

**FEDERAL RESERVE BANK OF DALLAS**

**DALLAS, TEXAS 75222**

**Circular No. 80-112  
June 11, 1980**

**PROPOSED REGULATION D  
RESERVES OF DEPOSITORY INSTITUTIONS**

**(Including U. S. Branches and Agencies of Foreign Banks  
And Edge Act and Agreement Corporations  
That Have Transaction Accounts or Nonpersonal Time Deposits)**

**TO THE CHIEF EXECUTIVE OFFICER OF ALL  
EDGE ACT AND AGREEMENT CORPORATIONS  
IN THE ELEVENTH FEDERAL RESERVE DISTRICT:**

Enclosed is a press release and a proposed Regulation D, Reserve Requirements of Depository Institutions (in two books). The proposed regulation presents changes in the reserve requirement structure and the computation of reserve requirements arising from the Monetary Control Act of 1980.

Interested parties are invited to submit comments on the proposed regulation to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Such comments must be received by July 15, 1980. Following a review of comments received by the Federal Reserve, issuance of a final regulation is expected in August 1980.

In its Regulation D amendments issued under the International Banking Act on March 19, 1980, the Board determined to apply to offices of Edge Corporations the same general rules with respect to maintenance of reserves, aggregation of deposits, and access to Federal Reserve services that are applicable to U. S. branches and agencies of foreign banks. These rules are not affected by the proposed regulations under the Monetary Control Act. There is, however, one area in which the amendments adopted on March 19 would be affected by the Monetary Control Act, namely, the low-reserve tranche on transactions accounts.

The Monetary Control Act provides for a reserve requirement ratio of 3 percent on the first \$25 million of an institution's transactions accounts and 12 percent on the amount in excess of \$25 million. Although the system of statewide aggregation for reserve computation and maintenance for offices of Edge Corporations will not be affected by the proposed regulation, the Board is proposing that an Edge Corporation be allowed only one low-reserve tranche on transactions accounts regardless of the number of its branches. This treatment is the same as that being proposed for U. S. branches and agencies of a single foreign bank.

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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.

The Federal Reserve bank will provide reporting forms and instructions for reports of deposits as soon as possible following the issuance of the final regulation.

In order to ensure that your data processing service bureau is informed about these proposals and has the opportunity to submit comments, it is suggested that you bring the proposals to their attention.

The Monetary Control Act also requires that the Federal Reserve price its services; pricing principles and a schedule for pricing of Federal Reserve services will be published for comment by September 1980.

Additional copies of the proposed regulation will be furnished upon request to the Bank and Public Information Department, Ext. 6266. Questions regarding the proposed Regulation D changes may be directed to Richard D. Ingram, Assistant Vice President, Ext. 6333, or the officer in charge of the Accounting Department at the El Paso, Houston, or San Antonio Branches.

We look forward to working with you during the implementation of the International Banking Act and the Monetary Control Act.

Sincerely yours,

Ernest T. Baughman

President

Enclosures

# FEDERAL RESERVE press release



For immediate release

June 4, 1980

The Federal Reserve Board today issued for public comment a proposed Regulation D designed to carry out the provisions for reserve requirements in the Monetary Control Act of 1980. Comment should be received by July 15.

The Act, enacted on March 31, will improve the effectiveness of monetary policy by applying new reserve requirements to be set by the Federal Reserve to member and nonmember commercial banks, savings banks, savings and loan associations, and credit unions that offer transactions accounts or nonpersonal time deposits.

By law, the reserve requirement on the first \$25 million of an institution's transactions accounts will be 3 percent; the initial requirement on remaining transactions accounts will be 12 percent; and the initial requirement on nonpersonal time deposits will be 3 percent. The new requirements are to be phased in gradually, with the phase-in period depending in part on the present reserve status of the institution.

Major provisions of the new proposed regulation are summarized below. In addition, some alternatives are noted on which views are specifically requested.

## Definition of transactions account

The Act defines a transactions account to include demand deposits, NOW accounts, ATS accounts, share draft accounts, accounts subject to telephone transfer, and also other accounts used for making payments or transfers. To help ensure that reserve requirements are applied uniformly on all accounts used for transactions purposes, the Board proposed that transaction accounts include all accounts subject to telephone or preauthorized transfer, and all accounts that permit the account holder to make third-party payments through automated teller machines or remote service units. The Board invites comment on the

feasibility or desirability of exempting from transactions reserve requirements those accounts subject to telephone or preauthorized transfer that are limited to a minimal number of transfers per month--perhaps, one or two--for special purposes.

Definition of nonpersonal time deposits

The Act defines a nonpersonal time deposit as any time deposit that is transferable or any time deposit held by a party other than a natural person. Since many institutions have issued time deposits to individuals that by their terms technically may be transferred but are in practice held to maturity by the original depositor, the Board proposes to regard all time deposits in denominations of under \$100,000 issued to individuals prior to July 15 as personal time deposits. On or after that date, to be a personal time deposit, the instrument must be issued to and held by a natural person and bear on its face a statement indicating that it is not transferable. The Board also proposes to change the minimum maturity of all time deposits from the present 30 days to 14 days to help improve the ability of domestic depository institutions to compete with banking offices located abroad and with issuers of short-term paper in this country.

Eurodollar reserve requirement

The Board proposed a 3 percent reserve requirement on certain Eurodollar activity, the same reserve ratio as on nonpersonal time deposits, so as to eliminate any artificial incentive that would favor raising funds offshore as compared with the domestic market. The basic reserve requirement on Eurodollars is presently zero, although such activity is included in the definition of managed liabilities currently subject to marginal reserve requirements. The Eurodollars that would become subject to the 3 percent basic requirement are the same as those now

covered by the marginal reserve program--namely, net borrowings from related foreign offices, borrowings from unrelated foreign depository institutions, loans to U.S. residents made by overseas branches of U.S. chartered depository institutions, and sales of foreign and domestic assets by depository institutions in the United States to their overseas offices.

Phase-in of reserve requirements

The Board proposes to implement the phase-in provision of the Act as follows:

Member banks. As provided in the Act, reserve requirements for member banks would be phased down to the new reserve requirements over a period ending about 3-1/2 years after the September 1, 1980, effective date of the Act. When the revised Regulation D takes effect, the amount of required reserves that a member bank must hold would be equal to the amount required under the old structure less 1/8 of the difference between that amount and the amount required under the new structure. Thereafter, at approximately 6-month intervals after the effective date of the Act, required reserves will be reduced by an additional 1/8 of this difference. The phase-in provision would not apply to NOW accounts at member banks outside New England, New Jersey, and New York; such accounts would be immediately subject to the new reserve requirement.

Nonmember institutions. Nonmember institutions would be phased up to the new reserve requirement structure over the eight year period set forth in the Act in the following manner:

On the effective date of this regulation, the required reserves of such institutions would be equal to 1/8 of the requirement under the new structure. Thereafter, the amount of required reserves would be increased by an additional 1/8 after each succeeding 12-month interval following the September 1, 1980,

effective date of the Act. Under the Act, the phase-in provisions would not apply to NOW accounts at nonmember institutions outside New England, New York, and New Jersey, which are subject immediately to the new reserve requirements that apply to all transactions accounts.

Agencies and branches of foreign banks, de novo banks, and new member banks. These institutions would be phased in to the new requirements over a two-year period. For agencies and branches of foreign banks this schedule is consistent with the regulation adopted earlier to implement the International Banking Act. For new member banks, the Board presently allows a two-year phase-in of reserve requirements.

Eligible reserve assets

Reserve requirements would be met with balances held directly at the Federal Reserve, balances held indirectly at the Federal Reserve on a pass-through basis, and vault cash. Depository institutions that are not members of the Federal Reserve may, under the Act, hold reserve balances on a pass-through basis in a depository institution which maintains required reserve balances at a Federal Reserve Bank, in a Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility.

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In view of the substantial restructuring of the reserve system that is involved in implementation of the Monetary Control Act of 1980, the Board felt that it would also be appropriate at the same time to invite comment on three further reserve requirement issues that have been under study. Comment on these issues, set forth below, should address the advantages and disadvantages of the proposals for the financial system as a whole and for monetary policy, impacts on the efficiency and cost of reserve management by individual institutions, and the lead time necessary for implementation should the Board find it desirable

to introduce these additional measures. These views will assist the Board in determining the usefulness of these measures.

Contemporaneous reserve accounting

The Board has been considering a return to contemporaneous reserve accounting as a means of improving monetary control by strengthening the linkage between the reserves of the depository system and the money supply. Instead of basing required reserves on deposits held two weeks earlier, required reserves would be based on deposits in a current statement week. To reduce operational problems for individual institutions, required reserves in the seven-day reserve maintenance week would be based on beginning-of-day deposits in the same week. The measure of beginning-of-day deposits would be deposits at close of business the previous day. Vault cash held two weeks previously would continue to satisfy reserve requirements in the current maintenance week.

A business day reserve-computation period and retention of a 7-day reserve-maintenance period

This proposal would require banks and other depository institutions to calculate reserve requirements on the basis of the five week-days within a statement week--but less if one of these days is a holiday. (For institutions open on the weekend or on holidays, deposits would be reported as of the next business day for reserve requirement calculation purposes). The proposal would thereby eliminate the incentive for institutions to undertake transactions that artificially raise "cash items" and "due from's" just prior to a weekend or holiday without similarly adding to their gross deposit liabilities. Such activity enables institutions to lower reserve requirements, since "cash items" and "due from's" are now deducted from deposits in computing reserve requirements. In addition to making the application of reserve requirements more uniform across institutions, this proposal, by removing an incentive for building up such deductions artificially, would also work to reduce the risk of distortion in measures of the money supply.

Reserve treatment of "due to's" and "due from's"

At present, demand deposits due to banks are reservable, while demand deposits due from banks can be deducted from gross demand deposits in calculating reserve requirements. Reserve requirements on "due to" balances have provided the Federal Reserve with a mechanism for indirectly influencing the public's deposits at nonmember institutions--deposits that are to a degree supported by the member bank balances due to nonmembers. In view of the extension of the mandatory reserve requirement system from member banks to all depository institutions, all of the public's transactions deposits are directly subject to reserve requirements set by the Federal Reserve, thus eliminating the need for such indirect methods of control. Moreover, retention of the present reserve treatment of "due to's" and "due from's" would complicate monetary control under the new Act because it is more likely that there would be deposit shifts between institutions with "due from's" in excess of transactions accounts and other institutions that would change the effective reserve multiplier.

