



FEDERAL RESERVE BANK  
OF DALLAS

ROBERT D. McTEER, JR.  
PRESIDENT  
AND CHIEF EXECUTIVE OFFICER

June 30, 1994

DALLAS, TEXAS  
75265-5906

**Notice 94-63**

**TO:** The Chief Executive Officer of  
each financial institution in the  
Eleventh Federal Reserve District

**SUBJECT**

**Revised Pamphlets for Regulation DD  
(Truth in Savings), Regulation F  
(Limitations on Interbank  
Liabilities), and Regulation D  
(Reserve Requirements of  
Depository Institutions)**

**DETAILS**

The Board of Governors of the Federal Reserve System revised Regulation DD, effective September 21, 1992, Regulation F, effective December 19, 1992, and Regulation D, effective December 22, 1992. Due to a limited supply, this Bank was unable to distribute the pamphlets earlier. We regret any inconvenience this may have caused.

Amendments to Regulation DD were distributed in Notice 93-40 and in slip-sheet form in Notice 93-95. No amendments to Regulation F and Regulation D have been distributed. The amendments should be retained in your Regulations binder along with the revised pamphlet.

**ENCLOSURES**

The revised pamphlets are enclosed.

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For additional copies, bankers and others are encouraged to use one of the following toll-free numbers in contacting the Federal Reserve Bank of Dallas: Dallas Office (800) 333-4460; El Paso Branch *Intrastate* (800) 592-1631, *Interstate* (800) 351-1012; Houston Branch *Intrastate* (800) 392-4162, *Interstate* (800) 221-0363; San Antonio Branch *Intrastate* (800) 292-5810.

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**MORE INFORMATION**

For more information on Regulation DD, please contact Eugene Coy at (214) 922-6201. For more information regarding Regulation F, please contact Jane Anne Schmoker at (214) 922-5101. For more information regarding Regulation D, please contact the Reserve and Risk Management Division at (214) 922-5646.

For additional copies of this Bank's notice or the pamphlets, please contact the Public Affairs Department at (214) 922-5254.

Sincerely yours,

*Robert D. McTeer, Jr.*

# Regulation DD Truth in Savings

12 CFR 230; effective September 21, 1992



Any inquiry relating to this regulation should be addressed to the District in which the inquiry arises.

November 1992



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# Regulation DD

## Truth in Savings

12 CFR 230; effective September 21, 1992; compliance optional until March 21, 1993

### SECTION 230.1—Authority, Purpose, Coverage, and Effect on State Laws

(a) *Authority.* This regulation, known as Regulation DD, is issued by the Board of Governors of the Federal Reserve System to implement the Truth in Savings Act of 1991 (the act), contained in the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 USC 4301 et seq., Pub. L. 102-242, 105 Stat. 2236). Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 USC 3501 et seq. and have been assigned OMB No. 7100-0255.

(b) *Purpose.* The purpose of this regulation is to enable consumers to make informed decisions about accounts at depository institutions. The regulation requires depository institutions to provide disclosures so that consumers can make meaningful comparisons among depository institutions.

(c) *Coverage.* This regulation applies to depository institutions except for credit unions. In addition, the advertising rules in section 230.8 of this part apply to any person who advertises an account offered by a depository institution, including deposit brokers.

(d) *Effect on state laws.* State law requirements that are inconsistent with the requirements of the act and this regulation are preempted to the extent of the inconsistency. Additional information on inconsistent state laws and the procedures for requesting a preemption determination from the Board are set forth in appendix C of this part.

### SECTION 230.2—Definitions

For purposes of this regulation, the following definitions apply:

(a) *Account* means a deposit account at a depository institution that is held by or offered to a consumer. It includes time, demand, savings, and negotiable order of with-

drawal accounts. For purposes of the advertising requirements in section 230.8 of this part, the term also includes an account at a depository institution that is held by or on behalf of a deposit broker, if any interest in the account is held by or offered to a consumer. The term does not include an existing account held by an unincorporated nonbusiness association of natural persons prior to March 21, 1993, unless the association notifies the institution that it meets the definition of "consumer."

(b) *Advertisement* means a commercial message, appearing in any medium, that promotes directly or indirectly the availability of, or a deposit in, an account.

(c) *Annual percentage yield* means a percentage rate reflecting the total amount of interest paid on an account, based on the interest rate and the frequency of compounding for a 365-day period and calculated according to the rules in appendix A of this part.

(d) *Average-daily-balance method* means the application of a periodic rate to the average daily balance in the account for the period. The average daily balance is determined by adding the full amount of principal in the account for each day of the period and dividing that figure by the number of days in the period.

(e) *Board* means the Board of Governors of the Federal Reserve System.

(f) *Bonus* means a premium, gift, award, or other consideration worth more than \$10 (whether in the form of cash, credit, merchandise, or any equivalent) given or offered to a consumer during a year in exchange for opening, maintaining, renewing, or increasing an account balance. The term does not include interest, other consideration worth \$10 or less given during a year, the waiver or reduction of a fee, or the absorption of expenses.

(g) *Business day* means a calendar day other than a Saturday, a Sunday, or any of the legal public holidays specified in 5 USC 6103(a).

(h) *Consumer* means a natural person who holds an account primarily for personal, family, or household purposes, or to whom such an account is offered. The term also includes an unincorporated nonbusiness association of natural persons. The term does not include a natural person who holds an account for another in a professional capacity.

(i) *Daily-balance method* means the application of a daily periodic rate to the full amount of principal in the account each day.

(j) *Depository institution* and *institution* mean an institution defined in section 19(b)(1)(A)(i)–(vi) of the Federal Reserve Act (12 USC 461), except credit unions defined in section 19(b)(1)(A)(iv).

(k) *Deposit broker* means any person who is a deposit broker as defined in section 29(g) of the Federal Deposit Insurance Act (12 USC 1831f(g)).

(l) *Fixed-rate account* means an account for which the institution contracts to give at least 30 calendar days' advance written notice of decreases in the interest rate.

(m) *Grace period* means a period following the maturity of an automatically renewing time account during which the consumer may withdraw funds without being assessed a penalty.

(n) *Interest* means any payment to a consumer or to an account for the use of funds in an account, calculated by application of a periodic rate to the balance. The term does not include the payment of a bonus or other consideration worth \$10 or less given during a year, the waiver or reduction of a fee, or the absorption of expenses.

(o) *Interest rate* means the annual rate of interest paid on an account which does not reflect compounding. For the purposes of the account disclosures in section 230.4(b)(1)(i) of this part, the interest rate may, but need not, be referred to as the "annual percentage rate" in addition to being referred to as the "interest rate."

(p) *Passbook savings account* means a savings account in which the consumer retains a book

or other document in which the institution records transactions on the account.

(q) *Periodic statement* means a statement setting forth information about an account (other than a time account or passbook savings account) that is provided to a consumer on a regular basis four or more times a year.

(r) *State* means a state, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(s) *Stepped-rate account* means an account that has two or more interest rates that take effect in succeeding periods and are known when the account is opened.

(t) *Tiered-rate account* means an account that has two or more interest rates that are applicable to specified balance levels.

(u) *Time account* means an account with a maturity of at least seven days in which the consumer generally does not have a right to make withdrawals for six days after the account is opened, unless the deposit is subject to an early withdrawal penalty of at least seven days' interest on amount withdrawn.

(v) *Variable-rate account* means an account in which the interest rate may change after the account is opened, unless the institution contracts to give at least 30 calendar days' advance written notice of rate decreases.

### SECTION 230.3—General Disclosure Requirements

(a) *Form.* Depository institutions shall make the disclosures required by sections 230.4 through 230.6 of this part, as applicable, clearly and conspicuously in writing and in a form the consumer may keep. Disclosures for each account offered by an institution may be presented separately or combined with disclosures for the institution's other accounts, as long as it is clear which disclosures are applicable to the consumer's account.

(b) *General.* The disclosures shall reflect the terms of the legal obligation of the account agreement between the consumer and the depository institution. Disclosures may be made

in languages other than English, provided the disclosures are available in English upon request.

(c) *Relation to Regulation E.* Disclosures required by and provided in accordance with the Electronic Fund Transfer Act (15 USC 1601) and its implementing Regulation E (12 CFR 205) that are also required by this regulation may be substituted for the disclosures required by this regulation.

(d) *Multiple consumers.* If an account is held by more than one consumer, disclosures may be made to any one of the consumers.

(e) *Oral response to inquiries.* In an oral response to a consumer's inquiry about interest rates payable on its accounts, the depository institution shall state the annual percentage yield. The interest rate may be stated in addition to the annual percentage yield. No other rate may be stated.

(f) *Rounding and accuracy rules for rates and yields.*

(1) *Rounding.* The annual percentage yield, the annual percentage yield earned, and the interest rate shall be rounded to the nearest one-hundredth of one percentage point (.01%) and expressed to two decimal places. For account disclosures, the interest rate may be expressed to more than two decimal places.

(2) *Accuracy.* The annual percentage yield (and the annual percentage yield earned) will be considered accurate if not more than one-twentieth of one percentage point (.05%) above or below the annual percentage yield (and the annual percentage yield earned) determined in accordance with the rules in appendix A of this part.

## SECTION 230.4—Account Disclosures

(a) *Delivery of account disclosures.*

(1) *Account opening.* A depository institution shall provide account disclosures to a consumer before an account is opened or a service is provided, whichever is earlier. An institution is deemed to have provided a service when a fee required to be disclosed is assessed. If the consumer is not present at

the institution when the account is opened or the service is provided and has not already received the disclosures, the institution shall mail or deliver the disclosures no later than 10 business days after the account is opened or the service is provided, whichever is earlier.

(2) *Requests.* (i) A depository shall provide account disclosures to a consumer upon request. If the consumer is not present at the institution when a request is made, the institution shall mail or deliver the disclosures within a reasonable time after it receives the request.

(ii) In providing disclosures upon request, the institution may—

(A) specify an interest rate and annual percentage yield that were offered within the most recent seven calendar days; state that the rate and yield are accurate as of an identified date; and provide a telephone number consumers may call to obtain current rate information.

(B) state the maturity of a time account as a term rather than a date.

(b) *Content of account disclosures.* Account disclosures shall include the following, as applicable:

(1) *Rate information.* (i) Annual percentage yield and interest rate. The "annual percentage yield" and the "interest rate," using those terms, and for fixed-rate accounts the period of time the interest rate will be in effect.

(ii) *Variable rates.* For variable-rate accounts:

(A) the fact that the interest rate and annual percentage yield may change;

(B) how the interest rate is determined;

(C) the frequency with which the interest rate may change; and

(D) any limitation on the amount the interest rate may change.

(2) *Compounding and crediting.* (i) *Frequency.* The frequency with which interest is compounded and credited.

(ii) *Effect of closing an account.* If consumers will forfeit interest if they close the account before accrued interest is

credited, a statement that interest will not be paid in such cases.

(3) Balance information. (i) Minimum-balance requirements. Any minimum balance required to—

- (A) open the account;
- (B) avoid the imposition of a fee; or
- (C) obtain the annual percentage yield disclosed.

Except for the balance to open the account, the disclosure shall state how the balance is determined for these purposes.

(ii) Balance-computation method. An explanation of the balance-computation method specified in section 230.7 of this part used to calculate interest on the account.

(iii) When interest begins to accrue. A statement of when interest begins to accrue on noncash deposits.

(4) Fees. The amount of any fee that may be imposed in connection with the account (or an explanation of how the fee will be determined) and the conditions under which the fee may be imposed.

(5) Transaction limitations. Any limitations on the number or dollar amount of withdrawals or deposits.

(6) Features of time accounts. For time accounts:

(i) Time requirements. The maturity date.

(ii) Early withdrawal penalties. A statement that a penalty will or may be imposed for early withdrawal, how it is calculated, and the conditions for its assessment.

(iii) Withdrawal of interest prior to maturity. If compounding occurs during the term and interest may be withdrawn prior to maturity, a statement that the annual percentage yield assumes interest remains on deposit until maturity and that a withdrawal will reduce earnings.

