

# FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 80-98  
May 20, 1980

## TITLE 12 - CHAPTER XII - INTEREST ON DEPOSITS

Proposed Prohibition of Premiums on Deposits;  
Penalty-free Withdrawal of Interest Earned During a Preceding  
Maturity; Payment of Interest on Funds Withdrawn Not  
More Than Seven Days After a Maturity Date

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

The Depository Institutions Deregulation Committee, created by the Depository Institutions Deregulation and Monetary Control Act of 1980, has the authority to make rules and set interest rate ceilings on deposits of commercial banks, mutual savings banks, and savings and loan associations. In its first action, the Committee issued a proposal to prohibit any premiums or gifts given by an institution for opening a new account or adding to an existing account. The Committee proposed to limit any finder's fees to third parties to cash payments and to regard any such fee as interest to the depositor. Interested parties are invited to submit comments by June 16, 1980, to Norman R. V. Bernard, Executive Secretary, Depository Institutions Deregulation Committee, Federal Reserve Building, 20th Street and Constitution Avenue, N. W., Washington, D.C. 20551.

In other actions, the committee adopted the following two rules, effective May 6, 1980:

1. If a time deposit is renewed automatically on the same terms (including at the same rate of interest), interest earned during the preceding term or terms as well as interest being earned during the new maturity period may be paid at any time during the new maturity period without penalty, unless an agreement provides otherwise.
2. Depository institutions now may provide in their time deposit contracts for the payment of interest on funds withdrawn not more than seven days after a maturity date. Payment of interest on the funds withdrawn may be at the originally specified contract rate, or at a lower specified contract rate as long as the rate specified is not less than the authorized savings deposit rate for that institution.

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Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank: 1-800-442-7140 (intrastate) and 1-800-527-9200 (interstate). For calls placed locally, please use 651 plus the extension referred to above.

Enclosed are copies of a press release and Federal Register notice regarding the composition of the Deregulation Committee and the actions taken. Member banks should keep a copy of this circular and place it with the Regulation Q section of their Regulations Binders.

Questions concerning the action taken should be directed to the Consumer Affairs Section of the Bank Supervision and Regulations Department, Ext. 6171.

Sincerely yours,

Robert H. Boykin

First Vice President

Enclosures

# DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE PRESS RELEASE

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COMPTROLLER OF THE CURRENCY    FEDERAL DEPOSIT INSURANCE CORPORATION    FEDERAL HOME LOAN BANK BOARD  
FEDERAL RESERVE BOARD            NATIONAL CREDIT UNION ADMINISTRATION            TREASURY DEPARTMENT

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For immediate release

May 7, 1980

The Depository Institutions Deregulation Committee today announced that at its first meeting it elected Paul A. Volcker, Chairman of the Federal Reserve Board, as its Chairman. Irvine H. Sprague, Chairman of the Federal Deposit Insurance Corporation, was named Vice Chairman.

The Committee was created by the Depository Institutions Deregulation and Monetary Control Act of 1980, signed on March 31. Title II of that Act transferred to the newly formed Committee the authority to set interest rate ceilings on deposits of commercial banks, mutual savings banks and savings and loan associations. The Committee's assignment under the Act is to provide for the orderly phase-out of interest rate ceilings over a six-year period and eventually to provide depositors with a market rate of return on their savings.

Members of the Committee are the Secretary of the Treasury and the chairmen of the Federal Reserve Board, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board and the National Credit Union Administration Board. The Comptroller of the Currency serves as a nonvoting member.

In its first substantive action, the Committee requested comment by June 16 on a proposal to prohibit any premiums or gifts given by an institution upon the opening of a new account or an addition to an existing account. Premiums are now limited to \$5 (at wholesale, exclusive of packaging and shipping costs) for deposits of less than \$5,000 and to \$10 for deposits of \$5,000 or more.

In addition, the Committee proposed to limit any finder's fees to third parties to cash payments and to regard any finder's fees as interest to the depositor. Comment was requested on this proposal, also by June 16.

In other actions, the Committee:

1. Adopted a final rule, effective May 6, that permits a depositor to withdraw at any time without penalty all interest earned on a time deposit that was renewed automatically on the same terms as the original deposit. This will bring rules of the FDIC and the Federal Reserve into conformity with those of the Federal Home Loan Bank Board.

2. Adopted a final rule, also effective May 6, authorizing institutions to pay interest on certificates of deposit for up to seven days after the maturity date. At present, the Federal Home Loan Bank Board permits savings and loan associations to pay interest for up to 10 days after a certificate matures (7 days for the 26-week money market certificate). The FDIC and Federal Reserve have no parallel ruling.