Therefore, the Board is considering removing reserve requirements from demand deposits due to depository institutions, which would effectively eliminate the deduction for "due from's" since they are properly deductible only to the extent that the corresponding "due to" is reservable. To ensure that institutions which clear incoming checks through correspondents are not subject to a reserve requirement on uncollected funds, these institutions would record such checks as a "cash item" until they become collected funds. Since the correspondent would also be entitled to a "cash item" deduction until the checks are collected, that institution would need to record an offsetting reservable liability--in the form of a deferred availability deposit--until the funds are received. In addition to being more consistent



with the direct control of the public's transactions balances through the reserve base, such a treatment of interbank transactions would involve less risk that the process of check clearing would distort money supply statistics.

A copy of the Board's proposals is attached.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[12 CFR Part 204]

(Docket No. R-0306)

Notice of Proposed Rulemaking

RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The Monetary Control Act of 1980 (Title I of P.L. 96-221) imposes Federal reserve requirements on all depository institutions that maintain transaction accounts or nonpersonal time deposits. The Act authorizes the Federal Reserve to require reports from depository institutions as necessary or desirable to monitor and control monetary and credit aggregates, provides access to the Federal Reserve discount window for all depository institutions subject to Federal reserve requirements, and requires the Federal Reserve to price its services and provide open access to system services to all depository institutions on the same terms and conditions as member banks. In order to implement the reserve requirement provisions of the Monetary Control Act, the Board proposes to revise its reserve requirement rules contained in Regulation D--Reserves of Member Banks (12 CFR Part 204). The revised regulation also will affect Edge Act and Agreement Corporations and United States branches and agencies of foreign banks.

DATE: Interested parties are invited to submit relevant data, views and other comments. Comments must be received by July 15, 1980.

ADDRESS: Comments, which should refer to Docket No. R-0306, should be addressed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625), Paul S. Pilecki, Attorney (202/452-3281), or Thomas D. Simpson, Senior Economist (202/452-3361), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 ("Act") (Title I of P.L. 96-221; 94 Stat. 132) imposes Federal reserve requirements on all depository institutions that maintain transaction accounts or nonpersonal time deposits. Depository institutions subject to reserve requirements include any Federally-insured commercial or savings bank, or any bank that is eligible to become insured by the Federal Deposit Insurance Corporation; any savings and loan association that is a member of a Federal Home Loan Bank, insured by, or eligible to apply for insurance with, the Federal Savings and Loan Insurance Corporation; and any credit union that is insured by, or eligible to apply for insurance with, the National Credit Union Administration Board. Reserve requirements would continue to apply to United States branches and agencies of foreign banks with total worldwide consolidated bank assets in excess of \$1 billion, and to Edge Act and Agreement Corporations in the same manner as member banks. In this regard, the Act provides that nothing in the reserve requirement provisions of the Act limits the authority of the Board under section 7 of the International Banking Act of 1978 ("IBA") (12 U.S.C. § 3105). On March 19, 1980, the Board adopted amendments to Regulation D to impose reserve requirements on such branches and agencies (45 Fed. Reg. 19216); however, as discussed below, the proposed revised regulation modifies certain aspects of that action in view of the enactment of the Monetary Control Act. In addition, since branches of foreign banks are eligible to apply for Federal deposit insurance, reserve requirements also will apply to United States branches of foreign banks with total worldwide consolidated bank assets of \$1 billion or less.

The Act also provides access to the Federal Reserve discount window to all depository institutions with transaction accounts or nonpersonal time deposits. On March 31, 1980, the Board indicated that its policy with respect to full access to the discount window will be announced by July 1, 1980. The Act also requires the pricing of services and the provision of services to all depository institutions. The Federal Reserve is reviewing the issues of fees and access to System services for all depository institutions and will announce a policy with regard to access to Federal Reserve services at a later date.

#### Regulation D

Regulation D (12 CFR Part 204) presents the Board's regulatory structure for implementation of reserve requirements on, and maintenance of reserves by, member banks. The regulation specifies the liabilities that are regarded as deposits subject to reserves and the procedures for computing and maintaining required reserves including penalties for deficiencies and other violations.

Under Regulation D at present, reserve balances consist of United States currency and coin and balances maintained with the Federal Reserve. Required reserves are computed on the basis of the member bank's daily net deposit balances during a seven-day period ending each Wednesday (the "computation period"). Required reserve balances must be maintained at a Federal Reserve Bank during a corresponding weekly period (the "maintenance period") which begins on the second Thursday following the end of the computation period. However, in determining whether a sufficient reserve balance has been maintained, the average daily United States currency and coin held during the computation period is added to the average daily balance maintained by the member bank in its reserve account with the Federal Reserve during the maintenance week.

#### Changes to Regulation D

Apart from the issues discussed below and changes mandated by the Monetary Control Act, the proposed Regulation D reflects modifications of the present regulation. These changes primarily take the form of clarification of language and incorporation of existing Board interpretations into the proposed regulation. The organization of Regulation D has also been revised to present the requirements in a more understandable format.

New sections have been added to the regulation to reflect additional reserve requirement authority added pursuant to the Monetary Control Act.<sup>1/</sup> Specific sections deal with reserve requirements in emergency circumstances, supplemental reserves, and Eurodollar reserves. These sections set forth the Board's authority to impose reserves in the relevant circumstances. A section has been added which sets forth rules concerning imposition of penalties for failure to maintain proper reserve requirements.

Public comment is requested by July 15, 1980 on the following proposed actions.

#### Transaction Accounts

Definition. The Act defines "transaction account" to include demand deposits, negotiable order of withdrawal (NOW) accounts, savings accounts subject to automatic transfers (ATS), share draft accounts,

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<sup>1/</sup> The proposed Regulation D does not include any provision for the marginal reserve requirement program on managed liabilities (12 CFR 204.5(f)). The continuation of the marginal reserve requirements after the September 1, 1980, effective date of the Act would depend upon conditions at that time.

accounts subject to telephone transfers, and other accounts for the purpose of making payments or transfers to third persons or others. For monetary control purposes, the Board believes that it is desirable to sharpen the distinction between accounts actively used for transactions purposes and those that serve mainly as liquid investment outlets. Consequently, to ensure that reserve requirements are applied on all accounts used for transactions purposes, the Board proposes to define "transaction accounts" to include all savings accounts subject to telephone or preauthorized transfers, or that permit payments to third parties through automated teller machines, including remote service units, as well as demand deposits, NOW, ATS, and share draft accounts. Thus, any account that would allow the depositor to transfer any funds or to make payments to third parties by telephone or by preauthorized arrangement would be regarded as a transaction account. The Board, however, requests public comment on the feasibility or desirability of regarding accounts that permit only infrequent transfers by telephone or preauthorized instruction as transaction accounts. A savings account that is accessible by an automated teller machine or electronic terminal would not be considered a transaction account under the Board's proposal unless payments or transfers to third parties could be effected.

Reserve Requirement Ratio. The Act specifies that any reserve requirement imposed by the Board shall be solely for the purpose of implementing monetary policy and shall be applied uniformly to all transaction accounts at all depository institutions. A reserve ratio of 3 per cent on transaction accounts of \$25 million or less is established by the Act. This low reserve requirement tranche will be adjusted annually based on the change in the total of transaction accounts at all depository institutions. With regard to transaction accounts in excess of \$25 million, the Board is required by the Act to set an initial reserve ratio of 12 per cent, but, in the future, may vary the ratio within a range of 8 to 14 per cent.

Reserve Requirement Calculation by United States Branches and Agencies of Foreign Banks. On March 19, 1980, the Board adopted regulations (45 Fed. Reg. 19216) implementing section 7 of the IBA (12 U.S.C. § 3105) to impose reserve requirements on United States branches and agencies of foreign banks with total worldwide consolidated bank assets in excess of \$1 billion ("branches and agencies"). The Board adopted a procedure of statewide aggregation for purposes of calculating reserve requirements for branches and agencies. The determination to adopt a system of statewide aggregation was based principally on comments received indicating that national aggregation for calculating reserves would be complex and costly and on estimates suggesting that it would have very little effect on the reserves required of branches and agencies.

The system of statewide aggregation for reserve computation and maintenance will not be affected by the proposed regulation. However, it is proposed that only one low reserve requirement tranche (\$25 million) be permitted on transaction accounts for each foreign bank's branches and agencies since these institutions compete primarily with domestic money center banks, which will have only one low reserve requirement tranche. Allowing a foreign bank only one low reserve tranche is consistent with the IBA's goal of competitive equality between branches and agencies and domestic depository institutions. In this regard, the Board also proposes that an Edge Corporation be allowed only one low reserve tranche on transaction accounts regardless of the number of its branches.

Under the Board's proposals, a foreign bank or an Edge Corporation would be allowed to assign its low reserve requirement tranche to any office of its choice or, in the event that the total of transaction accounts at such office are less than \$25 million, to more than one office until the amount of the tranche is exhausted. These institutions also would be permitted periodically to reassign the low reserve requirement tranche, perhaps once every two years.

#### Nonpersonal Time Deposits

Definition. The Act defines "nonpersonal time deposit" as a transferable time deposit or account or a time deposit or account representing funds in which any beneficial interest is held by a depositor which is not a natural person. Nontransferable time deposits in which the entire beneficial interest is held by a natural person would not be subject to reserve requirements. Currently, under Regulation D, the term "savings deposits" is included in the definition of "time deposit;" thus, any savings deposit held by a business or nonprofit organization or a domestic governmental unit would be regarded as a nonpersonal time deposit (unless otherwise defined as a transaction account).

Time deposits, including credit union share certificates, that are issued in transferable form could be regarded as nonpersonal time deposits because of the transferability feature. Since the provision of the Act including transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements through the transfer of time deposits from individuals to organizations or governmental units, the Board proposes to exclude from the definition of nonpersonal time deposits a time deposit issued to and held by a natural person on or after July 15, 1980 only if it includes on the face of the deposit instrument a specific statement that it is not transferable. A transferable time deposit issued before July 15, 1980 to a natural person in a denomination of less than \$100,000 would not be regarded as a nonpersonal time deposit.

