January 24, 1980

To the Addressee:

Enclosed is a copy of the new pamphlet setting forth Regulation O, "Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks," of the Board of Governors of the Federal Reserve System, as amended effective December 31, 1979. Questions regarding the regulation should be directed to the Consumer Affairs and Bank Regulations Department of this Bank (Tel. No. 212-791-5914).

Circulars Division
FEDERAL RESERVE BANK OF NEW YORK
BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

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LOANS TO EXECUTIVE OFFICERS, DIRECTORS,
AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS

REGULATION O
(12 CFR 215)
As amended effective December 31, 1979

Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve district in which the inquiry arises.
BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

REGULATION O

UNITED STATES
of America
March 10, 1959

This regulation establishes requirements for minimum or maximum capital to the following.

[Signature]
Federal Reserve Board of St. Louis
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REGULATION O

(12 CFR 215)

As amended effective December 31, 1979

LOANS TO EXECUTIVE OFFICERS, DIRECTORS,
AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS*

SUBPART A—LOANS BY MEMBER BANKS
TO THEIR EXECUTIVE OFFICERS,
DIRECTORS, AND PRINCIPAL
SHAREHOLDERS

SECTION 215.1—AUTHORITY, PURPOSE,
AND SCOPE

(a) Authority. This Subpart is issued pursuant
to sections 11(i), 22(g) and 22(h) of the Federal
Reserve Act (12 U.S.C. §§ 248(i), 375a, 375b(7))

(b) Purpose and scope. This Subpart governs
any extension of credit by a member bank to an
executive officer, director, or principal shareholder
of (1) the member bank, (2) a bank holding com­
pany of which the member bank is a subsidiary,
and (3) any other subsidiary of that bank holding
company. It also applies to any extension of credit
by a member bank to (1) a company controlled by
such a person and (2) a political or campaign com­
mmittee that benefits or is controlled by such a per­
son. This Subpart also implements the reporting
requirements of 12 U.S.C. § 375a concerning exten­
sions of credit by a member bank to its execu­
tive officers and principal shareholders.

SECTION 215.2—DEFINITIONS

For the purpose of this Subpart, the following
definitions apply unless otherwise specified:

(a) "Company" means any corporation,
partnership, trust (business or otherwise), association, joint
venture, pool syndicate, sole proprietorship, unincorpo­
rated organization, or any other form of business
entity not specifically listed herein. However,
the term does not include (1) an insured bank (as
de­fined in 12 U.S.C. 1813(h)) or (2) a corporation
the majority of the shares of which are owned by
the United States or by any State.

(b)(1) "Control of a company or bank" means
that a person directly or indirectly, or acting
through or in concert with one or more persons:

(i) owns, controls, or has the power to vote 25
per cent or more of any class of voting securities of
the company or bank;

(ii) controls in any manner the election of a ma­
jority of the directors of the company or bank;
or

(iii) has the power to exercise a controlling influ­
ence over the management or policies of the com­
pany or bank.

(2) A person is presumed to have control, in­
cluding the power to exercise a controlling influ­
ce over the management or policies, of a com­
pany or bank if:

(i) the person is (A) an executive officer or
director of the company or bank and (B) directly or
indirectly owns, controls, or has the power to vote
more than 10 per cent of any class of voting secur­
ities of the company or bank; or

(ii) (A) the person directly or indirectly owns,
controls, or has the power to vote more than 10 per
cent of any class of voting securities of the com­
pany or bank, and (B) no other person owns, con­
trols, or has the power to vote a greater percentage
of that class of voting securities.

(3) An individual is not considered to have con­
trol, including the power to exercise a controlling
influence over the management or policies, of a com­
pany or bank solely by virtue of the indi­
vidual’s position as an officer or director of the
company or bank.

(4) A person may rebut a presumption estab­
lished by paragraph (b)(2) of this section by sub­
mitting to the appropriate Federal banking agency
(as defined in 12 U.S.C. 1813(q)) written materials
that, in the agency’s judgment, demonstrate an ab­sence of control.

(c) "Director of a member bank" includes (1)
any director of a member bank, whether or not re­
ceiving compensation, (2) any director of a bank
holding company (as defined in 12 U.S.C 1841(a))
§ 215.2 REGULATION O

of which the member bank is a subsidiary, and (3) any director of any other subsidiary of that bank holding company. An advisory director is not considered a director if the advisory director (1) is not elected by the shareholders of the company or bank, (2) is not authorized to vote on matters before the board of directors, and (3) provides solely general policy advice to the board of directors.

