Date: June 30, 2026

To: Board of Governors

From: Staff[1]

Subject: Proposed Rule to Modernize Regulation O (Bank Lending to Insiders)

ACTION REQUESTED: Approval to publish for public comment in the *Federal Register* a proposal that would revise the Board's Regulation O,[2] which restricts extensions of credit by banks to their executive officers, directors, principal shareholders, and their related interests (insiders). Staff also requests authority to make technical, non-substantive changes to the proposal prior to publication in the *Federal Register*.

EXECUTIVE SUMMARY:

- Regulation O establishes limits on lending by a bank to people and entities that can potentially influence its lending decisions so as to limit the risk to the bank from preferential treatment. The regulation also establishes related governance and recordkeeping requirements for insider lending.
- The proposed rule would comprehensively update Regulation O for the first time since 1979.
- Regulation O places quantitative limits (including several dollar-based limits) on certain types of lending to bank insiders. The proposed rule would update the outdated dollar-based limits and index them going forward.
- The proposed rule would also update Regulation O to address an unintended and unnecessarily burdensome evolution in its scope. Over recent decades, investment funds have substantially increased their ownership in public companies, including banks. Bank lending to certain companies has become subject to Regulation O solely because the companies are held by a fund group that also holds a stake in the bank. Under the proposed rule, if a fund group meets certain criteria that constrain its influence over the bank's lending

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[2] 12 CFR part 215.

decisions, Regulation O would not apply to the bank's lending to the fund group's portfolio companies.

- Among other things, the proposal would also codify certain statutory requirements; incorporate long-standing Board interpretations; and make the regulation more user-friendly.

DISCUSSION:

Background on Regulation O. In response to controversies related to bank lending to executives and directors, Congress in 1933 and 1978 adopted restrictions designed to protect banks against potential harm from the conflicts of interest of, and self-dealing by, insiders who are in a position to put their personal or business self-interest ahead of the interests of the banks. The Board has implemented these statutory restrictions through Regulation O.[3] Regulation O limits the quantity of credit that a bank may extend to insiders.[4] The regulation also requires extensions of credit by a bank to its insiders to be on terms that the bank would offer to third parties and requires that certain large extensions of credit to insiders be approved by a bank's board of directors.[5] Under Regulation O, a bank's insiders include (i) its executive officers, directors, and principal shareholders; and (ii) any companies controlled by its executive officers, directors, and principal shareholders.[6] To ensure compliance with its restrictions, the regulation also imposes recordkeeping requirements on banks.[7] The Regulation O framework is designed to prevent banks from giving insiders preferential treatment, while recognizing the important role

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[3] These restrictions are codified in sections 22(g) and 22(h) of the Federal Reserve Act and are implemented through Regulation O. See 12 U.S.C. 375a and 375b; 12 CFR part 215. By its terms, the statute and Regulation O applies to "member banks," which includes national banks and state member banks. Other federal law applies sections 22(g) and 22(h) of the Federal Reserve Act to state nonmember banks and savings associations in the same manner and to the same extent as if they were member banks. 12 U.S.C. 1828(j) and 1468(b). Accordingly, these depository institutions also must comply with Regulation O. This memo will use the term "bank" to refer to all depository institutions subject to Regulation O.

[4] The primary limits are an individual lending limit to a single insider of up to 25 percent of bank capital and an aggregate lending limit to all insiders of 100 percent of bank capital. *See* 12 U.S.C. 375b(4)-(5); 12 CFR 215.4(c)-(d). The regulation also sets specific dollar-based limits, as discussed further below.

[5] 12 CFR 215.4(a)-(b); 12 U.S.C 375b(2)-(3).

[6] 12 CFR 215.2(h), (n).

[7] 12 CFR 215.10.

that these individuals often play in the local business community. The Board has not comprehensively revised the regulation since 1979.

