

(c) *Exceptions.* All standby letters of credit shall be subject to the provisions of paragraph (b) of this section except where:

(1) Prior to or at the time of issuance, the issuing bank is paid an amount equal to the bank's maximum liability under the standby letter of credit; or,

(2) Prior to or at the time of issuance, the issuing bank has set aside sufficient funds in a segregated deposit account, clearly earmarked for that purpose, to cover the bank's maximum liability under the standby letter of credit.

(d) *Disclosure.* Each insured State nonmember bank must maintain adequate control and subsidiary records of its standby letters of credit comparable to the records maintained in connection with the bank's direct loans so that at all times the bank's potential liability thereunder and the bank's compliance with this section may be readily determined. In addition, all such standby letters of credit must be adequately reflected on the bank's published financial statements.

**§ 337.3 Limits on extensions of credit to executive officers, directors, and principal shareholders of insured nonmember banks.**

(a) With the exception of 12 CFR 215.5(b), 215.5(c)(3), 215.5(c)(4), and 215.11, insured nonmember banks are subject to the restrictions contained in subpart A of Federal Reserve Board Regulation O (12 CFR Part 215, subpart A) to the same extent and to the same manner as though they were member banks.

(b) For the purposes of compliance with § 215.4(b) of Federal Reserve Board Regulation O, no insured nonmember bank may extend credit or grant a line of credit to any of its executive officers, directors, or principal shareholders or to any related interest of any such person in an amount that, when aggregated with the amount of all other extensions of credit and lines of credit by the bank to that person and to all related interests of that person, exceeds the greater of \$25,000 or five percent of the bank's capital and

unimpaired surplus,<sup>3</sup> or \$500,000 unless (1) the extension of credit or line of credit has been approved in advance by a majority of the entire board of directors of that bank and (2) the interested party has abstained from participating directly or indirectly in the voting.

(c)(1) No insured nonmember bank may extend credit in an aggregate amount greater than the amount permitted in paragraph (c)(2) of this section to a partnership in which one or more of the bank's executive officers are partners and, either individually or together, hold a majority interest. For the purposes of paragraph (c)(2) of this section, the total amount of credit extended by an insured nonmember bank to such partnership is considered to be extended to each executive officer of the insured nonmember bank who is a member of the partnership.

(2) An insured nonmember bank is authorized to extend credit to any executive officer of the bank for any other purpose not specified in § 215.5(c)(1) and (2) of Federal Reserve Board Regulation O (12 CFR 215.5(c)(1) and (2)) if the aggregate amount of such other extensions of credit does not exceed at any one time the higher of 2.5 percent of the bank's capital and unimpaired surplus or \$25,000 but in no event more than \$100,000, provided, however, that no such extension of credit shall be subject to this limit if the extension of credit is secured by:

(i) A perfected security interest in bonds, notes, certificates of indebtedness, or Treasury bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States;

(ii) Unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; or

(iii) A perfected security interest in a segregated deposit account in the lending bank.

<sup>3</sup>For the purposes of § 337.3, an insured nonmember bank's capital and unimpaired surplus shall have the same meaning as found in § 215.2(f) of Federal Reserve Board Regulation O (12 CFR 215.2(f)).

## § 337.4

(3) Any extension of credit that was outstanding on May 28, 1992 and that would if made on or after that date violate paragraph (c)(1) or paragraph (c)(2) of this § 337.3 shall be reduced in amount by May 28, 1993 so that the extension of credit is in compliance with the lending limit set forth in paragraphs (c)(1) and (c)(2) of this section. Any renewal or extension of such an extension of credit on or after May 28, 1992 shall be made only on terms that will bring the extension of credit into compliance with the lending limit of paragraphs (c)(1) and (c)(2) of this section by May 28, 1993, however, any extension of credit made before May 28, 1992 that bears a specific maturity date of May 28, 1993 or later shall be repaid in accordance with its repayment schedule in existence on or before May 28, 1992.

(4) If an insured nonmember bank is unable to bring all extensions of credit outstanding as of May 28, 1992 into compliance as required by paragraph (c)(3) of this § 337.3, the bank may at the discretion of the appropriate FDIC regional director (Division of Supervision and Consumer Protection (DSC)) obtain, for good cause shown, not more than two additional one-year periods to come into compliance.

(5) For the purposes of paragraph (c) of this section, the definitions of the terms used in Federal Reserve Board Regulation O shall apply including the exclusion of executive officers of a bank's parent bank holding company and executive officers of any other subsidiary of that bank holding company from the definition of executive officer for the purposes of complying with the loan restrictions contained in section 22(g) of the Federal Reserve Act. For the purposes of complying with § 215.5(d) of Federal Reserve Board Regulation O, the reference to "the amount specified for a category of credit in paragraph (c) of this section" shall be understood to refer to the amount specified in paragraph (c)(2) of this § 337.3.

(Approved by the Office of Management and Budget under control number 3064-0108)

[47 FR 47003, Oct. 22, 1982, as amended at 48 FR 42971, Sept. 21, 1983; 57 FR 7649, Mar. 4, 1992; 57 FR 17850, Apr. 28, 1992; 57 FR 28457, June 25, 1992; 59 FR 66668, Dec. 28, 1994]

## 12 CFR Ch. III (1-1-04 Edition)

### § 337.4 [Reserved]

### § 337.5 Exemption.

Check guaranty card programs, customer-sponsored credit card programs, and similar arrangements in which a bank undertakes to guarantee the obligations of individuals who are its retail banking deposit customers are exempted from § 337.2: *Provided, however*, That the bank establishes the creditworthiness of the individual before undertaking to guarantee his/her obligations and that any such arrangement to which a bank's principal shareholders, directors, or executive officers are a party be in compliance with applicable provisions of Federal Reserve Regulation O (12 CFR part 215).

[50 FR 10495, Mar. 15, 1985]

### § 337.6 Brokered deposits.

(a) *Definitions.* For the purposes of this § 337.6, the following definitions apply:

(1) *Appropriate Federal banking agency* has the same meaning as provided under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(2) *Brokered deposit* means any deposit that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.

(3) *Capital categories.* (i) For purposes of section 29 of the Federal Deposit Insurance Act and this § 337.6, the terms *well capitalized*, *adequately capitalized*, and *undercapitalized*,<sup>11</sup> shall have the same meaning as to each insured depository institution as provided under regulations implementing section 38 of the Federal Deposit Insurance Act issued by the appropriate federal banking agency for that institution.<sup>12</sup>

<sup>11</sup>The term *undercapitalized* includes any institution that is *significantly undercapitalized* or *critically undercapitalized* under regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the appropriate federal banking agency for that institution.

<sup>12</sup>For the most part, the capital measure terms are defined in the following regulations: FDIC—12 CFR part 325, subpart B; Board of Governors of the Federal Reserve System—12 CFR part 208; Office of the Comptroller of the Currency—12 CFR part 6; Office of Thrift Supervision—12 CFR part 565.