Reserve Requirement Ratio. The Act requires that the reserve ratio on all nonpersonal time deposits initially be set at 3 per cent. The Board has authority to set the reserve ratio on nonpersonal time deposits within a range of 0 to 9 per cent.

Maturity of Time Deposits

In considering the definition of nonpersonal time deposits, the Board also examined certain other issues related to reserve requirements. In this regard, the Board proposes to shorten the present 30-day minimum maturity for a time deposit to 14 days. The Board believes that a shorter minimum maturity on time deposits has considerable merit for purposes of improving the competitive position of domestic depository institutions vis-a-vis open market instruments and foreign banking offices. Under the Board's proposal, time deposits with original maturities of between 14 and 29 days issued in minimum denominations of \$100,000 or more could earn interest at any rate since there are no Federal interest rate limitations on time deposits issued in such denominations.

Treatment of Promissory Notes, Due Bills and Other Miscellaneous Obligations of Depository Institutions

Regulation D currently defines as deposits a number of sources of funds that formerly were exempt from reserve requirements. The Board proposes to continue to regard as deposits promissory notes (commercial paper), ineligible acceptances (finance bills), due bills, acknowledgments of advance, repurchase agreements against assets other than obligations of the United States government and its agencies, and funds raised from affiliates. Such obligations having original maturities of less than 14 days would be regarded as demand deposits and would be subject to the reserve requirement on transaction accounts and those having maturities of 14 days or more would be regarded as nonpersonal time deposits, if transferable or held by a depositor other than a natural person. Under this approach, certificates of indebtedness issued by credit unions would be defined as deposits.

Subordinated Notes. Under Regulations D and Q (Interest on Deposits) subordinated capital debt of member banks are not regarded as deposits subject to reserve requirements or interest rate limitations provided that certain conditions are met, including a minimum maturity of seven years or more. The Board proposes to retain these conditions for depository institutions. In this regard, the Federal Deposit Insurance Corporation has similar rules concerning issuance of subordinated notes exempt from interest rate limitations by insured nonmember commercial

banks (see 12 CFR Part 329). For thrift institutions, the Board proposes a similar exemption from reserve requirements for subordinated capital debt. Such a debt obligation would be exempt from reserve requirements if it would have a minimum original maturity of seven years or more and was approved by the institution's primary Federal supervisor or was issued under the rules of the primary Federal supervisor.

Obligations of Affiliates. The Board proposes to revise the reserve treatment of funds advanced by affiliates to depository institutions. At present, deposits of member banks include the liability of an affiliate to the extent that the proceeds are used for the purpose of supplying funds to the affiliated institution. However, the rules relating to determination of deposit status of such obligations are complex. In order to simplify the determination of the deposit status of affiliate obligations, the Board proposes to apply the following rules. An obligation issued by the affiliate would not be regarded as a deposit of the affiliated depository institution if the obligation would not have been a deposit had it been issued directly by the affiliated depository institution. Conversely, an obligation of an affiliate would be regarded as a deposit if the obligation issued by the affiliate would have been a deposit had it been issued directly by the affiliated depository institution. If the affiliate's obligation is determined to be a deposit, then the appropriate reserve ratio to be applied would be determined by the shorter of the maturity of the affiliate's obligation or the maturity of the obligation issued by its affiliated depository institution, or in the case of asset purchases, the maturity of the assets purchased.

Due Bills. A due bill is a promise by the bank to deliver at some future date a security purchased by the bank's customer. Under existing provisions, due bills issued or undertaken by a member bank principally as a means of obtaining funds to be used in its banking business are regarded as deposits subject to reserves. However, due bills that are not issued principally as a means of obtaining funds to be used in the banking business are deposits only if they are not collateralized with a similar security within three days after issuance. The principal questions that arise in connection with these transactions involve whether a member bank is utilizing due bill transactions as a means of obtaining funds principally for use in its banking business and whether such obligations are collateralized with a "similar" security.

In order to minimize compliance and enforcement problems involving due bills, the Board proposes to revise Regulation D so that all due bills would be reservable deposits from the date of issuance without regard to the purpose of the due bill unless collateralized within three



days from date of issuance by a security identical to the security purchased from the depository institution's customer.

#### Eurodollar Reserve Requirement

Under the Act, the Board's authority to establish any reserve requirement necessary for the implementation of monetary policy on Eurodollars is extended to cover all domestic depository institutions. In particular, the Board is authorized to place reserve requirements on: net borrowings from related foreign offices, borrowings from unaffiliated foreign depository institutions, loans to United States residents made by overseas offices of depository institutions located in the United States, and sales of assets by depository institutions in the United States to their overseas offices. These are essentially the same categories that are reservable under Regulation D currently, although the basic reserve ratio on Eurodollar transactions has been zero since August 1978. Such activities, however, are managed liabilities subject to marginal reserve requirements. The Board proposes to continue the present definition of Eurodollar transactions subject to basic reserve requirements, except that the proceeds of sales to foreign branches of all assets--rather than only domestic assets--would be reservable.

The Board also proposes to apply a reserve ratio of 3 per cent to Eurodollar transactions, the same ratio that would be applied to nonpersonal time deposits. The Board believes that such action would eliminate any artificial incentive through the reserve requirement structure that would favor raising funds offshore as compared with the domestic market. As a technical matter, the proposed Regulation D reflects a change in the four-week computation and maintenance period for Eurodollar reserves to one week periods coinciding with normal reserve computation and maintenance periods.

#### Eligible Reserve Assets

The Act specifies that reserves of a depository institution may be held in the form of vault cash, a balance maintained at the Federal Reserve Bank of which it is a member or at which it maintains an account, or a balance maintained by a depository institution which is not a member bank in a depository institution which maintains required reserve balances at a Federal Reserve Bank, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility if such funds are passed through to the Federal Reserve.

The Board has the authority to specify the portion of vault cash that a depository institution may use to meet its reserve requirements. Under the proposed Regulation D, a depository institution would be permitted to use all of its vault cash as eligible reserve assets. However, all

silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value would not be regarded as vault cash.

The Board presently is reviewing the operations issues in connection with pass-through accounts through consultation with other agencies and depository institution trade groups. An announcement will be forthcoming concerning the mechanics of pass-through arrangements.

#### Phase-in of Reserve Requirements

Member Banks. Member banks would be phased down to the new structure of reserve requirements over a three and one-half year period, beginning on September 4, 1980. During this period, actual reserves maintained would equal required reserves under the current structure less a portion of the difference between reserves calculated under the structure of the Act and the reserve structure in effect on August 31, 1980.

The Act stipulates that the phase-in rate increment each year for member banks should be 1/4 of the difference between reserves under the current structure and the new structure, under rules and regulations of the Board. To implement this provision, the Board proposes to phase-down reserve requirements for member banks at semiannual intervals, beginning with reserves held in the maintenance period starting September 4, 1980. Every six months the phase-down adjustment would rise by 1/8 of the difference between reserves computed under the old and new structures.

Nonmember Banks and Thrift Institutions. Reserve requirements of nonmember banks and thrift institutions would be phased-in over an eight-year period. Nonmember institutions would be required to hold an amount equal to 1/8 of reserve requirements calculated under the Act, beginning with the reserve maintenance period beginning Thursday, September 4, 1980. During the seven-day maintenance period beginning on that date, a nonmember depository institution would maintain reserves based on its deposits and vault cash outstanding during the seven-day computation period beginning August 21, 1980. Thereafter, the amount of reserves required would increase by an additional 1/8 of the reserve requirements under the Act after each succeeding 12 month interval.

Deposits or Accounts Authorized After April 1, 1980. A special provision in the Act exempts from the transitional phase-in provisions any category of deposits or accounts that are first authorized pursuant to Federal law in any State after April 1, 1980. This provision most

immediately applies to negotiable order of withdrawal (NOW) accounts that are authorized in States outside of New England, New York and New Jersey on December 31, 1980. Therefore, depository institutions maintaining NOW accounts in those States would be required to maintain reserves against such accounts at the full transactions deposits reserve ratio.

In computing reserves required to be maintained on NOW accounts, a depository institution located outside of New England, New York and New Jersey would be permitted to deduct a portion of its cash items in process of collection in the proportion that its NOW accounts are of its total transaction accounts. To determine the reserve ratio to apply to NOW accounts, depository institutions would apply the \$25 million initial tranche for transaction accounts to its transactions accounts subject to the highest reserve requirement. Under this approach, a nonmember depository institution outside of New England, New York and New Jersey phasing-in reserves could apply the \$25 million tranche to its NOW accounts initially with any remaining portion applied to other transactions accounts subject to the phase-in. Transaction accounts in excess of \$25 million (other than NOW accounts) would be subject to a reserve ratio of 12 per cent, but the effective reserve ratio applicable to these accounts would be lower than 12 per cent because of the phase-in. Member banks could apply the \$25 million transaction tranche to demand deposits or NOW accounts in computing its phase-down of reserve requirements.

Branches and Agencies. Under the amendments to Regulation D adopted in connection with implementation of the IBA, branches and agencies were granted a phase-in of reserve requirements over a two-year period. This phase-in period is similar to that allowed to nonmember banks joining the Federal Reserve System. The Board proposes to allow branches and agencies to phase-in to the new reserve requirement structure that becomes effective on September 1, rather than requiring a more complicated and burdensome procedure of phasing up to member bank actual reserve requirements by the end of two years, and then phasing down over the next two years in line with member banks. The deposits of additional branches and agencies of a foreign bank that has existing United States branches or agencies would be entitled only to the remaining phase-in, if any, available to the existing United States branches or agencies.

De Novo Banks and New Members. The Act provides an eight-year phase-in for nonmember banks engaged in business on July 1, 1979. Consequently, a de novo nonmember depository institution formed after July 1, 1979 would be required to maintain full reserve requirements beginning on the effective date of the Act. In addition, under the

Act, a de novo member or a nonmember joining the System ("new member") would be required to maintain full present member bank reserve requirements, and then phase down to the new requirements of the Act. Current Board policy provides a two-year transitional period to full reserve requirement levels for de novo and new member banks.

