



FEDERAL RESERVE BANK
OF DALLAS

ROBERT D. McTEER, JR.
PRESIDENT
AND CHIEF EXECUTIVE OFFICER

July 31, 1995

DALLAS, TEXAS
75265-5906

Notice 95-72

TO: The Chief Executive Officer of
each financial institution in the
Eleventh Federal Reserve District

SUBJECT

Amendments to Regulation H

DETAILS

The Board of Governors of the Federal Reserve System has published amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System).

The amendments, which are effective November 1994 and January 1995, are in slip-sheet form and should be inserted in your Regulations binder.

ENCLOSURES

The new slip sheet and a revised index for your regulations binder are enclosed.

For additional copies, bankers and others are encouraged to use one of the following toll-free numbers in contacting the Federal Reserve Bank of Dallas: Dallas Office (800) 333-4460; El Paso Branch *Intrastate* (800) 592-1631, *Interstate* (800) 351-1012; Houston Branch *Intrastate* (800) 392-4162, *Interstate* (800) 221-0363; San Antonio Branch *Intrastate* (800) 292-5810.

MORE INFORMATION

For more information regarding Regulation H, please contact Zane Rogers at (214) 922-6086.

For additional copies of this Bank's notice or the slip sheet, please contact the Public Affairs Department at (214) 922-5254.

Sincerely yours,

Robert D. McTeer, Jr.

Amendments to Regulation H Membership of State Banking Institutions in the Federal Reserve System May 1995*

1. *Effective November 10, 1994, section 208.10 is revised to read as follows:*

SECTION 208.10—Waiver of Reports of Affiliates

Pursuant to section 21 of the Federal Reserve Act (12 USC 486), the Board of Governors of the Federal Reserve System waives the requirement for the submission of reports of affiliates of state bank members of the Federal Reserve System, unless such reports are specifically requested by the Board of Governors. The Board of Governors of the Federal Reserve System may require the submission of reports which are necessary to disclose fully relations between member banks and their affiliates and the effect thereof upon the affairs of member banks.

2. *Effective November 10, 1994, section 208.17(a) is revised to read as follows:*

SECTION 208.17—Disclosure of Financial Information by State Member Banks

(a) *Purpose and scope.* The purpose of this section is to facilitate the dissemination of publicly available information regarding the financial condition of state member banks, state-licensed agencies of foreign banks, and state-licensed branches of foreign banks that are not insured by

the Federal Deposit Insurance Corporation. This section requires all state-chartered banks that are members of the Federal Reserve System and all other covered institutions (1) to make year-end call reports or Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks or, in the case of state member banks, other alternative financial information, available to shareholders, customers, and the general public upon request; and (2) to advise shareholders and the public of the availability of this information.

3. *Effective October 8, 1993, a new section 208.20 is added as follows:*

SECTION 208.20—Reports of Crimes and Suspected Crimes

(a) *Purpose.* This section applies to known or suspected crimes involving state member banks. This section ensures that law enforcement agencies are notified by means of criminal referral reports when unexplained losses or known or suspected criminal acts are discovered. Based on these reports, the federal government will take appropriate measures and will maintain an interagency database that is derived from these reports.

(b) *Institution-affiliated party.* *Institution-affiliated party* means any institution-affiliated party as that term is defined in sections 3(u) and 8(b)(3) and (4) of the FDIA (12 USC 1813(u) and 1818(b)(3) and (4)).

(c) *Reports required.* A state member bank shall file a criminal referral report

* A complete Regulation H, as amended effective January 9, 1995, consists of—

- the regulation pamphlet dated March 1993 (see inside cover) and
- this slip sheet.

Items 1, 2, and 4 are new.

Items 3 and 5 were included in the September 1994 slip sheet.

using a standardized form (Form).¹⁴ in accordance with instructions for the Form, in every situation where—

- (1) the state member bank suspects one of its directors, officers, employees, agents, or other institution-affiliated parties of having committed or aided in the commission of a crime;
- (2) there is an actual or potential loss to the state member bank (before reimbursement or recovery) of more than \$1,000 where the state member bank has a substantial basis for identifying a possible suspect or group of suspects and the suspect(s) is not a director, officer, employer, agent, or institution-affiliated party of the state member bank;
- (3) there is an actual or potential loss to the state member bank (before reimbursement or recovery) of \$5,000 or more and where the state member bank has no substantial basis for identifying a possible suspect or group of suspects; or
- (4) the state member bank suspects that it is being used as a conduit for criminal activity, such as money laundering or structuring transactions to evade the Bank Secrecy Act reporting requirements.

