FEDERAL RESERVE BANK OF DALLAS
Station K, Dallas, Texas 75222

Circular No. 84-38
March 7, 1984

TO: All member banks, bank holding companies, edge and agreement corporations and others concerned in the Eleventh Federal Reserve District

ATTENTION: Chief Executive Officer

SUBJECT: **International Lending Supervision Act of 1983 and Regulation K -- International Banking Operations**

SUMMARY: The Board of Governors of the Federal Reserve System has announced an amendment to Regulation K to implement several sections of the International Lending Supervision Act of 1983. The amendments--applicable to state member banks, bank holding companies, and edge and agreement corporations engaged in banking--requires these institutions to establish an Allocated Transfer Risk Reserve (ATRR) for specified international assets, primarily loans, under certain circumstances. The amendment further specifies a procedure for determination of when an ATRR will be required and how large an ATRR should be. The amendment also sets forth a framework for requiring country exposure reports by banking institutions.

In addition, the Board of Governors issued for comment draft regulations establishing uniform accounting requirements for fees on international loans. Comments are requested by March 9, 1984. All correspondence should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20551 and should refer to Docket No. R-0509.

ATTACHMENTS: Board's press release and Federal Register document

MORE INFORMATION: Legal Department, Extension 6228

ADDITIONAL COPIES: Public Affairs Department, Extension 6289

FEDERAL RESERVE press release

For immediate release February 9, 1984

The Federal Reserve Board today announced adoption of rules to implement several sections of the International Lending Supervision Act of 1983.

Two of the rules require banking organizations to maintain special reserves and authorize the Board to require submission of quarterly reports on the foreign lending of banking institutions, including publication of material country exposure. These rules will be effective upon publication.

In addition, the Board published for comment proposed rules respecting the accounting for fees associated with international loans.

The three federal banking regulators -- Federal Deposit Insurance Corporation, Federal Reserve Board and Office of the Comptroller of the Currency -- are issuing the rules and proposals jointly, as one facet of a joint program to strengthen, under the new law, the supervision and regulation of foreign lending by United States banking organizations. The Board's rules apply to state chartered banks that are members of the Federal Reserve System and to bank holding companies and Edge and Agreement corporations engaged in banking. Nonmember banks and national banks are covered by the rules of the other agencies.

At the same time as it published its rules, the Board announced that it is holding open the period for comment on questions whether the U.S. branches or agenices or commercial lending subsidiaries of foreign banks should be subject to these provisions or other provisions of the Act. Therefore, the final rules being published do not at this time apply to these entities.

The Board adopted its final rules under Section 905(a) of the Act after consideration of comment received on proposals published in December. Section 905(a) requires banking institutions to maintain special reserves, out of current income, against the risks present in certain international loans or other

international assets, when the federal banking agencies determine that such reserves are necessary.

The principal elements of the rules under this section adopted by the Board are:

--A banking institution shall establish an Allocated Transfer Risk Reserve (ATRR) for specified international assets (principally loans) when required under these rules.

--At least annually, the agencies shall jointly determine:

  --Which international assets are subject to risks warranting establishment of an ATRR;

  --The size of the ATRR;

  --Whether an already established ATRR may be reduced.

The rules also set forth the criteria to be used in determining whether an ATRR is required, under two headings:

  --Whether the quality of international assets has been impaired by protracted inability of borrowers to make payments on their obligations, and

  --Whether there are no definite prospects for restoring orderly debt service.

When required, the initial year's ATRR normally will be 10 percent of the principal amount of the asset on which reserves must be kept, or more, or less, as determined by the federal banking agencies, and, when required for subsequent years, normally will be 15 percent, or more, or less, as the agencies determine. The rules specify the factors according to which these amounts will be determined.

The Board will notify each banking institution it supervises of the amount of any ATRR, and if an ATRR may be reduced. A banking institution may write down an asset in lieu of establishing an ATRR. If it does so, it must replenish its allowance for possible loan losses to the extent necessary to provide adequately for estimated losses in its loan portfolio. An institution may at at any time reduce an ATRR to the extent of any write-down on its books of the value of the relevant asset.

The Board also adopted a rule setting forth the framework for requiring country exposure reports by banking institutions (under Section 907 of the Act). This rule provides that the Board will prescribe jointly with the other federal banking agencies the format, content, reporting and filing date of the reports. For this purpose, the agencies have initiated modifications in the current Country Exposure Report form (FFIEC-009).

Proposals

The Federal Reserve Board also issued draft regulations for comment establishing uniform requirements for accounting for fees on international loans (as required by Section 906 of the Act).

The comment period on these fee accounting rules closes March 9. Final rules are to be adopted no later than March 29, 1984.

The major provisions of the proposed fee accounting rules are:

1. No banking institution may charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an adjustment of the interest yield.

2. Fees on international loans that represent yield adjustments shall be recognized over the expected loan period using the interest method as an adjustment to yield.

3. To the extent fees represent a reimbursement of the banking institution's identifiable administrative costs associated with the loan syndication or loan processing, a portion of the fee equal to these costs shall be recognized as income currently.

4. For managing banks in international syndicated loans, the proposed rules establish the following presumption:

   That portion of the managing bank's fees (other than commitment or agency fees) that is

equal to the proportion of fees in relation to loan principal received by the largest loan participant which is not a manager in the syndication shall be considered an adjustment to yield.

5. Administrative costs are defined as those costs that are specifically identified with syndicating or processing a loan (excluding general and non-associated overhead-type costs).

6. Banking institutions shall account for commitment fees by recognizing the fee as revenue over the combined commitment and loan period.

7. Agency fees shall be recorded as income at the time of loan closing or as the service is performed, if later.

The Board's notice of these actions and proposals may be obtained at the District Federal Reserve Banks.

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DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 20, 211, and 351

Reporting and Disclosure of International Assets

AGENCY: Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

ACTION: Joint Notice of final rules.

SUMMARY: To implement section 907 of the International Lending Supervision Act of 1983, the rules require banking institutions to submit, at least quarterly, a report on the amounts and composition of their international assets. The report also would include information to be made available to the public concerning material foreign country exposure. The format, contents and reporting and filing dates of the reports would be prescribed jointly by the Federal banking agencies (Comptroller of the Currency, Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation).

