

## § 221.6

[Reg. U, 48 FR 35076, Aug. 3, 1983, as amended at 48 FR 37361, Aug. 18, 1983]

### § 221.6 Exempted transactions.

A bank may extend and maintain purpose credit without regard to the provisions of this part if such credit is extended:

- (a) To any bank;
- (b) To any foreign banking institution;
- (c) Outside the United States;
- (d) To an employee stock ownership plan (ESOP) qualified under section 401 of the Internal Revenue Code (26 U.S.C. 401);
- (e) To any "plan lender" as defined in part 207 of this chapter to finance such a plan, provided the bank has no recourse to any securities purchased pursuant to the plan;
- (f) To any customer, other than a broker or dealer, to temporarily finance the purchase or sale of securities for prompt deliver, if the credit is to be repaid in the ordinary course of business upon completion of the transaction;
- (g) Against securities in transit, if the credit is not extended to enable the customer to pay for securities purchased in an account subject to Part 220 of this chapter; or
- (h) To enable a customer to meet emergency expenses not reasonably foreseeable, and if the extension of credit is supported by a statement executed by the customer and accepted and signed by an officer of the bank acting in good faith. For this purpose, emergency expenses include expenses arising from circumstances such as the death or disability of the customer, or some other change in circumstances involving extreme hardship, not reasonably foreseeable at the time the credit was extended. The opportunity to realize monetary gain or to avoid loss is not a "change in circumstances" for this purpose.

### § 221.7 Requirements for the list of OTC margin stocks.

(a) *Requirements for inclusion on the list.* Except as provided in paragraph (d) of this section, an OTC margin stock shall meet the following requirements:

- (1) Four or more dealers stand willing to, and do in fact, make a market in

## 12 CFR Ch. II (1–198 Edition)

such stock and regularly submit bona fide bids and offers to an automated quotations system for their own accounts;

(2) The minimum average bid price of such stock, as determined by the Board, is at least \$5 per share;

(3) The stock is registered under section 12 of the Act, is issued by an insurance company subject to section (12)(g)(2)(G) of the Act, is issued by a closed end investment management company subject to registration pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8), is an American Depository Receipt (ADR) of a foreign issuer whose securities are registered under section 12 of the Act, or is a stock of an issuer required to file reports under section 15(d) of the Act;

(4) Daily quotations for both bid and asked prices for the stock are continuously available to the general public;

(5) The stock has been publicly traded for at least six months;

(6) The issuer had at least \$4 million of capital, surplus, and undivided profits;

(7) There are 400,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors or beneficial owners of more than 10 percent of the stock;

(8) There are 1,200 or more holders of record, as defined in SEC Rule 12g5-1 (17 CFR 240.12g5-1), of the stock who are not officers, directors or beneficial owners of ten percent or more of the stock, or the average daily trading volume of such a stock as determined by the Board, is at least 500 shares; and

(9) The issuer or a predecessor in interest has been in existence for at least three years.

(b) *Requirements for continued inclusion on the list.* Except as provided in paragraph (d) of this section, an OTC margin stock shall meet the following requirements:

(1) Three or more dealers stand willing to, and do in fact make a market in such stock and regularly submit bona fide bids and offers to an automated quotations system for their own accounts;

(2) The minimum average bid price of such stocks, as determined by the Board, is at least \$2 per share;