The Board believes that, in order to provide an orderly adjustment to reserve requirements, it is appropriate for the Federal Reserve to continue its policy of providing a 24-month transitional phase-in for all de novo depository institutions and new members. Under the Board's proposal, de novo institutions and new members would be phased in to the new reserve requirements under the Act rather than to present member bank reserve requirements.

Former Members and Mergers. On April 23, 1980, the Board announced an interpretation (45 Fed. Reg. 28305) of section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. § 461(b), as amended by section 103 of the Act). This interpretation applies to the reserves required of any bank that was a member bank in the Federal Reserve System on July 1, 1979, and which subsequently withdraws from membership. That interpretation also establishes a System policy for reserve requirements of depository institutions involved in mergers.

Tables 1 and 2 present reporting categories that will be required of depository institutions and of United States branches and agencies of foreign banks.

Table 1

Reporting categories for any depository institution other than a U. S. branch or agency of a foreign bank:

1. Demand deposits due to banks.
2. Demand deposits due to other depository institutions.
3. Demand deposits due to the U. S. Government.
4. Other demand deposits (including noninterest-bearing negotiable orders of withdrawal).
5. Savings deposits authorized for automatic transfer (ATS accounts).
6. Negotiable order of withdrawal (NOW) accounts; share drafts.

7. Savings deposits subject to telephone or preauthorized transfer or that permit payments through automated teller machines, including remote service units.
8. Demand deposits due from depository institutions. (Note: For institutions designated below under a single asterisk (\*), this category will be broken down into two items: (1) demand deposits due from banks, and (2) demand deposits due from other depository institutions.)
9. Cash items in process of collection.
10. Other savings deposits (i.e., all savings deposits other than those included in items 5, 6, or 7 above)--personal.
11. Other savings deposits--nonpersonal.
12. Personal time deposits.
13. Nonpersonal time deposits.
- \*14. Time deposits with original maturities of 14 through 179 days.
- \*15. Time deposits with original maturities of 180 days but less than 4 years.
- \*16. Time deposits with original maturities of 4 years or more.
17. Time deposits of \$100,000 or more.
18. U. S. currency and coin owned and held.
19. Funds received from issuance of obligations by affiliates that have remaining maturities of less than 14 days.
20. Funds received from issuance of obligations by affiliates that have remaining maturities of 14 days or more. (Note: For institutions designated below under a single asterisk (\*), this item will cover obligations that have remaining maturities of 14 days or more but less than 180 days.)
- \*21. Funds received from issuance of obligations by affiliates that have remaining maturities of 180 days or more but less than 4 years.

- \*22. Funds received from issuance of obligations by affiliates that have remaining maturities of 4 years or more.
- 23. Funds received from the sale of ineligible bankers' acceptances that have remaining maturities of less than 14 days.
- 24. Funds received from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more. (Note: For institutions designated below under a single asterisk (\*), this item will cover obligations that have remaining maturities of 14 days or more but less than 180 days.)
- \*25. Funds received from the sale of ineligible bankers' acceptances that have remaining maturities of 180 days or more but less than 4 years.
- \*26. Funds received from the sale of ineligible bankers' acceptances that have remaining maturities of 4 years or more.
- \*\*27. Borrowings from offices of other banks outside the United States, foreign national governments, and international institutions.
- \*\*28. Gross balances due to own non-U. S. branches.
- \*\*29. Gross balances due from own non-U. S. branches.
- \*\*30. Assets sold to and held by own non-U. S. branches acquired from U. S. offices (including assets that are claims on both U. S. and non-U. S. residents).
- \*\*31. Credit extended by own non-U. S. branches to U. S. residents.

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\* To be reported only by a depository institution that is a member bank on September 1, 1980, or that was a member bank on or after July 1, 1979, and since then withdrew from membership.

\*\* To be reported only by U. S. commercial banks and Edge Act and Agreement corporations.

Table 2

Reporting categories for any United States branch or agency of a foreign bank:\*

1. Demand deposits due to banks.
2. Demand deposits due to other depository institutions.
3. Demand deposits due to the U. S. Government.
4. Other demand deposits (including officers' checks).
5. Savings deposits authorized for automatic transfer (ATS accounts).
6. Negotiable order of withdrawal (NOW) accounts.
7. Savings deposits subject to telephone or preauthorized transfer or that permit payments through automated teller machines, including remote service units.
8. Demand deposits due from depository institutions.
9. Cash items in process of collection.
10. Other savings deposits (i.e., all savings deposits other than those included in items 5, 6, or 7 above)--personal.
11. Other savings deposits--nonpersonal.
12. Personal time deposits.
13. Nonpersonal time deposits.
14. Time deposits of \$100,000 or more.
15. U. S. currency and coin owned and held.
16. Funds received from the sale of ineligible bankers' acceptances that have remaining maturities of less than 14 days.
17. Funds received from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more.

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\* "Deposits" include credit balances.

18. Borrowings from other foreign banks, foreign national governments, and international institutions.
19. Gross claims on the foreign bank (including its offices located outside the United States).
20. Gross liabilities to the foreign bank (including its offices located outside the United States).
21. Assets sold by a branch or agency to its foreign bank (including its offices located outside the United States) or its foreign parent bank holding company.
22. Assets sold by the branch or agency to nonbanking affiliates.
23. Total assets less the sum of United States coin and currency, cash items in process of collection and unposted debits, balances due from domestic banks and other foreign banks, balances due from foreign central banks and net balances due from the foreign bank and the foreign bank's U. S. and foreign offices.

In addition to the above proposals, the Board desires public comment on three issues that have been under consideration in the past.

#### Contemporaneous Reserve Accounting

As an alternative to the existing procedures of reserve maintenance, the Board requests comment on a proposal to modify the procedures by which reserve requirements are maintained. Under the proposal, the reserve computation period would continue to cover the seven-day period beginning Thursday and ending on the following Wednesday, and reserve requirements would continue to be computed based upon the daily average deposits outstanding during the reserve computation week. Reserve requirements, however, would be required to be satisfied by the United States currency and coin held by a depository institution on a daily average basis during the seven-day reserve computation period which begins on the Thursday fifteen days prior to the beginning of the reserve maintenance period and by balances maintained in a Federal Reserve Bank (directly or indirectly) on a daily average basis during the seven-day maintenance period which begins on the day after (i.e., Friday) the beginning of the reserve computation period (i.e., Thursday). For example, under the proposal, a depository institution would be required to maintain a reserve balance at the Federal Reserve on a daily average basis during the seven-day reserve maintenance period beginning Friday, June 6, 1980, and ending



on Thursday, June 12, 1980, based upon daily average deposits during the seven-day reserve computation period beginning Thursday, June 5, 1980, and ending Wednesday, June 11, 1980, after taking into account the institution's currency and coin maintained during the seven-day computation period beginning Thursday, May 22, 1980, and ending Wednesday, May 28, 1980. A depository institution would continue to be permitted to carry forward to the following reserve maintenance week excesses or deficiencies up to 2 per cent of the institution's required reserves.

This procedure would improve monetary control by strengthening the linkage between the reserves of the depository system and the money supply.

#### Business Day Reserve Computation Period

Under the present method of computing required reserves, all seven days of the computation period, including Saturdays, Sundays and legal holidays, are included in computing the daily average of deposits. Under this approach, the deposits outstanding at the close of business on Friday generally are reported for Saturday and Sunday also. Thus, Friday's balances are used three times in computing the institution's daily average deposits outstanding during the computation period. Similarly, the deposits outstanding at the close of business on the day before a legal holiday are reported as the balances outstanding for the holiday also.

The Board is aware of actions on the part of some member banks to engage in transactions on Fridays that tend to increase asset accounts artificially, particularly cash items in process of collection (CIPC's). Since CIPC's are available as a deduction from the member bank's gross demand deposits, this activity results in a lower daily average of net demand deposits and lower reserve requirements. Such transactions may have an adverse effect on the conduct of monetary policy in that they may adversely affect the relationship between the supply of reserves and the stock of money.

In order to limit the effect of actions that may lower reserve requirements, the Board proposes to revise the present method of computing daily average deposit balances and daily average marginal managed liabilities by deleting nonbusiness days, that is, Saturdays, Sundays and legal holidays, in the computation of the daily averages outstanding during the reserve computation period. By changing the method of computing balances against which reserves must be maintained to include only banking business days, the Board anticipates that the impact of such artificial

transactions that serve only to reduce reserve requirements would be minimized. This proposed method of computation would apply to all depository institutions required to maintain reserves under the Act. It should be noted that under the proposal, daily currency and coin would continue to be computed under the present seven-day method and required reserves would continue to be maintained over a seven-day maintenance period.

#### Deductions from Gross Transaction Accounts

In computing demand deposit reserve requirements, member banks currently are permitted to deduct from their gross demand deposits cash items in the process of collection ("CIPCs") and demand balances due from other banks. The purpose of this deduction is to prevent situations in which more than one institution holds required reserves against the same deposit liability to the nonbank public.

At present, indirect control over the public's deposits at nonmember institutions is exerted through reserve requirements on the balances that these institutions have due from member banks, that is, member bank deposits due to other depository institutions. The Board believes that, with the application of reserve requirements to all depository institutions, there is no longer the need for such indirect methods of control. Therefore, the Board is considering excluding from the definition of deposits inter-depository institution balances that represent finally collected funds that are immediately withdrawable. Exempting such balances from reserve requirements would eliminate the necessity of allowing a deduction for the corresponding "due from" account. Under this approach, a "due from" deduction would be permitted only if the corresponding "due to" balance of a depository institution is subject to Federal reserve requirements.

Under this approach, cash items in the process of collection would be permitted to be deducted from the amount of a depository institution's gross transactions accounts. To ensure that institutions which clear incoming checks through correspondents are not subject to a reserve requirement on uncollected funds, these institutions would record such checks as a "cash item" until they become collected funds. Since the correspondent would also be entitled to a "cash item" deduction until the checks are collected, that institution would need to record an offsetting reservable liability--in the form of a deferred availability deposit--until the funds are received. The deferred availability account effectively would not be reserved, however, since that account would be offset by the amount of the CIPC the correspondent has forwarded for collection.

