



# Office of the State Bank Commissioner

## All Bank Mailing

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**TO:** All Kansas State-Chartered Banks **Memo RM97-7**  
**FROM:** W. Newton Male, Bank Commissioner  
**DATE:** December 17, 1997  
**RE:** Legal Lending Limit and Reg O

As you know, K.S.A. 9-1104 was amended during the 1996 legislative session and expanded the lending limit of a Kansas state-chartered bank to 25% of capital. Prior to the revision, K.S.A. 9-1104 contained a special lending limit for officers or employees of the bank. In the new K.S.A. 9-1104, there is no special lending limit for employees, executive officers, or directors, so the general limit of 25% is applicable to all of these individuals for purposes of state law. There has been some confusion among banks concerning how this 25% state limit and the Federal Reserve Board's Regulation O ("Reg O") limits should be applied. Both limits (state and Reg O) must be looked at separately and compliance with both laws must be maintained by the bank. The following is a discussion of the basic restrictions banks should be aware of concerning loan limits for individual officers, directors and principal shareholders. **PLEASE NOTE:** Reg O contains additional restrictions on a bank's aggregate lending limit to all insiders, as well as prior approval requirements, which are not the subject of this memo.

### **I. State Lending Limit for Executive Officers, Directors and Principal Shareholders**

The general lending limit of **25%** in K.S.A. 9-1104 applies to all of these categories of individuals.

### **II. Reg O Restrictions on Loans to "Insiders", Which Includes Executive Officers, Directors and Principal Shareholders**

(Note: Although Reg O uses the term "member bank", the regulation is applicable to all FDIC-insured banks by virtue of 12 C.F.R. 337.3.)

The Federal Reserve Board's Regulation O, 215.4 (c) sets out the following restriction on lending to insiders (executive officers, directors, or principal shareholders and any related interest of such person) :

"Individual lending limit. No member bank may extend credit to any insider of the bank or insider of its affiliates in an amount that, when aggregated with the amount of all other extensions of credit by the member bank to that person and to all related interests of that person, exceeds the lending limit of the member bank specified in section 215.2(i) of this part."

Section 215.2(i) states the lending limit as follows:

“The lending limit for a member bank is an amount equal to the limit on loans to a single borrower established by section 5200 of the Revised Statutes, 12 U.S.C. 84. This amount is 15 percent of the bank’s unimpaired capital and unimpaired surplus in the case of loans that are not fully secured, and an additional 10 percent of the bank’s unimpaired capital and unimpaired surplus in the case of loans that are fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the loan.”

As the above sections indicate, Reg O sets a general 15% lending limit for insiders. Reg O provides for an additional 10% in the case of loans to insiders that are fully secured by readily marketable collateral having a market value at least equal to the amount of the loan.

### III. Additional Reg O Restrictions that are Applicable to Executive Officers

Section 215.5 (12 C.F.R. 337.3, for non-member banks) lists *additional* restrictions on loans to executive officers. These restrictions are based on the purpose of the loan.

As previously stated, the 25% limit (15% basic limit plus an extra 10% for any loans that are fully secured by readily marketable collateral) established in 215.2 is the absolute maximum amount of credit a bank can extend to executive officers. However, within these confines, a bank can extend that credit as follows:

1. in any amount (but not exceeding the percentage limits in 215.2(i) ) to finance the education of the executive officer’s children;
2. in any amount (but not exceeding the percentage limits in 215.2(i) ) to finance or refinance the purchase, construction, maintenance or improvement of a residence of the officer, provided:
  - i. the extension of credit is secured by a first lien on the residence and the residence is owned (or expected to be owned after the extension of credit) by the executive officer.
  - ii. in the case of a refinancing, only the amount used to repay the original extension of credit, together with the closing costs of the refinancing, and any additional amount used for the purpose of purchase, construction, maintenance or improvement of a residence are included in this category.
3. in any amount (but not exceeding the percentage limits in 215.2(i) ) for other purposes if the extension of credit is secured by:
  - i. a perfected security interest in bonds, notes, certificates of indebtedness, or Treasury bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States;
  - ii. Unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; or
  - iii. a perfected security interest in a segregated deposit account in the lending bank.

Finally, any extensions of credit to an executive officer which are made for purposes other than those enumerated in I-3 above cannot exceed at any one time, in the aggregate, the higher of 2.5% of the bank’s capital and unimpaired surplus or \$25,000, but in no event more than \$100,000.