DATE: Effective February 13, 1984.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Harold Schuler, Director, International Relations and Financial Evaluation (202/447–1747); Leon S. Tarrant, Manager, ICERC Secretariat (202/447–1747); or Dorthy Sable, Senior Attorney (202/447–1880). *Federal Reserve System:* Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786); or Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation (202/452–3621). *Federal Deposit Insurance Corporation:* Edward T. Lutz, Assistant Director, Division of Bank Supervision (202/389–4512) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION: Since 1977, banking institutions have been reporting their foreign country exposure (international assets subject to transfer risk categorized by country) on a semiannual basis. Section 907 of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act") requires the Federal banking agencies to promulgate regulations requiring banking institutions with foreign country exposure to submit, no fewer than four times each calendar year, information regarding such exposure. Under section 907(b) of the Act, the agencies' regulations must also require that information concerning banking institutions' material foreign country exposure in relation to assets and to capital be made available to the public. The agencies are required to promulgate regulations necessary to implement this section of the Act on or before March 29, 1984.

The regulations set forth the framework for implementation of the reporting and disclosure requirements of section 907 of the Act. Each banking institution will submit to its primary Federal banking supervisor, at least quarterly, information on the amounts and composition of its international assets. Each institution also must submit information on concentrations in its international assets that are material in relation to total assets and to capital; this information will be made available to the public on request. The format, content, and reporting and filing dates of the reports will be jointly determined by the Federal banking agencies. For this purpose, the agencies have initiated modifications in the current Country Exposure Report (Form FFIEC 009).

By notice published in the **Federal Register** on December 23, 1983, 48 FR 56848, the Federal Financial Institutions Examination Council (FFIEC) requested comments on two proposed changes to the Country Exposure Report. One of these changes would add a new two-part summary to the form. Part A of the summary would provide certain information on exposures to any country that exceed 1% of the reporting institution's assets. Part B would provide less detailed information on such exposures that exceed 0.75%, but do not exceed 1%, of the reporting institution's assets. This summary information would be disclosed to the public on request. The comment period closed on January 23, 1984 and it is intended that necessary procedures for adopting changes in the Report will be completed in order to affect reporting for the first quarter of 1984.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) the agencies certify that the regulations will not have a significant economic impact on a substantial number of small entities since small banking institutions generally do not have material foreign country exposure and would not be affected by these regulations. The Act requires a banking institution to disclose information on material foreign country exposure. Banking institutions with minimal holdings on international assets thus are generally exempt from the disclosure mandated by the Act and these regulations and will not be required to file reports.

Executive Order 12291

The Comptroller of the Currency has determined that this regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting and record keeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Notice and Comment; Effective Date

The provisions of 5 U.S.C. 553 relating to notice and public participation are not followed in connection with the adoption of these regulations because the agencies find for good cause that notice and public participation are unnecessary. These regulations are merely enabling provisions mandated by statute that do not differ from the statutory requirements in any material respect. An immediate effective date is necessary in order for banking institutions to have sufficient advance notice to prepare the reports required by the Act for the first quarter of 1984.

Authority and Issuance

Accordingly, pursuant to their respective authorities, the agencies have amended Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84–4]

PART 20—[AMENDED]

Title 12 CFR Part 20 is amended as follows:

1. The authority citation for 12 CFR Part 20 is as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

2. Part 20 is amended by adding a new § 20.10 to read as follows:

§ 20.10 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act") a banking institution shall submit to the Comptroller of the Currency, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of the Act, a banking institution shall submit to the Comptroller of the Currency information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the Comptroller of the Currency on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the agencies may include changes to existing reporting forms (such as the Country Exposure Report, form FFIEC No. 009) or such other requirements as the agencies deem appropriate. The agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the Comptroller of the currency from requiring from a banking institution such additional or more frequent information on the institution's holdings of international assets as the office may consider necessary.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R–0508]

PART 211—[AMENDED]

Pursuant to the Board's authority under sections 9, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 221 *et seq.*, 601–604a, and 611 *et seq.*), section 5 of the Bank Holding Company Act (12 U.S.C. 1844) and section 907 of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153), the board has amended 12 CFR Part 211, Subpart D by adding a new § 211.44 to read as follows:

§ 211.44 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) (ILSA), a banking institution shall submit to the Board, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of ILSA, a banking institution shall submit to the Board information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the Board on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the agencies may include changes to existing reporting forms (such as the Country exposure Report, form FFIEC No. 009) or such other requirements as the agencies deem appropriate. The agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the Board from requiring from a banking institution such additional or more frequent information on the institution's holding of international assets as the Board may consider necessary.

Dated: February 8, 1984.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

FEDERAL DEPOSIT INSURANCE CORPORATION

PART 351—[AMENDED]

1. The authority citation for 12 CFR Part 351 is as follows:

Authority: Title IX, Pub. L. 98–181, 97 Stat. 1153.

2. Part 351 is amended by adding new §§ 351.2 and 351.3 to read as follows:

§ 351.2 [Reserved]

§ 351.3 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) (ILSA), a banking institution shall submit to the FDIC, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of ILSA, a banking institution shall submit to the FDIC information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the FDIC on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the Federal banking agencies may include changes to existing forms (such as revisions to the Country Exposure Report, Form FFIEC No. 009) or such other requirements as the Federal banking agencies deem appropriate. The Federal banking agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the Federal banking agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the FDIC from requiring from a banking institution such additional or more frequent information on the institution's holdings of international assets as the agency may consider necessary.

By Order of the Board of Directors.

Dated: February 6, 1984.

Alan J. Kaplan,

Deputy Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 84–3961 Filed 2–9–84; 2:39 pm]

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12 CFR Parts 20, 211 and 351

Allocated Transfer Risk Reserve

AGENCIES: Comptroller of the Currency, Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation.

ACTION: Joint notice of final rules and request for additional comments.

SUMMARY: These regulations require banking institutions to establish special reserves against the risks presented in certain international assets when the

Federal banking agencies (Board of Governors of the Federal Reserve System ("Board"), Comptroller of the Currency and Federal Deposit Insurance Corporation) determine that such reserves are necessary. In particular, they are intended to require banking institutions to recognize uniformly the transfer risk and diminished value of international assets which have not been serviced over a protracted period of time. These regulations implement one aspect of the joint program of the Federal banking agencies to strengthen the supervisory and regulatory framework relating to foreign lending by U.S. banking institutions, incorporated in section 905(a) of the International Lending Supervision Act of 1983.