(iv) Renewal policies. A statement of whether or not the account will renew automatically at maturity. If it will, a statement of whether or not a grace period will be provided and, if so, the length of that period must be stated. If the account will not renew automatically, a statement of whether interest will be paid

after maturity if the consumer does not renew the account must be stated.

(7) Bonuses. The amount or type of any bonus, when the bonus will be provided, and any minimum balance and time requirements to obtain the bonus.

(c) *Notice to existing account holders.*

(1) Notice of availability of disclosures. Depository institutions shall provide a notice to consumers who receive periodic statements and who hold existing accounts of the type offered by the institution on March 21, 1993. The notice shall be included on or with the first periodic statement sent on or after March 21, 1993 (or on or with the first periodic statement for a statement cycle beginning on or after that date). The notice shall state that consumers may request account disclosures containing terms, fees, and rate information for their account. In responding to such a request, institutions shall provide disclosures in accordance with paragraph (a)(2) of this section.

(2) Alternative to notice. As an alternative to the notice described in paragraph (c)(1) of this section, institutions may provide account disclosures to consumers. The disclosures may be provided either with a periodic statement or separately, but must be sent no later than when the periodic statement described in paragraph (c)(1) is sent.

#### SECTION 230.5—Subsequent Disclosures

(a) *Change in terms.*

(1) Advance notice required. A depository institution shall give advance notice to affected consumers of any change in a term required to be disclosed under section 230.4(b) of this part if the change may reduce the annual percentage yield or adversely affect the consumer. The notice shall include the effective date of the change. The notice shall be mailed or delivered at least 30 calendar days before the effective date of the change.

(2) No notice required. No notice under this section is required for—

(i) Variable-rate changes. Changes in



the interest rate and corresponding changes in the annual percentage yield in variable-rate accounts.

(ii) Check-printing fees. Changes in fees assessed by third parties for check printing.

(iii) Short-term time accounts. Changes in any term for time accounts with maturities of one month or less.

(b) *Notice before maturity for time accounts longer than one month that renew automatically.* For time accounts with a maturity longer than one month that renew automatically at maturity, institutions shall provide the disclosures described below before maturity. The disclosures shall be mailed or delivered at least 30 calendar days before maturity of the existing account. Alternatively, the disclosures may be mailed or delivered at least 20 calendar days before the end of the grace period on the existing account, provided a grace period of at least five calendar days is allowed.

(1) Maturities of longer than one year. If the maturity is longer than one year, the institution shall provide account disclosures set forth in section 230.4(b) of this part for the new account, along with the date the existing account matures. If the interest rate and annual percentage yield that will be paid for the new account are unknown when disclosures are provided, the institution shall state that those rates have not yet been determined, the date when they will be determined, and a telephone number consumers may call to obtain the interest rate and the annual percentage yield that will be paid for the new account.

(2) Maturities of one year or less but longer than one month. If the maturity is one year or less but longer than one month, the institution shall either—

(i) provide disclosures as set forth in paragraph (b)(1) of this section; or

(ii) disclose to the consumer—

(A) the date the existing account matures and the new maturity date if the account is renewed;

(B) the interest rate and the annual percentage yield for the new account if they are known (or that those rates have not yet been determined, the date

when they will be determined, and a telephone number the consumer may call to obtain the interest rate and the annual percentage yield that will be paid for the new account); and

(C) any difference in the terms of the new account as compared with the terms required to be disclosed under section 230.4(b) of this part for the existing account.

(c) *Notice for time accounts one month or less that renew automatically.* For time accounts with a maturity one month or less that renew automatically at maturity, institutions shall disclose any difference in the terms of the new account as compared with the terms required to be disclosed under section 230.4(b) of this part for the existing account, other than a change in the interest rate and corresponding change in the annual percentage yield. The notice shall be mailed or delivered within a reasonable time after the renewal.

(d) *Notice before maturity for time accounts longer than one year that do not renew automatically.* For time accounts with a maturity longer than one year that do not renew automatically at maturity, institutions shall disclose to consumers the maturity date and whether interest will be paid after maturity. The disclosures shall be mailed or delivered at least 10 calendar days before maturity of the existing account.

## SECTION 230.6—Periodic-Statement Disclosures

(a) *General rule.* If a depository institution mails or delivers a periodic statement, the statement shall include the following disclosures:

(1) Annual percentage yield earned. The “annual percentage yield earned” during the statement period, using that term, calculated according to the rules in appendix A of this part.

(2) Amount of interest. The dollar amount of interest earned during the statement period.

(3) Fees imposed. Fees required to be disclosed under section 230.4(b)(4) of this part that were debited to the account dur-

ing the statement period. The fees shall be itemized by type and dollar amounts.

(4) Length of period. The total number of days in the statement period, or the beginning and ending dates of the period.

(b) *Special rule for average-daily-balance method.* In making the disclosures described in paragraph (a) of this section, institutions that use the average-daily-balance method and that calculate interest for a period other than the statement period shall calculate and disclose the annual percentage yield earned and amount of interest earned based on that period rather than the statement period. The information in paragraph (a)(4) of this section shall be stated for that period as well as for the statement period.

### SECTION 230.7—Payment of Interest

(a) *Permissible methods.*

(1) Balance on which interest is calculated. Institutions shall calculate interest on the full amount of principal in an account for each day by use of either the daily-balance method or the average-daily-balance method.<sup>1</sup>

(2) Determination of minimum balance to earn interest. An institution shall use the same method to determine any minimum balance to earn interest as it uses to determine the balance on which interest is calculated. An institution may use an additional method that is unequivocally beneficial to the consumer.

(b) *Compounding and crediting policies.* This section does not require institutions to compound or credit interest at any particular frequency.

(c) *Date interest begins to accrue.* Interest shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act (12 USC 4005 et seq.) and implementing Regulation CC (12 CFR 229). Interest shall accrue until the day funds are withdrawn.

<sup>1</sup> Institutions shall calculate interest by use of a daily rate of at least  $\frac{1}{365}$  of the interest rate. In a leap year a daily rate of  $\frac{1}{366}$  of the interest rate may be used.

### SECTION 230.8—Advertising

(a) *Misleading or inaccurate advertisements.* An advertisement shall not be misleading or inaccurate and shall not misrepresent a depository institution's deposit contract. An advertisement shall not refer to or describe an account as "free" or "no cost" (or contain a similar term) if any maintenance or activity fee may be imposed on the account. The word "profit" shall not be used in referring to interest paid on an account.

(b) *Permissible rates.* If an advertisement states a rate of return, it shall state the rate as an "annual percentage yield" using that term. (The abbreviation "APY" may be used provided the term "annual percentage yield" is stated at least once in the advertisement.) The advertisement shall not state any other rate, except that the "interest rate," using that term, may be stated in conjunction with, but not more conspicuously than, the annual percentage yield to which it relates.

(c) *When additional disclosures are required.* Except as provided in paragraph (e) of this section, if the annual percentage yield is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) Variable rates. For variable-rate accounts, a statement that the rate may change after the account is opened.

(2) Time annual percentage yield is offered. The period of time the annual percentage yield will be offered, or a statement that the annual percentage yield is accurate as of a specified date.

(3) Minimum balance. The minimum balance required to obtain the advertised annual percentage yield. For tiered-rate accounts, the minimum balance required for each tier shall be stated in close proximity and with equal prominence to the applicable annual percentage yield.

(4) Minimum opening deposit. The minimum deposit required to open the account, if it is greater than the minimum balance necessary to obtain the advertised annual percentage yield.

(5) Effect of fees. A statement that fees



could reduce the earnings on the account.

(6) Features of time accounts. For time accounts:

(i) Time requirements. The term of the account.

(ii) Early withdrawal penalties. A statement that a penalty will or may be imposed for early withdrawal.

(d) *Bonuses*. Except as provided in paragraph (e) of this section, if a bonus is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) the "annual percentage yield," using that term;

(2) the time requirement to obtain the bonus;

(3) the minimum balance required to obtain the bonus;

(4) the minimum balance required to open the account, if it is greater than the minimum balance necessary to obtain the bonus; and

(5) when the bonus will be provided.

(e) *Exemption for certain advertisements*. If an advertisement is made through one of the following media, it need not contain the information in paragraphs (c)(1), (c)(2), (c)(4), (c)(5), (c)(6)(ii), (d)(4), and (d)(5) of this section:

(1) broadcast or electronic media, such as television or radio;

(2) outdoor media, such as billboards;

(3) telephone response machines; or

(4) lobby boards inside a depository institution or deposit broker (provided they contain a notice advising consumers to contact an employee for further information).

## SECTION 230.9—Enforcement and Record Retention

(a) *Administrative enforcement*. Section 270 of the act contains the provisions relating to administrative sanctions for failure to comply with the requirements of the act and this regulation. Compliance is enforced by the agencies listed in that section.

(b) *Civil liability*. Section 271 of the act con-

tains the provisions relating to civil liability for failure to comply with the requirements of the act and this regulation.

(c) *Record retention*. A depository institution shall retain evidence of compliance with this regulation for a minimum of two years after the date disclosures are required to be made or action is required to be taken. The administrative agencies responsible for enforcing the regulation may require depository institutions under their jurisdiction to retain records for a longer period if necessary to carry out their enforcement responsibilities under section 270 of the act.

## APPENDIX A—Annual-Percentage-Yield Calculation

The annual percentage yield measures the total amount of interest paid on an account based on the interest rate and the frequency of compounding.<sup>1</sup> The annual percentage yield is expressed as an annualized rate, based on a 365-day year.<sup>2</sup> Part I of this appendix discusses the annual percentage yield calculations for account disclosures and advertisements, while part II discusses annual-percentage-yield-earned calculations for periodic statements.

### Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes.

In general, the annual percentage yield for account disclosures under sections 230.4 and 230.5 and for advertising under section 230.8 is an annualized rate that reflects the relationship between the amount of interest that would be earned by the consumer for the term of the account and the amount of principal used to calculate that interest. Special rules apply to accounts with tiered and stepped interest rates.

<sup>1</sup> The annual percentage yield reflects only interest and does not include the value of any bonus (or other consideration worth \$10 or less) that may be provided to the consumer to open, maintain, increase, or renew an account. Interest or other earnings are not to be included in the annual percentage yield if such amounts are determined by circumstances that may or may not occur in the future.

<sup>2</sup> Institutions may calculate the annual percentage yield based on a 365-day or a 366-day year in a leap year.

### A. General Rules

The annual percentage yield shall be calculated by the formula shown below. Institutions shall calculate the annual percentage yield based on the actual number of days in the term of the account. For accounts without a stated maturity date (such as a typical savings or transaction account), the calculation shall be based on an assumed term of 365 days. In determining the total interest figure to be used in the formula, institutions shall assume that all principal and interest remain on deposit for the entire term and that no other transactions (deposits or withdrawals) occur during the term.<sup>3</sup> For time accounts that are offered in multiples of months, institutions may base the number of days on either the actual number of days during the applicable period, or the number of days that would occur for any actual sequence of that many calendar months. If institutions choose to use the latter rule, they must use the same number of days to calculate the dollar amount of interest earned on the account that is used in the annual percentage yield formula (where "Interest" is divided by "Principal").

The annual percentage yield is calculated by use of the following general formula ("APY" is used for convenience in the formulas):

$$\text{APY} = 100 \left[ (1 + \text{Interest/Principal})^{(365/\text{Days in term})} - 1 \right]$$

"Principal" is the amount of funds assumed to have been deposited at the beginning of the account.

"Interest" is the total dollar amount of interest earned on the principal for the term of the account.

