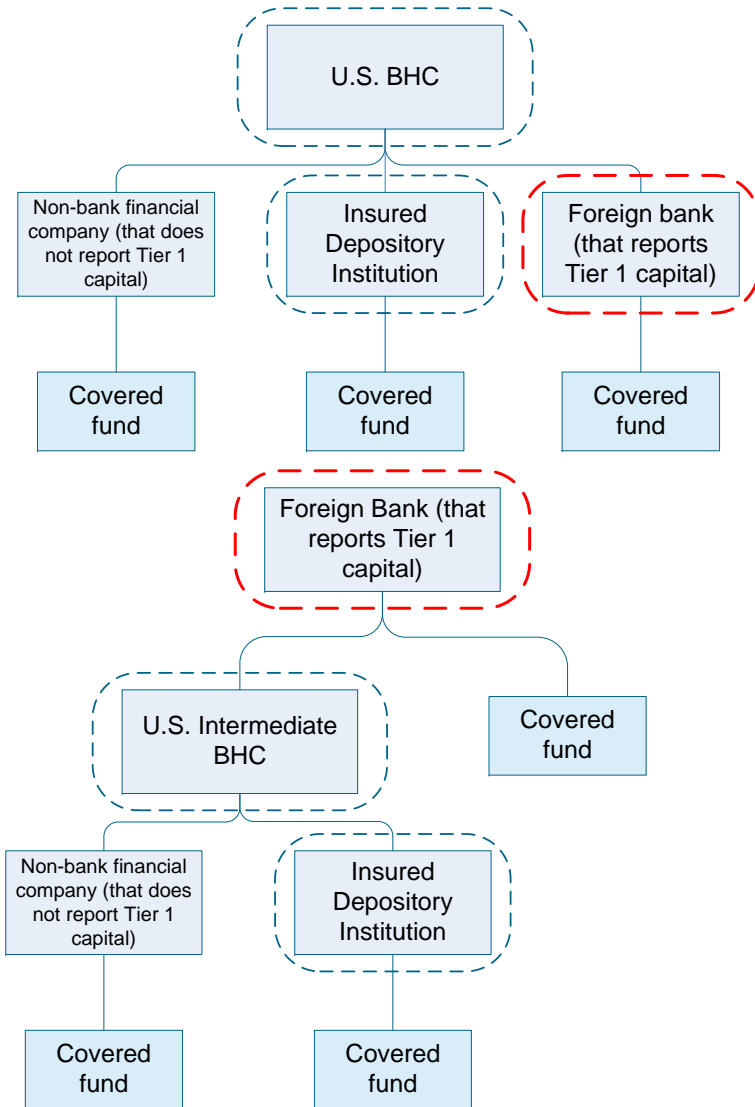
CAPITAL DEDUCTIONS

The aggregate value of all ownership interests of a banking entity and its affiliates in all covered funds acquired or retained under the asset management and ABS issuer exemptions, and in related covered funds under the underwriting or market making exemptions, must be deducted from a banking entity's Tier 1 capital.

- Valuation Method. The investments or holdings are valued at the greater of historical cost (plus earnings) and fair market value.
- Interaction with Basel III. The agencies issued guidance stating that any investment in a covered fund that is deducted from a banking entity's Tier 1 capital under Basel III because the covered fund is an unconsolidated financial institution is not required to also be deducted under the Volcker Rule, and that any amounts deducted are also excluded from the denominators of applicable risk-based capital and leverage ratios.

BOTH

- Timing. The aggregate funds limitation and capital deduction must be calculated at the end of each calendar quarter or at such other time as the appropriate Federal banking agency may request such a calculation.



Rules for Attribution of Covered Fund Ownership — Generally

GENERAL APPROACH TO ATTRIBUTION

- The agencies described their general approach to the attribution of ownership interests for purposes of the investment limits as follows:

"Under the final rule, a banking entity must account for an investment in a covered fund for purposes of the per-fund and aggregate funds limitations only if the investment is made by the banking entity or another entity controlled by that banking entity. Accordingly, the final rule does not generally require that a banking entity include the *pro rata* share of any ownership interest held by any entity that is not controlled by the banking entity, and thus reduces the potential compliance costs of the final rule. The Agencies believe that this concept of attribution is more consistent with how the [Federal Reserve] has historically applied the concept of 'control' under the BHC Act for purposes of determining whether a company subject to that Act is engaged in an activity or whether to attribute an investment to that company."

79 Fed. Reg. at 5732

COVERED FUNDS

A covered fund that is not itself a **core banking entity** is excluded from the term banking entity for the purposes of the Volcker Rule. Consequently:

- A covered fund that is not a **core banking entity** is not itself subject to the prohibitions or restrictions of the Volcker Rule, including the limits on acquiring or retaining ownership interests in another covered fund
- Subject to the special attribution rules for **master-feeder funds** and **funds-of-funds**, ownership interests acquired or retained by a covered fund that is not a **core banking entity** in another covered fund are not attributable to a banking entity that sponsors, advises or controls the covered fund

SEE WHAT IS A BANKING ENTITY?, SLIDE 2, FOR THE DEFINITION OF CORE BANKING ENTITY

RICs, BDCs AND FOREIGN PUBLIC FUNDS

For purposes of the investment limits, a registered investment company, business development company or foreign public fund is not treated as an affiliate of a banking entity, as long as the other banking entity satisfies both of the following conditions:

- Does not own, control or hold with the power to vote 25% or more the voting shares of the company or fund; and
- Any investment advisory, commodity trading advisory, administrative and other services provided by the banking entity or an affiliate to the RIC, BDC or foreign public fund is provided in compliance with any limitations under applicable regulation, order or other authority.

