36. The Committee recommends that there be statutory requirements for all directors, senior management, auditors, solicitors and associated professionals to report all related-party transactions to the BCRC.

37. All decisions of the BCRC will be reported immediately to the auditors, to the audit committee of the financial institution and to the members of the board of directors.

Tier Three: Pre-Clearance with the Primary Regulator

38. The third tier is a provision for pre-clearance with the primary regulator for certain sorts of self-dealing transactions. Such transactions would include:

- NALTs involving particularly sensitive assets such as real estate, or closely-held corporations or other generally illiquid assets for which there is no reliable independent basis of evaluation;
- individual transactions over a certain size or cumulative NALTs over a certain percentage of assets; and
- all NALTs for a specified period of time after the establishment of a new financial institution or upon a change in control of an existing financial institution.

Redress and Safeguards

39. The Committee proposes that, upon the application of a member of the public or the regulatory authorities, the legislation confer on the courts the power to set aside improper related-party transactions and to direct that the related party account to the institution for any profit or gain realized in such transaction. This type of remedy is already available under the *Canadian Business Corporation Act* (CBCA), but it should apply to all regulated financial institutions.

Recapitulation

40. The Committee believes that with these provisions in place, all third parties and regulators will have a high degree of assurance that any and all self-dealing transactions are in the best interests of the institution, its shareholders, and its customers and are being carried out at prices that would fairly reflect those which would occur in arm's-length or market transactions.

41. Beyond some learning period, the Committee is of the view that financial institutions will be able to cope rather well with these provisions. Undoubtedly, it will be the case that these institutions will henceforth have to conduct their affairs with considerably more concern for their customers and minority shareholders. However, this is entirely appropriate since, as will be detailed later, the *quid pro quo* is greater flexibility and maneuverability in the market-place.

F. SELF-DEALING WITHIN A CONGLOMERATE

Should Holding Companies be Regulated?

42. The regulation of financial holding companies would add yet another substantial layer to the regulatory process. To the extent that the rationale for this is to control self-dealing, we believe that the concern is unwarranted given