

Office of Thrift Supervision

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Economic Growth and Regulatory Paper Reduction Act

Handbooks: Thrift Activities
Application Processing
Subjects: Lending Risk Assessment
Change in Control

Sections: 210 (TA)
310 (AP)
TB 62

September 20, 1993

Reporting of Loans Secured by Stock of an Insured Depository Institution

RESCINDED

Summary: This bulletin advises institutions of statutory reporting requirements that may exist when an institution, or its affiliates, extends credit that is secured by the stock of an insured depository institution.

For Further Information Contact:
Your Regional Office, or Thrift Pol-
icy, Washington, DC.

Thrift Bulletin 62

Background

With certain exceptions, the Federal Deposit Insurance Act ("FDIA") now requires any financial institution, and any of its affiliates, to file a consolidated report if they extend credit to any person, or group of persons, that in the aggregate is secured by 25 percent or more of any class of shares of an FDIC-insured depository institution. This new requirement is located in Section 205 of the Federal Deposit Insurance Corporation Improvement Act of 1991, which revised the reporting requirements of Section 7 (j)(9) of the FDIA. 12 U.S.C. 1817(j) (9).

Report Form and Content

The report may be submitted in letter form sufficient to convey the necessary information. In addition to the statute's subparagraph (D)(ii) content requirements, the OTS is also requiring the report to include the dates and amounts of the applicable extensions of credit that com-

prise the total credit outstanding, and the identity of the insured depository institution whose shares secure the loan.

Also, as the statute provides, the OTS may, either generally or on a case-by-case basis, require that the institution report any additional information necessary for OTS to carry out its supervisory responsibilities.

Where to File

A lender must file the report with the Federal regulatory agency's regional or district office that supervises the institution whose shares secure the loan. Reports for the:

- Office of Thrift Supervision ("OTS") and the Federal Deposit Insurance Corporation regional offices should be addressed to the attention of the "Regional Director";
- Board of Governors of the Federal Reserve System should be addressed to the attention of the "Officer in Charge of Supervision" of the appropriate regional Federal Reserve Bank; and

- Comptroller of the Currency district offices should be addressed to the attention of the "District Director for Bank Supervision"; for multinational banks, however, to the attention of the "Deputy Comptroller for Multinational Banking," at the OCC's Washington, D.C. office.

Office of Thrift Supervision Regulation Section 574.5(b)

The reporting requirements of FDIA Section 7(j)(9) supersede existing OTS Regulation 12 C.F.R. § 574.5(b), "Reports of Loans Secured by Voting Stock," which the OTS will rescind. Because the new statutory provisions are largely self-explanatory, the OTS is not issuing implementing regulations. Instead, a copy of the law is attached for savings association information and compliance.

Attachment



—John C. Price
Acting Assistant Director
for Policy

(9) REPORTING OF STOCK LOANS.

(A) Report required. Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

(B) Definitions. For purposes of this paragraph—

(i) Financial institution. The term "financial institution" means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.] by virtue of section 3106(a) of this title.

(ii) Credit outstanding. The term "credit outstanding" includes—

- (I) any loan or extension of credit,
- (II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and
- (III) any other type of transaction that extends credit or financing to the person or group of persons.

(iii) Group of persons. The term "group of persons" includes any number of persons that the financial institution reasonably believes—

- (I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or
- (II) have made, or propose to make, a joint filing under section 78m of title 15 regarding ownership of the shares of the same insured depository institution.

(C) Inclusion of shares held by the financial institution. Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

(D) Report requirements.

(i) Timing of report. The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

(ii) Content of report. The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

(iii) Copy to other agencies. A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

(iv) Other information. Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

(E) Exceptions.

(i) Exception where information provided by borrower. Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], section 1467a of this title, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

(ii) Exception for shares owned for more than 1 year. Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

- (I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or
- (II) stock issued by a newly chartered bank before the bank's opening.