Consequently, subject to the special attribution rules for **master-feeder funds** and **funds-of-funds**, ownership interests acquired or retained in a covered fund by a RIC, BDC or foreign public fund are not attributable to a banking entity for purposes of the investment limits, if the banking entity satisfies both of the conditions set forth above with respect to the RIC, BDC or foreign public fund.

SEE WHAT IS A BANKING ENTITY? (RICs, BDCs OR FOREIGN PUBLIC FUNDS), SLIDE 2

SEE ATTRIBUTION RULES — MULTI-TIER FUNDS AND PARALLEL INVESTMENTS, SLIDE 36

EMPLOYEES AND DIRECTORS

For purposes of the investment limits, ownership interests acquired or retained by a director or employee of a banking entity in a covered fund sponsored by the banking entity, other than ownership interests acquired and retained in connection with obtaining a restricted profit interest (carried interest), will not be attributed to the banking entity as long as both of the following conditions are satisfied:

- The director or employee acquires such ownership interests in his or her personal capacity
- The banking entity does not, directly or indirectly, extend financing for the purpose of enabling the director or employee to acquire the ownership interest in the fund **or** the financing is not used to acquire the ownership interests

In the 2013 Final Rule preamble, the agencies:

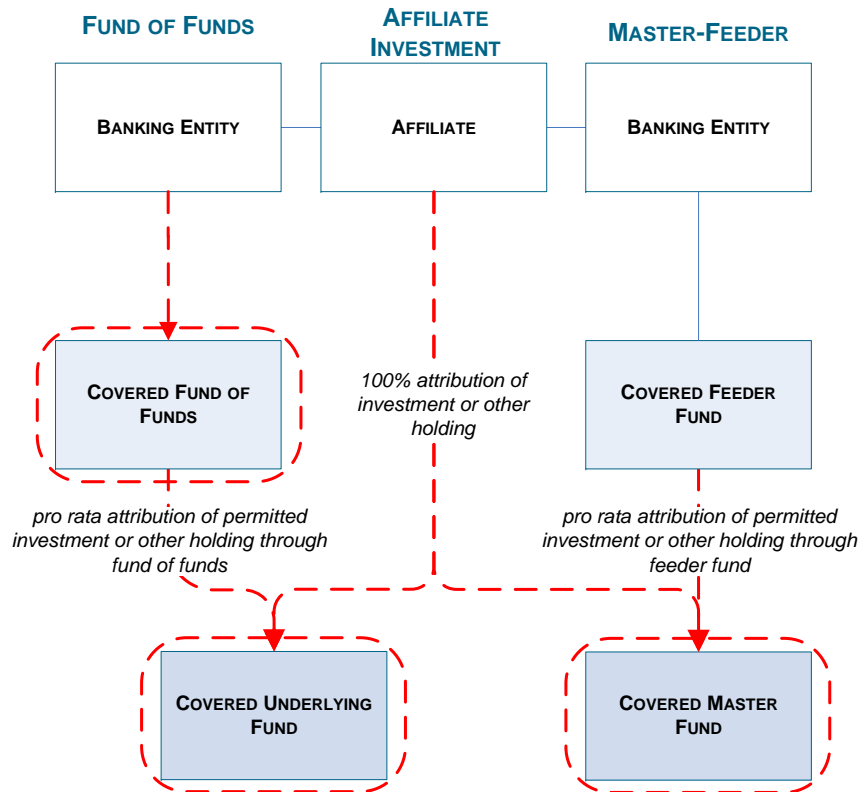
- Clarified that a guarantee by the banking entity of the director or employee's obligations on financing obtained from a third party constitutes indirect financing by the banking entity
- Explained that so long as the investments are truly made with personal resources, and are not funded by the banking entity, they would not expose the banking entity to loss
- Stated that ownership interests acquired and retained by a director or employee of a banking entity in a covered fund sponsored by the banking entity in connection with obtaining a **restricted profit interest (carried interest)** will be attributed to the banking entity, regardless of whether the banking entity finances the acquisition or retention of such ownership interests
- Stated that they intend to monitor investments by directors and employees of banking entities to ensure that investments by directors or employees are not used by banking entities to circumvent the investment limits, and that they will consider the following factors in evaluating whether any evasion is taking place:
 - Whether the benefits of the acquisition and retention, such as dividends, inure to the benefit of the director or employee and not the banking entity
 - Whether the voting or control of the ownership interests is subject to the direction of, or otherwise controlled by, the banking entity
 - Whether the director or employee, rather than the banking entity, determines whether the director or employee should make the investment.

For investments by employees of a banking entity in a covered fund organized or offered or sponsored by the banking entity, the 2020 Final Rule aligns the manner in which a banking entity calculates its **aggregate investment limit** and Volcker Rule-specific **capital deduction** consistent with the manner in which a banking entity calculates its **per fund investment limit**.

- The 2020 Final Rule preamble states that the Agencies would not expect that a direct investment by a director or employee of a banking entity in a portfolio company alongside a covered fund's investment in the same portfolio company would be treated as an investment by the director or employee in the covered fund, even if the banking entity arranged the transaction on behalf of the director or employee or provided financing for the investment or the director or employee provided no services to the covered fund. This would be true so long as the investment by the director or employee complies with applicable laws and regulations, including applicable safety and soundness standards.
- In contrast, the 2020 Final Rule attributes to a banking entity amounts paid by an employee or director to acquire a restricted profit interest in a covered fund that is organized and offered or sponsored by the banking entity when the banking entity has financed the acquisition of the interest.