"Days in term" is the actual number of days in the term of the account. When the "days in term" is 365 (that is, where the stated maturity is 365 days or where the account does not have a stated maturity), the annual percentage yield can be calculated by use of the following simple formula:

$$\text{APY} = 100 (\text{Interest/Principal})$$

Examples:

- (1) If an institution pays \$61.68 in interest for a 365-day year on \$1,000 deposited into a NOW account, using the general formula above, the annual percentage yield is 6.17 percent:

$$\begin{aligned} \text{APY} &= 100 \\ &\quad \left[ (1 + 61.68/1,000)^{(365/365)} - 1 \right] \\ \text{APY} &= 6.17\% \end{aligned}$$

Or, using the simple formula above (since, as an account without a stated term, the term is deemed to be 365 days):

$$\begin{aligned} \text{APY} &= 100 (61.68/1,000) \\ \text{APY} &= 6.17\% \end{aligned}$$

- (2) If an institution pays \$30.37 in interest on a \$1,000 six-month certificate of deposit (where the six-month period used by the institution contains 182 days), using the general formula above, the annual percentage yield is 6.18 percent:

$$\begin{aligned} \text{APY} &= 100 \\ &\quad \left[ (1 + 30.37/1,000)^{(365/182)} - 1 \right] \\ \text{APY} &= 6.18\% \end{aligned}$$

### B. Stepped-Rate Accounts (Different rates apply in succeeding periods.)

For accounts with two or more interest rates applied in succeeding periods (where the rates are known at the time the account is opened), an institution shall assume each interest rate is in effect for the length of time provided for in the deposit contract.

Examples:

- (1) If an institution offers a \$1,000 six-month certificate of deposit on which it pays a 5 percent interest rate, compounded daily, for the first three months (which contain 91 days), and a 5.5 percent interest rate, compounded daily, for the next three months (which contain 92 days), the total interest for six months is \$26.68 and, using the general formula above, the annual percentage yield is 5.39 percent:

$$\begin{aligned} \text{APY} &= 100 \\ &\quad \left[ (1 + 26.68/1,000)^{(365/183)} - 1 \right] \\ \text{APY} &= 5.39\% \end{aligned}$$

<sup>3</sup> This assumption shall not be used if an institution requires, as a condition of the account, that consumers withdraw interest during the term. In such a case, the interest (and annual percentage yield calculation) shall reflect that requirement.

- (2) If an institution offers a \$1,000 two-year certificate of deposit on which it pays a 6 percent interest rate, compounded daily, for the first year, and a 6.5 percent interest rate, compounded daily, for the next year, the total interest for two years is \$133.13, and, using the general formula above, the annual percentage yield is 6.45 percent:

$$\begin{aligned} \text{APY} &= 100 \\ &[(1 + 133.13/1,000)^{(365/730)} - 1] \\ \text{APY} &= 6.45\% \end{aligned}$$

### C. Variable-Rate Accounts

For variable-rate accounts without an introductory premium or discounted rate, an institution must base the calculation only on the initial interest rate in effect when the account is opened (or advertised), and assume that this rate will not change during the year.

Variable-rate accounts with an introductory premium (or discount) rate must be calculated like a stepped-rate account. Thus, an institution shall assume that (1) the introductory interest rate is in effect for the length of time provided for in the deposit contract; and (2) the variable interest rate that would have been in effect when the account is opened or advertised (but for the introductory rate) is in effect for the remainder of the year. If the variable rate is tied to an index, the index-based rate in effect at the time of disclosure must be used for the remainder of the year. If the rate is not tied to an index, the rate in effect for existing consumers holding the same account (who are not receiving the introductory interest rate) must be used for the remainder of the year.

For example, if an institution offers an account on which it pays a 7 percent interest rate, compounded daily, for the first three months (which, for example, contain 91 days), while the variable interest rate that would have been in effect when the account was opened was 5 percent, the total interest for a 365-day year for a \$1,000 deposit is \$56.52 (based on 91 days at 7 percent followed by 274 days at 5 percent). Using the simple formula, the annual percentage yield is 5.65 percent:

$$\text{APY} = 100 (56.52/1,000)$$

$$\text{APY} = 5.65\%$$

### D. Tiered-Rate Accounts (Different rates apply to specified balance levels.)

For accounts in which two or more interest rates paid on the account are applicable to specified balance levels, the institution must calculate the annual percentage yield in accordance with the method described below that it uses to calculate interest. In all cases, an annual percentage yield (or a range of annual percentage yields, if appropriate) must be disclosed for each balance tier.

For purposes of the examples discussed below, assume the following:

Interest rate	Deposit balance required to earn rate
5.25%	up to but not exceeding \$2,500
5.50%	above \$2,500 but not exceeding \$15,000
5.75%	above \$15,000

#### Tiering Method A

Under this method, an institution pays on the full balance in the account the stated interest rate that corresponds to the applicable deposit tier. For example, if a consumer deposits \$8,000, the institution pays the 5.50 percent interest rate on the entire \$8,000.

When this method is used to determine interest, only one annual percentage yield will apply to each tier. Within each tier, the annual percentage yield will not vary with the amount of principal assumed to have been deposited.

For the interest rates and deposit balances assumed above, the institution will state three annual percentage yields—one corresponding to each balance tier. Calculation of each annual percentage yield is similar for this type of account as for accounts with a single interest rate. Thus, the calculation is based on the total amount of interest that would be received by the consumer for each tier of the account for a year and the principal assumed to have been deposited to earn that amount of interest.

*First tier.* Assuming daily compounding, the institution will pay \$53.90 in interest on a \$1,000 deposit. Using the general formula, for

the first tier, the annual percentage yield is 5.39 percent:

$$APY = 100[(1 + 53.90/1,000)^{(365/365)} - 1]$$

$$APY = 5.39\%$$

Using the simple formula:

$$APY = 100(53.90/1,000)$$

$$APY = 5.39\%$$

*Second tier.* The institution will pay \$452.29 in interest on a \$8,000 deposit. Thus, using the simple formula, the annual percentage yield for the second tier is 5.65 percent:

$$APY = 100(452.29/8,000)$$

$$APY = 5.65\%$$

*Third tier.* The institution will pay \$1,183.61 in interest on a \$20,000 deposit. Thus, using the simple formula, the annual percentage yield for the third tier is 5.92 percent:

$$APY = 100(1,183.61/20,000)$$

$$APY = 5.92\%$$

#### *Tiering Method B*

Under this method, an institution pays the stated interest rate only on that portion of the balance within the specified tier. For example, if a consumer deposits \$8,000, the institution pays 5.25 percent on \$2,500 and 5.50 percent on \$5,500 (the difference between \$8,000 and the first tier cut-off of \$2,500).

The institution that computes interest in this manner must provide a range that shows the lowest and the highest annual percentage yields for each tier (other than for the first tier, which, like the tiers in method A, has the same annual percentage yield throughout). The low figure for an annual percentage yield range is calculated based on the total amount of interest earned for a year assuming the *minimum* principal required to earn the interest rate for that tier. The high figure for an annual percentage yield range is based on the amount of interest the institution would pay on the *highest* principal that could be deposited to earn that same interest rate. If the account does not have a limit on the maximum amount that can be deposited, the institution may assume any amount.

For the tiering structure assumed above, the institution would state a total of five annu-

al percentage yields—one figure for the first tier and two figures stated as a range for the other two tiers.

*First tier.* Assuming daily compounding, the institution would pay \$53.90 in interest on a \$1,000 deposit. For this first tier, using the simple formula, the annual percentage yield is 5.39 percent:

$$APY = 100(53.90/1,000)$$

$$APY = 5.39\%$$

*Second tier.* For the second tier, the institution would pay between \$134.75 and \$841.45 in interest, based on assumed balances of \$2,500.01 and \$15,000, respectively. For \$2,500.01, interest would be figured on \$2,500 at 5.25 percent interest rate plus interest on \$.01 at 5.50 percent. For the low end of the second tier, therefore, the annual percentage yield is 5.39 percent, using the simple formula:

$$APY = 100(134.75/2,500)$$

$$APY = 5.39\%$$

For \$15,000, interest is figured on \$2,500 at 5.25 percent interest rate plus interest on \$12,500 at 5.50 percent interest rate. For the high end of the second tier, the annual percentage yield, using the simple formula, is 5.61 percent:

$$APY = 100(841.45/15,000)$$

$$APY = 5.61\%$$

Thus, the annual percentage yield range for the second tier is 5.39 percent to 5.61 percent.

*Third tier.* For the third tier, the institution would pay \$841.45 in interest on the low end of the third tier (a balance of \$15,000.01). For \$15,000.01, interest would be figured on \$2,500 at 5.25 percent interest rate, plus interest on \$12,500 at 5.50 percent interest rate, plus interest on \$.01 at 5.75 percent interest rate. For the low end of the third tier, therefore, the annual percentage yield (using the simple formula) is 5.61 percent:

$$APY = 100(841.45/15,000)$$

$$APY = 5.61\%$$

Since the institution does not limit the account balance, it may assume any maximum amount for the purposes of computing the annual percentage yield for the high end of the

third tier. For an assumed maximum balance amount of \$100,000, interest would be figured on \$2,500 at 5.25 percent interest rate, plus interest on \$12,500 at 5.50 percent interest rate, plus interest on \$85,000 at 5.75 percent interest rate. For the high end of the third tier, therefore, the annual percentage yield, using the simple formula, is 5.87 percent:

$$\begin{aligned} \text{APY} &= 100(5,871.79/100,000) \\ \text{APY} &= 5.87\% \end{aligned}$$

Thus, the annual percentage yield range that would be stated for the third tier is 5.61 percent to 5.87 percent.

If the assumed maximum balance amount is \$1,000,000 instead of \$100,000, the institution would use \$985,000 rather than \$85,000 in the last calculation. In that case, for the high end of the third tier the annual percentage yield, using the simple formula, is 5.91 percent:

$$\begin{aligned} \text{APY} &= 100(59134.22/1,000,000) \\ \text{APY} &= 5.91\% \end{aligned}$$

Thus, the annual percentage yield range that would be stated for the third tier is 5.61 percent to 5.91 percent.

## Part II. Annual Percentage Yield Earned for Periodic Statements

The annual percentage yield earned for periodic statements under section 230.6(a) is an annualized rate that reflects the relationship between the amount of interest actually earned on the consumer's account during the statement period and the average daily balance in the account for the statement period. Pursuant to section 230.6(b), however, if an institution uses the average-daily-balance method and calculates interest for a period other than the statement period, the annual percentage yield earned shall reflect the relationship between the amount of interest earned and the average daily balance in the account for that other period.

The annual percentage yield earned shall be calculated by using the following formula ("APY earned" is used for convenience in the formulas):

$$\begin{aligned} \text{APY earned} &= 100 \\ &\quad [1 + \text{Interest earned}/ \\ &\quad \text{Balance}]^{(365/\text{Days in period})} - 1] \end{aligned}$$

"Balance" is the average daily balance in the account for the period.

"Interest earned" is the actual amount of interest earned on the account for the period.

"Days in period" is the actual number of days for the period.

