FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 82-173
December 30, 1982

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

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

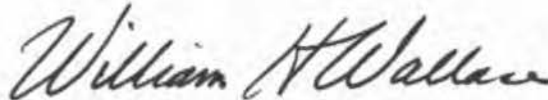
The Depository Institutions Deregulation Committee (DIDC) has released three final rules and one proposed rule as a result of actions at its December 6, 1982 meeting.

The DIDC released final rules pertaining to (1) Short-Term Time Deposit Accounts. (2) NOW Accounts of $2,500 or more, and (3) Money Market Deposit Accounts. In addition, the DIDC has requested comments, by February 1, 1983 on a proposal which would remove the restrictions on the number of transfers of funds for the Money Market Deposit Accounts held by depositors that are not eligible to maintain NOW accounts. Comments should be directed to Mr. Gordon Eastburn, Acting Executive Secretary, Depository Institutions Deregulation Committee, Room 1058, Department of the Treasury, 15th Street and Pennsylvania Avenue N.W., Washington, D.C., 20220 and refer to Docket No. 0030.

Attached are copies of the DIDC's press release and the material as submitted for publication in the Federal Register. Questions regarding the material contained in this circular should be directed to this Bank's Legal Department, Extension 6171.

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.

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DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE
Washington, D.C. 20220

PRESS RELEASE

December 14, 1982

Final Rules and Proposed Rules

Today the Depository Institutions Deregulation Committee (DIDC) released the attached three final rules and one proposed rule resulting from actions taken at the December 6, 1982 DIDC meeting.

The attachments include:

1. Final amendments to the Money Market Deposit Account (MMDA) effective December 14, 1982, regarding the telephone transfers feature and the technical definition of a "month".

2. Final rules removing the ceiling on the 7- to 31-day account and reducing to $2,500 the minimum denomination on the 7- to 31-day, the 91-day and the six-month certificates of deposit, effective January 5, 1983.

3. Final rules regarding the new $2,500 minimum denomination, ceiling-free NOW account, effective January 5, 1983.

4. A request for comments on permitting the MMDA to be offered to businesses with an unlimited transactions feature.

Within a few days, the DIDC will distribute one other request for comments regarding proposals to accelerate the deregulation of deposits at depository institutions.

Attachments

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 C.F.R. Part 1204

(Docket No. D-0029)

Short-Term Time Deposit Accounts

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final Rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has amended its rules to remove the ceiling on the rate of interest payable on 7- to 31-day time deposits and to lower the minimum denomination requirement on this account, as well as the 91-day time deposit and 26-week money market time deposit ("MMC"), to $2,500. The existing minimum denomination requirements on these deposits are $20,000, $7,500, and $10,000, respectively. The Committee's actions were taken to conform the minimum denominations of these accounts with the Money Market Deposit Account ("MMDA") and because the interest rate ceiling on the 7- to 31-day account is not necessary in light of the establishment of the MMDA, which may be offered for similar time periods.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3281); Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447-1880); F. Douglas Birdzell, Counsel, and Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389-4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566-8737).

List of Subjects in 12 CFR Part 1204: Banks, banking.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of P.L. No. 96-221; 12 U.S.C. §§ 3501 *et seq.*) ("DIDA") was enacted to provide for the orderly phaseout and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Under DIDA, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods including the creation of new account categories not subject to interest rate limitations or with interest rate ceilings set at market rates of interest.

Pursuant to this statutory authorization, the Committee's rules set forth a number of deposit categories bearing market rates of interest. Among these are 7- to 31-day time deposits (12 CFR § 1204.121), 91-day time deposits (12 CFR § 1204.120) and MMCs (12 CFR § 1204.104). These accounts have minimum denomination requirements of

$20,000, $7,500 and $10,000, respectively, and ceiling rates of interest on these accounts generally are based on the 91-day U. S. Treasury bill rate (auction average on a discount basis) for the 7- to 31-day and 91-day accounts, and the 26-week U. S. Treasury bill rate (auction average on a discount basis) for MMCs.

The Committee has established a new deposit account ("MMDA"), as required by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320 ("Garn-St Germain Act"). The new deposit account has the following principal characteristics: (1) an initial and average balance requirement of no less than $2,500; (2) a requirement that depository institutions reserve the right to require at least seven days' notice prior to withdrawal or transfer of funds; (3) no interest rate ceiling on deposits which satisfy the initial and average balance requirements; (4) no more than six preauthorized, automatic or other third party transfers per month, of which no more than three can be checks; and (5) availability to all depositors. In addition, at its December 6, 1982 meeting, the Committee established a new rule for the payment of interest on NOW accounts that have balances of not less than $2,500 and are subject to certain of the restrictions that apply to the MMDA.

Under existing regulations, depository institutions may guarantee for up to one month the offering rate on MMDAs. Therefore, institutions can structure the new account to substitute for the existing 7- to 31-day account, rendering the ceiling on the latter account meaningless. Thus, the Committee has amended its regulations to remove that ceiling. The interest rate ceiling on this account is currently suspended because the 91-day bill rate has been below 9 per cent and under existing regulations is scheduled to be removed on May 1, 1983.

In designing these and other short-term deposit instruments, the Committee traditionally has attempted to strike a balance between enabling institutions to compete effectively with market instruments and minimizing the potential for shifts from lower-yielding savings deposits. In addition to establishing fixed maturities, the Committee has sought to accomplish this objective through large minimum denomination requirements on the 7- to 31-day, 91-day, and 26-week accounts. Now that the Committee has implemented Section 327 of the Garn-St Germain Act by authorizing a money market deposit account with a minimum denomination of $2,500, the potential for shifts from lower-yielding savings deposits is reduced in importance in establishing the terms on short-term deposit instruments. Since the MMDA dominates the other short-term deposits as a substitute for savings deposits, altering the minimum denomination on the other deposit categories is unlikely to result in any significant further shifting from lower-yielding accounts. Consequently, the Committee has determined that it is appropriate to reduce to $2,500 the minimum denomination requirements for the 7- to 31-day account, 91-day account, and MMC.

The provisions of 5 U.S.C. § 553(b) relating to notice and public participation have not been followed in connection with adoption of these amendments because such actions involve conforming amendments to existing regulations that are considered appropriate in light of the Committee's action in establishing the MMDA and ceilingless NOW account. These accounts have, as a practical matter, rendered the ceiling on the 7- to 31-day account and the minimum denomination requirements of all three short-term time deposits meaningless. Thus, the Committee has determined that notice and public participation is unnecessary in connection with this action. In addition, the Committee has not deferred the effective date of these amendments in accordance with 5 U.S.C. § 553(d) since these actions relieve restrictions.

Pursuant to its authority under Title II of Pub. L. 96-221 (94 Stat. 142; 12 U.S.C. § 3501 et seq.) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and mutual savings banks, the Committee amends Part 1204--Interest on Deposits, effective January 5, 1983, to read as follows:

1. By revising the first sentence in section 1204.104 to read as follows:

SECTION 1204.104--26-Week Money Market Time Deposits of Less Than $100,000

Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any nonnegotiable time deposit of $2,500 or more, with a maturity of 26 weeks, at a rate not to exceed the ceiling rates set forth below.

* * * * *

2. In section 1204.120, by revising paragraph (a) to read as follows:

SECTION 1204.120--91-Day Time Deposits of Less Than $100,000

(a) Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any negotiable or nonnegotiable time deposit of $2,500 or more, with a maturity of 91 days, at a rate not to exceed the ceiling rates set forth below. Rounding any rate upward is not permitted, and interest may not be compounded during the term of this deposit.

* * * * *

3. In section 1204.121, by deleting paragraph (b) and by redesignating the succeeding paragraphs accordingly, and by revising the section heading and paragraph (a) to read as follows:

SECTION 1204.121--7- to 31-Day Time Deposits of $2,500 or More

(a) Commercial banks, mutual savings banks, and savings and loan associations may pay interest at any rate as agreed to by the depositor on any nonnegotiable time deposit of $2,500 or more, with a maturity or required notice period of not less than 7 days nor more than 31 days. However, a depository institution shall not pay interest in excess of the ceiling rate for regular savings deposits or accounts on any day the balance in a time deposit issued under this section is less than $2,500.

* * * * *

By order of the Committee, December 14, 1982.

Mark Bender
Acting Executive Secretary

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

[12 C.F.R. Part 1204]

(Docket No. D-0028)

NOW Accounts of $2,500 or More

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has established a new rule for the payment of interest on NOW accounts with a minimum initial and average balance requirement of $2,500. A depository institution may pay any rate of interest on such accounts if it meets the following conditions that also apply to the Money Market Deposit Account (12 CFR § 1204.122) ("MMDA"): (1) an institution must reserve the right to require seven days' notice prior to withdrawal; (2) compliance with the average balance requirement may be computed over a period no longer than one month; (3) the existing NOW account ceiling rate (5-1/4 percent) applies to accounts that do not meet the average balance requirement; (4) an interest rate may not be guaranteed for longer than one month; and (5) loans are not permitted to meet the $2,500 initial or average balance requirement. These rules apply to accounts that are authorized under 12 U.S.C. § 1832(a). Accordingly, such accounts are available only to individuals, nonprofit organizations operated primarily for religious, philanthropic, charitable, educational, fraternal and other similar purposes, and to governmental units. This action was taken by the Committee in connection with its responsibility under the Depository Institutions Deregulation Act to phase out deposit interest rate ceilings as rapidly as economic conditions warrant.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3281); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446); Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389-4147); Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447-1880); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566-8737).

