

Stark Law Exceptions and Anti-Kickback Safe Harbors

Large Investment Interests

| <p style="text-align: center;">Stark</p> <p style="text-align: center;"><u>Stark exception to the referral prohibition related to ownership or investment interests</u></p> | <p style="text-align: center;">Anti-Kickback</p> <p style="text-align: center;"><u>Safe harbor for certain investment interests</u></p> |
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| <p>The ownership of must be of investment securities (including shares or bonds, debentures, notes, or other debt instruments) that at the time the designated health service referral was made could be purchased on the open market.</p> | <p>The investment is in an entity with more than \$50,000,000 in undepreciated net tangible assets (based on the net acquisition cost of purchasing such assets from an unrelated entity) related to the furnishing of health care items and services.</p> |
| <p>The investment securities are a) listed for trading on the New York Stock Exchange, the American Stock Exchange, or any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis; or b) traded under an automated interdealer quotation system operated by the National Association of Securities Dealers.</p> | <p>With respect to an investment interest that is an equity security, the equity security must be registered with the Securities and Exchange Commission.</p> |
| <p>The investment securities are in a corporation that had stockholder equity exceeding \$75 million at the end of the corporation's most recent fiscal year or on average during the previous 3 fiscal years. "Stockholder equity" is the difference in value between a corporation's total assets and total liabilities.</p> | <p>The investment interest of an investor in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be obtained on terms (including any direct or indirect transferability restrictions) and at a price equally available to the public when trading on a registered securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or in accordance with the National Association of Securities Dealers Automated Quotation System.</p> |
| | <p>The entity or any investor must not market or furnish the entity's items or services (or those of another entity as part of a cross referral agreement) to passive investors differently than to non- investors.</p> |

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| | The entity or any investor (or other individual or entity acting on behalf of the entity or any investor in the entity) must not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest. |
| | The amount of payment to an investor in return for the investment interest must be directly proportional to the amount of the capital investment of that investor. |

Mutual Funds

| Stark Stark exception to the referral prohibition related to ownership or investment interests for mutual funds | Anti-Kickback [No comparable safe harbor] |
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| Investment or ownership of shares in a regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986, if the company had, at the end of its most recent fiscal year, or on average during the previous 3 fiscal years, total assets exceeding \$75 million. | |

Investment Interests in Entity With Investment Interests Held by Either Active or Passive Investors

| Stark [No comparable exception] | Anti-Kickback Safe harbor for certain investment interests |
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| | The investment is in an entity which possesses investment interests that are held by either active or passive investors. |
| | No more than 40 percent of the value of the investment interests of each class of investment interests may be held in the previous fiscal year or previous 12 month period by investors who are in a position to make or influence referrals to, furnish items or services to, or otherwise generate |

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| | <p>business for the entity. Equivalent classes of equity investments may be combined, and equivalent classes of debt instruments may be combined.</p> |
| | <p>The terms on which an investment interest is offered to a passive investor, if any, who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other passive investors.</p> |
| | <p>The terms on which an investment interest is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity.</p> |
| | <p>There is no requirement that a passive investor, if any, make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for remaining as an investor.</p> |
| | <p>The entity or any investor must not market or furnish the entity's items or services (or those of another entity as part of a cross referral agreement) to passive investors differently than to non- investors.</p> |
| | <p>No more than 40 percent of the entity's gross revenue related to the furnishing of health care items and services in the previous fiscal year or previous 12-month period may come from referrals or business otherwise generated from investors.</p> |
| | <p>The entity or any investor (or other individual or entity acting on behalf of the entity or any investor in the entity) must not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or</p> |

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| | services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest. |
| | The amount of payment to an investor in return for the investment interest must be directly proportional to the amount of the capital investment (including the fair market value of any pre- operational services rendered) of that investor. |

Investment Interests in Entity Located in a Rural or Underserved Area

| Stark <u>Stark exception to the referral prohibition related to ownership or investment interests</u> | Anti-Kickback <u>Safe harbor for certain investment interests</u> |
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| An investment or ownership interest in an entity that furnishes substantially all (not less than 75 percent) of the designated health services that it furnishes to residents of a rural area and, for the 18-month period beginning on December 8, 2003 (or such other period as Congress may specify), is not a <u>specialty hospital</u> . A rural area is an area that is not an urban area as defined in Sec. 412.62(f)(1)(ii) of this chapter. | The investment is in an entity which possesses investment interests that are held by either active or passive investors and is located in an underserved area. |
| | No more than 50 percent of the value of the investment interests of each class of investments may be held in the previous fiscal year or previous 12-month period by investors who are in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for, the entity. Equivalent classes of equity investments may be combined, and equivalent classes of debt instruments may be combined. |
| | The terms on which an investment interest is offered to a passive investor, if any, who is in a position to make or influence referrals to, furnish items or services to, or |

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| | <p>otherwise generate business for the entity must be no different from the terms offered to other passive investors.</p> |
| | <p>The terms on which an investment interest is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity.</p> |
| | <p>There is no requirement that a passive investor, if any, make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for remaining as an investor.</p> |
| | <p>The entity or any investor must not market or furnish the entity's items or services (or those of another entity as part of a cross-referral agreement) to passive investors differently than to non- investors.</p> |
| | <p>At least 75 percent of the dollar volume of the entity's business in the previous fiscal year or previous 12-month period must be derived from the service of persons who reside in an underserved area or are members of medically underserved populations.</p> |
| | <p>The entity or any investor (or other individual or entity acting on behalf of the entity or any investor in the entity) must not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.</p> |
| | <p>The amount of payment to an investor in return for the investment interest must be directly proportional to the amount of the capital investment (including the fair market</p> |

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| | value of any pre- operational services rendered) of that investor. |
| | If an entity that otherwise meets all of the above standards is located in an area that was an underserved area at the time of the initial investment, but subsequently ceases to be an underserved area, the entity will be deemed to comply with this section for a period equal to the lesser of: a) the current term of the investment remaining after the date upon which the area ceased to be an underserved area; or b) three years from the date the area ceased to be an underserved area. |

Hospital Investment or Ownership

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| Stark Stark exception to the referral prohibition related to ownership or investment interests for certain hospital investments | Anti-Kickback [No comparable safe harbor] |
| <p>NOTE: This exception has been significantly changed by the Patient Protection and Affordable Care Act. Review the changes</p> <p>Investment or ownership in a hospital if: a) the referring physician is authorized to perform services at the hospital; b) effective for the 18-month period beginning on December 8, 2003 (or such other period as Congress may specify), the hospital is not a specialty hospital; and c) the ownership or investment interest is in the entire hospital and not merely in a distinct part or department of the hospital.</p> | |