

## Namesharing Prohibition

6. Section 351.11 of the final rule provides that a banking entity may acquire and retain an ownership interest in a covered fund that the banking entity organizes and offers, subject to a number of conditions. Among other things, these conditions require that 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 an affiliate thereof). What does it mean for a covered fund to share the same name or a variation of the same name with a banking entity?

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A covered fund that is organized and offered by “banking entity A” may not share the same name or a variation of the same name as “banking entity A,” nor may it share the same name or a variation of the same name as any affiliate of “banking entity A.” Additionally, the final rule prohibits a covered fund from using the word “bank” in its name.

Similar restrictions on a fund sharing the same name, or variation of the same name, with an insured depository institution or company that controls an insured depository institution or having the word “bank” in its name, have been used previously in order to prevent customer confusion regarding the relationship between such companies and a fund<sup>1</sup>. In order to comply with § 351.11(a)(6) of the final rule and not be considered to share the same name or variation of the same name with a banking entity, the name of a covered fund must be sufficiently distinct from the name of the banking entity that the covered fund’s use of the name would not likely lead to customer confusion regarding the relationship between the banking entity and the covered fund. For instance, a covered fund would generally be considered to share the same name or a variation of the same name with a banking entity if the name of the fund features the same root word, initials or a logo, trademark, or other corporate symbol that is also used by, or that clearly references a connection with, the banking entity, including any affiliate of the banking entity. Additionally, materials used to market, promote, or offer the fund may not contain any statements that would mislead an investor into thinking that the banking entity or any of its affiliates, directly or indirectly, guarantee, assume, or otherwise insure the obligations or performance of the covered fund or any covered fund in which such covered fund invests.

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<sup>1</sup> See, e.g., 12 CFR 225.125(f); Bank of Ireland, 82 Fed. Res. Bull. 1129, 1132 (1996).