The National Credit Union Administration is expected to take actions similar to the final rules adopted by the Committee.

In other organizational matters, the Committee selected the following members of its permanent staff:

As general counsel, Neal L. Petersen, general counsel of the Federal Reserve Board; as Executive Secretary, Normand R. V. Bernard, Special Assistant to the Federal Reserve Board; and as Policy Director, Edward C. Ettin, Deputy Staff Director in the Office of Staff Director for Monetary and Financial Policy at the Federal Reserve. The permanent offices of the Committee will be at the Federal Reserve Board.

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

[12 CFR Part 1204]

(Docket No. D-0004)

Notice of Proposed Rulemaking

Premiums, Finders Fees, and the Payment of Interest in Merchandise

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Proposed rules.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") proposes to adopt a rule concerning the offering of premiums or gifts by depository institutions. Under the proposed rule, the giving to a depositor of a premium or gift (whether in the form of cash or merchandise) by an institution associated directly with the receipt of a deposit would be prohibited. In addition, finders fees paid to third parties would be regarded as the payment of interest to the depositor and would be required to be paid only in cash. The Committee also is considering adoption of a proposed rule that would require that all interest paid on a deposit be paid only in the form of cash or a credit to a deposit account. This rule would have the effect of eliminating programs, currently authorized under Federal Reserve and FDIC rules, in which interest is prepaid in the form of merchandise.

DATES: Comments must be received by June 16, 1980.

ADDRESS: Interested parties are invited to submit written data, views or arguments regarding the proposed rules to Normand R. V. Bernard, Executive Secretary, Depository Institutions Deregulation Committee, Federal Reserve Building, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation (202/389-4324), Anthony F. Cole, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3612), P. Allan Schott, Attorney, Treasury Department (202/566-6798), John Hall, Attorney, Federal Home Loan Bank Board (202/377-6466), or Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447-1633).

SUPPLEMENTARY INFORMATION: Under the current rules of the Board of Governors of the Federal Reserve System ("Federal Reserve"), the Federal Deposit Insurance Corporation ("FDIC"), and the Federal Home Loan Bank Board ("FHLBB"), a premium given to a depositor upon the opening of a new account or an addition to an existing account is not regarded as the payment of interest if the cost of the premium (excluding shipping and packaging costs) does not exceed \$5 for deposits of less than \$5,000 and \$10 for deposits of \$5,000 or more, and the premium is not given on a recurring basis to the same individual.

In recent months, the attention of the Federal financial institutions regulatory agencies has been directed to possible circumvention of interest rate limitations through the use of premiums to induce deposits and finders fees paid to a person who introduces a depositor to an institution. Such programs require a substantial amount of examiner time investigating complaints and reviewing compliance. The current premium rule was adopted by the agencies in 1970 in order to establish what constituted a de minimis gift that would not be regarded as the payment of interest. It was intended that the rule would clarify this matter and reduce time spent by the agencies in reviewing individual programs. However, in practice the rule is difficult to enforce because it can be circumvented by attributing an inflated portion of the total cost of the premium to shipping and packaging, rather than to the direct wholesale cost of the premium. In addition, some institutions may have been billed at an average cost for a group of different items, thus enabling the institutions to provide premiums that would otherwise exceed the limitations. Consequently, the existing rule does not appear to have served its original purpose.

Finders fees, whether in the form of cash or merchandise, are fees paid to a person who introduces a depositor to an institution. The finders fee is typically related to the size of the deposit received by the institution. Under the current rules of the FHLBB, the cost of any premiums given to a depositor and finders fees given to a third party are regarded as the payment of interest if in excess of \$5 for deposits of less than \$5,000 and \$10 for deposits of \$5,000 or more. The rules of the FDIC and Federal Reserve do not restrict the use of finders fees paid to third parties. However, if any portion of the fee is passed on to the depositor or a member of the depositor's household, it is regarded as additional interest on the deposit.

Recently banks have increased use of finders fees to attract deposits. There are indications that finders fees are being employed to avoid current premium limitations and that some or all of such fees may go to the depositor. To the extent that such a practice occurs, it results in a circumvention of interest rate ceilings.

In view of these considerations, the Committee is considering adoption of a rule that would prohibit the giving to a depositor of a premium or gift (whether in the form of cash or merchandise) upon the opening of a new account or an addition to an existing account. The Committee also is considering adoption of a rule that would require that all finders fees be paid only in cash and that would regard such fees as the payment of interest to the depositor for the purpose of deposit rate ceilings. With reference to finders fees, comment specifically is requested on the extent to which such fees are passed on to or shared with depositors and procedures utilized to ensure that such fees are not passed on to depositors.

Comment also is requested on alternatives to prohibiting the use of premiums.

The Committee also is considering adoption of a rule that would require that all interest paid on a deposit be paid only in the form of cash or a credit to a deposit account. The Committee believes that this rule would benefit consumers by making the amount of interest paid on a deposit explicit, thus facilitating comparisons by depositors and reducing potential customer confusion as to the actual return earned on a deposit. This rule would have the effect of eliminating programs, currently authorized under FDIC and Federal Reserve rules, in which interest is prepaid in the form of merchandise. Comment also is requested on whether the prepayment of interest in cash should be prohibited.

All comments and information on these proposals should be submitted to the Executive Secretary, Depository Institutions Deregulation Committee, Federal Reserve Building, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, to be received by June 16, 1980. Material submitted will be made available for inspection and copying upon request except as provided in section 1202.5 of the Committee's Rules Regarding Availability of Information (12 CFR 1202.5).

By order of the Committee, May 6, 1980.

(signed) Normand R. V. Bernard

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Normand R. V. Bernard  
Executive Secretary of the Committee

[SEAL]

TITLE 12--BANKS AND BANKING

CHAPTER XII--DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

[Docket No. D-0005]

PART 1204--INTEREST ON DEPOSITS

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has adopted a final rule concerning the treatment of interest earned on time deposit funds for purposes of the early withdrawal penalty. The rule applies to all commercial banks, mutual savings banks, and savings and loan associations subject to the authorities conferred by section 19(j) of the Federal Reserve Act, section 18(g) of the Federal Deposit Insurance Act and section 5B(a) of the Federal Home Loan Bank Act. Under previously adopted rules of the Board of Governors of the Federal Reserve System ("Federal Reserve"), the Federal Deposit Insurance Corporation ("FDIC"), and the Federal Home Loan Bank Board ("FHLBB"), such institutions may permit a depositor to withdraw interest earned on a time certificate of deposit or account at any time before maturity without imposition of an early withdrawal penalty. In addition, however, the FHLBB procedures provides that if the time certificate of deposit or account is automatically renewed on the same terms and conditions, an institution may pay the interest earned during the preceding term as well as during the renewal term without imposition of an early withdrawal penalty. The rule adopted by the Committee conforms the previously adopted rules of the Federal Reserve and the FDIC to that of the FHLBB.

EFFECTIVE DATE: May 6, 1980.

FOR FURTHER INFORMATION CONTACT: Anthony F. Cole, Senior Attorney, Federal Reserve (202/452-3612), F. Douglas Birdzell, Senior Attorney, FDIC (202/389-4324), P. Allan Schott, Attorney, Treasury Department (202/566-6798), John Hall, Attorney, FHLBB (202/377-6466), or Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447-1633).

SUPPLEMENTARY INFORMATION: Under the rules and regulations of the Federal Reserve and the FDIC, federally insured commercial banks and mutual savings banks are permitted to pay the interest earned on a time deposit at any time during the initial term of the deposit, irrespective of the method used to compound or credit (post) interest to the depositor's account. However, where a time deposit is renewed upon maturity, the



interest earned to the date of renewal, unless withdrawn, is regarded as principal and is thereafter subject to early withdrawal restrictions, including the interest forfeiture penalty imposed upon the premature withdrawal of time deposit funds, specified in 12 C.F.R. §§ 217.4 and 329.4. Under FHLBB procedures there is a similar provision that interest earned on a certificate account may be paid at any time without penalty. The FHLBB's procedures, however, also provide that where a certificate account is automatically renewed on the same terms and conditions (including at the same rate of interest), the interest earned during the first maturity period does not merge with the principal, unless the deposit contract specifies otherwise. Consequently, where a certificate account is automatically renewed on the same terms and conditions, a savings and loan association subject to the jurisdiction of the FHLBB may pay the interest earned during the preceding term as well as during the renewal term without imposition of the early withdrawal penalty specified in 12 C.F.R. § 526.7(a).

The Committee believes that in the interests of competitive equality, the rules regarding penalty-free withdrawal of interest should be uniform for all depository institutions. In this regard, the Committee has determined to adopt the current position of the FHLBB. In view of the fact that depositors at commercial banks are being disadvantaged by the current rules and in view of the need to facilitate the equitable administration of currently prescribed deposit interest rate regulations as soon as possible, the Committee finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to this action would be contrary to the public interest and that good cause exists for making this action effective immediately.