(d) *Time for reporting.*

(1) A state member bank shall file the report required by paragraph (c) of this section no later than 30 calendar days after the date of detection of the loss or the known or suspected criminal violation or activity. If no suspect has been identified within 30 calendar days after the date of the detection of the loss or the known, attempted, or suspected criminal violation or activity, reporting may be delayed an additional 30 calendar days or until a suspect has been identified; but in no case shall reporting of known or suspected crimes be delayed more than 60 calendar days after the date of the detection of the loss or the known, attempted, or suspected

criminal violation or activity. When a report requirement is triggered by the identification of a suspect or group of suspects, the reporting period commences with the identification of each suspect or group of suspects.

(2) When a state member bank detects a pattern of crimes committed by an identifiable individual, the state member bank shall file a report no later than 30 calendar days after the aggregated amount of the crimes exceeds \$1,000.

(3) In situations involving violations requiring immediate attention or where a reportable violation is ongoing, the state member bank shall immediately notify by telephone the appropriate law enforcement agency and the appropriate Federal Reserve Bank in addition to filing a timely written report.

(e) *Reporting to state and local authorities.* State member banks are encouraged to file copies of the Form with state and local authorities where appropriate.

(f) *Exceptions.* A state member bank need not file the Form—

- (1) for those robberies and burglaries that are reported to local law enforcement authorities; and
- (2) for lost, missing, counterfeit, or stolen securities if a report is filed pursuant to the reporting requirements of 17 CFR 240.171f-1.

(g) *Retention of records.* A state member bank shall maintain copies of any Form that it filed and the originals of all related documents for a period of 10 years from the date of the report.

(h) *Notification to board of directors.* The management of a state member bank shall promptly notify its board of directors of any report filed pursuant to this section.

(i) *Penalty.* Failure to file a report in accordance with the instructions on the Form and this regulation may subject the state member bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

¹⁴ Copies of the Form (FR 2230) are available from the Federal Reserve Banks. The Form may be prepared using a computer shell that is distributed by the Board.

4. *Effective January 9, 1995, a new section 208.21 is added to read as follows:*

SECTION 208.21—Community Development and Public-Welfare Investments

(a) *Definitions.*

(1) *Low- or moderate-income area means—*

(i) one or more census tracts in a metropolitan statistical area where the median family income adjusted for family size in each census tract is less than 80 percent of the median family income adjusted for family size of the metropolitan statistical area; or

(ii) if not in a metropolitan statistical area, one or more census tracts or block-numbered areas where the median family income adjusted for family size in each census tract or block-numbered area is less than 80 percent of the median family income adjusted for family size of the state.

(2) *Low- and moderate-income persons* has the same meaning as low- and moderate-income persons as defined in 42 USC 5302(a)(20)(A).

(3) *Small business* means a business that meets the size-eligibility standards of 13 CFR 121.802(a)(2).

(b) *Investments that do not require prior Board approval.* Notwithstanding the provisions of section 5136 of the Revised Statutes (12 USC 24 (Seventh)) made applicable to state member banks by paragraph 20 of section 9 of the Federal Reserve Act (12 USC 335), a state member bank may make an investment, without prior Board approval, if the following conditions are met:

(1) The investment is in a corporation, limited partnership, or other entity—

(i) where the Board has determined that an investment in that entity or class of entities is a public-welfare investment under paragraph 23 of section 9 of the Federal Reserve Act (12 USC 338a), or a community de-

velopment investment under Regulation Y (12 CFR 225.25(b)(6));

(ii) where the Comptroller of the Currency has determined, by order or regulation, that an investment in that entity by a national bank is a public-welfare investment under section 5136 of the Revised Statutes (12 USC 24 (Eleventh));

(iii) where that entity is a community development financial institution as defined in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 USC 4702(5)); or

(iv) where that entity, directly or indirectly, engages solely in or makes loans solely for the purposes of one or more of the following community development activities:

(A) investing in, developing, rehabilitating, managing, selling, or renting residential property if a majority of the units will be occupied by low- and moderate-income persons or if the property is a "qualified low-income building" as defined in section 42(c)(2) of the Internal Revenue Code (26 USC 42(c)(2));

(B) investing in, developing, rehabilitating, managing, selling, or renting nonresidential real property or other assets located in a low- or moderate-income area and targeted towards low- and moderate-income persons;