PERMITTED ACTIVITIES

Attribution Rules — Multi-Tier Funds and Parallel Investments



FUND OF FUNDS INVESTMENTS

- If a banking entity organizes and offers a covered fund for the purpose of investing in other covered funds (a **fund of funds**), and the fund of funds invests in another covered fund that the banking entity is permitted to own, then the banking entity's permitted investment in the underlying fund shall include both:
 - Any investment by the banking entity in the underlying fund, plus
 - The banking entity's pro-rata share of any **ownership interest** in the underlying fund that is held through the fund of funds.
- A banking entity's investment in the fund of funds must "also meet the investment limitations contained in § __.12 of the rule text."

MASTER-FEEDER INVESTMENTS

- If the principal investment strategy of a covered fund (the **feeder fund**) organized and offered by a banking entity is to invest substantially all of its assets in another single covered fund (the **master fund**), then for purposes of the **per-fund investment limitations**, the banking entity's permitted investment in such funds shall be measured only by reference to the value of the **master fund**
- The banking entity's permitted investment in the **master fund** shall include both:
 - Any investment by the banking entity **in the master fund**, plus
 - The banking entity's pro-rata share of any **ownership interest** of the master fund that is held through the feeder fund.
- Although this attribution rule only applies by its terms to the **per fund limit**, it seems logical that it would also apply to the **aggregate limit** as a practical matter.

PARALLEL INVESTMENTS

Banking entities are not required to treat investments alongside covered funds as investments in covered funds if certain conditions are met. Specifically:

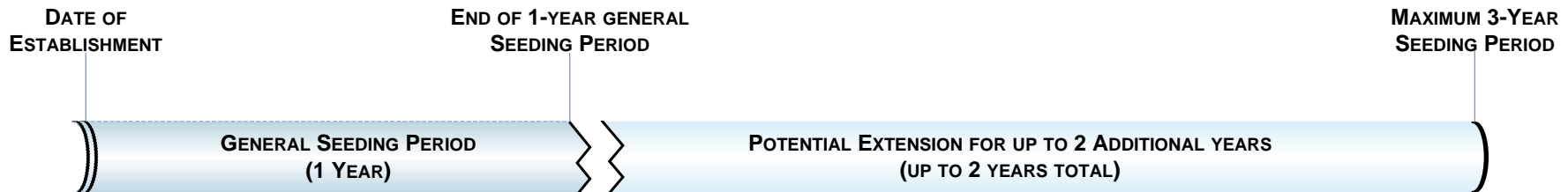
- A banking entity is not required to include in the calculation of the limits applicable to investments in covered funds pursuant to the **asset management exemption** any investment that the banking entity makes alongside a covered fund, so long as the investment is made in compliance with otherwise applicable laws and regulations, including applicable safety and soundness standards.
- A banking entity is not restricted by any such investment limits in the amount of any investment that the banking entity makes alongside the covered fund as long as the investment is made in compliance with otherwise applicable laws and regulations, including applicable safety and soundness standards.

Therefore, as explained in the 2020 Final Rule preamble:

- The Volcker Rule "will not prohibit a banking entity from having investment policies, arrangements or agreements to invest alongside a covered fund in all or substantially all of the investments made by the covered fund or to fund all or any portion of the investment opportunities made available by the covered fund to other investors" and
- "[A] banking entity could market a covered fund it organizes and offers pursuant to [the **asset management exemption**] on the basis of the banking entity's expectation that it would invest in parallel with the covered fund in some or all of the same investments, or the expectation that the banking entity would fund one or more co-investment opportunities made available by the covered fund,"

Provided that "any such investment policies, arrangements or agreements would ensure that the banking entity has the ability to evaluate each investment on a case-by-case basis to confirm that the banking entity does not make any investment unless the investment complies with applicable laws and regulations, including any applicable safety and soundness standards."

A banking entity is permitted to establish and seed a covered fund with sufficient initial capital to permit the covered fund to attract unaffiliated investors, subject to certain conditions, notwithstanding the general prohibition on investing in ownership interests in covered funds or the **3% per fund investment limits**



SEEDING PERIOD FOR COVERED FUNDS

A banking entity may provide a covered fund that it organizes and offers pursuant to the **asset management** or **ABS issuer exemptions** with seed capital if it:

- Actively seeks to reduce ownership by actively seeking unaffiliated investors to conform its investment to the **3% per fund limits**
- Conforms its investment to the **3% per fund limits** within 1 year after the date of establishment of the covered fund, or such longer period as the Federal Reserve may allow

DATE OF ESTABLISHMENT

- In general, the date on which the investment adviser or similar entity to the covered fund begins making investments pursuant to the written strategy for the fund
- For a fund organized and offered under the **ABS issuer exemption**, the date on which the assets were initially transferred into the ABS issuing entity

APPLICABLE LIMITS DURING THE SEEDING PERIOD

- A banking entity must comply with the **aggregate 3% of Tier 1 capital limit** during the seeding period
- No strict dollar limit on the amount capital a banking entity may use to seed, organize and offer a covered fund

SEE INVESTMENT LIMITS, SLIDES 32-36

EXTENSION OF SEEDING PERIOD

- Upon application by a banking entity, the Federal Reserve may extend the seeding period for up to two additional years if it finds that an extension of time would be consistent with the safety and soundness of the banking entity and not detrimental to the public interest
- An application must:
 - Be submitted at least 90 days prior to the expiration of the seeding period
 - Provide the reasons for the application
 - Explain the banking entity's plan for reducing the permitted investment in the covered fund as required by the seeding period investment limits