Updating and indexing outdated dollar-based thresholds. The proposed rule would rely on a general methodology for indexing regulatory dollar-based thresholds that is aligned with the recent GSIB surcharge proposal. The proposed methodology would update Regulation O's dollar-based thresholds based on nominal GDP measured from 1994, the last time the Board adjusted any of the thresholds. Going forward, the thresholds would be updated every five years based on changes in nominal GDP. Specifically, the proposed rule would increase and index the following limits:

- For the amount of certain credit card debt that is exempt from the definition of "extension of credit," from **$15,000 to $60,000**.[8]
- For the amount of indebtedness arising from certain interest-bearing overdrafts associated with preauthorized credit plans that are exempt from the definition of "extension of credit," from **$5,000 to $20,000**.[9]
- For the exception from the prohibition against paying an overdraft to an executive officer or director for certain inadvertent overdrafts, from **$1,000 to $4,000**.[10]
- For the "other purpose" exception for unsecured lending to executive officers, from **$100,000 to $400,000**.[11]
- For the size of an extension of credit that requires prior approval by a bank's board of directors, from **$500,000 to $2 million**.[12]
- For the threshold for public disclosure of loans to executive officers and principal shareholders, from **$500,000 to $2 million**.[13]

Addressing portfolio companies of fund groups. The Federal Reserve Act defines a principal shareholder of a bank as a person that owns, controls, or has the power to vote more

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[8] 12 CFR 215.3(b)(5).

[9] 12 CFR 215.3(b)(6).

[10] 12 CFR 215.4(e).

[11] 12 CFR 215.5(c)(4).

[12] 12 CFR 215.4(b)(2).

[13] 12 CFR 215.9(b).

than 10 percent of a class of voting securities of the bank.[14] In the case of a fund group, the shares of a bank held by different investment funds in the same group generally are treated as shares controlled by the fund group.[15] In light of the significant growth in investment funds, particularly index funds, over the past few decades, fund groups have become principal shareholders (and thus insiders) of many banks. Accordingly, extensions of credit by banks to these fund groups are subject to Regulation O.

Moreover, under Regulation O, any company "controlled" by an insider is also an insider of the bank.[16] Regulation O presumes that a person controls a company if the person owns, controls, or has power to vote more than 10 percent of the company's voting shares and is the largest shareholder of the company.[17] Fund groups control significant numbers of companies (portfolio companies) based on this presumption, as shown in the impact analysis below. Accordingly, if a fund group is a principal shareholder of a bank, the fund group and its portfolio companies are insiders of the bank. As a result, the bank must track and ensure that all extensions of credit by the bank to the fund group and its portfolio companies comply with Regulation O.

Staff does not believe that the insider lending restrictions in the Federal Reserve Act were intended to apply to extensions of credit by a bank to portfolio companies presumed to be controlled by these large fund groups. Index funds were not a prominent feature of the investment landscape when Congress adopted the insider lending restrictions in sections 22(g) and (h) of the Federal Reserve Act in 1933 and 1978, respectively. In contrast to an actively managed fund or other types of corporate shareholder, an index fund purchases and sells shares to mirror the risk and return characteristics of a stock index. Index funds generally pose less of a risk of self-dealing than other principal shareholders of banks because the funds have little

[14] 12 U.S.C. 375b(9)(F)(i); 12 CFR 215.2(m)(1).

[15] *Id.* *See also* letter from Scott G. Alvarez, Board General Counsel, to Robert L. Tortoriello, Esq. (Sept. 29, 2006).

[16] *See, e.g.*, 12 U.S.C. 375b(1) (applying the requirements of section 22(h) of the Federal Reserve Act to, among other persons, the "related interests" of insiders). *See also* 12 CFR 215.2(h) & (n).

[17] 12 CFR 215.2(c)(2)(ii).

discretion in their stock sales and purchases and because they vote their shares according to broad policy objectives around long-term shareholder value.

In December 2019, the Board, FDIC, and OCC issued a joint statement to allow banks that were passively held by these fund group principal shareholders to continue to lend to certain fund group-controlled portfolio companies while the Board considered how to amend Regulation O to address this issue on a permanent basis.[18] This temporary relief has been extended annually since then and is currently scheduled to expire at the end of 2026 if not renewed.

