

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 6032]
[September 11, 1967]

NOTICE OF PROPOSED RULE MAKING

Regulation O — Loans to Executive Officers of Member Banks

To the Member Banks of the Second Federal Reserve District:

The following statement, dated August 30, of the Board of Governors of the Federal Reserve System appeared in the *Federal Register* of September 6, together with the text of a proposed revision of Regulation O:

The Board of Governors of the Federal Reserve System is considering a revision of Part 215 (Regulation O), relating to loans to executive officers of member banks, to read as hereinafter set forth.

The purposes of this revision would be (1) to conform Part 215 to amendments made to section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) by the Act of July 3, 1967 (P.L. 90-44); and (2) to limit the definition of the term "executive officer" to those persons (other than nonofficer directors) who participate or are authorized to participate in the major policy-making functions of a member bank.

While the proposed revision would make changes in Part 215 to conform to the amended law under which the part is issued, it should be understood that member banks and their officers may currently act in accordance with the provisions of the amended law despite more restrictive provisions of the present Part 215.

The proposed redefinition of "executive officer" is intended to exclude persons who may have official titles and may exercise a certain measure of discretion in the performance of their duties, including discretion in the making of loans, but who do not participate in the determination of major policies of the bank and whose decisions are circumscribed by policy standards fixed by the top management of the bank. For example, the revised definition would not include a manager or assistant manager of a branch of a bank unless he participates or is authorized to participate in major policy-making functions. Under the revised definition, certain titled officers would be presumed to be executive officers unless they are specifically excluded by a resolution of the bank's board of directors from participation in major policy-making functions. Such resolutions might be particularly appropriate in the case of many vice presidents of large banks.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D. C. 20551, to be received not later than October 1, 1967.

Printed on the reverse side is the text of the proposed revision of Regulation O as it appeared in the *Federal Register*.

If you wish, your comments may be sent to our Bank Examinations Department for forwarding to the Board of Governors. Additional copies of this circular will be furnished upon request.

ALFRED HAYES,
President.

(OVER)

FEDERAL RESERVE SYSTEM

[12 CFR Part 215]

[Reg. O]

LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS

Notice of Proposed Rule Making

PART 215—LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS

Sec.

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AUTHORITY: The provisions of this Part 215 issued under 12 U.S.C. 248, 375a, 77.

§ 215.1 Basis and scope.

This part is issued pursuant to section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), and relates to extensions of credit by member banks to their executive officers.

§ 215.2 Definitions.

(a) "*Member bank*". The term "member bank" means any banking institution that is a member of the Federal Reserve System.

(b) "*Executive officer*". The term "executive officer" means every officer of a member bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policy-making functions of the bank, regardless of whether he has an official title or whether his title contains a designation of assistant and regardless of whether he is serving without salary or other compensation. The chairman of the board, the president, every vice president, the cashier, secretary, treasurer, and trust officer of a member bank are assumed to be executive officers, unless, by resolution of the board of directors or by the bank's bylaws, such officer is excluded from participation in major policy-making functions of the bank and he does not actually participate therein.

(c) "*Extension of credit*" and "*extend credit*". The terms "extension of credit" and "extend credit" mean the making of a loan or the extending of credit in any manner whatsoever, and include:

- (1) Any advance by means of an overdraft, cash item, or otherwise;
- (2) The acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which an executive officer may be liable as maker, drawer, indorser, guarantor, or surety;
- (3) The increase of an existing indebtedness, except on account of accrued interest or on account of taxes, insurance, or other expenses incidental to the existing indebtedness and advanced by the bank for its own protection;
- (4) Any advance of unearned salary or other unearned compensation for periods in excess of 30 days; and
- (5) Any other transaction as a result of which an executive officer becomes obligated to a bank, directly or indirectly by any means whatsoever, by reason of an indorsement on an obligation or otherwise, to pay money or its equivalent.