(d) "Executive officer" of a company or bank means a person who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the company or bank, whether or not: (1) the officer has an official title, (2) the title designates the officer an assistant, or (3) the officer is serving without salary or other compensation. The chairman of the board, the president, every vice president, the cashier, the secretary, and the treasurer of a company or bank are considered executive officers, unless (1) the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or company, from participation (other than in the capacity of a director) in major policymaking functions of the bank or company, and (2) the officer does not actually participate therein. For the purpose of sections 215.4 and 215.7 below, an executive officer of a member bank includes an executive officer of (1) a bank holding company (as defined in 12 U.S.C. 1841(a)) of which the member bank is a subsidiary, and (2) any other subsidiary of that bank holding company, unless the executive officer of the subsidiary is excluded (by name or by title) from participation in major policymaking functions of the member bank by resolutions of the boards of directors of both the subsidiary and the member bank, and (ii) does not actually participate in such major policymaking functions.

(e) "Immediate family" means the spouse of an individual, the individual's minor children, and any of the individual's children (including adults) residing in the individual's home.

(f) The "lending limit" for a member bank is an amount equal to the limit on loans to a single borrower established by section 5200 of the Revised Statutes, 12 U.S.C. 84. This amount is 10 per cent of the bank's capital stock and unimpaired surplus or any higher amount permitted by section 5200 of the Revised Statutes for the types of obligations listed therein as exceptions to the 10 per cent limit. A member bank's capital stock and unimpaired surplus equals the sum of (1) the "total equity capital" of the member bank reported on its most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), (2) any subordinated notes and debentures approved as an addition to the member bank's capital structure by the appropriate Federal banking agency, and (3) any valuation reserves created by charges to the member bank's income.

(g) "Member bank" means any banking institution that is a member of the Federal Reserve System. The term does not include any foreign bank (as defined in 12 U.S.C. 3101(b)(7)) that maintains a branch in the United States, whether or not the branch is insured (within the meaning of 12 U.S.C. 1813(s)) and regardless of the operation of 12 U.S.C. 1813(h) and 12 U.S.C. 1828(j)(2).

(h) "Pay an overdraft on an account" means to pay an amount upon the order of an account holder in excess of funds on deposit in the account.

(i) "Person" means an individual or a company.

(j) "Principal shareholder" means an individual or a company (other than an insured bank) that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per cent of any class of voting securities of a member bank or company. However, for the purposes of section 215.4(c) below, this percentage shall be "more than 18 per cent" if the member bank is located in a city, town, or village with a population of less than 30,000. Shares owned or controlled by a member of an individual's immediate family are considered to be held by the individual. A principal shareholder of a member bank includes (1) a principal shareholder of a bank holding company (as defined in 12 U.S.C. 1841(a)) of which the member bank is a subsidiary and (2) a principal shareholder of any other subsidiary of that bank holding company.

(k) "Related interest" means (1) a company that is controlled by a person or (2) a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person.

(l) "Subsidiary" has the meaning given in 12

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1 The term is not intended to include 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 or company and whose decisions are limited by policy standards fixed by the senior management of the bank or company. For example, the term does not include a manager or assistant manager of a branch of a bank unless that individual participates, or is authorized to participate, in major policymaking functions of the bank or company.
SECTION 215.3—EXTENSION OF CREDIT

(a) An extension of credit is a making or renewal of any loan, a granting of a line of credit, or an extending of credit in any manner whatsoever, and includes:

(1) a purchase under repurchase agreement of securities, other assets, or obligations;
(2) an advance by means of an overdraft, cash item, or otherwise;
(3) issuance of a standby letter of credit (or other similar arrangement regardless of name or description) or an ineligible acceptance, as those terms are defined in section 208.8(d) of this Chapter;
(4) an acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which a person may be liable as maker, drawer, endorser, guarantor, or surety;
(5) a discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse; but the acquisition of such paper by a member bank from another bank, without recourse, shall not be considered a discount by the member bank for the other bank;
(6) an increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for (i) accrued interest or (ii) taxes, insurance, or other expenses incidental to the existing indebtedness;
(7) an advance of unearned salary or other unearned compensation for a period in excess of 30 days; and
(8) any other transaction as a result of which a person becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

(b) An extension of credit does not include:

(1) an advance against accrued salary or other accrued compensation, or an advance for the payment of authorized travel or other expenses incurred or to be incurred on behalf of the bank;
(2) a receipt by a bank of a check deposited in or delivered to the bank in the usual course of business unless it results in the carrying of a cash item for or the granting of an overdraft (other than an inadvertent overdraft in a limited amount that is promptly repaid, as described in section 215.4(d) below);
(3) an acquisition of a note, draft, bill of exchange, or other evidence of indebtedness through (i) 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 (ii) foreclosure on collateral or similar proceeding for the protection of the bank, provided that such indebtedness is not held for a period of more than three years from the date of the acquisition, subject to extension by the appropriate Federal banking agency for good cause;
(4) (i) an endorsement or guarantee for the protection of a bank of any loan or other asset previously acquired by the bank in good faith or (ii) any indebtedness to a bank for the purpose of protecting the bank against loss or of giving financial assistance to it; or
(5) indebtedness of $5,000 or less arising by reason of any general arrangement by which a bank (i) acquires charge or time credit accounts or (ii) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, interest bearing overdraft credit plan of the type specified in section 215.4(d) below, or similar open-end credit plan, provided: (A) the indebtedness does not involve prior individual clearance or approval by the bank other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and (B) the indebtedness is incurred under terms that are not more favorable than those offered to the general public.

