AMENDMENT TO REGULATION Q

Early Withdrawal Penalty and Maximum Rates of Interest

TO ALL MEMBER BANKS AND OTHERS CONCERNED IN THE ELEVENTH FEDERAL RESERVE DISTRICT:

In our Circular No. 79-96, dated June 4, 1979, you were furnished the text of amendments to Regulation Q, effective July 1, 1979. Enclosed is a copy of the amendments suitable for filing in your Regulations Binder.

In addition, the Regulation Q pamphlet, amended effective December 6, 1978, contains an error. Enclosed is an Erratum to Regulation Q which should be inserted in this pamphlet.

Additional copies of the amendment and the Erratum will be furnished upon request to the Secretary's Office of this Bank, Ext. 6267.

Sincerely yours,

Robert H. Boykin
First Vice President

Enclosures (2)
Effective July 1, 1979, §§217.4, 217.6, and 217.7 of Regulation Q are amended as follows:

SECTION 217.4 — PAYMENT OF THE TIME DEPOSITS BEFORE MATURITY

(d) Penalty for early withdrawals. Where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. If the amount withdrawn has remained on deposit for less than three months, all interest shall be forfeited. Where a time deposit with an original maturity of more than one year, or any portion thereof, is paid before maturity, a depositor shall forfeit at least six months interest on the amount withdrawn at the rate being paid on the deposit. If the amount has remained on deposit for less than six months, all interest shall be forfeited. ¹ Where necessary to comply with the requirements of this paragraph, any interest already paid to or for the account of the depositor shall be deducted from the amount requested to be withdrawn. Any amendment of a time deposit contract that results in an increase in the rate of interest paid or in a reduction in the maturity of the deposit constitutes a payment of the time deposit before maturity. A time deposit may be paid before maturity without a forfeiture of interest as prescribed by this paragraph in the following circumstances: * * *

(e) Disclosure of early withdrawal penalty. At the time a depositor enters into a time deposit contract with a member bank, the bank shall provide a written statement of the effect of the penalty prescribed in paragraph (d) of this section, which shall (1) state clearly that the customer has contracted to keep his funds on deposit for the stated maturity and (2) describe fully and clearly how such penalty provisions apply to time deposits in such bank, in the event the bank, notwithstanding the contract provisions, permits payment before maturity. Such statements shall be expressly called to the attention of the customer.

SECTION 217.6 — ADVERTISING OF INTEREST ON DEPOSITS

(e) Penalty for early withdrawals. Any advertisement, announcement, or solicitation relating to interest paid by a member bank on time deposits shall include clear and conspicuous notice that the bank is prohibited from allowing payment of a time deposit before maturity unless substantial interest is forfeited. Such notice may state that, “Substantial interest penalty is required for early withdrawal.”

¹ The provisions of this paragraph apply to all time deposit contracts entered into on or after July 1, 1979, and to all existing time deposit contracts that are extended or renewed (whether by automatic renewal or otherwise) on or after such date. All contracts not subject to the provisions of this paragraph shall be subject to the restrictions of § 217.4(d) in effect prior to July 1, 1979, which provided that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that prescribed in § 217.7 for a savings deposit and the depositor shall forfeit three months of interest payable at such rate. If, however, the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited.
SECTION 217.7—MAXIMUM RATES OF INTEREST PAYABLE BY MEMBER BANKS ON TIME AND SAVINGS DEPOSITS

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(b) Fixed ceiling time deposits of less than $100,000. Except as provided in paragraphs (a), (d), (e), (f), and (g), no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

<table>
<thead>
<tr>
<th>Maturity</th>
<th>Maximum percent</th>
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<tbody>
<tr>
<td>30 days or more but less than 90 days</td>
<td>5</td>
</tr>
<tr>
<td>90 days or more but less than 1 year</td>
<td>5½</td>
</tr>
<tr>
<td>1 year or more but less than 30 months</td>
<td>6</td>
</tr>
<tr>
<td>30 months or more but less than 4 years</td>
<td>6½</td>
</tr>
<tr>
<td>4 years or more but less than 6 years</td>
<td>7¼</td>
</tr>
<tr>
<td>6 years or more but less than 8 years</td>
<td>7½</td>
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<tr>
<td>8 years or more</td>
<td>7⅞</td>
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</tbody>
</table>

(c) Savings deposits. No member bank shall pay interest at a rate in excess of 5⅛ per cent on any savings deposit. Provided, however, that no member bank shall pay interest at a rate in excess of 5 per cent on any savings deposit that is subject to negotiable orders of withdrawal, the issuance of which is authorized by Federal law.

(d) Governmental unit time deposits of less than $100,000. Except as provided in paragraphs (a), (f), and (g), no member bank shall pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof, at a rate in excess of 8 per cent.²

(e) Individual Retirement Account and Keogh (H.R. 10) Plan deposits of less than $100,000. Except as provided in paragraphs (a) and (g), a member bank may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401, at a rate not in excess of 8 per cent.²

(f) 26-week money market time deposits of less than $100,000. Except as provided in paragraph (a), a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks, at a rate not to exceed the rate established (auction average on a discount basis) for United States Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit. Rounding such rate to the next higher rate is not permitted. A member bank may not compound interest during the term of this deposit. A member bank may offer this category of time deposit to all depositors.

(g) Time deposits of less than $100,000 with maturities of four years or more. Except as provided in paragraphs (a) and (b), a member bank may pay interest on any nonnegotiable time deposit with a maturity of four years or more that is issued on or after the first day of every month at a rate not to exceed one and one-quarter per cent below the average 4-year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury three business days prior to the first day of such month. The average 4-year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. A member bank may offer this category of time deposit to all depositors.

