Board of Governors of the Federal Reserve System

Regulation O
Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks

12 CFR 215; as amended effective May 21, 2021

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AUTHORITY: 12 U.S.C. 248(a), 375a(10), 375b(9) and (10), 1468, 1817(k), 5412; and Pub. L. 102-242, 105 Stat. 2236 (1991) (12 U.S.C. 1811 note).

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SECTION 215.1—Authority, Purpose, and Scope

(a) *Authority.* This part is issued pursuant to sections 11(a), 22(g), and 22(h) of the Federal Reserve Act (12 U.S.C. 248(a), 375a, and 375b), 12 U.S.C. 1817(k), and section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102-242, 105 Stat. 2236 (1991)), section 11 of the Home Owners' Loan Act (12 U.S.C. 1468), and section 312(b)(2)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5412).

(b) *Purpose and scope.*

(1) This part governs any extension of credit made by a member bank to an executive officer, director, or principal shareholder of the member bank, of any company of which the member bank is a subsidiary, and of any other subsidiary of that company.

(2) This part also applies to any extension of credit made by a member bank to a company controlled by such a person, or to a political or campaign committee that benefits or is controlled by such a person.

(3) This part also implements the reporting requirements of 12 U.S.C. 1817(k) concerning extensions of credit by a member bank to its executive officers or principal shareholders (or to the related interests of such persons).

(4) Extensions of credit made to an executive officer, director, or principal shareholder of a bank (or to a related interest of such person) by a correspondent bank also are subject to restrictions set forth in 12 U.S.C. 1972(2).

3–961

SECTION 215.2—Definitions

For the purpose of this part, the following definitions apply unless otherwise specified:

(a) *Affiliate* means any company of which a member bank is a subsidiary or any other subsidiary of that company.

(b) *Company* means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein. However, the term does not include —

(1) an insured depository institution (as defined in 12 U.S.C. 1813) or

(2) a corporation the majority of the shares of which are owned by the United States or by any state.

3–962

(c) (1) *Control of a company or bank* means that a person directly or indirectly, or acting through or in concert with one or more persons—

(i) owns, controls, or has the power to

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vote 25 percent or more of any class of voting securities of the company or bank;

(ii) controls in any manner the election of a majority of the directors of the company or bank; or

(iii) has the power to exercise a controlling influence over the management or policies of the company or bank.

(2) A person is presumed to have control, including the power to exercise a controlling influence over the management or policies, of a company or bank if —

(i) the person is—

(A) an executive officer or director of the company or bank and

(B) directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of the company or bank; or

(ii) (A) the person directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of the company or bank, and

(B) no other person owns, controls, or has the power to vote a greater percentage of that class of voting securities.

(3) An individual is not considered to have control, including the power to exercise a controlling influence over the management or policies, of a company or bank solely by virtue of the individual's position as an officer or director of the company or bank.

(4) A person may rebut a presumption established by paragraph (c)(2) of this section by submitting to the appropriate federal banking agency (as defined in 12 U.S.C. 1813(q)) written materials that, in the agency's judgment, demonstrate an absence of control.

3–963

(d) (1) *Director* of a company or bank means any director of the company or bank, whether or not receiving compensation. An advisory director is not considered a director if the advisory director—

(i) is not elected by the shareholders of the company or bank,

(ii) is not authorized to vote on matters before the board of directors, and

(iii) provides solely general policy advice to the board of directors.

(2) Extensions of credit to a director of an affiliate of a bank are not subject to sections 215.4, 215.6, and 215.8 if—

(i) the director of the affiliate is excluded, by resolution of the board of directors or by the bylaws of the bank, from participation in major policymaking functions of the bank, and the director does not actually participate in such functions;

(ii) the affiliate does not control the bank;

(iii) as determined annually, the assets of the affiliate do not constitute more than 10 percent of the consolidated assets of the company that—

(A) controls the bank; and

(B) is not controlled by any other company; and

(iv) the director of the affiliate is not otherwise subject to sections 215.4, 215.6, and 215.8.

(3) For purposes of paragraph (d)(2)(i) of this section, a resolution of the board of directors or a corporate bylaw may—

(i) include the director (by name or by title) in a list of persons excluded from participation in such functions; or

(ii) not include the director in a list of persons authorized (by name or by title) to participate in such functions.

3–964

(e) (1) *Executive officer* of a company or bank means a person who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the company or bank, whether or not the officer has an official title, the title designates the officer an assistant, or the officer is serving without salary or other compensation[1] The chairman

[1] The term is not intended to include persons who may have official titles and may exercise a certain measure of discretion in the performance of their duties, including discretion in the making of loans, but who do not participate in the determination of major policies of the bank or company and whose decisions are limited by policy standards fixed by the senior management of the bank or company. For example, the term does not include a manager or assistant manager of a branch of a bank unless that individual

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of the board, the president, every vice president, the cashier, the secretary, and the treasurer of a company or bank are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or company, from participation (other than in the capacity of a director) in major policymaking functions of the bank or company, and the officer does not actually participate therein.

(2) Extensions of credit to an executive officer of an affiliate of a bank are not subject to sections 215.4, 215.6, and 215.8 if—

(i) the executive officer is excluded, by resolution of the board of directors or by the bylaws of the bank, from participation in major policymaking functions of the bank, and the executive officer does not actually participate in such functions;

(ii) the affiliate does not control the bank;

(iii) as determined annually, the assets of the affiliate do not constitute more than 10 percent of the consolidated assets of the company that—

(A) controls the bank; and

(B) is not controlled by any other company; and

(iv) the executive officer of the affiliate is not otherwise subject to sections 215.4, 215.6, and 215.8.

(3) For purposes of paragraphs (e)(1) and (e)(2)(i) of this section, a resolution of the board of directors or a corporate bylaw may—

(i) include the executive officer (by name or by title) in a list of persons excluded from participation in such functions; or

(ii) not include the executive officer in a list of persons authorized (by name or by title) to participate in such functions.

3–964.1

(f) *Foreign bank* has the meaning given in 12 U.S.C. 3101(7).

(g) *Immediate family* means the spouse of an individual, the individual's minor children, and any of the individual's children (including adults) residing in the individual's home.

(h) *Insider* means an executive officer, director, or principal shareholder, and includes any related interest of such a person.

3–965

(i) *Lending limit.* The lending limit for a member bank is an amount equal to the limit of loans to a single borrower established by section 5200 of the Revised Statutes,[2] 12 U.S.C. 84. This amount is 15 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are not fully secured, and an additional 10 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the loan. The lending limit also includes any higher amounts that are permitted by section 5200 of the Revised Statutes for the types of obligations listed therein as exceptions to the limit. A member bank's unimpaired capital and unimpaired surplus equals:

(1) the bank's tier 1 and tier 2 capital included in the bank's risk-based capital under the capital rule of the appropriate Federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3); and

(2) the balance of the bank's allowance for loan and lease losses or adjusted allowance for credit losses, as applicable, not included in the bank's tier 2 capital for purposes of the calculation of risk-based capital under the capital rule of the appropriate Federal banking agency, based on the bank's most recent consolidated reports of condition filed under 12 U.S.C. 1817(a)(3).

(3) Notwithstanding paragraphs (i)(1) and (2) of this section, for a member bank that is a qualifying community banking organization

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participates, or is authorized to participate, in major policymaking functions of the bank or company.

[2] Where State law establishes a lending limit for a State member bank that is lower than the amount permitted in section 5200 of the Revised Statutes, the lending limit established by applicable State laws shall be the lending limit for the State member bank.

(as defined in section 217.12 of this chapter) that is subject to the community bank leverage ratio framework (as defined in section 217.12 of this chapter), unimpaired capital and unimpaired surplus equals tier 1 capital (as defined in section 217.12 of this chapter and calculated in accordance with section 217.12(b) of this chapter) plus allowances for loan and lease losses or adjusted allowance for credit losses, as applicable.

3–966

(j) *Member bank* means any banking institution that is a member of the Federal Reserve System, including any subsidiary of a member bank. The term does not include any foreign bank that maintains a branch in the United States, whether or not the branch is insured (within the meaning of 12 U.S.C. 1813(s)) and regardless of the operation of 12 U.S.C. 1813(h) and 12 U.S.C. 1828(j)(3)(B).

(k) *Pay an overdraft on an account* means to pay an amount upon the order of an account holder in excess of funds on deposit in the account.

(*l*) *Person* means an individual or a company.

3–967

(m) (1) *Principal shareholder* means a person (other than an insured bank) that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. Shares owned or controlled by a member of an individual's immediate family are considered to be held by the individual.

(2) A principal shareholder of a member bank does not include a company of which a member bank is a subsidiary.

(n) *Related interest* of a person means—

(1) a company that is controlled by that person or

(2) a political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

(o) *Subsidiary* has the meaning given in 12 U.S.C. 1841(d), but does not include a subsidiary of a member bank.

3–968

SECTION 215.3—Extension of Credit

(a) An extension of credit is a making or renewal of any loan, a granting of a line of credit, or an extending of credit in any manner whatsoever, and includes—

(1) a purchase under repurchase agreement of securities, other assets, or obligations;

(2) an advance by means of an overdraft, cash item, or otherwise;

(3) issuance of a standby letter of credit (or other similar arrangement regardless of name or description) or an ineligible acceptance, as those terms are defined in section 208.24 of this part;

(4) an acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which an insider may be liable as maker, drawer, endorser, guarantor, or surety;

(5) an increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for—

(i) accrued interest or

(ii) taxes, insurance, or other expenses incidental to the existing indebtedness;

(6) an advance of unearned salary or other unearned compensation for a period in excess of 30 days; and

(7) any other similar transaction as a result of which a person becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

3–969

(b) An extension of credit does not include—

(1) an advance against accrued salary or other accrued compensation, or an advance for the payment of authorized travel or other expenses incurred or to be incurred on behalf of the bank;

(2) a receipt by a bank of a check deposited in or delivered to the bank in the usual course of business unless it results in the carrying of a cash item for or the granting of an overdraft (other than an inadvertent overdraft in a limited amount that is

promptly repaid, as described in section 215.4(e) of this part;

(3) an acquisition of a note, draft, bill of exchange, or other evidence of indebtedness through—

(i) a merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or similar organization or

(ii) foreclosure on collateral or similar proceeding for the protection of the bank, provided that such indebtedness is not held for a period of more than three years from the date of the acquisition, subject to extension by the appropriate federal banking agency for good cause;

(4) (i) an endorsement or guarantee for the protection of a bank of any loan or other asset previously acquired by the bank in good faith or

(ii) any indebtedness to a bank for the purpose of protecting the bank against loss or of giving financial assistance to it;

(5) indebtedness of $15,000 or less arising by reason of any general arrangement by which a bank—

(i) acquires charge or time credit accounts or

(ii) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar open-end credit plan, provided—

(A) the indebtedness does not involve prior individual clearance or approval by the bank other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and

(B) the indebtedness is incurred under terms that are not more favorable than those offered to the general public;

(6) indebtedness of $5,000 or less arising by reason of an interest-bearing overdraft credit plan of the type specified in section 215.4(e);

(7) a discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, without recourse; or

(8) except for purposes of section 215.5 of this part, a loan:

(i) made pursuant to the ''Paycheck Protection Program'' in which the participation by the Small Business Administration on a deferred basis is 100 percent;

(ii) for which material terms, including the maturity and the interest rate, are set by the Small Business Administration;

(iii) that is made during the ''covered period,'' as that term is defined in 15 U.S.C. 636(a)(36)(A)(iii), but in no case later than March 31, 2022; and

(iv) that would not be prohibited by 13 CFR 120.110(o) or rules or interpretations thereof issued by the Small Business Administration.

3–970

(c) Non-interest-bearing deposits to the credit of a bank are not considered loans, advances, or extensions of credit to the bank of deposit; nor is the giving of immediate credit to a bank upon uncollected items received in the ordinary course of business considered to be a loan, advance, or extension of credit to the depositing bank.

(d) For purposes of section 215.4 of this part, an extension of credit by a member bank is considered to have been made at the time the bank enters into a binding commitment to make the extension of credit.

(e) A participation without recourse is considered to be an extension of credit by the participating bank, not by the originating bank.

(f) *Tangible-economic-benefit rule.*

(1) *In general.* An extension of credit is considered made to an insider to the extent that the proceeds are transferred to the insider or are used for the tangible economic benefit of the insider.

(2) *Exception.* An extension of credit is not considered made to an insider under paragraph (f)(1) of this part if—

(i) the credit is extended on terms that would satisfy the standard set forth in section 215.4(a) of this part for extensions of credit to insiders; and

(ii) the proceeds of the extension of credit are used in a *bona fide* transaction to acquire property, goods, or services from the insider.

3–971

SECTION 215.4—General Prohibitions

(a) *Terms and creditworthiness.*

(1) *In general.* No member bank may extend credit to any insider of the bank or insider of its affiliates unless the extension of credit—

(i) is made on substantially the same terms (including interest rates and collateral) as, and following credit-underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this part and who are not employed by the bank, and

(ii) does not involve more than the normal risk of repayment or present other unfavorable features.

3–971.1

(2) *Exception.* Nothing in this paragraph (a) or paragraph (e)(2)(ii) shall prohibit any extension of credit made pursuant to a benefit or compensation program—

(i) that is widely available to employees of the member bank and, in the case of extensions of credit to an insider of its affiliates, is widely available to employees of the affiliates at which that person is an insider; and

(ii) that does not give preference to any insider of the member bank over other employees of the member bank and, in the case of extensions of credit to an insider of its affiliates, does not give preference to any insider of its affiliates over other employees of the affiliates at which that person is an insider.

3–972

(b) *Prior approval.*

(1) No member bank may extend credit (which term includes granting a line of credit) to any insider of the bank or insider of its affiliates in an amount that, when aggregated with the amount of all other extensions of credit to that person and to all related interests of that person, exceeds the higher of $25,000 or 5 percent of the member bank's unimpaired capital and unimpaired surplus, unless—

(i) the extension of credit has been approved in advance by a majority of the entire board of directors of that bank, and

(ii) the interested party has abstained from participating directly or indirectly in the voting.

(2) In no event may a member bank extend credit to any insider of the bank or insider of its affiliates in an amount that, when aggregated with all other extensions of credit to that person, and all related interests of that person, exceeds $500,000, except by complying with the requirements of this paragraph (b).

(3) Approval by the board of directors under paragraphs (b)(1) and (b)(2) of this section is not required for an extension of credit that is made pursuant to a line of credit that was approved under paragraph (b)(1) of this section within 14 months of the date of the extension of credit. The extension of credit must also be in compliance with the requirements of section 215.4(a) of this part.

(4) Participation in the discussion, or any attempt to influence the voting, by the board of directors regarding an extension of credit constitutes indirect participation in the voting by the board of directors on an extension of credit.

3–973

(c) *Individual lending limit.* No member bank may extend credit to any insider of the bank or insider of its affiliates in an amount that, when aggregated with the amount of all other extensions of credit by the member bank to that person and to all related interests of that person, exceeds the lending limit of the member bank specified in section 215.2(i) of this part. This prohibition does not apply to an extension of credit by a member bank to a company of which the member bank is a subsidiary or to any other subsidiary of that company.

3–973.1

(d) *Aggregate lending limit.*

(1) *General limit.* A member bank may not extend credit to any insider of the bank or

insider of its affiliates unless the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to all such insiders, does not exceed the bank's unimpaired capital and unimpaired surplus (as defined in section 215.2(i) of this part).

(2) *Member banks with deposits of less than $100,000,000.*

(i) A member bank with deposits of less than $100,000,000 may by resolution of its board of directors increase the general limit specified in paragraph (d)(1) of this section to a level not to exceed two times the bank's unimpaired capital and unimpaired surplus, if—

(A) the board of directors determines that such higher limit is consistent with prudent, safe, and sound banking practices in light of the bank's experience in lending to its insiders and is necessary to attract or retain directors or to prevent restricting the availability of credit in small communities;

(B) the resolution sets forth the facts and reasoning on which the board of directors bases the finding, including the amount of the bank's lending to its insiders as a percentage of the bank's unimpaired capital and unimpaired surplus as of the date of the resolution;

(C) the bank meets or exceeds, on a fully phased-in basis, all applicable capital requirements established by the appropriate federal banking agency; and

(D) the bank received a satisfactory composite rating in its most recent report of examination.

(ii) If a member bank has adopted a resolution authorizing a higher limit pursuant to paragraph (d)(2)(i) of this section and subsequently fails to meet the requirements of paragraphs (d)(2)(i)(C) or (d)(2)(i)(D) of this section, the member bank shall not extend any additional credit (including a renewal of any existing extension of credit) to any insider of the bank or its affiliates unless such extension or renewal is consistent with the general limit in paragraph (d)(1) of this section.

3–973.2

(3) *Exceptions.*

(i) The general limit specified in paragraph (d)(1) of this section does not apply to the following:

(A) extensions of credit secured by a perfected security interest in bonds, notes, certificates of indebtedness, or Treasury bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States;

(B) extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission or establishment of the United States or any corporation wholly owned directly or indirectly by the United States;

(C) extensions of credit secured by a perfected security interest in a segregated deposit account in the lending bank; or

(D) extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper that is acquired from an insider and carries a full or partial recourse endorsement or guarantee by the insider, provided that—

(*1*) the financial condition of each maker of such consumer paper is reasonably documented in the bank's files or known to its officers;

(*2*) an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of the obligation and not upon any endorsement or guarantee by the insider; and

(*3*) the maker of the instrument is not an insider.

(ii) The exceptions in paragraphs (d)(3)(i)(A) through (d)(3)(i)(C) of this section apply only to the amount of such extensions of credit that are secured in the manner described herein.

3–974

(e) *Overdrafts.*

(1) No member bank may pay an overdraft of an executive officer or director of the bank or executive officer or director of its affiliates[3] on an account at the bank, unless the payment of funds is made in accordance with—

(i) a written, preauthorized, interest bearing extension of credit plan that specifies a method of repayment or

(ii) a written, preauthorized transfer of funds from another account of the account holder at the bank.

(2) The prohibition in paragraph (e)(1) of this section does not apply to payment of inadvertent overdrafts on an account in an aggregate amount of $1,000 or less, provided—

(i) the account is not overdrawn for more than five business days, and

(ii) the member bank charges the executive officer or director the same fee charged any other customer of the bank in similar circumstances.

3–975

SECTION 215.5—Additional Restrictions on Loans to Executive Officers of Member Banks

The following restrictions on extensions of credit by a member bank to any of its executive officers apply in addition to any restrictions on extensions of credit by a member bank to insiders of itself or its affiliates set forth elsewhere in this part. The restrictions of this section apply only to executive officers of the member bank and not to executive officers of its affiliates.

(a) No member bank may extend credit to any of its executive officers, and no executive officer of a member bank shall borrow from or otherwise become indebted to the bank, except in the amounts, for the purposes, and upon the conditions specified in paragraphs (c) and (d) of this section.

(b) No member bank may extend credit in an aggregate amount greater than the amount permitted in paragraph (c)(4) of this section to a partnership in which one or more of the bank's executive officers are partners and, either individually or together, hold a majority interest. For the purposes of paragraph (c)(4) of this section, the total amount of credit extended by a member bank to such partnership is considered to be extended to each executive officer of the member bank who is a member of the partnership.

3–976

(c) A member bank is authorized to extend credit to any executive officer of the bank—

(1) in any amount to finance the education of the executive officer's children;

(2) in any amount to finance or refinance the purchase, construction, maintenance, or improvement of a residence of the executive officer, provided —

(i) the extension of credit is secured by a first lien on the residence and the residence is owned (or expected to be owned after the extension of credit) by the executive officer; and

(ii) in the case of a refinancing, that only the amount thereof used to repay the original extension of credit, together with the closing costs of the refinancing, and any additional amount thereof used for any of the purposes enumerated in this paragraph (c)(2), are included within this category of credit;

(3) in any amount, if the extension of credit is secured in a manner described in paragraphs (d)(3)(i)(A) through (d)(3)(i)(C) of section 215.4 of this part; and

(4) for any other purpose not specified in paragraphs (c)(1) through (c)(3) of this section, if the aggregate amount of extensions of credit to that executive officer under this paragraph does not exceed at any one time the higher of 2.5 percent of the bank's unimpaired capital and unimpaired surplus or $25,000, but in no event more than $100,000.

[3] This prohibition does not apply to the payment by a member bank of an overdraft of a principal shareholder of the member bank, unless the principal shareholder is also an executive officer or director. This prohibition also does not apply to the payment by a member bank of an overdraft of a related interest of an executive officer, director, or principal shareholder of the member bank or executive officer, director, or principal shareholder of its affiliates.

3–977

(d) Any extension of credit by a member bank to any of its executive officers shall be—

(1) promptly reported to the member bank's board of directors;

(2) in compliance with the requirements of section 215.4(a) of this part;

(3) preceded by the submission of a detailed current financial statement of the executive officer; and

(4) made subject to the condition in writing that the extension of credit will, at the option of the member bank, become due and payable at any time that the officer is indebted to any other bank or banks in an aggregate amount greater than the amount specified for a category of credit in paragraph (c) of this section.

3–977.1

SECTION 215.6—Prohibition on Knowingly Receiving Unauthorized Extension of Credit

No executive officer, director, or principal shareholder of a member bank or any of its affiliates shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this part.

3–978

SECTION 215.7—Extensions of Credit Outstanding on March 10, 1979

(a) Any extension of credit that was outstanding on March 10, 1979, and that would, if made on or after March 10, 1979, violate section 215.4(c) of this part, shall be reduced in amount by March 10, 1980, to be in compliance with the lending limit in section 215.4(c) of this part. Any renewal or extension of such an extension of credit on or after March 10, 1979, shall be made only on terms that will bring the extension of credit into compliance with the lending limit of section 215.4(c) of this part by March 10, 1980. However, any extension of credit made before March 10, 1979, that bears a specific maturity date of March 10, 1980, or later, shall be repaid in accordance with its repayment schedule in existence on or before March 10, 1979.

3–980

SECTION 215.8—Records of Member Banks

(a) *In general.* Each member bank shall maintain records necessary for compliance with the requirements of this part.

(b) *Recordkeeping for insiders of the member bank.* Any recordkeeping method adopted by a member bank shall—

(1) identify, through an annual survey, all insiders of the bank itself; and

(2) maintain records of all extensions of credit to insiders of the bank itself, including the amount and terms of each such extension of credit.

(c) *Recordkeeping for insiders of the member bank's affiliates.* Any recordkeeping method adopted by a member bank shall maintain records of extensions of credit to insiders of the member bank's affiliates by—

(1) *Survey method.*

(i) identifying, through an annual survey, each insider of the member bank's affiliates; and

(ii) maintaining records of the amount and terms of each extension of credit by the member bank to such insiders; or

(2) *Borrower-inquiry method.*

(i) requiring as part of each extension of credit that the borrower indicate whether the borrower is an insider of an affiliate of the member bank; and

(ii) maintaining records that identify the amount and terms of each extension of credit by the member bank to borrowers so identifying themselves.

(3) *Alternative recordkeeping methods for insiders of affiliates.* A member bank may employ a recordkeeping method other than those identified in paragraphs (c)(1) and (c)(2) of this section if the appropriate federal banking agency determines that the bank's method is at least as effective as the identified methods.

(d) *Special rule for noncommercial lenders.* A

member bank that is prohibited by law or by an express resolution of the board of directors of the bank from making an extension of credit to any company or other entity that is covered by this part as a company is not required to maintain any records of the related interests of the insiders of the bank or its affiliates or to inquire of borrowers whether they are related interests of the insiders of the bank or its affiliates.

3–981

SECTION 215.9—Disclosure of Credit from Member Banks to Executive Officers and Principal Shareholders

(a) *Definitions.* For the purposes of this section, the following definitions apply:

(1) Principal shareholder of a member bank means any person (other than an insured bank, or a foreign bank as defined in 12 U.S.C. 3101(7), that, directly or indirectly, owns, controls, or has power to vote more than 10 percent of any class of voting securities of the member bank. The term includes a person that controls a principal shareholder (e.g., a person that controls a bank holding company). Shares of a bank (including a foreign bank), bank holding company, savings and loan holding company or other company owned or controlled by a member of an individual's immediate family are presumed to be owned or controlled by the individual for the purposes of determining principal shareholder status.

(2) *Related interest* means—

(i) any company controlled by a person; or

(ii) any political or campaign committee the funds or services of which will benefit a person or that is controlled by a person. For the purpose of this section, a related interest does not include a bank or a foreign bank (as defined in 12 USC 3101(7)).

3–982

(b) *Public disclosure.*

(1) Upon receipt of a written request from the public, a member bank shall make available the names of each of its executive officers and each of its principal shareholders to whom, or to whose related interests, the member bank had outstanding as of the end of the latest previous quarter of the year, an extension of credit that, when aggregated with all other outstanding extensions of credit at such time from the member bank to such person and to all related interests of such person, equaled or exceeded 5 percent of the member bank's capital and unimpaired surplus or $500,000, whichever amount is less. No disclosure under this paragraph is required if the aggregate amount of all extensions of credit outstanding at such time from the member bank to the executive officer or principal shareholder of the member bank and to all related interests of such a person does not exceed $25,000.

(ii) A member bank is not required to disclose the specific amounts of individual extensions of credit.

3–983

(c) *Maintaining records.* Each member bank shall maintain records of all requests for the information described in paragraph (b) of this section and the disposition of such requests. These records may be disposed of after two years from the date of the request.

3–984

SECTION 215.10—Reporting Requirement for Credit Secured by Certain Bank Stock

Each executive officer or director of a member bank the shares of which are not publicly traded shall report annually to the board of directors of the member bank the outstanding amount of any credit that was extended to the executive officer or director and that is secured by shares of the member bank.

3–985

SECTION 215.11—Civil Penalties

Any member bank, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of the bank, that violates any provision of this part (other than

section 215.9 of this part) is subject to civil penalties as specified in section 29 of the Federal Reserve Act (12 USC 504).

3–986

SECTION 215.12—Application to Savings Associations

The requirements of this part apply to savings associations, as defined in 12 CFR 238.2(*l*) (including any subsidiary of a savings association), in the same manner and to the same extent as if the savings association were a member bank; provided that a savings association's unimpaired capital and unimpaired surplus will be determined under regulatory capital rules applicable to that savings association.

Appendix—Section 5200 of the Revised Statutes

See 3–1000.