(c) Non-interest-bearing deposits to the credit of a bank are not considered loans, advances, or extensions of credit to the bank of deposit; nor is the giving of immediate credit to a bank upon uncollected items received in the ordinary course of business considered to be a loan, advance, or extension of credit to the depositing bank.

(d) For purposes of sections 215.4(b) and (c) below, an extension of credit by a member bank is considered to have been made at the time the bank enters into a binding commitment to make the extension of credit.

(e) A participation without recourse is considered to be an extension of credit by the participating bank, not by the originating bank.

(f) An extension of credit is considered made to a person covered by this Part to the extent that the proceeds of the extension of credit are used for the
tangible economic benefit of, or are transferred to, such a person.

SECTION 215.4—GENERAL PROHIBITIONS

(a) Terms and Creditworthiness. No member bank may extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of that person unless the extension of credit: (1) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this Part and who are not employed by the bank, and (2) does not involve more than the normal risk of repayment or present other unfavorable features.

(b) Prior Approval. (1) No member bank may extend credit or grant a line of credit to any of its executive officers, directors or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit and lines of credit by the member bank to that person and to all related interests of that person, exceeds $25,000, unless (i) the extension of credit or line of credit has been approved in advance by a majority of the entire board of directors of that bank and (ii) the interested party has abstained from participating directly or indirectly in the voting.

(2) Approval by the board of directors under paragraph (b)(1) of this section is not required for an extension of credit that is made pursuant to a line of credit that was approved under paragraph (b)(1) of this section within 14 months of the date of the extension of credit. The extension of credit must also be in compliance with the requirements of section 215.4(a) above.

(3) Participation in the discussion, or any attempt to influence the voting, by the board of directors regarding an extension of credit constitutes indirect participation in the voting by the board of directors on an extension of credit.

(c) Aggregate Lending Limit. No member bank may extend credit to any of its executive officers or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit by the member bank to that person and to all related interests of that person, exceeds the lending limit of the member bank specified in section 215.2(f) above. This prohibition does not apply to an extension of credit by a member bank to a bank holding company (as defined in 12 U.S.C. 1841(a)) of which the member bank is a subsidiary or to any other subsidiary of that bank holding company.

(d) Overdrafts. No member bank may pay an overdraft of an executive officer or director of the bank on an account at the bank, unless the payment of funds is made in accordance with (1) a written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment or (2) a written, preauthorized transfer of funds from another account of the account holder at the bank. This prohibition does not apply to payment of inadvertent overdrafts on an account in an aggregate amount of $1,000 or less, provided (1) the account is not overdrawn for more than 5 business days, and (2) the member bank charges the executive officer or director the same fee charged any other customer of the bank in similar circumstances.

SECTION 215.5—ADDITIONAL RESTRICTIONS ON LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS

(a) No member bank may extend credit to any of its executive officers, and no executive officer of a member bank shall borrow from or otherwise become indebted to the bank, except in the amounts, for the purposes, and upon the conditions specified in paragraphs (c) and (d) of this section.

(b) No member bank may extend credit in an aggregate amount greater than $10,000 outstanding at any one time to a partnership in which one or more of the executive officers of the member bank are partners and, either individually or together,

2 This prohibition does not apply to member bank loans to a director of the member bank or to a related interest of the director, unless the director is also an executive officer or principal shareholder. See also the definition of principal shareholder in section 215.2(j) above, in the case of a member bank located in a city, town or village with a population of less than 30,000.
hold a majority interest. For the purposes of paragraph (c)(3) below, the total amount of credit extended by a member bank to such partnership is considered to be extended to each executive officer of the member bank who is a member of the partnership.

(c) A member bank is authorized to extend credit to an executive officer of the bank in an aggregate amount not to exceed:

1. $20,000 outstanding at any one time to finance the education of the executive officer’s children;
2. $60,000 outstanding at any one time to finance the purchase, construction, maintenance, or improvement of a residence of the executive officer, if the extension of credit is secured by a first lien on the residence and the residence is owned (or expected to be owned after the extension of credit) by the executive officer; and
3. $10,000 outstanding at any one time for a purpose not otherwise specifically authorized under this paragraph.