²The ceiling rate on this category is the highest fixed ceiling rate that may be paid on time deposits under $100,000 by any Federally insured commercial bank, mutual savings bank, or savings and loan association.

¹For this Regulation to be complete as amended effective July 1, 1979, retain:
1) Printed Regulation pamphlet as amended December 6, 1978;
2) Supplement effective June 1, 1978;
3) Amendment effective March 15, 1979; and
4) This slip sheet.
The Regulation Q pamphlet amended effective December 6, 1978 contains an error. The following passage appeared incorrectly in the text of § 217.4(d):

A member bank may not be paid before maturity. This provision does not prevent a member bank from arranging the sale or purchase of such a certificate on behalf of the holder or prospective purchaser of a certificate issued under that subpart.

The first sentence should not have appeared and the second had appeared previously. This passage has been deleted so that § 217.4(d) reads correctly as set forth below:

SECTION 217.4 - PAYMENT OF TIME DEPOSITS BEFORE MATURITY

(a) Time deposits payable on a specified date. No member bank shall pay any time deposit, which is payable on a specified date, before such specified date, except as provided in paragraph (d) of this section.

(b) Time deposits payable after a specified period. No member bank shall pay any time deposit, which is payable at the expiration of a certain specified period, before such specified period has expired, except as provided in paragraph (d) of this section.

(c) Time deposits payable after a specified notice. No member bank shall pay any time deposit, with respect to which notice is required to be given a certain specified period before any withdrawal is made, until such required notice has been given and the specified period thereafter has expired, except as provided in paragraph (d) of this section.

(d) Penalty for early withdrawals. Where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed in § 217.7 for a savings deposit: Provided, That the depositor shall forfeit three months of interest payable at such rate if, however, the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited. Where necessary to comply with the requirements of this paragraph, any interest already paid to or for the account of the depositor shall be deducted from the amount requested to be withdrawn. Any amendment of a time deposit contract that results in an increase in the rate of interest paid or in a reduction in the maturity of the deposit constitutes a payment of the time deposit before maturity. Provided further, That Investment Certificates issued in negotiable form by a member bank pursuant to subpart 3 of § 217.7(b) may not be paid before maturity. This provision does not prevent a member bank from arranging the sale or purchase of such a certificate on behalf of the holder or prospective purchaser of a certificate issued under that subpart. A member bank may not, however, repurchase such certificates for its own account. Provided further, That a time deposit may be paid before maturity without a reduction or forfeiture of interest as prescribed by this paragraph in the following circumstances:

The provisions of this paragraph apply to all time deposit contracts entered into after July 5, 1973, and to all existing time deposit contracts that are extended or renewed (whether by automatic renewal or otherwise) after such date, and to all time deposit contracts that are amended after such date so as to increase the rate of interest paid. All contracts not subject to the provisions of this paragraph shall be subject to the restrictions of § 217.4(d) in effect prior to July 5, 1973, which permitted payment of a time deposit before maturity only in an emergency where necessary to prevent great hardship to the depositor, and which required the forfeiture of accrued and unpaid interest for a period of not less than 3 months on the amount withdrawn if an amount equal to the amount withdrawn was on deposit for 3 months or longer, and the forfeiture of all accrued and unpaid interest on the amount withdrawn if an amount equal to the amount withdrawn had been on deposit for less than 3 months.
(1) Where a member bank pays all or a portion of a time deposit upon the death of any owner of the time deposit funds;

(2) Where a member bank pays all or a portion of a time deposit representing funds contributed to an Individual Retirement Account or a Keogh (H.R. 10) plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401 when the individual for whose benefit the account is maintained attains the age 59½ or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) § 72 (m)(7) or thereafter; or

(3) Where a member bank pays that portion of a time deposit on which Federal deposit insurance has been lost as the result of the merger of two or more Federally insured banks in which the depositor previously maintained separate time deposits for a period of one year from the date of the merger.

Under a time deposit agreement where subsequent deposits reset the maturity of the entire account, each deposit maintained in the account for at least a period equal to the original maturity of the deposit may be regarded as having matured individually and been redeposited at intervals equal to such period. When a time deposit is payable only after notice, for funds on deposit for at least the notice period, the penalty for early withdrawal shall be imposed for at least the notice period.

(e) Disclosure of early withdrawal penalty. At the time a depositor enters into a time deposit contract with a member bank, the bank shall provide a written statement of the effect of the penalty prescribed in paragraph (d) of this section, which shall (1) state clearly that the customer has contracted to keep his funds on deposit for the stated maturity, and (2) describe fully and clearly how such penalty provisions apply to time deposits in such bank, in the event the bank, notwithstanding the contract provisions, permits payment before maturity. Such statements shall be expressly called to the attention of the customer. Written statements made with respect to negotiable Investment Certificates issued by a member bank pursuant to subpart 3 of § 217.7(b) shall state clearly that no payment before maturity will be permitted under any circumstances. Such statements shall be expressly called to the attention of the customer. In addition, every negotiable Investment Certificate shall state conspicuously on its face that, "This time deposit cannot be paid prior to maturity."

(f) Loans upon security of time deposits. A member bank may make a loan to the depositor upon the security of his time deposit provided that the rate of interest on such loan shall be not less than 1 per cent per annum in excess of the rate of interest on the time deposit.

"For the purposes of this provision, an "owner" of time deposit funds is any individual who at the time of his or her death has full legal and beneficial title to all or a portion of such funds, or, at the time of his or her death, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto."