

Federal Reserve System

§ 237.22

SECTION 235.10 EFFECTIVE AND COMPLIANCE DATES

[Reserved]

[76 FR 43466, July 20, 2011, as amended at 76 FR 43467, July 20, 2011; 77 FR 46280, Aug. 3, 2012]

PART 237—MARGIN AND CAPITAL REQUIREMENTS FOR COVERED SWAP ENTITIES (REGULATION KK)

Subpart A [Reserved]

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AUTHORITY: 15 U.S.C. 8305, 12 U.S.C. 343–350, 12 U.S.C. 1818, 12 U.S.C. 3101 *et seq.*

SOURCE: 78 FR 34549, June 10, 2013, unless otherwise noted.

Subpart A [Reserved]

Subpart B— Prohibition Against Federal Assistance to Swaps Entities

§ 237.20 Definitions.

Unless otherwise specified, for purposes of this subpart:

Board means the Board of Governors of the Federal Reserve System.

Dodd-Frank Act means the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Foreign bank has the same meaning as in §211.21(n) of the Board's Regulation K (12 CFR 211.21(n)).

Major security-based swap participant has the same meaning as in section 3(a)(67) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(67)) and as implemented in rules and orders issued by the Securities and Exchange Commission.

Major swap participant has the same meaning as in section 1a(33) of the Commodity Exchange Act (7 U.S.C. 1a(33)) and as implemented in rules and orders issued by the Commodity Futures Trading Commission.

Security-based swap has the same meaning as in section 3(a)(68) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)) and as implemented in rules and orders issued by the Securities and Exchange Commission.

Security-based swap dealer has the same meaning as in section 3(a)(71) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(71)) and as implemented in rules and orders issued by the Commodity Futures Trading Commission.

Swap dealer has the same meaning as in section 1a(49) of the Commodity Exchange Act (7 U.S.C. 1a(49)) and as implemented in rules and orders issued by the Commodity Futures Trading Commission.

Swaps entity means a person that is registered as a swap dealer, security-based swap dealer, major swap participant, or major security-based swap participant under the Commodity Exchange Act or Securities Exchange Act of 1934, other than an insured depository institution that is registered as a major swap participant or major security-based swap participant.

§ 237.21 Definition of insured depository institution for purposes of section 716.

For purposes of section 716 of the Dodd-Frank Act (15 U.S.C. 8305) and this subpart, the term “insured depository institution” includes any insured depository institution as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and any uninsured U.S. branch or agency of a foreign bank. The terms branch, agency, and foreign bank are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).

§ 237.22 Transition period for insured depository institutions.

(a) *Approval of transition period.* (1) To the extent an insured depository institution for which the Board is the appropriate Federal banking agency qualifies as a “swaps entity” and would be subject to the Federal assistance prohibition in section 716(a) of the Dodd-Frank Act, the insured depository institution may request a transition period of up to 24 months from the later of July 16, 2013, or the date on

which it becomes a swaps entity, during which to conform its swaps activities to the requirements of this section by submitting a request in writing to the Board. Any request submitted pursuant to this paragraph (a) of this section shall, at a minimum, include the following information:

- (i) The length of the transition period requested;
- (ii) A description of the quantitative and qualitative impacts of divestiture or cessation of swap or security-based swaps activities on the insured depository institution, including information that addresses the factors in paragraph (d) of this section; and
- (iii) A detailed explanation of the insured depository institution's plan for conforming its activities to the requirements of section 716 of the Dodd-Frank Act (15 U.S.C. 8305) and this part.

(2) The Board may, at any time, request additional information that it believes is necessary for its decision.

(b) *Transition period for insured depository institutions.* Following review of a written request submitted under paragraph (a) of this section, the Board shall permit an insured depository institution for which it is the appropriate Federal banking agency up to 24 months after the later of July 16, 2013, or the date on which the insured depository institution becomes a swaps entity, to comply with the requirements of section 716 of the Dodd-Frank Act (15 U.S.C. 8305) and this subpart based on its consideration of the factors in paragraph (c) of this section.

(c) *Factors governing Board determinations.* In establishing an appropriate transition period pursuant to any request under this section, the Board will take into account and make written findings regarding:

(1) The potential impact of divestiture or cessation of swap or security-based swaps activities on the insured depository institution's:

- (i) Mortgage lending;
- (ii) Small business lending;
- (iii) Job creation; and
- (iv) Capital formation versus the potential negative impact on insured depositors and the Deposit Insurance Fund of the Federal Deposit Insurance Corporation; and

(2) Any other factor that the Board believes appropriate.

(d) *Timing of Board review.* The Board will seek to act on a request under paragraph (a) of this section expeditiously after the receipt of a complete request.

(e) *Extension of transition period.* The Board may extend a transition period provided under this section for a period of up to one additional year. To request an extension of the transition period, an insured depository institution must submit a written request containing the information set forth in paragraph (a) of this section no later than 60 days before the end of the transition period.

(f) *Authority to impose restrictions during any transition period.* The Board may impose such conditions on any transition period granted under this section as the Board determines are necessary or appropriate.

(g) *Consultation.* The Board shall consult with the Commodity Futures Trading Commission or the Securities and Exchange Commission, as appropriate, prior to the approval of a request by an insured depository institution for a transition period under this section.

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

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