(d) Any extension of credit by a member bank to any of its executive officers shall be: (1) promptly reported to the member bank’s board of directors; (2) in compliance with the requirements of section 215.4(a) above; (3) preceded by the submission of a detailed current financial statement of the executive officer; and (4) made subject to the condition that the extension of credit will, at the option of the member bank, become due and payable at any time that the officer is indebted to any other bank or banks in an aggregate amount greater than the amount specified for a category of credit in paragraph (c) of this section.

SECTION 215.6—EXTENSIONS OF CREDIT OUTSTANDING ON MARCH 10, 1979

(a) Any extension of credit that was outstanding on March 10, 1979, and that would, if made on or after March 10, 1979, violate section 215.4(c) above, shall be reduced in amount by March 10, 1980, to be in compliance with the lending limit in section 215.4(c). Any renewal or extension of such an extension of credit on or after March 10, 1979, shall be made only on terms that will bring the extension of credit into compliance with the lending limit of section 215.4(c) by March 10, 1980. However, any extension of credit made before March 10, 1979, that bears a specific maturity date of March 10, 1980, or later, shall be repaid in accordance with its repayment schedule in existence on or before March 10, 1979.

(b) If a member bank is unable to bring all extensions of credit outstanding on March 10, 1979, into compliance as required by paragraph (a) of this section, the member bank shall promptly report that fact to the Comptroller of the Currency, in the case of a national bank, or to the appropriate Federal Reserve Bank, in the case of a State member bank, and explain the reasons why all the extensions of credit cannot be brought into compliance. The Comptroller or the Reserve Bank, as the case may be, is authorized, on the basis of good cause shown, to extend the March 10, 1980, date for compliance for any extension of credit for not more than two additional one-year periods.

SECTION 215.7—RECORDS OF MEMBER BANKS

Each member bank shall maintain records necessary for compliance with the requirements of this Part. These records shall (a) identify all executive officers, directors, and principal shareholders of the member bank and the related interests of these persons and (b) specify the amount and terms of each extension of credit by the member bank to these persons and to their related interests. Each member bank shall request at least annually that each executive officer, director, or principal shareholder of the member bank identify the related interests of that person.

SECTION 215.8—REPORTS BY EXECUTIVE OFFICERS

Each executive officer of a member bank who becomes indebted to any other bank or banks in an aggregate amount greater than the amount specified for a category of credit in section 215.5(c) above, shall, within 10 days of the date the indebtedness reaches such a level, make a written report to the board of directors of the officer’s bank. The report shall state the lender’s name, the date and amount of each extension of credit, any security for it, and the purposes for which the proceeds have been or are to be used.

SECTION 215.9—REPORT ON CREDIT TO EXECUTIVE OFFICERS

Each member bank shall include with (but not as

1 See note 4 above.
part of) each report of condition (and copy thereof) filed pursuant to 12 U.S.C. 1817(a)(3) a report of all extensions of credit made by the member bank to its executive officers\(^6\) since the date of the bank's previous report of condition.

SECTION 215.10—ANNUAL REPORT ON AGGREGATE CREDIT TO EXECUTIVE OFFICERS AND PRINCIPAL SHAREHOLDERS

(a) Definitions. For the purposes of this section, the following definitions apply:

(1) "Aggregate amount of all extensions of credit" means the sum of the highest amount of credit outstanding during the calendar year (or, as an alternative, the highest end of the month credit outstanding during the calendar year) from the member bank to: (i) each of its executive officers,\(^7\) (ii) each of its principal shareholders, and (iii) each of the related interests of these persons.

(2) "Principal shareholder of a member bank" means any person\(^8\) (other than an insured bank, or a foreign bank as defined in 12 U.S.C. § 3101(7)) that, directly or indirectly, owns, controls, or has power to vote more than 10 per cent of any class of voting securities of the member bank. The term includes a person that controls a principal shareholder (e.g., a person that controls a bank holding company). Shares of a bank (including a foreign bank), bank holding company, or other company owned or controlled by a member of an individual's immediate family are presumed to be owned or controlled by the individual for the purposes of determining principal shareholder status.

(3) "Related interest" means any company controlled by a person and any political or campaign committee, the funds or services of which will benefit a person or that is controlled by a person. For the purpose of this section and Subpart B, a related interest does not include a bank or a foreign bank (as defined in 12 U.S.C. § 3101(7)).

