

(b) The credit is secured by a first lien on the residence; and

(c) The executive officer owns or expects to own the residence after the extension of credit.

8. Aggregate Insider Extensions of Credit Outstanding.

a. Information. Obtain management's calculation of the aggregate extensions of credit to executive officers, directors, and principal shareholders of the institution and to their related interests as of the two dates selected in paragraph 4.a. of this section.

b. Procedures. Recalculate the amounts obtained in paragraph 8.a. of this section for mathematical accuracy.

(1) Compare this total with 100 percent of the institution's unimpaired capital and surplus calculated in paragraph 4.a.(1) of this section.

(2) Report any amount by which the aggregate extensions of credit exceed 100 percent of the institution's capital and surplus as an exception in the findings.

9. Overdrafts.

a. Information. Select a sample of insiders from the Insider Extensions List who had overdrafts outstanding during the fiscal year.

(1) Obtain a written history of the insider's overdrafts for the year and management's written representation concerning the completeness of that history.

(2) For overdrafts of an executive officer or director in an aggregate amount of \$1,000 or less included in the sample, obtain management's written representation that:

(a) It believes the overdrafts were inadvertent;

(b) The account was overdrawn in each case for no more than 5 business days; and

(c) The institution charged the executive officer or director the same fee that it would charge any other customer in similar circumstances.

b. Procedures. For each overdraft by an insider in the sample selected in paragraph 9.a. of this section:

(1) Inquire whether cash items for the insider were being held by the institution during the time that the overdraft was outstanding to prevent additional overdrafts;

(2) Trace and agree subsequent payment by the insider of the insider's overdrafts to records of the account at the institution; and

(3) For overdrafts of executive officers and directors included in the sample that were paid by the institution for the executive officer and director from an account at the institution:

(a) Trace and agree to a written, pre-authorized, interest-bearing extension of credit plan that specifies a method of repayment; or

(b) Trace and agree to a written, pre-authorized transfer of funds from another account of the insider at the institution.

10. Reports on Indebtedness to Correspondent Banks.

a. Information. Obtain from management:

(1) A list of executive officers and principal shareholders and related interests thereof that filed reports of indebtedness to a correspondent bank. This list should be prepared as of the calendar year for which the management assessment and independent public accountant's attestation

are being filed. If the institution is not on a calendar year fiscal year, the list should be prepared as of the end of the calendar year during its fiscal year.

(2) Its written representation concerning the completeness of the list for paragraph 10.a.(1) of this section and its written representation that all executive officers and principal shareholders have been notified of the reporting requirements for the calendar year in paragraph 10.a.(1) of this section relative to borrowings from correspondent banks by executive officers and principal shareholders and their related interests.

(3) Its representation concerning the amount each executive officer would have been able to borrow from the reporting institution.

b. Procedures. Select a sample of executive officers, principal shareholders, and related interests thereof from the list obtained in paragraph 10.a.(1) of this section.

(1) Ascertain that each executive officer and principal shareholder (or related interest thereof) included in the sample reported to the board of directors (on or before the January 31 following the calendar year in paragraph 10.a.(1)), indebtedness to correspondent banks and that such report states:

(a) The maximum amount of indebtedness during that calendar year;

(b) The amount of indebtedness outstanding 10 days prior to report filing; and

(c) A description of the loan terms and conditions, including the rate or range of interest rates, original amount and date, maturity date, payment terms, security, and any unusual terms or conditions.

(2) If any executive officer's extensions of credit from all correspondent banks from the list obtained in paragraph 10.a.(1) of this section exceed the total amount that management represents that the executive officer would have been able to borrow from the reporting institution during the fiscal year, note whether a report pursuant to 12 CFR 215.9 was made to the board of directors of the officer's institution within 10 days of the date the indebtedness reached such a level.

B. Dividend Restrictions. If the institution has declared any dividends during the fiscal year, the following procedures should be performed for each dividend declared. (These procedures are not applicable to mutual institutions and insured branches of foreign banks.)

1. Designated Laws. The following federal laws and regulations (Designated Dividend Laws), to the extent that they are applicable to the institution (see paragraph 2 below), should be read:

a. Laws: 12 U.S.C. 56, 60, 1467(a)(f), 1831o; and

b. Regulations: 12 CFR 5.61, 5.62, 6, 7.6120, 19, 208.19, 208.30, 263, 325.105, 563.134, and 565.

2. General. Although the information requirements and procedures in paragraphs 2. through 5. of this section are applicable to all institutions, paragraphs 6. and 7. of this section were designed to be applicable to national banks and federally-chartered savings associations. However, if the institution is state chartered, and the state

has dividend restrictions substantially identical to those for national banks and federally-chartered savings associations, the requirements in paragraphs 6. and 7. of this section for information and procedures to be performed should be applied to the state bank or savings association.

a. Information. Obtain from management of the institution the following information for the institution's most recent fiscal year:

(1) Its assessment of the institution's compliance with the Designated Dividend Laws and any applicable state laws and regulations cited in its assessment.

(2) A copy of any supervisory agreements with, orders by, or resolutions of any regulatory agency (including a description of the nature of any such agreements, orders, or resolutions) containing restrictions on dividend payments by the institution.

(3) Its written representation whether dividends declared comply with any restrictions on dividend payments under any supervisory agreements with, orders by, or resolutions of any regulatory agency (including a description of the nature of any such agreements, orders, or resolutions).

b. Procedures.

(1) Read the foregoing information.

(2) If any restrictions on dividend payments exist in any documents obtained in paragraph 2.a.(2) of this section, test and agree dividends declared with any such quantitative restrictions.

3. Policies and Procedures.

a. Information. Obtain the institution's written policies and procedures concerning its compliance with the Designated Dividend Laws. If the institution has no written policies and procedures, obtain from the institution a narrative that describes the institution's methods for complying with the Designated Dividend Laws, and includes provisions similar to those below.

b. Procedures: Ascertain whether the policies and procedures include, or incorporate by reference, provisions which are consistent with the Designated Dividend Laws. These would include capital limitation tests, including section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), earnings limitation tests, transfers from surplus to undivided profits, and restrictions imposed under any supervisory agreements, resolutions, or orders of any federal or state bank regulatory agency. In addition, for savings associations, this would include prior notification to the OTS.

4. Board Minutes.

a. Information. Obtain the minutes of the meetings of the board of directors for the most recent fiscal year to ascertain whether dividends (either paid or unpaid) have been declared.

b. Procedures. Trace and agree total dividend amounts to the general ledger records and the institution's most recently completed Call Report or TFR.

5. Calculation of Undercapitalization.

a. Information. Obtain management's computation of the amount at which declaration of a dividend would cause the institution to be undercapitalized as of each date on which a dividend was declared during the fiscal year.

b. Procedures: Recalculate management's computation (for mathematical accuracy) and