Examples:

- (1) Assume an institution calculates interest for the statement period (and uses either the daily-balance or the average-daily-balance method), and the account has a balance of \$1,500 for 15 days and a balance of \$500 for the remaining 15 days or a 30-day statement period. The average daily balance for the period is \$1,000. The interest earned (under either balance-computation method) is \$5.25 during the period. The annual percentage yield earned (using the formula above) is 6.58 percent:

$$\begin{aligned} \text{APY earned} &= 100 \\ &\quad [1 + 5.25/1,000]^{(365/30)} \\ &\quad - 1] \end{aligned}$$

$$\text{APY earned} = 6.58\%$$

- (2) Assume an institution calculates interest on the average daily balance for the calendar month and provides periodic statements that cover the period from the 16th of one month to the 15th of the next month. The account has a balance of \$2,000 September 1 through September 15 and a balance of \$1,000 for the remaining 15 days of September. The average daily balance for the month of September is \$1,500, which results in \$6.50 in interest earned for the month. The annual percentage yield earned for the month of September would be shown on the periodic statement covering September 16 through October 15. The annual percentage yield earned (using the formula above) is 5.40 percent:

$$\begin{aligned} \text{APY earned} &= 100 \\ &\quad [1 + 6.50/1,500]^{(365/30)} \\ &\quad - 1] \end{aligned}$$

$$\text{APY earned} = 5.40\%$$



- (3) Assume an institution calculates interest on the average daily balance for a quarter (for example, the calendar months of September through November), and provides monthly periodic statements covering calendar months. The account has a balance of \$1,000 throughout the 30 days of September, a balance of \$2,000 throughout the 31 days of October, and a balance of \$3,000 throughout the 30 days of November. The average daily balance for the quarter is \$2,000, which results in \$21 in interest earned for the quarter. The annual percentage yield earned would be shown on the periodic statement for November. The annual percentage yield earned (using the formula above) is 4.28 percent:

$$\text{APY earned} = 100 \left[ \frac{1 + 21/2,000}{365/91} - 1 \right]$$

$$\text{APY earned} = 4.28\%$$

## APPENDIX B—Model Clauses and Sample Forms

B-1—Model Clauses for Account Disclosures (§ 230.4(b))

B-2—Model Clauses for Change in Terms (§ 230.5(a))

B-3—Model Clauses for Pre-Maturity Notices for Time Accounts (§ 230.5(b)(2) and 230.5(d))

B-4—Sample Form (Multiple Accounts)

B-5—Sample Form (NOW Account)

B-6—Sample Form (Tiered-Rate Money Market Account)

B-7—Sample Form (Certificate of Deposit)

B-8—Sample Form (Certificate of Deposit Advertisement)

B-9—Sample Form (Money Market Account Advertisement)

### B-1—Model Clauses for Account Disclosures

#### (a) Rate information

##### (i) Fixed-rate accounts

The interest rate on your account is \_\_\_\_%.

with an annual percentage yield of \_\_\_\_%. You will be paid this rate [for (time period) /until (date) /for at least 30 calendar days].

##### (ii) Variable-rate accounts

The interest rate on your account is \_\_\_\_% with an annual percentage yield of \_\_\_\_%.

Your interest rate and annual percentage yield may change.

##### Determination of rate

The interest rate on your account is based on (name of index) [plus/minus a margin of \_\_\_\_].

or

At our discretion, we may change the interest rate on your account.

##### Frequency of rate changes

We may change the interest rate on your account [every (time period) /at any time].

##### Limitations on rate changes

The interest rate for your account will never change by more than \_\_\_\_% each (time period).

The interest rate will never be [less/more] than \_\_\_\_%.

or

The interest rate will never [exceed \_\_\_\_% above/drop more than \_\_\_\_% below] the interest rate initially disclosed to you.

##### (iii) Stepped-rate accounts

The initial interest rate for your account is \_\_\_\_%. You will be paid this rate [for (time period) /until (date)]. After that time, the interest rate for your account will be \_\_\_\_%, and you will be paid this rate [for (time period) /until (date)]. The annual percentage yield for your account is \_\_\_\_%.

##### (iv) Tiered-rate accounts

##### Tiering Method A

- If your [daily balance/average daily balance] is \$ \_\_\_\_ or more, the interest rate paid on the entire balance in your account will be \_\_\_\_% with an annual percentage yield of \_\_\_\_%.

- If your [daily balance/average daily balance] is more than \$\_\_\_\_, but less than \$\_\_\_\_, the interest rate paid on the entire balance in your account will be \_\_\_\_% with an annual percentage yield of \_\_\_\_%.
- If your [daily balance/average daily balance] is \$\_\_\_\_ or less, the interest rate paid on the entire balance will be \_\_\_\_% with an annual percentage yield of \_\_\_\_%.

**Tiering Method B**

- An interest rate of \_\_\_\_% will be paid only for that portion of your [daily balance/average daily balance] that is greater than \$\_\_\_\_. The annual percentage yield for this tier will range from \_\_\_\_% to \_\_\_\_%, depending on the balance in the account.
- An interest rate of \_\_\_\_% will be paid only for that portion of your [daily balance/average daily balance] that is greater than \$\_\_\_\_, but less than \$\_\_\_\_. The annual percentage yield for this tier will range from \_\_\_\_% to \_\_\_\_%, depending on the balance in the account.
- If your [daily balance/average daily balance] is \$\_\_\_\_ or less, the interest rate paid on the entire balance will be \_\_\_\_% with an annual percentage yield of \_\_\_\_%.

**(b) Compounding and crediting**

**(i) Frequency**

Interest will be compounded [on a \_\_\_\_ basis/every (time period) ].

Interest will be credited to your account [on a \_\_\_\_ basis/every (time period) ].

**(ii) Effect of closing an account**

If you close your account before interest is credited, you will not receive the accrued interest.

**(c) Minimum-balance requirements**

**(i) To open the account**

You must deposit \$\_\_\_\_ to open this account.

**(ii) To avoid imposition of fees**

A minimum balance fee of \$\_\_\_\_ will be imposed every (time period) if the balance in the account falls below \$\_\_\_\_ any day of the (time period) .

A minimum balance fee of \$\_\_\_\_ will be imposed every (time period) if the average daily balance for the (time period) falls below \$\_\_\_\_. The average daily bal-

ance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

**(iii) To obtain the annual percentage yield disclosed**

You must maintain a minimum balance of \$\_\_\_\_ in the account each day to obtain the disclosed annual percentage yield.

You must maintain a minimum average daily balance of \$\_\_\_\_ to obtain the disclosed annual percentage yield. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

**(d) Balance-computation method**

**(i) Daily-balance method**

We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

**(ii) Average-daily-balance method**

We use the average-daily-balance method to calculate interest on your account. This method applies a periodic rate to the average daily balance in the account for the period. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

**(e) Accrual of interest on noncash deposits**

Interest begins to accrue no later than the business day we receive credit for the deposit of noncash items (for example, checks).

or

Interest begins to accrue on the business day you deposit noncash items (for example, checks)

**(f) Fees**

The following fees may be assessed against your account:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____ <u>(conditions for imposing fee)</u>	\$ _____
_____	_____ % of _____

**(g) Transaction limitations**

The minimum amount you may [withdraw/write a check for] is \$ \_\_\_\_.

You may make \_\_\_\_ [deposits into/withdrawals from] your account each (time period).

You may not make [deposits into/withdrawals from] your account until the maturity date.

**(h) Disclosures relating to time accounts****(1) Time requirements**

Your account will mature on (date).

Your account will mature in (time period).

**(ii) Early withdrawal penalties**

We [will/may] impose a penalty if you withdraw [any/all] of the [deposited funds/principal] before the maturity date. The fee imposed will equal \_\_\_\_ days/weeks[s]/months[s] of interest.

or

We [will/may] impose a penalty of \$ \_\_\_\_ if you withdraw [any/all] of the [deposited funds/principal] before the maturity date.

If you withdraw some of your funds before maturity, the interest rate for the remaining funds in your account will be \_\_\_\_% with an annual percentage yield of \_\_\_\_%.

**(iii) Withdrawal of interest prior to maturity**

The annual percentage yield assumes interest will remain on deposit until maturity. A withdrawal will reduce earnings.

**(iv) Renewal policies****(1) Automatically renewable time accounts**

This account will automatically renew at maturity.

You will have [\_\_\_\_ calendar/business] days after the maturity date to withdraw funds without penalty.

or

There is no grace period following the

maturity of this account to withdraw funds without penalty.

**(2) Non-automatically renewable time accounts**

This account will not renew automatically at maturity. If you do not renew the account, your deposit will be placed in [an interest-bearing/a non-interest-bearing] account.

**(i) Bonuses**

You will [be paid/receive] [\$ \_\_\_\_ / (description of item)] as a bonus [when you open the account/on (date)].

You must maintain a minimum [daily balance/average daily balance] of \$ \_\_\_\_ to obtain the bonus.

To earn the bonus, [\$ \_\_\_\_ / your entire principal] must remain on deposit [for (time period) / until (date)].

**B-2—Model Clauses for Change in Terms**

On (date), the cost of (type of fee) will increase to \$ \_\_\_\_.

On (date), the interest rate on your account will decrease to \_\_\_\_% with an annual percentage yield of \_\_\_\_%.

On (date), the minimum [daily balance/average daily balance] required to avoid imposition of a fee will increase to \$ \_\_\_\_.

**B-3—Model Clauses for Pre-Maturity Notices for Time Accounts**

**(a) Automatically renewable time accounts with maturities of one year or less but longer than one month**

Your account will mature on (date).

If the account renews, the new maturity date will be (date).

The interest rate for the renewed account will be \_\_\_\_% with an annual percentage yield of \_\_\_\_%.

or

The interest rate and annual percentage yield have



not yet been determined. They will be available on     (date)    . Please call     (phone number)     to learn the interest rate and annual percentage yield for your new account.

(b) *Non-automatically renewable time accounts with maturities longer than one year*

Your account will mature on     (date)    .

If you do not renew the account, interest [will/will not] be paid after maturity.

#### B-4—Sample Form (Multiple Accounts)

##### BANK ABC DISCLOSURE OF ACCOUNT TERMS

This disclosure contains information about your:

#### NOW Account

- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate on your account daily. The interest rate for your account will never be less than 2.00%.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

#### Passbook Savings Account

- The interest rate on your account will be paid for at least 30 days.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily-balance method to calcu-

late the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Additional disclosures for your account are included on the attached sheets.

#### Money Market Account

- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate on your account daily. The interest rate on your account will never be less than 3.00%.
- You may make six (6) transfers from your account, but only three (3) may be payments by check to third parties.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

#### Certificates of Deposit

- The interest rate for your account will be paid until the maturity date of your certificate (          ).
- Interest is compounded daily and will be credited to your account monthly.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- This account will automatically renew at maturity. You will have ten (10) calendar days from the maturity date to withdraw your funds without being charged a penalty.
- After the account is opened, you may not make deposits into or withdrawals from this account until the maturity date.
- We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.
- If any of the deposit is withdrawn before the maturity date, a penalty as shown below will be imposed:

<i>Term</i>	<i>Early Withdrawal Penalty</i>
3-month CD	30 days interest
6-month CD	90 days interest
1-year CD	120 days interest
2-year CD	180 days interest

Additional disclosures for your account are included on the attached sheets.

[*Fee Schedule Insert*]

**BANK ABC  
FEE SCHEDULE**

**NOW Account**

- Monthly minimum-balance fee if the daily balance drops below \$500 any day of the month .....\$ 7.50

**Passbook Savings Account**

- Monthly minimum-balance fee if the daily balance drops below \$100 any day of the month .....\$ 6.00

(*Rate Sheet Insert*)

**BANK ABC RATE SHEET**

<i>Account Type</i>	<i>Minimum Deposit to Open Account</i>	<i>Minimum Balance* to Obtain Annual Percentage Yield</i>	<i>Interest Rate</i>	<i>Annual Percentage Yield</i>
NOW .....	\$ 500	\$2,500	4.00%	4.08%
Passbook Savings .....	\$ 100	\$ 500	3.50%	3.56%
Money Market.....	\$1,000	\$1,000	4.15%	4.24%
3-Month CD .....	\$1,000	\$1,000	4.20%	4.29%
6-Month CD .....	\$1,000	\$1,000	4.25%	4.34%
1-Year CD .....	\$1,000	\$1,000	5.20%	5.34%
2-Year CD .....	\$1,000	\$1,000	5.80%	5.97%

\*Daily balance (the amount of principal in the account each day)

- You may make three (3) withdrawals per quarter.  
Each subsequent withdrawal .....\$ 2.00

**Money Market Account**

- Monthly minimum-balance fee if the daily balance drops below \$1,000 any day of month .....\$ 5.00

**Other Account Fees**

- Deposited checks returned.....\$ 5.00
- Balance inquiries (at a branch or at an ATM) .....\$ 1.00
- Check printing\* ..... (Fee depends on style of check ordered)
- Your check returned for insufficient funds (per check)\* .....\$16.00
- Stop-payment request (per request)\* \$12.50
- Certified check (per check)\* .....\$10.00

\* Fee does not apply to passbook savings accounts or certificates of deposit.

Additional disclosures for your account are included on the attached sheet.