As the correspondent institution received payment on cleared checks, it would advise its respondent daily of collected funds becoming available that day before the correspondent could convert the deferred availability balance to a nonreservable "due to." Upon receipt of the

advice, the respondent would be required to debit deductible CIPCs and credit nondeductible "due froms." In addition to being more consistent with direct control of the public's transaction balances through the reserve base, such a treatment of interbank transactions would involve less risk that the process of check clearing would distort money supply statistics.

In view of the September 1, 1980 effective date of the reserve requirement provisions of the Monetary Control Act, the Board has determined to shorten the length of the comment period normally provided to the public. Accordingly, comments on these proposals should be submitted to the Board by July 15, 1980.

Pursuant to authority under section 19 of the Federal Reserve Act (12 U.S.C. § 461 et seq.), as amended by the Monetary Control Act of 1980 (Title I, P.L. 96-221; 94 Stat. 132) and section 7 of the International Banking Act of 1978 (12 U.S.C. § 3105), the Board proposes to revise Regulation D (12 CFR Part 204) to read as follows:

PART 204--RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

| <u>Sec.</u> |                                  |
|-------------|----------------------------------|
| 204.1       | Authority, Purpose and Scope     |
| 204.2       | Definitions                      |
| 204.3       | Computation and Maintenance      |
| 204.4       | Transitional Adjustments         |
| 204.5       | Emergency Reserve Requirement    |
| 204.6       | Supplemental Reserve Requirement |
| 204.7       | Eurodollar Reserve Requirements  |
| 204.8       | Penalties                        |
| 204.9       | Reserve Ratios                   |

SECTION 204.1--AUTHORITY, PURPOSE AND SCOPE

(a) Authority. This Part is issued under the authority of section 19 (12 U.S.C. §§ 461 et seq.) and other provisions of the Federal Reserve Act and of section 7 of the International Banking Act of 1978 (12 U.S.C. § 3105).

(b) Purpose. This Part relates to reserves that member banks and other depository institutions are required to maintain for the purpose of facilitating the conduct of monetary policy by the Federal Reserve System.

(c) Scope. (1) The following depository institutions are required to maintain reserves in accordance with this Part:

(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. § 1815);

(ii) Any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(f), (g));

(iii) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. § 1752(7)) or any credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. § 1781);

(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. § 1422(4)); and

(v) Any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. § 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. § 1726)..

(2) Except as may be otherwise provided by the Board, a foreign bank's branch or agency located in the United States is required to comply with the provisions of this Part in the same manner and to the same extent as if the branch or agency were a member bank, if its parent foreign bank (i) has total worldwide consolidated bank assets in excess of \$1 billion; or (ii) is controlled by a foreign company or by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1 billion. In addition, any other foreign bank's branch located in the United States that is eligible to apply to become an insured bank under section 5 of the Federal Deposit Insurance Act (12 U.S.C. § 1815) is required to maintain reserves in accordance with this Part as a depository institution.

(3) This Part does not apply to any financial institution that (i) is organized solely to do business with other financial institutions; (ii) is owned primarily by the financial institutions with which it does business; and (iii) does not do business with the general public.

(4) The provisions of this Part do not apply to any deposit that is payable only at an office located outside the United States. (That is, an obligation is not subject to the reserve requirements of this Part if it requires a depository institution to make payment only at an office located outside the United States and, if for any reason the obligation is not paid at a foreign office, the depository institution cannot be required to pay it in the United States.)

#### SECTION 204.2--DEFINITIONS

For purposes of this Part, the following definitions apply unless otherwise specified:

(a) (1) "Deposit" means:

(i) the unpaid balance of money or its equivalent received or held by a depository institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to an account, or which is evidenced by an instrument on which the depository institution is primarily liable;

(ii) money received or held by a depository institution, or the credit given for money or its equivalent received or held by the depository institution in the usual course of business for a special or specific purpose, regardless of the legal relationships established thereby, including escrow funds, funds held as security for securities loaned by the depository institution, funds deposited as advance payment on subscriptions to United States government securities, and funds held to meet its acceptances;

(iii) an outstanding draft, cashier's check, money order, or officer's check drawn on the depository institution and issued in the usual course of business for any purpose, including payment for services, dividends, or purchases;

(iv) any due bill or other liability or undertaking on the part of a depository institution to sell or deliver securities to, or purchase securities for the account of, any customer (including another depository institution), involving either the receipt of funds by the depository institution, regardless of the use of the proceeds, or a debit to an account of the customer before the securities are delivered. A deposit arises from the date of issuance of the obligation if, within three business days, the depository institution does not deliver the securities purchased or does not fully collateralize its obligation with securities identical to the securities purchased;

(v) any liability of a depository institution's affiliate, on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral), with a maturity of seven years or less, to the extent that the proceeds are used to supply or to maintain the availability of funds (other than capital) to the depository institution, except any such obligation that, had it been issued directly by the depository institution, would not constitute a deposit;

(vi) credit balances of a United States branch or agency of a foreign bank;

(vii) a depository institution's liability on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral) that is issued or undertaken by a depository institution as a means of obtaining funds, except any such obligation that:

(A) is issued or undertaken and held for the account of:

- (1) an office located in the United States of another depository institution or foreign bank;
- (2) the United States government or an agency thereof;  
or
- (3) the Export-Import Bank of the United States, Minbanc Capital Corporation, the Government Development Bank for Puerto Rico, a Federal Reserve Bank, or a Federal Home Loan Bank;

(B) arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States government or any agency thereof that the depository institution is obligated to repurchase;

PROPOSED REGULATION D

RESERVES OF DEPOSITORY INSTITUTIONS

PART 2

- (C) is not insured by a Federal agency, is subordinated to the claims of depositors, has a weighted average maturity of more than seven years, is not subject to Federal interest rate limitations, and is issued by a depository institution with the approval of or under the rules and regulations of its primary Federal supervisor;
- (D) arises from a borrowing by a depository institution from a dealer in securities, for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank or other immediately available funds, (commonly referred to as "Federal funds"), received by such dealer on the date of the loan in connection with clearance of securities transactions;
- (E) arises from the creation, discount and subsequent sale by a depository institution of its bankers' acceptance of the type described in section 13 of the Federal Reserve Act (12 U.S.C. § 346) and which is eligible for discount by the Federal Reserve Banks; or
- (F) represents the liability of a United States branch or agency of a foreign bank to another United States branch or agency of the same foreign bank, or the liability of the United States office of an Edge Corporation to another United States office of the same Edge Corporation.

(2) "Deposit" does not include:

(i) trust funds received or held by the depository institution that it keeps properly segregated as trust funds and apart from its general assets or which it deposits in another institution to the credit of itself as trustee or other fiduciary. If trust funds are deposited with the commercial department of the depository institution or otherwise mingled with its general assets, a deposit liability of the institution is created;

(ii) an obligation that represents a conditional or endorser's liability;

(iii) obligations, the proceeds of which are not used by the depository institution for purposes of making loans, investments, or maintaining liquid assets such as cash or "due from" depository institutions or other similar purposes. Obligations issued for the purpose of raising funds to purchase business premises, equipment, supplies,



or similar assets are not deposits. The creation of mortgage indebtedness to acquire business premises or the creation of accounts payable to acquire equipment and supplies generally does not give rise to creation of a deposit liability;

(iv) accounts payable;

(v) hypothecated "deposits" created by payments on installment loans where the amounts received are not used immediately to reduce the unpaid balance due on the note until the sum of the payments equals the entire amount of principal and interest and where such amounts are irrevocably assigned to the depository institution and cannot be reached by the borrower or creditors of the borrower;

(vi) dealer reserve and differential accounts that arise from the financing of dealer installment accounts receivable and which provide that the dealer may not have access to the funds in the account until the installment loans are repaid, as long as the depository institution is not actually (as distinguished from contingently) obligated to make credit or funds available to the dealer;

(vii) a dividend declared by a depository institution for the period intervening between the date of the declaration of the dividend and the date on which it is paid;

(viii) an obligation representing a "pass through account," as defined in this section;

(ix) an obligation arising from the retention by the depository institution of no more than a 10 per cent interest in a pool of conventional 1-4 family mortgages that are sold to third parties; and

(x) an obligation issued to a State or municipal housing authority under loans to lenders programs involving the issuance of tax exempt bonds and the subsequent lending of the proceeds to the depository institution for housing finance purposes.

(b) (1) "Demand deposit" means a deposit that is payable on demand, or a deposit issued with an original maturity or required notice period of less than 14 days, or a deposit representing funds for which the depository institution does not reserve the right to require at least 14 days' written notice of an intended withdrawal. The term includes all deposits other than time and savings deposits. Overdrafts in demand deposit accounts are not to be treated as negative demand deposits and should not be netted since overdrafts are properly reflected on an institution's books as loans. Demand deposits may be in the form of (i) checking

accounts; (ii) certified, cashier's and officer's checks (including checks issued by the depository institution in payment of dividends); (iii) traveler's checks and money orders; (iv) checks or drafts drawn by or on behalf of a non-United States office of a depository institution on an account maintained at any of the institution's United States offices; (v) letters of credit sold for cash or its equivalent; (vi) withheld taxes, withheld insurance and other withheld funds; (vii) time deposits that have matured or time deposits upon which the required notice of withdrawal period has expired and have not been renewed (either by action of the depositor or automatically under the terms of the deposit agreement); and (viii) any obligation to pay a check (or other instrument, device, or arrangement for the transfer of funds) drawn on the depository institution, where the account of the institution's customer already has been debited.

(2) A "demand deposit" does not include checks or drafts drawn by the depository institution on the Federal Reserve or on another depository institution.

(c) (1) "Time deposit" means funds that the depositor does not have a right to withdraw for a period of 14 days or more after the date of deposit. "Time deposit" includes funds:

(i) payable on a specified date not less than 14 days after the date of deposit;

(ii) payable at the expiration of a specified time not less than 14 days after the date of deposit;

(iii) payable upon written notice which actually is required to be given by the depositor not less than 14 days before the date of repayment; or

(iv) such as "Christmas club" accounts and "vacation club" accounts, that are deposited under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than three months even though some of the deposits are made within 14 days from the end of the period.

