

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 69-141
June 9, 1969

AMENDMENTS TO REGULATIONS U, T, AND G

To All Banks, Brokers/Dealers,
Nonbank Lenders and Others Concerned
in the Eleventh Federal Reserve District:

The Board of Governors of the Federal Reserve System has amended effective July 8, 1969, its stock market credit Regulations U, T, and G to implement the legislation adopted by Congress last year concerning "over-the counter" (OTC) stocks. Also, the amendments would limit the credit available in connection with the purchase of equity funding plans or programs.

Copies of the amendments together with the Board's press releases of June 2, and June 6, 1969, are enclosed.

It is expected that the three Regulations will be reprinted in their entirety in the near future. Copies of the revised Regulations, embodying all amendments adopted since their previous printing, will be sent you when they are available.

Yours very truly,

P. E. Coldwell

President

Enclosures (5)



FEDERAL RESERVE

press release

For immediate release.

June 2, 1969.

The Board of Governors of the Federal Reserve System today announced amendments to its margin Regulations G, T, and U which would limit the credit available in connection with the purchase of equity funding plans or programs. The Board set the margin requirement for such plans or programs sold after August 31, 1969, at 60 per cent. The margin requirement for exchange-listed stocks is presently 80 per cent.

Proposed changes in the regulations were first published for comment on December 10, 1968. An oral presentation was held before the Board on February 26, 1969, at which interested parties were invited to present their views.

Equity funding plans offer a customer a package of mutual fund shares and life insurance, the shares being pledged as collateral for a loan to pay the insurance premium. After August 31, a lender will be able to finance \$40 in insurance premiums for every \$100 in mutual funds bought by a customer.

The text of the amendments is attached.



FEDERAL RESERVE

press release

For release in morning papers
Monday, June 9, 1969

June 6, 1969.

The Board of Governors of the Federal Reserve System announced today the criteria to be employed in selecting "over-the-counter" (OTC) stocks that will become subject to its margin regulations under an Act (P. L. 90-437) adopted by Congress last year.

A number of changes in the regulations were also adopted to implement the legislation. These changes are based upon proposals which were published for comment on February 10, 1969. Interested persons were asked to submit their comments in writing by March 17, 1969, and the proposals have been revised in the light of the comments received.

Margin regulations generally limit the amount of credit a person or firm may obtain to buy securities. In the past these regulations applied to stocks that were registered on the national securities exchanges. In announcing the amendments to its Regulations G, T and U, the Board said the initial list of over-the-counter stocks subject to margin will be published on July 8, 1969, the date the amendments become effective.

Regulation G applies to credit provided by persons other than banks, brokers or dealers to purchase or carry equity securities, Regulation T concerns credit by brokers, dealers and members of

national securities exchanges for the same purpose while Regulation U applies to credit by banks.

The amendments also:

--Exempt from margin regulation bank loans to broker-dealers against inventory positions in OTC stocks when such credit is used to make a bona fide market in those stocks. A similar exemption is already available to specialists making a market in stocks registered on exchanges.

--Broaden the definition of "creditor" in Regulation T to cover all brokers and dealers and thus bring under the new margin requirements all brokers and dealers who now handle OTC accounts exclusively.

--Limit the exemption from margin regulation available through a special omnibus account to members of national stock exchanges and brokers and dealers registered with the Securities and Exchange Commission.

--Clarify the application of Regulations G and U to loans on mutual funds. Regulation T prohibits loans on mutual fund shares.

Under the criteria announced today OTC stocks subject to margin requirements would have characteristics similar to stocks registered on national exchanges. This would include a degree of national investor interest, a depth and breadth of market, availability

of information respecting individual stocks and the character and permanence of the issuers.

Margin requirements will apply only to loans made after the amendments become effective to purchase or carry OTC stocks on the Federal Reserve list or debt securities convertible into such stocks.

Criteria used to determine which broker-dealers are entitled to the market-maker exemption are designed to ensure, as far as possible, that the firm does in fact make a market in the stock, stands ready at all times (within reason) to buy or sell the stock, and does not unjustifiably "back away" from the market. Banks lending to such market-makers would have to obtain a statement on a new form, F.R.U-2, that the credit was in fact being used to carry out the market-making function. The bank could rely on the statement, if accepted in good faith.

Any registered broker-dealer will be eligible for designation as an "OTC market maker" if he meets the standards set forth in Regulation U, files with the Securities and Exchange Commission a notice of his intent to begin or continue such market-making activity and continues to file such other reports as are required pursuant to a rule to be adopted by the SEC respecting market makers in OTC margin stocks. To provide continuous market operations, without an interruption in credit, the amendments provide for an additional 30 days after

publication of the OTC margin list within which those dealers wishing to qualify for the exemption may file with the SEC. During the 30-day period, margin requirements will not apply to bank credit extended on the OTC margin stocks to brokers and dealers registered with the SEC.

Special Omnibus Account

After the effective date of the amendments, credit not subject to margin requirements will be available through a special omnibus account only to members of national stock exchanges and brokers and dealers registered with the SEC. Under the present Regulation T, this type of credit can be extended to persons, including foreign firms, who merely certify that they observe the regulation even though they are not subject to it.

By use of a special omnibus account, a member of an exchange may make wholesale transactions for other brokers without regard to margin requirements. These transactions involve securities on which margin requirements have already been imposed at the retail level.

Under the amendments, the privilege of using the special omnibus account will no longer be available to organizations, including foreign financial institutions and others, that prefer to remain unregistered. Most firms borrowing in special omnibus accounts will not be affected by the amendments. In the case of accounts of unregistered persons, no further substitutions of collateral will be

permitted after 90 days from the effective date of the amendments. Credit extended in such accounts will have to be brought up to margin requirements within a year.

Last December, the Department of Justice and the SEC presented to the House Banking and Currency Committee evidence of abuses whereby special omnibus accounts had been used by some foreign financial institutions to avoid U.S. margin requirements.

Loans on Mutual Funds

As part of the amendments, the Board incorporated a provision originally proposed last December to clarify the applicability of Regulations G and U to loans on mutual funds. Under present regulations, loans by banks and Regulation G lenders for purchasing or carrying mutual fund shares are subject to margin requirements only if the fund's portfolio "customarily includes" securities that would themselves be subject to margin requirements. It has been found that this criterion, especially when the OTC margin stocks are added, embraces virtually all mutual funds. Under the new provision, the margin regulations will apply to loans to purchase or carry all mutual funds, unless 95 per cent of the assets are invested in "exempted securities"--largely government issues. Because the new test can be applied objectively and includes the vast majority of mutual funds, the Board will cease publication of its list of securities subject to margin regulations.

A number of other conforming changes of a technical nature are also made throughout the regulations as necessary or appropriate.

Unrelated Changes

Clarifying changes unrelated to implementing P. L. 90-437 were made in one section of Regulation G regarding stock option and employee stock purchase plans.

These changes :

--Make it clear that "plan-lenders" under such plans must be both wholly owned and controlled by the corporation involved. The only exceptions are for a trustee or a credit union, or a plan-lender formed prior to February 1, 1968, the date when the Board announced adoption of Regulation G in final form.

--Exempt from margin requirements credit extended by a plan-lender to finance the exercise of "qualified" or "restricted" option rights granted prior to February 1, 1968.

--Make clear that the credit arrangements for such plans need not be part of the plan itself.

--State that an increase in the current market value of stock used as collateral for a loan may be taken into account in determining whether the stock may be sold, withdrawn or otherwise disposed of.

In other unrelated changes, the time for retaining Federal Reserve Forms G-3 and U-1 (the "purpose statements" required by

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Regulations G and U) would be reduced from six to three years to ease the burden of retaining records, and a new Federal Reserve Form T-4 will be substituted for the written statements now obtained by brokers and dealers in connection with "non-purpose" extensions of credit when regulated securities are used as collateral.

Attached are copies of the amended regulations.

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Attachments

TITLE 12 - BANKS AND BANKING

CHAPTER II - FEDERAL RESERVE SYSTEM

SUBCHAPTER A - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. G]

PART 207 - SECURITIES CREDIT BY PERSONS OTHER
THAN BANKS, BROKERS, OR DEALERS.

1. Effective July 8, 1969, §§ 207.1 through 207.5 are amended to read as follows:

- Sec.
207.1 General rule.
207.2 Definitions.
207.3 Reports and records.
207.4 Miscellaneous provisions.
207.5 Supplement.

Authority: The provisions of this Part 207 issued under section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) as amended by P.L. 90-437 (82 Stat. 452)

§ 207.1 General rule.

(a) Registration. Every person who, in the ordinary course of his business^{1/}, during any calendar quarter ended after October 20, 1967, extends or arranges for the extension of a total of \$50,000 or more or has outstanding at any time during the calendar quarter, a total of \$100,000 or more, in credit, secured directly or indirectly,^{2/} in whole or in part, by collateral that includes any margin securities,^{3/} unless such person is subject to Part 220 (Regulation T) or Part 221 (Regulation U) of this Chapter, is subject to the registration requirements of this paragraph and shall, within 30 days following the end of the calendar quarter during which the person becomes subject to such registration requirements, register with the Board of Governors of the

^{1/} See § 207.2(b).

^{2/} See § 207.2(i).

^{3/} See § 207.2(d).

Federal Reserve System by filing a statement in conformity with the requirements of Federal Reserve Form G-1 with the Federal Reserve Bank of the district in which the principal office of such person is located Provided, That in the case of credit so secured by collateral that includes any OTC margin stock^{4/} and/or debt securities convertible into OTC margin stock and no other margin security, such date shall be July 8, 1969, instead of October 20, 1967.

(b) Termination of registration. Any person so registered who has not, during the preceding 6 calendar months, extended or arranged for the extension or maintenance of or had outstanding any credit secured directly or indirectly, in whole or in part, by collateral that includes any margin securities may apply for termination of such registration by filing Federal Reserve Form G-2 with the Federal Reserve Bank of the district in which the principal office of such person is located. A registration shall be deemed terminated when such application is approved by the Board of Governors of the Federal Reserve System.

(c) Definition of lender and applicability of margin requirements. Any person subject to the registration requirements of paragraph (a) of this section who, in the ordinary course of his business, extends or maintains or arranges for the extension or maintenance of any credit for the purpose of purchasing or carrying any margin security (hereinafter called "purpose credit"), if such credit is secured directly or indirectly in whole or in part, by collateral that includes any such security, is a

^{4/} See § 207.2(f). "OTC stock" is stock which is traded "over-the-counter".

"lender" subject to this part and shall not after February 1, 1968, except as provided in § 207.4(a), extend or arrange for the extension of any purpose credit in an amount exceeding the maximum loan value of the collateral, as prescribed from time to time for margin securities in § 207.5 (the Supplement to Regulation G), or as determined by the lender in good faith for any collateral other than margin securities: Provided, That credit extended before July 8, 1969, for the purpose of purchasing or carrying OTC margin stock and/or debt securities convertible into such stock shall not be deemed to be purpose credit, And provided further, That any collateral consisting of convertible securities described in paragraph (d) of this section shall have loan value only as provided in that paragraph.

(d) Credit on convertible debt securities. (1) A lender may extend credit for the purpose specified in paragraph (c) of this section on collateral consisting of any debt security (i) convertible with or without consideration, presently or in the future, into a margin security or (ii) carrying any warrant or right to subscribe to or purchase such a margin security (such a convertible debt security is sometimes referred to herein as a "convertible security").

(2) Credit extended under this paragraph shall be subject to the same conditions as any other credit subject to this section except: (i) the entire amount of such credit shall be considered a single credit treated separately from the single credit specified in paragraph (g) of this section and all the collateral securing such credit shall be

considered in determining whether or not the credit complies with this part, and (ii) the maximum loan value of the collateral shall be as prescribed from time to time in § 207.5(b) (the Supplement to Regulation G).

(3) Any convertible security originally eligible as collateral for credit extended under this paragraph shall be treated as such as long as continuously held as collateral for such credit even though it ceases to be convertible or to carry warrants or rights.

(4) In the event that any margin security other than a convertible security is substituted for a convertible security held as collateral for credit extended under this section, such margin security and any credit extended on it in compliance with this part shall thereupon be treated as subject to paragraph (c) of this section and not to this paragraph and the credit extended under this paragraph shall be reduced by an amount equal to the maximum loan value of the security withdrawn.

(e) Statements as to purpose of credit. (1) In connection with any extension of credit secured directly or indirectly, in whole or in part, by collateral that includes any margin security, every person who is subject to the registration requirement of paragraph (a) of this section shall, prior to such extension, obtain a statement in conformity with the requirements of Federal Reserve Form G-3 executed by the customer and executed and accepted in good faith by such person. Such person shall retain such statement in his records for at least 3 years after such credit is extinguished. In determining whether credit is "purpose credit", such person may rely on the statement

executed by the customer if accepted in good faith. To accept the customer's statement in good faith, such person must (i) be alert to the circumstances surrounding the credit and (ii) if he has any further information which would cause a prudent man not to accept the statement without inquiry, have investigated and be satisfied that the customer's statement is truthful.

(2) Circumstances which could indicate that such person has not exercised reasonable diligence in so investigating and so satisfying himself would include, but are not limited to, facts such as that (i) the proceeds of the credit were paid to a broker or to a bank in connection with contemporaneous delivery of margin securities, whether or not payment was made against delivery, (ii) there were frequent substitutions of margin securities serving as collateral for the credit, or (iii) the amount of the credit was disproportionate, or the terms inappropriate, to the stated purpose.

(f) Credit extended to person subject to Regulation T.

(1) No lender shall extend or maintain any credit for the purpose of purchasing or carrying any margin security to any customer who is subject to Part 220 of this Chapter (Regulation T) without collateral or on collateral consisting of margin securities (other than exempted securities^{5/}). Where the credit is to be used in the ordinary course of business of such customer, such credit is presumed to be for the purpose of purchasing or carrying margin securities unless the lender has in his records a statement to the contrary obtained and executed in conformity with the requirements of paragraph (c) of this section .

^{5/} As defined in 15 U. S. C. 78c(a)(12).

(2) The prohibition of this paragraph (f) shall not apply to credit which is unsecured or secured by collateral other than margin securities, and which is (i) made to a dealer^{6/} to aid in the distribution of securities to customers not through the medium of a national securities exchange, or (ii) subordinated to the claims of general creditors by a subordination agreement approved by an appropriate committee of a national securities exchange or by a "satisfactory subordination agreement" as defined in paragraph (e)(7) of Rule 240-15c3-1 of the Securities and Exchange Commission.

(g) Combining purpose credit extended to the same customer.

