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Table of Contents

I. Introduction

National banks are major participants in the international banking system.[1] They make loans to foreign public and private sector borrowers, engage in trade-related finance, purchase debt securities, make equity investments in foreign banks, and place deposits in foreign banks. In each of these spheres of international banking, the United States imposes laws and regulations to prevent undue concentration of exposure which protects banks from economic calamities that might befall their customers or subsidiary investments. The

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[1] The Comptroller of the Currency, a bureau of the Treasury Department, charters and supervises national banks. National banks are members of the Federal Reserve System and their deposits are insured by the Federal Deposit Insurance Corporation. State banks are chartered and supervised by the various state banking authorities. The Federal Reserve Board supervises those state banks that are members of the Federal Reserve System and all bank holding companies, and has important responsibilities for foreign activities of both national and state banks. The FDIC supervises state nonmember insured banks. For a discussion of the bank regulatory framework, see generally Scott, *The Dual Banking System: A Model of Competition in Regulation*, 30 STAN. L. REV. 1 (1977). Although there are about 15,000 commercial banks in the United States, a significant portion of the international and foreign banking is done by 20 or 30 of the largest national banks and state member banks. The so-called money center banks headquartered in New York City, Chicago, San Francisco, and Los Angeles are truly global institutions that derive a substantial amount of their revenues from overseas transactions and investments. *See, e.g.*, Page & Soss, *Some Evidence on Transnational Banking Structure*, in FOREIGN ACQUISITON OF U.S. BANKS 133-89 (1981); Haley & Seligman, *The Development of International Banking by the United States*, in THE INTERNATIONAL BANKING HANDBOOK 35-46 (W. Baughn & D. Mandich eds. 1983).

most significant approach Congress has taken to regulate risk to individual banks and to the national banking system[2] is the imposition of lending limits based on bank capital.[3] The limits are designed so that if a loan or trade credit, for example, becomes a loss situation, that loss cannot wipe out or substantially reduce the capital of the bank. While most of the rules apply to both domestic and foreign transactions,[4] some have special or exclusive relevance in the international context. This article discusses capital-based limits primarily from the perspective of national bank international banking and investment activity.[5]

The capital-based limits on the overseas operations of national banks' Edge Corporations, majority-owned foreign banks, and foreign branches generally apply on a consolidated basis with the parent bank.[6] For example, foreign branch loans, stand-by letters of credit, and acceptances to or on behalf of a customer are combined with equivalent transactions entered into by the parent and the same customer. Overseas exposures of this kind are measured against the

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[2] *See, e.g.*, 12 C.F.R. § 32.1(b) (1985):

> [The lending limit is] intended to prevent one individual, or a relatively small group, from borrowing an unduly large amount of the bank's funds. It is also intended to safeguard the bank's depositors by spreading the loans among a relatively large number of persons engaged in different lines of business.

The most important statutory limits are contained in 12 U.S.C. § 24(7) (1982) (investment securities); *id.* § 84 (lending limit); *id.* § 371c (member bank transactions with affiliates); *id.* §§ 372, 373 (bankers acceptances); *id.* § 463 (member bank placements of deposits in other banks); and *id.* § 601 (investments in Edge Corporations and foreign banks).

[3] The credit and investment limits are contained in a number of statutes which refer variously to bank "paid-in capital and surplus," "capital," "unimpaired capital and surplus," and similar phrases. The Comptroller of the Currency has defined the relevant terms. 50 Fed. Reg. 10,218 (1985) (to be codified at 12 C.F.R. § 3.100). For convenience, the term bank "capital" is used herein to cover all the synonymous statutory phrases.

[4] For example, 12 U.S.C. § 372(b), (e) (1982) permits a member bank to accept drafts or bills of exchange drawn by foreign banks for the purpose of furnishing dollar exchange with a per-customer limit of 10% and an aggregate limit of 150% of the accepting bank's capital. 12 U.S.C. § 601 (1982) and the Federal Reserve Board's implementing Regulation K, 12 C.F.R. §§ 211.1-.602 (1985), cover investments in Edge Corporations and foreign banks, and Regulation K additionally applies limits to Edge Corporations and to foreign banks that are majority-owned by a member bank.

