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or section 29 of the Federal Deposit Insurance Act for 90 days after the date on which the institution was placed in conservatorship. During this 90-day period, the institution shall, nevertheless, be subject to the restriction on the payment of interest contained in paragraph (b)(2)(ii) of the section. After such 90-day period, the institution may not accept, renew or roll over any brokered deposit.

(e) A market is any readily defined geographical area in which the rates offered by any one insured depository institution soliciting deposits in that area may affect the rates offered by other insured depository institutions operating in the same area. The effective yield on a deposit with an odd maturity shall be determined by interpolating between the yields offered by other insured depository institutions on deposits of the next longer and shorter maturities offered in the market. For purposes of this §337.6, a presumption shall exist that the prevailing rate or effective yield in the relevant market is the national rate as defined in paragraph (b)(2)(ii)(B) of this section unless the FDIC determines, in its sole discretion based on available evidence, that the effective yield in that market differs from the national rate. Evidence of the effective yield in a particular market may include (but is not limited to) the following:

(1) Evidence as to the rates paid by other insured depository institutions in the same State, county or metropolitan statistical area (though the FDIC shall not be obligated to recognize each State, county or metropolitan statistical area as a separate market area);

(2) Evidence as to the rates paid by credit unions in the same market area if the FDIC determines that the insured depository institution competes directly with these credit unions; and

(3) Evidence as to the different rates paid on different deposit products in the same market area (though the FDIC shall not be obligated to recognize all alleged distinctions among various deposit products). (*Example:* For a particular market, evidence exists that the rates on money market deposit accounts (MMDAs) differ from the rates on negotiable order of withdrawal

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(NOW) accounts. MMDAs are distinguishable from NOW accounts in that the two types of accounts are subject to different legal requirements. Under these circumstances, for this market, the FDIC could recognize that the prevailing rate on MMDAs is different than the prevailing rate on NOW accounts.)

[57 FR 23941, June 5, 1992, as amended at 58 FR 54935, Oct. 25, 1993; 60 FR 31384, June 15, 1995; 63 FR 44750, Aug. 20, 1998; 66 FR 17622, Apr. 3, 2001; 74 27683, June 11, 2009]

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§ 337.10 Waiver.

An insured State nonmember bank has the right to petition the Board of Directors of the Corporation for a waiver of this part or any subpart thereof with respect to any particular transaction or series of similar transactions. A waiver may be granted at the discretion of the Board upon a showing of good cause. All such petitions should be filed with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

[39 FR 29179, Aug. 14, 1974, as amended at 67 FR 71071, Nov. 29, 2002]

§ 337.11 Effect on other banking practices.

Nothing in this part shall be construed as restricting in any manner the Corporation's authority to deal with any banking practice which is deemed to be unsafe or unsound or otherwise not in accordance with law, rule, or regulation; or which violates any condition imposed in writing by the Corporation in connection with the granting of any application or other request by an insured State nonmember bank, or any written agreement entered into by such bank with the Corporation. Compliance with the provisions of this part shall not relieve an insured State nonmember bank from its duty to conduct its operations in a safe and sound manner nor prevent the Corporation from taking whatever action it deems necessary and desirable to deal with

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specific acts or practices which, although they do not violate the provisions of this part, are considered detrimental to the safety and sound operation of the bank engaged therein.

§ 337.12 Frequency of examination.

(a) *General.* The Federal Deposit Insurance Corporation examines insured state nonmember banks pursuant to authority conferred by section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820). The FDIC is required to conduct a full-scope, on-site examination of every insured state nonmember bank at least once during each 12-month period.

(b) *18-month rule for certain small institutions.* The FDIC may conduct a full-scope, on-site examination of an insured state nonmember bank at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the following conditions are satisfied:

(1) The bank has total assets of less than \$500 million;

(2) The bank is well capitalized as defined in § 325.103(b)(1) of this chapter;

(3) At the most recent FDIC or applicable State banking agency examination, the FDIC—

(i) Assigned the bank a rating of 1 or 2 for management as part of the bank's composite rating under the Uniform Financial Institutions Rating System (commonly referred to as CAMELS); and

(ii) Assigned the bank a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (copies of which are available at the addresses specified in § 309.4 of this chapter);

(4) The bank currently is not subject to a formal enforcement proceeding or order by the FDIC, OCC or the Federal Reserve and

(5) No person acquired control of the bank during the preceding 12-month period in which a full-scope, on-site examination would have been required but for this section.

(c) *Authority to conduct more frequent examinations.* This section does not limit the authority of the FDIC to examine any insured state nonmember

bank as frequently as the agency deems necessary.

[63 FR 16381, Apr. 2, 1998, as amended at 72 FR 17803, Apr. 10, 2007]

PART 338—FAIR HOUSING

Subpart A—Advertising

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338.1 Purpose.

338.2 Definitions applicable to subpart A of this part.

338.3 Nondiscriminatory advertising.

338.4 Fair housing poster.

Subpart B—Recordkeeping

338.5 Purpose.

338.6 Definitions applicable to this subpart B.

338.7 Recordkeeping requirements.

338.8 Compilation of loan data in register format.

338.9 Mortgage lending of a controlled entity.

AUTHORITY: 12 U.S.C. 1817, 1818, 1819, 1820(b), 2801 *et seq.*; 15 U.S.C. 1691 *et seq.*; 42 U.S.C. 3605, 3608; 12 CFR parts 202, 203; 24 CFR part 110.

Subpart A—Advertising

§ 338.1 Purpose.

The purpose of this subpart A is to prohibit insured state nonmember banks from engaging in discriminatory advertising with regard to residential real estate-related transactions. This subpart A also requires insured state nonmember banks to publicly display either the Equal Housing Lender poster set forth in § 338.4(b) of the FDIC's regulations or the Equal Housing Opportunity poster prescribed by part 110 of the regulations of the United States Department of Housing and Urban Development (24 CFR part 110). This subpart A enforces section 805 of title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-3619 (Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988.

[62 FR 36204, July 7, 1997]

§ 338.2 Definitions applicable to subpart A of this part.

For purposes of subpart A of this part: