Office of Thrift Supervision **December 11, 1997**

Department of the Treasury

TB 64-1c was rescinded 12/16/98 by TB 64-1d. Click HERE to link to TB 64-1d.

Thrift Bulletin

TB 64-1c

Handbooks: **Holding Companies** **Section: 400 (HC)**
Thrift Activities **310 (TA)**

Subject: **Insider Lending; Oversight by the Board of Directors**

Reporting of Loans from Correspondent Banks

RESCINDED

Summary: This bulletin reminds executive officers, principal shareholders and their related interests of the requirement to report indebtedness to correspondent banks. TB 64-1b is hereby rescinded.

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

Thrift Bulletin 64-1c

Background

The Financial Institutions Reform, Recovery and Enforcement Act of 1989 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 (FRA) became applicable to thrifts in the same manner and to the same extent as if the association were a bank or member bank of the Federal Reserve System. The Office of Thrift Supervision incorporated the Federal Reserve Board's implementing Regulation O which implements section 22(h) of the FRA (12 CFR Part 215), Subpart A, with the exception of section 215.13 (civil penalties), by reference at 12 CFR 563.43. In 1991, the Federal Deposit Insurance Corporation

Improvement Act made the provisions of Subpart B of Regulation O, as well as the additional restrictions on loans to executive officers contained in Section 22(g) of the FRA, applicable to thrifts. By miscellaneous technical amendment published in the Federal Register on October 25, 1994 (59 FR 53568), the OTS clarified its regulations at 12 CFR 563.43 to indicate that Subpart B of Regulation O also applies to thrifts.

Supplement to the Regulation

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. Under 12 CFR 215, Subpart B, this report is due to the board of directors by January 31st, and should be kept on file at the institution. (<u>A copy does not need to be submitted directly to the OTS, but should be made available during your next examination</u>. The report must be retained at the institution for a period of three years.) For your convenience, we have attached FFIEC Form 004 as a suggested format for complying with this requirement. Form 004 is also available on the internet at www.FFIEC.gov.

To facilitate this reporting requirement, the institution shall advise each of its executive officers and principal shareholders (to the extent known) of the reports required and make available a list of the names and addresses of correspondent banks.

Attachment

¾ ***John F. Downey***
Executive Director
Supervision

Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Office of Thrift Supervision

Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (Form FFIEC 004)

A. For the Calendar Year Ending December 31, 19 _____
To be submitted to your bank's board of directors by January 31.

B. ______________________________
Name of Executive Officer____ or Principal Shareholder____ Submitting Report (Please check one)

C. ______________________________
If the Report is Submitted for Indebtedness of a Related Interest, Name and Address of Related Interest for Which the Report is Submitted

D. ______________________________
Name of Bank to which Report is Submitted

____
City State

Form FFIEC 004

OMB No. 7100–0034 (FRB) Expires 12/31/1998
1557–0070 (OCC) Expires 12/31/1998
3064–0023 (FDIC) Expires 2/28/1999
1550–0075 (OTS) Expires 6/30/2001

To be submitted by executive officers and principal shareholders of insured banks in satisfaction of the reporting requirements of the Federal Reserve Board's Regulation O (12 CFR Part 215) and as incorporated by the Office of Thrift Supervision (12 CFR Part 563.43), and Part 349 of the Federal Deposit Insurance Corporation's Rules and Regulations (12 CFR Part 349) with respect to indebtedness to correspondent banks and savings associations.

Report the Maximum Amount of Indebtedness Outstanding at Any Time During the Reporting Year, Even if Fully Repaid. Please Read Carefully the Instructions on the Reverse Side of this Report.

E. Name and Address of Correspondent Bank	F. Original Amount	G. Range of Interest Rates (%)	H. Repayment Terms	I. Maturity Date	J. Description of Collateral (If unsecured indicate "none")	K. Balance (10 days prior to this report) (in thousands of dollars)	L. Maximum Amount of Indebtedness Outstanding in Previous Calendar Year (Indicate method used.) (in thousands of dollars)	M. Other Terms (if unusual)

N. 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

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. A Federal agency may not conduct or sponsor, and an organization (or a person) is not required to respond to a collection of information, unless it displays a currently valid OMB control number. 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 one of the following:

Secretary
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Legislative and Regulatory Analysis Division
Office of the Comptroller of the Currency
Washington, D.C. 20219

Assistant Executive Secretary
Federal Deposit Insurance Corporation
Washington, D.C. 20429

Supervision Policy
Office of Thrift Supervision
Washington, D.C. 20552

Instructions

Why Report

The Financial Institutions Regulatory and Interest Rate Control Act of 1978, as amended by the Garn-St. Germain Depository Institutions Act of 1982, prohibits preferential lending by a bank to certain insiders of another bank when there is a correspondent account relationship between the banks. Regulation O, 12 CFR Part 215, which implements these statutes, specifies the reporting requirements necessary to ensure compliance.

Terms used in this report are defined in Regulation O and 12 CFR Part 349. The Office of Thrift Supervision has incorporated Regulation O by reference at 12 CFR 563.43 and applies Regulation O, with the exception of 12 CFR 215.13, to savings associations in the same manner and to the same extent as if the association were a bank or member bank. As used in this report, the term bank should be read to include savings associations.