For the purpose of this part, except for a credit subject to paragraph (d) of this section and § 207.4(a)(2), the aggregate of all outstanding purpose credit extended to a customer by a lender after February 1, 1968, shall be considered a single credit and, except as provided in paragraphs (d) and (i) of this section, all the collateral securing such a credit, whether directly or indirectly, in whole or in part, shall be considered in determining whether the credit complies with this part.

(h) Purpose and nonpurpose credit extended to the same

person. No lender shall after February 1, 1968, extend or arrange for the extension of any purpose credit, or maintain or arrange for the maintenance of any purpose credit extended after February 1, 1968, if the credit is secured directly or indirectly, in whole or in part,

^{6/} As defined in 15 U.S.C. 78c(a)(5).

by collateral that includes any margin security which also secures, directly or indirectly, in whole or in part, any other credit in excess of \$5,000 extended to the same customer after February 1, 1968; and no lender shall have outstanding at the same time to the same customer both such purpose credit and any such other credit; Provided, That the prohibitions of this paragraph shall not apply to (i) credit extended for the purpose of purchasing, constructing, maintaining, or improving a dwelling which is occupied or to be occupied by the customer as his principal residence when such credit is secured by a first lien on such dwelling; or (ii) credit secured by a share account or other claim acquired by the customer from the lender independently of the credit and payable (or entitling the holder to a loan thereon) in a dollar amount determined without regard to the market value of the assets supporting the claim.

(i) Purpose credit secured both by margin securities and by other collateral. In the case of any purpose credit extended or arranged after February 1, 1968, secured directly or indirectly, in whole or in part, by any margin security, no other collateral shall have any loan value in respect to such credit for the purpose of this part: Provided, however, That a share account or other claim acquired by the customer from the lender independently of the credit and payable (or entitling the holder to a loan thereon) in a dollar amount determined without regard to the market value of the assets supporting the claim shall have a maximum loan value as determined by the lender in good faith.

(j) Withdrawals and substitutions of collateral. (1) General rule. Except as permitted by the next subparagraph and by § 207.4(a), while a lender maintains any purpose credit extended after February 1, 1968, the lender shall not at any time permit any withdrawal or substitution of collateral unless either (i) the credit would not exceed the maximum loan value of the collateral after such withdrawal or substitution, or (ii) the credit is reduced by at least the amount by which the maximum loan value of any collateral deposited is less than the "retention requirement" of any collateral withdrawn. The retention requirement of collateral other than margin securities is the same as its maximum loan value and the retention requirement of collateral consisting of margin securities or debt securities convertible into margin securities is prescribed from time to time in § 207.5 (the Supplement to Regulation G).

(2) Same-day substitution of collateral. Except as prohibited by § 207.4(a) a lender may permit a substitution of margin securities effected by a purchase and sale on orders executed within the same day: Provided, That (i) if the proceeds of the sale exceed the total cost of the purchase, the credit is reduced by at least an amount equal to the retention requirement in respect to the sale less the retention requirement in respect to the purchase, or (ii) if the total cost of the purchase exceeds the proceeds of the sale, the credit may be increased by an amount no greater than the maximum loan value of the securities purchased less the maximum loan value of the securities sold. If the maximum loan value of the

collateral securing the credit has become less than the amount of the credit, the amount of the credit may nonetheless be increased if there is provided additional collateral having maximum loan value at least equal to the amount of increase, or the credit is extended pursuant to § 207.4(a).

§ 207.2 Definitions.

For the purpose of this part, unless the context otherwise requires:

(a) Terms herein have the meanings given them in § 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(b) The term "in the ordinary course of his business" means occurring or reasonably expected to occur from time to time in the course of any activity of a person for profit or the management and preservation of property or in addition, in the case of a person other than an individual, carrying out or in furtherance of any business purpose.

(c) The "purpose" of a credit is determined by substance rather than form.

(1) Credit which is for the purpose, whether immediate, incidental, or ultimate, of purchasing or carrying a margin security is "purpose credit", despite any temporary application of funds otherwise.

(2) Credit to enable the customer to reduce or retire indebtedness which was originally incurred to purchase a margin security is for the purpose of "carrying" such a security.

(3) An extension of credit provided for in a plan, program, or investment contract offered or sold or otherwise initiated after August 31, 1969, which provides for the acquisition both of any securities described in

paragraph (d) of this section and of goods, services, property interests, other securities, or investments, is "purpose" credit.

(d) Margin security. The term "margin security" means any equity security^{7/} which is (1) a registered equity security, (2) an OTC margin stock, (3) a debt security (i) convertible with or without consideration, presently or in the future, into a margin security, or (ii) carrying any warrant or right to subscribe to or purchase, presently or in the future, a margin security, (4) any such warrant or right, (5) a security issued by an investment company, other than a small business investment company licensed under the Small Business Investment Company Act of 1958 (15 U.S.C. 661), registered pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8), unless at least 95 per cent of the assets of such company are continuously invested in exempted securities.^{8/}

(e) Registered equity security. The term "registered equity security" means any equity security which (1) is registered on a national securities exchange, (2) has unlisted trading privileges on a national securities exchange, or (3) is exempted by the Securities and Exchange Commission from the operation of section 7(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(c)(2)) only to the extent necessary to render lawful any direct or indirect extension or maintenance of credit on such security.

(f) OTC margin stock. - (1) The term "OTC margin stock" means stock, not traded on a national securities exchange, which the Board of Governors of the Federal Reserve System has determined to

^{7/} As defined in 15 U.S.C. 78c(a)(11).

^{8/} As defined in 15 U.S.C. 78c(a)(12).

have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer, and the character and permanence of the issuer to warrant subjecting such security to the requirements of this part.

(2) The Board will from time to time publish a list of OTC margin stocks as to which the Board has made the determinations described in subparagraph (1) of this paragraph (f). Except as provided in subparagraph (4) of this paragraph (f), such stocks shall meet the requirements of § 207.5(d) (the Supplement to Regulation G).

(3) The Board shall from time to time remove from the list described in subparagraph (2) of this paragraph (f) stocks that cease to:

(i) Exist or of which the issuer ceases to exist, or

(ii) Meet substantially, the provisions of subparagraph (1) of this paragraph (f), and § 207.5(d) (the Supplement to Regulation G).

(4) The foregoing notwithstanding, the Board may, upon its own initiative, or upon application by any interested party, omit or remove any stock that is not traded on a national securities exchange from or add any such stock to such list of OTC margin stocks, if in the judgment of the Board such action is necessary or appropriate in the public interest.

(5) It shall be unlawful for any person to make, or cause to be made, any representation to the effect that the inclusion of a security on such list of OTC margin stocks is evidence that the Board or the Securities and Exchange Commission has in any way passed upon the merits of, or given approval to, such security or any transaction therein. Any statement in an advertisement or other similar communication

containing a reference to the Board in connection with such stocks or such list shall constitute such an unlawful representation.

(g) The term "purchase" includes any contract to buy, purchase, or otherwise acquire.

(2) The term "sale" includes any contract to sell or otherwise dispose of.

(h) The term "customer" includes any recipient of the credit to whom credit is extended directly or indirectly for the use of the customer, and also includes any person engaged in a joint venture, or as a member of a syndicate or a group, with the customer with respect to a purpose loan.

(i) The term "indirectly secured" includes, except as provided in § 207.4(a)(3), any arrangement with the customer under which the customer's right or ability to sell, pledge, or otherwise dispose of margin securities owned by the customer is in any way restricted as long as the credit remains outstanding, or under which the exercise of such right, whether by written agreement or otherwise, is or may be cause for acceleration of the maturity of the credit: Provided, That the foregoing shall not apply (1) if such restriction arises solely by virtue of an arrangement with the customer which pertains generally to the customer's assets unless a substantial part of such assets consists of margin securities, or (?) if the lender in good faith has not relied upon such securities as collateral in the extension or maintenance of the particular credit: And provided further, That the foregoing shall not apply to stock held by the lender only in the capacity of custodian, depositary or trustee, or under

similar circumstances, if the lender in good faith has not relied upon such securities as collateral in the extension or maintenance of the particular credit.

(j) The term "stock" includes any security commonly known as a stock; any voting trust certificate or other instrument representing such a security; any security convertible with or without consideration into such security, certificate, or other instrument, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

§ 207.3 Reports and records.

(a) Every person who is registered pursuant to § 207.1(a) of this part shall within 30 days following the end of each succeeding calendar quarter file a report on Federal Reserve Form G-4 with the Federal Reserve Bank of the district in which the principal office of the lender is located.

(b) Every person who has registered pursuant to § 207.1(a) of this part shall maintain such records as shall be prescribed by the Board of Governors of the Federal Reserve System to enable it to perform the functions conferred upon it by the Securities Exchange Act of 1934. (15 U.S.C. 78).

§ 207.4 Miscellaneous provisions.

(a) Stock option and employee stock purchase plans. In respect to any credit extended and maintained by a corporation, by a lender wholly controlled and (except in the case of a lender formed prior to February 1, 1968, or a trustee) wholly owned by such corporation, or by a lender which is a membership thrift organization whose

membership is limited to employees and former employees of such corporation, its subsidiaries, or affiliates (such corporations and such lenders are both sometimes referred to as "plan-lenders"), to an officer or employee of the corporation, subsidiary or affiliate thereof to finance the exercise of rights granted such officer or employee under a stock option plan or employee stock purchase plan adopted by the corporation and approved by a majority of its stockholders to purchase margin securities of such corporation, subsidiary or affiliate,

(1) Sections 207.1(c), (d), (f), (g), (h), (i), and (j) of this part shall not apply (i) to any such credit extended prior to February 1, 1968, to finance the exercise of such rights granted to any named officer or employee and effectively exercised by such officer or employee prior to February 1, 1969 (with respect to credit extended to purchase OTC margin stock or debt securities convertible into such stock, the dates shall be July 8, 1968 and July 8, 1969 respectively), (ii) to any credit extended prior to February 1, 1969, to a plan-lender pursuant to a bona fide written commitment in existence on February 1, 1968, to finance the exercise of such rights and by such plan-lender from the proceeds of such credit to any officer or employee to finance the exercise of rights granted pursuant to a stock purchase plan under which the exercise price does not exceed 50 per cent of the market value of the stock subject to purchase, valued as of the offering date thereof, or (iii) to any credit extended by a plan-lender pursuant to a stock purchase plan or stock

option which is qualified or restricted under Internal Revenue Code §§ 422, 423, and 424, to finance the exercise of such rights granted prior to February 1, 1968.

(2) The restrictions imposed by § 207.1(c) and (d) and § 207.5 (the Supplement to Regulation G) on the maximum loan value of margin securities serving as collateral for purpose credit shall not apply to securities purchased, and serving as direct or indirect collateral for credit extended, pursuant to such a plan, Provided, That

(i) The entire amount of credit extended to any officer or employee pursuant to this subparagraph (2) in connection with the exercise of rights under such plan or plans shall be considered a single credit;

(ii) At the time when credit is extended in connection with a plan subject to this subparagraph, (a) the plan-lender computes the "deficiency"--the amount by which the credit exceeds the maximum loan value of the collateral as prescribed by § 207.5 (the Supplement to Regulation G), and (b) the agreement under which the credit is extended provides that except as permitted by the proviso in subdivision (iii) of this subparagraph the officer or employee shall, in respect to such deficiency, for at least 3 years from the extension of the credit, make equal repayments to the plan-lender at least quarterly and equivalent to at least 20 per cent of such deficiency per annum, or such lesser amount as the Board of Governors of the Federal Reserve System, upon application, may permit;

(iii) The officer or employee is not permitted under such plan or credit agreement to sell, withdraw, pledge, or otherwise dispose of all or any part of such collateral until (a) all repayments have been made for at least the 3 year period provided in subdivision (ii) of this subparagraph and the deficiency has been repaid, or (b) as a result of the repayments described in subdivision (ii) of this subparagraph, and/or of a change in the current market value of the collateral the maximum loan value of the collateral, as prescribed by § 207.5 (the Supplement to Regulation G), is at least equal to the credit which remains owing from the officer or employee to the plan-lender, whichever shall occur first: Provided, That this restriction need not apply where such collateral is required to be sold to meet emergency expenses arising from circumstances not reasonably foreseeable at the time of the extension of the credit (for this purpose such emergency expenses shall include the death, disability, or involuntary termination of employment of the officer or employee or some other change in his circumstances, involving extreme hardship, not reasonably foreseeable at the time the credit is extended. The opportunity to realize monetary gain is not a "change in his circumstances" for this purpose); and

(iv) At such time as either of the conditions with respect to sale, withdrawal, pledge, or other disposition of collateral specified in subdivision (iii) of this subparagraph are satisfied the credit is thereafter treated as a credit subject to all the requirements of this part.

(3) No extension of credit to a plan-lender to finance such a plan shall be deemed to be indirectly secured by a margin security purchased pursuant to the plan: Provided, That such security is not repledged by the plan-lender to secure such extension of credit to the plan-lender and in no event does the person extending such credit have recourse to such security; And provided further, That the amount of the credit does not exceed the total amount of credit currently extended by such plan-lender pursuant to such plan.

(b) Extensions and renewals. The renewal or extension of maturity of a credit need not be treated as the extension of a credit if the amount of the credit is not increased except by the addition of interest or service charges on the credit or of taxes on transactions in connection with the credit.

(c) Reorganization or recapitalization. Nothing in this part shall be construed to prohibit withdrawal or substitution of securities to enable a customer to participate in a reorganization or recapitalization.

(d) Mistakes in good faith. Failure to comply with this part due to a mechanical mistake made in good faith in determining, recording, or calculating any credit, balance, market price, or loan value, or other similar mechanical mistake, shall not constitute a violation of this part if promptly after discovery of the mistake the lender takes whatever action is practicable to remedy the non-compliance.

(e) Arranging for credit. A lender may arrange for the extension or maintenance of credit by any person upon the same terms and conditions as those upon which the lender, under the provisions of this part, may himself extend or maintain such credit, but only upon

such terms and conditions, except that this limitation shall not apply with respect to the arranging by a lender for a bank subject to Part 221 of this Chapter (Regulation U) to extend or maintain credit on margin securities or exempted securities.

(f) Combined purchase of mutual funds and insurance. An extension of purpose credit provided for in a plan, program or investment contract, registered with the Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C. 77), which provides for the acquisition both of a security issued by an investment company described in paragraph (d)(5) of § 207.2 and an insurance policy or contract, shall be subject to all the provisions of this part except that where the credit is secured by the security and does not exceed the premium on such policy (plus any accrued interest), the maximum loan value of such security shall be 40 per cent of its current market value, as determined by any reasonable method.

§ 207.5 Supplement.

(a) Maximum loan value of margin securities. For the purpose of § 207.1, the maximum loan value of any margin security, except convertible securities subject to § 207.1(d), shall be 20 per cent of its current market value, as determined by any reasonable method.

(b) Maximum loan value of convertible debt securities subject to § 207.1(d). For the purpose of § 207.1, the maximum loan value of any security against which credit is extended pursuant to § 207.1(d) shall be 40 per cent of its current market value, as determined by any reasonable method.

(c) Retention requirement. For the purpose of § 207.1, in the case of a loan which would exceed the maximum loan value of the collateral following a withdrawal of collateral, the "retention requirement" of a margin security and of a security against which credit is extended pursuant to § 207.1(d) shall be 70 per cent of its current market value, as determined by any reasonable method.

(d) Requirements for inclusion on list of OTC margin stock. Except as provided in subparagraph (4) of § 207.2(f), such stock shall meet the requirements that:

(1) The stock is subject to registration under § 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 781(g)(1)), or if issued by an insurance company subject to § 12(g)(2)(G)(15 U.S.C. 781(g)(2)(G)) the issuer had at least \$1 million of capital and surplus,

(2) Five or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Securities and Exchange Act of 1934 (15 U.S.C. 78e),

(3) There are 1500 or more holders of record of the stock who are not officers, directors, or beneficial owners of 10 per cent or more of the stock,

(4) The issuer is organized under the laws of the United States or a State^{9/} and it, or a predecessor in interest, has been in existence for at least 3 years,

^{9/} As defined in 15 U.S.C. 78c(a)(16).

(5) The stock has been publicly traded for at least 6 months, and

(6) Daily quotations for both bid and asked prices for the stock are continuously available to the general public; and shall meet three of the four additional requirements that:

(7) There are 500,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 per cent of the stock,

(8) The shares described in subparagraph (7) of this paragraph have a market value in the aggregate of at least \$10 million,

(9) The minimum average bid price of such stock, as determined by the Board in the latest month, is at least \$10 per share, and

(10) The issuer had at least \$5 million of capital, surplus, and undivided profits.

* * * * *

2a. These amendments are promulgated pursuant to section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) as amended by P.L. 90-437 (82 Stat. 452). As indicated in the notice of proposed rule making with respect to these amendments (Federal Register of February 15, 1969; 34 F.R. 2257), they are designed to regulate the amount of credit that may be extended by persons other than banks, brokers, or dealers with respect to certain securities that are not registered on a national securities exchange. The criteria that the Board of Governors will use to select such "over-the-counter" (OTC) stocks that will be subject to the margin and other requirements

of this regulation will appear in the Supplement to Regulation G (§ 207.5(d)).

b. Proposals published in the notice of proposed rule making that have been revised and the reasons therefor are as follows:

(1) This part has been revised throughout to substitute the phrase "margin security" for "regulated equity security." The change is intended to eliminate any implication that such securities are supervised or have been approved by the Board or by the Securities and Exchange Commission.

(2) Section 207.1(a) has been revised to provide that credit that would otherwise require registration by the person extending the credit under Regulation G will not have that effect if secured by collateral that includes OTC margin stock and/or debt securities convertible into OTC margin stock (but no other margin security), and if extended prior to July 8, 1969, the date these amendments become effective.

(3) Section 207.1(b) has been revised to clarify that a registration pursuant to this part is not terminated until the application has been approved by the Board.

(4) Section 207.1(c) has been revised to provide that the term "purpose credit" shall not include credit extended prior to July 8, 1969, for the purpose of purchasing or carrying OTC margin stock and/or debt securities convertible into such stock.

(5) Section 207.1(g) has been revised to clarify that purpose credit qualifying for exemption from the initial margin

requirements pursuant to § 207.4(a)(2) of this part must be combined with other purpose credit extended under the provisions of this part, but not until after such exempt credit satisfies the conditions of § 207.4(a)(2)(iii).

(6) Section 207.2(a) has been revised to clarify that all terms used in this part have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c), unless otherwise required by the context.

(7) Section 207.2 has been amended to add a new paragraph (c) to include within the definition of "purpose credit" an extension of credit provided for in a plan, program, or investment contract offered or sold or otherwise initiated after August 31, 1969, pursuant to which both margin securities and goods, services, property interests, other securities, or investments would be acquired. Together with the addition of paragraph (f) to § 207.4, which sets a 40 per cent maximum loan value on mutual fund shares serving as collateral for credit extended to finance certain plans for the combined purchase of mutual funds and insurance, this change represents a clarification that the Board regards credit available in connection with equity funding plans or programs as being for the purpose of purchasing or carrying margin securities. A proposal to include such plans or programs within the coverage of the regulation was published for comment in the Federal Register on December 17, 1968 (33 F.R. 13629).

(8) Section 207.2(d) has been revised to delete a reference to securities commonly known as equity funding plans

or programs in conformity with the changes described above. A further revision indicates that a security issued by a small business investment company licensed under the Small Business Investment Company Act of 1958 (15 U.S.C. 661) is not a margin security.

(9) Section 207.2(f) has been revised by transferring from subparagraph (2) of this section to § 207.5(d) (the Supplement to Regulation G) the criteria that will be used by the Board to select stocks for inclusion on the list of OTC margin stock that will be subject to Regulation G. This section has been further revised to clarify that a statement in an advertisement or other similar communication containing a reference to the Board in connection with the list of OTC margin stocks would constitute such an unlawful representation as is referred to in subparagraph (5) of this section.

(10) Section 207.4(a) has been amended to provide that credit extended to finance exercise of options or rights to purchase OTC margin stock or debt securities convertible into such stock, granted to named officers or employees prior to July 8, 1969, will not be subject to initial margin requirements, or to restrictions on withdrawals and substitutions of collateral, provided such rights are exercised prior to July 8, 1970. This section has also been amended to exempt from the regulation credit extended by a "plan-lender" to finance the exercise of rights to purchase margin securities pursuant

to stock purchase plans and options that are "qualified" or "restricted" under Internal Revenue Code §§ 422, 423 and 424, provided such rights were granted prior to February 1, 1968. In addition the section has been further amended to clarify the Board's original intention to limit the exemption to credit extended by a plan-lender who is, if not the corporation or its membership thrift organization, wholly owned and controlled by such corporation. Such limitation would, however, not affect credit extended by a trustee, or by a plan-lender not wholly owned which was formed prior to February 1, 1968 (the date after which such credit became subject to Regulation G).

(11) Section 207.5 (the Supplement to Regulation G) has been amended by adding a new paragraph (d) to receive the criteria transferred from § 207.2(f). In addition, the criteria have been revised to include on the list of OTC margin stock only those stocks whose issuer is organized under the laws of the United States, or a state thereof, the District of Columbia, Puerto Rico, the Philippine Islands, the Canal Zone, the Virgin Islands, or any other possession of the United States.

c. With the exception of certain changes in § 207.4(a), relating to the availability of exemption from the margin and other requirements of the regulation for credit extended in connection with stock option and employee stock purchase plans, these amendments were adopted by the Board after consideration of all relevant material that was presented by interested persons. In the Board's view, the effect of such changes in § 207.4(a) is in part, to relax certain

restrictions and in part to interpret existing rules. Accordingly, the Board concluded that the notice and public participation procedure contemplated by section 553 of Title 5, United States Code, was unnecessary with respect to such changes.

Dated at Washington, D. C. this day of June 1969.

By order of the Board of Governors.

(Signed) Robert P. Forrestal

Robert P. Forrestal,
Assistant Secretary.

TITLE 12 - BANKS AND BANKING

CHAPTER II - FEDERAL RESERVE SYSTEM

SUBCHAPTER A - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. T]

PART 220 - CREDIT BY BROKERS AND DEALERS

1. Effective July 8, 1969, §§ 220.1 through 220.8 are revised

to read as follows:

Sec.

- 220.1 Scope of part.
- 220.2 Definitions.
- 220.3 General accounts.
- 220.4 Special accounts.
- 220.5 Borrowing by members, brokers, and dealers.
- 220.6 Certain technical details.
- 220.7 Miscellaneous provisions.
- 220.8 Supplement.

Authority: The provisions of this Part 220 issued under sections 7 and 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78g, 78h(a)).

§ 220.1 Scope of part.

This part is issued by the Board of Governors of the Federal Reserve System (hereinafter called the "Board") pursuant to the Securities Exchange Act of 1934 (called the "Act" in this part), particularly sections 7 and 8(a) thereof (15 U.S.C. 78g, 78h(a), as amended), and applies to every broker or dealer, including every member of a national securities exchange.

§ 220.2 Definitions.

For the purposes of this part, unless the context otherwise requires:

(a) The terms herein have the meanings given them in section 3(a) of the Act (15 U.S.C. 78c(a)).

(b) The term "creditor" means any broker or dealer including every member of a national securities exchange.

(c) The term "customer" (1) includes any person, or any group of persons acting jointly, (i) to or for whom a creditor is extending, arranging, or maintaining any credit, or (ii) who, in accordance with the ordinary usage of the trade, would be considered a customer of the creditor, and (2) includes, but is not limited to (i) in case the creditor is a firm, any partner in the firm who would be considered a customer of the firm if he were not a partner, and (ii) any joint venture in which a creditor participates and which would be considered a customer of the creditor if the creditor were not a participant.

(d) The term "registered security" means any security which (1) is registered on a national securities exchange; or (2) in consequence of its having unlisted trading privileges on a national securities exchange is deemed, under the provisions of section 12(f) of the Act (15 U.S.C. 781), to be registered on a national securities exchange; or (3) is exempted by the Securities and Exchange Commission from the operation of section 7(c)(2) of the Act (15 U.S.C. 78g(c)(2)) only to the extent necessary to render lawful any direct or indirect extension or maintenance of credit on such security or any direct or indirect arrangement therefor which would not have been unlawful if such security had been a security (other than an exempted security) registered on a national securities exchange.

(e)(1) The term "OTC margin stock"^{1/} means stock, not traded on a national securities exchange, which the Board of Governors of the Federal Reserve System has determined to have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer, and the character and permanence of the issuer to warrant subjecting such stock to the requirements of this part.

(2) The Board will from time to time publish a list of OTC margin stock as to which the Board has made the determinations described in subparagraph (1) of this paragraph (e). Except as provided in subparagraph (4) of this paragraph (e), such stocks shall meet the requirements of § 220.8(g) (the Supplement to Regulation T).

(3) The Board will from time to time remove from the list described in subparagraph (2) of this paragraph (e) stocks that cease to:

(i) Exist or of which the issuer ceases to exist, or
(ii) Meet substantially the provisions of subparagraph (1) of this paragraph (e) and of § 220.8(g) (the Supplement to Regulation T).

(4) The foregoing notwithstanding, the Board may, upon its own initiative or upon application by any interested party, omit or remove any stock that is not traded on a national securities exchange from or add any such stock to such list of OTC margin stocks if in the judgment of the Board, such action is necessary or appropriate in the public interest.

(5) It shall be unlawful for any creditor to make, or cause to be made, any representation to the effect that the inclusion of a security on such list of OTC margin stocks is evidence that the Board

^{1/} "OTC stock" hereinafter refers to stock traded "over-the-counter."

or the Securities and Exchange Commission has in any way passed upon the merits of, or given approval to, such security or any transaction therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with such stocks or such list shall constitute such an unlawful representation.

(f) The term "margin security" means any registered security or OTC margin stock.

(g) The term "exempted security" has the meaning given it in section 3(a) of the Act (15 U.S.C. 78c(a)(12)), except that the term does not include a security which is exempted by the Securities and Exchange Commission from the operation of section 7(c)(2) of the Act (15 U.S.C. 78g(c)(2)) only to the extent described in paragraph (d)(3) of this section.

(h) The term "non-equity security" means any security other than an equity security^{2/} or an exempted security.

§ 220.3 General accounts.

(a) Contents of general account. All financial relations between a creditor and a customer, whether recorded in one record or in more than one record, shall be included in and be deemed to be part of the customer's general account with the creditor, except that the relations which § 220.4 permits to be included in any special account provided for by that section may be included in the appropriate special account, and all transactions in commodities, and, except to the extent provided in paragraph (b)(2) of § 220.3, all transactions in non-equity securities, exempted securities, and in other securities having no loan value in a

^{2/} As defined in 15 U.S.C. 78c(a)(11).

general account under the provisions of § 220.3(c) and § 220.8 (the Supplement to Regulation T) (except unissued securities, short sales and purchases to cover short sales, securities positions to offset short sales, contracts involving an endorsement or guarantee of any put, call, or other option), shall be included in the appropriate special account provided for by § 220.4. During any period when such § 220.8 specifies that margin equity securities shall have no loan value in a general account or special convertible debt security account (sometimes referred to herein as "special convertible security account") subject to § 221.4(j), any transaction consisting of a purchase of a security other than a purchase of a security to reduce or close out a short position shall be effected in the special cash account provided for by § 220.4(c) or in some other appropriate special account provided for by § 220.4.

(b) General rule. (1) A creditor shall not effect for or with any customer in a general account, special bond account subject to § 220.4(i), or special convertible security account any transaction which, in combination with the other transactions effected in such account on the same day, creates an excess of the adjusted debit balance of such account over the maximum loan value of the securities in such account, or increases any such excess, unless in connection therewith the creditor obtains, as promptly as possible and in any event before the expiration of 5 full business days following the date of such transaction, the deposit into such account of cash or securities in such amount that the cash deposited plus the loan value of the securities deposited equals or exceeds the excess so created or the increase so caused.

(2) Except as permitted in this subparagraph, no withdrawal of cash or exempted or margin securities shall be permissible if the adjusted debit balance of the account (whether the general account, the special bond account, or the special convertible security account) would exceed the maximum loan value of the securities in such account after such withdrawal. The exceptions are available only in the event no cash or securities need to be deposited in such account in connection with a transaction on a previous day and none would need to be deposited thereafter in connection with any withdrawal of cash or securities on the current day. The permissible exceptions are (i) registered non-equity securities or exempted securities held in the general account on March 11, 1968, and continuously thereafter may be withdrawn upon the deposit in the account of cash (or margin equity securities counted at their maximum loan value) at least equal to the "retention requirement" of such withdrawn securities, or (ii) except as provided in (i) of this subparagraph, securities having loan value in the general account, the special bond account, or the special convertible security account may be withdrawn upon the deposit in such account of cash or securities having loan value in such account counted at the maximum loan value at least equal to the "retention requirement" of those securities, or (iii) cash may be withdrawn upon the deposit in the general account, the special bond account, or the special convertible security account of securities having a maximum loan value in such account at least equal to the amount of cash withdrawn, or (iv) upon the sale (other than the short sale) of securities having loan value in the general account, special bond account, or special convertible security account there may

be withdrawn in cash an amount equal to the difference between the current market value of the securities sold and the "retention requirement" of such securities, or (v) upon the sale (other than the short sale) of a registered non-equity security or an exempted security that was held in the general account on March 11, 1968 and continuously thereafter there may be withdrawn in cash an amount equal to the difference between the current market value of the securities sold and the "retention requirement" of those securities as prescribed in § 220.8 (the Supplement to Regulation T).