FACTORS IN THE REVIEW OF THE EXTENSION OF SEEDING PERIOD

In deciding whether to grant an extension, the Federal Reserve may consider all the facts and circumstances, including all of the following:

- High-risk assets or trading strategies
- Contractual terms
- Projected compliance timing
- Risks to the banking entity or financial stability
- Cost to the banking entity of divesting or disposing of the investment within the applicable period
- Conflict of interest
- Prior efforts to reduce its ownership interests in the covered fund
- Market conditions

SEEDING VEHICLES FOR RICs, BDCs AND FPFs

A seeding vehicle that is formed and operated pursuant to a written plan to become a RIC, a BDC, or an FPF, developed in accordance with the banking entity's compliance program, that reflects the banking entity's determination that the vehicle will become a RIC, BDC or FPF within the seeding period and complies with the limitations on leverage under Section 18 and Section 61 of the 1940 Act that apply to RICs and BDCs, respectively (or in the case of an FPF, with respect to leverage, the banking entity would be expected to have in place a written plan to operate the seeding vehicle in a manner consistent with the investment strategy of the issuer upon becoming a FPF) is excluded from the definition of covered fund.

A **Significant TAL Banking Entity** must maintain records with respect to such issuers that include all of the following:

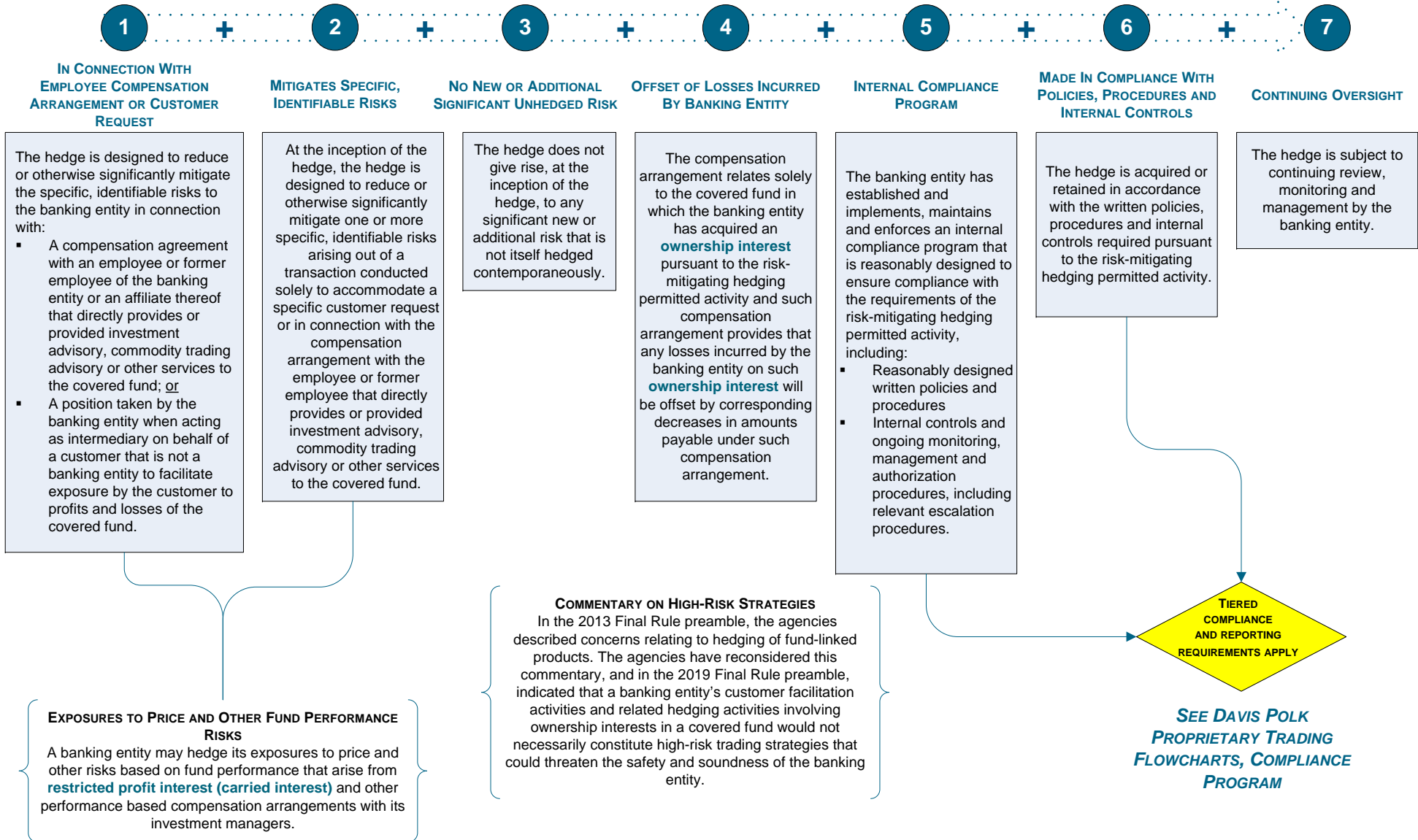
- A written plan documenting the banking entity's determination that the seeding vehicle will become a RIC, BDC or FPF
- The period of time during which the vehicle will operate as a seeding vehicle
- The banking entity's plan to market the vehicle to third-party investors and convert it into a RIC, BDC or FPF

SEE DAVIS POLK PROPRIETARY TRADING FLOWCHARTS, SLIDE 20 FOR THE DEFINITION OF A SIGNIFICANT TAL BANKING ENTITY

PERMITTED ACTIVITIES

Risk-Mitigating Hedging Exemption

A banking entity is permitted to acquire or retain ownership interests in covered funds organized and offered or sponsored by the banking entity pursuant to the asset management or ABS issuer exemptions to hedge risks in connection with an employee compensation arrangement or when acting as intermediary for a customer, provided that:



Solely Outside the U.S. Exemption: Sponsorship of or Investments in a Covered Fund by a Foreign Organized or Located Banking Entity with a Foreign Top Tier Parent

HOW TO COMPLY WITH SECTION 4(c)(9) OF THE BHC ACT FOR PURPOSES OF OFFSHORE EXEMPTION

The activity or investment is deemed to comply with the offshore exemption in the BHC Act if:

- FBOs. If the banking entity is an FBO, it meets the qualifying foreign banking organization requirements of section 211.23(a), (c) or (e) of the Federal Reserve's Regulation K.
- Non-FBOs. If the banking entity is not an FBO, then the banking entity is not organized under U.S. law and it meets at least two of the following tests on a fully consolidated basis:
 - Total assets held outside the U.S. exceed total assets held in the U.S.
 - Total revenues derived from the business of the banking entity outside the U.S. exceed total revenues derived from business in the U.S.
 - Total net income derived from the business of the banking entity outside the U.S. exceeds total net income derived from business in the U.S.
- The activity or investment is conducted in accordance with the requirements of the Volcker Rule regulations.

TARGET RESIDENTS OF THE U.S.

The sponsor of a foreign fund would **not** be viewed as “targeting” residents of the U.S. if all of the following are true:

- It conducts an offering directed to residents of one or more countries other than the U.S.
- It includes in the offering materials a prominent disclaimer that the securities are not being offered in the U.S. or to residents of the U.S.
- It includes other reasonable procedures to restrict access to offering and subscription materials to persons that are not residents of the U.S.

U.S. PERSONNEL

The personnel of any U.S. Organized or Located Banking Entities with a foreign top tier parent are permitted to act as investment adviser to a covered fund in certain circumstances.

- For instance, such personnel may provide investment advice and recommend investment selections to the manager or general partner of a covered fund so long as that investment advisory activity in the U.S. does not result in such personnel participating in the control of the covered fund or offering or selling an ownership interest to a resident of the U.S.
- Such personnel may engage in “back office” activities in connection with one or more covered funds.
- This allows administrative services or similar functions to be provided by such personnel to a covered fund as an incident to activity conducted under the offshore exemption (such as clearing and settlement, maintaining and preserving records of the fund, furnishing statistical and research data, or providing clerical support for the fund).

U.S. BANKING ENTITY
Is the banking entity located in the U.S. or organized or directly or indirectly controlled by a banking entity organized under U.S. law?

NO

4(c)(9) OF THE BHC ACT
Is the sponsorship of or acquisition or retention of an ownership interest in the covered fund by the foreign organized or located banking entity conducted or maintained pursuant to the exemptions for offshore activities and investments contained in Section 4(c)(9) of the BHC Act?

YES

OFFER OR SALE TO U.S. RESIDENT
Is any ownership interest in a covered fund sold pursuant to an offering that targets “residents of the United States”^{**} in which the banking entity or an affiliate participates? If the banking entity or an affiliate sponsors or serves, directly or indirectly, as investment manager, investment adviser, commodity pool operator or commodity trading advisor to the covered fund, the banking entity or affiliate will be deemed to participate in the offer or sale.

NO

SOLELY OUTSIDE THE U.S.
Is any sponsorship of a covered fund performed or is an ownership interest in a covered fund acquired or retained solely by a foreign organized or located banking entity with a foreign top tier parent?

- The banking entity acting as sponsor, or engaging as principal in the acquisition or retention of an ownership interest in the covered fund, must not be a **U.S. Organized or Located Banking Entity** or controlled directly or indirectly by a banking entity organized under U.S. law
- The banking entity (including relevant personnel) that makes the decision to acquire or retain the ownership interest or act as sponsor to the covered fund must not be a U.S. Organized or Located Banking Entity
- The investment or sponsorship, including any transaction arising from risk-mitigating hedging related to an ownership interest, must not be accounted for as principal directly or indirectly on a consolidated basis by any **U.S. Organized or Located Banking Entity**

YES

NO

YES

* Incorporates the definition of “U.S. person” in SEC Regulation S

YES

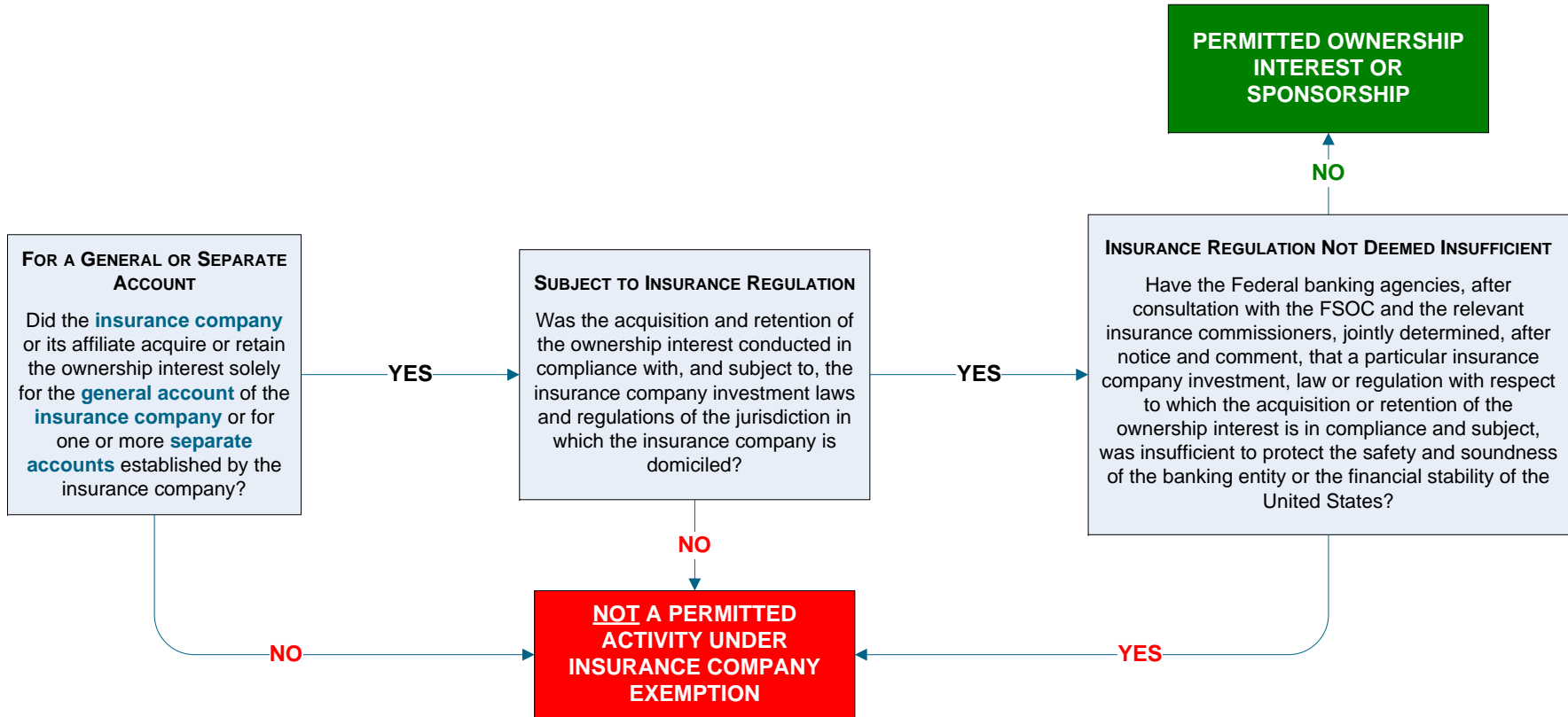
NOT A PERMITTED ACTIVITY UNDER OFFSHORE EXEMPTION

PERMITTED FOREIGN ACTIVITY

PERMITTED ACTIVITIES

Regulated Insurance Companies Exemption

An insurance company or its affiliate is permitted to acquire or retain an ownership interest in or sponsor a covered fund if the activity satisfies the following conditions:



INSURANCE COMPANY

A company that is organized as an insurance company, is primarily and predominantly engaged in writing insurance or reinsuring risks underwritten by insurance companies, subject to supervision as such by a state insurance regulator or a foreign insurance regulator, and not operated for the purpose of evading the provisions of the Volcker Rule.

GENERAL ACCOUNT

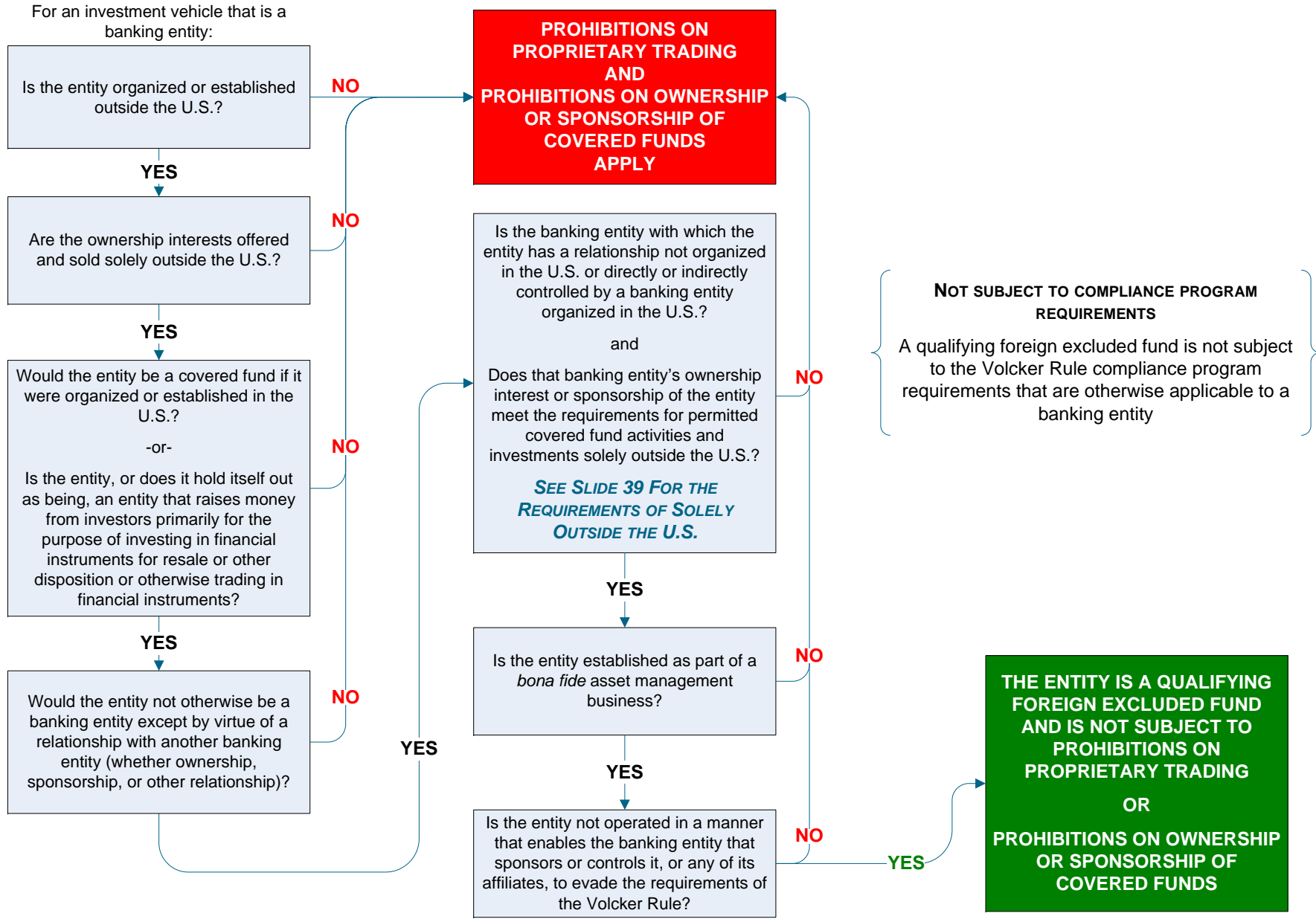
All of the assets of an insurance company except those allocated to one or more separate accounts.

SEPARATE ACCOUNT

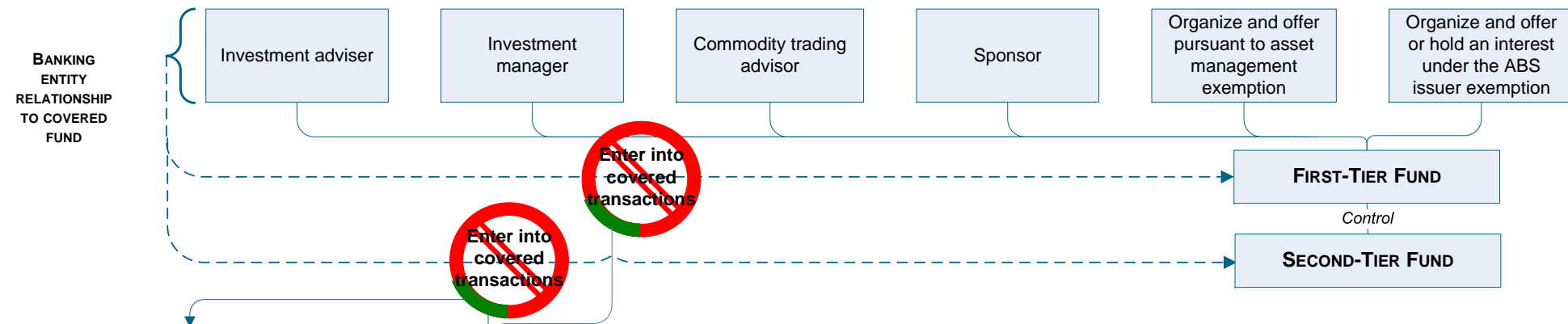
An account established and maintained by an insurance company in connection with one or more insurance contracts to hold assets that are legally segregated from the insurance company's other assets, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

PERMITTED ACTIVITIES

Qualifying Foreign Excluded Funds



No banking entity or its affiliate that serves, directly or indirectly, as the investment adviser, investment manager, commodity trading advisor, or sponsor to a covered fund, or that organizes and offers a covered fund under the **asset management** or **ABS issuer exemption**, or that retains an **ownership interest** under the **ABS issuer exemption**, may enter into a transaction with the covered fund, or with any other covered fund controlled by such covered fund, that would be a covered transaction as defined in Section 23A of the Federal Reserve Act as if the banking entity were a member bank and the related covered fund were its affiliate. Any banking entity subject to this prohibition is also subject to Section 23B of the Federal Reserve Act with respect to certain transactions as if the banking entity were a member bank and the related covered fund were its affiliate.



EXCEPTION FOR PRIME BROKERAGE TRANSACTIONS WITH ANY COVERED FUND IN WHICH A RELATED COVERED FUND HAS TAKEN AN OWNERSHIP INTEREST
subject to certain conditions

One or more products or services provided by a banking entity to a second-tier covered fund in connection with:

- Custody
- Clearance and settlement
- Securities borrowing and lending services
- Trade execution
- Financing
- Data, operational and portfolio management support

EXCEPTION FOR PAYMENT, CLEARING AND SETTLEMENT TRANSACTIONS

Extend credit to or purchase assets from a related covered fund, provided:

- The transaction is in the ordinary course of business in connection with payment transactions; settlement services; or futures, derivatives and securities clearing, and
- Each extension of credit is repaid, sold or terminated by the end of five business days, and
- The banking entity making the extension of credit satisfies the requirements of Section 223.42 of Regulation W for intraday extensions of credit, except that the extension of credit may extend beyond the banking entity's business day.