(C) investing in one or more small businesses located in a low- or moderate-income area to stimulate economic development;

(D) investing in, developing, or otherwise assisting job training or placement facilities or programs that will be targeted towards low- and moderate-income persons;

(E) investing in an entity located in a low- or moderate-income area if that entity creates long-term employment opportunities, a majority of which (based on full time equivalent positions) will be held

by low- and moderate-income persons; and

(F) providing technical assistance, credit counseling, research, and program development assistance to low- and moderate-income persons, small businesses, or nonprofit corporations to help achieve community development;

(2) the investment is permitted by state law;

(3) the investment will not expose the state member bank to liability beyond the amount of the investment;

(4) the investment does not exceed the sum of 2 percent of the state member bank's capital stock and surplus as defined under 12 CFR 250.162;

(5) the aggregate of all such investments of the state member bank does not exceed the sum of 5 percent of its capital stock and surplus as defined under 12 CFR 250.162;

(6) the state member bank is well capitalized or adequately capitalized under section 208.33(b)(1) and (2);

(7) the state member bank received a composite CAMEL rating of 1 or 2 under the Uniform Financial Institutions Rating System as of its most recent examination and an overall rating of at least "satisfactory" as of its most recent consumer compliance examination; and

(8) the state member bank is not subject to any written agreement, cease-and-desist order, capital directive, prompt-corrective-action directive, or memorandum of understanding issued by the Board or a Federal Reserve Bank.

(c) *Notice.* Not more than 30 days after making an investment under paragraph (b) of this section, the state member bank shall advise its Federal Reserve Bank of the investment, including the amount of the investment and the identity of the entity in which the investment is made.

(d) *Investments requiring Board approval.*

(1) With prior Board approval, a state

member bank may make public-welfare investments under paragraph 23 of section 9 of the Federal Reserve Act (12 USC 338a), other than those specified in paragraph (b) of this section.

(2) Requests for approval under this paragraph should include, at a minimum, the amount of the proposed investment, a description of the entity in which the investment is to be made, an explanation of why the investment is a public-welfare investment under paragraph 23 of section 9 of the Federal Reserve Act (12 USC 338a), a description of the state member bank's potential liability under the proposed investment, the amount of the state member bank's aggregate outstanding public-welfare investments under paragraph 23 of section 9 of the Federal Reserve Act, and the amount of the state member bank's capital stock and surplus as defined in 12 CFR 250.162.

(3) The Board will act on a request under this paragraph within 60 calendar days after receipt of a request that meets the requirements of paragraph (d)(2) of this section, unless the Board notifies the requesting state member bank that a longer time period will be required.

(e) *Divestiture of investments.* A state member bank shall divest itself of an investment made under paragraph (b), (d), or (f) of this section to the extent that the investment exceeds the scope of, or ceases to meet, the requirements of paragraphs (b)(1) through (b)(5), or paragraph (d) of this section. The divestiture shall be made in the manner specified in 12 CFR 225.140, Regulation Y, for interests acquired by a lending subsidiary of a bank holding company or the bank holding company itself in satisfaction of a debt previously contracted.

(f) *Preexisting investments.*

(1) For ongoing investments made prior to the final rule's effective date that are covered by paragraph (b) of this section, a state member bank shall notify its Federal Reserve Bank of the

investment not more than 60 days after the final rule's effective date.

(2) For other ongoing investments made prior to the final rule's effective date, a state member bank shall request Board approval not more than one year after the final rule's effective date.

5. *Effective July 5, 1994, a new section 208.22 is added to read as follows:*

SECTION 208.22—Investment in Bank Premises

(a) Under section 24A of the Federal Reserve Act, state member bank investments in bank premises or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of the bank, and loans on the security of the stock of such corporation, do not require the approval of the Board if the aggregate

of all such investments and loans, together with the indebtedness incurred by any such corporation that is an affiliate of the bank (as defined in section 2 of the Banking Act of 1933, as amended, 12 USC 221a)—

(1) does not exceed the capital stock amount of the bank; or

(2) does not exceed 50 percent of the bank's tier 1 capital and the bank—

(i) is well capitalized as defined in section 208.33(b)(1) of this part;

(ii) received a composite CAMEL rating of 1 or 2 as of its most recent examination by the relevant Federal Reserve Bank or state regulatory authority; and

(iii) is not subject to any written agreement, cease-and-desist order, capital directive, or prompt corrective-action directive issued by the Board or a Federal Reserve Bank.