(3) Rules for computing the maximum loan value of the securities in a general account, special bond account, or special convertible security account and the adjusted debit balance of such account are provided in paragraphs (c) and (d) of this section, and certain modifications of and exceptions to the general rule stated in this paragraph are provided in the subsequent paragraphs of this section and in § 220.6.

(c) Maximum loan value and current market value. (1) The maximum loan value of the securities in a general account, special bond account, or special convertible security account is the sum of the maximum loan values of the individual securities in such account, including securities (other than unissued securities) bought for such account but not yet debited thereto, but excluding securities sold for such account whether or not payment has been credited thereto.

(2) Except as otherwise provided in this paragraph, the maximum loan value of a security in a general account, special bond account, or special convertible security account shall be such maximum loan value as the Board shall prescribe from time to time in

§ 220.8 (the Supplement to Regulation T). No collateral other than an exempted security or a registered non-equity security held in such account on March 11, 1968 and continuously thereafter, or margin equity security shall have any loan value in a general account except that a registered equity security eligible for a special convertible security account pursuant to § 220.4(j) shall have loan value in a general account only if held in the account on March 11, 1968 and continuously thereafter.

(3) A warrant or certificate which evidences only a right to subscribe to or otherwise acquire any security and which expires within 90 days of issuance shall have no loan value in a general account, special bond account, or special convertible security account; but, if the account contains the security to the holder of which such warrant or certificate has been issued and such warrant or certificate is held in an appropriate account maintained by the creditor for the customer the current market value of such security (if such security is a margin security) shall, for the purpose of calculating its maximum loan value, be increased by the current market value of such warrant or certificate.

(4) For the current market value of a security throughout the day of its purchase or sale, the creditor shall use its total cost or the net proceeds of its sale, as the case may be, and at any other time shall use the closing sale price of the security on the preceding business day as shown by any regularly published reporting or quotation service. In the absence of any such closing sale price, the creditor may use any reasonable estimate of the market value of such security as of the close of business on such preceding business day.

(d) Adjusted debit balance. For the purpose of this part, the adjusted debit balance of a general account, special bond account, or special convertible security account shall be calculated by taking the sum of the following items:

(1) the net debit balance, if any, of such account;

(2) the total cost of any securities (other than unissued securities) bought for such account but not yet debited thereto;

(3) the current market value of any securities (other than unissued securities) sold short in the general account plus, for each security (other than an exempted security), such amount as the Board shall prescribe from time to time in § 220.8 (the Supplement to Regulation T) as the margin required for such short sales, except that such amount so prescribed in such § 220.8 need not be included when there are held in the general account the same securities or securities exchangeable or convertible within 90 calendar days, without restriction other than the payment of money, into such securities sold short;

(4) the amount of margin specified by paragraph (h) of this section for every net commitment in such account in unissued securities, plus all unrealized losses on each commitment in unissued securities and minus all unrealized gains (not exceeding the required margin) on each commitment in unissued securities; and

(5) the amount of any margin customarily required by the creditor in connection with his endorsement or guarantee of any put, call, or other option;

and deducting there from the sum of the following items:

(6) the net credit balance, if any, of such account; and

(7) the net proceeds of sale of any securities (other than unissued securities) sold for such account but for which payment has not yet been credited thereto.

In case such account is the account of a partner of the creditor or the account of a joint venture in which the creditor participates, the adjusted debit balance shall be computed according to the foregoing rule and the supplementary rules prescribed in § 220.6(a) and (b).

(e) Liquidation in lieu of deposit. ^{3/} In any case in which the deposit required by paragraph (b) of this section, or any portion thereof, is not obtained by the creditor within the 5-day period specified therein, margin non-exempted securities shall be sold (or, to the extent that there are insufficient margin non-exempted securities in the general account, special bond account, or special convertible security account other liquidating transactions shall be effected in such account), prior to the expiration of such 5-day period, in such amount that the resulting decrease in the adjusted debit balance of such account exceeds, by an amount at least as great as such required deposit or the undeposited portion thereof, the "retention requirement" of any margin or exempted securities sold:

^{3/} This requirement relates to the action to be taken when a customer fails to make the deposit required by § 220.3(b), and it is not intended to countenance on the part of customers the practice commonly known as "free-riding," to prevent which the principal national securities exchanges have adopted certain rules. See the rules of such exchanges and § 220.7(e).

Provided, That a creditor is not required to sell securities or to effect other liquidating transactions specified by this paragraph in an amount greater than necessary to eliminate the excess of the adjusted debit balance of such account over the maximum loan value of the securities remaining in such account after such liquidation.

(f) Extensions of time. In exceptional cases, the 5-day period specified in paragraph (b) of this section may, on application of the creditor, be extended for one or more limited periods commensurate with the circumstances (1) by any regularly constituted committee of a national securities exchange having jurisdiction over the business conduct of its members, of which exchange the creditor is a member or through which his transactions are effected, or (2) in instances where the procedure described above is not readily available or appropriate, by a committee of a national securities association; Provided, That such committee is satisfied that the creditor is acting in good faith in making the application and that the circumstances are in fact exceptional and warrant such action.

(g) Transactions on given day. For the purposes of paragraph (b) of this section, the question of whether or not an excess of the adjusted debit balance of a general account, special bond account, or special convertible security account over the maximum loan value of the securities in such account is created or increased on a given day shall be determined on the basis of all the transactions in the account on such day exclusive of any deposit of cash, deposit of securities, covering transaction, or other liquidation that has been effected on

such day, pursuant to the requirement of paragraphs (b) or (e) of this section, in connection with a transaction on a previous day. In any case in which an excess so created, or increase so caused, by transactions on a given day does not exceed \$100, the creditor need not obtain the deposit specified therefor in subparagraph (b)(1) of this section. Any transaction which serves to meet the requirements of paragraph (e) of this section or otherwise serves to permit any offsetting transaction in an account shall, to that extent, be unavailable to permit any other transaction in such account. For the purposes of this part (Regulation T), if a security has maximum loan value under subparagraph (c)(1) of this section in a general account, a sale of the same security (even though not the same certificate) in such account shall be deemed to be a long sale and shall not be deemed to be or treated as a short sale.

(h) Unissued securities. (1) The amount to be included in the adjusted debit balance of a general account, special bond account, or special convertible security account as the margin required for a net long commitment in unissued securities shall be the current market value of the net amount of unissued securities long minus the maximum loan value which such net amount of securities would have if they were issued margin securities held in such account; and the amount to be so included as the margin required for a net short commitment in unissued securities shall be the amount which would be required as margin for the net amount of unissued securities short if such securities were issued securities and were sold short in such account: Provided, That no amount need be included as margin for a net short commitment in unissued

securities when there are held in such account securities in respect of which the unissued securities are to be issued, nor for any net position in unissued securities that are exempted securities.

(2) Whenever a creditor, pursuant to a purchase of an unissued security for a customer, receives an issued security which is not a margin or exempted security, the creditor shall treat as the margin required for such purchase, any payment by the customer for such issued security as a transaction (other than a withdrawal) which increases the adjusted debit balance of a general account, special bond account, or special convertible security account by the amount of the payment minus the amount required to be included in the adjusted debit balance of such account, at the time of and in connection with the purchase of the unissued security.

§ 220.4 Special accounts.

(a) General rule. (1) Pursuant to this section, a creditor may establish for any customer one or more special accounts.

(2) Each such special account shall be recorded separately and shall be confined to the transactions and relations specifically authorized for such account by the appropriate paragraph of this section and to transactions and relations incidental to those specifically authorized. An adequate record shall be maintained showing for each such account the full details of all transactions in the account.

(3) A special account established pursuant to this section shall not be used in any way for the purpose of evading or circumventing any of the provisions of this part. If a customer has with a creditor both a general account and one or more such special accounts, the creditor shall treat each such special account as if the customer had with the

creditor no general account, special bond account subject to § 220.4(i), or special convertible security account subject to § 220.4(j).

(4) The only other conditions to which transactions in such special accounts shall be subject under the provisions of this part shall be such conditions as are specified in the appropriate paragraph of this section and in §§ 220.2, 220.6, 220.7, or 220.8, except insofar as § 220.3 applies to §§ 220.4(i), and (j).

(b) Special omnibus account. In a special omnibus account, a member of a national securities exchange may effect and finance transactions for another member of a national securities exchange or a broker or dealer registered with the Securities and Exchange Commission under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) from whom the member receives (1) written notice, pursuant to a rule of the Securities and Exchange Commission concerning the hypothecation of customers' securities by brokers or dealers (Rule 8c-1 (17 CFR § 240.8c-1) or Rule 15c2-1 (17 CFR § 240.15c2-1)), to the effect that all securities carried in the account will be carried for the account of the customers of the broker or dealer and (2) written notice that any short sales effected in the account will be short sales made in behalf of the customers of the broker or dealer other than his partners. No substitutions of collateral securing credit extended to a broker or dealer not described in the preceding sentence shall be permitted after October 6, 1969 and no such credit shall be maintained after July 8, 1970.

(c) Special cash account. (1) In a special cash account, a creditor may effect for or with any customer bona fide cash transactions in securities in which the creditor may:

(i) Purchase any security for, or sell any security to, any customer, provided funds sufficient for the purpose are already held in the account or the purchase or sale is in reliance upon an agreement accepted by the creditor in good faith that the customer will promptly make full cash payment for the security and that the customer does not contemplate selling the security prior to making such payment.

(ii) Sell any security for, or purchase any security from, any customer, provided the security is held in the account or the creditor is informed that the customer or his principal owns the security and the purchase or sale is in reliance upon an agreement accepted by the creditor in good faith that the security is to be promptly deposited in the account.

(2) In case a customer purchases a security (other than an exempted security) in the special cash account and does not make full cash payment for the security within 7 days after the date on which the security is so purchased, the creditor shall, except as provided in subparagraphs (3)-(7) of this paragraph, promptly cancel or otherwise liquidate the transaction or the unsettled portion thereof.

(3) If the security when so purchased is an unissued security, the period applicable to the transaction under subparagraph (2) of this paragraph shall be 7 days after the date on which the security is made available by the issuer for delivery to purchasers. If the security when so purchased is a "when distributed" security which is to be distributed in accordance with a published plan, the period applicable to the transaction under subparagraph (2) of this paragraph shall be 7 days after the date on which the security is so distributed. If the

security when so purchased is a new security issued or to be issued for the purpose of refunding outstanding securities which mature, or are to be payable upon presentation for redemption, within 35 days of the date on which the new security is made available by the issuer for delivery to purchasers, the period applicable to the transaction under subparagraph (2) of this paragraph shall be 7 days after such maturity or payment date: Provided, That this sentence shall apply only to the payment of that portion of the purchase price that does not exceed 103 per cent of the amount that will be payable to the purchaser of the new security upon such maturity of, or payment for, securities owned by him at the time of the purchase.

(4) If any shipment of securities is incidental to the consummation of the transaction, the period applicable to the transaction under subparagraph (2) of this paragraph shall be deemed to be extended by the number of days required for all such shipments, but not by more than 7 days.

(5) If the creditor, acting in good faith in accordance with subparagraph (1) of this paragraph, purchases a security for a customer, or sells a security to a customer, with the understanding that he is to deliver the security promptly to the customer, and the full cash payment to be made promptly by the customer is to be made against such delivery, the creditor may at his option treat the transaction as one to which the period applicable under subparagraph (2) of this paragraph is not the 7 days therein specified but 35 days after the date of such purchase or sale.

(6) If an appropriate committee of a national securities exchange or a national securities association is satisfied that the creditor is acting in good faith in making the application, that the application relates to a bona fide cash transaction, and that exceptional circumstances warrant such action, such committee, on application of the creditor, (i) may extend any period specified in subparagraphs (2), (3), (4) or (5) of this paragraph for one or more limited periods commensurate with the circumstances, or (ii), in case a security purchased by the customer in the special cash account is a margin or exempted security, may authorize the transfer of the transaction to a general account, special bond account, special convertible security account, or special omnibus account, and the completion of such transaction pursuant to the provisions of this part relating to such an account.

(7) The 7-day periods specified in this paragraph refer to 7 full business days. The 35-day period and the 90-day period specified in this paragraph refer to calendar days, but if the last day of any such period is a Saturday, Sunday, or holiday, such period shall be considered to end on the next full business day. For the purposes of this paragraph, a creditor may, at his option, disregard any sum due by the customer not exceeding \$100.

(8) Unless funds sufficient for the purpose are already in the account, no security other than an exempted security shall be purchased for, or sold to, any customer in a special cash account with the creditor if any security other than an exempted security has been purchased by such customer in such an account during the preceding 90 days, and

then, for any reason whatever, without having been previously paid for in full by the customer, the security has been sold in the account or delivered out to any broker or dealer: Provided, That an appropriate committee of a national securities exchange or a national securities association, on application of the creditor, may authorize the creditor to disregard for the purposes of this subparagraph any given instance of the type therein described if the committee is satisfied that both creditor and customer are acting in good faith and that circumstances warrant such authorization. For the purposes of this subparagraph, the cancelation of a transaction, otherwise than to correct an error, shall be deemed to constitute a sale. The creditor may disregard for the purposes of this subparagraph a sale without prior payment provided full cash payment is received within the period described by subparagraph (2) of this paragraph and the customer has not withdrawn the proceeds of sale on or before the day on which such payment (and also final payment of any check received in that connection) is received. The creditor may so disregard a delivery of a security to another broker or dealer provided such delivery was for deposit into a special cash account which the latter broker or dealer maintains for the same customer and in which account there are already sufficient funds to pay for the security so purchased; and for the purpose of determining in that connection the status of a customer's account at another broker or dealer, a creditor may rely upon a written statement which he accepts in good faith from such other broker or dealer.

(d) Special arbitrage account. In a special arbitrage account, a member of a national securities exchange may effect and finance for any customer bona fide arbitrage transactions in securities. For the purpose of this paragraph, the term "arbitrage" means (1) a purchase or sale of a security in one market together with an offsetting sale or purchase of the same security in a different market at as nearly the same time as practicable, for the purpose of taking advantage of a difference in prices in the two markets, or (2) a purchase of a security which is, without restriction other than the payment of money, exchangeable or convertible within 90 calendar days following the date of its purchase into a second security together with an offsetting sale at or about the same time of such second security for the purpose of taking advantage of a disparity in the prices of the two securities.

(e) Special commodity account. In a special commodity account, a creditor may effect and carry for any customer transactions in commodities.

(f) Special miscellaneous account. In a special miscellaneous account, a creditor may:

(1) With the approval of any regularly constituted committee of a national securities exchange having jurisdiction over the business conduct of its members, extend and maintain credit to meet the emergency needs of any creditor;

(2)(i) Extend and maintain credit, (a) to or for any partner of a firm which is a member of a national securities exchange to enable such partner to make a contribution of capital to such firm, or to purchase stock in an affiliated corporation of such firm; or (b) to or for

any person who is or will become the holder of stock of a corporation which is a member of a national securities exchange to enable such person to purchase stock in such corporation, or to purchase stock in an affiliated corporation of such corporation; provided the lender as well as the borrower is a partner in such member firm or a stockholder in such member corporation, or the lender is a firm or a stockholder in such member corporation, or the lender is a firm or corporation which is a member of a national securities exchange and the borrower is a partner in such firm or a stockholder in such corporation;

(ii) Extend and maintain subordinated credit to another creditor for capital purposes: Provided, That,

(a) Either the lender or the borrower is a firm or corporation which is a member of a national securities exchange, the other party to the credit is an affiliated corporation of such member firm or corporation, and, in addition to the fact that an appropriate committee of the exchange is satisfied that the credit is not in contravention of any rule of the exchange, the credit has the approval of such committee, or

(b) The lender as well as the borrower is a member of such exchange, the credit has the approval of an appropriate committee of the exchange, and the committee, in addition to being satisfied that the credit is not in contravention of any rule of the exchange, is satisfied that the credit is outside the ordinary course of the lender's business, and that, if the borrower's firm or corporation or an affiliated corporation of such firm or corporation does any dealing in securities for its own account, the credit is not for the purpose of increasing the amount of such dealing.

(iii) For the purpose of subdivisions (i) and (ii) of this subparagraph, the term "affiliated corporation" means a corporation all the common stock of which is owned directly or indirectly by the member firm or general partners and employees of the firm, or by the member corporation or holders of voting stock and employees of the corporation and an appropriate committee of the exchange has approved the member firm's or member corporation's affiliation with such affiliated corporation.

(3) Purchase any security from any customer who is a member of a national securities exchange or a broker or dealer registered with the Securities and Exchange Commission under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), or sell any security to such customer: Provided, That the creditor acting in good faith purchases or sells the security for delivery, against full payment of the purchase price, as promptly as practicable in accordance with the ordinary usage of the trade;

(4) Effect and finance, for any member of a national securities exchange who is registered and acts as odd-lot dealer in securities on the exchange, such member's transactions as an odd-lot dealer in such securities, or effect and finance, for any joint venture in which the creditor participates, any transactions in any securities of an issue with respect to which all participants, or all participants other than the creditor, are registered and act on a national securities exchange as odd-lot dealers;

(5) Effect transactions for and finance any joint venture or group in which the creditor participates and in which all participants are dealers (whether such participants be acting jointly or severally),

or any member thereof or participant therein, for the purpose of facilitating the underwriting or distributing of all or part of an issue of securities (i) not through medium of a national securities exchange, or (ii) the distribution of which has been approved by the appropriate committee of a national securities exchange;

(6) Effect for any customer the collection or exchange (other than by sale or purchase) of securities deposited by the customer specifically for such purposes, and (subject to any other applicable provisions of law) received from or for any customer, and pay out or deliver to or for any customer, any money or securities;

(7) Effect and carry for any customer transactions in foreign exchange; and

(8) Extend and maintain credit to or for any customer without collateral or on any collateral whatever for any purpose^{4/} other than purchasing or carrying or trading in securities.

(g) Specialist's account. In a special account designated as a specialist's account, a creditor may effect and finance, for any member of a national securities exchange who is registered and acts as a specialist in securities on the exchange, such member's transactions as a specialist in such securities, or effect and finance, for any joint venture in which the creditor participates, any transactions in any securities of an issue with respect to which all participants, or all participants other than the creditor, are registered and act on a national securities exchange as specialists. Such specialist's account shall be subject to the same conditions to which it would be subject if

^{4/} See § 220.7(c).

it were a general account except that if the specialist's exchange, in addition to the other requirements applicable to specialists, is designated by the Board of Governors of the Federal Reserve System as requiring reports suitable for supplying current information regarding specialists' use of credit pursuant to this paragraph, the requirements of § 220.6(b) regarding joint ventures shall not apply to such accounts and the maximum loan value of a registered security in such account shall be as determined by the creditor in good faith.

(h) Special subscriptions accounts. In a special subscriptions account a creditor may effect and finance the acquisition of a margin security for a customer through the exercise of a right to acquire such security which is evidenced by a warrant or certificate issued to stockholders and expiring within 90 days of issuance, and such special subscriptions account shall be subject to the same conditions to which it would be subject if it were a general account, except that:

(1) Each such acquisition shall be treated separately in the account, and prior to initiating the transaction the creditor shall obtain a deposit of cash in the account such that the cash deposited plus the maximum loan value of the securities so acquired equals or exceeds the subscription price, giving effect to a maximum loan value for the securities so acquired of 75 per cent of their current market value as determined by any reasonable method;

(2) After October 20, 1967, at the time when credit is extended pursuant to this paragraph, the creditor shall compute the amount by which the credit exceeds the maximum loan value of the collateral as prescribed by § 220.8 (the Supplement to Regulation T) and the customer

shall reduce the credit by an amount equal to at least one-fourth of such sum by the end of each of the 4 succeeding 3-calendar-month periods or until the credit does not exceed the current maximum loan value of the collateral, whichever shall occur first, and, if the creditor fails to obtain the required quarterly reduction or a portion thereof with respect to a particular acquisition within 5 full business days after such reduction is due, the creditor shall promptly liquidate a portion of the collateral so acquired and apply the proceeds of the sale to reduce the credit, in an amount equal to at least twice the required payment or portion thereof for the first 2 such liquidations, at least equal to the required payment or portion thereof for the third such liquidation, and at least sufficient so that the remaining credit does not exceed the current maximum loan value of the remaining collateral after the fourth such liquidation: Provided, That, no such liquidation need be in an amount greater than is necessary so that the remaining credit does not exceed the maximum loan value of the remaining collateral determined as of the date the credit was extended and

(3) The creditor shall not permit any withdrawal of cash or securities from the account so long as the remaining credit exceeds the maximum loan value of the remaining collateral in the account, except that when the remaining credit extended in connection with a given acquisition of securities in the account has become equal to or less than the maximum loan value of such securities as prescribed in § 220.8 (the Supplement to Regulation T) (or in connection with an acquisition after October 20, 1967, the requirements of subparagraph (2) of this section

have been fulfilled), such securities shall be transferred to the general account (or, if eligible, to a special convertible security account pursuant to § 220.4(j)) together with any remaining portion of such credit. In order to facilitate the exercise of a right in accordance with the provisions of this paragraph, a creditor may permit the right to be transferred from a general account to the special subscriptions account without regard to any other requirement of this part.

(i) Special bond account. In a special bond account a creditor may effect and finance transactions in exempted securities and registered non-equity securities for any customer.^{5/}

(j) Special convertible debt security account. (1) In a special convertible debt security account a creditor may extend credit on any margin security consisting of a margin debt security (i) convertible with or without consideration, presently or in the future, into margin stock or (ii) carrying a warrant or right to subscribe to or purchase such stock.

(2) A special convertible debt security account shall be subject to the same conditions to which it would be subject if it were a general account except that the maximum loan value of the securities in the account shall be as prescribed from time to time in § 220.8 (the Supplement to Regulation T).

^{5/} For maximum loan value of such securities see § 220.8(b), the Supplement to Regulation T.

(3) Any security which ceases to be an equity security while held in this account shall continue to be treated as an equity security as long as it is continuously held in this account.

(4) In the event any stock is to be substituted for a security held in this account, or if a security held in this account is to be used to offset a short sale in the general account, such security shall thereupon be transferred to the customer's general account against a deposit of cash or margin securities eligible for an extension of credit in this account (counted at their maximum loan value) equal to at least the maximum loan value of the security for which such substitution is made, without regard to the retention requirement of § 220.3(b)(2).

(k) Special equity funding account. In a special equity funding account a creditor, who is the issuer or a subsidiary or affiliate of the issuer of a plan, program, or investment contract, registered with the Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C. 77), that provides for the acquisition both of a security issued by an investment company registered pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8) and of insurance may arrange for the extension or maintenance of credit, not in excess of the premium on such policy (plus any accrued interest), on a security issued by such an investment company that serves as collateral under such a plan, program, or investment contract; Provided, That such credit is extended or maintained by a lender subject to Part 207 of this Chapter (Regulation G) or a bank subject to Part 221 of this Chapter (Regulation U). A creditor, arranging credit in a special equity funding account shall not extend, arrange, or maintain credit in the general account or any other special account in §§ 220.3 and 220.4 of this part.

§ 220.5 Borrowing by members, brokers, and dealers.

(a) General rule. It is unlawful for any creditor, directly or indirectly, to borrow in the ordinary course of business as a broker or dealer on any registered security (other than an exempted security) except:

(1) from or through a member bank of the Federal Reserve System;

or

(2) from any nonmember bank which shall have filed with the Board an agreement which is still in force and which is in the form prescribed by this part; or

(3) to the extent to which, under the provisions of this part, loans are permitted between members of a national securities exchange and/or brokers and/or dealers, or loans are permitted to meet emergency needs.

(b) Agreements of nonmember banks. An agreement filed pursuant to section 8(a) of the Act (15 U.S.C. 78h(a)) by a bank not a member of the Federal Reserve System shall be substantially in the form contained in Form F.R. T-2 if the bank has its principal place of business in a territory or insular possession of the United States, or if it has an office or agency in the United States and its principal place of business outside the United States. The agreement filed by any other nonmember bank shall be in substantially the form contained in Form F.R. T-1. Any nonmember bank which has executed any such agreement may terminate the agreement if it obtains the written consent of the Board. Blank forms of such agreements, information regarding their filing or termination, and information regarding the names of nonmember banks for which such agreements are in force, may be obtained from any Federal Reserve Bank.

(c) Borrowing from other creditors. A creditor may borrow from another creditor in the ordinary course of business as a broker or dealer on any registered security to the extent and subject to the terms upon which the latter may extend credit to him in accordance with the provisions of this part, and subject to any other applicable provisions of law.

§ 220.6 Certain technical details.

(a) Accounts of partners. In case a general account, special bond account, or special convertible security account is the account of a partner of the creditor, the creditor, in calculating the adjusted debit balance of such account and the maximum loan value of the securities therein, shall disregard the partner's financial relations with the firm as reflected in his capital and ordinary drawing accounts.

(b) Contribution to joint venture. In case a general account, special bond account, or special convertible security account is the account of a joint venture in which the creditor participates, the adjusted debit balance of such account shall include, in addition to the items specified in § 220.3(d), any amount by which the creditor's contribution to the joint venture exceeds the contribution which he would have made if he had contributed merely in proportion to his right to share in the profits of the joint venture.

(c) Guaranteed accounts. No guarantee of a customer's account shall be given any effect for purposes of this part.

(d) Transfer of accounts. (1) In the event of the transfer of a general account, special bond account, or special convertible security account from one creditor to another, such account may be treated for the

purposes of this part as if it had been maintained by the transferee from the date of its origin: Provided, That the transferee accepts in good faith a signed statement of the transferor that no cash or securities need be deposited in such account in connection with any transaction that has been effected in such account or, in case he finds that it is not practicable to obtain such a statement from the transferor, accepts in good faith such a signed statement from the customer.

(2) In the event of the transfer of a general account, special bond account, or special convertible security account, from one customer to another, or to others, as a bona fide incident to a transaction that is not undertaken for the purpose of avoiding the requirements of this part, each such transferee account may be treated by the creditor for the purposes of this part as if it had been maintained for the transferee from the date of its origin: Provided, That the creditor accepts in good faith and keeps with such transferee account a signed statement of the transferor describing the circumstances giving rise to the transfer.

(e) Reorganizations. A creditor may, without regard to the other provisions of this part, effect for a customer the exchange of any margin or exempted security in a general account, special bond account or special convertible security account, for the purpose of participating in a reorganization or recapitalization in which the security is involved: Provided, That if a non-margin non-exempted security is acquired in exchange the creditor shall not, for a period of 60 days following such acquisition, permit the withdrawal of such security or the proceeds of its sale from such account except to the extent that such security or proceeds could be withdrawn if the security were a margin security.

(f) Time of receipt of funds or securities. For the purposes of this part, a creditor may, at his option (1) treat the receipt in good faith of any check or draft drawn on a bank which in the ordinary course of business is payable on presentation, or any order on a savings bank with passbook attached which is so payable, as receipt of payment of the amount of such check, draft, or order; (2) treat the shipment of securities in good faith with sight draft attached as receipt of payment of the amount of such sight draft; and (3) in the case of the receipt in good faith of written or telegraphic notice in connection with a special omnibus account of a customer not located in the same city that a specified security or a check or draft has been dispatched to the creditor, treat the receipt of such notice as receipt of such security, check, or draft: Provided, however, That if the creditor receives notice that such check, draft, order, or sight draft described in subparagraphs (1), (2), or (3) of this paragraph is not paid on the day of presentation, or if such security, check, or draft described in subparagraph (3) of this paragraph is not received by the creditor within a reasonable time, the creditor shall promptly take such action as he would have been required to take by the appropriate provisions of this part if the provisions of this paragraph had not been utilized.

(g) Interest, service charges, etc. (1) Interest on credit maintained in a general account, special bond account, or special convertible security account, communication charges with respect to transactions in such account, shipping charges, premiums on securities borrowed in connection with short sales or to effect delivery, dividends or other distributions due on borrowed securities, and any service charges (other

than commissions) which the creditor may impose, may be debited to such account in accordance with the usual practice and without regard to the other provisions of this part, but such items so debited shall be taken into consideration in calculating the net credit or net debit balance of such account.