## B-5—Sample Form (NOW Account)

**BANK XYZ**  
**DISCLOSURE OF INTEREST, FEES,**  
**AND ACCOUNT TERMS**  
**NOW ACCOUNT**

## Fee schedule

- Monthly minimum-balance fee if the daily balance drops below \$1,000 any day of the month .....\$ 7.00
- Fee to stop payment of a check .....\$12.50
- Fee for check returns (insufficient funds—per check) .....\$16.00
- Certified check (per check) .....\$10.00
- Fee for initial check printing (per 200) .....\$12.00  
(Cost for check printing varies depending on the style of checks ordered.)

## Rate information

- The interest rate for your account is 4.00 % with an annual percentage yield of 4.08 %. Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate for your account at any time. The interest rate for your account will never be less than 2% each year.

## Minimum-balance requirements

- You must deposit \$500 to open this account.
- You must maintain a minimum balance of \$2,500 in the account each day to obtain the annual percentage yield listed above.

## Balance-computation method

- We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

## Compounding and crediting

- Interest for your account will be compounded daily and credited to your account on the last day of each month.

## Accrual of interest on deposits other than cash

- Interest begins to accrue on the business

day you deposit noncash items (for example, checks).

## B-6—Sample Form (Tiered-Rate Money Market Account)

**BANK ABC**  
**DISCLOSURE OF INTEREST, FEES,**  
**AND ACCOUNT TERMS**  
**MONEY MARKET ACCOUNT**

## Fee schedule

- Check returned for insufficient funds (per check) .....\$16.00
- Stop-payment request (per request) . \$12.50
- Certified check (per check) .....\$10.00
- Check printing ... (Fee depends on style of checks ordered)

## Rate information

- If your daily balance is \$15,000 or more, the interest rate paid on the entire balance in your account will be 5.75% with an annual percentage yield of 5.92%.
- If your daily balance is more than \$2,500, but less than \$15,000, the interest rate paid on the entire balance in your account will be 5.50% with an annual percentage yield of 5.65%.
- If your daily balance is \$2,500 or less, the interest rate paid on the entire balance will be 5.25% with an annual percentage yield of 5.39%.
- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate for your account at any time. The interest rate for your account will never be less than 2.00%.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month.

## Minimum-balance requirements

- You must deposit \$1,000 to open this account.
- A minimum balance fee of \$5.00 will be imposed every month if the balance in your account falls below \$1,000 any day of the month.

## Balance-computation method

- We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

## Transaction limitations

- You may make six (6) transfers from your account, but only three (3) may be payments by check to third parties.

## B-7—Sample Form (Certificate of Deposit)

**XYZ SAVINGS BANK**  
1-YEAR CERTIFICATE OF DEPOSIT

## Rate information

- The interest rate for your account is 5.20% with an annual percentage yield of 5.34%. You will be paid this rate until the maturity date of the certificate. Your certificate will mature on September 30, 1993. The annual percentage yield assumes interest remains on deposit until maturity. A withdrawal will reduce earnings.
- Interest for your account will be compounded daily and credited to your account on the last day of each month.
- Interest begins to accrue on the business day you deposit any noncash item (for example, checks).

## Minimum-balance requirements

- You must deposit \$1,000 to open this account.
- You must maintain a minimum balance of \$1,000 in your account every day to obtain the annual percentage yield listed above.

## Balance-computation method

- We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

## Transaction limitations

- After the account is opened, you may not make deposits into or withdrawals from the account until the maturity date.

## Early withdrawal penalty

- If you withdraw any principal before the maturity date, a penalty equal to three months' interest will be charged to your account.

## Renewal policy

- This account will be automatically renewed at maturity. You have a grace period of ten (10) calendar days after the maturity date to withdraw the funds without being charged a penalty.

## B-8—Sample Form (Certificate of Deposit Advertisement)

**BANK XYZ**  
Always Offers You Competitive CD Rates!!

CERTIFICATES OF DEPOSIT	ANNUAL PERCENTAGE YIELD (APY)
5 Year	6.31%
4 Year	6.07%
3 Year	5.72%
2 Year	5.52%
1 Year	4.54%
6 Month	4.34%
90 Day	4.21%

APYs are offered on accounts opened from 5/9/93 through 5/18/93.

The minimum balance to open an account and obtain the APY is \$1,000.

A penalty may be imposed for early withdrawal.

For more information call:  
202-123-1234

### B-9—Sample Form (Money Market Account Advertisement)

#### BANK XYZ

Always Offers You Competitive Rates!!

MONEY MARKET ACCOUNTS	ANNUAL PERCENTAGE YIELD (APY)
Accounts with a balance of \$5,000 or less	5.07% *
Accounts with a balance over \$5,000	5.57% *

APYs are accurate as of April 30, 1993.

\* The rates may change after the account is opened. Fees could reduce the earnings on the account.

For more information call:  
202-123-1234

### APPENDIX C—Effect on State Laws

(a) *Inconsistent requirements.* State law requirements that are inconsistent with the requirements of the act and this regulation are preempted to the extent of the inconsistency. A state law is inconsistent if it requires a depository institution to make disclosures or take actions that contradict the requirements of the federal law. A state law is also contradictory if it requires the use of the same term to represent a different amount or a different meaning than the federal law, requires the use of a term different from that required in the federal law to describe the same item, or permits a method of calculating interest on an account different from that required in the federal law.

(b) *Preemption determinations.* A depository institution, state, or other interested party may request the Board to determine whether a state law requirement is inconsistent with the federal requirements. A request for a determi-

nation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. Notice that the Board intends to make a determination (either on request or on its own motion) will be published in the *Federal Register*, with an opportunity for public comment unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision. Notice of a final determination will be published in the *Federal Register* and furnished to the party who made the request and to the appropriate state official.

(c) *Effect of preemption determinations.* After the Board determines that a state law is inconsistent, a depository institution may not make disclosures using the inconsistent term or take actions relying on the inconsistent law.

(d) *Reversal of determination.* The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of state or federal law. Notice of reversal of a determination will be published in the *Federal Register* and a copy furnished to the appropriate state official.

### APPENDIX D—Issuance of Staff Interpretations

Officials in the Board's Division of Consumer and Community Affairs are authorized to issue official staff interpretations of this regulation. These interpretations provide the protections afforded under section 271(f) of the act. Except in unusual circumstances, interpretations will not be issued separately but will be incorporated in an official commentary to the regulation, which will be amended periodically. No staff interpretations will be issued approving depository institutions' forms, statements, or calculation tools or methods.



# Truth in Savings Act

12 USC 4301 et seq.; 105 Stat. 2334; Publ. L. 102-242, title II, subtitle F (December 19, 1991)

## Section

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## SECTION 261—Short Title

This subtitle may be cited as the "Truth in Savings Act".

[12 USC 4301 note.]

## SECTION 262—Findings and Purpose

(a) *Findings.* The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts, and to verify accounts, would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

(b) *Purpose.* It is the purpose of this subtitle to require the clear and uniform disclosure of—

- (1) the rates of interest which are payable on deposit accounts by depository institutions; and
- (2) the fees that are assessable against deposit accounts, so that consumers can make a meaningful comparison between the com-

peting claims of depository institutions with regard to deposit accounts.

[12 USC 4301.]

## SECTION 263—Disclosure of Interest Rates and Terms of Accounts

(a) *In general.* Except as provided in subsections (b) and (c), each advertisement, announcement, or solicitation initiated by any depository institution or deposit broker relating to any demand or interest-bearing account offered by an insured depository institution which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

- (1) The annual percentage yield.
- (2) The period during which such annual percentage yield is in effect.
- (3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).
- (4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.
- (5) A statement that regular fees or other conditions could reduce the yield.
- (6) A statement that an interest penalty is required for early withdrawal.

(b) *Disclosure required for on-premises displays.*

- (1) The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or



rates of interest which is displayed on the premises of the depository institution if such sign contains—

(A) the accompanying annual percentage yield; and

(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

(2) For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution.

(c) *Broadcast and electronic media and outdoor advertising exception.* The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(d) *Misleading descriptions of free or no-cost accounts prohibited.* No advertisement, announcement, or solicitation made by any depository institution or deposit broker may refer to or describe an account as a free or no-cost account (or words of similar meaning) if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions during such period may not exceed a maximum number; or

(2) any regular service or transaction fee is imposed.

(d) *Misleading or inaccurate advertisements, etc., prohibited.* No depository institution or deposit broker shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

[12 USC 4302. As amended by act of Oct. 28, 1992 (§ 957).]

## SECTION 264—Account Schedule

(a) *In general.* Each depository institution shall maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) *Information on fees and charges.* The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) *Information on interest rates.* The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any such annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1) through (4) with respect to any



period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to the nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) *Other information.* The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) *Style and format.* Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

[12 USC 4303.]

#### SECTION 265—Disclosure Requirements for Certain Accounts

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under this Act relating to annual percentage yield as may be necessary to carry out the purposes of this Act in the case of—

- (1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;
- (2) variable rate accounts;
- (3) accounts which, pursuant to law, do not guarantee payment of a stated rate;
- (4) multiple rate accounts; and
- (5) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a stated term.

[12 USC 4304.]

#### SECTION 266—Distribution of Schedules

(a) *In general.* A schedule required under section 264 for an appropriate account shall be—

- (1) made available to any person upon request;
- (2) provided to any potential customer before an account is opened or a service is rendered; and
- (3) provided to the depositor, in the case of any time deposit which is renewable at maturity without notice from the depositor, at least 30 days before the date of maturity.

(b) *Distribution in case of certain initial deposits.* If—

- (1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and
- (2) the schedule required under section 264(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) *Distribution of notice of certain changes.* If—

- (1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 264(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account, all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) *Distribution in case of accounts established by more than 1 individual or by a group.*

If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

(e) *Notice to account holders as of the effective date of regulations.*

For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 180 days after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

[12 USC 4305.]

### SECTION 267—Payment of Interest

(a) *Calculated on full amount of principal.*

Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this Act.

(b) *No particular method of compounding interest required.* Subsection (a) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

(c) *Date by which interest must accrue.* Inter-

est on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

[12 USC 4306.]

### SECTION 268—Periodic Statements

Each depository institution shall include on or with each periodic statement provided to each account holder at such institution a clear and conspicuous disclosure of the following information with respect to such account:

- (1) The annual percentage yield earned.
- (2) The amount of interest earned.
- (3) The amount of any fees or charges imposed.
- (4) The number of days in the reporting period.

[12 USC 4307.]

### SECTION 269—Regulations

(a) *In general.*

- (1) Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board, after consultation with each agency referred to in section 270(a) and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this Act.
- (2) The regulations prescribed under paragraph (1) shall take effect not later than 9 months after publication in final form.
- (3) The regulations prescribed under paragraph (1) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act.
- (4) The provisions of this Act shall not apply with respect to any depository institu-

tion before the effective date of regulations prescribed by the Board under this subsection (or by the National Credit Union Administration Board under section 12(b), in the case of any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act).

(b) *Model forms and clauses.*

(1) The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this Act. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) Nothing in this Act may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this Act if the depository institution—

(A) uses any appropriate model form or clause as published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this Act; or

(ii) rearranging the format, if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

[12 USC 4308.]

## SECTION 270—Administrative Enforcement

(a) *In general.* Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking

agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act); (B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) *Additional enforcement powers.*

(1) For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) *Regulations by agencies other than the board.* The authority of the Board to issue regulations under this Act does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this Act.

[12 USC 4309.]

## SECTION 271—Civil Liability

(a) *Civil liability.* Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

- (1) any actual damage sustained by such person as a result of the failure;
- (2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than \$100 nor greater than \$1,000; or
  - (B) in the case of a class action, such amount as the court may allow, except that—
    - (i) as to each member of the class, no minimum recovery shall be applicable; and
    - (ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of \$500,000 or 1 percent of the net worth of the depository institution involved; and
- (3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) *Class action awards.* In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

- (1) the amount of any actual damages awarded;
- (2) the frequency and persistence of failures of compliance;
- (3) the resources of the depository institution;
- (4) the number of persons adversely affected; and
- (5) the extent to which the failure of compliance was intentional.

