

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 82-31
March 12, 1982

REGULATIONS D AND Q

Final Interpretation

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

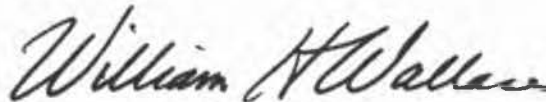
The Board of Governors of the Federal Reserve System has issued an interpretation of the "definition of deposit" in Regulation D, Reserve Requirements of Depository Institutions, and Regulation Q, Interest on Deposits, to permit investment companies and trusts in which the entire beneficial interest is held exclusively by depository institutions to sell Federal funds. The effective date of this interpretation was February 25, 1982.

Printed on the following pages is a copy of the material submitted for publication in the Federal Register which more fully explain the Board's action.

Questions regarding Regulations D and Q should be directed to Thomas H. Rust, Extension 6333, and the Legal Department, Extension 6171, respectively.

Additional copies of this circular will be furnished upon request to the Department of Communications, Financial and Community Affairs, Extension 6289.

Sincerely yours,



William H. Wallace
First Vice President

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.

FEDERAL RESERVE SYSTEM

Regulations D and Q

[12 CFR PARTS 204 and 217]

[Docket No. R-0387]

RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

INTEREST ON DEPOSITS

Eligibility of Investment Companies and Trusts in Which the Entire Beneficial Interest Is Held Exclusively by Depository Institutions to Sell Federal Funds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board of Governors has issued an interpretation of the definition of deposit in Regulation D--Reserve Requirements of Depository Institutions (12 CFR Part 204) and Regulation Q--Interest on Deposits (12 CFR Part 217) to permit investment companies and trusts in which the entire beneficial interest is held exclusively by depository institutions to sell Federal funds.

DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Paul S. Pilecki, Senior Attorney (202/452-3281), or Robert G. Ballen, Attorney (202/452-3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective February 25, 1982, pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. § 461 et seq.), the Board amends Regulation D (12 CFR Part 204) and Regulation Q (12 CFR Part 217) as follows:

1. Regulation D (12 CFR Part 204) is amended by adding a new section 204.123 as follows:

§ 204.123 -- Sale of Federal Funds by Investment Companies or Trusts in Which the Entire Beneficial Interest Is Held Exclusively by Depository Institutions

(a) The Federal Reserve Act, as amended by the Monetary Control Act of 1980 (Title I of Pub. L. 96-221) imposes Federal reserve requirements on transaction accounts and nonpersonal time deposits held by depository institutions. The Board is empowered under the Act to determine what types of obligations shall be deemed a deposit. Regulation D--Reserve Requirements of Depository Institutions exempts from the definition

of "deposit" those obligations of a depository institution that are issued or undertaken and held for the account of a domestic office of another depository institution (12 CFR § 204.2(a)(1)(vii)(A)(1)). A parallel exemption in Regulation Q--Interest on Deposits exempts from the definition of "deposit" obligations issued to (or undertaken with respect to) and held for the account of a bank (12 CFR § 217.1(f)(1)). These exemptions from the definition of "deposit" are known collectively as the "Federal funds" or "interbank" exemption.

(b) Title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980 authorizes Federal savings and loan associations to invest in open-ended management investment companies provided the funds' investment portfolios are limited to the types of investments that a Federal savings and loan association could hold without limit as to percentage of assets (12 U.S.C. § 1464(c)(1)(Q)). Such investments include mortgages, U.S. Government and agency securities, securities of states and political subdivisions, sales of Federal funds and deposits held at banks insured by the Federal Deposit Insurance Corporation. The Federal Credit Union Act authorizes Federal credit unions to aggregate their funds in trusts provided the trust is limited to such investments that Federal credit unions could otherwise make. Such investments include loans to credit union members, obligations of the U.S. government or secured by the U.S. government, loans to other credit unions, shares or accounts held at savings and loan associations or mutual savings banks insured by FSLIC or FDIC, sales of Federal funds and shares of any central credit union whose investments are specifically authorized by the board of directors of the Federal credit union making the investment (12 U.S.C. § 1757(7)).

(c) The Board has considered whether an investment company or trust whose entire beneficial interest is held by depository institutions, as defined in Regulation D, would be eligible for the Federal funds exemption from reserve requirements and interest rate limitations. The Board has determined that such investment companies or trusts are eligible to participate in the Federal funds market because, in effect, they act as mere conduits for the holders of their beneficial interest. To be regarded by the Board as acting as a conduit and, thus, be eligible for participation in the Federal funds market, an investment company or trust must meet each of the following conditions:

(1) The entire beneficial interest in the investment company or trust must be held by depository institutions, as defined in Regulation D. These institutions presently may participate directly in the Federal funds market. If the entire beneficial interest in the investment company or trust is held only by depository institutions, the Board will regard the investment company or trust as a mere conduit for the holders of its beneficial interest.

(2) The assets of the investment company or trust must be limited to investments that all of the holders of the beneficial interest could make directly without limit.

(3) Holders of the beneficial interest in the investment company or trust must not be allowed to make third party payments from their accounts with the investment company or trust. The Board does not regard an investment company or trust that offers third party payment capabilities or other similar services which actively transform the nature of the funds passing between the holders of the beneficial interest and the Federal funds market as mere conduits.

The Board expects that the above conditions will be included in materials filed by an investment company or trust with the appropriate regulatory agencies.

(d) The Board believes that permitting sales of Federal funds by investment companies or trusts whose beneficial interests are held exclusively by depository institutions, that invest solely in assets that the holders of their beneficial interests can otherwise invest in without limit, and do not provide third party payment capabilities offer the potential for an increased yield for thrifts. This is consistent with Congressional intent to provide thrifts with convenient liquidity vehicles.

2. Regulation Q (12 CFR Part 217) is amended by adding a new section 217.158 as follows:

§ 217.158 -- Sale of Federal Funds by Investment Companies or Trusts in Which the Entire Beneficial Interest Is Held Exclusively by Depository Institutions

For text of this interpretation see § 204.123 of this subchapter.

By order of the Board of Governors, February 25, 1982.

(signed) William W. Wiles

William W. Wiles
Secretary of the Board

[SEAL]