(2) A creditor may permit interest, dividends, or other distributions received by the creditor with respect to securities in a general account, special bond account or special convertible security account, to be withdrawn from such account only on condition that the adjusted debit balance of such account does not exceed the maximum loan value of the securities in such account after such withdrawal, or on condition that (i) such withdrawal is made within 35 days after the day on which, in accordance with the creditor's usual practice, such interest, dividends, or other distributions are entered in such account, (ii) such entry in the account has not served in the meantime to permit in the account any transaction which could not otherwise have been effected in accordance with this part, and (iii) any cash withdrawn does not represent any arrearage on the security with respect to which it was distributed, and the current market value of any securities withdrawn does not exceed 10 per cent of the current market value of the security with respect to which they were distributed. Failure by a creditor to obtain in a general account, special bond account, or special convertible security account, any cash or securities that are distributed with respect to any security in such account shall, except to the extent that withdrawal would be permitted under the preceding sentence, be deemed to be a transaction in such account which occurs on the day on which the distribution

is payable and which requires the creditor to obtain in accordance with § 220.3(b) a deposit of cash or securities having a maximum loan value at least as great as that of the distribution.

(h) Borrowing and lending securities. Without regard to the other provisions of this part, a creditor (1) may make a bona fide deposit of cash in order to borrow securities (whether margin or non-margin) for the purpose of making delivery of such securities in the case of short sales, failure to receive securities he is required to deliver, or other similar cases, and (2) may lend securities for such purpose against such a deposit.

(i) Credit for clearance of securities. The extension or maintenance of any credit which is maintained for only a fraction of a day (that is, for only part of the time between the beginning of business and midnight on the same day) shall be disregarded for the purposes of this part, if it is incidental to the clearance of transactions in securities directly between members of a national securities exchange or through an agency organized or employed by such members for the purpose of effecting such clearance.

(j) Foreign currency. If foreign currency is capable of being converted without restriction into United States currency, a creditor acting in good faith may treat any such foreign currency in an account as a credit to the account in an amount determined in accordance with customary practice.

(k) Innocent mistakes. If any failure to comply with this part results from a mechanical mistake made in good faith in executing a transaction, recording, determining, or calculating any loan, balance,

market price or loan value, or other similar mechanical mistake, the creditor shall not be deemed guilty of a violation of this part if promptly after the discovery of such mistake he takes whatever action may be practicable in the circumstances to remedy such mistake.

§ 220.7 Miscellaneous provisions.

(a) Arranging for loans by others. A creditor may arrange for the extension or maintenance of credit to or for any customer of such creditor by any person upon the same terms and conditions as those upon which the creditor, under the provisions of this part, may himself extend or maintain such credit to such customer, but only upon such terms and conditions, except that this limitation shall not apply with respect to the arranging by a creditor for a bank subject to Part 221 of this Chapter (Regulation U) to extend or maintain credit on margin securities or exempted securities.

(b) Maintenance of credit. Except as otherwise specifically forbidden by this part, any credit initially extended without violation of this part may be maintained regardless of (1) reductions in the customer's equity resulting from changes in market prices, (2) the fact that any security in an account ceases to be margin or exempted, and (3) any change in the maximum loan values or margin requirements prescribed by the Board under this part. In maintaining any such credit, the creditor may accept or retain for his own protection additional collateral of any description, including non-margin securities.

(c) Statement of purpose of loan. Every extension of credit on a margin security (other than an exempted security) shall be deemed to be for the purpose of purchasing or carrying or trading in securities,

unless the creditor has accepted in good faith a written statement to the contrary in conformity with the requirements of Form F.R. T-4 executed by the customer and executed and accepted in good faith by the creditor prior to such extension. The creditor shall retain such statement in his records for at least 3 years after such credit is extinguished. To accept the customer's statement in good faith, the creditor must (1) be alert to the circumstances surrounding the extension of credit and (2) if he has any information which would cause a prudent man not to accept the statement without inquiry, have investigated and be satisfied that the customer's statement is truthful. A creditor may rely upon such a written statement if accepted in accordance with this paragraph.

(d) Reports. Every creditor shall make such reports as the Board may require to enable the Board to perform the functions conferred upon it by the Act.

(e) Additional requirements by exchanges and creditors. Nothing in this part shall (1) prevent any exchange or national securities association from adopting and enforcing any rule or regulation further restricting the time or manner in which its members must obtain initial or additional margin in customer's accounts because of transactions effected in such accounts, or requiring such members to secure or maintain higher margins, or further restricting the amount of credit which may be extended or maintained by them, or (2) modify or restrict the right of any creditor to require additional security for the maintenance of any credit, to refuse to extend credit, or to sell any securities or property held as collateral for any loan or credit extended by him.

§ 220.8 Supplement.

(a) Maximum loan value for general accounts. The maximum loan value of securities in a general account subject to § 220.3 shall be:

(1) of a registered non-equity security held in the account on March 11, 1968; and continuously thereafter and of a margin equity security (except as provided in § 220.3(c) and § 220.8(b) and (c)), 20 per cent of the current market value of such securities.

(2) of an exempted security held in the account on March 11, 1968, and continuously thereafter the maximum loan value of the security, as determined by the creditor in good faith.

(b) Maximum loan value for a special bond account. The maximum loan value of an exempted security and of a registered non-equity security pursuant to § 220.4(i) shall be the maximum loan value of the security as determined by the creditor in good faith.

(c) Maximum loan value for special convertible debt security account. The maximum loan value of a margin security eligible for a special convertible security account pursuant to § 220.4(j) shall be 40 per cent of the current market value of the security.

(d) Margin required for short sales. The amount to be included in the adjusted debit balance of a general account, pursuant to § 220.3(d)(3), as margin required for short sales of securities (other than exempted securities) shall be 80 per cent of the current market value of each security.

(e) Retention requirement. In the case of an account which would have an excess of the adjusted debit balance of the account over

the maximum loan value of the securities in the account following a withdrawal of cash or securities from the account, pursuant to § 220.3(b)(2):

(1) The "retention requirement" of an exempted security held in the general account on March 11, 1968, and continuously thereafter shall be equal to its maximum loan value as determined by the creditor in good faith, and the "retention requirement" of a registered non-equity security held in such account on March 11, 1968, and continuously thereafter and of a margin security shall be 70 per cent of the current market value of the security.

(2) In the case of a special bond account subject to § 220.4(i), the retention requirement of an exempted security and of a registered non-equity security shall be equal to the maximum loan value of the security.

(3) In the case of a special convertible security account subject to § 220.4(j) which would have an excess of the adjusted debit balance of the account over the maximum loan value of the securities in the account following a withdrawal of cash or securities from the account, the retention requirement of a security having loan value in the account shall be 70 per cent of the current market value of the security.

(4) For the purpose of effecting a transfer from a general account to a special convertible security account subject to § 220.4(j), the retention requirement of a security described in § 220.4(j), shall be 70 per cent of its current market value.

(f) Security having no loan value in general account. No securities other than an exempted security or registered non-equity security held in the account on March 11, 1968, and continuously thereafter, and a margin security shall have any loan value in a general

account except that a margin security eligible for the special convertible security account pursuant to § 220.4(j) shall have loan value only if held in the account on March 11, 1968, and continuously thereafter.

(g) Requirements for inclusion on list of OTC margin stock.

Except as provided in subparagraph (4) of § 220.2(e), OTC margin stock shall meet the requirements that:

(1) The stock is subject to registration under § 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 781(g)(1)), or if issued by an insurance company subject to § 12(g)(2)(G) (15 U.S.C. 781(g)(2)(G)), the issuer had at least \$1 million of capital and surplus,

(2) Five or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Act (15 U.S.C. 78e),

(3) There are 1500 or more holders of record of the stock who are not officers, directors, or beneficial owners of 10 per cent or more of the stock,

(4) The issuer is organized under the laws of the United States or a State^{6/} and it, or a predecessor in interest, has been in existence for at least 3 years,

(5) The stock has been publicly traded for at least 6 months,
and

^{6/} As defined in 15 U.S.C. 78c(a)(16).

(6) Daily quotations for both bid and asked prices for the stocks are continuously available to the general public; and shall meet 3 of the 4 additional requirements that:

(7) There are 500,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 per cent of the stock,

(8) The shares described in subparagraph (7) of this paragraph have a market value in the aggregate of at least \$10 million,

(9) The minimum average bid price of such stock, as determined by the Board in the latest month, is at least \$10 per share, and

(10) The issuer had at least \$5 million of capital, surplus, and undivided profits.

* * * * *

2a. These amendments are promulgated pursuant to sections 7 and 8 of the Securities Exchange Act of 1934 (15 U.S.C. 78g, 78h) as amended by P.L. 90-437 (82 Stat. 452). As indicated in the notice of proposed rule making with respect to these amendments (Federal Register of February 15, 1969; 34 F.R. 2261), they are designed to regulate the amount of credit that may be extended by brokers and dealers with respect to certain securities that are not registered on a national securities exchange. The criteria the Board will use to select such "over-the-counter" (OTC) stocks that will be subject to the margin and other requirements of the regulation will appear in the Supplement to Regulation T (§ 220.8(g)).

b. Proposals published in the notice of proposed rule making that have been revised and the reasons therefor are as follows:

(1) This part has been revised throughout to substitute the phrase "margin security" for "regulated security." This change is intended to eliminate any implication that such securities are supervised or have been approved by the Board or by the Securities and Exchange Commission.

(2) Section 220.2(a) has been revised to clarify that all terms used in this part have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), unless otherwise required by the context.

(3) Section 220.2(c) has been revised to provide that a person to or for whom a creditor is arranging credit is a "customer" of the creditor, and to clarify that the term customer includes, but is not limited to, the type of persons enumerated therein.

(4) Section 220.2(e) has been revised by transferring from subparagraph (2) of this section to § 220.8(g) (the Supplement to Regulation T) the criteria that will be used by the Board to select stocks for inclusion on the list of OTC stock that will be subject to Regulation T. This section has been further revised to clarify that a statement in an advertisement or other similar communication containing a reference to the Board in connection with the list of OTC margin stocks would constitute such an unlawful representation as is referred to in subparagraph (5) of this section.

(5) Section 220.4(b) has been revised to clarify that a member of a national securities exchange may extend exempt credit in connection with wholesale transactions in the special omnibus account only to another such member, and a broker or dealer who is registered

with the Securities and Exchange Commission under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). The proposal's requirement that such member or broker-dealer certify that he is subject to the provisions of Regulation T is thereby eliminated. This section has been further revised to incorporate language from the notice of proposed rule making relating to the period of time after which persons, failing to qualify for additional extensions of credit under this section, would no longer be able to make substitution of collateral nor maintain their credit.

(6) Section 220.4(f) has been revised to add a requirement that "C.O.D." transactions in the special miscellaneous account are available only to members of a national securities exchange or broker-dealers who are registered with the Securities and Exchange Commission under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o).

(7) Section 220.4(h) has been revised to eliminate an obsolete provision relating to the effective date of subparagraph (2) of this section.

(8) Section 220.4(j) has been revised to insert language, inadvertently omitted from the text of the proposed amendments but included in the notice of proposed rule making, which would clarify that for the purpose of this Part 220, it is immaterial whether a debt security is convertible with or without consideration, presently or in the future, into a margin security.

(9) Section 220.4(k) has been added to permit a creditor to arrange for the extension or maintenance of credit in connection with the sale of equity funding plans or programs issued by such

creditor, or a subsidiary or affiliate thereof, on mutual fund shares which serve as collateral under the plan or program, provided that the creditor does not extend, maintain or arrange for credit in the general account or any other special account.

(10) Section 220.8 (the Supplement to Regulation T) is amended by adding a new paragraph (g) to receive the criteria transferred from § 220.2(e). In addition, the criteria have been revised to include only those stocks whose issuer is organized under the laws of the United States or a State thereof, the District of Columbia, Puerto Rico, the Philippine Islands, the Canal Zone, the Virgin Islands, or any other possession of the United States.

c. With the exception of changes in § 220.2(c) relating to the definition of a "customer" of a creditor, these amendments were adopted by the Board after consideration of all relevant material that was presented by interested persons. In the Board's view, the effect of the changes in § 220.2(c) is to interpret an existing rule. Accordingly, the Board concluded that the notice and public participation procedure contemplated by section 553 of Title 5, United States Code, was unnecessary with respect to such changes.

Dated at Washington, D. C., this day of June 1969.

By order of the Board of Governors.

(Signed) Robert P. Forrestal

Robert P. Forrestal,
Assistant Secretary.

TITLE 12 - BANKS AND BANKING

CHAPTER II - FEDERAL RESERVE SYSTEM

SUBCHAPTER A - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. U]

PART 221 - CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING
OR CARRYING MARGIN STOCKS

1. Effective July 8, 1969, §§ 221.1 through 221.4 are revised

to read as follows:

Sec.

221.1 General rule.

221.2 Exceptions to general rule.

221.3 Miscellaneous provisions.

221.4 Supplement.

Authority: The provisions of this Part 221 issued under section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g).

§ 221.1 General rule.

(a) Purpose credit secured by stock. (1) Except as provided in subparagraph (2) of this paragraph (a) and in § 221.3(q) no bank shall extend any credit secured directly or indirectly^{1/} by any stock^{2/} for the purpose of purchasing or carrying any margin stock^{3/} in an amount exceeding the maximum loan value of the collateral, as prescribed from time to time for stocks in § 221.4 (the Supplement to Regulation U) and as determined by the bank in good faith for credit subject to § 221.3(s) for any collateral other than stocks: Provided, That unless held as collateral for such credit on October 20, 1967, and continuously thereafter, any collateral other than stock shall have loan value for the purpose of this part only as collateral for a credit which is not

^{1/} As defined in § 221.3(c).

^{2/} As defined in § 221.3(1).

^{3/} Sometimes referred to as a "purpose credit". See § 221.3(b). The term "margin stock" is defined in § 221.3(v).

secured by stock, as described in § 221.3(s), and any collateral consisting of convertible debt securities described in § 221.3(t) shall have loan value only for the purpose of that section, and not for other credit subject to this part.

(2) Credit extended prior to July 3, 1969, for the purpose of purchasing or carrying any OTC margin stock^{4/} or any debt security convertible into such stock (and no other margin security) is not purpose credit, except that with respect to any OTC margin stock such date shall be August 7, 1969. If extended to a member of a national securities exchange or a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 73o).

(b) Substitutions and withdrawals. Except as permitted in paragraph (c) of this section, while a bank maintains any credit subject to this part, whenever extended, the bank shall not at any time permit any withdrawal or substitution of collateral unless either (1) the credit would not exceed the maximum loan value of the collateral after such withdrawal or substitution, or (2) the credit is reduced by at least the amount by which the maximum loan value of any collateral deposited is less than the "retention requirement" of any collateral withdrawn. The "retention requirement" of collateral other than stock is the same as its maximum loan value and the "retention requirement" of collateral consisting of stock is prescribed from time to time in § 221.4 (the Supplement to Regulation U).