(c) *Bona fide errors.*

(1) A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this Act is not a bona fide error.

(d) *No liability for overpayment.* A depository institution may not be held liable in any action under this section for a violation of this Act if the violation has resulted in—

- (1) an interest payment to the account holder in an amount greater than the amount determined under any disclosed rate of interest applicable with respect to such payment; or
- (2) a charge to the consumer in an amount less than the amount determined under the disclosed charge or fee schedule applicable with respect to such charge.

(e) *Jurisdiction.* Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within 1 year after the date of the occurrence of the violation involved.

(f) *Reliance on board rulings.* No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) *Notification of and adjustment for errors.*

A depository institution shall not be liable under this section or section 270 for any failure to comply with any requirement imposed under this Act with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(h) *Multiple interests in 1 account.* If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this Act shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(i) *Continuing failure to disclose.*

(1) Except as provided in paragraph (2),

the continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) The continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) This subsection shall not limit or otherwise affect the enforcement power under section 270 of any agency referred to in subsection (a) of such section.

[12 USC 4310.]

## SECTION 272—Credit Unions

(a) *In general.* No regulation prescribed by the Board under this Act shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) *Regulations prescribed by the NCUA.* Within 90 days of the effective date of any regulation prescribed by the Board under this Act, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

[12 USC 4311.]

## SECTION 273—Effect on State Law

The provisions of this Act do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires



the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist.

[12 USC 4312.]

## SECTION 274—Definitions

For the purposes of this Act—

(1) The term “*account*” means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) The term “*annual percentage yield*” means the total amount of interest that would be received on a \$100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) The term “*annual rate of simple interest*”—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the “annual percentage rate”.

(4) The term “*Board*” means the Board of Governors of the Federal Reserve System.

(5) The term “*deposit broker*”—

(A) has the meaning given to such term in section 29(f)(1) of the Federal Deposit Insurance Act; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) The term “*depository institution*” has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(7) The term “*interest*” includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) The term “*multiple rate account*” means any account that has 2 or more annual rates of simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

[12 USC 4313.]

# Regulation F

## Limitations on Interbank Liabilities

12 CFR 206; effective December 19, 1992



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the District in which the inquiry arises.

February 1993



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# Regulation F

## Limitations on Interbank Liabilities

12 CFR 206; effective December 19, 1992

### SECTION 206.1—Authority, Purpose, and Scope

(a) *Authority and purpose.* This part (Regulation F, 12 CFR 206) is issued by the Board of Governors of the Federal Reserve System (Board) to implement section 308 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (act), Pub. L. 102-242. The purpose of the regulation is to limit the risks that the failure of a depository institution would pose to insured depository institutions.

(b) *Scope.* This regulation applies to all depository institutions insured by the Federal Deposit Insurance Corporation.

### SECTION 206.2—Definitions

As used in this part, unless the context requires otherwise:

(a) *Bank* means an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 USC 1813), and includes an insured national bank, state bank, District bank, or savings association, and an insured branch of a foreign bank.

(b) *Commonly controlled correspondent* means a correspondent that is commonly controlled with the bank and for which the bank is subject to liability under section 5(e) of the Federal Deposit Insurance Act. A correspondent is considered to be commonly controlled with the bank if—

(1) 25 percent or more of any class of voting securities of the bank and the correspondent are owned, directly or indirectly, by the same depository institution or company; or

(2) either the bank or the correspondent owns 25 percent or more of any class of voting securities of the other.

(c) *Correspondent* means a U.S. depository institution or a foreign bank, as defined in this part, to which a bank has exposure, but does not include a commonly controlled correspondent.

(d) *Exposure* means the potential that an obligation will not be paid in a timely manner or in full. "Exposure" includes credit and liquidity risks, including operational risks, related to intraday and interday transactions.

(e) *Foreign bank* means an institution that—

- (1) is organized under the laws of a country other than the United States;
- (2) engages in the business of banking;
- (3) is recognized as a bank by the bank supervisory or monetary authorities of the country of the bank's organization;
- (4) receives deposits to a substantial extent in the regular course of business; and
- (5) has the power to accept demand deposits.

(f) *Primary federal supervisor* has the same meaning as the term "appropriate federal banking agency" in section 3(q) of the Federal Deposit Insurance Act (12 USC 1813(q)).

(g) *Total capital* means the total of a bank's tier 1 and tier 2 capital under the risk-based capital guidelines provided by the bank's primary federal supervisor. For an insured branch of a foreign bank organized under the laws of a country that subscribes to the principles of the Basle Capital Accord, "total capital" means total tier 1 and tier 2 capital as calculated under the standards of that country. For an insured branch of a foreign bank organized under the laws of a country that does not subscribe to the principles of the Basle Capital Accord, "total capital" means total tier 1 and tier 2 capital as calculated under the provisions of the accord.

(h) *U.S. depository institution* means a bank, as defined in section 206.2(a) of this part, other than an insured branch of a foreign bank.

### SECTION 206.3—Prudential Standards

(a) *General.* A bank shall establish and maintain written policies and procedures to prevent excessive exposure to any individual

correspondent in relation to the condition of the correspondent.

(b) *Standards for selecting correspondents.*

(1) A bank shall establish policies and procedures that take into account credit and liquidity risks, including operational risks, in selecting correspondents and terminating those relationships.

(2) Where exposure to a correspondent is significant, the policies and procedures shall require periodic reviews of the financial condition of the correspondent and shall take into account any deterioration in the correspondent's financial condition. Factors bearing on the financial condition of the correspondent include the capital level of the correspondent, level of nonaccrual and past-due loans and leases, level of earnings, and other factors affecting the financial condition of the correspondent. Where public information on the financial condition of the correspondent is available, a bank may base its review of the financial condition of a correspondent on such information, and is not required to obtain nonpublic information for its review.<sup>1</sup>

(3) A bank may rely on another party, such as a bank rating agency or the bank's holding company, to assess the financial condition of or select a correspondent, provided that the bank's board of directors has reviewed and approved the general assessment or selection criteria used by that party.

(c) *Internal limits on exposure.*

(1) Where the financial condition of the correspondent and the form or maturity of the exposure create a significant risk that payments will not be made in full or in a timely manner, a bank's policies and procedures shall limit the bank's exposure to the correspondent, either by the establishment of internal limits or by other means. Limits shall be consistent with the risk undertaken, considering the financial condition and the form and maturity of exposure to the correspondent. Limits may be fixed as to amount or flexible, based on such factors as the

monitoring of exposure and the financial condition of the correspondent. Different limits may be set for different forms of exposure, different products, and different maturities.

(2) A bank shall structure transactions with a correspondent or monitor exposure to a correspondent, directly or through another party, to ensure that its exposure ordinarily does not exceed the bank's internal limits, including limits established for credit exposure, except for occasional excesses resulting from unusual market disturbances, market movements favorable to the bank, increases in activity, operational problems, or other unusual circumstances. Generally, monitoring may be done on a retrospective basis. The level of monitoring required depends on—

- (i) the extent to which exposure approaches the bank's internal limits;
- (ii) the volatility of the exposure; and
- (iii) the financial condition of the correspondent.

(3) A bank shall establish appropriate procedures to address excesses over its internal limits.

(d) *Review by board of directors.* The policies and procedures established under this section shall be reviewed and approved by the bank's board of directors at least annually.

## SECTION 206.4—Credit Exposure

(a) *Limits on credit exposure.*

(1) The policies and procedures on exposure established by a bank under section 206.3(c) of this part shall limit a bank's interday credit exposure to an individual correspondent to not more than 25 percent of the bank's total capital, unless the bank can demonstrate that its correspondent is at least adequately capitalized, as defined in section 206.5(a) of this part.<sup>2</sup>

(2) Where a bank is no longer able to demonstrate that a correspondent is at least adequately capitalized for the purposes of sec-

<sup>1</sup> A bank will be required to obtain nonpublic information for its review for those foreign banks for which there is no public source of financial information.

<sup>2</sup> As used in this final rule, the term "adequately capitalized" is similar but not identical to the definition of that term as used for the purposes of the prompt-corrective-action standards.

tion 206.4(a) of this part, including where the bank cannot obtain adequate information concerning the capital ratios of the correspondent, the bank shall reduce its credit exposure to comply with the requirements of section 206.4(a)(1) of this part within 120 days after the date when the current Report of Condition and Income or other relevant report normally would be available.

(b) *Calculation of credit exposure.* Except as provided in sections 206.4(c) and (d) of this part, the credit exposure of a bank to a correspondent shall consist of the bank's assets and off-balance-sheet items that are subject to capital requirements under the capital adequacy guidelines of the bank's primary federal supervisor, and that involve claims on the correspondent or capital instruments issued by the correspondent. For this purpose, off-balance-sheet items shall be valued on the basis of current exposure. The term "credit exposure" does not include exposure related to the settlement of transactions, intraday exposure, transactions in an agency or similar capacity where losses will be passed back to the principal or other party, or other sources of exposure that are not covered by the capital adequacy guidelines.

(c) *Netting.* Transactions covered by netting agreements that are valid and enforceable under all applicable laws may be netted in calculating credit exposure.

(d) *Exclusions.* A bank may exclude the following from the calculation of credit exposure to a correspondent:

- (1) transactions, including reverse repurchase agreements, to the extent that the transactions are secured by government securities or readily marketable collateral, as defined in paragraph (f) of this section, based on the current market value of the collateral;
- (2) the proceeds of checks and other cash items deposited in an account at a correspondent that are not yet available for withdrawal;
- (3) quality assets, as defined in paragraph (f) of this section, on which the correspon-

dent is secondarily liable, or obligations of the correspondent on which a creditworthy obligor in addition to the correspondent is available, including but not limited to—

- (i) loans to third parties secured by stock or debt obligations of the correspondent;
  - (ii) loans to third parties purchased from the correspondent with recourse;
  - (iii) loans or obligations of third parties backed by standby letters of credit issued by the correspondent; or
  - (iv) obligations of the correspondent backed by standby letters of credit issued by a creditworthy third party;
- (4) exposure that results from the merger with or acquisition of another bank for one year after that merger or acquisition is consummated; and
- (5) the portion of the bank's exposure to the correspondent that is covered by federal deposit insurance.

(e) *Credit exposure of subsidiaries.* In calculating credit exposure to a correspondent under this part, a bank shall include credit exposure to the correspondent of any entity that the bank is required to consolidate on its Report of Condition and Income or Thrift Financial Report.

(f) *Definitions.* As used in this section:

- (1) *Government securities* means obligations of, or obligations fully guaranteed as to principal and interest by, the United States government or any department, agency, bureau, board, commission, or establishment of the United States, or any corporation wholly owned, directly or indirectly, by the United States.
- (2) *Readily marketable collateral* means financial instruments or bullion that may be sold in ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions on an auction or a similarly available daily bid- and ask-price market.
- (3) *Quality asset* means an asset—
  - (i) that is not in a nonaccrual status;
  - (ii) on which principal or interest is not more than 30 days past due; and
  - (iii) whose terms have not been renegotiated or compromised due to the deterior-

rating financial condition of the additional obligor; except that

(iv) an asset is not considered a "quality asset" if any other loans to the primary obligor on the asset have been classified as "substandard," "doubtful," or "loss," or treated as "other loans specially mentioned" in the most recent report of examination or inspection of the bank or an affiliate prepared by either a federal or a state supervisory agency.

### SECTION 206.5—Capital Levels of Correspondents

(a) *Adequately capitalized correspondents.* For the purpose of this part, a correspondent is considered adequately capitalized if the correspondent has—

- (1) a total risk-based capital ratio, as defined in paragraph (e)(1) of this section, of 8.0 percent or greater;
- (2) a Tier 1 risk-based capital ratio, as defined in paragraph (e)(2) of this section, of 4.0 percent or greater; and
- (3) a leverage ratio, as defined in paragraph (e)(3) of this section, of 4.0 percent or greater.

