

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM (CONTINUED)

PART 230 [RESERVED]

PART 231—NETTING ELIGIBILITY FOR FINANCIAL INSTITUTION (REGULATION EE)

Sec.

231.1 Authority, purpose, and scope.

231.2 Definitions.

231.3 Qualification as a financial institution.

AUTHORITY: 12 U.S.C. 4402(1)(B) and 4402(9).

SOURCE: Reg. EE, 59 FR 4784, Feb. 2, 1994, unless otherwise noted.

§ 231.1 Authority, purpose, and scope.

(a) *Authority.* This part (Regulation EE; 12 CFR part 231) is issued by the Board of Governors of the Federal Reserve System under the authority of sections 402(1)(B) and 402(9) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402(1)(B) and 4402(9)).

(b) *Purpose and scope.* The purpose of the Act and this part is to enhance efficiency and reduce systemic risk in the financial markets. This part expands the Act's definition of "financial institution" to allow more financial market participants to avail themselves of the netting provisions set forth in sections 401–407 of the Act (12 U.S.C. 4401–4407). This part does not affect the status of those financial institutions specifically defined in the Act.

§ 231.2 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236), as amended.

(b) *Affiliate*, with respect to a person, means any other person that controls, is controlled by, or is under common control with the person.

(c) *Bridge institution* means a legal entity that has been established by a governmental authority to take over, transfer, or continue operating critical functions and viable operations of an entity in resolution. A bridge institu-

tion could include a bridge depository institution or a bridge financial company organized by the Federal Deposit Insurance Corporation in accordance with 12 U.S.C. 1821(n) or 5390(h), respectively, or a similar entity organized under foreign law.

(d) *Financial contract* means a qualified financial contract as defined in section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)), as amended, except that a forward contract includes a contract with a maturity date two days or less after the date the contract is entered into (i.e., a "spot" contract).

(e) *Financial market* means a market for a financial contract.

(f) *Gross mark-to-market positions* in one or more financial contracts means the sum of the absolute values of positions in those contracts, adjusted to reflect the market values of those positions in accordance with the methods used by the parties to each contract to value the contract.

(g) *Person* means any legal entity, foreign or domestic, including a corporation, unincorporated company, partnership, government unit or instrumentality, trust, natural person, or any other entity or organization.

[Reg. EE, 59 FR 4784, Feb. 2, 1994, as amended at 86 FR 11622, Feb. 26, 2021]

§ 231.3 Qualification as a financial institution.

(a) A person qualifies as a financial institution for purposes of sections 401–407 of the Act if it represents, orally or in writing, that it will engage in financial contracts as a counterparty on both sides of one or more financial markets and either—

(1) Had one or more financial contracts of a total gross dollar value of at least \$1 billion in notional principal amount outstanding at such time or on any day during the previous 15-month period with counterparties that are not its affiliates; or

(2) Had total gross mark-to-market positions of at least \$100 million (aggregated across counterparties) in one

or more financial contracts at such time or on any day during the previous 15-month period with counterparties that are not its affiliates.

(b) After two or more persons consolidate, such as through a merger or acquisition, the surviving person meets the quantitative thresholds under paragraphs (a)(1) and (a)(2) if, on the same, single calendar day during the previous 15-month period, the aggregate financial contracts of the consolidated persons would have met such quantitative thresholds.

(c) If a person qualifies as a financial institution under paragraph (a) of this section, that person will be considered a financial institution for the purposes of any contract entered into during the period it qualifies, even if the person subsequently fails to qualify.

(d) If a person qualifies as a financial institution under paragraph (a) of this section on March 7, 1994, that person will be considered a financial institution for the purposes of any outstanding contract entered into prior to March 7, 1994.

(e) A person qualifies as a financial institution for purposes of sections 401–407 of the Act if it is—

(1) A swap dealer or major swap participant registered with the Commodity Futures Trading Commission pursuant to section 4s of the Commodity Exchange Act (7 U.S.C. 6s);

(2) A security-based swap dealer or major security-based swap participant registered with the U.S. Securities and Exchange Commission pursuant to section 15F of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10);

(3) A derivatives clearing organization registered with the Commodity Futures Trading Commission pursuant to section 5b(a) of the Commodity Exchange Act (7 U.S.C. 7a–1(a)) or a derivatives clearing organization that the Commodity Futures Trading Commission has exempted from registration by rule or order pursuant to section 5b(h) of the Commodity Exchange Act (7 U.S.C. 7a–1(h));

(4) A clearing agency registered with the U.S. Securities and Exchange Commission pursuant to section 17A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(b)) or a clearing agency that the U.S. Securities and Exchange

Commission has exempted from registration by rule or order pursuant to section 17A(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(k));

(5) A financial market utility that the Financial Stability Oversight Council has designated as, or as likely to become, systemically important pursuant to 12 U.S.C. 5463;

(6) A qualifying central counterparty under 12 CFR 217.2;

(7) A nonbank financial company that the Financial Stability Oversight Council has determined shall be supervised by the Board and subject to prudential standards, pursuant to 12 U.S.C. 5323;

(8) A foreign bank as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101), including a foreign bridge bank;

(9) A bridge institution established for the purpose of resolving a financial institution;

(10) A Federal Reserve Bank or a foreign central bank; or

(11) The Bank for International Settlements.

[Reg. EE, 59 FR 4784, Feb. 2, 1994, as amended at 61 FR 1274, Jan. 19, 1996; 86 FR 11622, Feb. 26, 2021]

PART 232—OBTAINING AND USING MEDICAL INFORMATION IN CONNECTION WITH CREDIT (REGULATION FF)

Sec.

232.1 Scope, general prohibition and definitions.

232.2 Rule of construction for obtaining and using unsolicited medical information.

232.3 Financial information exception for obtaining and using medical information.

232.4 Specific exceptions for obtaining and using medical information.

AUTHORITY: 15 U.S.C. 1681b.

SOURCE: 70 FR 70682, Nov. 22, 2005, unless otherwise noted.

§ 232.1 Scope, general prohibition and definitions.

(a) *Scope.* This part applies to creditors, as defined in paragraph (c)(3) of this section, except for creditors that are subject to §§ 41.30, 222.30, 334.30, 571.30, or 717.30.