Noncompliance with the reporting requirements of Regulation O could result in civil money penalties for the bank and the reporting executive officer or principal shareholder.

Who Must Report

Executive officers and principal shareholders must report extensions of credit outstanding during the calendar year from correspondent banks of their insured bank. Executive officers and principal shareholders must also report extensions of credit from correspondent banks to their related interests.

How to Report

The reports may be filed on Form 004, Report on Indebtedness to Correspondent Banks, or any form containing identical information. The information must be submitted to the board of directors with a copy maintained at the bank.

When to Report

Reports must be submitted annually by January 31 for the calendar year ending December 31 of the previous year.

What to Report

Executive officers and principal shareholders must report all indebtedness to correspondent banks, including indebtedness of their related interests. Loans that were outstanding at any time during the reporting calendar year must be reported, even if they have been paid off.

Completing the Form

A. **Report Date.** Enter the calendar year for which you are reporting.

B. **Name of Executive Officer or Principal Shareholder.** Enter your name. (A person who is not an executive officer or principal shareholder at the time the report is required to be filed is not required to file.)

An *"executive officer"* is defined in section 215.2(e) of Regulation O and generally means an individual who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the company or bank, whether or not the officer has an official title, the title designates the officer as an assistant, or the officer is serving without salary or compensation. Certain categories of bank officers (e.g., vice president) are presumed in Regulation O to be executive officers unless the officer is excluded by resolution of the board of directors of the bank or by the bylaws of the bank or company from participation in major policymaking functions of the bank or company, and the officer does not actually participate therein.

A *"principal shareholder of a member bank"* as defined in section 215.11(a)(1) means any person (other than an insured bank, or a foreign bank as defined in 12 USC 3101(7)) that, directly or indirectly, owns, controls, or has power to vote more than 10 percent of any class of voting securities of the member bank. The term includes a person that controls a principal shareholder (e.g., a person that controls a bank holding company). Shares of a bank (including a foreign bank), bank holding company, or other company owned or controlled by a member of an individual's immediate family are presumed to be owned or controlled by the individual for the purposes of determining principal shareholder status.

"Immediate family" as defined in section 215.2(g) means the spouse of an individual, the individual's minor children, and any of the individual's children (including adult children) residing in the individual's home. For reporting purposes, only one individual in the immediate family must file a report if that individual's report includes the required information on indebtedness of his/her immediate family.

C. **Related Interests.** If you are reporting indebtedness of a related interest, enter the name and address of the related interest. You must complete a separate report for each related interest.

A *"related interest"* as defined in section 215.11(a)(2) means (1) any company controlled by a natural person, or (2) any political or campaign committee controlled by a natural person or the funds or services of which will benefit a natural person.

"Control" of a company is defined generally in section 215.2(c) of Regulation O as ownership or control of 25 percent or more of a company's outstanding voting shares. Control is presumed, however, in certain cases where less than 25 percent ownership exists.

The term *"indebtedness"* includes any extension of credit (as defined in section 215.3 of Regulation O), but does not include: (1) commercial paper, bonds and debentures issued in the ordinary course of business; and (2) consumer credit 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.

D. **Reporting Bank.** Enter the name of the bank in which you are an executive officer or principal shareholder.

E. **Correspondent Bank.** Enter the correspondent bank's name and address. You may report indebtedness from more than one correspondent bank on the same form. You also may include the loan number or any other relevant identifying information in this column.

A *"correspondent bank"* generally means a bank that maintains one or more correspondent accounts for the officer's or principal shareholder's bank that in the aggregate exceed an average daily balance during the reporting calendar year of $100,000 or 0.5 percent of the officer's or principal shareholder's bank's total deposits (as reported in the bank's first Consolidated Report of Condition or Thrift Financial Report during the calendar year), whichever is smaller. *All insured banks are required by law to make available to their executive officers and principal shareholders a list of their correspondent banks.*

F. **Original Amount.** Enter the original amount of the loan. If the indebtedness is a line of credit, report the maximum authorized amount.

G. **Range of Interest Rates.** Enter the range of interest rates charged throughout the reporting year.

H. **Repayment Terms.** Describe the repayment terms.

I. **Maturity Date.** Enter the maturity date.

J. **Description of Collateral.** If the loan is secured, describe the collateral and its value.

K. **Balance.** Enter the amount of indebtedness outstanding to the correspondent bank as of ten business days before the date of the report. If this balance is not available, or cannot be readily ascertained by the filing date, estimate the amount and provide the actual amount to the board of directors within thirty days.

L. **Maximum Amount of Indebtedness.** The maximum amount of indebtedness is either (1) the highest outstanding indebtedness during the calendar year for which the report is made, or (2) the highest end of the month indebtedness outstanding during the calendar year for which the report is made. You must consistently use the same method for all indebtedness to the same correspondent bank. You also must indicate whether the maximum amount was determined as of the end of the month or on a daily basis.

M. **Other Terms.** Describe any unusual terms or other conditions of the loan.

N. **Signature.** Sign and date the report.