(b) *Frequency of monitoring capital levels.* A bank shall obtain information to demonstrate that a correspondent is at least adequately capitalized on a quarterly basis, either from the most recently available Report of Condition and Income, Thrift Financial Report, financial statement, or bank rating report for the correspondent. For a foreign bank correspondent for which quarterly financial statements or reports are not available, a bank shall obtain such information on as frequent a basis as such information is available. Information obtained directly from a correspondent for the purpose of this section should be based on the most recently available Report of Condition and Income, Thrift Financial Report, or financial statement of the correspondent.

(c) *Foreign banks.* A correspondent that is a foreign bank may be considered adequately capitalized under this section without regard

to the minimum leverage ratio required under paragraph (a)(3) of this section.

(d) *Reliance on information.* A bank may rely on information as to the capital levels of a correspondent obtained from the correspondent, a bank rating agency, or other party that it reasonably believes to be accurate.

(e) *Definitions.* For the purposes of this section:

- (1) *Total risk-based capital ratio* means the ratio of qualifying total capital to weighted risk assets.
- (2) *Tier 1 risk-based capital ratio* means the ratio of tier 1 capital to weighted-risk assets.
- (3) *Leverage ratio* means the ratio of tier 1 capital to average total consolidated assets, as calculated in accordance with the capital adequacy guidelines of the correspondent's primary federal supervisor.

(f) *Calculation of capital ratios.*

- (i) For a correspondent that is a U.S. depository institution, the ratios shall be calculated in accordance with the capital adequacy guidelines of the correspondent's primary federal supervisor.
- (ii) For a correspondent that is a foreign bank organized in a country that has adopted the risk-based framework of the Basle Capital Accord, the ratios shall be calculated in accordance with the capital adequacy guidelines of the appropriate supervisory authority of the country in which the correspondent is chartered.
- (iii) For a correspondent that is a foreign bank organized in a country that has not adopted the risk-based framework of the Basle Capital Accord, the ratios shall be calculated in accordance with the provisions of the Basle Capital Accord.

### SECTION 206.6—Waiver

The Board may waive the application of Section 206.4(a) of this part to a bank if the primary federal supervisor of the bank advises the Board that the bank is not reasonably able to obtain necessary services, including payment-related services and placement of funds, without incurring exposure to a correspon-

dent in excess of the otherwise applicable limit.

#### SECTION 206.7—Transition Provisions

(a) Beginning on June 19, 1993, a bank shall comply with the prudential standards prescribed under Section 206.3 of this part.

(b) Beginning on June 19, 1994, a bank shall comply with the limit on credit exposure to an individual correspondent required under Section 206.4(a) of this part, but for a period of one year after this date the limit shall be 50 percent of the bank's total capital.





# Statutory Provisions

*Section 308 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (105 Stat. 2362) added a new section 23 to the Federal Reserve Act, effective December 19, 1992, and authorized the Board to "prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act."*

## FEDERAL RESERVE ACT

### SECTION 23—Interbank Liabilities

(a) The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

(b) *Aggregate limits on insured depository institutions' exposure to other depository institutions.* The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

(c) *"Exposure" defined.* (1) For purposes of subsection (b), an insured depository institution's "exposure" to another depository institution means—

(A) all extensions of credit to the other depository institution, regardless of name or description, including—

- (i) all deposits at the other depository institution;
- (ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and
- (iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on

behalf of the other depository institution;

(B) all purchases of or investments in securities issued by the other depository institution;

(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

(2) The Board may, at its discretion, by regulation or order, exempt transactions from the definition of "exposure" if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

(3) For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

(d) *"Insured depository institution" defined.* For purposes of this section, the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(e) *Rulemaking authority; enforcement.* The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 8 of the Federal Deposit Insurance Act.

[12 USC 371b-2. As added by act of Dec. 19, 1991 (105 Stat. 2362).]



# Regulation D Reserve Requirements of Depository Institutions

12 CFR 204; as amended effective December 22, 1992



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve District in which the inquiry arises.

April 1993

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# Regulation D

## Reserve Requirements of Depository Institutions

12 CFR 204; as amended effective December 22, 1992

### SECTION 204.1—Authority, Purpose and Scope

(a) *Authority.* This part\* is issued under the authority of section 19 (12 USC 461 et seq.) and other provisions of the Federal Reserve Act and of section 7 of the International Banking Act of 1978 (12 USC 3105).

(b) *Purpose.* This part relates to reserves that depository institutions are required to maintain for the purpose of facilitating the implementation of monetary policy by the Federal Reserve System.

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

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

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

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

(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 USC 1422(4)); and

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

(2) Except as may be otherwise provided by the Board, a foreign bank's branch or agency located in the United States is re-

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

(3) Except as may be otherwise provided by the Board, an Edge corporation (12 USC 611 et seq.) or an agreement corporation (12 USC 601 et seq.) is required to comply with the provisions of this part in the same manner and to the same extent as a member bank.

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

(5) The provisions of this part do not apply to any deposit that is payable only at an office located outside the United States.

### SECTION 204.2—Definitions

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

(a)(1) "*Deposit*" means—

(i) the unpaid balance of money or its equivalent received or held by a depository institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to an account, including interest credited, or which is evi-

\*The words "this part," as used herein, mean Regulation D (Code of Federal Regulations, title 12, chapter II, part 204).

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

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

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

(v) any liability of a depository institution's affiliate that is not a depository institution, on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral), with a maturity of less than one and one-half years, to the extent that the proceeds are used to supply or to maintain the availability of funds (other than capital) to the depository institution, except any

such obligation that, had it been issued directly by the depository institution, would not constitute a deposit. If an obligation of an affiliate of a depository institution is regarded as a deposit and is used to purchase assets from the depository institution, the maturity of the deposit is determined by the shorter of the maturity of the obligation issued or the remaining maturity of the assets purchased. If the proceeds from an affiliate's obligation are placed in the depository institution in the form of a reservable deposit, no reserves need be maintained against the obligation of the affiliate since reserves are required to be maintained against the deposit issued by the depository institution. However, the maturity of the deposit issued to the affiliate shall be the shorter of the maturity of the affiliate's obligation or the maturity of the deposit;

(vi) credit balances;

(vii) any liability of a depository institution on any promissory note, acknowledgment of advance, banker's acceptance, or similar obligation (written or oral), including mortgage-backed bonds, that is issued or undertaken by a depository institution as a means of obtaining funds, except any such obligation that—

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

(1) an office located in the United States of another depository institution, foreign bank, Edge or agreement corporation, or New York Investment (article XII) Company;

(2) the United States government or an agency thereof; or

(3) the Export-Import Bank of the United States, Minbanc Capital Corporation, the Government Development Bank for Puerto Rico, a Federal Reserve Bank, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility;

(B) arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States government

or any agency thereof that the depository institution is obligated to repurchase;

(C) is not insured by a federal agency, is subordinated to the claims of depositors, has a weighted average maturity of five years or more, and is issued by a depository institution with the approval of, or under the rules and regulations of, its primary federal supervisor;

(D) arises from a borrowing by a depository institution from a dealer in securities, for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank or other immediately available funds, (commonly referred to as "federal funds"), received by such dealer on the date of the loan in connection with clearance of securities transactions; or

(E) arises from the creation, discount and subsequent sale by a depository institution of its banker's acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act (12 USC 372);

(viii) any liability of a depository institution that arises from the creation after June 20, 1983, of a banker's acceptance that is not of the type described in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372) except any such liability held for the account of an entity specified in section 204.2(a)(1)(vii)(A).

(2) "Deposit" does not include—

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

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

(iii) obligations, the proceeds of which are not used by the depository institution

for purposes of making loans, investments, or maintaining liquid assets such as cash or "due from" depository institutions or other similar purposes. An obligation issued for the purpose of raising funds to purchase business premises, equipment, supplies, or similar assets is not a deposit;

(iv) accounts payable;

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

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

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

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

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

(x) an obligation issued to a state or municipal housing authority under a loan-to-lender program involving the issuance of tax exempt bonds and the subsequent lending of the proceeds to the depository institution for housing finance purposes;

(xi) shares of a credit union held by the National Credit Union Administration or the National Credit Union Administration Central Liquidity Facility under a

statutorily authorized assistance program; and

(xii) any liability of a United States branch or agency of a foreign bank to another United States branch or agency of the same foreign bank, or the liability of the United States office of an Edge corporation to another United States office of the same Edge corporation.

(b)(1) “Demand deposit” means a deposit that is payable on demand, or a deposit issued with an original maturity or required notice period of less than seven days, or a deposit representing funds for which the depository institution does not reserve the right to require at least seven days’ written notice of an intended withdrawal. Demand deposits may be in the form of—

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

(2) The term “demand deposit” also means deposits or accounts on which the

depository institution has reserved the right to require at least seven days’ written notice prior to withdrawal or transfer of any funds in the account and from which the depositor is authorized to make withdrawals or transfers in excess of the withdrawal or transfer limitations specified in section 204.2(d)(2) for such an account and the account is not a NOW account, or an ATS account or other account that meets the criteria specified in either section 204.2(b)(3)(ii) or (iii) below.

(3) “Demand deposit” does not include—

(i) any account that is a time deposit or a savings deposit under this part;

(ii) any deposit or account on which the depository institution has reserved the right to require at least seven days’ written notice prior to withdrawal or transfer of any funds in the account and either—

(A) is subject to check, draft, negotiable order of withdrawal, share draft, or similar item, such as an account authorized by 12 USC 1832(a) (“NOW account”) and a savings deposit described in section 204.2(d)(2), provided that the depositor is eligible to hold a NOW account; or

(B) from which the depositor is authorized to make transfers by preauthorized transfer or telephonic (including data transmission) agreement, order or instruction to another account or to a third party, provided that the depositor is eligible to hold a NOW account;

(iii) any deposit or account on which the depository institution has reserved the right to require at least seven days’ written notice prior to withdrawal or transfer of any funds in the account and from which withdrawals may be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account in order to cover checks or drafts drawn upon the institution or to maintain a specified balance in, or to make periodic transfers to such other account, such as accounts authorized by 12 USC 371a (automatic transfer account or ATS account), provided that the de-

positor is eligible to hold an ATS account; or

(iv) IBF time deposits meeting the requirements of section 204.8(a)(2).

(c)(1) "Time deposit" means—

(i) a deposit that the depositor does not have a right and is not permitted to make withdrawals from within six days after the date of deposit unless the deposit is subject to an early withdrawal penalty of at least seven days' simple interest on amounts withdrawn within the first six days after deposit.<sup>1</sup> A time deposit from which partial early withdrawals are permitted must impose additional early withdrawal penalties of at least seven days' simple interest on amounts withdrawn within six days after each partial withdrawal. If such additional early withdrawal penalties are not imposed, the account ceases to be a time deposit. The account may become a savings deposit if it meets the requirements for a savings deposit; otherwise it becomes a trans-

<sup>1</sup> A time deposit, or a portion thereof, may be paid before maturity without imposing the early withdrawal penalties specified by this part—

(a) where the time deposit is maintained in an individual retirement account established in accordance with 26 USC 408 and is paid within seven days after establishment of the individual retirement account pursuant to 26 CFR 1.408-6(d)(4), where it is maintained in a Keogh (H.R. 10) plan; or where it is maintained in a "401(k) plan" under 26 USC 401(k); provided that the depositor forfeits an amount at least equal to the simple interest earned on the amount withdrawn;

(b) where the depository institution pays all or a portion of a time deposit representing funds contributed to an individual retirement account or a Keogh (H.R. 10) plan established pursuant to 26 USC 408 or 26 USC 401 or to a "401(k) plan" established pursuant to 26 USC 401(k) when the individual for whose benefit the account is maintained attains age 59½ or is disabled (as defined in 26 USC 72(m)(7)) or thereafter;

(c) where the depository institution pays that portion of a time deposit on which federal deposit insurance has been lost as the result of the merger of two or more federally insured banks in which the depositor previously maintained separate time deposits, for a period of one year from the date of the merger;

(d) upon the death of any owner of the time deposit funds;

(e) when any owner of the time deposit is determined to be legally incompetent by a court or other administrative body of competent jurisdiction; or

(f) where a time deposit is withdrawn within ten days after a specified maturity date even though the deposit contract provided for automatic renewal at the maturity date.

action account.<sup>2</sup> "Time deposit" includes funds—

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

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

(C) payable only upon written notice that is actually required to be given by the depositor not less than seven days prior to withdrawal;

(D) held in "club" accounts (such as "Christmas club" accounts and "vacation club" accounts that are not maintained as "savings deposits") that are deposited under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than three months even though some of the deposits may be made within six days from the end of the period; or

(E) share certificates and certificates of indebtedness issued by credit unions, and certificate accounts and notice accounts issued by savings and loan associations;

(ii) a "savings deposit;"

(iii) an "IBF time deposit" meeting the requirements of section 204.8(a)(2); and

(iv) borrowings, regardless of maturity, represented by a promissory note, an acknowledgment of advance, or similar obligation described in section 204.2(a)(1)(vii) that is issued to, or any banker's acceptance (other than the type described in 12 USC 372) of the depository institution held by—

(A) any office located outside the United States of another depository institution or Edge or agreement corporation organized under the laws of the United States;

(B) any office located outside the United States of a foreign bank;

<sup>2</sup> A nonpersonal time deposit with a stated maturity of one and one-half years or more may be treated as having an original maturity of one and one-half years or more only if it is subject to the minimum penalty described in section 204.2(f)(3).



