

**FEDERAL RESERVE BANK  
OF NEW YORK**

[Circular No. 8710  
December 20, 1979]

**INTERPRETATION OF REGULATION T  
Arranging for Credit**

*To All Persons Extending Securities Credit  
in the Second Federal Reserve District:*

In response to a specific request, the Board of Governors of the Federal Reserve System has provided an interpretation relating to Section 220.7(a) of its Regulation T, "Credit by Brokers and Dealers." The interpretation concerns the situation where an investment banker is asked to arrange a private placement of debt securities for a corporate client that will use the proceeds to finance the acquisition of a publicly held company. The financing agreement includes a condition that the private placement is not to be consummated until the stock of the company to be acquired has ceased to be publicly held. The Board of Governors was asked to determine if, in view of that condition, the investment banker could commence marketing the private placement while the stock of the company to be acquired was still publicly held. The Board has determined that such action by the investment banker would *not* be in accordance with the current terms of Regulation T.

The Board provided the following analysis relating to this interpretation:

Under the terms of section 220.7(a) of Regulation T, a broker-dealer may not arrange for credit on different terms from those on which he may himself extend credit, with certain enumerated exceptions. [In the particular transaction under consideration] the broker-dealer could not finance the acquisition himself unless it were secured by a margin security, and then only at the current permissible loan value of the collateral, which is 50 percent. One of the exceptions from the prohibition of this section is an arrangement by the broker-dealer

"(2) for any person to extend or maintain credit for the purpose of purchasing or carrying a security. . . in a transaction which is exempt from the registration requirements of the Securities Act of 1933 by virtue of section 4(2) of that Act. . .

Provided, that: . . . (ii) the credit will not be used to purchase or carry a security that is publicly-held."

At the time the broker-dealer completes his "arranging" activities in the transaction [described], the security is still publicly-held.

The Board has addressed previously the issue as to the date when credit is extended (Published Interpretation 6800, 12 C.F.R. 207.101) and concluded that

"the date a commitment to extend credit becomes binding should be regarded as the date when the credit is extended, since (1) on that date the parties should be aware of law and facts surrounding the transaction and (2) generally, the date of contract is controlling for purposes of margin regulations and Federal securities law, regardless of the delivery of cash or securities."

(Over)



To argue that there is no firm commitment until the stock is eliminated, the Board feels, is to ignore the realities of the situation since without the promise of financing, the acquisition would not have been made in the proposed form. The certainty of financing set forth in the loan agreement is the catalyst enabling a company to attempt to purchase another company's stock. The buying of the stock and the use of credit to complete the transaction, by themselves, add to the volume of total credit in the securities market and the elimination of the securities purchased at a later date does not alter that fact.

Accordingly, it is the opinion of the Board that under the circumstances described, the credit is both extended and arranged when the stock is still a public stock. Therefore, the activities of the broker would not be in accordance with the terms of the regulation as presently in effect.

The Board is not unmindful of the fact that certain inequities exist among the Board's margin regulations which may no longer be necessary and impose undue burdens on broker/dealers doing business in this area. These inequities and the issues they raise are currently under study as part of a previously announced comprehensive review of the Board's regulations and it is expected that, early next year, the Board will determine what, if any, changes should be made in the regulations.

Questions regarding this interpretation or other matters concerning Regulation T may be directed to our Regulations Division (Tel. No. 212-791-5914).

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