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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

March 20, 2008

**Interpretive Letter #1096**  
**April 2008**  
**12 CFR 215**

Subject: Regulation O

Dear [ ]:

This is in response to your letter of March 3, 2008, to Eric Thompson, Director of the Bank Activities and Structure Division, requesting an interpretation of Regulation O, 12 C.F.R. Part 215. This regulation prohibits member banks, including national banks, from making preferential loans to bank “insiders” and places certain quantitative limits on such loans. “Insiders” are defined as executive officers, directors, principal shareholders, and their related interests.<sup>1</sup>

According to your letter, an individual recently became an executive officer of the Bank as well as a member of the Bank’s board of directors. This made him an insider of the Bank subject to Regulation O. Six months to one year earlier, the Bank granted him two home equity lines of credit on non-preferential terms. The combined total of these lines of credit exceeds Regulation O’s limit of \$100,000 on loans to executive officers.<sup>2</sup> You have requested confirmation that these loans are “grandfathered” and do not constitute violations of Regulation O because they were granted prior to the borrower becoming an executive officer.

Both the OCC and the Federal Reserve have long taken the position that the requirements of Regulation O apply at the time a loan or extension of credit is made. Thus, loans or extensions of credit that were made to an individual before he or she became an executive officer are grandfathered, as long as they were made in good faith and not in contemplation of the individual’s becoming an executive officer. If such loans exceed the amount permitted by Regulation O, they will be considered nonconforming rather than a violation of Regulation O.<sup>3</sup>

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<sup>1</sup> 12 C.F.R. § 215.2(h).

<sup>2</sup> 12 C.F.R. § 215.5(c)(4). Certain other types of loans not relevant here can exceed this limit.

<sup>3</sup> 22 Fed. Res. Bull. 121 (1936); Fed. Res. Reg. Serv. 3-1036; letter of J. Virgil Mattingly, Jr., General Counsel, Board of Governors of the Federal Reserve System (September 16, 1992), 1992 WL 693697 (FRB).

However, no new loans may be made,<sup>4</sup> and existing loans may not be renewed, except in compliance with Regulation O.

I trust this has been responsive to your inquiry. If you have further questions, please do not hesitate to contact me at (202) 874-5300.

Sincerely,

*signed*

Christopher C. Manthey  
Special Counsel  
Bank Activities and Structure Division

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<sup>4</sup> One of the lines of credit has not been fully drawn upon. However, the executive officer has agreed not to make further draws against this line of credit. In addition, you expect the other line of credit to be fully repaid soon, which will bring the executive officer within Regulation O's \$100,000 limit. In light of these facts, this letter does not address the question of making a draw on a grandfathered line of credit after becoming an executive officer.