Thrift Bulletin

TB 64 was rescinded 01-13-95 by TB 64-1. Click HERE to go to TB 64-1

Handbooks: Holdin
Thrift A
Subjects: Insider Lending
Oversight by the Board of Directors

Sections: 400 (HC)
140 (TA)
TB 64
January 28, 1994

RESCINDED
Rescinded by TB 64-1 1/13/95

Reporting of Loans to Executive Officers

Summary: This bulletin clarifies reporting requirements that exist when an institution or correspondent bank extends credit to an executive officer.

For Further Information Contact: Your Regional Office, or Affiliates Policy, Washington, DC.

Thrift Bulletin 64

Background

The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) made savings associations subject to the same insider lending standards that apply to member banks of the Federal Reserve System. Specifically, Section 22(h) of the Federal Reserve Act became applicable to thrifts in the same manner and to the same extent as if the association were a bank or a member bank of the Federal Reserve System. The Office of Thrift Supervision incorporated the Federal Reserve Board's implementing Regulation O (12 C.F.R. Part 215) by reference at 12 C.F.R. 563.43.

Supplement to the Regulation

Section 215.10 of Regulation O requires each member bank to "include with (but not as part of)" each report of condition a separate report of all extensions of credit made by the member bank to its executive officers since the date of the bank's previous report of condition.

Because most associations file Thrift Financial Reports (TFRs) electronically, and the TFR does not capture specific information on loans to executive officers, savings associations should comply with this reporting requirement by sending a separate report to their local Regional Director. The report should identify all extensions of credit to the institution's executive officers since the date of the last TFR and should be submitted quarterly on the same filing schedule as the TFR.

Additionally, this bulletin serves as a reminder that executive officers and principal shareholders, and their related interests, must submit an annual report to their board of directors regarding their indebtedness to correspondent banks. While OTS has not yet issued a regulation specifically implementing Subpart B of Regulation O (12 C.F.R. Part 215), Section 306(j) of the Federal Deposit Insurance Corporation Improvement Act made these provisions applicable to thrifts. For your convenience, we have attached a suggested format for complying with this requirement. Although 12 C.F.R. 215.22 indicates that the report is due on or before January 31, OTS will allow the report to be filed no later than 30 days from the date of this bulletin for this reporting cycle.

Attachment

John C. Price

—John C. Price
Acting Assistant
Director for Policy

OMB No. 1550-0075 Expiration Date: 7/31/95

Office of Thrift Supervision

Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks

For the Calendar Year Ending December 31,19___

Name of Executive Officer or Principal Shareholder Submitting Report

Name of Thrift to which Report is Submitted

City State

To be submitted by executive officers and principal shareholders of insured thrifts to the boards of directors of their thrifts in satisfaction of the reporting requirements of the Federal Reserve Board's Regulation O (12CFR Part 215) with respect to indebtedness to correspondent banks.

Status of Reporting Person:

☐ Executive Officer ☐ Principal Shareholder

If the report is submitted for indebtedness of a related interest, name and address of related interest for which the report is submitted:

Name and address of the correspondent bank to which the executive officer, principal shareholder, or related interest is indebted:

I hereby certify that the information given above is complete, correct, and true to the best of my knowledge.

Signature of Official Responsible for Report

Date Signed

A. Maximum amount of indebtedness (in thousands of dollars) outstanding during the calendar year:

$ _____

B. Method used to determine maximum amount of indebtedness outstanding (check one):

____ i. highest outstanding indebtedness during the calendar year

____ ii. highest end of the month indebtedness outstanding during the calendar year

C. Amount of indebtedness (in thousands of dollars) outstanding ten business days prior to the date of filing this report:

$ _____

Disclosure of Estimated Burden

The burden associated with this information collection is estimated to vary from 1 to 2 hours per response, depending on individual circumstances. Burden estimates include the time for reviewing instructions, gathering and maintaining data in the required form, and completing the information collection, but exclude the time for compiling and maintaining business records in the normal course of a respondent's activities. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, and to the:

Office of Thrift Supervision
Supervision Policy
1700 G Street, N.W.
Washington, D.C. 20552

D. Terms and conditions of each extension of credit included as indebtedness in the amount reported (see Instruction 3). Use additional pages if indebtedness consists of more than three loans and/or more space is needed to report terms and conditions:

Loan 1:

Loan 2:

Loan 3:

General Instructions

1. Persons Required to File Report

A Report on Indebtedness to Correspondent Banks must be completed by each executive officer and each principal shareholder of an insured thrift who was indebted, or whose related interests were indebted, during the calendar year for which the report is being submitted to a correspondent bank of their thrift. All insured thrifts are required by law to make available to their executive officers and principal shareholders a list of their correspondent banks. "Correspondent bank" means generally a bank or thrift that maintains a correspondent account in excess of a certain amount for the officer's or shareholder's thrift.