(c) Same-day transactions. Except as provided in § 221.3(r)(1), a bank may permit a substitution of stock whether margin or non-margin, effected by a purchase and sale on orders executed within the same day: Provided,

That (1) if the proceeds of the sale exceed the total cost of the purchase, the

^{4/} As defined in § 221.3(d). "OTC stock" hereinafter refers to stock traded "over-the-counter".

credit is reduced by at least an amount equal to the "retention requirement" with respect to the sale less the "retention requirement" with respect to the purchase, or (2) if the total cost of the purchase exceeds the proceeds of the sale, the credit may be increased by an amount no greater than the maximum loan value of the stock purchased less the maximum loan value of the stock sold. If the maximum loan value of the collateral securing the credit has become less than the amount of the credit, the amount of the credit may nonetheless be increased if there is provided additional collateral having maximum loan value at least equal to the amount of the increase.

(d) Single credit rule. For the purpose of this part, except for credit subject to § 221.3(s) or (t), the entire amount of the purpose credit extended to any customer by any bank at any time shall be considered a single credit; and all the collateral securing such credit shall be considered in determining whether or not the credit complies with this part.

§ 221.2 Exceptions to general rule.

Notwithstanding the provisions of § 221.1, a bank may extend and may maintain any credit for the purpose specified in § 221.1, without regard to the limitations prescribed therein, or in § 221.3(t), if the credit comes within any of the following descriptions.

(a) Any credit extended to a bank or to a foreign banking institution;

(b) Any credit extended to a "plan-lender" as defined in § 207.4(a) of Part 207 of this Chapter (Regulation G) to finance a plan described therein: Provided, That in no event does the bank have recourse to any stock purchased pursuant to such plan;

(c) Any credit extended to a dealer, or to two or more dealers, to aid in the financing of the distribution of securities to customers not through the medium of a national securities exchange;

(d) Any credit extended to a broker or dealer that is extended in exceptional circumstances in good faith to meet his emergency needs;

(e) Any credit extended to a member of a national securities exchange or a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) secured by any securities which, according to written notice received by the bank from the broker or dealer pursuant to a rule of the Securities and Exchange Commission concerning the hypothecation of customers' securities (Rule 8c-1 (17 CFR § 240.8c-1) or Rule 15c2-1 (17 CFR § 240.15c2-1)), are securities carried for the account of one or more customers;

(f) Any credit extended to finance the purchase or sale of securities for prompt delivery which is to be repaid in the ordinary course of business upon completion of the transaction: Provided, That the advance is not made to a person described in § 221.3(q): And provided further, That it is either (1) extended to a broker or dealer, or (2) extended for a purpose other than to enable the borrower to pay for stock purchased in an account subject to Part 220 of this Chapter (Regulation T);

(g) Any credit extended against securities in transit, or surrendered for transfer, which is payable in the ordinary course of business upon arrival of the securities or upon completion of the transfer: Provided, That the credit is not extended to a person described in § 221.3(q): And provided further, That it is either (1) extended to a broker or dealer, or (2) extended

for a purpose other than to enable the customer to pay for stock purchased in an account subject to Part 220 of this Chapter (Regulation T);

(h) Any credit which is to be repaid on the calendar day on which it is extended: Provided, That the credit is not extended to a person described in § 221.3(q): And provided further, That it is either (1) extended to a broker or dealer, or (2) extended for a purpose other than to enable the customer to pay for stock purchased in an account subject to Part 220 of this Chapter (Regulation T);

(i) Any credit extended outside the States of the United States and the District of Columbia;

(j) Any credit extended to a member of a national securities exchange for the purpose of financing his or his customers' bona fide arbitrage transactions in securities. For the purposes of this paragraph, the term "arbitrage" means (1) a purchase or sale of a security in one market together with an offsetting sale or purchase of the same security in a different market at as nearly the same time as practicable, for the purpose of taking advantage of a difference in prices in the two markets, or (2) a purchase of a security which is, without restriction other than the payment of money, exchangeable or convertible within 90 calendar days following the date of its purchase into a second security together with an offsetting sale at or about the same time of such second security, for the purpose of taking advantage of a disparity in the prices of the two securities; and

(k) Any credit extended to a member of a national securities exchange for the purpose of financing such members' transaction as an odd-lot dealer in securities with respect to which he is registered on such national securities exchanges as an odd-lot dealer.

§ 221.3 Miscellaneous provisions.

(a) Required statement as to stock-secured credit. In connection with an extension of credit secured directly or indirectly by any stock, the bank shall obtain and retain in its records for at least 3 years after such credit is extinguished a statement in conformity with the requirements of Federal Reserve Form U-1 executed by the recipient of such extension of credit (sometimes referred to as the "customer") and executed and accepted in good faith by a duly authorized officer of the bank prior to such extension: Provided, That this requirement shall not apply to any credit described in paragraphs (o) or (w) of this section or § 221.2 of this part except for credit described in paragraphs 221.2(f), (g), and (h) extended to persons who are not brokers or dealers subject to Part 220 of this Chapter (Regulation T). In determining whether or not an extension of credit is for the purpose specified in § 221.1 or for any of the purposes specified in § 221.2 the bank may rely on the statement executed by the customer if accepted in good faith. To accept the customer's statement in good faith, the officer must (1) be alert to the circumstances surrounding the credit and (2) if he has any information which would cause a prudent man not to accept the statement without inquiry, have investigated and be satisfied that the customer's statement is truthful.

(b) Purpose of a credit. The "purpose of a credit" is determined by substance rather than form.

(1) Credit which is for the purpose, whether immediate, incidental, or ultimate, of purchasing or carrying a margin stock is "purpose credit", despite any temporary application of funds otherwise.

(2) Credit to enable the customer to reduce or retire indebtedness which was originally incurred to purchase a margin stock is for the purpose of "carrying" such a security.

(3) An extension of credit provided for in a plan, program, or investment contract offered or sold or otherwise initiated after August 31, 1969, which provides for the acquisition both of any securities described in paragraph (v) of this section and of goods, services, property interests, other securities, or investments, is "purpose credit".

(c) Indirectly secured. The term "indirectly secured" includes any arrangement with the customer under which the customer's right or ability to sell, pledge, or otherwise dispose of stock owned by the customer is in any way restricted so long as the credit remains outstanding, or under which the exercise of such right, whether by written agreement or otherwise, is or may be cause for acceleration of the maturity of the credit: Provided, That the foregoing shall not apply (1) if such restriction arises solely by virtue of an arrangement with the customer which pertains generally to the customer's assets unless a substantial part of such assets consists of stock, or (2) if the bank in good faith has not relied upon such stock as collateral in the extension or maintenance of the particular credit: And provided further, That the foregoing shall not apply to stock held by the bank only in the capacity of custodian, depositary, or trustee, or under similar circumstances, if the bank in good faith has not relied upon such stock as collateral in the extension or maintenance of the particular credit.

(d) OTC margin stock. (1) The term "OTC margin stock" means stock, not traded on a national securities exchange, which the Board of Governors of the Federal Reserve System has determined to have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer, and the character and permanence of the issuer to warrant subjecting such stock to the requirements of this part.

(2) The Board will from time to time publish a list of OTC margin stocks as to which the Board has made the determination described in subparagraph (1) of this paragraph (d). Except as provided in subparagraph (4) of this paragraph (d) such stocks shall meet the requirements of § 221.4(d) (the Supplement to Regulation U).

(3) The Board will from time to time remove from the list described in subparagraph (2) of this paragraph (d) stocks that cease to:

(i) Exist or of which the issuer ceases to exist, or

(ii) Meet substantially the provisions of subparagraph (1) of this paragraph (d) and of § 221.4(d) (the Supplement to Regulation U).

(4) The foregoing notwithstanding, the Board may, upon its own initiative, or upon application by any interested party, omit or remove any stock that is not traded on a national securities exchange from or add any such stock to such list of OTC margin stocks, if in the judgement of the Board, such action is necessary or appropriate in the public interest.

(5) It shall be unlawful for any bank to make, or cause to be made, any representation to the effect that the inclusion of a security on such list of OTC margin stocks is evidence that the Board or the Securities and Exchange Commission has in any way passed upon the merits of, or given approval to, such security or any transaction therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with such stocks or such list shall constitute such an unlawful representation.

(e) Renewals and extensions of maturity. The renewal or extension of maturity of a credit need not be treated as the extension of a credit if the amount of the credit is not increased except by the addition of interest or service charges in respect to the credit or of taxes on transactions in connection with the credit.

(f) Transfers. A bank may, without following the requirements of this part as to the extension of a credit,

(1) Permit the transfer of a credit from one customer to another, or to others: Provided, That a statement by the transferor, describing the circumstances giving rise to the transfer, is accepted in good faith^{5/} and signed by an officer of the bank as having been so accepted, and kept with each such transferee account, or

(2) Accept the transfer of a credit originally extended in conformity with the requirements of this part directly from another bank: Provided, That the statement of purpose, executed by the customer in connection with the original extension of credit and accepted in good faith and signed by an officer of the bank originally extending such credit in conformity with the requirements of § 221.3(a), is obtained and kept with each such transferee account; And provided further, That any transfer pursuant to this paragraph is made as a bona fide incident to a transaction not undertaken for the purpose of avoiding the requirements of this part, the amount of the credit is not increased, and the collateral for the credit is not changed; and, after such transfer, a bank may permit such withdrawals and substitutions of collateral as are permitted in respect to a credit it extends subject to this part.

(g) Reorganizations and recapitalizations. Nothing in this part shall be construed to prevent a bank from permitting withdrawals or substitutions of securities to enable a customer to participate in a reorganization or recapitalization.

^{5/} As described in § 221.3(a).

(h) Mistakes in good faith. No mistake made in good faith in connection with the extension or maintenance of a credit shall be deemed to be a violation of this part.

(i) Action for bank's own protection. Nothing in this part shall be construed as preventing a bank from taking such action as it shall deem necessary in good faith for its own protection.

(j) Reports. Every bank, and every person engaged in the business of extending credit who, in the ordinary course of business, extends credit for the purpose of purchasing or carrying margin stock shall make such reports as the Board of Governors of the Federal Reserve System may require to enable it to perform the functions conferred upon it by the Securities Exchange Act of 1934 (15 U.S.C. 78).

(k) Definitions. For the purposes of this part, unless the context otherwise requires, the terms herein have the meanings assigned to them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), except that the term "bank" does not include a bank which is a member of a national securities exchange.

(l) Stock. The term "stock" includes any security commonly known as a stock; any voting trust certificate or other instrument representing such a security; and any security convertible, with or without consideration, presently or in the future, into such security, certificate, or other instrument, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right .

(m) Credit subject to § 221.1. A "credit subject to § 221.1" is a credit which is (1) secured directly or indirectly by any stock (or made to a person described in paragraph (q) of this section), (2) extended for

the purpose of purchasing or carrying any margin stock, and (3) not excepted by § 221.1(a)(2) or § 221.2.

(n) Segregation of collateral. (1) The bank shall identify all the collateral used to meet the requirements of § 221.1 (the entire credit being considered a single credit and collateral being similarly considered, as required by § 221.1(d)) and shall not cancel the identification of any portion thereof except in circumstances that would permit the withdrawal of that portion. Such identification may be made by any reasonable method.

(2) Only the collateral required to be so identified shall have loan value for purposes of § 221.1 or be subject to the restrictions therein specified with respect to withdrawals and substitutions; and

(3) For any credit extended to the same customer that is not subject to § 221.1 (other than a credit described in § 221.2(b), (d), (f), (g), or (h)), the bank shall in good faith require as much collateral not so identified as the bank would require (if any) if it held neither the indebtedness subject to § 221.1 nor the identified collateral. This shall not be construed, however, to require the bank, after it has extended any credit, to obtain any collateral therefor because of any deficiency in collateral already existing at the opening of business on June 15, 1959, or any decline in the value or quality of the collateral or in the credit rating of the customer.

(4) Nothing in this part shall require a bank to waive or forego any lien, and nothing in this part shall apply to a credit extended to enable the customer to meet emergency expenses not reasonably foreseeable, provided the extension of credit is supported by a statement executed by the customer and accepted in good faith and signed by an officer of the bank as having been so accepted in conformity with the requirements of § 221.3(a). For this purpose,

such emergency expenses shall include expenses arising from circumstances such as the death or disability of the customer, or some other change in his circumstances involving extreme hardship, not reasonably foreseeable at the time the credit was extended. The opportunity to realize monetary gain is not a "change in his circumstances" for this purpose.

(o) Specialist. In the case of a credit extended to a member of a national securities exchange who is registered and acts as a specialist in securities on the exchange for the purpose of financing such member's transactions as a specialist in such securities, the maximum loan value of any stock shall be as determined by the bank in good faith: Provided, That the specialist's exchange, in addition to other requirements applicable to specialists, is designated by the Board of Governors of the Federal Reserve System as requiring reports suitable for supplying current information regarding specialists' use of credit pursuant to this section.

(p) Subscriptions issued to stockholders. An extension of credit need not comply with the other requirements of this part if it is to enable the customer to acquire a stock by exercising a right to acquire such stock which is evidenced by a warrant or certificate issued to stockholders and expiring within 90 days of issuance: Provided, That:

(1) Each such acquisition under this paragraph shall be treated separately, and the credit when extended shall not exceed 75 per cent of the current market value of the stock so acquired as determined by any reasonable method;

(2) After October 20, 1967, at the time credit is extended pursuant to this paragraph, the bank shall compute the amount by which the credit exceeds the maximum loan value of the collateral as prescribed by § 221.4 and the

customer shall reduce the credit by an amount at least equal to one-fourth of such sum by the end of each of the 4 succeeding 3-calendar month periods or until the credit does not exceed the current maximum loan value of the stock, whichever shall occur first, and if the bank fails to obtain the required quarterly reduction or a portion thereof with respect to a particular acquisition within 5 full business days after such reduction is due, the bank shall promptly sell a portion of the collateral so acquired and apply the proceeds of the sale to reduce the credit, in an amount at least equal to twice the required payment or portion thereof for the first 2 such reductions, at least equal to the required payment or portion thereof for the third such reduction, and at least sufficient so that the remaining credit does not exceed the current maximum loan value of the remaining collateral after the fourth such reduction: Provided, That no such reduction need be in an amount greater than is necessary so that the remaining credit does not exceed the maximum loan value of the remaining collateral determined as of the date when the credit was extended;

(3) While the customer has any credit outstanding at the bank under this paragraph no withdrawal of cash or substitution or withdrawal of stock used as collateral for such extension of credit shall be permissible, except that when the remaining credit has become equal to or less than the maximum loan value of the remaining stock as prescribed for § 221.1 or § 221.3(t) in § 221.4 (the Supplement to Regulation U) whichever is applicable (or with respect to credit extended after October 20, 1967, the requirements of the preceding clause have been fulfilled) the remaining stock and related credit shall thereafter be treated as subject to § 221.1 or § 221.3(t), whichever is applicable, instead of this paragraph. In order to facilitate the exercise

of a right under this paragraph, a bank may permit the right to be withdrawn from a credit subject to § 221.1 without regard to any other requirement of this part.