In light of these considerations, the proposal would modify the presumption of control in Regulation O in a narrow way to exclude certain portfolio companies of a fund group from being considered an insider under Regulation O. Under the exclusion, a fund group that is a principal shareholder of a bank would itself continue to be an insider of the bank, but a portfolio company of the fund group would not be an insider of the bank so long as the fund group (i) is not a bank holding company; (ii) does not trigger a presumption of control of the bank under Regulation Y;[19] (iii) does not hold more than 25% of the bank; (iv) does not hold more than 10% of the bank through a single fund; and (v) does not hold more than 10% of the bank through actively managed funds.

New requirements from the Dodd-Frank Act. The Dodd-Frank Act amended sections 22(g) and 22(h) of the Federal Reserve Act so that extensions of credit subject to Regulation O include "credit exposures" arising from derivatives and securities financing transactions between a bank and its insiders.[20] The proposal would establish methodologies to determine the amount of these credit exposures. Under the proposal, the credit exposure from a derivative transaction and securities financing transaction generally would be the exposure

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[18] *See* Status of Certain Investment Funds and Their Portfolio Investments for Purposes of Regulation O and Reporting Requirements under Part 363 of FDIC Regulations, SR 19-16 (Dec. 27, 2019).

[19] 12 CFR 225.32. The Regulation Y presumptions of control are based on a range of factors, including percentage of voting securities, percentage of total equity, board representation, management representation, and business relationships.

[20] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), Pub. L. No. 111-203, § 614, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 375b(9)(D)(i)(II)).

amount for the transaction calculated using the risk-based capital rule of the bank's appropriate federal banking agency.

The Dodd-Frank Act also introduced requirements for asset purchases and sales between a bank and its insiders. Such transactions must be on market terms and, when sufficiently large, approved in advance by a majority of a bank's board of directors.[21] The proposal would codify these requirements and specify that a transaction is on market terms if the terms and circumstances of the transaction are substantially the same as those offered to third parties. The proposal would also incorporate into Regulation O other existing statutory requirements relating to bank insider lending, such as correspondent bank restrictions, that are not currently reflected in the regulation.

Modernizing and streamlining the regulation. The proposal would update Regulation O by clarifying certain definitions, exemptions, and other provisions to harmonize Regulation O with other regulations. The proposal also would codify many of the Board's long-standing interpretations of the regulation to improve transparency. In addition, the proposal would revise and reorganize the regulation to streamline the text and make it more user friendly.

IMPACT ANALYSIS:

The sharp rise in assets under management at SEC-registered mutual funds and exchange-traded funds has resulted in increasing ownership shares by fund groups of both banks and non-bank portfolio companies. Accordingly, an increasing number of banks have fund groups and their portfolio companies as insiders. Staff used institutional ownership holding data from the S&P Global Capital IQ Ownership database to assess the potential for Regulation O to limit bank lending to fund group portfolio companies. Based on this data, as of the fourth quarter of 2025, fund groups are estimated to be principal shareholders of 66 banks and these fund groups might be presumed to control 2047 portfolio companies. Absent the proposal, Regulation O could hinder lending relationships between a substantial and increasing number of banks and portfolio companies owned by the same fund group. Consistent with the purposes of Regulation O, the proposal would provide permanent compliance burden relief to banks that lend to these portfolio companies. The proposal would also reduce unnecessary regulatory burden by

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[21] *See* Dodd-Frank Act § 615 (codified at 12 U.S.C. 1828(z)).

increasing outdated dollar-based thresholds and enhancing transparency through clarifying terms and codifying longstanding interpretations.

RECOMMENDATIONS: For the reasons discussed above, staff recommends that the Board approve the proposal to amend Regulation O. Staff also recommends that the Board authorize staff to make technical, non-substantive changes to the proposal prior to publication in the *Federal Register*.

Attachments