It is important that this provision of law be implemented expeditiously for banking regulatory and supervisory purposes. Accordingly, the regulations will be effective upon publication.

Further regulations implementing other provisions of the International Lending Supervision Act of 1983 will be issued separately.

EFFECTIVE DATE: February 13, 1984.

ADDRESS: *Comptroller of the Currency:* Comments, which should refer to Docket No. 84-3, should be sent to Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 East L'Enfant Plaza, SW., Washington, D.C. 20219. Attention: Lynette Carter. Comments will be available for public inspection and copying. *Federal Reserve System:* All comments, which should refer to Docket No. R-0498, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to the C Street entrance, 20th and Constitution Avenue NW., Washington, D.C., between the hours of 8:45 a.m. and 5:15 p.m. weekdays. All comments received will be available for inspection in room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays. *Federal Deposit Insurance Corporation:* Comments should be sent to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to room 6108 between the hours of 8:30 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Harold Schuler, Director, International Relations and Financial Evaluation (202/447-1747); William Ryback, Director, International Banking Activity (202/447-0413); or Dorothy Sable, Senior Attorney (202/447-1880).

Board: Nancy P. Jacklin, Assistant General Counsel (202/452-3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452-3786); or Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation (202/452-3621).

FDIC: Edward T. Lutz, Assistant Director, Division of Bank Supervision (202/389-4512) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389-4171).

SUPPLEMENTARY INFORMATION: In December, 1983, the agencies published for comment regulations to implement section 905(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98-181, 97 Stat. 1153) ("the Act"), which requires banking institutions to maintain a special transfer risk reserve against certain foreign loans or other international assets.

The agencies received comments as follows: The Board received a total of 39 comments (17 comments from U.S. banks and bank holding companies; 5 from trade or professional associations; 8 from foreign banks; 8 from Federal Reserve banks; and one from the New York State Banking Department); the Comptroller of the Currency received 17 comments, principally from national banks; and the Federal Deposit Insurance Corporation received 6 comments.

In the explanatory materials accompanying the proposed regulation, the agencies specifically requested comments on: (1) The percentage norms for the special reserves; (2) the factors to be used in determining the amount of reserves; (3) the appropriate treatment of new loans where comparable outstanding loans are subject to reserves required by this regulation; and (4) the extent and manner in which to apply the reserves and other provisions of the Act to U.S. branches and agencies and commercial lending company subsidiaries of foreign banks. Those submitting comments addressed themselves to these and other issues. In light of the comments received, the agencies have made revisions to clarify and improve the proposed regulations.

Following are the major topics raised in the comments and the agencies' responses thereto:

(1) Assets to be covered by the Allocated Transfer Risk Reserve (ATRR)

The proposed regulations required banking institutions to establish an ATRR for "specified international assets," and defined "international assets" to mean those assets included in Country Exposure Report forms (FFIEC No. 009). Numerous commenters suggested clarification of the definition of international assets or exemption for certain categories of assets or for specific assets.

The agencies intend that an ATRR will be required only for international assets subject to transfer risk. International assets subject to transfer risk associated with the country of residence of the obligor normally do not include, for example, (1) assets guaranteed by a resident of a foreign country different from that of the direct obligor; (2) certain collateralized assets; (3) commitments; and (4) assets of a foreign office of the banking institution payable in local currency for which the foreign office has equivalent local currency liabilities. (The foregoing examples are described in more detail in the Instructions to Country Exposure Report forms.)

The banking agencies also will consider whether the performance characteristics of certain categories of assets are such that no ATRR is warranted against those assets (*e.g.*, assets on which debt service has been maintained with little or no interruption.)

In this connection, in line with the suggestions of several commenters on the treatment of new loans, an ATRR normally would not be required initially for net new lending when the additional loans are made in countries implementing economic adjustment programs, such as programs approved by the International Monetary Fund, designed to correct the countries' economic difficulties in an orderly manner. Such new lending under appropriate circumstances may strengthen the functioning of the adjustment process, help to improve the quality of outstanding credit, and thus be consistent with the objectives of the program of improved supervision of international lending. Whether an ATRR subsequently is required for those new loans would be determined by the agencies on the basis of performance and continued inapplicability generally of the criteria for establishment of an ATRR.

(2) Applicability to nonbank and foreign subsidiaries

The proposed regulations would apply to a banking institution and its subsidiaries, and "subsidiary" was defined to mean an organization of which a banking institution has control or holds 25 percent or more of the voting shares. Two issues raised by the

comments were (1) whether the provision should apply to minority-owned nonbank subsidiaries; and (2) whether it should apply to foreign bank subsidiaries of banking institutions.

On the issue of whether minority-owned subsidiaries should be covered, several of the commenters reasoned that a banking institution with a 25 percent interest in an entity may not be able to compel that entity to comply with the regulation and should not be held responsible for the entity's accounting methods. Several commenters proposed that the regulations cover only those nonbank subsidiaries that are consolidated with the parent banking institution under Generally Accepted Accounting Principles (GAAP). Objections also were raised to applying the regulations to foreign subsidiaries.

In light of these comments, the agencies determined that each "banking institution" is subject to the regulations on a consolidated basis. "Banking institution" is defined in the regulations as a domestic bank, Edge or Agreement corporation engaged in banking, and bank holding company. Other than the foregoing banking institutions, subsidiaries need not separately comply with these regulations. The effect of this rule for foreign bank subsidiaries is that specific reserves against, or write-downs of, international assets, taken from current earnings of the foreign bank, will be incorporated in the parent banking institution's consolidated financial statement.

For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (currently, FFIEC Nos. 031, 032, 033, 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement Corporations should file in accordance with the "Instructions for the Preparation of Report of Condition for Edge and Agreement Corporations" (Form F.R. 2886b).

In applying the foregoing rules to bank holding companies under section 910(a)(2) of the act, the Board has deemed such action appropriate to promote uniform application of section 905(a) of the Act and to prevent evasions thereof.

(3) Criteria for Requiring an ATRR

In determining whether an ATRR is warranted for particular international assets, the agencies are directed by statute to apply the following factors: (1) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors to pay *or* (2) whether no definite prospects exist for the orderly restoration of debt service. Some commenters urged more specific criteria; others were concerned that the criteria were not flexible enough. Most of the commenters, however, generally agreed that the statutory criteria are reasonable. The agencies consider the statutory criteria to be appropriate because they provide guidance as to when an ATRR is required, while allowing the agencies to take into account a sufficient range of factors in making their determinations.

(4) Percentage Norms

Under the proposed regulations, the initial year's provision for the ATRR would be ten percent of the principal amount of the specified international assets, or a greater or lesser percentage as determined by the banking agencies. In subsequent years, the agencies would review the assets concerned and determine whether additional reserves are required. The proposal provided for a reserve based on such review in the subsequent periods of 15 percent, or a higher or lower percentage as determined necessary by the banking agencies. In the preamble to the proposed regulation, the agencies specifically asked for comment on these percentages.

Some commenters thought the percentages were too low, and some considered them too high. Several were opposed to the establishment of any percentage norms, primarily on the ground that the appropriate percentages should be determined by the agencies in each case and that agency flexibility in making this determination should be preserved. However, a substantial number of comments supported the proposed percentages as reasonable.

The agencies believe that the norms contained in the regulations provide reasonable guidance to banking institutions of the likely ATRR requirements, yet the regulations give the agencies discretion to modify these percentages on a case-by-case basis as factors warrant.

(5) Treatment of ATRR Accounting

The provision in the proposed regulations eliciting most comment was the section allowing banking institutions to write down an asset in the same amount as required for the ATRR, instead of setting up the ATRR, but requiring the banking institution, in that case, to replenish the Allowance for Possible Loan Losses (APLL) out of current earnings by the amount written down. Commenters suggested that if a banking institution chooses to write down an asset instead of establishing an ATRR, the APLL should be replenished only to the extent necessary to restore it to a level adequate to reflect the remaining risks in the loan portfolio.

The commenters pointed out several problems they see with the replenishment provision as it was proposed: it could put banks that already have charged earnings at a disadvantage vis-a-vis those banks that have made no comparable provisions; it could thus discourage conservative practices; and, as a result of inconsistency with GAAP, it could distort financial statements and cause them to be qualified by accountants.

In light of these comments, the agencies have determined that, consistent with prudent banking practices and GAAP, replenishment of the APLL will be required to the extent necessary to restore it to a level which adequately provides for the estimated losses inherent in the loan portfolio. The agencies wish to emphasize, however, that it remains the responsibility of bank management and external auditors to recognize, and management to provide adequately for, any significant deterioration in the value of assets and this responsibility is in no way lessened as a result of the agencies' adoption of this recommendation.

Several commenters also sought further clarification of the alternative accounting treatment under which an ATRR would not be required if comparable amounts of the assets had been written down. Some comments stated that the regulations should clarify the treatment of interest payments which have been applied to the loan balance. They suggested that the regulations specify that such reductions of principal should be considered write-downs for purposes of the regulations. Another issue was the treatment of write-downs of assets in prior reporting periods. The final regulations clarify that write-downs in prior periods, as well as reductions in principal as described above, which are tantamount to write-downs, are acceptable alternatives to establishment of an ATRR.

Another issue raised in connection with the alternative accounting treatment was whether a write-down of an asset for commercial risk will be treated the same as a write-down for transfer risk reasons. The final regulations have been clarified to state that an ATRR applies to the principal amount of each specified international

asset in the percentage required. Accordingly, a write-down of any such asset for commercial risk can be included in the amount of a write-down which satisfies a required ATRR for that particular asset but not for specified assets in the aggregate.

One commenter suggested that the regulations be clarified to indicate that a banking institution may transfer to the ATRR any amount specifically allocated in the APLL for the assets subject to the ATRR. The agencies consider this approach an acceptable method of implementing the ATRR requirement, particularly since a banking institution could in any event write down an asset by a charge to its APLL rather than a charge to current earnings in the period the write-down is taken. However, in either instance, the APLL must be replenished to the extent necessary to restore it to a level that adequately provides for the estimated losses inherent in the loan portfolio.

Finally, clarification was sought, and the agencies have so provided in the final regulations, that a banking institution may reduce an established ATRR not only if the banking agencies determine it may be reduced, but also where the institution decides to write down the assets involved.

(6) Timing of ATRR implementation

Several commenters requested that notifications of ATRR requirements be made on a timely basis relative to banking institutions' reporting and filing dates for their financial statements. The banking agencies intend to make every effort, in providing notice of ATRR requirements, to accommodate these concerns, recognizing the importance, however, of prompt implementation of section 905(a) of the Act and initial establishment of the ATRR.

(7) Consultation with banking institutions

Several commenters stressed the importance of regular consultation with the affected banking institutions by the agencies before establishing the ATRR. One commenter suggested that concerns about a particular country should be discussed in the course of the normal bank examination process to evaluate all factors concerning the obligors' ability to pay. Discussions of foreign country exposure and transfer risk are a part of the ongoing examination process and efforts will be made by the agencies to strengthen consultations in this context.

(8) Applicability of the Act to U.S. branches and agencies of foreign banks

Comment was requested on whether and the extent to which foreign banks should be subject to this and other provisions of the Act. The period for comment on these general issues remains open to permit foreign banks adequate time to respond, and the final regulations do not apply to U.S. branches, agencies or commercial lending company subsidiaries of foreign banking organizations.

(9) Other comments

Questions were raised concerning the confidentiality of the agencies' determinations of the international assets specified as subject to the ATRR and the applicable reserve percentages. As is customary, such notifications are conveyed as confidential examination information to each affected U.S. banking institution by its primary federal banking supervisor.

Several commenters stated that the regulation should not govern disclosures under the federal securities laws. In this connection, the federal banking agencies understand that the staff of the Securities and Exchange Commission will provide guidance to registrants concerning appropriate disclosure of ATRR requirements in filings with the SEC.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the agencies certify that the proposed regulation will not have a significant economic impact on a substantial number of small entities since small banking institutions generally do not have significant holdings of international assets and would not be affected by these regulations.

Executive Order 12291

The Comptroller of the Currency has determined that this regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting and recordkeeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Effective Date

The provision of 5 U.S.C. 553 requiring a 30-day delay in the effective date of a regulation is not followed in connection with the adoption of these regulations for bank supervisory and regulatory reasons and because the agencies find for good cause that an immediate effective date is necessary in order for banking institutions to have sufficient advance notice of the reserves to be required under these regulations to accomplish their financial planning for the first quarter of 1984.

Authority and Issuance

Accordingly, pursuant to their respective authorities, the agencies have determined to amend Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84-3]

PART 20—[AMENDED]

The Comptroller of the Currency has amended 12 CFR Part 20 as follows:

1. 12 CFR Part 20 is amended by revising the Table of Contents to read as follows:

Subpart A—International and Foreign Exchange Activities

Sec.
20.1 Authority and policy.
20.2 Definitions and terms.
20.3 Prior notification of international activities.
20.4 Reporting of international activities.
20.5 Reporting of foreign exchange activities.

Subpart B—International Lending Supervision

20.6 Authority.
20.7 Definitions.
20.8 Allocated transfer risk reserve.

2. The authority citation for 12 CFR Part 20 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

3. Part 20 is amended by revising § 20.1(a) and revising the introductory text of § 20.2 to read as follows:

§ 20.1 Authority and policy.

(a) *Authority.* This subpart is issued under the authority of the national banking laws, 12 U.S.C. 1 *et seq.* and 93a.

* * * * *

§ 20.2 Definitions and terms.

For the purpose of this subpart:

* * * * *

4. Part 20 is amended by adding a new Subpart B to read as follows:

Subpart B—International Lending Supervision

§ 20.6 Authority.

This subpart is issued under the authority of 12 U.S.C. 1 *et seq.*, 93a, 161, and 1818; and the International Lending Supervision Act of 1983 (Pub. L. 98-181, Title IX, 97 Stat. 1153).

§ 20.7 Definitions.

For the purposes of this subpart:

(a) "Banking institution" means a national banking association or a District of Columbia bank.

(b) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(c) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(d) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

§ 20.8 Allocated transfer risk reserve.

(a) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the Comptroller in accordance with this section.

(b) *Procedures and Standards.*—(1) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in subparagraph (b)(2) of this section, the following:

(i) Which international assets subject to transfer risk warrant establishment of an ATRR;

(ii) The amount of the ATRR for the specified assets; and

(iii) Whether an ATRR established for specified assets may be reduced.

(2) *Standards for requiring ATRR*—(i) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(A) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*1*) Such obligors have failed to make full interest payments on external indebtedness;

(*2*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*3*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(B) Whether no definite prospects exist for the orderly restoration of debt service.

(ii) *Determination of amount of ATRR.* (A) In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*1*) The length of time the quality of the asset has been impaired;

(*2*) Recent actions taken to restore debt service capability;

(*3*) Prospects for restored asset quality; and

(*4*) Such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(B) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies.

(3) *Notification.* Based on the joint agency determinations under paragraph (b)(1) of this section, the Comptroller shall notify each banking institution holding assets subject to an ATRR:

(i) Of the amount of the ATRR to be established by the institution for specified international assets; and

(ii) That an ATRR to be established for specified assets may be reduced.

(c) *Accounting treatment of ATRR.*—(1) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(2) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the percentage amount specified.

(3) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. Consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y-6" (Form F.R. Y-9). Edge and Agreement corporations engaged in banking shall report in accordance with instructions for preparation of the Report of Condition for Edge and Agreement Corporations (Form F.R. 2886b).

(4) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the Allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan portfolio.

(5) *Reduction of ATRR.* A banking institution may reduce an ATRR when notified by the Comptroller or, at any time, by writing down such amount of the international asset for which the ATRR was established.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R-0498]

PART 211—[AMENDED]

1. The table of contents of 12 CFR Part 211 is amended by adding entries for Subpart D and revising the authority citation to read as follows:

* * * * *

Subpart D—International Lending Supervision

Sec.

211.41 Authority, purpose and scope.

211.42 Definitions.

211.43 Allocated Transfer Risk Reserve.

Authority: Federal Reserve Act (12 U.S.C. 211 *et seq.*); Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); the International Banking Act of 1978 (Pub. L. 95-369; 92 Stat. 607; 12 U.S.C. 3101 *et seq.*); the Bank Export Services Act (Title II, Pub. L. 97-290, 96 Stat. 1235); and the International Lending Supervision Act (Title IX, Pub. L. 98-181, 97 Stat. 1153).

2. 12 CFR Part 211 is amended by adding a new Subpart D, reading as follows:

Subpart D—International Lending Supervision

§ 211.41 Authority, purpose, and scope.

(a) *Authority:* This subpart is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153) ("International Lending Supervision Act"); the Federal Reserve Act (12 U.S.C. 221 *et seq.*) ("FRA"), and the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) ("BHC Act").

(b) *Purpose and scope.* This subpart is issued in furtherance of the purposes of the International Lending Supervision Act. It applies to State banks that are members of the Federal Reserve System ("State member banks"); corporations organized under section 25(a) of the FRA (12 U.S.C. 611–631) ("Edge Corporations"); corporations operating subject to an agreement with the Board under section 25 of the FRA (12 U.S.C. 601–604a) ("Agreement Corporations"); and bank holding companies (as defined in section 2 of the BHC Act (12 U.S.C. 1841(a)) but not including a bank holding company that is a foreign banking organization as defined in § 211.23(a)(2) of this regulation.

§ 211.42 Definitions.

For the purposes of this subpart:

(a) "Banking institution" means a State member bank; bank holding company; Edge Corporation and Agreement Corporation engaged in banking. "Banking institution" does not include a "foreign banking organization" as defined in § 211.23(a)(2).

(b) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(c) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(d) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

§ 211.43 Allocated transfer risk reserve.

(a) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the Board in accordance with this section.

(b) *Procedures and Standards.*—(1) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in paragraph (b)(2) of this section, the following:

(i) Which international assets subject to transfer risk warrant establishment of an ATRR;

(ii) The amount of the ATRR for the specified assets; and

(iii) Whether an ATRR established for specified assets may be reduced.

(2) *Standards for requiring ATRR.*—(i) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(A) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*1*) Such obligors have failed to make full interest payments on external indebtedness;

(*2*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*3*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(B) Whether no definite prospects exist for the orderly restoration of debt service.

(ii) *Determination of amount of ATRR.* (A) In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*1*) The length of time the quality of the asset has been impaired;

(*2*) Recent actions taken to restore debt service capability;

(*3*) Prospects for restored asset quality; and

(*4*) Such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(B) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies.

(3) *Board notification.* Based on the joint agency determinations under paragraph (b)(1) of this section, the Board shall notify each banking institution holding assets subject to an ATRR:

(i) Of the amount of the ATRR to be established by the institution for specified international assets; and

(ii) That an ATRR established for specified assets may be reduced.

(c) *Accounting treatment of ATRR.*—(1) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(2) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the percentage amount specified.

(3) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement corporations engaged in banking shall report in accordance with instructions for preparation of the Report of Condition for Edge and Agreement Corporations (Form F.R. 2886b).

(4) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the Allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institutions's loan portfolio.

(5) *Reduction of ATRR.* A banking institution may reduce an ATRR when

notified by the Board or, at any time, by writing down such amount of the international asset for which the ATRR was established.

Board of Governors of the Federal Reserve System, February 8, 1984.

William W. Wiles,

Secretary of the Board.

FEDERAL DEPOSIT INSURANCE CORPORATION

In consideration of the foregoing, the FDIC hereby adopts a new Part 351 to its rules and regulations (12 CFR Part 351).

PART 351—INTERNATIONAL OPERATIONS

Authority: Title IX, Pub. L. 98-181, 97 Stat. 1153.

§ 351.1 Allocated transfer risk reserve.

(a) *Definitions.* For the purposes of this subpart:

(1) "Banking institution" means an insured state nonmember bank.

(2) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(3) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(4) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

(b) *Allocated Transfer Risk Reserve*—(1) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the FDIC in accordance with this section.

(2) *Procedures and Standards.*—(i) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in paragraph (b)(2)(ii) of this section, the following:

(A) Which international assets subject to transfer risk warrant establishment of an ATRR;

(B) The amount of the ATRR for the specified assets; and

(C) Whether an ATRR established for specified assets may be reduced.

(ii) *Standards for requiring ATRR.*—(A) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(*1*) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*i*) Such obligors have failed to make full interest payments on external indebtedness;

(*ii*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*iii*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(*2*) Whether no definite prospects exist for the orderly restoration of debt service.

(B) *Determination of amount of ATRR.* *(1)* In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*i*) the length of time the quality of the asset has been impaired;

(*ii*) recent actions taken to restore debt service capability;

(*iii*) prospects for restored asset quality; and

(*iv*) such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(*2*) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determinined by the Federal banking agencies.

(iii) *FDIC notification.* Based on the joint agency determinations under paragraph (b)(2)(i) of this section, the FDIC shall notify each banking institution holding assets subject to an ATRR:

(A) Of the amount of the ATRR to be established by the institution for specified international assets; and

(B) That an ATRR established for specified assets may be reduced.

(3) *Accounting treatment of ATRR.*—(i) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(ii) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the pertcentage amount specified.

(iii) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034).

(iv) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan portfolio.

(v) *Reduction of ATRR.* A banking institution may reduce an ATRR when notified by the FDIC or, at any time, by writing down such amount of the international asset for which the ATRR was established.

By Order of the Board of Directors.

February 6, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84-3982 Filed 2-9-84; 2:40 pm]

BILLING CODE 6210-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 20, 211, and 351

Accounting for International Loan Fees

AGENCIES: Comptroller of the Currency (Treasury), Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: This proposal would establish uniform requirements for the accounting for fees associated with restructuring of international lending arrangements and nonrefundable fees charged by banking institutions in connection with other international loans. This proposal would implement one aspect of the joint program of the Federal banking agencies to strengthen the supervisory and regulatory framework relating to foreign lending by U.S. banking institutions, incorporated in section 906 of the International Lending Supervision Act of 1983. Regulations implementing this provision of law are required to be issued by the agencies no later than March 29, 1984.

DATE: Wirtten comments must be submitted to the Comptroller of the Currency on or before March 5, 1984 and to Federal Reserve Board and the Federal Deposit Insurance Corporation on or before March 9, 1984.

ADDRESS: *Comptroller of the Currency:* Comments should be directed to Docket No. 84–5; Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 East L'Enfant Plaza, SW., Washington, D.C. 20219, Attention: Lynette Carter. Comments will be available for public inspection and copying.

Federal Reserve System: All comments, which should refer to Docket No. R–0509, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to C Street entrance, 20th and Constitution Ave., NW., Washington, D.C. between the hours of 8:45 a.m. and 5:15 p.m. weekdays. All comments received will be available for inspection in Room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays.

Federal Deposit Insurance Corporation: Comments should be directed to: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th NW., Washington, D.C. 20429. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Zane D. Blackburn, Director, Bank Accounting or Eugene Green, Senior Accountant, Bank Accounting (202/447–0471); Harold Schuler, Director, International Relations & Financial Evaluation (202/447–1747); Dorothy Sable, Senior Attorney (202/447–1880).

Federal Reserve System: Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation, (202/452–3621); or Stanley C. Weidman, Senior Accountant-Analyst, Division of Banking Supervision and Regulation (202/452–3502); or Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786).

Federal Deposit Insurance Corporation: Paul L. Sachtleben, Planning and Program Development Branch, Division of Bank Supervision (202/389–4761) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION:

Purpose

The banking agencies are jointly proposing for public comment regulations which would specify the accounting for international loan fees in order to achieve uniformity among banking institutions in accounting for such fees and to assure that the appropriate portion of such fees is accrued in income over the effective life of the relevant loan. The proposed rules implement section 906 of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("Act"), directing the Federal banking agencies to promulgate regulations on the accounting for various fees received by banking institutions when restructuring and making international loans.

Background

In connection with international loan agreements, including agreements to restructure prior loans, banking institutions often receive various nonrefundable fees in addition to interest charges. These fees are identified by a variety of terms, and are intended for a variety of purposes: For example, a flat fee added specifically to increase the yield of the loan; a fee designed to cover costs associated with syndicating a loan (*e.g.*, for structuring and negotiating a loan package, underwriting a syndicated loan, advising the borrower); a fee to cover the costs of committing funds on the prescribed terms for a fixed period of time; or a fee for serving as agent in administering a syndicated loan. In addition, the loan agreement frequently provides that the managing bank(s) is (are) to be reimbursed for all out-of-pocket expenses incidental to the arrangement of a credit facility. Similar provision is made for the agent bank for loan collection or enforcement costs.

As discussed further below, the existing accounting literature provides only very general guidance on the accounting for such fees. As a result, there are differences in the manner in which banks have accounted for various fees associated with international loans. For example, some banks have deferred fees and amortized them to income over the life of the loan while others have recognized in income an amount equal to direct costs incurred and deferred the remainder. Still others have recognized such fees as current income when the loan is made.