List Of Subjects In 12 CFR Part 1204: Banks, banking.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of P.L. 96-221; 12 U.S.C. § 3501 *et seq.*) ("DIDA") was

enacted to provide for the orderly phase out and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Under DIDA, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods, including the elimination of limitations applicable to particular categories of accounts, the creation of new account categories not subject to interest rate ceilings or with interest rate ceilings set at market rates of interest.

The Committee has considered the issue of short-term time deposits at each of its meetings since June 25, 1981. At that meeting, the Committee determined to request public comment on the desirability of authorizing a new deposit instrument having characteristics similar to money market mutual funds ("MMFs") (46 Fed. Reg. 36712, July 15, 1981). Over 400 comments were received in response to the Committee's request.

The Committee considered these comments at its September 22, 1981 meeting and determined to solicit additional public comment (46 Fed. Reg. 50804, October 15, 1981) on several specific proposals for a short-term deposit designed to compete with money market instruments that are available in denominations of less than $100,000. The three specific proposals were: (1) a ceilingless, $5,000 minimum denomination account with a transactions feature; (2) a time deposit with an initial maturity of 91 days, and a 14-day notice period thereafter, with a ceiling rate tied to the 13-week Treasury bill rate; and (3) a ceilingless $25,000 minimum denomination 1-day notice account. Comment was requested on several specific account characteristics as well. On December 16, 1981, the Committee postponed consideration of the matter until its next meeting.

At its March 22, 1982 meeting, the Committee considered the comments received and authorized, effective May 1, 1982, a new category of time deposit with a minimum denomination of $7,500, a maturity of 91 days, and a fixed interest rate ceiling based on the most recent rate (auction average on a discount basis) established and announced for U.S. Treasury bills with maturities of 91 days. At that time, the Committee recognized that the new deposit category would not be fully competitive with instruments being offered by non-depository institutions. Therefore, the Committee directed its staff to continue efforts to design additional short-term deposit categories to enable depository institutions to compete more effectively with MMFs.

After consideration of the comments received and the analysis and discussions from previous meetings, as summarized above, the Committee determined to authorize, effective September 1, 1982, a new category of short-term time deposit with the following principal characteristics: (1) a minimum denomination of $20,000; (2) a maturity or required notice period of no less than seven days and no more than 31 days as agreed to by the depositor and the institution; and (3) a ceiling

rate for all depository institutions based on the 91-day Treasury bill rate (auction average on a discount basis) at the most recent auction.

Of all the instruments put forth for comment in October 1981, the $5,000 minimum denomination transaction account was clearly the most popular because it was generally perceived to be the most competitive vis-a-vis MMFs. Nevertheless, the Committee declined to authorize such an instrument, principally because of the large increase in the interest costs of depository institutions--particularly thrifts--that could have resulted from massive shifting of funds out of low-yielding passbook accounts. Indeed, the two accounts subsequently created by the Committee were structured expressly to limit the extent of such shifting. More recently, at its September meeting the Committee considered petitions by four state regulatory agencies to permit federally-insured depository institutions in those states to offer "Super NOW accounts" or similar accounts. These petitions were denied partly because of the probable impact on earnings of thrift institutions and the potential for disruptions in regional flows of funds; the Committee also wanted to delay action on a selective state-by-state basis until after Congress had authorized expanded asset powers for the thrift institutions, after which the Committee wanted to consider creating a new account that would be available nationwide.

In October 1982, Congress directed the Committee to establish a category of account "directly equivalent to and competitive with money market mutual funds." The Committee established the Money Market Deposit Account ("MMDA"), effective December 14, 1982, with a $2,500 minimum balance, no interest rate ceiling and limited transactions capability (47 Fed. Reg. 53710, November 29, 1982).

When the Committee requested comment on the MMDA in October, numerous respondents expressed a desire to have the option of offering the account with unlimited transfers and drafts. Many others simply assumed that institutions would have the choice of limiting third-party transfers or structuring the account without such limits, recognizing that the latter option would entail transaction account reserve requirements. Institutions who favored unlimited transfers cited the liquidity and access features of MMFs as key ingredients to their success, and felt that any account intended to compete effectively with MMFs must allow institutions similar flexibility to provide full transactions capabilities.