[5] This article focuses on national banks because there is a single federal statutory scheme that imposes capital-based limits on such banks. State banks are subject to a variety of state law restrictions, depending on where they are located. For example, the national bank lending limit is contained in 12 U.S.C. § 84(a)(1) (1982). State bank lending limits are a matter of state law in each of the 50 jurisdictions. In most other important respects, however, national banks and state member banks are subject to the same federal limits. The Federal Reserve Act, *id.* § 335, provides that "state member banks shall be subject to the same limitations and conditions with respect to the purchasing, selling, underwriting, and holding of investment securities and stock as are applicable in the case of national banks" under § 24(7). The bankers acceptance limitations in §§ 372 and 373, the deposit limits in § 463, and the limits on bank investments in Edge Corporations and foreign banks contained in Regulation K, 12 C.F.R. §§ 211.1-.602, all apply to member banks whether national or state chartered. Accordingly, much of what is said about national banks in this article applies to state member banks as well.

[6] 12 U.S.C. § 604 (1982). *See generally* COMPTROLLER'S HANDBOOK FOR NATIONAL BANK EXAMINERS §§ 303, 408, 801-817, 900.408 (1984).

parent bank's capital-based limits because they can have a significant impact on the parent's financial well-being. An Edge Corporation's unsecured acceptances for any person cannot exceed ten percent of the Edge Corporation's capital unless the excess amount is guaranteed by or participated to other banks.[7] The liabilities of any person to an Edge Corporation and its subsidiaries, with certain exceptions, cannot exceed fifteen percent of the Edge Corporation's capital.[8] Finally, the total liabilities of any person to a majority-owned foreign bank or an Edge Corporation subsidiary of a national bank are combined with the liabilities of that person to the parent national bank and cannot exceed the parent's lending limit.[9]

II. Loans

A. Lending Limits

To avoid undue concentration of a bank's loan portfolio, the National Bank Act[10] limits the amount of loans that can be made to a single borrower. The 12 U.S.C. § 84 lending limits, most recently amended in 1982, provide that a national bank cannot lend more than fifteen percent of its capital to a single "person," defined broadly to include individuals, businesses in various forms, and foreign governments and political subdivisions thereof.[11] Currently, there is no aggregate cap on the amount of loans that a national bank can make to different, unrelated private borrowers in a given country. Each borrower can obtain up to fifteen percent of the lending bank's capital. The Comptroller of the Currency's lending limit regulation imposes a fifty percent cap on borrowings by a "corporate group," which includes a corporate shareholder and all of its subsidiaries.[12] Thus, a foreign corporation and its subsidiaries, even if each subsidiary is financially independent, cannot borrow more than fifty percent of the lending bank's capital.

In contrast, government borrowings are not subject to group limits. The Comptroller of the Currency's lending limit regulation permits different government agencies and instrumentalities to borrow up to fifteen percent of the bank's capital provided they each satisfy the means and purpose test embodied in the regulation.[13]

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[7] Amendment to Regulation K, 50 Fed. Reg. 39,974, 39,985 (1985) (to be codified at 12 C.F.R. § 211.6(a)).

[8] *Id.* (to be codified at 12 C.F.R. § 211.6(b)).

[9] *Id.*

[10] 12 U.S.C. § 84 (1982).

[11] For a general discussion of the lending limit statute, see Glidden, *National Bank Lending Limits and the Comptroller's Reg: A Clarification*, 101 BANKING L.J. 430 (1984); Glidden, *National Bank Lending Limits: Interpretive Issues and Practical Considerations*, 101 BANKING L.J. 554 (1984) [hereinafter Glidden, *Interpretive Issues*].

[12] 12 C.F.R. § 32.5(b) (1985).

[13] *Id.* § 32.5(d). Government "agency" and "instrumentality" are not defined concepts. At one extreme, private concerns are clearly not covered because there is no gov-

This test requires that the government owned borrower obtain funds for its own purpose and have the means to repay the debt independent of the government.[14] If these conditions are not met, the loan will be combined with other borrowings by the government for inclusion in the fifteen percent sovereign limit. Potentially numerous commercial banks, utilities, retailers, manufacturers, and trading companies, all owned partially or wholly by the government of a particular country, can individually obtain loans up to fifteen percent of the lending bank's capital.