(b) Contents of Report. On or before March 31 of each year, each member bank shall file with the appropriate Federal Reserve Bank in the case of State member banks, or the Comptroller of the Currency in the case of national banks or banks located in the District of Columbia, a report that shall include the following information with respect to the preceding calendar year:

(1) a list by name of each person who was a principal shareholder of the member bank on December 31;

(2) a list by name of each executive officer or principal shareholder of the member bank during the year to whom, or to whose related interests, the member bank had outstanding an extension of credit during the year; and

(3) the aggregate amount of all extensions of credit from the member bank to its executive officers and principal shareholders and their related interests.

(c) Availability of Report. The Board or the Comptroller, as the case may be, and the member bank shall make a copy of the report required by this section available to the public upon request.

SECTION 215.11—CIVIL PENALTIES

As specified in section 29 of the Federal Reserve Act (12 U.S.C. 504), any member bank, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of the bank, that violates any provision of this Subpart (other than section 215.10) is subject to a civil penalty of not more than $1,000 per day for each day during which the violation continues.

SUBPART B—REPORTS ON INDEBTEDNESS OF EXECUTIVE OFFICERS AND PRINCIPAL SHAREHOLDERS TO CORRESPONDENT BANKS

SECTION 215.20—AUTHORITY, PURPOSE, AND SCOPE

(a) Authority. This Subpart is issued pursuant to section 11(i) of the Federal Reserve Act (12 U.S.C. § 248(i) and 12 U.S.C. §§ 1817(k) (3) and 1972(2)(F)(vi)).

(b) Purpose and scope. This Subpart implements the reporting requirements of Title VIII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRA") (P.L. 95-630), 12 U.S.C. § 1972(2)(G). Title VIII prohibits (1) preferential lending by a bank to executive officers, directors, and principal shareholders of another
bank when there is a correspondent account relationship between the banks, and (2) the opening of a correspondent account relationship between banks when there is a preferential extension of credit by one of the banks to an executive officer, director, or principal shareholder of the other bank.

SECTION 215.21—DEFINITIONS

For the purposes of this Subpart, the following definitions apply unless otherwise specified:

(a) “Bank” has the meaning given in 12 U.S.C. § 1841(c), and includes a branch or agency of a foreign bank, or a commercial lending company controlled by a foreign bank or by a company that controls a foreign bank, where the branch or agency is maintained in a State of the United States or in the District of Columbia or the commercial lending company is organized under State law.

(b) “Company,” “control of a company or bank,” “executive officer,” “extension of credit,” “immediate family,” and “person” have the meanings provided in Subpart A.

(c) “Correspondent account” is an account that is maintained by a bank with another bank for the deposit or placement of funds. A correspondent account does not include:

1. time deposits at prevailing market rates, and
2. an account maintained in the ordinary course of business solely for the purpose of effecting federal funds transactions at prevailing market rates or making Eurodollar placements at prevailing market rates.

(d) “Correspondent bank” means a bank that maintains one or more correspondent accounts for a member bank during a calendar year that in the aggregate exceed an average daily balance during that year of $100,000 or 0.5 per cent of such member bank’s total deposits (as reported in its first consolidated report of condition during that calendar year), whichever amount is smaller.

(e) “Principal shareholder” and “related interest” have the meanings provided in section 215.10 of Subpart A.

SECTION 215.22—REPORT BY EXECUTIVE OFFICERS AND PRINCIPAL SHAREHOLDERS

(a) Annual Report. If during any calendar year an executive officer or principal shareholder of a member bank or a related interest of such a person has outstanding an extension of credit from a correspondent bank of the member bank, the executive officer or principal shareholder shall, on or before January 31 of the following year, make a written report to the board of directors of the member bank.

(b) Contents of Report. The report required by this section shall include the following information:

1. the maximum amount of indebtedness of the executive officer or principal shareholder and of each of that person’s related interests to each of the member bank’s correspondent banks during the calendar year;
2. the amount of indebtedness of the executive officer or principal shareholder and of each of that person’s related interests outstanding to each of the member bank’s correspondent banks as of ten business days before the report required by this section is filed, and
3. a description of the terms and conditions (including the range of interest rates, the original amount and date, maturity date, payment terms, security, if any, and any other unusual terms or conditions) of each extension of credit included in the indebtedness reported under paragraph (b) (1) of this section.

(c) Definitions. For the purposes of this section:

1. “Indebtedness” means an extension of credit, but does not include:
   (i) commercial paper, bonds, and debentures issued in the ordinary course of business; and
   (ii) consumer credit (as defined in 12 C.F.R. § 226.2(p)) in an aggregate amount of $5,000 or less from each of the member bank’s correspondent banks, provided the indebtedness is incurred under terms that are not more favorable than those offered to the general public.
2. “Maximum amount of indebtedness” means, at the option of the reporting person, either (i) the highest outstanding indebtedness during the calendar year for which the report is made, or (ii) the highest end of the month indebtedness outstanding during the calendar year for which the report is made.

10 Persons reporting under this section are not required to include information on extensions of credit that are fully described in a report by a person they control or a person that controls them, provided they identify their relationships with such other person.
11 If the amount of indebtedness outstanding to a correspondent bank ten days before the filing of the report is not available or cannot be readily ascertained, an estimate of the amount of indebtedness may be filed with the report, provided that the report is supplemented within the next 30 days with the actual amount of indebtedness.
§ 215.23

REGULATION O

(d) Retention of reports at member banks. The reports required by this section shall be retained at the member bank for a period of three years. The Reserve Bank or the Comptroller, as the case may be, may require these reports to be retained by the bank for an additional period of time. The reports filed under this section are not required by this regulation to be made available to the public and shall not be filed with the Reserve Bank or the Comptroller unless specifically requested.

(e) Member bank's responsibility. Each member bank shall advise each of its executive officers and each of its principal shareholders (to the extent known by the bank) of the reports required by this section and make available to each of these persons a list of the names and addresses of the member bank’s correspondent banks.

SECTION 215.23—REPORT BY MEMBER BANKS

(a) On or before March 31 of each year, each member bank shall compile the reports filed under section 215.22 of this Subpart and shall forward the compilation to the Comptroller of the Currency in the case of a national bank or a bank located in the District of Columbia, or the appropriate Federal Reserve Bank in the case of a State member bank. This compilation shall contain only the information required in paragraph (b) of this section.

(b) Each member bank shall include in the report required under section 215.10 of Subpart A to be filed in March 31 of each year, the following information:

(1) a list by name of each executive officer or principal shareholder that files a report with the member bank’s board of directors under section 215.22 of this Subpart; and

(2) the aggregate amount (or sum) of the maximum amounts of indebtedness reported to the board of directors of the member bank under section 215.22(b)(1) by the member bank’s executive officers and principal shareholders and their related interests.

APPENDIX

SECTION 5200 OF THE REVISED STATUTES

The total obligations to any national banking association of any person, copartnership, association, or corporation shall at no time exceed 10 per centum of the amount of the capital stock of such association actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. The term "obligations" shall mean the direct liability of the maker or acceptor of paper discounting with or sold to such association and the liability of the indorser, drawer, or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such association and shall include in the case of obligations of a copartnership or association the obligations of the several members thereof and shall include in the case of obligations of a corporation all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest. Such limitation of 10 per centum shall be subject to the following exceptions:

(1) Obligations in the form of drafts or bills of exchange drawn in good faith against actually existing values shall not be subject under this section to any limitation based upon such capital and surplus.

(2) Obligations arising out of the discount of commercial or business paper actually owned by the person, copartnership, association, or corporation negotiating the same shall not be subject under this section to any limitation based upon such capital and surplus.

(3) Obligations drawn in good faith against actually existing values and secured by goods or commodities in process of shipment shall not be subject under this section to any limitation based upon such capital and surplus.

(4) Obligations as indorser or guarantor of notes, other than commercial or business paper excepted under (2) hereof, having a maturity of not more than six months, and owned by the person, copartnership, association, or copartnership indorsing and negotiating the same, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(5) Obligations in the form of banker’s acceptances of other banks of the kind described in sections 372 and 373 of this title shall not be subject under this section to any limitation based upon such capital and surplus.

(6) Obligations of any person, copartnership, association or corporation, in the form of notes or drafts secured by shipping documents, warehouse receipts, or other such documents transferring or securing title covering readily marketable nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples shall be subject under this section to a limitation of 15 per centum of such capital and surplus in
addition to such 10 per centum of such capital and surplus when the market value of such staples securing such obligation is not at any time less than 115 per centum of the face amount of such obligation, and to an additional increase of limitation of 5 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 120 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 30 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 125 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 130 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 40 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 135 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 45 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 140 per centum of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, copartnership, association, or corporation arising from the same transactions and/or secured by the identical staples for more than six months.

(7) Obligations of any person, copartnership, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the notes covered by such documents shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus. Obligations arising out of the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which bear a full recourse endorsement or unconditional guarantee of the seller and are secured by the cattle being sold, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(8) Obligations of any person, copartnership, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States or obligations fully guaranteed both as to principal and interest by the United States, shall (except to the extent permitted by rules and regulations prescribed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury) be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(9) Obligations representing loans to any national banking association or to any banking institution organized under the laws of any State, or to any receiver, conservator, or superintendent of banks, or to any other agent, in charge of the business and property of any such association or banking institution, when such loans are approved by the Comptroller of the Currency, shall not be subject under this section to any limitation based upon such capital and surplus.

(10) Obligations shall not be subject under this section to any limitation based upon such capital and surplus to the extent that such obligations are secured or covered by guaranties, or by commitments or agreements to take over or to purchase, made by any Federal Reserve Bank or by the United States or any department, bureau, board, com-
mission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States: Provided, That such guaranties, agreements, or commitments are unconditional and must be performed by payment of cash or its equivalent within sixty days after demand. The Comptroller of the Currency is hereby authorized to define the terms herein used if and when he may deem it necessary.

(11) Obligations of a local public agency (as defined in section 1460(h) of Title 42) or of a public housing agency (as defined in the United States Housing Act of 1937, as amended; which have a maturity of not more than eighteen months shall not be subject under this section to any limitation, if such obligations are secured by an agreement between the obligor agency and the Secretary of Housing and Urban Development in which the agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity, which monies under the terms of said agreement are required to be used for that purpose.

(12) Obligations insured by the Secretary of Agriculture pursuant to the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended (relating to the conservation of water resources), or sections 1471-1485 of Title 42, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(13) Obligations as endorser or guarantor of negotiable or non-negotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person, copartner, association, or corporation transferring the paper which carries a full recourse endorsement or guarantee shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus.

**STATUTORY APPENDIX**

Subsections (g) and (h) of Section 22 of the Federal Reserve Act provide as follows:

SEC. 22. * * *

(g)(1) Except as authorized under this subsection, no member bank may extend credit in any manner to any of its own executive officers. No executive officer of any member bank may become indebted to that member bank except by means of an extension of credit which the bank is authorized to make under this subsection. Any extension of credit under this subsection shall be promptly reported to the board of directors of the bank, and may be made only if—

(A) the bank would be authorized to make it to borrowers other than its officers;

(B) it is on terms not more favorable than those afforded other borrowers;

(C) the officer has submitted a detailed current financial statement; and

(D) it is on 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 referred to in paragraphs (2), (3), and (4) 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.

(2) With the specific prior approval of its board of directors, a member bank may make a loan not exceeding $60,000 to any executive officer of the bank if, at the time the loan is made—

(A) 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

(B) no other loan by the bank to the officer under authority of this paragraph is outstanding.

(3) A member bank may make extensions of credit to any executive officer of the bank, not ex-
ceeding the aggregate amount of $20,000 outstanding at any one time to finance the education of the children of the officer.

(4) A member bank may make extensions of credit not otherwise specifically authorized under this subsection to any executive officer of the bank, not exceeding the aggregate amount of $10,000 outstanding at any one time.

(5) Except to the extent permitted under paragraph (4), a member bank may not extend credit to a partnership in which one or more of its executive officers are partners having either individually or together a majority interest. For the purposes of paragraph (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.

(6) Whenever an executive officer of a member bank becomes indebted to any bank or banks (other than the one of which he is an officer) on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) 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, he shall make a written report to the board of directors of the bank, 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.

(7) This subsection does not prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of the bank any loan or other asset previously acquired by the bank in good faith or from incurring any indebtedness to the bank for the purpose of protecting the bank against loss or giving financial assistance to it.

(8) Each day that any extension of credit in violation of this subsection exists is a continuation of the violation for the purposes of section 8 of the Federal Deposit Insurance Act.

(9) 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 subsection made by the bank since its previous report of condition.

(10) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms as it deems necessary to effectuate the purposes and to prevent evasions of this subsection.

(h)(1) No member bank shall make any loan or extension of credit in any manner to any of its executive officers, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to any company controlled by such an executive officer or person, or to any political or campaign committee the funds or services of which will benefit such an executive officer or person or which is controlled by such an executive officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer or person and to all companies controlled by such executive officer or person and to all political or campaign committees the funds or services of which will benefit such executive officer or person or which are controlled by such executive officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended. For purposes of this paragraph, the provisions of section 5200 of the Revised Statutes, as amended, shall be deemed to apply to a State member bank as if such State member bank were a national banking association.

(2) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive, director, or person or which is controlled by such executive officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the
amount of all other loans or extensions of credit then outstanding by such bank to such executive officer, director, or person and to all companies controlled by such executive officer, director, or person and to all political or campaign committees the funds or services of which will benefit such executive officer, director, or person which are controlled by such executive officer, director, or person, would exceed $25,000, unless such loan, line of credit, or extension of credit is approved in advance by a majority of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

(3) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive officer, director, or person which is controlled by such executive officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(4) No member bank may pay an overdraft on an account at such bank of an executive officer or director.

(5) For purposes of this subsection, an executive officer, director, or person shall be considered to have control of a company if such executive officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

(B) controls in any manner the election of a majority of the directors of the company; or

(C) has the power to exercise a controlling influence over the management or policies of such company.

(6) For the purposes of this subsection—

(A) the term "person" means an individual or company;

(B) the term "company" means any corporation, partnership, business trust, association, joint ven-

ture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

(C) the term "extension of credit" has the same meaning assigned such term in the fourth paragraph of section 23A of this Act;

(D) a person shall be deemed to be a "director of a member bank" or a "person who directly or acting through or in concert with one or more persons owns, controls, or has power to vote more than 10 per centum of any class of voting securities of a member bank" if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

(E) a person shall be deemed to be an "officer" of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

(F) the term "executive officer" has the same meaning assigned such term under section 22(g) of this Act; and

(G) the term "pay an overdraft on an account" means the payment by a member bank of an amount for an account holder in excess of the funds on deposit in the account and does not include a payment of funds by the member bank in accordance with either a written preauthorized, interest-bearing extension of credit specifying a method of repayment or a written preauthorized transfer of funds from another account of the account holder at that bank.

(7) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.

**Bank Holding Company Act**

**Amendments of 1970 (84 Stat. 1760)**

**Tie-in arrangements**

**Sec. 106.**

(b)(1) A bank shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

(A) that the customer shall obtain some additional credit, property, or service from such bank other than a loan, discount, deposit, or trust service;

(B) that the customer shall obtain some additional credit, property, or service from a bank holding company of such bank, or from any other subsidiary of such bank holding company;

(C) that the customer provide some additional credit, property, or service to a bank holding company of such bank, or to any other subsidiary of such bank holding company;

(D) that the customer provide some additional credit, property, or service to a bank holding company of such bank, or to any other subsidiary of such bank holding company;

(E) that the customer shall not obtain some other credit, property, or service from a competitor of such bank, a bank holding company of such bank, or any subsidiary of such bank holding company, other than a condition or requirement that such bank shall reasonably impose in a credit transaction to assure the soundness of the credit. The Board may by regulation or order permit such exceptions as it considers will not be contrary to the purposes of this section.

(2)(A) No bank which maintains a correspondent account in the name of another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, another bank shall open a correspondent account at such other bank, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(B) No bank shall open a correspondent account at another bank while such bank has outstanding an extension of credit to an executive officer or director of, or other person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, the bank desiring to open the account, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(C) No bank which violates any provision of section 106(b)(2) shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, or the Federal Reserve Act.
Deposit Insurance Corporation in the case of an insured nonmember State bank, by written notice. As used in this section, the term "violates" includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counselling, or aiding or abetting a violation.

(ii) In determining the amount of the penalty the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(iii) The bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(iv) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be. The Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(v) If any bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(vi) The Comptroller of the Currency, the Board and the Federal Deposit Insurance Corporation shall promulgate regulations establishing procedures necessary to implement this section.

(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

(viii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

(G)(i) Each executive officer and each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of an insured bank shall make a written report to the board of directors of such bank for any year during which such executive officer or shareholder has outstanding an extension of credit from a bank which maintain a corresponding account in the name of such bank. Such report shall include the following information:

(1) the maximum amount of indebtedness to the bank maintaining the correspondent account during such year of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political campaign committee the funds or services of which will benefit such executive officer or stockholder, or which is controlled by such executive officer or stockholder;

(2) the amount of indebtedness to the bank maintaining the correspondent account outstanding as of a date not more than ten days prior to the date of filing of such report of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political campaign committee the funds or services of which will benefit such executive officer or stockholder;

(3) the range of interest rates charged on such indebtedness of such executive officer or stockholder of record; and

(4) the terms and conditions of such indebtedness of such executive officer or stockholder of record.
(ii) Each insured bank shall compile the reports filed pursuant to subparagraph (G)(i) and forward such compilation to the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, and the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank.

(iii) Each insured bank shall include in the report required to be made under subsection (k)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)(1)) a list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank who files information required by subparagraph (G)(i) and the aggregate amount of all extensions of credit by correspondent banks to such executive officers or stockholders of record, any company controlled by such executive officers or stockholders, and any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.


Federal Deposit Insurance Act of September 21, 1950 (64 Stat. 873)

Change in control of banks

Sec. 7 * * *

(k)(1) Each insured bank shall make to the appropriate Federal banking agency an annual report which shall contain the following information with respect to the preceding calendar year:

(A) A list by name of each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank.

(B) A list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank and the aggregate amount of all extensions of credit by such bank during such year to: (i) such executive officers or stockholders of record, (ii) any company controlled by such executive officers, or stockholders, or (iii) any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.

(2) For purposes of this subsection, the term "executive officer" shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

(3) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection, including authority to incorporate the information required to be filed by this subsection in any other report required to be filed by all insured banks which would be available in its entirety to the public upon request.

(4) Copies of any report required to be filed under this subsection shall be made available, by the appropriate Federal banking agency or by the bank, upon request, to the public.