Statutory Authority for Regulation O

3–1000

REVISED STATUTES

SECTION 5200—Lending Limits

(a) (1) The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

(2) The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

3–1001

(b) For the purposes of this section—

(1) the term ''loans and extensions of credit'' shall include all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person and, to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

(2) the term ''person'' shall include an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

3–1002

(c) The limitations contained in subsection (a) shall be subject to the following exceptions:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

(2) The purchase of bankers' acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks shall not be subject to any limitation based on capital and surplus.

(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

3–1003

(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly

by the United States shall not be subject to any limitation based on capital and surplus.

(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

(7) Loans or extensions of credit to any nonbank financial company (as that term is defined in section 102 of the Financial Stability Act of 2010 (12 U.S.C. 5311)), any financial institution, or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

3–1004

(8) (A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a)(2).

(B) If the bank's files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

3–1005

(9) (A) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a maximum limitation equal to 25 per centum of such capital and surplus.

(B) Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

(10) Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

3–1006

(d) (1) The Comptroller of the Currency may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit. The Comptroller of the Currency may, by order, exempt any transaction or series of transactions from the requirements of this section upon a finding by the Comptroller that such exemption is in the public interest and consistent with the purposes of this section.

(2) The Comptroller of the Currency also shall have authority to determine when a loan putatively made to a person shall for purposes of this section be attributed to another person.

[12 USC 84. As amended by acts of June 22, 1906 (34 Stat. 451); Sept. 24, 1918 (40 Stat. 967); Oct. 22, 1919 (41 Stat. 296); Feb. 25, 1927 (44 Stat. 1229); May 20, 1933 (48 Stat. 72); June 16, 1933 (48 Stat. 191); Aug. 23, 1935 (49 Stat. 713); June 11, 1942 (56 Stat. 356); July 15, 1949 (63 Stat. 440); Aug. 25, 1958 (72 Stat. 841); Sept. 9, 1959 (72 Stat. 488); Sept. 28, 1962 (76 Stat. 672); Joint Resolu-

tion of May 25, 1967 (81 Stat. 29); June 23, 1972 (86 Stat. 270); Oct. 15, 1982 (96 Stat. 1508); Jan. 12, 1983 (96 Stat. 2509); and March 27, 2020 (134 Stat. 478).]

3–1007

FEDERAL RESERVE ACT

SECTION 22—Offenses of Examiners, Member Banks, Officers, and Directors

* * * * *

(g) *Loans to executive officers by members banks.*

(1) Except as authorized under this subsection, no member bank may extend credit in any manner to any of its own executive officers. No executive officer of any member bank may become indebted to that member bank except by means of an extension of credit which the bank is authorized to make under this subsection. Any extension of credit under this subsection shall be promptly reported to the board of directors of the bank, and may be made only if—

(A) the bank would be authorized to make it to borrowers other than its officers;

(B) it is on terms not more favorable than those afforded other borrowers;

(C) the officer has submitted a detailed current financial statement; and

(D) it is on condition that it shall become due and payable on demand of the bank at any time when the officer is indebted to any other bank or banks on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer.

3–1008

(2) A member bank may make a loan to any executive officer of the bank if, at the time the loan is made—

(A) it is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence, and

(B) no other loan by the bank to the officer under authority of this paragraph is outstanding.

(3) A member bank may make extensions of credit to any executive officer of the bank, to finance the education of the children of the officer.

(4) A member bank may make extensions of credit not otherwise specifically authorized under this subsection to any executive officer of the bank, in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency.

3–1009

(5) Except to the extent permitted under paragraph (4), a member bank may not extend credit to a partnership in which one or more of its executive officers are partners having either individually or together a majority interest. For the purposes of paragraph (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.

3–1010

(6) This subsection does not prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of the bank any loan or other asset previously acquired by the bank in good faith or from incurring any indebtedness to the bank for the purpose of protecting the bank against loss or giving financial assistance to it.

(7) Each day that any extension of credit in violation of this subsection exists is a continuation of the violation for the purposes of section 8 of the Federal Deposit Insurance Act.

(8) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms as it deems necessary to effectuate the purposes and to prevent evasions of this subsection.

[12 USC 375a. As added by act of June 16, 1933 (48 Stat.

182); amended by Public Resolution approved June 14, 1935 (49 Stat. 375); and by acts of Aug. 23, 1935 (49 Stat. 716); April 25, 1938 (52 Stat. 223); June 20, 1939 (53 Stat. 842); July 3, 1967 (81 Stat. 109); Nov. 10, 1978 (92 Stat. 3665); Oct. 15, 1982 (96 Stat. 1522); Sept. 23, 1994 (108 Stat. 2233); and Oct. 13, 2006 (120 Stat. 1978).]

3–1011

(h) *Extensions of credit to executive officers, directors, and principal shareholders of member banks.*

(1) No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), and (6).

(2) (A) A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

(i) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank;

(ii) does not involve more than the normal risk of repayment or present other unfavorable features; and

(iii) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.

(B) Nothing in this paragraph shall prohibit any extension of credit made pursuant to a benefit or compensation program—

(i) that is widely available to employees of the member bank; and

(ii) that does not give preference to any officer, director, or principal shareholder of the member bank, or to any related interest of such person, over other employees of the member bank.

3–1012

(3) A member bank may extend credit to a person, described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) only if—

(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

(4) A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes. For purposes of this paragraph, section 5200 of the Revised Statutes shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

3–1013

(5) (A) A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

(B) The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

(C) The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in

deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.

3–1013.1

(6) (A) If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

(B) Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; or

(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

(7) No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this subsection.

