

§439-A. Lending limits

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Loans or extensions of credit" includes all direct or indirect advances of funds to a person that are made on the basis of any obligation of that person to repay the funds or that are repayable from specific property pledged by or on behalf of the person. "Loans or extensions of credit" may include, to the extent specified by the superintendent, any liability of a financial institution to advance funds to or on behalf of a person pursuant to a contractual commitment. [PL 1991, c. 34, §8 (NEW).]

B. "Person" has the same meaning as defined in section 131, subsection 30. In determining loan limitations pursuant to subsection 2, the superintendent may further define "person," including, through rulemaking, the establishment of standards regarding the aggregation of loans with respect to related persons. [PL 1991, c. 34, §8 (NEW).]

[PL 1991, c. 34, §8 (NEW).]

2. Limitations. A financial institution subject to this Title or a service corporation established pursuant to section 445 may not make loans or extensions of credit outstanding at one time to a person in excess of 20% of its total capital. Except as provided in paragraph A, total loans or other extensions of credit in excess of 10% of total capital must be approved by a majority of the governing body or the executive committee of that institution or corporation. Any loan made in violation of this section is subject to the remedies prescribed in section 465-A.

A. The superintendent may grant a partial or full waiver of the voting requirement for loans or other extensions of credit in excess of 10% of total capital for good cause shown. In granting this waiver, the superintendent shall consider capital, management and resources of the financial institution or other relevant factors as determined by the superintendent. [PL 1999, c. 205, §1 (NEW).]

B. Any waiver granted pursuant to paragraph A may be withdrawn by the superintendent upon written notice to the financial institution. [PL 1999, c. 205, §1 (NEW).]

[PL 1999, c. 205, §1 (AMD).]

3. Exclusions from limitations. The limitations contained in subsection 2 are subject to the following exceptions:

A. Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse; [PL 1991, c. 34, §8 (NEW).]

B. Loans or extensions of credit to municipal corporations located within this State upon their bonds or notes; [PL 1991, c. 34, §8 (NEW).]

C. Loans or extensions of credit to the extent that they are secured or covered by guarantees, or by commitments or agreements to take over or purchase the loans or extensions of credit, made by any Federal Reserve Bank, the United States, this State or any department, bureau, board, commission, agency, authority, instrumentality or establishment of the United States or this State, including any corporation owned directly or indirectly by the United States or this State; [PL 1991, c. 34, §8 (NEW).]

D. Loans or extensions of credit secured by a segregated deposit account in the lending bank; [PL 1991, c. 34, §8 (NEW).]

E. Obligations as endorser, with or without recourse, or as guarantor, conditional or unconditional of dealer-originated obligations; and [PL 1991, c. 34, §8 (NEW).]

F. Sales of federal funds, interbank deposits, which do not include certificates of deposit, and clearings. [PL 1991, c. 34, §8 (NEW).]
[PL 1991, c. 34, §8 (NEW).]

4. Record of directors' actions. When loans in excess of 10% of total capital are approved, the records of the financial institution or service corporation must show who voted in favor of the loan. These records and those required by section 222 constitute prima facie evidence of the truth of all facts stated in the records in prosecutions and civil actions to enforce the provisions and penalties under section 465-A.
[PL 1991, c. 681, §1 (AMD).]

5. Rulemaking. The superintendent may adopt rules to administer and carry out this section, including rules to define or further define terms used in this section and to establish limits or requirements other than those specified in this section if the superintendent determines that such action is necessary for the protection of depositors, investors or the public. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 1997, c. 398, Pt. I, §26 (AMD).]

SECTION HISTORY

PL 1991, c. 34, §8 (NEW). PL 1991, c. 681, §1 (AMD). PL 1997, c. 398, §§125,26 (AMD). PL 1999, c. 205, §1 (AMD).

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