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such institution's normal market area for deposits accepted from within its normal market area; or

(B) The national rate paid on deposits of comparable size and maturity for deposits accepted outside the institution's normal market area. For purposes of this paragraph (b)(2)(ii)(B), the national rate shall be:

(1) 120 percent of the current yield on similar maturity U.S. Treasury obligations; or

(2) In the case of any deposit at least half of which is uninsured, 130 percent of such applicable yield.

(3)(i) An undercapitalized insured depository institution may not accept, renew or roll over any brokered deposit.

(ii) An undercapitalized insured depository institution may not solicit deposits by offering an effective yield that exceeds by more than 75 basis points the prevailing effective yields on insured deposits of comparable maturity in such institution's normal market area or in the market area in which such deposits are being solicited.

(4) For purposes of the restriction contained in paragraphs (b)(2)(ii)(A) and (b)(3)(ii) of this section, the effective yields in the relevant markets are the average of effective yields offered by other insured depository institutions in the market area in which deposits are being solicited. An effective yield on a deposit with an odd maturity violates paragraphs (b)(2)(ii)(A) and (b)(3)(ii) of this section if it is more than 75 basis points higher than the yield calculated by interpolating between the yields offered by other insured depository institutions on deposits of the next longer and shorter maturities offered in the market. A market area is any readily defined geographical area in which the rates offered by any one insured depository institution soliciting deposits in that area may affect the rates offered by other insured depository institutions operating in the same area.

(c) *Waiver.* The FDIC may, on a case-by-case basis and upon application by an adequately capitalized insured depository institution, waive the prohibition on the acceptance, renewal or rollover of brokered deposits upon a finding that such acceptance, renewal or

rollover does not constitute an unsafe or unsound practice with respect to such institution. The FDIC may conclude that it is not unsafe or unsound and may grant a waiver when the acceptance, renewal or rollover of brokered deposits is determined to pose no undue risk to the institution. Any waiver granted may be revoked at any time by written notice to the institution. For filing requirements, consult 12 CFR 303.243.

(d) *Exclusion for institutions in FDIC conservatorship.* No insured depository institution for which the FDIC has been appointed conservator shall be subject to the prohibition on the acceptance, renewal or rollover of brokered deposits contained in this §337.6 or section 29 of the Federal Deposit Insurance Act for 90 days after the date on which the institution was placed in conservatorship. During this 90-day period, the institution shall, nevertheless, be subject to the restriction on the payment of interest contained in paragraph (b)(2)(ii) of the section. After such 90-day period, the institution may not accept, renew or roll over any brokered deposit.

(e) [Reserved]

[57 FR 23941, June 5, 1992, as amended at 58 FR 54935, Oct. 25, 1993; 60 FR 31384, June 15, 1995; 63 FR 44750, Aug. 20, 1998; 66 FR 17622, Apr. 3, 2001]

§§ 337.7–337.9 [Reserved]

§ 337.10 Waiver.

An insured State nonmember bank has the right to petition the Board of Directors of the Corporation for a waiver of this part or any subpart thereof with respect to any particular transaction or series of similar transactions. A waiver may be granted at the discretion of the Board upon a showing of good cause. All such petitions should be filed with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

[39 FR 29179, Aug. 14, 1974, as amended at 67 FR 71071, Nov. 29, 2002]

§ 337.11 Effect on other banking practices.

Nothing in this part shall be construed as restricting in any manner the

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Corporation's authority to deal with any banking practice which is deemed to be unsafe or unsound or otherwise not in accordance with law, rule, or regulation; or which violates any condition imposed in writing by the Corporation in connection with the granting of any application or other request by an insured State nonmember bank, or any written agreement entered into by such bank with the Corporation. Compliance with the provisions of this part shall not relieve an insured State nonmember bank from its duty to conduct its operations in a safe and sound manner nor prevent the Corporation from taking whatever action it deems necessary and desirable to deal with specific acts or practices which, although they do not violate the provisions of this part, are considered detrimental to the safety and sound operation of the bank engaged therein.

§ 337.12 Frequency of examination.

(a) *General.* The Federal Deposit Insurance Corporation examines insured state nonmember banks pursuant to authority conferred by section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820). The FDIC is required to conduct a full-scope, on-site examination of every insured state nonmember bank at least once during each 12-month period.

(b) *18-month rule for certain small institutions.* The FDIC may conduct a full-scope, on-site examination of an insured state nonmember bank at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the following conditions are satisfied:

(1) The bank has total assets of \$250 million or less;

(2) The bank is well capitalized as defined in § 325.103(b)(1) of this chapter;

(3) At the most recent FDIC or applicable State banking agency examination, the FDIC found the bank to be well managed;

(4) At the most recent FDIC or applicable State banking agency examination, the FDIC assigned the insured state nonmember bank a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System

(copies are available at the addresses specified in § 309.4 of this chapter);

(5) The bank currently is not subject to a formal enforcement proceeding or order by the FDIC, OCC, or Federal Reserve System; and

(6) No person acquired control of the bank during the preceding 12-month period in which a full-scope, on-site examination would have been required but for this section.

(c) *Authority to conduct more frequent examinations.* This section does not limit the authority of the FDIC to examine any insured state nonmember bank as frequently as the agency deems necessary.

[63 FR 16381, Apr. 2, 1998]

PART 338—FAIR HOUSING

Subpart A—Advertising

Sec.

338.1 Purpose.

338.2 Definitions applicable to subpart A of this part.

338.3 Nondiscriminatory advertising.

338.4 Fair housing poster.

Subpart B—Recordkeeping

338.5 Purpose.

338.6 Definitions applicable to this subpart B.

338.7 Recordkeeping requirements.

338.8 Compilation of loan data in register format.

338.9 Mortgage lending of a controlled entity.

AUTHORITY: 12 U.S.C. 1817, 1818, 1819, 1820(b), 2801 *et seq.*; 15 U.S.C. 1691 *et seq.*; 42 U.S.C. 3605, 3608; 12 CFR parts 202, 203; 24 CFR part 110.

Subpart A—Advertising

§ 338.1 Purpose.

The purpose of this subpart A is to prohibit insured state nonmember banks from engaging in discriminatory advertising with regard to residential real estate-related transactions. This subpart A also requires insured state nonmember banks to publicly display either the Equal Housing Lender poster set forth in § 338.4(b) of the FDIC's regulations or the Equal Housing Opportunity poster prescribed by part 110 of the regulations of the United States