In light of the authorization of the congressionally mandated MMDA, the Committee believes that it is now appropriate to authorize a transaction account not subject to a rate ceiling. In this regard, the MMDA will likely attract a substantial amount of funds from passbook accounts. Consequently, the Committee believes that the additional effects on shifts of funds from passbook accounts caused by a market-rate transaction account will be minimal and that the earnings effects associated with such an account, therefore, will be diminished considerably.

Accordingly, effective January 5, 1983, the Committee has established a new rule for the payment of interest on NOW accounts that are offered with the following features, many of which also have been established in connection with the MMDA:

(1) $2,500 minimum initial and average balance requirement;

(2) No interest rate ceiling when the average balance is equal to or in excess of $2,500;

(3) The existing NOW account ceiling (5-1/4 percent) applies when the average balance is less than the minimum average balance;

(4) Compliance with the average balance requirement may be determined over a period of one month;

(5) Institutions must reserve the right to require a least seven days' notice prior to withdrawal;

(6) Loans are not permitted to meet the $2,500 minimum amount;

(7) Unlimited deposit and withdrawal capability; and

(8) Availability to depositors currently eligible to maintain NOW accounts under Federal law.

Minimum balance requirement. The Committee determined to impose an initial balance requirement of $2,500 on NOW accounts that are exempt from rate ceilings. In addition, there will be a minimum balance requirement of $2,500. Depository institutions are free to establish higher balance requirements if they wish.

Compliance with minimum balance requirement. As with the MMDA, a depository institution may determine compliance with the minimum balance requirement (but not the minimum initial balance requirement) by using an average daily balance calculated over any computation period it chooses, such as one day, one week or one month, provided that such a computation period is no longer than a month. A "month" is defined to be either a calendar month or statement cycle (or similar period) of at least 28 days but no longer than 31 days, except that a statement cycle occasionally may be as long as 35 days. Thus, for example, an institution could choose to determine compliance with the minimum balance requirement through the use of a one-week computation period. A depositor will have met the requirement if the average daily balance in the account during the one week computation period is equal to or above $2,500. In order to ensure compliance with the account's minimum initial deposit and balance requirements, the Committee prohibited loans for the purpose of meeting those requirements.

The current ceiling on NOW accounts (5-1/4 per cent) will continue to apply to NOW accounts that have balances of less than $2,500 and to other NOW accounts that are not subject to the conditions under which a NOW account may be offered without regard to a ceiling rate. The 5-1/4 percent NOW account ceiling rate will apply for the entire computation period in which the average balance in the account is less than $2,500. For example, an institution which uses an average balance computed over a seven-day period may pay a depositor a rate not in excess of 5-1/4 percent for the entire seven-day period if the depositor's average daily balance during that seven-day period is less than $2,500. Depending on the computation period chosen and the interest crediting practices of the institution, the lower rate may have to be imposed on an *ex post* basis.

Guarantee of rate. The Committee determined to impose a maximum limitation of one month (as defined above) on the length of time a depository institution may commit itself to pay any rate of interest or commit itself to employ any method of calculation of the rate of interest on the new account. The Committee also determined to prohibit an institution from conditioning the rate of interest paid or the method of calculation of the rate of interest paid on the new account on the length of time a deposit is maintained, if that length of time is longer than a month (as defined above). For example, a depository institution may not obligate itself to pay the 91-day Treasury bill rate for a period of six months. Nor may a depository institution, in effect, guarantee a specified or indexed rate of interest for over one month by agreeing to pay a rate (*e.g.*, 30%) for one month on the condition that the deposit will be maintained for over one month (*e.g.*, 180 days).

Reservation of notice. The Committee imposed a requirement that institutions reserve the right to require at least seven days' prior notice of withdrawals or transfers from NOW accounts not subject to a ceiling rate. The Committee determined that if an institution chooses to exercise its right to require notice, it must apply that requirement equally to all depositors that maintain accounts subject to the new interest payment rules.

Additions to the account. The Committee determined to impose no restrictions on the size or frequency of additions to the new account, including additions effected by sweeps from other accounts into the new account.

Transactions and withdrawals. As with existing NOW accounts, depository institutions may permit withdrawals to be made from ceiling-free NOW accounts by any means and without limit as to size or frequency.

Eligible depositors. The class of depositors eligible to maintain NOW accounts is specified in the Consumer Checking Account Equity Act of 1980 (12 U.S.C. § 1832(a)), section 706 of the Garn-St Germain Act (96 Stat. 1540), and regulations of the Federal Reserve Board

(12 CFR § 217.157), the Federal Deposit Insurance Corporation (12 CFR § 329.103) and the Federal Home Loan Bank Board (12 CFR § 532.2). Under the Consumer Checking Account Equity Act, NOW accounts may consist of "funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational or other similar purposes and which is not operated for profit." The Garn-St Germain Act extends NOW account eligibility to funds of "the United States, any State, county municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof." These are the only depositors that are permitted to have NOW accounts. Deposits in which any beneficial interest is held by a corporation, partnership, association, or other organization that is operated for profit or is not operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes, or that is not a governmental unit may not be classified as NOW accounts.

Reserve requirements. Currently, under the Federal Reserve Board's Regulation D--Reserve Requirements of Depository Institutions (12 CFR Part 204), all NOW accounts are subject to the same reserve requirements. In this regard, a depository institution is subject to a full reserve requirement of 3 percent on the first $26.3 million tranche of its NOW accounts and to a 12 percent reserve requirement on amounts above $26.3 million. Depository institutions in the New England states, New York, and New Jersey are subject to a phase-in of reserve requirements on such accounts.

Depository institutions will have the option of modifying the rate of interest paid on existing NOW accounts or of offering a new account not subject to a rate ceiling. Where the interest rate is changed on an existing account, other specified conditions applicable to the MMDA also must be met.

The Committee believes that this action will assist depository institutions in competing with other financial instruments that offer market rates of return on short-term investments, such as MMFs. The ability to offer $2,500 minimum balance NOW accounts not subject to a rate ceiling should assist depository institutions to attract new funds by competing with other investment alternatives, help stem deposit outflows, and enhance the ability of institutions to attract and retain valuable customer relationships.

The Committee considered the potential effect on small entities of removing the interest rate ceiling on NOW accounts of $2,500 or more, as required by the Regulatory Flexibility Act (5 U.S.C. § 603 et seq.). In this regard, the Committee's action would not impose any new reporting or recordkeeping requirements. Small entities that are depositors generally should benefit from the Committee's action since removing the

interest rate ceiling on NOW accounts above $2,500 will provide them a market rate of return on short-term deposits. The competitive position of small depository institutions vis-a-vis nondepository competitors should be enhanced by their ability to offer a more competitive short-term instrument with unlimited transactions capability at market rates. The new funds that will be attracted as a result of this action (or the retention of deposits that might otherwise have left the institution) could be invested at a positive spread and would therefore at least partially offset the higher cost associated with the shifting of low-yielding accounts.

Pursuant to its authority under Title II of Public Law 96-221 (94 Stat. 142; 12 U.S.C. § 3501 *et seq*.) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and mutual savings banks, the Committee amends Part 1204 (Interest on Deposits), effective January 5, 1982, as follows:

1. By revising section 108 to read as follows:

SECTION 1204.108 -- MAXIMUM RATES OF INTEREST PAYABLE BY DEPOSITORY INSTITUTIONS ON DEPOSITS SUBJECT TO NEGOTIABLE ORDERS OF WITHDRAWAL

Commercial banks, savings and loan associations, and mutual savings banks ("depository institutions") may pay interest on any deposit or account subject to negotiable or transferable orders of withdrawal that is authorized pursuant to 12 U.S.C. § 1832(a)

(a) at a rate not to exceed 5-1/4 percent per annum, or

(b)(1) at any rate on an account subject to the conditions of this paragraph with an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (b)(2) of this section) of no less than $2,500. However, for an account with an average balance of less than $2,500, a depository institution shall not pay interest in excess of the rate specified in paragraph (a) of this section for the entire computation period, as described in paragraph (b)(2).

(2) The average balance in paragraph (b)(1) may be calculated on the basis of the average daily balance over any computation period selected by an institution which is not longer than one month. (For purposes of this paragraph (b), "month" shall mean, at a depository institution's option, a calendar month or statement cycle. A statement cycle is normally 28 to 31 days, but may occasionally be as long as 35 days.)

(3) A depository institution may not obligate itself to pay any interest rate or obligate itself to employ any method of calculation of an interest rate on this account for a period longer than one month.

A depository institution may not condition the interest rate paid upon the period of time the funds remain on deposit in this account, if that period is longer than one month.

(4) Depository institutions must reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in this account. If such a requirement for a notice period is imposed by a depository institution on one depositor, it must be applied equally to all other depositors holding an account subject to this paragraph (b) at the same institution.

(5) A depository institution is not permitted to lend funds to a depositor to meet the $2,500 balance requirements of this paragraph (b).

