

§ 221.114

12 CFR Ch. II (1-1-03 Edition)

§ 221.114 Bank loans to purchase stock of American Telephone and Telegraph Company under Employees' Stock Plan.

(a) The Board of Governors interpreted this part in connection with proposed loans by a bank to persons who are purchasing shares of stock of American Telephone and Telegraph Company pursuant to its Employees' Stock Plan.

(b) According to the current offering under the Plan, an employee of the AT&T system may purchase shares through regular deductions from his pay over a period of 24 months. At the end of that period, a certificate for the appropriate number of shares will be issued to the participating employee by AT&T. Each employee is entitled to purchase, as a maximum, shares that will cost him approximately three-fourths of his annual base pay. Since the program extends over two years, it follows that the payroll deductions for this purpose may be in the neighborhood of 38 percent of base pay and a larger percentage of "take-home pay." Deductions of this magnitude are in excess of the saving rate of many employees.

(c) Certain AT&T employees, who wish to take advantage of the current offering under the Plan, are the owners of shares of AT&T stock that they purchased under previous offerings. A bank proposed to receive such stock as collateral for a "living expenses" loan that will be advanced to the employee in monthly installments over the 24-month period, each installment being in the amount of the employee's monthly payroll deduction under the Plan. The aggregate amount of the advances over the 24-month period would be substantially greater than the maximum loan value of the collateral as prescribed in § 221.7 (the Supplement).

(d) In the opinion of the Board of Governors, a loan of the kind described would violate this part if it exceeded the maximum loan value of the collateral. The regulation applies to any margin stock-secured loan for the purpose of purchasing or carrying margin stock (§ 221.3(a)). Although the proposed loan would purport to be for living expenses, it seems quite clear, in view of the relationship of the loan to

the Employees' Stock Plan, that its actual purpose would be to enable the borrower to purchase AT&T stock, which is margin stock. At the end of the 24-month period the borrower would acquire a certain number of shares of that stock and would be indebted to the lending bank in an amount approximately equal to the amount he would pay for such shares. In these circumstances, the loan by the bank must be regarded as a loan "for the purpose of purchasing" the stock, and therefore it is subject to the limitations prescribed by this part. This conclusion follows from the provisions of this part, and it may also be observed that a contrary conclusion could largely defeat the basic purpose of the margin regulations.

(e) Accordingly, the Board concluded that a loan of the kind described may not be made in an amount exceeding the maximum loan value of the collateral, as prescribed by the current § 221.7 (the Supplement).

§ 221.115 Accepting a purpose statement through the mail without benefit of face-to-face interview.

(a) The Board has been asked whether the acceptance of a purpose statement submitted through the mail by a lender subject to the provisions of this part will meet the good faith requirement of § 221.3(c). Section 221.3(c) states that in connection with any credit secured by collateral which includes any margin stock, a nonbank lender must obtain a purpose statement executed by the borrower and accepted by the lender in good faith. Such acceptance requires that the lender be alert to the circumstances surrounding the credit and if further information suggests inquiry, he must investigate and be satisfied that the statement is truthful.

(b) The lender is a subsidiary of a holding company which also has another subsidiary which serves as underwriter and investment advisor to various mutual funds. The sole business of the lender will be to make "non-purpose" consumer loans to shareholders of the mutual funds, such loans to be collateralized by the fund shares. Most mutual funds shares are margin stock for purposes of this part. Solicitation and acceptance of these consumer