There are several exceptions to the fifteen percent per-customer limit, and three are especially important in the international banking context. First, the bank can lend an additional ten percent provided the loan is fully secured by "readily marketable collateral."[15] This term is defined in the Comptroller of the Currency's lending limit regulation to include financial instruments such as stocks, notes, and bonds traded on a national securities exchange, commercial paper, and negotiable certificates of deposit.[16] Second, the bank can lend an unlimited amount to a customer if the loans are secured by takeout commitments or guarantees of an agency or establishment of the United States.[17] For example, loans insured or guaranteed by the Export-Import Bank are not subject to a bank's lending limit.[18] Finally, a bank's discount of certain commercial or business paper given in payment for commodities in domestic or export transactions is exempt from the lending limit.[19]

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ernment ownership. At the other extreme, central governments can qualify only for a single 15% limit. In the case of a government ministry or department, for example, there is no separate and distinct commercial existence, and accordingly no reason to apply the means and purpose test. The Comptroller of the Currency discussed this point in 1979 in the course of adopting Interpretive Ruling 7.1330, 44 Fed. Reg. 22,712-13 (1979) (codified at 12 C.F.R. § 7.1330 (1985)), the predecessor to 12 C.F.R. § 32.5(d) (1985).

[14] 12 C.F.R. § 32.5(d)(2) (1985) requires banks to retain in their files documentation showing that each particular public sector borrower satisfied the means and purpose test at the time the loan was made.

[15] 12 U.S.C. § 84(a)(2) (1982).

[16] 12 C.F.R. § 32.4(c) (1985).

[17] 12 U.S.C. § 84(c)(5) (1982); 12 C.F.R. § 32.6(e) (1985).

[18] The Export-Import Bank is an independent corporate agency of the United States created to aid in the financing of imports and exports. It is empowered, among other things, to provide guarantees, insurance, and extensions of credit. 12 U.S.C. § 635(b)(1)(A) (1982). Its contractual liabilities constitute full faith and credit obligations of the United States. 42 Op. Att'y Gen. 327 (1966). *See, e.g.*, Comptroller of the Currency Interpretive Letters of June 29, 1984, Legal Advisory Services Div., 12 U.S.C. § 84 File; July 10, 1984, [Current] FED. BANKING L. REP. (CCH) ¶ 85,464. In contrast, the Foreign Credit Insurance Association, the other major insurer of import and export credits, is an association of about 50 private insurance companies. Accordingly, loans supported by FCIA insurance are subjected to the bank's 15% per-customer limit. *E.g.*, Interpretive Letter of July 10, 1984, *supra*.

[19] 12 U.S.C. § 84(c)(1) (1982).

B. Trade Finance

Short-term loans to U.S. or foreign customers to finance international trade transactions are also subject to a national bank's lending limit. Stand-by letters of credit, in which the issuing bank promises to pay the beneficiary in the event the bank's customer does not perform its obligation to that beneficiary, are subject to the lending limit upon issuance. This restriction is imposed even though in most cases the bank will never be called upon to disburse any funds.[20] As previously mentioned, the discount of business or commercial paper arising from import and export transactions is exempt from lending limits.

Two additional trade credits important to international banking are commercial letters of credit and banker's acceptances. Many trade contracts and shipments of goods are made possible because a buyer has arranged for his bank to issue a letter of credit promising to pay the seller upon delivery of the goods with appropriate title documents.[21] Such commercial letters of credit are particularly useful in international trade because there is often a substantial time lag between contract and delivery, and frequently the exporter and importer are only vaguely known to each other.

Letters of credit operate as both payment and financing mechanisms. The payment feature is obvious. The financing is achieved because the buyer-importer can enter into contracts on a promise to pay in the future (through the bank). Commercial letters of credit, in contrast to stand-by letters of credit, are not subject to capital-based limits because they are generally short-term, secured, and anticipate payment based not on the bank customer's default but on the orderly completion of the applicable sales transactions.[22] Like stand-by letters of credit, commercial letters of credit represent a significant contingent liability for many of the largest banks that is not reflected on their balance sheets.[23] If the bank's customer does not reimburse immediately when payment is made under the commercial letter, the

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[20] 12 C.F.R. § 32.2(a), (d), (e) (1985). Foreign governments and foreign companies often desire to have a U.S. bank (from its home office or through a foreign branch or subsidiary) issue a standby letter of credit in which the bank will pay if a U.S. company (the bank's customer) fails to fulfill its obligations, for example, on a construction project or merchandise delivery. *See generally* Lloyd-Davies, *Standby Letters of Credit of Commercial Banks*, in FEDERAL RESERVE BOARD STAFF STUDIES: BELOW THE BOTTOM LINE 17, 36-40 (1982); Driscoll, *The Role of Standby Letters of Credit in International Commerce: Reflections After Iran*, 20 VA. J. INT'L L. 459 (1980); Becker, *Standby Letters of Credit and the Iranian Cases: Will the Independence of the Credit Survive?*, 13 U.C.C. L.J. 335, 339-41 (1980).