(2) A time deposit may be represented by a transferable or nontransferable instrument, a negotiable or nonnegotiable instrument, a passbook, or otherwise. A time deposit includes share certificates and certificates of indebtedness issued by credit unions, and certificate accounts and notice accounts issued by savings and loan associations.

(d) (1) "Savings deposit" means a deposit or account with respect to which the depositor is not required by the deposit contract but may at any time be required by the depository institution to give written notice of an intended withdrawal not less than 14 days before withdrawal is made, and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. A deposit may continue to be classified as a savings deposit even if the depository institution exercises its right to require notice of withdrawal. A "savings deposit" includes a regular share account at a credit union and a regular account at a savings and loan association.

(2) For depository institutions subject to 12 CFR Part 217 or 12 CFR Part 329, funds deposited to the credit of, or in which any beneficial interest is held by, a corporation, association, partnership or other organization operated for profit may be classified as a savings deposit if such funds do not exceed \$150,000 per depositor at a depository institution.

(3) "Savings deposit" does not include funds deposited to the credit of the depository institution's own trust department where the funds involved are utilized to cover checks.

(e) "Transaction account" means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar device for the purpose of making payments or transfers to third persons or others. "Transaction account" includes:

(1) demand deposits;

(2) deposits or accounts subject to negotiable orders of withdrawal accounts or share drafts;

(3) savings deposits or accounts in which withdrawals may be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account in order to cover checks or drafts drawn upon the institution or to maintain a specified balance in, or to make periodic transfers to, such accounts; and

(4) deposits or accounts in which withdrawals may be made by preauthorized transfer or payment, by telephone transfer or payment, or by payment to third parties by means of an automated teller machine, remote service unit or other electronic device.

(f) "Nonpersonal time deposit" means:

(1) a time deposit representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor which is not a natural person;

(2) a savings deposit that is not a transaction account and that represents funds deposited to the credit of, or in which any beneficial interest is held by, a depositor which is not a natural person;

(3) a time deposit that is transferable, except a time deposit in a denomination of less than \$100,000 issued before July 15, 1980, to and held by a natural person; and

(4) a time deposit issued on or after July 15, 1980, to and held by a natural person that does not contain on its face a statement that it is not transferable.

(g) (1) "Cash item in process of collection" means:

(i) checks in the process of collection, drawn on a bank or other depository institution that are payable immediately upon presentation in the United States, including checks forwarded to a Federal Reserve Bank in process of collection and checks on hand that will be presented for payment or forwarded for collection on the following business day;

(ii) government checks drawn on the Treasury of the United States that are in the process of collection; and

(iii) such other items in the process of collection, that are payable immediately upon presentation in the United States and that are customarily cleared or collected by depository institutions as cash items, including:

(A) drafts payable through another depository institution;

(B) redeemed bonds and coupons;

(C) food coupons and certificates;

(D) postal and other money orders, and traveler's checks;

(E) amounts credited to deposit accounts in connection with automated payment arrangements where such credits are made one business day prior to the scheduled payment date to insure that funds are available on the payment date;

- (F) commodity or bill of lading drafts payable immediately upon presentation in the United States;
- (G) returned items and unposted debits; and
- (H) broker security drafts.

(2) "Cash item in process of collection" does not include items handled as noncash collections and credit card slips and drafts.

(h) "Net transaction accounts" means the total amount of a depository institution's transaction accounts less the deductions allowed under the provisions of § 204.3.

(i)(1) "Vault cash" means United States currency and coin owned and held by a depository institution that may, at any time, be used to satisfy depositors' claims.

(2) "Vault cash" includes United States currency and coin in transit to a Federal Reserve Bank or a correspondent depository institution for which the reporting depository institution has not yet received credit, and United States currency and coin in transit from a Federal Reserve Bank or a correspondent depository institution when the reporting depository institution's account at the Federal Reserve or correspondent bank has been charged for such shipment.

(3) All silver and gold coin, and other currency and coin whose numismatic or bullion value is substantially in excess of face value, is not vault cash for purposes of this Part.

(j) "Pass through account" means a balance maintained by a depository institution that is not a member bank (1) in a depository institution that maintains required reserve balances at a Federal Reserve Bank, (2) in a Federal Home Loan Bank, or (3) in the National Credit Union Administration Central Liquidity Facility, if the depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains the funds in the form of balances in a Federal Reserve Bank of which it is a member or at which it maintains an account.

(k)(1) "Depository institution" means:

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. § 1815);

(ii) any savings bank or mutual savings bank in section 3 of the Federal Deposit Insurance Act (12 U.S.C. (g));

(iii) any insured credit union as defined in of the Federal Credit Union Act (12 U.S.C. § 1752(7)) or any union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. § 1781);

(iv) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. § 1422(4)); and

(v) any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. § 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. § 1726).

(2) "Depository institution" does not include international organizations such as the World Bank, the Interamerican Development Bank, and the Asian Development Bank.

(l) "Member bank" means a depository institution that is a member of the Federal Reserve System.

(m) "Foreign bank" means any bank organized under the laws of any country other than the United States or organized under the laws of Puerto Rico, Guam, American Samoa, the Virgin Islands, or other territory or possession of the United States.

(n) "De novo depository institution" means a depository institution that was not engaged in business on July 1, 1979, and is not the successor by merger or consolidation to a depository institution that was engaged in business on that date.

(o) "Affiliate" includes any corporation, association, or other organization:

(1) Of which a depository institution, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per cent of the numbers of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions,

(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a depository institution who own or control either a majority of the shares of such depository institution or more than 50 per cent of the number of shares voted for the election of directors of such depository institution at the preceding election, or by trustees for the benefit of the shareholders of any such depository institution;

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one depository institution; or

(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a depository institution or more than 50 per cent of the number of shares voted for the election of directors, trustees or other persons exercising similar functions of a depository institution at the preceding election, or controls in any manner the election of a majority of the directors, trustees, or other persons exercising similar functions of a depository institution, or for the benefit of whose shareholders or members all or substantially all the capital stock of a depository institution is held by trustees.

(p) "United States" means the States of the United States and the District of Columbia.

(q) "United States resident" means (1) any individual residing (at the time of the transaction) in the United States; (2) any corporation, partnership, association or other entity organized in the United States ("domestic corporation"); and (3) any branch or office located in the United States of any entity that is not organized in the United States.

#### SECTION 204.3 -- COMPUTATION AND MAINTENANCE

(a) Maintenance of reserves. (1) Depository institutions. A depository institution shall maintain reserves against its deposits in accordance with the procedures prescribed in this section and section 204.4 and the ratios prescribed in section 204.9. For purposes of this Part, the obligations of a majority owned (50% or more) subsidiary (except an Edge or Agreement Corporation) of a depository institution shall be regarded as obligations of the parent depository institution. Every depository institution holding transaction accounts or nonpersonal time deposits shall file a Report of Deposits each week with the Federal Reserve Bank of its District and any other reports that the Board may require by rule, regulation, or order and shall be assessed penalties for deficiencies in required reserves in accordance with the provisions of this Part.

(2) United States branches and agencies of foreign banks.

(i) A foreign bank's United States branches and agencies operating within the same State and within the same Federal Reserve District shall prepare and file a Report of Deposits on an aggregated basis, shall maintain required reserves with the Federal Reserve Bank of their District, and shall be assessed penalties for deficiencies in reserve accounts in accordance with the provisions of this Part.

(ii) The United States branches and agencies of the same foreign bank shall attribute to one such branch or agency the low reserve tranche on transaction accounts (§ 204.9(a)). If net transaction accounts at such agency or branch are less than the amount of the low reserve tranche, the remaining portion of the reserve tranche shall be attributed to other United States branches or agencies of the same foreign bank until the amount of the tranche or net transaction accounts, whichever is less, is exhausted.

(3) Edge and Agreement Corporations.

(i) An Edge Corporation's offices operating within the same State and within the same Federal Reserve District shall prepare and file a Report of Deposits on an aggregated basis, shall maintain required reserves with the Federal Reserve Bank of their District, and shall be assessed penalties for deficiencies in required reserves in accordance with the provisions of this Part.

(ii) An Edge and Agreement corporation shall attribute to one of its offices the low reserve tranche on transaction accounts (§ 204.9(a)). If net transaction accounts at such office are less than the amount of the low reserve tranche, the remaining portion of the reserve tranche shall be attributed to other offices of the Edge Corporation until the amount of the reserve tranche or net transaction accounts, whichever is less, is exhausted.

(b) Form of reserves. Reserves shall be held by a depository institution in the form of (i) a balance maintained directly with the Federal Reserve Bank in the District in which it is located, (ii) vault cash, and (iii) a pass through account. Reserves held in the form of a pass through account shall be considered to be a balance maintained with the Federal Reserve.

(c) Computation of reserves. Required reserves are computed on the basis of the depository institution's daily average deposit balances during a seven-day period ending each Wednesday (the "computation period"). Required reserve balances shall be maintained during a corresponding seven-day period (the "maintenance period") which begins the second Thursday following the end of the computation period. However, to determine the reserve balance that a depository institution is required to maintain with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's reserve requirements.

(d) Deductions allowed in computing reserves.

(1) In determining the reserve balance required under this Part, the amount of cash items in process of collection and balances



subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts. However, if a depository institution maintains any transaction accounts that are first authorized under Federal law after April 1, 1980, it may deduct from these balances cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States only to the extent of the proportion that such newly authorized transaction accounts are of the institution's total transaction accounts. The remaining cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions shall be deducted from the institution's remaining transaction accounts.

(2) United States branches and agencies of a foreign bank may not deduct balances due from another United States branch or agency of the same foreign bank, and United States offices of an Edge Corporation may not deduct balances due from another United States office of the same Edge Corporation.

(3) Balances "due from other depository institutions" do not include balances due from Federal Reserve Banks, pass through accounts, or balances (payable in dollars or otherwise) due from banking offices located outside the United States. An institution exercising fiduciary powers may not include in "balances due from other depository institutions" amounts of trust funds deposited with other banks and due to it as a trustee or fiduciary.