2. In section 1204.122, by revising paragraph (a), to read as follows:

SECTION 1204.122 -- MONEY MARKET DEPOSIT ACCOUNT

(a) Commercial banks, mutual savings banks, and savings and loan associations ("depository institutions") may pay interest at any rate on a deposit account as described in this section with an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (b) of this section) of no less than $2,500. However, for an account with an average balance of less than $2,500, a depository institution shall not pay interest in excess of the ceiling rate for NOW accounts (12 CFR § 1204.108(a)) for the entire computation period, as described in paragraph (b) of this section.

* * * * *

By order of the Committee, December 14, 1982.

Mark Bender
Acting Executive Secretary

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 C.F.R. Part 1204

[Docket No. D-0026]

Money Market Deposit Account

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final Rule

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") authorized the Money Market Deposit Account ("MMDA") effective December 14, 1982. See 47 Fed Reg 53710 (November 29, 1982). As originally authorized, the Committee restricted the MMDA to a maximum of six preauthorized, automatic or other third-party transfers per month. The Committee also determined at that time to permit unlimited telephone transfers from the MMDA to another account of the same depositor at the same depository institution. At its December 6, 1982 meeting, the Committee reconsidered this question and decided that, in order to reduce the potential for the MMDA to be a transaction account, telephone transfers from the MMDA to another account of the same depositor at the same depository institution will be counted in determining compliance with the limit of six transfers per month.

In a separate action, the Committee amended the definition of "month," for purposes of determining compliance with the transaction limitations, the minimum average balance requirements and the interest rate guarantee limitations. The new definition provides that a "month" may be (at the depository institution's option) a calendar month or statement cycle; with a statement cycle normally being 28 to 31 days, but occasionally being as long as 35 days. The Committee took this action because a number of depository institutions indicated that they had statement cycles that occasionally exceeded the 31-day maximum of the Committee's previous rule.

EFFECTIVE DATE: December 14, 1982.

FOR FURTHER INFORMATION CONTACT: Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447-1880); F. Douglas Birdzell, Counsel, and Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389-4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan

Bank Board (202/377-6446); Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3281); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566-8737).

List of Subject in 12 CFR Part 1204: Banks, banking.

SUPPLEMENTAL INFORMATION: Section 327 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, directed the Committee to establish a new account (now designated the MMDA) effective December 14, 1982. On October 19, 1982, the Committee published a request for comments regarding characteristics of the MMDA (47 Fed Reg 45630). That request noted that, in the staff's view, a telephone transfer from the MMDA to another account of the same depositor at the same depository institution should be considered a preauthorized or automatic transfer for purposes of any numerical restriction on the number of preauthorized or automatic transfers from the MMDA. Many of the comments received by the Committee expressed disagreement with this staff position.

At its November 15, 1982 meeting, the Committee adopted the MMDA regulation effective December 14, 1982, which establishes a limit of six preauthorized or automatic transfers of funds from an MMDA per month no more than three of which may be by check or draft drawn by the depositor. However, the Committee determined that, for purposes of this numerical limitation, a telephone transfer from the MMDA to another account of the same depositor at the same institution would not be considered a preauthorized or automatic transfer. In its publication of the MMDA regulations, the Committee noted that it would reconsider this issue at its next meeting (47 Fed. Reg. 53715).

At its December 6, 1982 meeting, the Committee reconsidered the telephone transfer issue in the context of two decisions made at that time. The first was the Committee's determination, effective January 5, 1983, to establish a new rule for the payment of interest on NOW accounts with a minimum balance of $2500. A depository institution may pay any rate of interest on such accounts that also meet certain conditions that apply to MMDAs. NOW accounts permit unlimited transactions (including unlimited telephone transfers), and eligibility is limited by statute to individuals, certain nonprofit organizations and governmental entities. The second relevant decision was the determination to request comments on amending the MMDA regulation to allow depository institutions to offer an unlimited transactions version of the MMDA to

those customers (primarily for-profit corporations) that are not eligible to have NOW accounts. The Committee noted that allowing unlimited telephone transfers from the MMDA to other accounts of the same depositor at the same depository institution made it possible to utilize the MMDA much like a transaction account. This potential use for MMDA funds made more problematic the Federal Reserve Board's definition and use of monetary aggregates. The Committee also noted the Federal Reserve Board's recent decision to impose transaction account reserves on MMDAs where a depository institution did not count a telephone transfer as a preauthorized or automatic transfer for purposes of the six transfers per month limitation (See 47 Fed Reg 55207 (December 8, 1982)).