Such terms, however, do not include:

- (i) Advances against accrued salary

or other accrued compensation, or for the purpose of providing for the payment of authorized travel or other expenses incurred or to be incurred on behalf of the bank;

(ii) The acquisition by a bank of any check deposited in or delivered to the bank in the usual course of business unless it results in the granting of an overdraft to or the carrying of a cash item for an executive officer;

(iii) The acquisition of any note, draft, bill of exchange, or other evidence of indebtedness, through a merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or similar organization, or through foreclosure on collateral or similar proceeding for the protection of the bank; or

(iv) Indebtedness arising by reason of general arrangements under which a bank (a) acquires charge or time credit accounts or (b) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar plan, except that this subdivision (iv) shall not apply to indebtedness of an executive officer to his own bank to the extent that the aggregate amount thereof exceeds \$1,000 or to any such indebtedness to his own bank that involves prior individual clearance or approval by the bank other than for the purpose of determining whether his participation in the arrangement is authorized or whether any dollar limit has been or would be exceeded.

§ 215.3 General prohibitions.

(a) *Extensions of credit to executive officers.* Except as provided in § 215.4, no member bank shall extend credit to any of its own executive officers and no executive officer of a member bank shall borrow from or otherwise become indebted to such bank.

(b) *Extensions of credit to partnerships.* Except as provided in subparagraph (3) of § 215.4(b), no member bank shall extend credit to a partnership in which one or more executive officers of such bank are partners having either individually or together a majority interest in the partnership and no such partnership shall borrow from or otherwise become indebted to such member bank.

§ 215.4 Exceptions.

(a) *Protection of member bank against loss.* This Part shall not apply to the indorsing or guaranteeing for the protection of a member bank of any loan or other asset previously acquired by such bank in good faith or to any indebtedness for the purpose of protecting a member bank against loss or of giving financial assistance to it.

(b) *Particular exceptions.* Subject to the requirements of § 215.5, the provisions of this part shall not apply:

(1) To any loan not exceeding \$30,000 made by a member bank, with the specific prior approval of its board of directors, to any executive officer of such bank if, at the time the loan is made, it is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence, and no other loan by the bank to the officer under authority of this subparagraph is outstanding;

(2) To extensions of credit made by a member bank to any executive officer of the bank, not exceeding the aggregate amount of \$10,000 outstanding at any

one time, to finance the education of the children of the officer; or

(3) To extensions of credit made by a member bank to any executive officer of the bank which are not otherwise specifically authorized under this paragraph (b), not exceeding the aggregate amount of \$5,000 outstanding at any one time. For purposes of this subparagraph, the full amount of any extension of credit authorized hereunder that may be made to a partnership in which one or more of the member bank's executive officers are partners and have either individually or together a majority interest shall be considered to have been extended to each officer of the bank who is a member of the partnership.

§ 215.5 Requirements for extensions of credit.

In the case of any extension of credit authorized under this part,

(a) The extension of credit shall be promptly reported to the board of directors of the member bank;¹

(b) The extension of credit shall be one that the member bank shall be authorized to make to borrowers other than its officers;

(c) The extension of credit shall be on terms not more favorable than those afforded other borrowers;

(d) The borrowing officer shall have submitted a detailed current financial statement; and

(e) The extension of credit shall be subject to the condition that it shall become due and payable on demand of the bank at any time when the officer is indebted to any other bank or banks on account of extensions of credit of any one of the three categories respectively described in subparagraphs (1), (2), and (3) of § 215.4(b), in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer.

§ 215.6 Reports of indebtedness to other banks.

Any executive officer of a member bank who was indebted to any other bank or banks on July 3, 1967, or who becomes indebted to any other bank or banks after that date on account of extensions of credit of any one of the three categories respectively described in subparagraphs (1), (2), and (3) of § 215.4(b), in an aggregate amount greater than the aggregate amount of credit of the same category that could lawfully be extended to him by the bank of which he is an executive officer, shall make a written report to the board of directors of the member bank, identifying the lender and stating the date and amount of each such extension of credit, the security therefor, and the purposes for which the proceeds have been or are to be used.

§ 215.7 Reports of member banks.

Each member bank shall include with (but not as part of) each report of condition and copy thereof filed under section 7(a)(3) of the Federal Deposit Insurance Act a report of all loans under authority of this part made by the bank since its previous report of condition.

¹ Prior approval by the board of directors of an extension of credit under § 215.4(b)(1) shall be regarded as compliance with this requirement.