(e) Availability of cash items as reserves. Cash items forwarded to a Federal Reserve Bank for collection and credit shall not be counted as part of the reserve balance to be carried by a depository institution with the Federal Reserve until the expiration of the time specified in the appropriate time schedule established under Regulation J, "Collection of Checks and Other Items and Transfers of Funds" (12 CFR Part 210). If a depository institution draws against items before that time, the charge will be made to its reserve balance if the balance is sufficient to pay it; any resulting impairment of reserve balances will be subject to the penalties provided by law and by this Part. However, the Federal Reserve Bank may, at its discretion, refuse to permit the withdrawal or other use of credit given in a reserve account for any time for which the Federal Reserve Bank has not received payment in actually and finally collected funds.

(f) Carryover of deficiencies. Any excess or deficiency in a depository institution's required reserve balance for any maintenance period that does not exceed 2 per cent of the depository institution's required reserves shall be carried forward to the next maintenance period. Any carryover not offset during the next period may not be carried forward to additional periods.

(g) Deposits of affiliates. If an obligation of an affiliate of a depository institution is regarded as a deposit and is used to purchase assets from the depository institution, the maturity of the deposit is determined by the shorter of the maturity of the obligation issued or the maturity of the assets purchased. If the proceeds from an affiliate's obligation are placed in the depository institution in the form of a reservable deposit, no reserves need be maintained against the obligation of the affiliate. However, the maturity of the deposit issued to the affiliate shall be the shorter of the maturity of the affiliate's obligation or the maturity of the deposit.

#### SECTION 204.4--TRANSITIONAL ADJUSTMENTS

The following transitional adjustments for computing Federal reserve requirements shall apply to all member and nonmember depository institutions, except for reserves imposed under sections 204.5, 204.6 and 204.7.

(a) Nonmembers. Except as provided below, the required reserves of a depository institution that was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date shall be determined by reducing the amount of required reserves computed under section 204.3 in accordance with the following schedule:

| <u>Reserve maintenance periods<br/>occurring between</u> | <u>Percentage that computed<br/>reserves will be reduced</u> |
|--|--|
| September 4, 1980 to September 2, 1981                   | 87.5   |
| September 3, 1981 to September 1, 1982                   | 75   |
| September 2, 1982 to August 31, 1983                     | 62.5   |
| September 1, 1983 to September 5, 1984                   | 50   |
| September 6, 1984 to September 4, 1985                   | 37.5   |
| September 5, 1985 to September 3, 1986                   | 25   |
| September 4, 1986 to September 2, 1987                   | 12.5   |
| September 3, 1987 forward                                | 0  |

However, an institution shall not reduce the amount of reserves required to be maintained on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980.

(b) Members and former members. Any depository institution that is a member bank on September 1, 1980, or was a member bank on or after July 1, 1979 and withdrew from membership before March 31, 1980, or withdraws from membership on or after March 31, 1980, shall compute and maintain reserves as follows:

- (1) A depository institution whose required reserves are higher using the reserve ratios in effect during a given computation period (§ 204.9(a)) than its required reserves using the reserve ratios in effect on August 31, 1980 (§ 204.9(b)):
  - (i) shall maintain the full amount of reserves that is required against any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and
  - (ii) shall reduce the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which required reserves computed under section 204.3 exceeds the amount of reserves that would have been required using the reserve ratios that were in effect on August 31, 1980 (§ 204.9(b)), times the appropriate percentage specified below in accordance with the following schedule:

| <u>Reserve maintenance periods</u><br><u>occurring between</u> | <u>Percentage applied to difference</u><br><u>to compute amount to be subtracted</u> |
|--|--|
| September 4, 1980 to September 2, 1981                         | 75   |
| September 3, 1981 to September 1, 1982                         | 50   |
| September 2, 1982 to August 31, 1983                           | 25   |
| September 1, 1983 forward                                      | 0  |

- (2) A depository institution whose required reserves are lower using the reserve ratios in effect during a given computation period (§ 204.9(a)) than its required reserves using the reserve ratios in effect on August 31, 1980 (§ 204.9(b)):
  - (i) shall maintain the full amount of reserves that is required against any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and

- (ii) shall increase the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which reserves that would have been required using the reserve ratios that were in effect on August 31, 1980 (§ 204.9(b)), exceeds the amount of required reserves computed under section 204.3, times the appropriate percentage specified below in accordance with the following schedule:

| <u>Reserve maintenance periods<br/>occurring between</u> | <u>Percentage applied to<br/>difference to compute<br/>amount to be added</u> |
|--|---|
| September 4, 1980-March 4, 1981                          | 87.5  |
| March 5-September 2, 1981                                | 75  |
| September 3, 1981-March 3, 1982                          | 62.5  |
| March 4-September 1, 1982                                | 50  |
| September 2, 1982-March 2, 1983                          | 37.5  |
| March 3-August 31, 1983                                  | 25  |
| September 1, 1983-February 29, 1984                      | 12.5  |
| March 1, 1984 forward                                    | 0   |

(c) Certain nonmembers and branches and agencies of foreign banks. The required reserves of a nonmember depository institution that was not engaged in business on or before July 1, 1979, but commenced business between July 2, 1979, and September 1, 1980, and any United States branch or agency of a foreign bank with total worldwide consolidated bank assets in excess of \$1 billion shall be determined by reducing the amount of its required reserves computed under section 204.3 in accordance with the following schedule:

| <u>Reserve maintenance periods<br/>occurring between</u> | <u>Percentage that computed<br/>reserves will be reduced</u> |
|--|--|
| September 4-December 3, 1980                             | 87.5   |
| December 4, 1980-March 4, 1981                           | 75.0   |
| March 5-June 3, 1981                                     | 62.5   |
| June 4-September 2, 1981                                 | 50.0   |
| September 3-December 2, 1981                             | 37.5   |
| December 3, 1981-March 3, 1982                           | 25.0   |
| March 4-June 2, 1982                                     | 12.5   |
| June 3, 1982 forward                                     | 0  |

However, the institution shall not reduce the amount of reserves required to be maintained on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980.

(d) New members. Any nonmember depository institution that becomes a member of the Federal Reserve System after September 1, 1980, shall maintain reserves in an amount determined under paragraph (a) or (c), as applicable, as if it had remained a nonmember and adding to this amount an amount determined by multiplying the difference between its required reserves computed using the ratios specified in § 204.9(a) and its required reserves computed as if it had remained a nonmember times the percentage specified below in accordance with the following schedule:

| <u>Maintenance periods occurring during successive quarters after becoming a member bank</u> | <u>Percentage applied to difference to compute amount to be added</u> |
|--|---|
| 1  | 12.5  |
| 2  | 25.0  |
| 3  | 37.5  |
| 4  | 50.0  |
| 5  | 62.5  |
| 6  | 75.0  |
| 7  | 87.5  |
| 8 and succeeding   | 100.0   |

(e) De novo institutions. Any depository institution that was not engaged in business on September 1, 1980, shall maintain the amount of required reserves computed under section 204.3 in accordance with the following schedule:

| <u>Maintenance periods occurring during successive quarters after entering into business</u> | <u>Percentage of reserve requirement to be maintained</u> |
|--|---|
| 1  | 40  |
| 2  | 45  |
| 3  | 50  |
| 4  | 55  |
| 5  | 65  |
| 6  | 75  |
| 7  | 85  |
| 8 and succeeding   | 100   |

(f) Nonmembers chartered under laws of Alaska or Hawaii.

This subparagraph applies to any State-chartered depository institution that was engaged in business on August 1, 1978, which was not a member of the Federal Reserve System on that date, and whose principal office was located in Alaska or Hawaii on and after that date shall not maintain reserves against its deposits imposed under this Part until January 2, 1986. On or after January 2, 1986, the required reserves of such a depository institution shall be determined by reducing the amount of required reserves computed under section 204.3 in accordance with the following schedule:

| <u>Maintenance periods</u><br><u>occurring between</u> | <u>Percentage that computed</u><br><u>reserves will be reduced</u> |
|--|--|
| January 2 to December 31, 1986                         | 87.5   |
| January 1, 1987 to January 6, 1988                     | 75   |
| January 7, 1988 to January 4, 1989                     | 62.5   |
| January 5, 1989 to January 3, 1990                     | 50   |
| January 4, 1990 to January 2, 1991                     | 37.5   |
| January 3, 1991 to January 1, 1992                     | 25   |
| January 2, 1992 to January 6, 1993                     | 12.5   |
| January 7, 1993 forward                                | 0  |

(g) Mergers and consolidations. The following rules concerning transitional adjustments apply to mergers and consolidations of depository institutions:

- (1) Nonmembers. Where the surviving institution of a merger or consolidation between nonmember depository institutions that were engaged in business on July 1, 1979 is a nonmember institution, it shall compute its transitional adjustment of reserve requirements under paragraph (a).
- (2) Member with surviving nonmember. Where the surviving institution of a merger or consolidation between a nonmember bank and a bank that was a member bank on or after July 1, 1979, or after is a nonmember bank, it shall apply the transitional rules for member banks in paragraphs (b) or (d), as applicable, on the proportion of its deposits attributable to the absorbed member bank. This proportion will be the ratio that daily average deposits of the absorbed member bank were to the daily average deposits of the combined banks during the reserve computation period immediately preceding the date of the merger. The bank will compute and maintain reserves against the remaining proportion of deposits applying the transitional rules applicable to nonmember depository institutions in paragraphs (a), (c) or (e), as applicable. A ratio of vault cash also will be computed and applied.