Given the above summarized facts and decisions, the Committee determined that a telephone transfer from the MMDA to another account of the same depositor at the same depository institution will be considered a preauthorized or automatic transfer for purposes of the MMDA regulation's limit of six transfers per month.

In so doing, the Committee noted that telephone transfers from the MMDA effecting payment to third parties continue to be subject to the limit of six transfers per month. However, the Committee also noted that withdrawals made by telephone from the MMDA and paid to the depositor are not subject to the limitation on preauthorized or automatic transfers. In this regard, unlimited withdrawals are permitted where the depository institution sends a check to its MMDA customer in response to a telephonic instruction from that customer.

At its November 15, 1982 meeting, the Committee defined the term "month" as either (at the depository institution's option) a calendar month or statement cycle of at least four weeks, but not longer than 31 days. This definition applied for purposes of determining compliance requirements stated in monthly terms, i.e., the six-transaction limitations, the minimum average balance requirements, and the interest rate guarantee limitations. A number of institutions brought to the Committee's attention the fact that the 31-day maximum creates occasional difficulties for depository institutions that utilize statement cycles keyed to working days rather than calendar days. For example, if an institution utilized a statement cycle that ends on the fourth working day of each month, the statement cycle covering the August 1982 period would have been 33 days long; if the statement cycle ended on the first Tuesday of each month, in August 1982, the statement cycle would have been 35 days long. Although these "longer"

statement cycles occur infrequently, such as two or three times a year, following the rule would cause institutions to be in technical violation of the rule or create unnecessary operational burdens on depository institutions.

In response to this problem, the Committee, in a separate action, made a technical amendment to the MMDA regulation by defining a "month" to be either a calendar month or a statement cycle, with a statement cycle normally being 28-31 days, but occasionally being as long as 35 days. This action would provide depository institutions with maximum flexibility in designing MMDAs within their existing operational structures or with minimal adjustments. A depository institution, at its option, may use either a calendar month or statement cycle, provided it does so consistently.

As discussed above, the Committee requested and received public comments on whether telephone transfers from the MMDA to other accounts of the same customer should be considered automatic or preauthorized transfers for purposes of the Committee's MMDA regulations. In addition, in its November 29, 1982 publication of its MMDA regulations, the Committee advised that the telephone transfer issue would be reconsidered at its next meeting. With respect to the new definition of a month, it is noted that this is a technical amendment providing greater flexibility to depository institutions and, as such, relieves a restriction. Because the MMDA regulations have a statutorily mandated effective date of December 14, 1982, the Committee's action must be effective on that date. In light of the foregoing, good cause exists for not following the prior notice, opportunity for comment and deferred effective date provisions of 5 U.S.C. § 553. In view of the Committee's findings, sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) are not applicable. Furthermore, because of the nature of this action, the Committee finds that good cause exists under section 1201.6(e) of the Committee's regulations for making this action effective less than 30 days from the date of publication in the Federal Register.

Pursuant to its authority under Title II of Pub. L. No. 96-221 (94 Stat. 142; 12 U.S.C. 3501 et seq.) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and mutual savings banks, and pursuant to the authority granted by Section 327 of the

Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320 (to be codified at 12 U.S.C. § 3503), the Committee amends Part 1204 (Interest on Deposits) by revising paragraph (e)(1) of § 1204.122, effective December 14, 1982, to read as follows:

§ 1204.122 Money Market Deposit Account

* * * * *

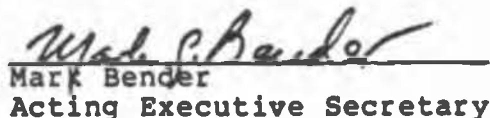
(b) The average balance for this account may be calculated on the basis of the average daily balance over any computation period selected by an institution, which is not longer than one month. (For purposes of this paragraph and paragraphs (c) and (e) of this section, a "month" shall mean, at a depository institution's option, either a calendar month or a statement cycle. A statement cycle is normally 28 to 31 days, but may occasionally be as long as 35 days.)

* * * * *

(e)(1) Depository institutions are not required to limit the number of transfers of funds from this account to another account of the same depositor when made by mail, messenger, automated teller machine or in person. Depository institutions are not required to limit the number of withdrawals (i.e., payments directly to the depositor) from this account when made by mail, telephone (via check mailed to the depositor), messenger, automated teller machine or in person. Depository institutions must restrict all preauthorized (including automatic) transfers of funds from this account to a maximum of six per month. Three of such transfers may be by check, draft or similar device drawn by the depositor to third parties. Telephone transfers to third parties or to another account of the same depositor are regarded as preauthorized transfers. There is no required minimum denomination for the transfers allowed by this section.

* * * * *

By order of the Committee, December 14, 1982.



Mark Bender
Acting Executive Secretary

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. 0030]

Money Market Deposit Account With Unlimited Transfers
For Those Not Eligible to Maintain NOW Accounts

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Proposed rulemaking.

SUMMARY: The Committee is requesting comment on an amendment to the Money Market Deposit Account authorized by the Committee, effective December 14, 1982, at 12 CFR § 1204.122, that would remove the restrictions on the number of transfers of funds for those accounts held by depositors that are not eligible to maintain NOW accounts.

DATE: Comments must be received by February 1, 1982.

ADDRESS: Interested parties are invited to submit written data, views, or arguments concerning the proposed amendment to Gordon Eastburn, Acting Executive Secretary, Depository Institutions Deregulation Committee, Room 1058, Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220. All material submitted should include the Docket Number 0030 and will be available for inspection and copying upon request, except as provided in § 1202.5 of the Committee's Rules Regarding Availability of Information (12 CFR 1202.5).

FOR FURTHER INFORMATION CONTACT: Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447-1880); Joseph DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389-4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446); Robert G. Ballen, Attorney, Board of Governors of the Federal Reserve System (202/452-3265); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566-8737).

Lists of Subjects in 12 CFR Part 1204: Banks, banking.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 ("DIDA") (Title II of Pub. L. 96-221, 12 U.S.C. §§ 3501 *et seq.*) established the Committee to provide for the orderly phaseout and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Section 327 of the Garn-St Germain Depository Institutions Act of 1982 requires the Committee to authorize a new insured deposit account that "shall be directly equivalent to and competitive with money market funds."

The Committee established this new account, the Money Market Deposit Account ("MMDA"), effective December 14, 1982 (12 CFR § 1204.122). The MMDA is an insured deposit account with the following principal characteristics: (1) an initial balance and average balance requirement of no less than $2,500; (2) no minimum maturity; (3) no interest rate ceiling on deposits satisfying the initial and average balance requirements; and (4) a maximum of six preauthorized, automatic or third party transfers per month, of which no more than three can be checks. Any depositor is eligible for the MMDA account.

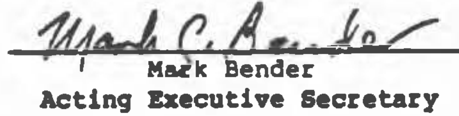
The Committee subsequently, pursuant to its authority under the DIDA, established a new rule for the payment of interest on NOW accounts that have a minimum initial and average balance of $2,500. A depository institution may pay any rate of interest on such accounts if it also meets certain conditions that apply to the MMDA (12 CFR § 1204.108(b)). NOW accounts generally are available only to individuals, certain nonprofit organizations operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and governmental units (12 U.S.C. § 1832(a)(2)).

The Committee requests comment on a proposed modification to the MMDA that would permit commercial banks, mutual savings banks, and savings and loan associations to offer the MMDA to depositors that are not eligible to maintain NOW accounts with no restriction as to the number of transfers of funds from the account. In this regard, the General Counsel to the Committee has concluded that the Committee may modify the MMDA to provide for unlimited transfers for all categories of depositors given that Congress did not restrict the Committee's authority to add other characteristics that would make the account "directly equivalent to and competitive with money market mutual funds" and provided that the account be available to all customers. The Committee is particularly interested in comments on the impact of this proposed modification to the MMDA account on: (1) the flow of funds into and out of, and between accounts within, institutions; (2) the earnings of institutions; and (3) the funding of institutions in light of the differing degree of regulation on accounts with different maturities.

The Committee has considered the potential effect on small entities of the proposal to modify the MMDA, as required by the Regulatory Flexibility Act (5 U.S.C. 603 et seq.). In this regard, the Committee's action, in and of itself, would not impose any new reporting or recordkeeping requirements. Consistent with the Committee's statutory mandate to eliminate deposit interest rate ceilings, this proposal would enable all depository institutions to compete more effectively in the marketplace for short-term funds. Depositors that are not eligible to maintain NOW accounts generally should benefit from the Committee's proposal, since the new instrument would provide them with another investment alternative that pays a market rate of return. If low-yielding deposits shift into the new account, depository institutions might experience increased costs as a result of this action. However, their competitive position vis-a-vis nondepository competitors would be enhanced by their ability to offer a potentially more attractive competitive short-term instrument at market rates. The new funds attracted (or the retention of

deposits that might otherwise have left the institution) could be invested at a positive spread and would therefore at least partially offset the higher costs associated with the shifting of low-yielding accounts.

By order of the Committee, December 14, 1982.



Mark Bender
Acting Executive Secretary