

credits. If the borrower pays off one of the two loans, the participating lender or bank is prohibited under the withdrawal and substitutions provision (§ 207.3(i) of Regulation G and § 221.3(f) of Regulation U of this chapter) from allowing the lead lender or bank to release the pro rata share of the collateral pledged for that participation unless the other loan is secured by collateral with sufficient maximum loan value. In addition, the lead lender or bank cannot allow any withdrawals of collateral during the course of the loan without contacting each participant to check on the status of any unrelated purpose credit to that borrower. These administrative burdens discourage the syndication and transfer of purpose loans.

(c) A version of the single-credit rule was incorporated in Regulation U when it was first issued in 1936. The rule assumed a direct relationship between the borrower and the bank. The modern practice of syndication or subsequent resale of participations severs the direct relationship between the borrower and the lender and presents difficulties, as described above, in the further administration of the loans for compliance with the margin regulations.

(d) The Board is of the view that as long as the lead lender or bank has control of the collateral, monitors the entire syndicated loan on a stand-alone basis, and does not allow withdrawals or substitutions unless sufficient collateral remains, participating lenders and banks need not aggregate participations with other unrelated purpose credit they have with the borrower under the single-credit rule.

[56 FR 46228, Sept. 11, 1991]

§ 207.114 Credit to brokers and dealers.

(a) The National Securities Markets Improvement Act of 1996 (Pub. L. 104-290, 110 Stat. 3416) restricts the Board's margin authority by repealing section 8(a) of the Securities Exchange Act of 1934 (the Exchange Act) and amending section 7 of the Exchange Act (15 U.S.C. 78g) to exclude the borrowing by a member of a national securities exchange or a registered broker or dealer "a substantial portion of whose busi-

ness consists of transactions with persons other than brokers or dealers" and borrowing by a member of a national securities exchange or a registered broker or dealer to finance its activities as a market maker or an underwriter. Notwithstanding this exclusion, the Board may impose such rules and regulations if it determines they are "necessary or appropriate in the public interest or for the protection of investors."

(b) The Board's margin regulations, Regulations G, T and U (12 CFR Parts 207, 220 and 221, respectively), currently contain rules regarding loans to brokers and dealers based on former section 8(a) of the Exchange Act and its interplay with the earlier version of section 7 of the Exchange Act, which instructed the Board to prescribe rules and regulations with respect to the amount of credit that may be extended on any nonexempted security.

(c) The Board has not found that it is necessary or appropriate in the public interest or for the protection of investors to impose rules and regulations regarding loans to brokers and dealers covered by the National Securities Markets Improvement Act of 1996. Consequently, the Board believes that extensions of securities credit that are unregulated under section 7, as amended by the National Securities Markets Improvement Act of 1996, currently are not limited by Regulations G, T and U, notwithstanding any provisions to the contrary, because the provisions of section 7, as amended, supersede conflicting provisions of the Board's regulations.

(d) Section 220.15 of Regulation T (12 CFR 220.15), § 221.4 of Regulation U and the reference in § 221.5(a) of Regulation U (12 CFR 221.5(a)) to "a member bank and a nonmember bank that is in compliance with § 221.4," and the introductory text of § 207.4 of Regulation G (12 CFR 207.4) were all adopted by the Board to implement the requirements of former section 8(a) of the Exchange Act. The Board believes that these sections are without effect in light of the repeal of section 8(a) of the Exchange Act. Brokers and dealers are not restricted as to the type of lender to which they may pledge exchange-traded equity securities as collateral for

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extensions of credit. In addition, a bank, as defined in section 3 of the Exchange Act (15 U.S.C. 78c) and the rules thereunder, may rely on §221.5 of Regulation U (12 CFR 221.5) in making loans to brokers and dealers without regard to membership in the Federal Reserve System or the existence of an agreement with the Federal Reserve under former section 8(a) of the Exchange Act.

[Reg. G, 61 FR 60166, Nov. 26, 1996]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

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AUTHORITY: 12 U.S.C. 24, 248(a), 248(c), 321-338a, 371d, 461, 481-486, 601, 611, 1814, 1820(d)(9), 1823(j), 1828(o), 1831o, 1831p-1, 1835a, 3105, 3310, 3331-3351, and 3906-3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o-4(c)(5), 78q, 78q-1, and 78w; 31 U.S.C. 5318.