[21] *See, e.g.*, H. HARFIELD, BANK CREDITS AND ACCEPTANCES chs. 2-4 (5th ed. 1974); Goldberg, *Commercial Letters of Credit and Bankers Acceptances*, in FEDERAL RESERVE BOARD STAFF STUDIES: BELOW THE BOTTOM LINE 131 (1982); Comment, *Letters of Credit: Current Theories and Usages*, 39 LA. L. REV. 581 (1979).

[22] *See generally supra* note 21.

[23] Wolkowitz, *Off-Balance-Sheet Items of Commercial Banks: An Overview*, FEDERAL RESERVE BOARD STAFF STUDIES: BELOW THE BOTTOM LINE 1 (1982).

bank ordinarily creates an acceptance for or books a loan to that customer. Thus, the commercial letter of credit contingent liability ultimately enters into the bank's lending limits and its balance sheet.

Banker's acceptances are another payment and financing instrument commonly used to facilitate international trade.[24] A draft or bill of exchange is an order to pay a specified amount at a specified time, drawn on an individual, a business firm, or a financial institution. When the drawee promises to honor the draft or bill at maturity, usually by stamping "Accepted" with the appropriate signature on its face, the instrument becomes an "acceptance." When drawn on a bank which accepts, the instrument is known as a "bankers acceptance."

The accepting bank's customer may be either the buyer or the seller of goods. When the bank represents the buyer, it usually issues a letter of credit promising the seller (or the seller's bank) that it will accept a time draft drawn on it under specified conditions.[25] When the accepting bank represents the seller, it simply accepts the draft drawn on it; there is no accompanying letter of credit. The seller of goods whose time draft is accepted by his own bank or by the buyer's bank may obtain short-term financing in two ways. The drawer may sell the accepted draft in the open market, receiving funds from an investor who relies on the reputation of the accepting bank. Alternatively, the accepting bank may discount (purchase) its own acceptance, directly funding the drawer.[26] The bank will hold the draft to maturity or rediscount it either to the Federal Reserve System or to an investor (often another bank).[27] In any event, the accepting bank will honor the draft at maturity and look to the buyer of the goods for reimbursement. Thus, the risk of default arises out of the buyer's inability to pay.

The Federal Reserve Act imposes per-customer and aggregate limits on member banks' acceptances that qualify for rediscount with the Federal Reserve System ("eligible acceptances").[28] The Act provides that a member bank may accept drafts or bills of exchange

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24 *See generally* H. HARFIELD, *supra* note 21, at chs. 8-9; Goldberg, *supra* note 21; Glidden, *Interpretive Issues*, *supra* note 11, at 555-58.

25 In 1921 the Federal Reserve Board ruled that commercial letters of credit were not subject to the aggregate limits imposed on bankers acceptances which a member bank can have outstanding at any one time. The Federal Reserve Board distinguished between letters of credit that represent only an agreement to make acceptances, and acceptances actually made. PUBLISHED INTERPRETATIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM ¶ 1570, at 82 (1979) [hereinafter PUBLISHED INTERPRETATIONS]. This ruling indicates the close relationship that has traditionally existed between letters of credit and acceptances.

26 H. HARFIELD, *supra* note 21, at 118-21, 123-24; Goldberg, *supra* note 21, at 142-47.

27 *Id.* While the bank holds its own acceptances having given value therefor, the amount given is treated as a loan to the customer for whom the acceptance was made and is subject to 12 U.S.C. § 84 (1982). *See* 12 C.F.R. § 32.6(b)(4) (1985).

28 12 U.S.C. §§ 372, 373 (1982).

drawn upon it which have no more than " 'six months' sight to run"[29] and arise from the import or export of goods.[30] A bank can create or issue acceptances for up to ten percent of its capital for a single customer unless the acceptance is fully secured on the transaction.[31] The aggregate limit is 150 percent of the accepting bank's capital. With the Federal Reserve Board approval, a bank can issue acceptances up to 200 percent of its capital in the aggregate.[32] A bank may participate[33] shares in its acceptances thereby reducing its per-customer and aggregate exposures for purposes of the statutory limits.[34] A bank's participation in another bank's acceptance is included in the participating bank's per-customer and aggregate limits.