3–1013.2

(8) (A) For purposes of this subsection, any executive officer, director, or principal shareholder (as the case may be) of any company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

(B) The Board may, by regulation, make exceptions to subparagraph (A) for any executive officer or director of a subsidiary of a company that controls the member bank if—

(i) the executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank; and

(ii) the assets of such subsidiary do not exceed 10 percent of the consolidated assets of a company that controls the member bank and such subsidiary (and is not controlled by any other company).

3–1014

(9) For purposes of this subsection:

(A) (i) Except as provided in clause (ii), the term ''*company*'' means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

(ii) The term ''company'' does not include—

(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); or

(II) a corporation the majority of the shares of which are owned by the United States or by any State.

(B) A person *controls* a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

(ii) controls in any manner the election of a majority of the company's directors; or

(iii) has the power to exercise a controlling influence over the company's management or policies.

(C) A person is an ''*executive officer*'' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

3–1015

(D) (i) A member bank *extends credit* by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatso-

ever) to pay money or its equivalent to the bank.

(ii) The Board may, by regulation, make exceptions to clause (i) for transactions that the Board determines pose minimal risk.

(E) The term ''*member bank*'' includes any subsidiary of a member bank.

(F) The term ''*principal shareholder*''—

(i) means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company; and

(ii) does not include a company of which a member bank is a subsidiary.

(G) A ''*related interest*'' of a person is—

(i) any company controlled by that person; and

(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

(H) The term ''*subsidiary*'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

3–1016

(10) The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this subsection.

[12 USC 375b. As added by act of Nov. 10, 1978 (92 Stat. 3644) and amended by acts of Oct. 15, 1982 (96 Stat. 1520, 1522); Dec. 19, 1991 (105 Stat. 2355); Oct. 28, 1992 (106 Stat. 3895, 4086); Sept. 23, 1994 (108 Stat. 2233); and Sept. 30, 1996 (110 Stat. 3009-410).]

3–1017

BANK HOLDING COMPANY ACT AMENDMENTS OF 1970

SECTION 106—Tie-In Arrangements

* * * * *

(b) (1) A bank shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

(A) that the customer shall obtain some additional credit, property, or service from such bank other than a loan, discount, deposit, or trust service;

(B) that the customer shall obtain some additional credit, property, or service from a bank holding company of such bank, or from any other subsidiary of such bank holding company;

(C) that the customer provide some additional credit, property, or service to such bank, other than those related to and usually provided in connection with a loan, discount, deposit, or trust service;

(D) that the customer provide some additional credit, property, or service to a bank holding company of such bank, or to any other subsidiary of such bank holding company; or

(E) that the customer shall not obtain some other credit, property, or service from a competitor of such bank, a bank holding company of such bank, or any subsidiary of such bank holding company, other than a condition or requirement that such bank shall reasonably impose in a credit transaction to assure the soundness of the credit.

The Board may by regulation or order permit such exceptions to the foregoing prohibition and the prohibitions of section 4(c)(9) and 4(h)(2) of the Bank Holding Company Act of 1956 as it considers will not be contrary to the purposes of this section.

3–1018

(2) (A) No bank which maintains a correspondent account in the name of another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank, or to any related interest of such person, unless such extension of credit is made on substantially the same

terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(B) No bank shall open a correspondent account at another bank while such bank has outstanding an extension of credit to an executive officer or director of, or other person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, the bank desiring to open the account, or to any related interest of such person, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

3–1019

(C) No bank which maintains a correspondent account at another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank, or to any related interest of such person, unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(D) No bank which has outstanding an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, another bank, or to any related interest of such person shall open a correspondent account at such other bank, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(E) For purposes of this paragraph, the term ''extension of credit'' shall have the meaning prescribed by the Board pursuant to section 22(h) of the Federal Reserve Act (12 U.S.C. 375b), and the term ''executive officer'' shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

3–1020

(F) (i) Any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who, violates any provision of this paragraph shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

(ii) Notwithstanding clause (i), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

(I)

(aa) commits any violation described in clause (i);

(bb) recklessly engages in an unsafe or unsound practice in conducting the affairs of such bank; or

(cc) breaches any fiduciary duty;

(II) which violation, practice, or breach—

(aa) is part of a pattern of misconduct;

(bb) causes or is likely to cause more than a minimal loss to such bank; or

(cc) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

3–1021

(iii) Notwithstanding clauses (i) and (ii), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

(I) knowingly—

(aa) commits any violation described in clause (i);

(bb) engages in any unsafe or unsound practice in conducting the affairs of such bank; or

(cc) breaches any fiduciary duty; and

(II) knowingly or recklessly causes a substantial loss to such bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under clause (iv) for each day during which such violation, practice, or breach continues.

3–1022

(iv) The maximum daily amount of any civil penalty which may be assessed pursuant to clause (iii) for any violation, practice, or breach described in such clause is—

(I) in the case of any person other than a bank, an amount to not exceed $1,000,000; and

(II) in the case of a bank, an amount not to exceed the lesser of—

(aa) $1,000,000; or

(bb) 1 percent of the total assets of such bank.

(v) Any penalty imposed under clause (i), (ii), or (iii) may be assessed and collected—

(I) in the case of a national bank, by the Comptroller of the Currency;

(II) in the case of a State member bank, by the Board; and

(III) in the case of an insured nonmember State bank, by the Federal Deposit Insurance Corporation,

in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

3–1022.1

(vi) The bank or other person against whom any penalty is assessed under this subparagraph shall be afforded an agency hearing if such bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subparagraph.

