

bank's or savings association's control prevent it from taking action.

[77 FR 37279, June 21, 2012, as amended at 78 FR 37944, June 25, 2013]

§ 32.7 Residential real estate loans, small business loans, and small farm loans (“Supplemental Lending Limits Program”).

(a) *Residential real estate, small business, and small farm loans.* (1) In addition to the amount that a national bank or savings association may lend to one borrower under § 32.3, an eligible national bank or eligible savings association may make residential real estate loans or extensions of credit to one borrower in the lesser of the following two amounts: 10 percent of its capital and surplus; or the percent of its capital and surplus, in excess of 15 percent, that a State bank or savings association is permitted to lend under the State lending limit that is available for residential real estate loans or unsecured loans in the State where the main office of the national bank or savings association is located. Any such loan or extension of credit must be secured by a perfected first-lien security interest in 1-4 family real estate in an amount that does not exceed 80 percent of the appraised value of the collateral at the time the loan or extension of credit is made.

(2) In addition to the amount that a national bank or savings association may lend to one borrower under § 32.3, an eligible national bank or eligible savings association may make small business loans or extensions of credit to one borrower in the lesser of the following two amounts: 10 percent of its capital and surplus; or the percent of its capital and surplus, in excess of 15 percent, that a state bank is permitted to lend under the state lending limit that is available for small business loans or unsecured loans in the state where the main office of the national bank or home office of the savings association is located.

(3) In addition to the amount that a national bank or savings association may lend to one borrower under § 32.3, an eligible national bank or eligible savings association may make small farm loans or extensions of credit to one borrower in the lesser of the fol-

lowing two amounts: 10 percent of its capital and surplus; or the percent of its capital and surplus, in excess of 15 percent, that a State bank or savings association is permitted to lend under the State lending limit that is available for small farm loans or unsecured loans in the State where the main office of the national bank or savings association is located.

(4) The total outstanding amount of a national bank's or savings association's loans and extensions of credit to one borrower made under §§ 32.3(a) and (b), together with loans and extensions of credit to the borrower made pursuant to paragraphs (a)(1), (2), and (3) of this section, shall not exceed 25 percent of the bank's or savings association's capital and surplus.

(5) The total outstanding amount of a national bank's or savings association's loans and extensions of credit to all of its borrowers made pursuant to the supplemental lending limits provided in paragraphs (a)(1), (2), and (3) of this section may not exceed 100 percent of the bank's or savings association's capital and surplus.

(b) *Application process.* An eligible bank or eligible savings association must submit an application to, and receive approval from, its supervisory office before using the supplemental lending limits in paragraphs (a)(1), (2), and (3) of this section. The supervisory office may approve a completed application if it finds that approval is consistent with safety and soundness. To be deemed complete, the application must include:

(1) Certification that the bank or savings association is an “eligible bank” or “eligible savings association”;

(2) Citations to relevant State laws or regulations;

(3) A copy of a written resolution by a majority of the bank's or savings association's board of directors approving the use of the limits provided in paragraphs (a)(1), (2), and (3) of this section, and confirming the terms and conditions for use of this lending authority; and

(4) A description of how the board will exercise its continuing responsibility to oversee the use of this lending authority.

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(c) *Duration of approval.* Except as provided in paragraph (d) of this section, a bank or savings association that has received appropriate Federal banking agency approval may continue to make loans and extensions of credit under the supplemental lending limits in paragraphs (a)(1), (2), and (3) of this section, provided the bank or savings association remains an “eligible bank” or “eligible savings association.”

(d) *Discretionary termination of authority.* The appropriate Federal banking agency may rescind a bank’s or savings association’s authority to use the supplemental lending limits in paragraphs (a)(1), (2), and (3) of this section based upon concerns about credit quality, undue concentrations in the bank’s or savings association’s portfolio of residential real estate, small business, or small farm loans, or concerns about the bank’s or savings association’s overall credit risk management systems and controls. The bank or savings association must cease making new loans or extensions of credit in reliance on the supplemental lending limits upon receipt of written notice from the appropriate Federal banking agency that its authority has been rescinded.

(e) *Existing loans.* Any loans or extensions of credit made by a bank or savings association under the supplemental lending limits in paragraphs (a)(1), (2), and (3) of this section, that were in compliance with this section when made, will not be deemed a lending limit violation and will not be treated as nonconforming under § 32.6.

[66 FR 31120, June 11, 2001, as amended at 69 FR 32436, June 10, 2004; 69 FR 51357, Aug. 19, 2004; 72 FR 31444, June 7, 2007; 77 FR 37279, June 21, 2012]

§ 32.8 Temporary funding arrangements in emergency situations.

In addition to the amount that a national bank or savings association may lend to one borrower under § 32.3 of this part, an eligible bank or eligible savings association with the written approval of the appropriate Federal banking agency may make loans and extensions of credit to one borrower subject to a special temporary lending limit established by the appropriate Federal banking agency, where the appropriate Federal banking agency determines

that such loans and extensions of credit are essential to address an emergency situation, such as critical financial markets stability, will be of short duration, will be reduced in amount in a timeframe and manner acceptable to the appropriate Federal banking agency, and do not present unacceptable risk. In granting approval for such a special temporary lending limit, the appropriate Federal banking agency will impose supervisory oversight and reporting measures that it determines are appropriate to monitor compliance with the foregoing standards as set forth in this paragraph.

[73 FR 14924, Mar. 20, 2008, as amended at 77 FR 37280, June 21, 2012]

§ 32.9 Credit exposure arising from derivative and securities financing transactions.

(a) *Scope.* This section sets forth the rules for calculating the credit exposure arising from a derivative transaction or a securities financing transaction entered into by a national bank or savings association for purposes of determining the bank’s or savings association’s lending limit pursuant to 12 U.S.C. 84 or 12 U.S.C. 1464(u), as applicable, and this part.

(b) *Derivative transactions*—(1) *Non-credit derivatives.* Subject to paragraphs (b)(2), (b)(3) and (b)(4) of this section, a national bank or savings association shall calculate the credit exposure to a counterparty arising from a derivative transaction by one of the following methods. Subject to paragraph (b)(4) of this section, a national bank or savings association shall use the same method for calculating counterparty credit exposure arising from all of its derivative transactions.

(i) *Model Method*—(A) *Credit exposure.* The credit exposure of a derivative transaction under the Internal Model Method shall equal the sum of the current credit exposure of the derivative transaction and the potential future credit exposure of the derivative transaction.

(B) *Calculation of current credit exposure.* A bank or savings association shall determine its current credit exposure by the mark-to-market value of the derivative contract. If the mark-to-