While eligible acceptances remain outstanding, they are governed by the Federal Reserve Act limitations, rather than by bank lending limits because the acceptance limitations are more specific. Thus, the lending limit statute does not control where Congress has provided a different, targeted limitation in another statute.[35] The purchase of another bank's eligible acceptance (or a participation therein) is also not subject to the purchasing bank's lending limit.[36] Eligible acceptances can, however, lead to inclusion as loans under 12 U.S.C. § 84 in one of two ways. First, the bank may discount its own acceptance. This action removes the acceptance from Federal Reserve Act coverage and converts the transaction into an ordinary short-term loan to the bank's customer.[37] Second, an accepting bank may honor a draft at maturity that is not immediately reimbursed. This also triggers a section 84 loan to the bank's customer on whose behalf the acceptance was created.[38]

Historically, the Federal Reserve Board and the Comptroller of the Currency have taken the position that member banks may accept time drafts or bills for customers although such acceptances do not

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29 *Id.* § 372(a).

30 *Id.* The acceptances may also grow out of transactions involving the domestic shipment of goods secured by title documents relating to readily marketable staples. *Id.* There is a special 50% aggregate limit imposed on acceptances growing out of domestic transactions. *Id.* § 372(d).

31 *Id.* § 372(e).

32 *Id.* § 372(b), (c). Ordinarily, the aggregate limit is 150% of the accepting bank's capital, unless the Federal Reserve Board authorizes an additional amount up to 200%. The 50% limit on acceptances for domestic transactions cannot be increased. *Id.* § 372(d).

33 *Id.* § 372(f).

34 *Id.* Of course, a bank's participation in another bank's acceptance is included in the participating bank's per-customer and aggregate limits. *See id.* § 372(b), (e).

35 12 C.F.R. § 32.6(b)(3) (1985); 12 U.S.C. § 372(b)-(f) (1982). Other examples for national banks include the investment limits in 12 U.S.C. § 24(7) (1982), which are considered distinct from the bank's lending limit to the same obligor, *see* 12 C.F.R. § 32.111 (1985), and bank loans to corporations affiliated with it, which are controlled by the more detailed limitations and exceptions for affiliate transactions in § 23A of the Federal Reserve Act, 12 U.S.C. § 371c (1982).

36 *See* 12 U.S.C. § 84(c)(2) (1982); 12 C.F.R. § 32.6(b)(2) (1985).

37 12 C.F.R. § 32.6(b)(4) (1985).

38 *Cf. id.* § 32.6(b).

satisfy the requirements of the Federal Reserve Act.[39] Because these transactions do not qualify for discount at a Federal Reserve Bank, they are called "ineligible acceptances." The capital-based limits of the Federal Reserve Act[40] subject these instruments to the accepting bank's lending limits from the time of issuance.[41] Similarly, when a bank purchases another bank's ineligible acceptance, the transaction is subject to the purchasing bank's lending limit, and the accepting bank is treated as a borrower.[42]

III. Investment Limits

The investment limits prescribed for national banks in 12 U.S.C. § 24(7) are distinct from the section 84 lending limits.[43] Pursuant to section 24(7), a bank may purchase investment securities of any obligor or maker in an amount up to ten percent of bank capital. The term "investment security" is defined by regulation as "a marketable obligation in the form of a bond, note, or debenture which is commonly regarded as an investment security."[44] Thus, a bank may purchase debt securities issued by a foreign government or a foreign corporation up to ten percent of its bank capital, and may additionally make loans to that issuer subject to separate lending limit treatment.

Bank investments in equity securities and branches are subject to different regulations than investments in debt securities. Although national banks are generally prohibited from owning stock in other companies,[45] they nevertheless can invest up to ten percent of their capital in the stock of one or more Edge Corporations.[46] Chartered and regulated by the Federal Reserve Board, Edge Corporations principally engage in international or foreign banking either

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39 PUBLISHED INTERPRETATIONS, *supra* note 25, ¶¶ 1050, 1051, at 69; 12 C.F.R. § 7.7420 (1985).

40 *E.g.*, PUBLISHED INTERPRETATIONS, *supra* note 25, ¶ 1051, at 69.

41 12 C.F.R. § 32.6(b)(3) (1985).

42 *Id.* § 32.6(b)(2).

