

(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.

(2) *Maintaining credit.* A bank may continue to maintain any credit initially extended in compliance with this part, regardless of:

(i) Reduction in the customer's equity resulting from change in market prices;

(ii) Change in the maximum loan value prescribed by this part; or

(iii) Change in the status of the security (from nonmargin to margin) securing an existing purpose credit.

(3) *Arranging credit.* No bank may arrange for the extension or maintenance of any purpose credit, except upon the same terms and conditions under which the bank itself may extend or maintain purpose credit under this part.

(b) *Purpose statement.* Except for credit extended under paragraph (c) of this section, whenever a bank extends credit secured directly or indirectly by any margin stock, in an amount exceeding \$100,000, the bank shall require its customer to execute Form FR U-1 (OMB No. 7100-0115), which shall be signed and accepted by a duly authorized officer of the bank acting in good faith.

(c) *Purpose statement for revolving-credit or multiple-draw agreements.* (1) If a bank extends credit, secured directly or indirectly by any margin stock, in an amount exceeding \$100,000, under a revolving-credit or other multiple-draw agreement, Form FR U-1 can either be executed each time a disbursement is made under the agreement, or at the time the credit arrangement is originally established.

(2) If a purpose statement executed at the time the credit arrangement is initially made indicates that the purpose is to purchase or carry margin stock, the credit will be deemed in compliance with this part if the maximum loan value of the collateral at least equals the aggregate amount of funds actually disbursed. For any purpose credit disbursed under the agreement, the bank shall obtain and attach to the executed Form FR U-1 a current list of collateral which adequately supports all credit extended under the agreement.

(d) *Single credit rule.* (1) All purpose credit extended to a customer shall be treated as a single credit, and all the collateral securing such credit shall be

considered in determining whether or not the credit complies with this part.

(2) A bank that has extended purpose credit secured by margin stock may not subsequently extend unsecured purpose credit to the same customer unless the combined credit does not exceed the maximum loan value of the collateral securing the prior credit.

(3) If a bank extended unsecured purpose credit to a customer prior to the extension of purpose credit secured by margin stock, the credits shall be combined and treated as a single credit solely for the purposes of the withdrawal and substitution provision of paragraph (f) of this section.

(4) If a bank extends purpose credit secured by any margin stock and non-purpose credit to the same customer, the bank shall treat the credits as two separate loans and may not rely upon the required collateral securing the purpose credit for the nonpurpose credit.

(e) *Mixed collateral loans.* A purpose credit secured in part by margin stock, and in part by other collateral shall be treated as two separate loans, one secured by margin stock and one by all other collateral. A bank may use a single credit agreement, if it maintains records identifying each portion of the credit and its collateral.

(f) *Withdrawals and substitutions.* (1) A bank may permit any withdrawal or substitution of cash or collateral by the customer if the withdrawal or substitution would not:

(i) Cause the credit to exceed the maximum loan value of the collateral; or

(ii) Increase the amount by which the credit exceeds the maximum loan value of the collateral.

(2) For purposes of this section, the maximum loan value of the collateral on the day of the withdrawal or substitution shall be used.

(g) *Exchange offers.* To enable a customer to participate in a reorganization, recapitalization or exchange offer that is made to holders of an issue of margin stock, a bank may permit substitution of the securities received. A nonmargin, nonexempted security acquired in exchange for a margin stock shall be treated as if it is margin stock

for a period of 60 days following the exchange.

(h) *Renewals and extensions of maturity.* A renewal or extension of maturity of a credit need not be considered a new extension of credit if the amount of the credit is increased only by the addition of interest, service charges, or taxes with respect to the credit.

(i) *Transfers of credit.* (1) A transfer of a credit between customers or banks or between a bank and a lender subject to part 207 of this chapter shall not be considered a new extension of credit if:

(i) The original credit was extended by a bank in compliance with this part or by a lender subject to part 207 of this chapter in a manner that would have complied with this part;

(ii) The transfer is not made to evade this part or part 207 of this chapter;

(iii) The amount of credit is not increased; and

(iv) The collateral for the credit is not changed.

(2) Any transfer between customers at the same bank shall be accompanied by a statement by the transferor customer describing the circumstances giving rise to the transfer and shall be accepted and signed by an officer of the bank acting in good faith. The bank shall keep such statement with its records of the transferee account.

(3) When a transfer is made between banks or between a bank and a lender subject to part 207 of this chapter, the transferee shall obtain a copy of the Form FR U-1 or Form FR G-3 originally filed with the transferor and retain the copy with its records of the transferee account. If no form was originally filed with the transferor, the transferee may accept in good faith a statement from the transferor describing the purpose of the loan and the collateral securing it.

(j) *Action for bank's protection.* Nothing in this part shall require a bank to waive or forego any lien or prevent a bank from taking any action it deems necessary in good faith for its protection.

(k) *Mistakes in good faith.* A mistake in good faith in connection with the extension of maintenance of credit shall not be a violation of this part.

(l) *Lack of notice of NMS security designation.* Failure to treat an NMS secu-

rity as a margin stock in connection with an extension of credit shall not be deemed a violation of this part if the designation is made between quarterly publications of the Board's List of OTC Margin Stocks and the bank does not have actual notice of the designation.

[Reg. U, 48 FR 35076, Aug. 3, 1983, as amended at 49 FR 35758, Sept. 12, 1984; 52 FR 35683, Sept. 23, 1987; 56 FR 46111, Sept. 10, 1991; 56 FR 66120, Dec. 20, 1991]

#### **§221.4 Agreements of nonmember banks.**

(a) Banks that are not members of the Federal Reserve System shall file an agreement that conforms to the requirements of section 8(a) of the Act (See Form T-1 for domestic nonmember banks and Form T-2 for all other nonmember banks) prior to extending any credit secured by any nonexempt security registered on a national securities exchange to persons subject to Part 220 of this chapter, who are borrowing in the ordinary course of business.

(b) Any nonmember bank may terminate its agreement upon written notification to the Board.

#### **§221.5 Special purpose loans to brokers and dealers.**

(a) *Special purpose loans.* A member bank and a nonmember bank that is in compliance with §221.4 of this part, may extend and maintain purpose credit to brokers and dealers without regard to the limitations set forth in §§221.3 and 221.8 of this part, if the credit is for any of the specific purposes and meets the conditions set forth in paragraph (c) of this section.

(b) *Written notice.* Prior to extending credit for more than a day under this section, the bank shall obtain and accept in good faith a written notice or certification from the borrower as to the purposes of the loan. The written notice or certification shall be evidence of continued eligibility for the special credit provisions until the borrower notifies the bank that it is no longer eligible or the bank has information that would cause a reasonable person to question whether the credit is being used for the purpose specified.

(c) *Types of special purpose credit.* The types of credit that may be extended