“COVERED TRANSACTIONS”

- Loans or other extensions of credit to the covered fund
- Purchases of or an investment in securities issued by the covered fund, other than ownership interests that are acquired or retained in accordance with the final rules implementing the Volcker Rule
- Acceptance of securities or other debt obligations issued by the related covered fund as collateral security for a loan or extension of credit to any person or company, except as provided by the agencies in the 2013 Final Rule preamble
- Purchases of assets, including assets subject to a repurchase agreement, from a covered fund, except certain real estate assets
- Issuances of guarantees, acceptances or letters of credit, including an endorsement or standby letter of credit, on behalf of the covered fund
- Any credit exposure to the covered fund arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction with the covered fund

EXEMPT COVERED TRANSACTIONS FOR PURPOSES OF SUPER 23A

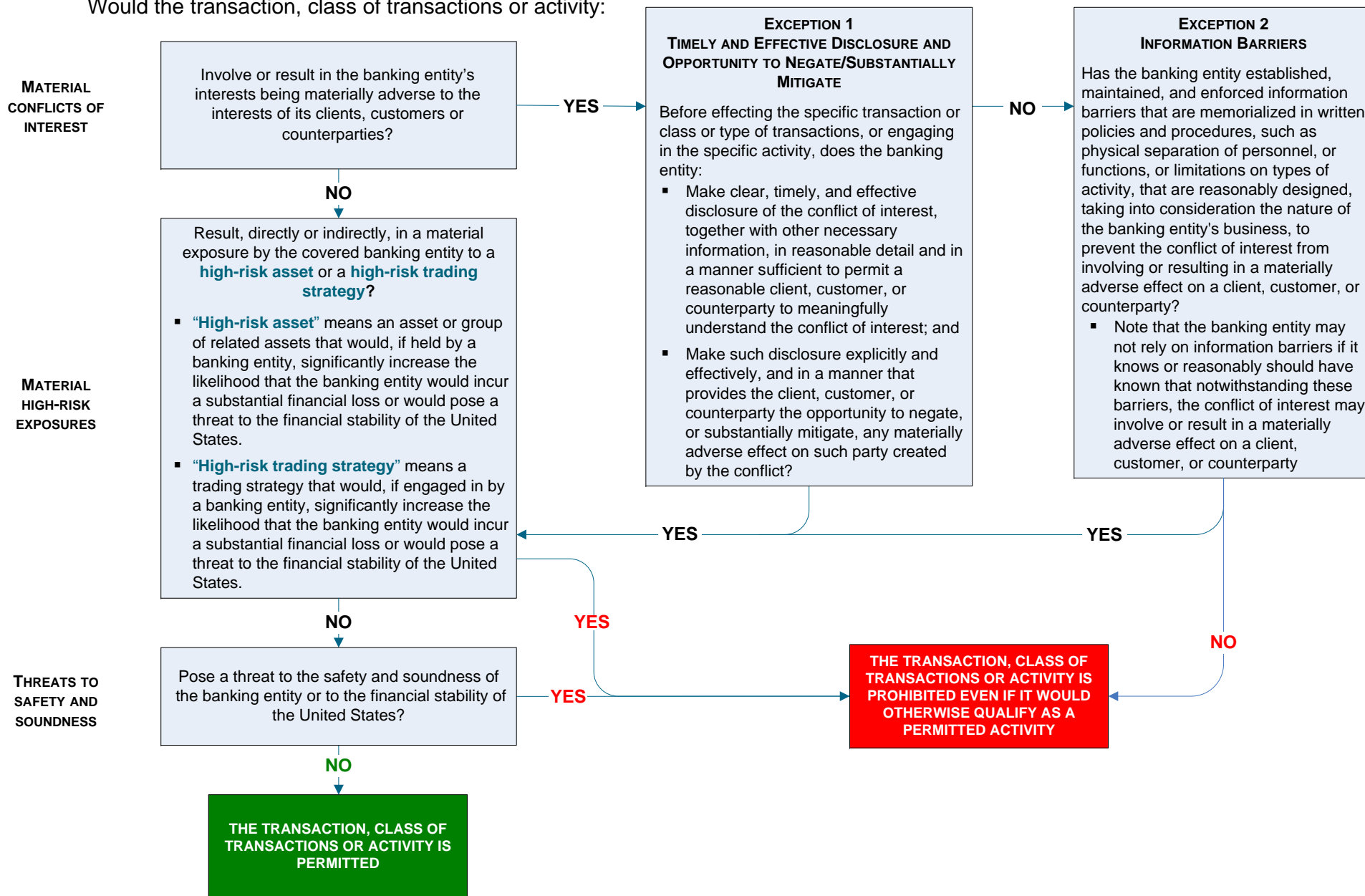
- Any transaction that would be an exempt covered transaction under Section 23A of the Federal Reserve Act or Section 223.42 of the Federal Reserve's Regulation W.
- A **riskless principal** transaction, in which a banking entity, after receiving a customer order, buys or sells a security in the secondary market for its own account to offset a contemporaneous sale or purchase from the customer (including where the covered fund is not a securities affiliate).
- An extension of credit to a third party secured by ownership interests in a related covered fund is not a covered transaction under Super 23A, unless the third party is a related covered fund.

SECTION 23B

- Any banking entity that would be prohibited from entering into a covered transaction with a related covered fund pursuant to Super 23A is subject to Section 23B of the Federal Reserve Act with respect to any of the following transactions as if the banking entity were a member bank and the related covered fund were its affiliate:
 - Sale of securities or other assets to a related covered fund, including assets subject to an agreement to repurchase
 - Payment of money or the furnishing of services to a related covered fund under contract, lease or otherwise
 - Any transaction in which a related covered fund acts as an agent or broker or receives a fee for its services to the banking entity or any other person
 - Any transaction or series of transactions with a third party if a related covered fund has an interest in the third party or if a related covered fund is a participant in such transaction or series of transactions
- Any transaction that would be subject to Super 23A but for the exception for prime brokerage transactions is also subject to the requirements in Section 23B of the Federal Reserve Act as if the banking entity were a member bank and the related covered fund were its affiliate.

IS AN OTHERWISE PERMITTED ACTIVITY PRECLUDED BY A “BACKSTOP” PROHIBITION?

Would the transaction, class of transactions or activity:



If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

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