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(j) *Member bank* means any banking institution that is a member of the Federal Reserve System, including any subsidiary of a member bank. The term does not include any foreign bank that maintains a branch in the United States, whether or not the branch is insured (within the meaning of 12 U.S.C. 1813(s)) and regardless of the operation of 12 U.S.C. 1813(h) and 12 U.S.C. 1828(j)(3)(B).

(k) *Pay an overdraft on an account* means to pay an amount upon the order of an account holder in excess of funds on deposit in the account.

(l) *Person* means an individual or a company.

(m)(1) *Principal shareholder* means a person (other than an insured bank) that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. Shares owned or controlled by a member of an individual's immediate family are considered to be held by the individual.

(2) A principal shareholder of a member bank does not include a company of which a member bank is a subsidiary.

(n) *Related interest* of a person means:

(1) A company that is controlled by that person; or

(2) A political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

(o) *Subsidiary* has the meaning given in 12 U.S.C. 1841(d), but does not include a subsidiary of a member bank.

[Reg. O, 59 FR 8837, Feb. 24, 1994; 59 FR 37930, July 26, 1994, as amended at 60 FR 31054, June 13, 1995; 61 FR 57770, Nov. 8, 1996; 62 FR 13298, Mar. 20, 1997]

§215.3 Extension of credit.

(a) An extension of credit is a making or renewal of any loan, a granting of a line of credit, or an extending of credit in any manner whatsoever, and includes:

(1) A purchase under repurchase agreement of securities, other assets, or obligations;

(2) An advance by means of an overdraft, cash item, or otherwise;

(3) Issuance of a standby letter of credit (or other similar arrangement regardless of name or description) or an ineligible acceptance, as those terms are defined in §208.24 of this chapter;

(4) An acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which an insider may be liable as maker, drawer, endorser, guarantor, or surety;

(5) An increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for:

(i) Accrued interest; or

(ii) Taxes, insurance, or other expenses incidental to the existing indebtedness;

(6) An advance of unearned salary or other unearned compensation for a period in excess of 30 days; and

(7) Any other similar transaction as a result of which a person becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

(b) An extension of credit does not include:

(1) An advance against accrued salary or other accrued compensation, or an advance for the payment of authorized travel or other expenses incurred or to be incurred on behalf of the bank;

(2) A receipt by a bank of a check deposited in or delivered to the bank in the usual course of business unless it results in the carrying of a cash item for or the granting of an overdraft (other than an inadvertent overdraft in a limited amount that is promptly repaid, as described in §215.4(e) of this part);

(3) An acquisition of a note, draft, bill of exchange, or other evidence of indebtedness through:

(i) A merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or similar organization; or

(ii) Foreclosure on collateral or similar proceeding for the protection of the bank, provided that such indebtedness is not held for a period of more than

three years from the date of the acquisition, subject to extension by the appropriate Federal banking agency for good cause;

(4)(i) An endorsement or guarantee for the protection of a bank of any loan or other asset previously acquired by the bank in good faith; or

(ii) Any indebtedness to a bank for the purpose of protecting the bank against loss or of giving financial assistance to it;

(5) Indebtedness of $15,000 or less arising by reason of any general arrangement by which a bank:

(i) Acquires charge or time credit accounts; or

(ii) Makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar open-end credit plan, provided:

(A) The indebtedness does not involve prior individual clearance or approval by the bank other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement; and

(B) The indebtedness is incurred under terms that are not more favorable than those offered to the general public;

(6) Indebtedness of $5,000 or less arising by reason of an interest-bearing overdraft credit plan of the type specified in §215.4(e) of this part; or

(7) A discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, without recourse.

(c) Non-interest-bearing deposits to the credit of a bank are not considered loans, advances, or extensions of credit to the bank of deposit; nor is the giving of immediate credit to a bank upon uncollected items received in the ordinary course of business considered to be a loan, advance or extension of credit to the depositing bank.

(d) For purposes of §215.4 of this part, an extension of credit by a member bank is considered to have been made at the time the bank enters into a binding commitment to make the extension of credit.

(e) A participation without recourse is considered to be an extension of credit by the participating bank, not by the originating bank.

(f) *Tangible economic benefit rule*—(1) *In general.* An extension of credit is considered made to an insider to the extent that the proceeds are transferred to the insider or are used for the tangible economic benefit of the insider.

(2) *Exception.* An extension of credit is not considered made to an insider under paragraph (f)(1) of this section if:

(i) The credit is extended on terms that would satisfy the standard set forth in §215.4(a) of this part for extensions of credit to insiders; and

(ii) The proceeds of the extension of credit are used in a bona fide transaction to acquire property, goods, or services from the insider.

[Reg. O, 59 FR 8837, Feb. 24, 1994; 59 FR 37930, July 26, 1994; 63 FR 58621, Nov. 2, 1998]

§215.4 General prohibitions.

(a) *Terms and creditworthiness*—(1) *In general.* No member bank may extend credit to any insider of the bank or insider of its affiliates unless the extension of credit:

(i) Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this part and who are not employed by the bank; and

(ii) Does not involve more than the normal risk of repayment or present other unfavorable features.

(2) *Exception.* Nothing in this paragraph (a) or paragraph (e)(2)(ii) of this section shall prohibit any extension of credit made pursuant to a benefit or compensation program—

(i) That is widely available to employees of the member bank and, in the case of extensions of credit to an insider of its affiliates, is widely available to employees of the affiliates at which that person is an insider; and

(ii) That does not give preference to any insider of the member bank over other employees of the member bank and, in the case of extensions of credit to an insider of its affiliates, does not give preference to any insider of its affiliates over other employees of the affiliates at which that person is an insider.