- (3) De novo with surviving nonmember. Where the surviving institution of a merger or consolidation between a depository institution that was engaged in business on July 1, 1979, and was not a member of the Federal Reserve System on or after that date, and a de novo depository institution is a nonmember depository institution, it shall compute and maintain reserves applying the transitional rules for de novo depository institutions in paragraphs (c) or (e), as applicable, on a proportion of its deposits attributable to the absorbed de novo bank. This proportion will be the ratio that daily average deposits of the absorbed de novo institution were to the daily average deposits of the combined institutions during the reserve computation period immediately preceding the date of the merger. The institution will compute and maintain reserves against the remaining proportion of its deposits by applying the transitional rules applicable to nonmember depository institutions in paragraph (a). A ratio of vault cash also will be computed and applied.
- (4) Nonmember with surviving member. Where the surviving institution of a merger or consolidation between a member bank and a nonmember bank is a member bank, it shall apply the transitional rules under paragraphs (a), (c) or (e), as applicable, only on the amount of deposits of the nonmember bank outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the balance of the deposits of the surviving member bank under paragraphs (b), (d) or (e), as applicable.
- (5) Members. Where a merger or consolidation involves member banks, required reserves shall be computed and maintained under section 204.3, except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the banks had merged) exceeds the sum of the actual required reserves of each bank during the same computation period times the appropriate percentage as specified in the following schedule:

| <u>Reserve maintenance periods<br/>occurring during quarterly<br/>periods following merger</u> | <u>Percentage applied to<br/>difference to compute<br/>amount to be subtracted</u> |
|--|--|
|--|--|

|                  |      |
|------------------|------|
| 1                | 87.5 |
| 2                | 75.0 |
| 3                | 62.5 |
| 4                | 50.0 |
| 5                | 37.5 |
| 6                | 25.0 |
| 7                | 12.5 |
| 8 and succeeding | 0    |

- (6) De novo with surviving member. Where the surviving institution of a merger or consolidation between a bank that was a member bank at any time between July 1, 1979, and September 1, 1980, and a de novo depository institution is a member bank, it shall compute and maintain reserves by applying paragraph (e) only to the amount of deposits of the de novo institution outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the remaining deposits of the surviving member bank under paragraphs (b) or (d), as applicable.
- (7) De novos. Where a merger involves de novo depository institutions, required reserves shall be computed and maintained in accordance with section 204.3, except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

| <u>Maintenance periods occurring<br/>during quarterly periods<br/>following merger</u> | <u>Percentage applied<br/>compute amount to<br/>be subtracted</u> |
|--|---|
|--|---|

|                  |      |
|------------------|------|
| 1                | 87.5 |
| 2                | 75.0 |
| 3                | 62.5 |
| 4                | 50.0 |
| 5                | 37.5 |
| 6                | 25.0 |
| 7                | 12.5 |
| 8 and succeeding | 0    |



SECTION 204.5 -- EMERGENCY RESERVE REQUIREMENTS

(a) Finding by Board. The Board may impose, after consulting with the appropriate committees of Congress, additional reserve requirements on depository institutions at any ratio on any liability upon a finding by at least five members of the Board that extraordinary circumstances require such action.

(b) Term. Any action taken under this section shall be valid for a period not exceeding 180 days, and may be extended for further periods of up to 180 days each by affirmative action of at least five members of the Board for each extension.

(c) Reports to Congress. The Board shall transmit promptly to Congress a report of any exercise of its authority under this paragraph and the reasons for the exercise of authority.

(d) Reserve requirements. At present, there are no emergency reserve requirements imposed under this section.

SECTION 204.6 -- SUPPLEMENTAL RESERVE REQUIREMENTS

(a) Finding by Board. Upon the affirmative vote of not less than five members and after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board may impose supplemental reserve requirements on every depository institution of not more than 4 per cent of its total transaction accounts. This supplemental reserve requirement may be imposed if:

(1) the sole purpose of the requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(2) the requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements under section 204.3;

(3) the requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(4) on the date on which supplemental reserve requirements are imposed, the total amount of reserves required under section 204.3 is not less than the amount of reserves that would be required on transaction accounts and nonpersonal time deposits under the reserve ratios in effect on September 1, 1980.

(b) Term.

(1) If a supplemental reserve requirement has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need for continuing the supplemental reserve.

(2) Any supplemental reserve requirement shall terminate at the close of the first 90-day period after the requirement is imposed during which the average amount of supplemental reserves required are less than the amount of reserves which would be required if the ratios in effect on September 1, 1980, were applied.

(c) Earnings Participation Account. A depository institution's supplemental reserve requirement shall be maintained by the Federal Reserve Banks in an Earnings Participation Account. Such balances shall receive earnings to be paid by the Federal Reserve Banks during each calendar quarter at a rate not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. Additional rules and regulations may be prescribed by the Board concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve Banks.

(d) Report to Congress. The Board shall transmit promptly to the Congress a report stating the basis for exercising its authority to require supplemental reserves under this section.

(e) Reserve requirements. At present, there are no supplemental reserve requirements imposed under this section.

SECTION 204.7 -- EURODOLLAR RESERVE REQUIREMENTS

(a) Reserves required. In addition to the reserves required to be maintained under section 204.3, a depository institution and a United States branch or agency of a foreign bank shall maintain reserves against the sum of its Eurodollar liabilities described in this section applying the ratio set forth in section 204.9(a).

(b) Eurodollar liabilities are the sum of the following:

(1) Certain deposits by foreign banking offices. Deposits represented by promissory notes, acknowledgments of advance, or similar obligations described in section 204.2(a)(1)(vii) that are issued to any office located outside the United States of another depository institution organized under the laws of the United States or of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR 217.3(g)).

(2) Foreign branch transactions with parent.

(i) In the case of a depository institution organized under United States law,

(A) net positive balances due from its United States offices to its non-United States offices, and

(B) assets (including participations) held by non-United States branches that were acquired from its United States offices or from an affiliated Edge Corporation.

(ii) In the case of United States branches and agencies of a foreign bank,

(A) net positive balances due to its foreign bank (including offices thereof located outside the United States) after deducting an amount equal to 8 per cent of the United States branch's or agency's total assets less the sum of United States coin and currency, cash items in the process of collection and unposted debits, balances due from domestic banks and other foreign banks, balances due from foreign central banks, and net balances due from its foreign bank and its United States and non-United States offices; however, the amount that may be deducted may not exceed net balances due to the foreign bank (including offices thereof located outside the United States), and

(B) assets (including participations) held by its foreign bank (including offices of the foreign bank located outside the United States or its parent holding company that were acquired from the United States branch or agency) other than assets required to be sold by Federal or State supervisory authorities or from an affiliated Edge Act Corporation.

(3) Foreign branch credit extended to United States residents. Credit outstanding from the non-United States office of a depository institution organized under United States law to United States residents (other than assets acquired and net balances due from its United States offices), except credit extended (i) in the aggregate amount of \$100,000 or less to any United States resident, (ii) by a non-United States office which at no time during the computation period had credit outstanding to United States residents exceeding \$1 million, and (iii) to an institution that will be maintaining reserves on such credit pursuant to this Part. This subparagraph does not apply to United States branches and agencies of foreign banks. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations will not be regarded as credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

#### SECTION 204.8 -- PENALTIES

(a) Penalties for Deficiencies.

(1) Assessment of Penalties. Deficiencies in a depository institution's required reserve balance, after application of the 2 per cent carryover provided in section 204.3(f) are subject to penalties. Penalties shall be assessed at a rate of 2 per cent per year above the lowest rate in effect for borrowings from the Federal Reserve Bank on the first day of the calendar month in which the deficiencies occurred. Penalties shall be assessed on the basis of daily average deficiencies during each computation period. Reserve Banks may, as an alternative to levying monetary penalties, after consideration of the circumstances involved, permit a depository institution to eliminate deficiencies in its required reserve balance by maintaining additional reserves during subsequent reserve maintenance periods.

(2) Waivers. Reserve Banks may waive the penalty for reserve deficiencies except when the deficiency arises out of a depository institution's gross negligence or conduct that is inconsistent with the principles and purposes of reserve requirements. Each Reserve Bank has adopted guidelines that provide for waivers of small penalties. The guidelines also provide for waiving the penalty once during a two-year period for any deficiency that does not exceed a certain percentage of the depository institution's required reserves. Decisions by Reserve Banks to waive penalties in other situations are based on an evaluation of the circumstances in each individual case and the depository institution's reserve maintenance record. If a depository institution has demonstrated a lack of due regard for the proper maintenance of required reserves, the Reserve Bank may decline to exercise the waiver privilege and assess all penalties regardless of amount or reason for the deficiency.

(b) Penalties for Violations. Violations of this Part may be subject to assessment of civil money penalties by the Board under

authority of section 19(1) of the Federal Reserve Act (12 U.S.C. § 505) as implemented in 12 CFR Part 263. In addition, the Board and any other Federal financial institution supervisory authority may enforce this Part with respect to depository institutions subject to their jurisdiction under authority conferred by law to undertake cease and desist proceedings.

SECTION 204.9 -- RESERVE REQUIREMENT RATIOS

(a) Reserve percentages. The following reserve ratios are prescribed for all depository institutions:

| <u>Category</u>           | <u>Reserve requirement</u>                           |
|---------------------------|--|
| Net transaction accounts  |  |
| \$0-\$25 million          | 3% of amount   |
| Over \$25 million         | \$750,000 plus 12%<br>of amount over<br>\$25 million |
| Nonpersonal time deposits | 3%   |
| Eurodollars               | 3%   |

(b) Reserve ratios in effect during last computation period prior to September 1, 1980.

| <u>Category</u>   | <u>Reserve Requirement</u>                        |
|---|---|
| <u>Net Demand Deposits</u>  |   |
| <u>Deposit Tranche</u>  |   |
| \$0-\$2 million   | 7%  |
| over \$2 million-\$10 million                                       | \$140,000+9-1/2% of amount over \$2 million       |
| over \$10 million-\$100 million                                     | \$900,000+11-3/4% of amount over \$10 million     |
| over \$100 million-\$400 million                                    | \$11,475,000+12-3/4% of amount over \$100 million |
| over \$400 million  | \$49,725,000+16-1/4% of amount over \$400 million |
| <u>Savings deposits</u>   | 3%  |
| <u>Time deposits</u><br>(subject to 3% minimum<br>specified by law) |   |

By initial maturity

|  |        |
|--|--------|
| 30-179 days  |        |
| -\$0-5 million   | 3%     |
| -over \$5 million  | 6%     |
| 180 days to 4 years  | 2-1/2% |
| 4 years or more  | 1%     |
| Supplementary requirement (applied<br>to time deposits issued<br>in denominations of \$100,000<br>or more, time deposits represented<br>by ineligible bankers' acceptances,<br>or obligations issued by an affiliate<br>of a depository institution) | 2%     |
| <u>Marginal reserve requirement</u><br>(on managed liabilities in excess<br>of the institution's managed<br>liabilities base)  | 5%     |

By order of the Board of Governors, June 4, 1980.

(Signed) Theodore E. Allison

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Theodore E. Allison  
Secretary of the Board

[SEAL]