

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. 10670 ]  
December 3, 1993 ]

REGULATION O

Extension of Interim Rule Regarding Insider  
Lending Limits for Small Banks

To All Member Banks and Bank Holding Companies in the Second  
Federal Reserve District, and Others Concerned:

The following statement has been issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has announced approval of a 90-day extension of an interim provision in Regulation O permitting adequately capitalized small banks to raise their limit on aggregate lending to insiders from 100 percent up to 200 percent of unimpaired capital and surplus.

The extension is effective from November 18, 1993, through February 18, 1994.

The extension is made in order to provide Board staff with additional time to review public comments on whether the interim rule should be made permanent, modified, or permitted to expire.

Printed below is the text of the Board's notice, which has been reprinted from the *Federal Register* of November 23; questions regarding this matter may be directed to our Domestic Banking Department (Tel. No. 212-720-2181).

WILLIAM J. McDONOUGH,  
*President.*

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**12 CFR Part 215**

[Regulation O; Docket No. R-0800]

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

**AGENCY:** Board of Governors of the  
Federal Reserve System.

**ACTION:** Interim rule.

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**SUMMARY:** The Board is extending through February 18, 1994, an interim provision in Regulation O permitting adequately capitalized small banks to raise their limit on aggregate lending to insiders from 100 percent up to 200 percent of unimpaired capital and surplus. The extension will prevent a lapse in the availability of the interim rule while the Board considers comments about it.

**EFFECTIVE DATE:** November 18, 1993.

**FOR FURTHER INFORMATION CONTACT:**

Gordon Miller, Attorney (202/452-2534), Legal Division; William G. Spaniel, Supervisory Financial Analyst (202/452-3469), or Mark Benton, Senior Financial Analyst (202/452-5205), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th & C Street, NW., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b), as amended by section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), imposes an aggregate limit on the amount a bank may lend to

its executive officers, directors, and principal shareholders (insiders) and their related interests as a class. In general, the limit is equal to the bank's unimpaired capital and unimpaired surplus. 12 U.S.C. 375b(5); 12 CFR 215.4(d). Section 22(h) also authorizes the Board to set a higher limit for banks with deposits of less than \$100 million if the Board determines that the exception is "important to avoid constricting the availability of credit in small communities or to attract directors of such banks." The statute provides that the higher limit for smaller banks may not exceed 200 percent of the bank's unimpaired capital and unimpaired surplus.

Effective May 18, 1992, the Board adopted an interim rule permitting adequately capitalized banks with deposits under \$100 million to adopt a higher limit, not to exceed 200 percent of the bank's unimpaired capital and

(OVER)

unimpaired surplus. The interim rule was scheduled to expire May 18, 1993. See 57 FR 22420, May 28, 1992. The Board subsequently extended the interim rule for six months, through November 18, 1993, in order to obtain public comments on whether the interim rule should be made permanent, modified, or permitted to expire. See 58 FR 28492, May 14, 1993.

In response to the notice of the extension of the interim rule, the Board received 147 written comments. The large majority of the comments were submitted by small banks subject to the interim rule. The Board also has received comments from state and national banking associations, Federal Reserve Banks, state banking superintendents, bank directors, bank holding companies, and law firms. In addition to written comments, the Board has reviewed the call reports of small banks and received relevant information from other governmental agencies.

The Board is hereby extending the interim rule for three months, through February 18, 1994. The Board finds that it is necessary to extend the interim rule in order to prevent any lapse in its availability while the information described above is considered. For the foregoing reasons, the Board for good cause finds that notice and public comment is impracticable, and that the interim rule should be effective immediately. See 5 U.S.C. 553(b)(B) and 553(d)(3). The effective date of this extension is November 18, 1993. Resolutions adopted by small banks to increase their aggregate lending limits that by their terms expired on May 18, 1993, or will expire on November 18, 1993, will be considered by the Board to remain in effect through February 18, 1994.

#### Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an agency to publish an initial regulatory flexibility analysis. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b))—a description of the reasons why the action by the agency is being considered and a statement of the objectives of, and legal basis for, the rulemaking—are contained in the supplementary information above.

Another requirement of an initial regulatory flexibility analysis is a description and, where feasible, an estimate of the number of small entities to which the interim rule will apply. The interim rule imposes an additional reporting requirement upon small banks that elect to prepare the board of directors resolution required in order to establish a higher aggregate lending limit for themselves. This resolution, which sets forth the facts and reasoning on which the board of directors bases its action, including the amount of the bank's lending to its insiders as a percentage of the bank's unimpaired capital and unimpaired surplus as of the date of the resolution, must be submitted to the appropriate federal banking agency (as defined in 12 U.S.C. 1813(q)) with a copy to the Board. The rulemaking does not duplicate, overlap, or conflict with other relevant federal rules.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the interim rule will be reviewed by the Board under authority delegated by the Office of Management and Budget after consideration of the comments received during the public comment period. 44 U.S.C. 3507; 5 CFR 1320.130. The interim rule applies to any adequately

capitalized bank with deposits under \$100 million that chooses to adopt a higher aggregate lending limit. As of December 31, 1992, 8,643 banks were potentially subject to the interim rule. During the 18-month period in which the interim rule has been in effect, 48 banks have chosen to adopt this policy, and it is not expected that this number will change significantly over the next three months. For banks that choose to adopt a higher aggregate lending limit, the burden per respondent is estimated to be 0.75 hours. Therefore, the estimated aggregate burden is not deemed to be significant.

#### List of Subjects in 12 CFR Part 215

Credit, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends title 12 of the Code of Federal Regulations, part 215, subpart A, as follows:

#### PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (REGULATION O)

1. The authority citation for part 215 is revised to read as follows:

Authority: 12 U.S.C. 248(i), 375a, 375b), 1817(k), and 1972(2)(G)(ii).

2. Section 215.4 is amended by removing from paragraph (d)(2) introductory text the phrase "18-month period ending November 18, 1993" and adding in its place the phrase "21-month period ending February 18, 1994."

By order of the Board of Governors of the Federal Reserve System, November 17, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-28686 Filed 11-22-93; 8:45 am]

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