

§ 32.7

12 CFR Ch. I (1-1-04 Edition)

§ 32.7 Pilot program for residential real estate and small business loans.

(a) *Residential real estate and small business loans.* (1) In addition to the amount that a national bank may lend to one borrower under § 32.3, an eligible national bank may make residential real estate loans or extensions of credit to one borrower in the lesser of the following two amounts: 10 percent of its capital and surplus; or the percent of its capital and surplus, in excess of 15 percent, that a State bank is permitted to lend under the State lending limit that is available for residential real estate loans or unsecured loans in the State where the main office of the national bank is located. Any such loan or extension of credit must be secured by a perfected first-lien security interest in 1-4 family real estate in an amount that does not exceed 80 percent of the appraised value of the collateral at the time the loan or extension of credit is made. In no event may a bank lend more than \$10 million to one borrower under this authority.

(2) In addition to the amount that a national bank may lend to one borrower under § 32.3, an eligible national bank may make small business loans or extensions of credit to one borrower in the lesser of the following two amounts: 10 percent of its capital and surplus; or the percent of its capital and surplus, in excess of 15 percent, that a State bank is permitted to lend under the State lending limit that is available for small business loans or unsecured loans in the State where the main office of the national bank is located. In no event may a bank lend more than \$10 million to one borrower under this authority.

(3) The total outstanding amount of a national bank's loans and extensions of credit to one borrower made under §§ 32.3(a) and (b), together with loans and extensions of credit to the borrower made pursuant to paragraphs (a)(1) and (2) of this section, shall not exceed 25 percent of the bank's capital and surplus.

(4) The total outstanding amount of a national bank's loans and extensions of credit to all of its borrowers made pursuant to the special lending limits provided in paragraphs (a)(1) and (2) of this

section may not exceed 100 percent of the bank's capital and surplus.

(b) *Application process.* An eligible bank must submit an application to, and receive approval from, its supervisory office before using the special lending limits in paragraphs (a)(1) and (2) of this section. The supervisory office may approve a completed application if it finds that approval is consistent with safety and soundness. To be deemed complete, the application must include:

(1) Certification that the bank is an "eligible bank" as defined in § 32.2(i);

(2) Citations to relevant State laws or regulations;

(3) A copy of a written resolution by a majority of the bank's board of directors approving the use of the limits provided in paragraphs (a)(1) and (2) of this section, and confirming the terms and conditions for use of this lending authority; and

(4) A description of how the board will exercise its continuing responsibility to oversee the use of this lending authority.

(c) *Duration of approval.* Except as provided in § 32.7(d), a bank that has received OCC approval may continue to make loans and extensions of credit under the special lending limits in paragraphs (a)(1) and (2) of this section until the date three years after September 10, 2001, provided the bank remains an "eligible bank."

(d) *Discretionary termination of authority.* The OCC may rescind a bank's authority to use the special lending limits in paragraphs (a)(1) and (2) of this section based upon concerns about credit quality, undue concentrations in the bank's portfolio of residential or small business loans, or concerns about the bank's overall credit risk management systems and controls. The bank must cease making new loans or extensions of credit in reliance on the special limits upon receipt of written notice from the OCC that its authority has been rescinded.

(e) *Duration of pilot program.* The pilot program will terminate on June 11, 2004, unless it is terminated sooner by the OCC.

(f) *Existing loans.* Any loans or extensions of credit made by a bank under

Comptroller of the Currency, Treasury

§ 34.2

the special lending limits in paragraphs (a)(1) and (2) of this section, that were in compliance with this section when made, will not be deemed a lending limit violation and will not be treated as nonconforming under §32.6.

[66 FR 31120, June 11, 2001]

PART 33 [RESERVED]

PART 34—REAL ESTATE LENDING AND APPRAISALS

Subpart A—General

Sec.

- 34.1 Purpose and scope.
- 34.2 Definitions.
- 34.3 General rule.
- 34.4 Applicability of State law.
- 34.5 Due-on-sale clauses.

Subpart B—Adjustable-Rate Mortgages

- 34.20 Definitions.
- 34.21 General rule.
- 34.22 Index.
- 34.23 Prepayment fees.
- 34.24 Nonfederally chartered commercial banks.
- 34.25 Transition rule.

Subpart C—Appraisals

- 34.41 Authority, purpose, and scope.
- 34.42 Definitions.
- 34.43 Appraisals required; transactions requiring a State certified or licensed appraiser.
- 34.44 Minimum appraisal standards.
- 34.45 Appraiser independence.
- 34.46 Professional association membership; competency.
- 34.47 Enforcement.

Subpart D—Real Estate Lending Standards

- 34.61 Purpose and scope.
- 34.62 Real estate lending standards.

APPENDIX A TO SUBPART D OF PART 34—
INTERAGENCY GUIDELINES FOR REAL ESTATE
LENDING

Subpart E—Other Real Estate Owned

- 34.81 Definitions.
- 34.82 Holding period.
- 34.83 Disposition of real estate.
- 34.84 Future bank expansion.
- 34.85 Appraisal requirements.
- 34.86 Additional expenditures and notification.
- 34.87 Accounting treatment.

AUTHORITY: 12 U.S.C. 1 *et seq.*, 29, 93a, 371, 1701j-3, 1828(o), and 3331 *et seq.*

Subpart A—General

SOURCE: 61 FR 11300, Mar. 20, 1996, unless otherwise noted.

§ 34.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to set forth standards for real estate-related lending and associated activities by national banks.

(b) *Scope.* This part applies to national banks and their operating subsidiaries as provided in 12 CFR 5.34. For the purposes of 12 U.S.C. 371 and subparts A and B of this part, loans secured by liens on interests in real estate include loans made upon the security of condominiums, leaseholds, cooperatives, forest tracts, land sales contracts, and construction project loans. Construction project loans are not subject to subparts A and B of this part, however, if they have a maturity not exceeding 60 months and are made to finance the construction of either:

(1) A building where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building; or

(2) A residential or farm building.

§ 34.2 Definitions.

(a) *Due-on-sale clause* means any clause that gives the lender or any assignee or transferee of the lender the power to declare the entire debt payable if all or part of the legal or equitable title or an equivalent contractual interest in the property securing the loan is transferred to another person, whether by deed, contract, or otherwise.

(b) *State* means any State of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, the Northern Mariana Islands, American Samoa, and Guam.

(c) *State law limitations* means any State statute, regulation, or order of any State agency, or judicial decision interpreting State law.