The executive officer or principal shareholder must file a separate report concerning the indebtedness of the officer or shareholder to each correspondent bank and a separate report concerning the indebtedness of each of the related interests of the officer or shareholder to each correspondent bank. For example, if an executive officer is indebted to two correspondent banks, the officer must file two reports, one for each correspondent bank. If the executive officer has two related interests that were also both indebted to two correspondent banks, the officer would file six reports, two for the officer's own indebtedness and four for the indebtedness of the officer's related interests. If the executive officer is not indebted to a correspondent bank, but a related interest of the officer is indebted to a correspondent bank, the executive officer must file a report concerning the indebtedness of the officer's related interest to the correspondent bank.

2. Where and When Reports are to be Filed

The executive officer or principal shareholder must submit the report on indebtedness to correspondent banks to the board of directors of the reporting person's thrift for each calendar year by January 31 of the next year.

3. What Must be Reported

The reporting person must include in each report on indebtedness to each correspondent bank: (a) the maximum amount of indebtedness outstanding during the calendar year, and (b) the terms and conditions of each extension of credit included in the maximum amount reported. The terms and conditions to be reported are: (1) the original amount and date; (2) the maturity date; (3) the payment terms; (4) the range of interest rates charged during the calendar year; (5) whether the extension of credit is secured or unsecured; (6) if secured, a description of the collateral and its value; and (7) any unusual terms or conditions.

In determining the maximum amount of indebtedness of a principal shareholder, the indebtedness of a member of the shareholder's immediate family is to be treated as indebtedness of the principal shareholder. Each maximum amount of indebtedness reported may include several separate extensions of credit. The reporting person must report separately the terms and conditions of each of these extensions of credit.

Each report on indebtedness to each correspondent bank must also include the amount of indebtedness outstanding to the correspondent bank ten business days before the date on which the report on indebtedness is filed. If the information on the amount of indebtedness outstanding to a correspondent bank ten business days before the filing of the report is not available or cannot be readily ascertained by the filing date, an estimate of the amount of such indebtedness may be filed, provided that the actual amount of such indebtedness is submitted to the thrift's board of directors within the next thirty days.

4. Definitions

The following definitions are intended to provide general guidance in completing this report. For precise definitions, see the Federal Reserve Board's Regulation O (12 C.F.R Part 215) and Section 563.43 of the OTS's Regulations (12 C.F.R. Section 563.43).

a. "Executive officer" is defined in Section 215.2 of Regulation O and means generally an individual who participates or who has authority to participate (other than in the capacity of a director) in major policymaking functions of the thrift. Certain categories of thrift officers (e.g. vice presidents) are presumed in Regulation O to be executive officers unless they are excluded by resolution of the board of directors of the thrift or by its bylaws from participation in major policymaking functions of the thrift and do not participate therein.

b. "Principal Shareholder" means any individual or company (other than an insured thrift or a foreign bank) that, directly or indirectly, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of the thrift. The term includes a person that controls a principal shareholder (e.g., a person that controls a thrift holding company).

   For the purpose of determining who is a principal shareholder, shares owned or controlled by a member of the individual's immediate family are presumed to be controlled by the individual.

   "Immediate family" means the spouse of an individual, the individual's minor children, and any of the individual's children (including adults) residing in the individual's home. For reporting purposes, only one individual in the immediate family must file reports if that individual's reports include the information on indebtedness of the individual's immediate family.

c. Control of a company is defined in Section 215.2(b) of Regulation O generally as ownership or control of 25 percent or more of a company's outstanding voting shares; however, the regulation presumes control in some cases where less than 25 percent ownership or control exists.

d. "Related interest" means (2) a company that is controlled by a person or (2) a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person.

e. "Indebtedness" includes any extension of credit (as defined in Section 215.3 of Regulation O), but does not include:

   i. commercial paper, bonds and debentures issued in the ordinary course of business; and

   ii. indebtedness in an aggregate amount of $5,000 or less from each correspondent bank, provided the credit is incurred under terms that are not more favorable than those offered the general public.

f. "Maximum amount of indebtedness" means, at the option of the reporting person, either (i) the highest outstanding indebtedness during the calendar year for which the report is made, or (ii) the highest end of the month indebtedness outstanding during the calendar year for which the report is made. The method chosen should be consistently used for all indebtedness to the same correspondent bank. The reporting person must indicate on the report whether the maximum amount was determined as of the end of the month or on a daily basis.

g. "Correspondent bank," "company," and other terms pertinent to this report are defined in Regulation O, 12 CFR Part 215.