

**From:** "Larry Puccini" <larry.puccini@charterco.com> on 10/03/2005 12:00:04 PM

**Subject:** EGRPRA regulatory review

EGRPRA

Reference: FIL-82-2005

Dear Agency Representatives:

This letter provides our comments regarding your request for comments on outdated or unnecessary regulatory requirements applicable to the topics outlined in Financial Institution Letter # 82-105. Specifically, we wish to provide comment relating to 12 CFR Part 215 (Reg. O), and related implementing regulation 12 CFR 563.43 for Thrifts.

We recognize the importance of establishing limits on insider and particularly executive officer borrowings. However, based on a recent experience, we believe some of the current Reg. O limits are overly burdensome, somewhat ambiguous, and the dollar amounts are outdated and in need of updating to reflect today's economy. We specifically request you review the following aspects of **12 CFR Part 215, subsection 215.5** – "*Additional restriction on loans to executive officers of member banks,*" in relation to the following loan restrictions:

- 215.5 (c) (2) "*In any amount to finance or refinance the purchase, construction, maintenance, or improvement of a residence of the executive officer, provided...*"

This provision is unclear regarding a second home. It also seems to exclude an executive officer from financing a home for his children, parents, or other family members, which is not an unusual practice today. At minimum, we believe this provision should be modified to cover a residence of the executive officer or his/her immediate family. The requirements that follow this limitation [(i) and (ii)] require the loan to be secured by a first mortgage, and thus we do not believe any significant risks to the bank, shareholders or depositors would result from the proposed change.

- 215.5 (c) (4) "*For any other purpose. . . if the aggregate amount of extensions of credit to that executive officer under this paragraph does not exceed at any one time the higher of 2.5% of the bank's unimpaired capital . . . , or \$25,000, but in no event more than \$100,000.*"

We believe the \$100,000 maximum aggregated amount is burdensome in today's environment. While it may be an appropriate limit for unsecured debt, we believe some provision should be made to exclude well collateralized loans (particularly those secured by residential real estate) from this limitation. In effect, the current limit prohibits an executive officer from financing a second home, a home for his children, or an investment property with his own bank.

Additionally, if executive officers were to finance such an endeavor with a different bank, they probably would have to report the indebtedness under 12 CFR section 215.9, which, in general, carries the same dollar limits.

Another way of resolving these unnecessarily burdensome restrictions, while still allowing the regulations to focus on true risks to the bank, shareholders or depositors would be to exclude any residential mortgage loan that is sold in the secondary market (Freddie Mac, Fannie Mae, etc.) from all Reg. O limitations. While the Bank would have such a loan on the books for a few weeks before it is sold, if it is properly underwritten as a conforming mortgage loan, its sale is quite certain. Once purchased by the investor, it would be non-recourse, which basically relieves the bank from having any liability or risk on the credit.

The above comments only address two specific limitations on executive officer borrowings; however we believe that Reg. O should be reviewed in its entirety to assure it is truly focused on limiting inappropriate risks in relation to today's financial environment.

Your consideration of our thoughts and input on these issues is appreciated. If you have any questions, my telephone number is (505) 291-3712.

Sincerely,

Larry J. Puccini  
General Auditor

Cc: Shirley Scott, EVP & Managing Officer  
Glenn Wertheim, President and CEO

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