(q) Credit to certain lenders. Any credit extended to a customer not subject to this part or to Part 220 of this Chapter (Regulation T) engaged principally, or as one of the customer's important activities, in the business of extending credit for the purpose of purchasing or carrying margin stocks is a credit for the purpose of purchasing or carrying such stocks unless the credit and its purposes are effectively and unmistakably separated and disassociated from any financing or refinancing, for the customer or others, of any purchasing or carrying of such stocks. Any credit extended to any such customer, unless the credit is so separated and disassociated or is excepted by § 221.2, is a credit "subject to § 221.1" regardless of whether or not the credit is secured by any stock; and no bank shall extend any such credit subject to § 221.1 to any such customer, without collateral or without the credit being secured as would be required by this part if it were secured by any stock. Any such credit subject to § 221.1 to any such customer shall be subject to the other provisions of this part applicable to credit subject to § 221.1, including provisions regarding withdrawal and substitution of collateral.

(r) Convertible securities. (1) If, after June 15, 1959, and prior to October 21, 1967, credit was extended for the purpose of purchasing or carrying a security convertible into a stock registered on a national securities exchange and the credit was secured by such a security, and after October 20, 1967, there is substituted any stock as direct or indirect collateral for such credit, the credit shall thereupon be treated as subject to § 221.1 or § 221.3(t), whichever is applicable. In any such case, the amount of the

outstanding credit, or such amount plus any increase therein to enable the customer to acquire a stock so registered through the conversion of the security pursuant to its terms, shall not be permitted on the date of such substitution to exceed the maximum loan value of the collateral for the credit: Provided, That any reduction in the credit or deposit of collateral required on that date to meet this requirement may be brought about within 30 days of such substitution.

(2) Any credit extended after October 20, 1967, for the purpose of purchasing or carrying a security convertible into a stock registered on a national securities exchange, and any credit extended after July 8, 1969, for the purpose of purchasing or carrying a security convertible into margin stock, if the credit is secured, directly or indirectly, by any stock, is a credit subject to § 221.1 or § 221.3(t), whichever is applicable.

(s) Credit secured by collateral other than stocks. A bank may extend credit for the purpose of purchasing or carrying a margin stock secured by collateral other than stock, and, in the case of such credit, the maximum loan value of the collateral shall be as determined by the bank in good faith.

(t) Credit on convertible debt securities. (1) A bank may extend credit for the purpose specified in § 221.1 on collateral consisting of any debt security (i) convertible with or without consideration, presently or in the future, into a margin stock or (ii) carrying a warrant or right to subscribe to or purchase such a stock (such a debt security is sometimes referred to herein as a "convertible security").

(2) Credit extended under this paragraph shall be subject to the same conditions as if it were subject to § 221.1 except: (i) the entire amount

of such credit shall be considered a single credit treated separately from the single credit specified in § 221.1(d) and all the collateral securing such credit shall be considered in determining whether or not the credit complies with this part, and (ii) the maximum loan value of the collateral shall be as prescribed from time to time in § 221.4 (the Supplement to Regulation U).

(3) Any convertible security originally eligible as collateral for a credit extended under this paragraph shall be treated as such as long as continuously held as collateral for such credit even though it ceases to be convertible or to carry warrants or rights.

(4) In the event that any stock other than a convertible security is substituted for a convertible security held as collateral for a credit extended under this paragraph, the stock and any credit extended on it in compliance with this part shall thereupon be treated as subject to § 221.1 and the credit extended under this paragraph shall be reduced by an amount equal to the maximum loan value of the security withdrawn.

(u) Arranging for credit. No bank shall arrange for the extension or maintenance of any credit for the purpose of purchasing or carrying any margin stock, except upon the same terms and conditions on which the bank itself could extend or maintain such credit under the provisions of this part.

(v) The term "margin stock" means any stock^{6/} which is (1) a stock registered on a national securities exchange, (2) an OTC margin stock^{7/}, (3) a debt security (i) convertible with or without consideration, presently or in the future, into a margin stock or (ii) carrying any warrant or right to subscribe to or purchase, presently or in the future, a margin stock,

^{6/} As defined in § 221.3(1).

^{7/} As defined in § 221.3(d).

(4) any such warrant or right, (5) any security issued by an investment company other than a small business investment company licensed under the Small Business Investment Company Act of 1958 (15 U.S.C. 661) registered pursuant to § 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8), unless at least 95 per cent of the assets of such company are continuously invested in exempted securities^{8/}.

(w) OTC market maker exemption. (1) In the case of credit extended to an OTC market maker, as defined in subparagraph (2) of this paragraph (w), for the purpose of purchasing or carrying an OTC margin stock in order to conduct the market making activity of such a market maker, the maximum loan value of any OTC margin stock (except stock that has been identified as a security held for investment pursuant to a rule of the Commissioner of Internal Revenue (Regs. Section 1-1236-1(d)) shall be determined by the bank in good faith: Provided, That in respect of each such stock he shall have filed with the Securities and Exchange Commission a notice of his intent to begin or continue such market making activity (Securities and Exchange Commission Form X-17A-12(1)) and all other reports required to be filed by market makers in OTC margin stocks pursuant to a rule of the Commission (Rule 17a-12 (17 CFR 240.17a-12)) and shall not have ceased to engage in such market making activity: And provided further, That the bank shall obtain and retain in its records for at least 3 years after such credit is extinguished a statement in conformity with the requirements of Federal Reserve Form U-2, executed by the OTC market maker who is the recipient of such credit and executed and accepted in good faith by a duly authorized officer of the bank prior to such extension. In determining whether or not an extension of credit is for the

^{8/} As defined in 15 U.S.C. 78c(a)(12).

purpose of conducting such market making activity, a bank may rely on such a statement if executed and accepted in accordance with the requirements of this paragraph (w) and § 221.3(a).

(2) An OTC market maker with respect to an OTC margin stock is a dealer who has and maintains minimum net capital, as defined in a rule of the Securities and Exchange Commission (Rule 15c3-1 (17 CFR 240.15c3-1)) of \$25,000 plus \$5,000 for each such stock in excess of 5 in respect of which he has filed and not withdrawn the notice on Commission Form X-17A-12(1) (but in no case does this subparagraph (2) require net capital of more than \$250,000), who is in compliance with such rule (or is exempt therefrom under Rule 15c3-1(b)(2) of the Commission (17 CFR 15c3-1(b)(2))), and who, except when such activity is unlawful, meets all of the following conditions with respect to such stock: (i) he regularly publishes bona fide, competitive bid and offer quotations in a recognized inter-dealer quotation system, (ii) he furnishes bona fide, competitive bid and offer quotations to other brokers and dealers on request, (iii) he is ready, willing, and able to effect transactions in reasonable amounts, and at his quoted prices, with other brokers and dealers, (iv) he has a reasonable average rate of inventory turnover.

(3) If all or a portion of the credit extended pursuant to this paragraph (w) ceases to be for the purpose specified in subparagraph (1) or the dealer to whom the credit is extended ceases to be an OTC market maker as defined in subparagraph (2), the credit or such portion thereof shall thereupon be treated as "a credit subject to § 221.1."

(x) Combined purchase of mutual funds and insurance. An extension of purpose credit provided for in a plan, program or investment contract, registered with the Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C. 77), which provides for the acquisition both of a security issued by an investment company described in subparagraph (5) of paragraph (v) of this section and an insurance policy or contract, shall be subject to all the provisions of this part except that where the credit is secured by the security and does not exceed the premium on such policy (plus any accrued interest), the maximum loan value of such security shall be 40 per cent of its current market value, as determined by any reasonable method.

§ 221.4 Supplement.

(a) Maximum loan value of stocks. For the purpose of § 221.1, the maximum loan value of any stock, whether or not registered on a national securities exchange, shall be 20 per cent of its current market value, as determined by any reasonable method.

(b) Maximum loan value of convertible debt securities subject to § 221.3(t). For the purpose of § 221.3(t), the maximum loan value of any security against which credit is extended pursuant to § 221.3(t) shall be 40 per cent of its current market value, as determined by any reasonable method.

(c) Retention requirement. For the purpose of § 221.1, in the case of a credit which would exceed the maximum loan value of the collateral following a withdrawal of collateral, the "retention requirement" of a stock, whether or not registered on a national securities exchange, and of a convertible debt security subject to § 221.3(t), shall be 70 per cent of its current market value, as determined by any reasonable method.

(d) Requirements for inclusion on list of OTC margin stock. Except as provided in subparagraph (4) of § 221.3(d), OTC margin stock shall meet the requirements that:

(1) The stock is subject to registration under § 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 781(g)(1)), or if issued by an insurance company subject to § 12(g)(2)(G) (15 U.S.C. 781(g)(2)(G)) the issuer had at least \$1 million of capital and surplus,

(2) Five or more dealers, stand willing to, and do in fact, make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts, or the stock is registered on a securities exchange that is exempted by the Securities and Exchange Commission from registration as a national securities exchange pursuant to section 5 of the Act (15 U.S.C. 78e),

(3) There are 1500 or more holders of record of the stock who are not officers, directors, or beneficial owners of 10 per cent or more of the stock,

(4) The issuer is organized under the laws of the United States or a State^{9/} and it, or a predecessor in interest, has been in existence for at least 3 years,

(5) The stock has been publicly traded for at least 6 months and

(6) Daily quotations for both bid and asked prices for the stock are continuously available to the general public, and shall meet 3 of the 4 additional requirements that:

^{9/} As defined in 15 U.S.C. 78c(a)(16).

(7) There are 500,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 per cent of the stock,

(8) The shares described in subparagraph (7) of this paragraph have a market value in the aggregate of at least \$10 million,

(9) The minimum average bid price of such stock as determined by the Board in the latest month, is at least \$10 per share, and

(10) The issuer had at least \$5 million of capital, surplus, and undivided profits.

* * * * *

2a. These amendments are promulgated pursuant to section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) as amended by P.L. 90-437 (82 Stat. 452). As indicated in the notice of proposed rule making with respect to these amendments (Federal Register of February 15, 1969; 34 F.R. 2268), they are designed to regulate the amount of credit extended by banks with respect to certain securities that are not registered on a national securities exchange. The criteria under which the Board will select such "over-the-counter" (OTC) stocks that will be subject to the margin and other requirements of the regulation will appear in the Supplement to Regulation U (§ 221.4(d)).

b. Proposals published in the notice of proposed rule making that have been revised and the reasons therefor are as follows:

(1) This part has been revised throughout to substitute the phrase "margin stock" for "regulated stock." This change is intended to eliminate any implication that such stock is supervised or has been approved by the Board or by the Securities and Exchange Commission.

(2) Section 221.1(a) has been amended to add a new subparagraph (2), and §§ 221.1(d) and 221.3(m) have been revised accordingly to indicate that credit extended prior to July 8, 1969, the effective date of these amendments, for the purpose of purchasing or carrying any OTC margin stock or any debt security convertible into such stock (but no other margin stock) is not subject to the regulation, except that such date shall be August 7, 1969, with respect to OTC margin stock if extended to a member of a national securities exchange or a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o).

(3) Section 221.2(e) has been amended to correspond with § 220.4(b) of this Chapter (Regulation T) by providing that the exception available under this section applies only to credit extended to a member of a national securities exchange or a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o).

(4) Section 221.3 has been amended to add a new paragraph (c) to include within the definition of "purpose credit" an extension of credit provided for in a plan, program or investment contract offered or sold or otherwise initiated after August 31, 1969, pursuant to which both margin stock and goods, services, property interests, other securities, or investments would be acquired. Together with the addition of paragraph (x) to this section, which sets a 40 per cent maximum loan value on mutual fund shares serving as collateral for credit extended to finance certain plans for the combined purchase of mutual funds and insurance, this change represents a clarification that the Board regards credit available in connection with equity funding plans or programs as being for the purpose of purchasing or carrying margin stock. A proposal to include such plans

or programs within the coverage of the regulation was published for comment in the Federal Register on December 17, 1968 (33 F.R. 18629).

(5) Section 221.3(d) has been revised by transferring from subparagraph (2) of this section to § 221.4(d) (the Supplement to Regulation U) the criteria that will be used by the Board to select stocks for inclusion on the list of OTC stock that will be subject to Regulation U. This section has been further revised to clarify that a statement in an advertisement or other similar communication containing a reference to the Board in connection with the list of OTC stocks would constitute such an unlawful representation as is referred to in subparagraph (5) of this section.

(6) Section 221.3(j) has been amended to clarify that the reports referred to in this section relate to credit extended for the purpose of purchasing or carrying all margin stock.

(7) Section 221.3(k) has been revised to clarify that all terms used in this part have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), unless otherwise required by the context.

(8) Sections 221.3(l) and (v) have been amended to delete a reference to securities commonly known as equity funding plans or programs.

(9) Sections 221.3(n), 221.3(p), and 221.3(q) have been revised to eliminate certain obsolete provisions relating to effective dates of these sections.

(10) Section 221.3(t) has been revised to insert language inadvertently omitted from the proposed amendments, but included in the notice of

proposed rule making, which would clarify that for the purposes of this Part 221, it is immaterial whether a debt security is convertible with or without consideration, presently or in the future, into a margin stock.

(11) Section 221.3(u) has been changed to indicate that a security issued by a small business investment company licensed under the Small Business Investment Company Act of 1958 (15 U.S.C. 661) is not a margin stock.

(12) Section 221.3(w) has been amended to indicate that a bank may rely on Federal Reserve Form U-2 to determine whether an extension of credit is for the purpose of conducting market-making activity described in this section, if obtained in accordance with the requirements of this section, and that such credit will be treated as subject to § 221.1 if no longer for purpose of conducting an OTC market making activity or if the dealer to whom the credit was extended ceases to be an OTC market maker. In addition, the definition of an OTC market maker for the purposes of this section has been clarified.

(13) Section 221.4(d) is added to receive the criteria transferred from § 221.3(d). In addition, the criteria have been revised to include only those stocks whose issuer is organized under the laws of the United States or a State thereof, the District of Columbia, Puerto Rico, the Philippine Islands, the Canal Zone, the Virgin Islands, or any other possession of the United States.

c. These amendments were adopted by the Board after consideration of all relevant material that was presented by interested persons, in accordance with section 553 of Title 5, United States Code.

Dated at Washington D. C., this day of June, 1969.

By order of the Board of Governors.

(Signed) Robert P. Forrestal

Robert P. Forrestal,
Assistant Secretary.