General guidance as to the accounting recognition of loan fees is provided in the recent revision of the American Institute of Certified Public Accountants (AICPA) Industry Audit Guide, *Audits of Banks* ("Bank Audit Guide") (1983) at pages 52–55. As to commitment fees, the Bank Audit Guide in part states:

> Banks have recorded income from commitment fees in a variety of ways including recognition:
>
> (a) in full when received.
>
> (b) when the commitment period has expired or the loan has been drawn down.
>
> (c) ratably over the commitment period.
>
> (d) ratably over the combined commitment and loan period.
>
> The accounting for recognition of income from commitment fees should be based on the nature and substance of the transactions. However, a bank's method of accounting should ensure that any income that represents an adjustment to the interest yield is deferred until the loan is drawn down and then amortized over the expected life of the loan in relation to the outstanding balance.
>
> Fees representing compensation for a binding commitment or for rendering a service in issuing the commitment should be deferred and amortized over the commitment period using the straight-line method.

The Guide does not directly address questions of fees for international loans, but discusses "origination fees" as follows:

> Banks also receive fees for originating loans in-house. The normal origination fee (generally referred to as points) is essentially

a reimbursement for the expenses of the underwriting process, that is, processing the loan application, reviewing legal title to the collateral, obtaining appraisals, and other procedures. Origination fees, to the extent they are a reimbursement for such costs, should be recognized as income at the time of loan closing. Loan origination fees that are not reimbursements of such costs should be amortized to income over the expected loan period by application of the interest method.

Because existing generally accepted accounting principles (GAAP) do not provide explicit requirements for fees received in connection with a loan, the AICPA formed a task force to prepare an issues paper addressing the accounting for such fees. The issues paper was presented to and considered by the AICPA's Accounting Standards Executive Committee ("AcSEC"), which voted on the task force recommendations and forwarded this information on September 21, 1983 to the Financial Accounting Standards Board (FASB) for consideration. The FASB, which establishes GAAP, has not yet acted on these recommendations.

In the event either the FASB issues a final pronouncement or standard or the AICPA issues a Statement of Position on the subject, the banking agencies will reexamine their regulations to assess the need for modification.

The Federal banking agencies and the Congress have considered the lack of consistency among banking institutions in accounting for fees associated with international loans and determined that more explicit and uniform guidance is desirable. In particular, accounting practices should not result in artificial incentives for banking institutions to make international loans premised on the immediate recognition of all fee income. As a result of Congressional consideration of these matters, the Federal banking agencies are directed under section 906 of the Act to issue regulations to establish the accounting treatment of such fees and assure that an appropriate portion is accrued as income over the effective life of each such loan. Section 906(a) of the Act also prohibits certain fees in connection with international loan restructurings unless such fees are recognized as a yield adjustment over the effective life of the loan.

The effective life of the loan is generally meant to be the term of the loan. This may, however, differ from the stated loan period, where, for example, a short-term loan is expected to be rolled-over at maturity. The Federal banking agencies intend, through the examination process, to oversee good faith compliance with the Act and these regulations.

The proposed regulations are designed to carry out the objectives of section 906 and provide more specific and uniform accounting guidance relating to international loan fees.

Proposal

The Federal Financial Institutions Examination Council (FFIEC) recently has adopted revisions to banking institution Reports of Condition and Income (Call Reports) which include specific reporting requirements applicable to loan fees. The accounting rules contained in the proposed regulations are generally consistent with the existing requirements set forth in the Call Report Instructions (FFIEC Nos. 031, 032, 033 and 034). However, these instructions do not specifically address the appropriate accounting treatment for fees received in connection with international loans or loan restructurings. This proposal, therefore, specifies the required accounting treatment with respect to such fees.

In addition to the Call Report Instructions, the agencies considered the existing diversified practice of accounting for these fees; current accounting literature on the subject; and the recent recommendations of AcSEC and the AICPA task force referred to earlier.

The agencies also considered whether the accounting treatment for fees should vary depending on whether or not the fees are associated with a restructuring rather than any other international loan. It was decided that the rules should be identical for both loan situations. First, the fees are similar in substance and therefore, should be treated in the same fashion. Secondly, distinguishing between a restructuring, particularly one involving a "new money" component, and other international loans, including routine refinancings, would involve an undue regulatory burden on both banking institutions and the agencies. Accordingly, the proposed rules would apply to all international loans uniformly.

The proposed regulations apply to "banking institutions" which are defined to include banks, bank holding companies, and Edge and Agreement Corporations engaged in banking. The regulations apply to these institutions on a consolidated basis. In applying the rules to bank holding companies under section 910(a)(2) of the Act, the Board has deemed such action appropriate to promote uniform application of section 906 of the Act and to prevent evasions thereof.

The banking agencies, in issuing regulations implementing section 905(a) of the Act, have requested comment generally on whether and the extent to which any provision of the Act should apply to the U.S. branches, agencies and commerical lending company subsidiaries of foreign banks.

The significant provisions of the proposed regulations are:

1. No banking institution shall charge any fee in connection with the restructuring of an existing international obligation of the borrower unless all fees exceeding the banking institution's administrative cost of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. In determining what costs should be regarded as administrative costs, reference should be made to the discussion below of administrative costs.

2. The accounting treatment of administrative costs associated with originating and processing international loans and loan fees related to the activity of generating such loans is as follows:

a. Fees on international loans that represent yield adjustments shall be recognized over the expected loan period using the interest method as an adjustment of the yield on the loan. However, to the extent these fees represent a reimbursement of the banking institution's identifiable administrative costs associated with the loan processing, a portion of the fee equal to these costs shall be recognized as income currently.

b. Administrative costs are defined as those costs which are specifically identified with processing and consummating a loan (excluding general and non-associated overhead-type costs). These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and directly allocable occupancy and other similar administrative costs.

