

Federal Reserve System

§ 221.2

AUTHORITY: 15 U.S.C. 78c, 78g, 78q, and 78w.

SOURCE: Reg. U, §§221.1 through 221.8 appear at 48 FR 35076, Aug. 3, 1983, unless otherwise noted.

EDITORIAL NOTES: (1) A copy of each form referred to in this part is filed as a part of the original document. Copies are available upon request to the Board of Governors of the Federal Reserve System or any Federal Reserve Bank.

(2) See the List of CFR Sections Affected in the Finding Aids section of this volume for FR citations to Part 221 OTC Margin Stocks changes.

§221.1 Authority, purpose, and scope.

(a) *Authority.* Regulation U ("this part") is issued by the Board of Governors of the Federal Reserve System ("the Board") pursuant to the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a *et seq.*).

(b) *Purpose and scope.* This part imposes credit restrictions upon "banks" (as defined in §221.2(b) of this part) that extend credit for the purpose of buying or carrying margin stock if the credit is secured directly or indirectly by margin stock. Banks may not extend more than the maximum loan value of the collateral securing such credit, as set by the Board in §221.8 (the Supplement).

[Reg. U, 48 FR 35076, Aug. 3, 1983; 48 FR 37361, Aug. 18, 1983]

§221.2 Definitions.

The terms used in this part have the meanings given them in section 3(a) of the Act or as defined in this section.

(a) *Affiliate* means: (1) Any bank holding company of which a bank is a subsidiary within the meaning of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(d));

(2) Any other subsidiary of such bank holding company; and

(3) Any other corporation, business trust, association, or other similar organization that is an affiliate as defined in section 2(b) of the Banking Act of 1933 (12 U.S.C. 221a(c)).

(b)(1) *Bank* has the meaning given to it in section 3(a)(6) of the Act (15 U.S.C. 78c(a)(6)) and includes: (i) Any subsidiary of a bank;

(ii) Any corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611); and

(iii) Any agency or branch of a foreign bank located within the United States.

(2) *Bank* does not include: (i) Any savings and loan association,

(ii) Any credit union,

(iii) Any lending institution that is an instrumentality or agency of the United States, or

(iv) Any member of a national securities exchange.

(c) *Carrying* credit is credit that enables a customer to maintain, reduce, or retire indebtedness originally incurred to purchase a security that is currently a margin stock.

(d) *Current market value* of (1) a security means: (i) If quotations are available, the closing sale price of the security on the preceding business day, as appearing on any regularly published reporting or quotation service; or

(ii) If there is no closing sale price, the bank may use any reasonable estimate of the market value of the security as of the close of business on the preceding business day; or

(iii) If the credit is used to finance the purchase of the security, the total cost of purchase, which may include any commissions charged.

(2) Any other collateral means a value determined by any reasonable method in accordance with sound banking practices.

(e) *Customer* includes any person or persons acting jointly, to or for whom a bank extends or maintains credit.

(f) *Good faith* with respect to: (1) The loan value of collateral, means that amount (not exceeding 100 per cent of the current market value of the collateral) which a bank, exercising sound banking judgment, would lend, without regard to the customer's other assets held as collateral in connection with unrelated transactions.

(2) Accepting notice or certification from or on behalf of a customer means that the bank or its duly authorized representative is alert to the circumstances surrounding the credit, and if in possession of information that would cause a prudent person not to accept the notice or certification without inquiry, investigates and is satisfied that it is truthful;

(g) *Indirectly secured* (1) Includes any arrangement with the customer under which:

(i) The customer's right or ability to sell, pledge, or otherwise dispose of margin stock owned by the customer is in any way restricted while the credit remains outstanding; or

(ii) The exercise of such right is or may be caused for accelerating the maturity of the credit.

(2) Does not include such an arrangement if:

(i) After applying the proceeds of the credit, not more than 25 percent of the value (as determined by any reasonable method) of the assets subject to the arrangement is represented by margin stock;

(ii) It is a lending arrangement that permits accelerating the maturity of the credit as a result of a default or renegotiation of another credit to the customer by another lender that is not an affiliate of the bank;

(iii) The bank holds the margin stock only in the capacity of custodian, depository, or trustee, or under similar circumstances, and, in good faith, has not relied upon the margin stock as collateral; or

(iv) The bank, in good faith, has not relied upon the margin stock as collateral in extending or maintaining the particular credit.

(h) *Margin stock* means: (1) Any equity security registered or having unlisted trading privileges on a national securities exchange;

(2) Any OTC margin stock;

(3) Any OTC security designated as qualified for trading in the National Market System under a designation plan approved by the Securities and Exchange Commission (NMS security);

(4) Any debt security convertible into a margin stock or carrying a warrant or right to subscribe to or purchase a margin stock;

(5) Any warrant or right to subscribe to or purchase a margin stock; or

(6) Any security issued by an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8), other than:

(i) A company licensed under the Small Business Investment Company Act of 1958, as amended (15 U.S.C. 661); or

(ii) A company which has at least 95 percent of its assets continuously invested in exempted securities (as defined in 15 U.S.C. 78c(a)(12)); or

(iii) A company which issues face-amount certificates as defined in 15 U.S.C. 80a-2(a)(15), but only with respect of such securities.

(i) *Maximum loan value* is the percentage of current market value assigned by the Board under §221.8 of this part to specified types of collateral. The maximum loan value of margin stock is stated as a percentage of its current market value. Puts, calls and combinations thereof have no loan value except for purposes of §221.5(c)(10) of this part. All other collateral has *good faith* loan value.

(j) *OTC margin stock* is any equity security not traded on a national securities exchange that the Board has determined has the degree of national investor interest, the depth and breadth of market, the availability of information respecting the security and its issuer, and the character and permanence of the issuer to warrant being treated like an equity security traded on a national securities exchange. An OTC stock is not considered to be an *OTC margin stock* unless it appears on the Board's periodically published list of OTC margin stocks.

(k) *Purpose credit* is any credit for the purpose, whether immediate, incidental, or ultimate, of buying or carrying margin stock.

[Reg. U, 48 FR 35076, Aug. 3, 1983, as amended at 50 FR 10934, Mar. 19, 1985]

§221.3 General requirements.

(a) *Extending, maintaining, and arranging credit*—(1) *Extending credit*. No bank shall extend any purpose credit, secured directly or indirectly by margin stock, in an amount that exceeds the maximum loan value of the collateral securing the credit. The maximum loan value of margin stock (set forth in §221.8 of this part) is assigned by the Board in terms of a percentage of the current market value of the margin stock. All other collateral has *good faith* loan value, as defined in §221.2(f) of this part.