

Federal Reserve System

§217.1

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [*provide illustrative examples, such as “your name, address, social security number, assets, and income”*];
- Information about your transactions with us, our affiliates, or others, such as [*provide illustrative examples, such as “your account balance, payment history, parties to transactions, and credit card usage”*]; and
- Information we receive from a consumer reporting agency, such as [*provide illustrative examples, such as “your creditworthiness and credit history”*].

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [*describe location in the notice, such as “above” or “below”*] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6—EXPLANATION OF OPT OUT RIGHT (INSTITUTIONS THAT DISCLOSE OUTSIDE OF THE EXCEPTIONS)

You may use this clause, as applicable, to meet the requirement of §216.6(a)(6) to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. You may use this clause if you disclose nonpublic personal information other than as permitted by the exceptions in §§216.13, 216.14, and 216.15.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [*describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)”*].

A-7—CONFIDENTIALITY AND SECURITY (ALL INSTITUTIONS)

You may use this clause, as applicable, to meet the requirement of §216.6(a)(8) to describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to [*provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”*]. We maintain

physical, electronic, and procedural safeguards that comply with federal standards to guard your nonpublic personal information.

PART 217—PROHIBITION AGAINST THE PAYMENT OF INTEREST ON DEMAND DEPOSITS (REGULATION Q)

REGULATIONS

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INTERPRETATIONS

217.101 Premiums on deposits.

AUTHORITY: 12 U.S.C. 248, 371a, 461, 505, 1818, and 3105.

REGULATIONS

SOURCE: Sections 217.1 through 217.6 appear at Reg. Q, 51 FR 9637, Mar. 20, 1986, unless otherwise noted.

§217.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the authority of section 19 of the Federal Reserve Act (12 U.S.C. 371a, 461, 505), section 7 of the International Banking Act of 1978 (12 U.S.C. 3105), section 11 of the Federal Reserve Act (12 U.S.C. 248), and section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), unless otherwise noted.

(b) *Purpose.* This part prohibits the payment of interest on demand deposits by member banks and other depository institutions within the scope of this part.

(c) *Scope.* (1) This regulation applies to state chartered banks that are members of the Federal Reserve under section 9 of the Federal Reserve Act (12 U.S.C. 321, *et seq.*) and to all national banks. The regulation also applies to any Federal branch or agency of a foreign bank and to a State uninsured branch or agency of a foreign bank in the same manner and to the same extent as if the branch or agency were a member bank, except as may be otherwise provided by the Board, if:

(i) Its parent foreign bank has total worldwide consolidated bank assets in excess of \$1 billion;

(ii) Its parent foreign bank is controlled by a foreign company which

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owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1 billion; or

(iii) Its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1 billion.

(2) For deposits held by a member bank or a foreign bank, this regulation does not apply to "any deposit that is payable only at an office located outside of the United States" (i.e., the States of the United States and the District of Columbia) as defined in §204.2(t) of the Board's Regulation D—Reserve Requirements of Depository Institutions (12 CFR 20.4).

[Reg. Q, 51 FR 9637, Mar. 20, 1986, as amended at 57 FR 43336, Sept. 21, 1992]

§217.2 Definitions.

For purposes of this part, the following definitions apply unless otherwise specified;

(a) *Demand deposit* means any deposit that is considered to be a *demand deposit* under §204.2(b) of the Board's Regulation D—Reserve Requirements of Depository Institutions (12 CFR part 204).

(b) *Deposit* means any liability of a member bank that is considered to be a *deposit* under §204.2(a) of the Board's Regulation D—Reserve Requirements of Depository Institutions (12 CFR part 204).

(c) *Foreign bank* means any bank that is considered to be a *foreign bank* under §204.2(o) of the Board's Regulation D—Reserve Requirements of Depository Institutions (12 CFR part 204).

(d) *Interest* means any payment to or for the account of any depositor as compensation for the use of funds constituting a deposit. A member bank's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

[Reg. Q, 51 FR 9637, Mar. 20, 1986]

§217.3 Interest on demand deposits.

No member bank of the Federal Reserve System shall, directly or indi-

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rectly, by any device whatsoever, pay any interest on any demand deposit.¹

[Reg. Q, 51 FR 9637, Mar. 20, 1986]

INTERPRETATIONS

§217.101 Premiums on deposits.

(a) Section 19(i) of the Federal Reserve Act and §217.3 of Regulation Q prohibits a member bank from paying interest on a demand deposit. Premiums, whether in the form of merchandise, credit, or cash, given by a member bank to a depositor will be regarded as an advertising or promotional expense rather than a payment of interest if:

(1) The premium is given to a depositor only at the time of the opening of a new account or an addition to an existing account;

(2) No more than two premiums per account are given within a 12-month period; and

(3) The value of the premium or, in the case, of articles of merchandise, the total cost (including taxes, shipping, warehousing, packaging, and handling costs) does not exceed \$10 for deposits of less than \$5,000 or \$20 for deposits of \$5,000 or more.

The costs of premiums may not be averaged. The member bank should retain sufficient supporting documentation showing that the total cost of a premium, including shipping, warehousing, packaging, and handling costs, does not exceed the applicable \$10/\$20 limitations and that no portion of the total cost of any premium has been attributed to development, advertising, promotional, or other expenses. A member bank is not permitted directly or indirectly to solicit or promote deposits from customers on the

¹A member bank may continue to pay interest on a time deposit for not more than ten calendar days; (1) Where the member bank has provided in the time deposit contract that, if the deposit or any portion thereof is withdrawn not more than ten calendar days after a maturity date (one business day for "IBF time deposits" as defined in §204.8(a)(2) of Regulation D), interest will continue to be paid for such period; or (2) for a period between a maturity date and the date of renewal of the deposit, provided that such certificate is renewed within ten calendar days after maturity.

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basis that the funds will be divided into more than one account by the institution for the purpose of providing more than two premiums per deposit within a 12-month period.

(b) Notwithstanding paragraph (a) of this section, any premium that is not, directly or indirectly, related to or dependent on the balance in a demand deposit account and the duration of the account balance shall not be considered the payment of interest on a demand deposit account and shall not be subject to the limitations in paragraph (a) of this section.

[52 FR 47698, Dec. 16, 1987. Redesignated at 57 FR 43336, Sept. 21, 1992; 62 FR 26737, May 15, 1997]

PART 218—EXCEPTIONS FOR BANKS FROM THE DEFINITION OF BROKER IN THE SECURITIES EXCHANGE ACT OF 1934 (REGULATION R)

Sec.

218.100 Definition.

218.700 Defined terms relating to the networking exception from the definition of “broker.”

218.701 Exemption from the definition of “broker” for certain institutional referrals.

218.721 Defined terms relating to the trust and fiduciary activities exception from the definition of “broker.”

218.722 Exemption allowing banks to calculate trust and fiduciary compensation on a bank-wide basis.

218.723 Exemptions for special accounts, transferred accounts, foreign branches and a *de minimis* number of accounts.

218.740 Defined terms relating to the sweep accounts exception from the definition of “broker.”

218.741 Exemption for banks effecting transactions in money market funds.

218.760 Exemption from definition of “broker” for banks accepting orders to effect transactions in securities from or on behalf of custody accounts.

218.771 Exemption from the definition of “broker” for banks effecting transactions in securities issued pursuant to Regulation S.

218.772 Exemption from the definition of “broker” for banks engaging in securities lending transactions.

218.775 Exemption from the definition of “broker” for banks effecting certain exempted or exempted transactions in investment company securities.

218.776 Exemption from the definition of “broker” for banks effecting certain exempted or exempted transactions in a company’s securities for its employee benefit plans.

218.780 Exemption for banks from liability under section 29 of the Securities Exchange Act of 1934.

218.781 Exemption from the definition of “broker” for banks for a limited period of time.

AUTHORITY: 15 U.S.C. 78c(a)(4)(F).

SOURCE: Reg. R, 72 FR 56554, Oct. 3, 2007, unless otherwise noted.

§ 218.100 Definition.

For purposes of this part the following definition shall apply: *Act* means the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

§ 218.700 Defined terms relating to the networking exception from the definition of “broker.”

When used with respect to the Third Party Brokerage Arrangements (“Networking”) Exception from the definition of the term “broker” in section 3(a)(4)(B)(i) of the Act (15 U.S.C. 78c(a)(4)(B)(i)) in the context of transactions with a customer, the following terms shall have the meaning provided:

(a) *Contingent on whether the referral results in a transaction* means dependent on whether the referral results in a purchase or sale of a security; whether an account is opened with a broker or dealer; whether the referral results in a transaction involving a particular type of security; or whether it results in multiple securities transactions; provided, however, that a referral fee may be contingent on whether a customer:

(1) Contacts or keeps an appointment with a broker or dealer as a result of the referral; or

(2) Meets any objective, base-line qualification criteria established by the bank or broker or dealer for customer referrals, including such criteria as minimum assets, net worth, income, or marginal federal or state income tax rate, or any requirement for citizenship or residency that the broker or dealer, or the bank, may have established generally for referrals for securities brokerage accounts.