3. For managing banking institutions in international syndicated loans, the proposed regulations establish a presumption that a portion of a managing banking institution's fees (other than commitment or agency fees for which accounting rules are otherwise set forth in the regulations) shall be considered an adjustment to yield. The interest yield portion is specified as equal to the proportion of fees in relation to loan principal received by the largest loan participant that is not a manager in the syndication. The remainder of the managing banking institution's fee shall be presumed to be

a loan syndication fee. This remaining portion may be recognized as revenue when received only to the extent it equals administrative costs directly identifiable with syndication processing, with the excess deferred and amortized over the term of the loan.

a. The portion of the syndication fee representing an adjustment of yield shall be accounted for as described in 2(a) above.

b. Administrative costs include those costs which are specifically identified with negotiating and consummating such lending arrangements (excluding general and non-associated overhead-type costs). These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international loan syndication function; and directly allocable occupancy and other similar administrative costs.

4. Consistent with the requirements of the Bank Audit Guide, the proposal takes the view that a loan commitment is a separate transaction that provides distinct services to customers for which the lending institution is entitled to compensation, and that a commitment fee may have two components: One relating to commitments and one related to lending money. In order to achieve uniformity in accounting practice and because the components generally cannot be separately identified, the banking institution should account for the commitment fee by recognizing the fee as revenue over the combined commitment and loan period.

Reimbursement of any direct processing costs will be recognized as income at closing. Then the straight line method, based on the combined life of the commitment and loan period, shall be applied to the remaining fee to recognize income during the commitment period. When the loan is disbursed, the interest method shall be applied to the balance of the fee to recognize income over the life of the loan. If the loan is not funded, unamortized commitment fees will be recognized as income at the end of the commitment period.

5. The proposed regulations provide that agency fees—normally as annual fee paid to an Agent Bank by the borrower to reimburse the bank for the performance of its administrative duties and out-of-pocket expenses (*e.g.*, telex, telephone, postage, printing and travel) incurred in the performance of such duties—shall be recorded as income at the time of loan closing or as the service is performed, if later.

The proposed rules differ in two respects from the accounting recommended in the AICPA issues paper submitted to the FASB for consideration.

First, the proposed rules would require that loan processing/origination costs be expensed as incurred with fees equal to the banking institution's directly identifiable administrative costs recognized in income in the same period. Both the AICPA Task Force and AcSEC believe that such costs should be capitalized and amortized over the loan period; however, the Task Force concluded (although AcSEC disagreed) that expensing all such administrative costs offset by an equal amount of revenue was an acceptable alternative.

The method proposed of immediately expensing all loan processing costs offset by an equal amount of revenue is a long established practice in the banking industry. Additionally, recognition of a portion of the fees gives the same income result as deferring administrative costs and amortizing them over the life of the loan, and thus would appear to be equally consistent with the objectives of section 906 of the Act.

The AICPA issues paper did not specify accounting treatment of syndication and similar fees. However, the presumption is that such fees should be deferred and recognized over the life of the loan. The proposed regulations are similar except for treatment of the associated syndication costs. The proposal treats syndication costs consistently with loan processing costs. In each case, the income result is the same as deferring both the costs and fee revenue and amortizing them over the life of the loan.

Secondly, AcSEC believes that a loan commitment is an integral part of lending money and therefore loan commitment fees should be deferred and recognized over the expected loan priod as a yield adjustment. However, the proposed rules would allow commitment fees to be recognized over the combined commitment and loan period. This proposal parallels the accounting prescribed in the Call Report Instruction and does not differ significantly from the requirements in the Bank Audit Guide. The AICPA Task Force endorses such treatment of commitment fees.

Comments are requested on the proposal and specifically on the following issues:

(1) Should the rules differentiate between fees related to restructured loans and other international loans, and if so, how should restructured loans be defined?

(2) Should all or certain costs be capitalized rather than expensed as incurred?

(3) Should commitment fees always be deferred and recognized over the combined commitment and expected loan period as adjustments to yield?

(4) How should banking institutions account for the costs of, and fee income attributable to, their merchant banking activities?

(5) Is any aspect of the proposed rules inconsistent with the accounting treatment for domestic loans?

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) the agencies have certified that the proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities since small banks generally do not engage extensively in international lending and would not be affected by these regulations.

Executive Order 12291

The Comptroller of the Currency has determined that the proposed regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Accounting for international loan fees, Banks, banking, Federal Reserve System, Foreign banking, investments, Reporting and recordkeeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Authority and Issuance

Pursuant to their respective authorities, the agencies propose to amend Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84-5]

PART 20—[AMENDED]

The Comptroller of the Currency proposes to amend 12 CFR Part 20 as follows:

1. The authority citation for 12 CFR PArt 20 reads as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

2. Part 20 is amended by redesignating paragraph (d) of § 20.7 as paragraph (f) and by adding new paragraphs (d) and (e) to read as follows:

§ 20.7 Definitions.

* * * * *

(d) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(e) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

(f) "Transfer risk" * * *

3. Part 20 is amended by adding a new § 20.9 to read as follows:

§ 20.9 Accounting for fees on international loans.

(a) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (b)(3)(ii) of this section.

(b) *Accounting treatment of international loan administrative costs and corresponding fees*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an international syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R-0509]

PART 211—[AMENDED]

Pursuant to the Board's authority under sections 9, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 221 *et seq.*, 601–604a, and 611 *et seq.*), section 5 of the Bank Holding Company Act (12 U.S.C. 1844) and section 906 of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153), the Board proposes to amend 12 CFR Part 211, Subpart D, as follows:

1. Section 211.42 is amended by redesignating paragraph (d) as paragraph (f) and by adding new paragraphs (d) and (e), to read as follows:

211.42 Definitions.

* * * * *

(d) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(e) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

* * * * *

2. By adding a new § 211.45, to read as follows:

§ 211.45 Accounting for fees on international loans.

(a) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (b)(3)(ii) of this section.

(b) *Accounting treatment of international loan administrative costs and corresponding fees*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on

international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an international syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 8, 1984.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

FEDERAL DEPOSIT INSURANCE CORPORATION

PART 351—[AMENDED]

1. The authority citation for 12 CFR Part 351 is as follows:

Authority: Title IX, Pub. L. 98–181, 97 Stat. 1153.

2. The FDIC proposes to amend Part 351 by adding a new § 351.2 to read as follows:

§ 351.2 Accounting for international loans fees.

(a) *Definitions.* (1) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(2) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

(b) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (c)(3)(ii) of this section.

(c) *Accounting treatment of international loan administrative costs and corresponding fees.*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an internationl syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting Treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 6, 1984.

By Order of the Board of Directors.

Alan J. Kaplan,

Deputy Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 84-3963 Filed 2-9-84; 2:40 pm]

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