(vii) All penalties collected under authority of this subsection shall be deposited into the Treasury.

(viii) For purposes of this paragraph, the term ''violate'' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(ix) The Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation shall prescribe regulations establishing such procedures as may be necessary to carry out this subparagraph.

3–1024.1

(G) For the purpose of this paragraph—

(i) the term ''bank'' includes a mutual savings bank, a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act);

(ii) the term ''related interests of such persons'' includes any company controlled by such executive officer, direc-

tor, or person, or any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person; and

(iii) the terms ''control of a company'' and ''company'' have the same meaning as under section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).

[12 USC 1972. As amended by acts of Nov. 10, 1978 (92 Stat. 3690); Oct. 15, 1982 (96 Stat. 1520, 1523, 1526); Aug. 9, 1989 (103 Stat. 461, 473); Dec. 19, 1991 (105 Stat. 2359); Sept. 30, 1996 (110 Stat. 3009-413); and Oct. 13, 2006 (120 Stat. 1978).]

* * * * *

3–1025

FEDERAL DEPOSIT INSURANCE ACT

SECTION 7—Change in Control of Banks

* * * * *

(k) *Annual report to Federal banking agency.* The appropriate Federal banking agencies are authorized to issue rules and regulations, including definitions of terms, to require the reporting and public disclosure of information by a bank or any executive officer or principal shareholder thereof concerning extensions of credit by the bank to any of its executive officers or principal shareholders, or the related interests of such persons.

[12 USC 1817(k). As added by act of Nov. 10, 1978 (92 Stat. 3683) and amended by act of Oct. 15, 1982 (96 Stat. 1527).]

3–1025.5

HOME OWNERS' LOAN ACT

SECTION 11—Transactions with Affiliates; Extensions of Credit to Executive Officers, Directors, and Principal Shareholders

(a) *Affiliate transactions.*

(1) *In general.* Sections 23A and 23B of the Federal Reserve Act [12 U.S.C. 371c and 371c-1] shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act [12 U.S.C. 221 *et seq*.]), except that—

(A) no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 1467a (c)(2)(F)(i) of this title; and

(B) no savings association may enter into any transaction described in section 23A(b)(7)(B) of the Federal Reserve Act with any affiliate other than with respect to shares of a subsidiary.

(2) *Sister bank exemption made available to savings associations.*

(A) *Savings associations controlled by bank holding companies.* Every savings association more than 80 percent of the voting stock of which is owned by a company described in section 1467a (c)(8) of this title shall be treated as a bank for purposes of section 23A (d)(1) and section 23B of the Federal Reserve Act, if every savings association and bank controlled by such company complies with all applicable capital requirements on a fully phased-in basis and without reliance on goodwill.

(B) *Savings associations generally.* Effective on and after January 1, 1995, every savings association shall be treated as a bank for purposes of section 23A (d)(1) and section 23B of the Federal Reserve Act.

(3) *Affiliates described.* Any company that would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank (as such term is defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

(4) *Additional restrictions authorized.* The appropriate Federal banking agency may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the appropriate Federal banking agency determines to be necessary to protect the safety and soundness of the savings association.

(b) *Extensions of credit to executive officers, directors, and principal shareholders.*

(1) *In general.* Subsections (g) and (h) of section 22 of the Federal Reserve Act [12 U.S.C. 375a, 375b] shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act).

(2) *Additional restrictions authorized.* The appropriate Federal banking agency may impose such additional restrictions on loans or extensions of credit to any director or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a savings association, as the appropriate Federal banking agency determines to be necessary to protect the safety and soundness of the savings association.

(c) *Administrative enforcement.* The appropriate Federal banking agency may take enforcement action with respect to violations of this section pursuant to section 8 or 18(j) of the Federal Deposit Insurance Act [12 U.S.C. 1818 or 1828 (j)], as appropriate.

(d) *Exemptions.*

(1) *Federal savings associations.* The Comptroller of the Currency may, by order, exempt a transaction of a Federal savings association from the requirements of this section if—

(A) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

(B) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subparagraph (A), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

(2) *State savings association.* The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State savings association from the requirements of this section if the Board and the Federal Deposit Insurance Corporation jointly find that—

(A) the exemption is in the public interest and consistent with the purposes of this section; and

(B) the exemption does not present an unacceptable risk to the Deposit Insurance Fund.

[12 USC 1468. As amended by act of July 21, 2010 (124 Stat. 1565, 1610).]

3–1026

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

SECTION 312—Powers and Duties Transferred

* * * * *

(b) *Functions of the Office of Thrift Supervision.*

(1) *Savings and loan holding company functions transferred.*

(A) *Transfer of functions.* There are transferred to the Board of Governors all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to—

(i) the supervision of—

(I) any savings and loan holding company; and

(II) any subsidiary (other than a depository institution) of a savings and loan holding company; and

(ii) all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings and loan holding companies.

(B) *Powers, authorities, rights, and duties.* The Board of Governors shall succeed to all powers, authorities, rights, and duties that were vested in the Office of Thrift Supervision and the Director of the Office of Thrift Supervision on the day before the transfer date relating to the

functions and authority transferred under subparagraph (A).

(2) *All other functions transferred.*

(A) *Board of Governors.* All rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision under section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders and under section 5(q) of such Act relating to tying arrangements is transferred to the Board of Governors.

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[12 USC 5412. As added by act of July 21, 2010 (124 Stat. 1521).]