

Comptroller of the Currency Administrator of National Banks

Washington, DC 20219

November 21, 1996

Interpretive Letter #761 January 1997 12 U.S.C. 375a 12 C.F.R. 215

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Re: Treatment of Home Equity Lines of Credit under Regulation O

Dear []:

This is in response to your letter of September 26, 1996, in which you request written confirmation, following telephone conversations with OCC staff, of the OCC's views concerning whether an unrestricted home equity line of credit granted by a national bank to an executive officer that is secured by a first lien on the officer's residence is subject to the quantitative limitations set forth in section 22(g) of the Federal Reserve Act ("FRA")¹ and its implementing regulation, the Federal Reserve Board's ("FRB") Regulation O.² We conclude that the loan you describe is subject to these limitations, as discussed further below.

According to your letter, [], [city, state], has extended a home equity line of credit to one of its executive officers in the amount of \$150,000. Although the loan is secured by a first lien on the officer's residence, the bank does not know for what purpose the proceeds of the loan will be used.

Section 215.5(c) of Regulation O generally limits loans to executive officers to \$100,000.³ However, the same provision also provides an exception to this limitation. Section 215.5(c)(2) provides, <u>inter alia</u>, that a member bank is authorized to extend credit to any

¹ 12 U.S.C. § 375a(4).

² 12 C.F.R. § pt. 215(c)(4).

³ 12 C.F.R. § 215.5(c)(4) imposes a general limitation on loans to executive officers of the higher of 2.5 per cent of the bank's unimpaired capital and unimpaired surplus or \$25,000, but in no event more than \$100,000.

executive officer of the bank in any amount if the loan is to finance or refinance the purchase, construction, maintenance, or improvement of a residence of the executive officer, provided the extension of credit is secured by a first lien on the residence and the residence is owned (or expected to be owned) by the executive officer. Thus, Regulation O requires that, in order to qualify for this exception, a loan must be made for one or more of the purposes specified therein.

As noted above, the loan at issue was a general home equity line of credit made without any restriction on the use of its proceeds. Accordingly, both the OCC and the FRB have reached the same conclusion with respect to the issue raised by your letter. A home equity line of credit granted by a national bank to its executive officer that can be used for any purpose does not qualify for the exception set forth at section 215(c)(2). Such a line of credit can only be extended on the basis of section 215(c)(4) of Regulation O, and is therefore subject to the aggregate limit imposed on general purpose loans made to executive officers.¹

This conclusion obtains even when the line of credit is secured by a first lien on the executive officer's residence, as it is in the situation you describe. An extension of credit can only qualify for treatment under the exception provided by section 215(c)(2) if it is secured by a first lien. However, the existence of the first lien is not sufficient to bring the extension of credit within section 215(c)(2). Rather, the purpose for which the extension of credit was granted must be restricted to conform with one of the purposes provided in section 215(c)(2).

Please feel free to call me or Jonathan Fink, Attorney at (202) 874-5300 if you should have any further questions.

Sincerely,

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Aline Henderson Senior Attorney Bank Activities & Structure

See Letter from J. Virgil Mattingly, General Counsel, FRB (Oct. 15, 1992); Letter from Sharon Miyasato, Senior Attorney, OCC (Sept. 22, 1988). See attached.