Pursuant to its authority under section 203(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Public Law 96-221), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations and mutual savings banks, effective May 6, 1980, the Committee adopts a final rule as follows:

#### SECTION 1204 - INTEREST ON DEPOSITS

##### § 1204.101--Withdrawal of Interest

A depository institution subject to the authorities conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g), or section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) may permit a depositor to withdraw interest credited to a time certificate of deposit or account during any term at any time during such term without penalty. If the deposit or account is renewed automatically on the same terms (including at the same rate of interest), interest during the preceding term or terms as well as the renewal term may be paid at any time during

the renewal term without penalty, unless the deposit agreement specifically provides otherwise. If the rate of interest paid during the renewal term or the maturity period of the renewal term is different, interest in the account at the commencement of the renewal term shall be treated as principal and only interest for the renewal term may be paid at any time without penalty during such term.

By order of the Committee, May 6, 1980.

(Signed) Normand R. V. Bernard

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Normand R. V. Bernard  
Executive Secretary of the Committee

[SEAL]

TITLE 12--BANKS AND BANKING

CHAPTER XII--DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

[Docket No. D-0006]

PART 1204--INTEREST ON DEPOSITS

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has adopted a final rule concerning the payment of interest on time certificates of deposit. The rule applies to all commercial banks, mutual savings banks, and savings and loan associations subject to the authorities conferred by section 19(j) of the Federal Reserve Act, section 18(g) of the Federal Deposit Insurance Act, and section 5B(a) of the Federal Home Loan Bank Act. The rule permits such institutions to continue to pay interest on time deposits funds at the originally agreed upon contract rate for up to seven days after a maturity date.

EFFECTIVE DATE: May 6, 1980.

FOR FURTHER INFORMATION CONTACT: Anthony F. Cole, Senior Attorney, Federal Reserve (202/452-3612), F. Douglas Birdzell, Senior Attorney, FDIC (202/389-4324), P. Allan Schott, Attorney, Treasury Department (202/566-6798), John Hall, Attorney, FHLBB (202/377-6466), or Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447-1633).

SUPPLEMENTARY INFORMATION: Under procedures previously adopted by the Federal Home Loan Bank Board ("FHLBB"), a savings and loan association whose accounts are insured by the FSLIC may provide in its time deposit contracts that interest will be paid on funds withdrawn not more than ten days after a maturity date. If such a ten-day "grace" period is included, interest must be paid on funds withdrawn during the ten-day period at the originally specified contract rate or any other lower rate specified in the contract. However, in no event may the association specify a rate less than the current rate paid on regular savings accounts. With respect to 26-week money market certificates, a seven-day, rather than a ten-day period, may be included in the deposit contract. The "grace" period applies only to certificate accounts that are automatically renewable, and inclusion of such a period in the deposit contract is at the option of the association. No similar provision is contained in the rules of the Board of Governors of the Federal Reserve System ("Federal Reserve") and the Federal Deposit Insurance

Corporation ("FDIC"). Under current Federal Reserve and FDIC regulations, a withdrawal of funds from a time deposit within seven to ten days of a renewal is regarded as an early withdrawal subject to the early withdrawal penalty, and the depositor forfeits all interest earned on the funds during that seven to ten day period.

The Committee believes that this discrepancy between the regulatory restrictions applicable to banks and savings and loan associations disadvantages depositors at banks. In this regard, the Committee has determined to adopt a uniform rule for all depository institutions. The rule provides that all depository institutions may provide in their time deposit contracts for the payment of interest on funds withdrawn not more than seven days after a maturity date. If a depository institution includes such a provision in its time deposit contract, the institution must pay interest on the funds withdrawn during the seven-day period at the originally specified contract rate. An institution may specify in the time deposit contract that interest will be paid at any other lower rate. However, in no event may the rate specified be less than the current rate paid on regular savings accounts by the institution. The rule applies to single maturity time deposits as well as to time deposits that are automatically renewable.

In view of the fact that depositors at commercial banks are being disadvantaged by the current rules and in view of the need to facilitate the equitable administration of currently prescribed interest rate regulations as soon as possible, the Committee finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to this action would be contrary to the public interest and that good cause exists for making this action effective immediately.

Pursuant to authority under section 203(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Public Law 96-221), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations and mutual savings banks, effective May 6, 1980, the Committee adopts a final rule as follows:

#### SECTION 1204 - INTEREST ON DEPOSITS

##### § 1204.102--Payment of Interest on Time Deposits.

A depository institution subject to the authorities conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)), or section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)), may provide

in any time deposit contract that if the deposit or any portion thereof is withdrawn not more than seven days after a maturity date, interest will be paid thereon at the originally specified contract rate. An institution may specify in the time deposit contract that interest will be paid at any other lower rate. However, in no event may the rate specified be less than the current rate paid on regular savings accounts by the institution.

By order of the Committee, May 6, 1980.

(Signed) Normand R. V. Bernard

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Normand R. V. Bernard  
Executive Secretary of the Committee

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