

R-513

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

STATEMENT FOR THE PRESS

For release in morning papers,
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The following ruling will appear in the Federal Reserve

Bulletin:

Whether Regulation T Permits Domestic Broker to
Borrow from Foreign Broker

Regulation T provides in section 5(c)^{1/} that:

"A creditor may borrow from another creditor in the ordinary course of business as a broker or dealer on any registered security to the extent and subject to the terms upon which the latter may extend credit to him in accordance with the provisions of this regulation, and subject to any other applicable provisions of law."

^{1/}The permission granted by the Board in section 5(c) of Regulation T is based upon section 8(a) of the Securities Exchange Act of 1934 which provides in part that:

"It shall be unlawful for any member of a national securities exchange, or any broker or dealer who transacts a business in securities through the medium of any such member, directly or indirectly -

(a) To borrow in the ordinary course of business as a broker or dealer on any security (other than an exempted security) registered on a national securities exchange except (1) from or through a member bank of the Federal Reserve System, (2) from any nonmember bank which shall have filed with the Board of Governors of the Federal Reserve System an agreement, which is still in force and which is in the form prescribed by the Board,.... or (3) in accordance with such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe to permit loans between such members and/or brokers and/or dealers, or to permit loans to meet emergency needs."

The term "creditor" as used in section 5(c) is defined in section 2(b) of the regulation as follows:

"The term 'creditor' means any member of a national securities exchange or any broker or dealer who transacts a business in securities through the medium of any such member."

The Board recently has been asked whether section 5(c) authorizes a "creditor", as defined in section 2(b), to borrow in this country in the ordinary course of business as a broker or dealer on registered nonexempted securities from a foreign broker. The foreign broker maintains no place of business in the United States, but "transacts a business in securities through the medium of a member of a national securities exchange" and hence appears to fall within the definition of the term "creditor".

It is the view of the Board that section 5(c) in its present form grants permission for the domestic broker thus to borrow from the foreign broker who "transacts a business in securities through the medium of a member", but that it grants the permission only on condition that the loan so obtained by the domestic broker meets the requirements of section 5(c) that it be "in accordance with the provisions of this regulation".

This means that in obtaining the loan the domestic broker must not be receiving more credit on given securities than he could get on those securities, in the case of a loan of the same description, from a domestic "broker or dealer who transacts a business in

securities through the medium of a member", and must not otherwise be obtaining any benefits that such a domestic broker or dealer could not lawfully grant under the regulation. One result of this requirement is that the loan may not be obtained on the basis of the special loan value prescribed for the special omnibus account, because section 4(b) of the regulation limits such loans to cases in which the lender is a member of a national securities exchange. It is, of course, unnecessary for present purposes to determine whether, or to what extent, the foreign broker would be required to comply with Regulation T, since the domestic broker is not granted permission to borrow unless the loan complies with the requirements of Regulation T to the same extent as if the lender were a domestic "creditor".