

APPENDIX B TO PART 30—INTERAGENCY GUIDELINES ESTABLISHING INFORMATION SECURITY STANDARDS

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I. Introduction

The Interagency Guidelines Establishing Information Security Standards (Guidelines) set forth standards pursuant to section 39 of the Federal Deposit Insurance Act (section 39, codified at 12 U.S.C. 1831p-1), and sections 501 and 505(b), codified at 15 U.S.C. 6801 and 6805(b) of the Gramm-Leach Bliley Act. These Guidelines address standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information. These Guidelines also address standards with respect to the proper disposal of consumer information, pursuant to sections 621 and 628 of the Fair Credit Reporting Act (15 U.S.C. 1681s and 1681w).

A. Scope. * * * The Guidelines also apply to the proper disposal of consumer information by or on behalf of such entities.

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C. Definitions. * * *

2. * * * b. Consumer information means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report and that is maintained or otherwise possessed by or on behalf of the bank for a business purpose. Consumer information also means a compilation of such records. The term does not include any record that does not identify an individual.

1. Examples. (1) Consumer information includes:

- (A) A consumer report that a bank obtains;
(B) Information from a consumer report that the bank obtains from its affiliate after the consumer has been given a notice and has elected not to opt out of that sharing;
(C) Information from a consumer report that the bank obtains about an individual who applies for but does not receive a loan, including any loan sought by an individual for a business purpose;
(D) Information from a consumer report that the bank obtains about an individual who guarantees a loan (including a loan to a business entity); or
(E) Information from a consumer report that the bank obtains about an employee or prospective employee.

(2) Consumer information does not include:

- (A) Aggregate information, such as the mean credit score, derived from a group of consumer reports; or
(B) Blind data, such as payment history on accounts that are not personally identifi-

able, that may be used for developing credit scoring models or for other purposes.

c. Consumer report has the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681a(d).

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g. Service provider means any person or entity that maintains, processes, or otherwise is permitted access to customer information or consumer information through its provision of services directly to the bank.

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II. * * *

B. * * *

4. Ensure the proper disposal of customer information and consumer information.

III. * * *

C. * * *

4. Develop, implement, and maintain, as part of its information security program, appropriate measures to properly dispose of customer information and consumer information in accordance with each of the requirements of this paragraph III.

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G. Implement the Standards. * * *

3. Effective date for measures relating to the disposal of consumer information. Each bank must satisfy these Guidelines with respect to the proper disposal of consumer information by July 1, 2005.

4. Exception for existing agreements with service providers relating to the disposal of consumer information. Notwithstanding the requirement in paragraph III.G.3., a bank's contracts with its service providers that have access to consumer information and that may dispose of consumer information, entered into before July 1, 2005, must comply with the provisions of the Guidelines relating to the proper disposal of consumer information by July 1, 2006.

PART 31—EXTENSIONS OF CREDIT TO INSIDERS AND TRANSACTIONS WITH AFFILIATES

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31.2 Insider lending restrictions and reporting requirements.

APPENDIX A TO PART 31—INTERPRETATIONS
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AUTHORITY: 12 U.S.C. 93a, 375a(4), 375b(3), 1817(k), and 1972(2)(G).

Comptroller of the Currency, Treasury

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SOURCE: 61 FR 54536, Oct. 21, 1996, unless otherwise noted.

§ 31.1 Authority.

This part is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 93a, 375a(4), 375b(3), 1817(k), and 1972(2)(G), as amended.

§ 31.2 Insider lending restrictions and reporting requirements.

(a) *General rule.* A national bank and its insiders shall comply with the provisions contained in 12 CFR part 215.

(b) *Enforcement.* The Comptroller of the Currency administers and enforces insider lending standards and reporting requirements as they apply to national banks and their insiders.

APPENDIX A TO PART 31— INTERPRETATIONS

Section 1. Loans Secured by Stock or Obligations of an Affiliate

A bank that makes a loan to an unaffiliated third party may take a security interest in securities of an affiliate as collateral for the loan without the loan being deemed a "covered transaction" under section 23A of the Federal Reserve Act (12 U.S.C. 371c) if:

a. The borrower provides additional collateral that, taken alone, meets or exceeds the collateral requirements specified in section 23A(c) (12 U.S.C. 371c(c)); and

b. The loan proceeds:

1. Are not used to purchase the bank affiliate's securities that serve as collateral; and
2. Are not otherwise used for the benefit of, or transferred to, any affiliate.

Section 2. Deposits Between Affiliated Banks

a. *General rule.* The OCC considers a deposit made by a bank in an affiliated bank to be a loan or extension of credit to the affiliate

under 12 U.S.C. 371c. These deposits must be secured in accordance with 12 U.S.C. 371c(c). However, a national bank may not pledge assets to secure private deposits unless otherwise permitted by law (*see, e.g.*, 12 U.S.C. 90 (permitting collateralization of deposits of public funds); 12 U.S.C. 92a (trust funds); and 25 U.S.C. 156 and 162a (Native American funds)). Thus, unless one of the exceptions to 12 U.S.C. 371c noted in paragraph b. of this interpretation applies or unless another exception applies that enables a bank to meet the collateral requirements of 12 U.S.C. 371c(c), a national bank may not:

1. Make a deposit in an affiliated national bank;

2. Make a deposit in an affiliated State-chartered bank unless the affiliated State-chartered bank can legally offer collateral for the deposit in conformance with applicable State law and 12 U.S.C. 371c; or

3. Receive deposits from an affiliated bank.

b. *Exceptions.* The restrictions of 12 U.S.C. 371c (other than 12 U.S.C. 371c(a)(4), which requires affiliate transactions to be consistent with safe and sound banking practices) do not apply to deposits:

1. Made in the ordinary course of correspondent business; or

2. Made in an affiliate that qualifies as a "sister bank" under 12 U.S.C. 371c(d)(1).

[61 FR 54536, Oct. 21, 1996]

APPENDIX B TO PART 31—COMPARISON OF SELECTED PROVISIONS OF PART 31 AND PART 32 (AS OF OCTOBER 1, 1996)

NOTE: Even though part 31 now simply requires that national banks comply with the insider lending provisions contained in Regulation O (Reg. O) (12 CFR part 215), the chart in this appendix refers to part 31 because Reg. O is a Federal Reserve Board regulation and part 31 is the means by which several provisions of Reg. O are made applicable to national banks and their insiders.