43 *Id.* § 32.111.

44 *Id.* § 1.3(b). The term does not encompass investments which are "predominantly speculative in nature." *Id.*

45 See 12 U.S.C. § 24(7) (1982) for the general prohibition on stock ownership, and for certain limited exceptions. *See generally* Glidden, *The Regulation of National Bank Subsidiaries*, 40 BUS. LAW. 1299 (1985).

46 Federal Reserve Act, Pub. L. No. 270, ch. 461, § 25, 39 Stat. 755 (1916) (codified at 12 U.S.C. §§ 601-604a (1982)). See also Federal Reserve Act, Pub. L. No. 106, ch. 18, § 25(a), 41 Stat. 378 (1919) (codified at 12 U.S.C. §§ 611-631 (1982)); 12 C.F.R. §§ 211.1-.7 (1985), for further provisions on Edge Corporations. Edge Corporations derive their name from a 1919 statute, popularly known as the Edge Act, that essentially sets forth their powers and limits. The Act was named after its chief sponsor, Senator Edge of New Jersey. *See* Act of Dec. 24, 1919, ch. 18, 41 Stat. 378 (codified at 12 U.S.C. §§ 611-631 (1982)). *See generally* Foorman, *Revised Regulation K: Selected Issues Affecting Banking Edge Corporations*, 1980 U. ILL. L.F. 41; Kelley, *Edge Act Corporations After the International Banking Act and New Regulation K; Implications for Foreign and Regional or Smaller Banks*, 20 VA. J. INT'L L. 37 (1979).

directly or through the ownership of foreign banks.[47] National banks may also invest directly in foreign banks under conditions prescribed by the Federal Reserve Board.[48] The Federal Reserve Board's Regulation K grants general consent for small investments in foreign banks, requires prior notification for an investment greater than 15,000,000 dollars and up to ten percent of the investor's capital, and requires specific consent from the Federal Reserve Board for any larger investment.[49] Finally, by setting up branches in foreign countries, banks can establish a direct overseas presence.[50] There is no capital-based limit on bank investment in foreign banks or on the establishment of foreign branches except for the minimal requirement that the bank have at least 1,000,000 dollars in capital.

IV. Deposits in Foreign Banks

Member banks cannot keep on deposit a sum in excess of ten percent of the depositing bank's capital if the depository institution is not authorized to have access to Federal Reserve advances under 12 U.S.C. § 347b.[51] Under a longstanding ruling of the Federal Reserve Board, the ten percent limit does not apply to member bank deposits in foreign banks.[52] Accordingly, member banks' advances of funds are subject to no capital-based limits when placed in the form of deposits in foreign banks. Importantly, this allows flexibility in foreign loan restructurings, particularly in the case of creditor banks that may wish to advance more funds to a particular country and are close to their loan limits for that nation.

V. Conclusion

Capital-based limits are designed to spread a bank's credit and investment risks among a diverse group of customers or enterprises. This affords protection to the overall national banking system indirectly by protecting individual banks from the unforeseen economic adversity of their borrowers. These limits, however, cannot assure bank profitability, but are intended to promote it. Internationally, per-customer credit risks and investment risks are accompanied by

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47 See generally *supra* note 46 for materials discussing Edge Corporations.

48 12 U.S.C. § 601 (cl. 3) (1982).

49 Amendment to Regulation K, 50 Fed. Reg. 39,974, 39,984 (1985) (to be codified at 12 C.F.R. § 211.5(c)). The general consent limit is the lesser of $15 million or 5% of the investing member bank's capital. The investment procedures and limits apply to all investors, *i.e.*, bank holding companies and Edge and Agreement Corporations, as well as member banks. 12 C.F.R. §§ 211.1(j), .5(a), (c) (1985) ("investor" defined).

50 12 U.S.C. § 601 (cl. 1) (1982). For restrictions and regulations on such banking operations, see *id.* §§ 602, 604, 604a. There is no capital-based limit on bank investment in foreign banks or on the establishment of foreign branches except for the minimal requirement that the bank have at least $1 million in capital. *Id.* § 601.

51 12 U.S.C. § 463 (1982).

52 PUBLISHED INTERPRETATIONS, *supra* note 25, ¶ 4410, at 341.

the concomitant transfer and political risks associated with any particular regime. Constant monitoring by bank managements and the regulatory authorities is needed to assure that no undue concentrations are allowed to develop.