

or in the District of Columbia or the commercial lending company is organized under State law, and (2) 12 U.S.C. 1972(2)(H)(i). Notwithstanding the foregoing, with respect to disclosures made pursuant to paragraph (a)(1) of §349.4 and with respect to copies of requests maintained pursuant to paragraph (c) of §349.4, *bank* shall mean *State nonmember bank* as defined in 12 U.S.C. 1813(b), including a *mutual savings bank* as defined in 12 U.S.C. 1813(f).

(b) *Capital stock and unimpaired surplus* shall have the meaning provided in §215.2(f) of Federal Reserve Board Regulation O, subpart A (12 CFR 215.2(f)). Notwithstanding the foregoing, with respect to *mutual savings banks*, the term *total equity capital* found in 12 CFR 215.2(f) shall mean *total surplus accounts*.

(c) *Company, control of a company or bank, executive officer,*¹ *extension of credit, immediate family, and person* have the meanings provided in §§215.2 and 215.3 of subpart A of Federal Reserve Board Regulation O (12 CFR 215.2 and 215.3). All references to the term *member bank* in §§215.2 and 215.3 shall be deemed to refer to an insured State nonmember bank for the purposes of this part 349.

(d) *Correspondent account* is an account that is maintained by an insured State nonmember bank with another bank for the deposit or placement of funds. A correspondent account does not include:

(1) Time deposits at prevailing market rates; or

(2) An account maintained in the ordinary course of business solely for the purpose of effecting Federal funds transactions at prevailing market rates or making Eurodollar placements at prevailing market rates.

(e) *Correspondent bank* means a bank that maintains one or more correspondent accounts for an insured State nonmember bank during a cal-

endar year that in the aggregate exceed an average daily balance during that year of \$100,000 or one-half of one percent of the insured State nonmember bank's total deposits (as reported in its first Consolidated Report of Condition during that calendar year), whichever amount is smaller.

(f) *Indebtedness* means an extension of credit, but does not include:

(1) Commercial paper, bonds, debentures and other types of marketable securities issued in the ordinary course of business; or

(2) Consumer credit (as defined in 12 CFR 226.2(p)), in an aggregate amount of \$5,000 or less from each of the insured State nonmember bank's correspondent banks, provided the indebtedness is incurred under terms that are not more favorable than those offered to the general public.

(g) *Maximum amount of indebtedness* means, at the option of the reporting person, either (1) the highest outstanding indebtedness during the calendar year for which the report is made, or (2) the highest end of the month indebtedness outstanding during the calendar year for which the report is made.

(h) For the purpose of this part 349, *principal shareholder* and *related interest* have the meanings provided in §215.10(a) of Federal Reserve Board Regulation O, subpart A (12 CFR 215.10(a)), except that the term *principal shareholder* is synonymous with the term *stockholder of record* as that term is used in the reporting provisions of 12 U.S.C. 1972(2)(G)(i). All references to the term *member bank* in §215.10(a) shall be deemed to refer to an insured State nonmember bank for the purposes of this part 349.

§349.3 Reports by executive officers and principal shareholders.

(a) *Annual report.* If during any calendar year an executive officer or principal shareholder of an insured State nonmember bank or a related interest of such a person has outstanding an extension of credit from a correspondent bank, the executive officer or principal

¹For the purposes of this part 349, executive officers of an insured State nonmember bank do not include an executive officer of a bank holding company of which such bank is a subsidiary or of any other subsidiary of the bank holding company, unless the executive officer is also an executive officer of the insured State nonmember bank.

shareholder must make a written report to the board of directors of the insured State nonmember bank on or before January 31 of the following year.²

(b) *Contents of report.* The report required by this section shall include the following information:

(1) The maximum amount of indebtedness of the executive officer or principal shareholder and of each of that person's related interests to each of the insured State nonmember bank's correspondent banks during the calendar year; and

(2) The amount of indebtedness of the executive officer or principal shareholder and of each of that person's related interests outstanding to each of the insured State nonmember bank's correspondent banks not more than ten business days before the report required by this section is filed;³ and

(3) A description of the terms and conditions (including the range of interest rates, the original amount and date, maturity date, payment terms, security, if any, and any other unusual terms or conditions) of each extension of credit included in the indebtedness reported under paragraph (b)(1) of this section.

(c) *Retention of reports.* The reports required by this section must ordinarily be retained at the insured State nonmember bank for a period of three years, but the Federal Deposit Insurance Corporation may require that they be retained by the bank for an additional period of time. The reports filed under this section are not required by this regulation to be made available to the public and shall not be filed with the Federal Deposit Insurance Corporation unless specifically requested.

²Persons reporting under this section are not required to include information on extensions of credit that are fully described in a report by a person they control or a person that controls them, provided they identify their relationship with such other person.

³ If the amount of indebtedness outstanding to a correspondent bank ten days before the filing of the report is not available or cannot be readily ascertained, an estimate of the amount of indebtedness may be filed with the report, provided that the report is supplemented within the next 30 days with the actual amount of indebtedness.

(d) *Bank's responsibility.* Each insured State nonmember bank shall advise each of its executive officers and each of its principal shareholders (to the extent known by the bank) of the reports required by this section and make available to each of these persons a list with the name and address of each of the insured State nonmember bank's correspondent banks.

§ 349.4 Disclosure of indebtedness of executive officers and principal shareholders.

(a) Upon receipt of a written request, an insured State nonmember bank shall disclose to the requester the name of each executive officer or principal shareholder of the bank whose aggregate indebtedness, including the indebtedness of related interests of such person.

(1) At the bank itself as of the end of the latest calendar quarter; or

(2) At the correspondent banks of the disclosing bank at any time during the previous calendar year

equals or exceeds the lesser of five percent (5%) of the disclosing bank's capital stock and unimpaired surplus or \$500,000, but in no event shall an insured State nonmember bank be required to make such disclosure where the aggregate indebtedness of an executive officer or principal shareholder is less than \$25,000.

(b) *Contents of disclosure.* (1) An insured State nonmember bank is not required to disclose any additional information concerning the indebtedness referred to in paragraph (a) of this section, except that it must observe the requirement of paragraph (b)(2) of this section.

(2) Disclosures made pursuant to paragraph (a) of this section shall specify whether the individual or individuals named in the disclosure, who are indebted in the amount specified in paragraph (a) of this section, are indebted solely to the bank itself or to one or more correspondent banks of the reporting bank or to both.

(c) An insured State nonmember bank shall maintain a copy of any request for information made under paragraph (a) of this section and a record of the bank's disposition of such request for a period of two years.