(C) a foreign national government, or an agency or instrumentality thereof,<sup>3</sup> engaged principally in activities which are ordinarily performed in the United States by governmental entities,

(D) an international entity of which the United States is a member, or

(E) any other foreign, international, or supranational entity specifically designated by the Board.<sup>4</sup>

(2) A time deposit may be represented by a transferable or nontransferable, or a negotiable or nonnegotiable, certificate, instrument, passbook, or statement, or by book entry or otherwise.

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

(2) The term "*savings deposit*" also means: A deposit or account, such as an account commonly known as a passbook savings account, a statement savings account, or as a money market deposit account ("MMDA"), that otherwise meets the requirements of section 204.2(d)(1) and from which, under the terms of the deposit contract or by practice of the depository institution, the depositor is permitted or authorized to make no more than six transfers and withdrawals, or a combination of such transfers and withdrawals, per calendar month or statement cycle (or similar period) of at least four weeks, to another account (including a transaction account) of the depositor at the same institution or to a third party by means of a preauthorized or

automatic transfer, or telephonic (including data transmission) agreement, order or instruction, and no more than three of the six such transfers may be made by check, draft, debit card, or similar order made by the depositor and payable to third parties. A "preauthorized transfer" includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)) or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. Such an account is not a "transaction account" by virtue of an arrangement that permits transfers for the purpose of repaying loans and associated expenses at the same depository institution (as originator or servicer) or that permits transfers of funds from this account to another account of the same depositor at the same institution or permits withdrawals (payments directly to the depositor) from the account when such transfers or withdrawals are made by mail, messenger, automated teller machine, or in person or when such withdrawals are made by telephone (via check mailed to the depositor) regardless of the number of such transfers or withdrawals.<sup>5, 6</sup>

<sup>5</sup> In order to ensure that no more than the permitted number of withdrawals or transfers are made, for an account to come within the definitions in section 204.2(d)(2), a depository institution must either—

(a) prevent withdrawals or transfers of funds from this account that are in excess of the limits established by sections 204.2(d)(2) or

(b) adopt procedures to monitor those transfers on an ex post basis and contact customers who exceed the established limits on more than an occasional basis.

For customers who continue to violate those limits after they have been contacted by the depository institution, the depository institution must either close the account and place the funds in another account that the depositor is eligible to maintain or take away the transfer and draft capacities of the account.

An account that authorizes withdrawals or transfers in excess of the permitted number is a transaction account regardless of whether the authorized number of transactions are actually made. For accounts described in section 204.2(d)(2), the institution at its option may use, on a consistent basis, either the date on the check, draft, or similar item, or the date the item is paid in applying the limits imposed by that section.

<sup>6</sup> Reserved.

<sup>3</sup> Other than states, provinces, municipalities, or other regional or local governmental units or agencies or instrumentalities thereof.

<sup>4</sup> The designated entities are specified in 12 CFR 204.125 (page 25).

(3) A deposit may continue to be classified as a savings deposit even if the depository institution exercises its right to require notice of withdrawal.

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

(e) "Transaction account" means a deposit or account from which the depositor or account holder is permitted to make transfers or withdrawals by negotiable or transferable instrument, payment order of withdrawal, telephone transfer, or other similar device for the purpose of making payments or transfers to third persons or others or from which the depositor may make third-party payments at an automated teller machine (ATM) or a remote service unit, or other electronic device, including by debit card, but the term does not include savings deposits or accounts described in section 204.2(d)(2) even though such accounts permit third-party transfers. "Transaction account" includes—

(1) demand deposits;

(2) deposits or accounts on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account and that are subject to check, draft, negotiable order of withdrawal, share draft, or other similar item, except accounts described in section 204.2(d)(2) (savings deposits), but including accounts authorized by 12 USC 1832(a) (NOW accounts).

(3) Deposits or accounts on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account and from which withdrawals may be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account in order to cover checks or drafts drawn upon the institution or to maintain a specified balance in, or to make periodic transfers to such accounts, except accounts described in section

204.2(d)(2), but including accounts authorized by 12 USC 371a (automatic transfer accounts or ATS accounts).

(4) Deposits or accounts on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account and under the terms of which, or by practice of the depository institution, the depositor is permitted or authorized to make more than six withdrawals per month or statement cycle (or similar period) of at least four weeks for purposes of transferring funds to another account of the depositor at the same institution (including a "transaction account") or for making payment to a third party by means of preauthorized transfer, or telephonic (including data transmission) agreement, order or instruction, except accounts described in section 204.2(d)(2). An account that authorizes more than six such withdrawals in a calendar month, or statement cycle (or similar period) of at least four weeks, is a "transaction account" whether or not more than six such transfers are made during such period. A "preauthorized transfer" includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)), or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. Such an account is not a "transaction account" by virtue of an arrangement that permits transfers for the purpose of repaying loans and associated expenses at the same depository institution (as originator or servicer) or that permits transfers of funds from this account to another account of the same depositor at the same institution or permits withdrawals (payments directly to the depositor) from the account when such transfers or withdrawals are made by mail, messenger, automated teller machine or in person or when such withdrawals are made by telephone (via check mailed to the depositor) regardless of the number of such transfers or withdrawals.



(5) Deposits or accounts maintained in connection with an arrangement that permits the depositor to obtain credit directly or indirectly through the drawing of a negotiable or nonnegotiable check, draft, order or instruction or other similar device (including telephone or electronic order or instruction) on the issuing institution that can be used for the purpose of making payments or transfers to third persons or others, or to a deposit account of the depositor.

(6) All deposits other than time and savings deposits, including those accounts that are time and savings deposits in form but that the Board has determined, by rule or order, to be transaction accounts.

(f)(1) "Nonpersonal time deposit" means—

(i) A time deposit, including an MMDA or any other savings deposit, representing funds in which any beneficial interest is held by a depositor which is not a natural person;

(ii) A time deposit, including an MMDA or any other savings deposit, that represents funds deposited to the credit of a depositor that is not a natural person, other than a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iii) a time deposit that is transferable, except a time deposit originally issued before October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iv) a time deposit that is transferable, issued on or after October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest is held by one or more natural persons. A time deposit is transferable unless it contains a specific statement on the certificate, instrument, passbook, statement or other form representing the account that it is not transferable. A time deposit that contains a specific statement that it is not transferable is not regarded

as transferable even if the following transactions can be effected: a pledge as collateral for a loan; a transaction that occurs due to circumstances arising from death, incompetency, marriage, divorce, attachment or otherwise by operation of law or a transfer on the books or records of the institution; and

(v) A time deposit represented by a promissory note, an acknowledgment of advance, or similar obligation described in section 204.2(a)(1)(vii) that is issued to, or any banker's acceptance (other than the type described in 12 USC 372) of the depository institution held by—

(A) any office located outside the United States of another depository institution or Edge or agreement corporation organized under the laws of the United States,

(B) any office located outside the United States of a foreign bank,

(C) a foreign national government, or an agency or instrumentality thereof,<sup>7</sup> engaged principally in activities which are ordinarily performed in the United States by governmental entities,

(D) an international entity of which the United States is a member, or

(E) any other foreign, international, or supranational entity specifically designated by the Board.<sup>8</sup>

(2) "Nonpersonal time deposit" does not include nontransferable time deposits to the credit of or in which the entire beneficial interest is held by an individual pursuant to an individual retirement account or Keogh (H.R. 10) plan under 26 USC 408, 401, or nontransferable time deposits held by an employer as part of an unfunded deferred-compensation plan established pursuant to subtitle D of the Revenue Act of 1978 (Pub. L. No. 95-600, 92 Stat. 2763), or a "401(k) plan" under 26 USC 401(k).

(3) Any nonpersonal time deposit with a stated maturity or notice period of one and one-half years or more that permits any ear-

<sup>7</sup> Other than states, provinces, municipalities, or other regional or local governmental units or agencies or instrumentalities thereof.

<sup>8</sup> The designated entities are specified in 12 CFR 204.125 (page 25).

ly withdrawal must be subject to a minimum early withdrawal penalty equal to at least thirty days' simple interest on the amount withdrawn for any withdrawal that occurs more than six days but within one and one-half years after the date of deposit. Any such account not subject to this minimum early withdrawal penalty will be regarded as a nonpersonal time deposit with an original maturity or notice period of from seven days to less than one and one-half years from the date of the deposit.<sup>9</sup>

(g) "*Natural person*" means an individual or a sole proprietorship. The term does not mean a corporation owned by an individual, a partnership or other association.

(h) "*Eurocurrency liabilities*" means—

(1) For a depository institution or an Edge or agreement corporation organized under the laws of the United States, the sum, if positive, of the following:

(i) net balances due to its non-United States offices and its international banking facilities ("IBFs") from its United States offices;

(ii) (A) for a depository institution organized under the laws of the United States, assets (including participations) acquired from its United States offices and held by its non-United States offices, by its IBF, or by non-United States offices of an affiliated Edge or agreement corporation;<sup>10</sup> or (B) for an Edge or agreement corporation, assets (including participations) acquired from its United States offices and held by its non-United States offices, by its IBF, by non-United States offices of its U.S. or foreign parent institution, or by non-United States offices of an affiliated Edge or agreement corporation;<sup>10</sup> and

(iii) credit outstanding from its non-United States offices to United States residents (other than assets acquired and net balances due from its United States offices), except credit extended (A) from its non-United States offices in the aggregate amount of \$100,000 or less to any United States resident, (B) by a non-United States office that at no time during the computation period had credit outstanding to United States residents exceeding \$1 million, (C) to an international banking facility, or (D) to an institution that will be maintaining reserves on such credit pursuant to this part. Credit extended from non-United States offices or from IBFs to a foreign branch, office, subsidiary, affiliate, or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations is not regarded as credit extended to a United States resident if the proceeds will be used to finance the operations outside the United States of the borrower or of other foreign affiliates of the controlling domestic corporation(s).

(2) For a United States branch or agency of a foreign bank, the sum, if positive, of the following:

(i) net balances due to its foreign bank (including offices thereof located outside the United States) and its international banking facility after deducting an amount equal to 8 percent of the following: the United States branch's or agency's total assets less the sum of (A) cash items in process of collection; (B) unposted debits; (C) demand balances due from depository institutions organized under the laws of the United States and from other foreign banks; (D) balances due from foreign central banks; and (E) positive net balances due from its IBF, its foreign bank, and the foreign bank's United States and non-United States offices; and

(ii) assets (including participations) acquired from the United States branch or agency (other than assets required to be sold by federal or state supervisory authorities) and held by its foreign bank

<sup>9</sup> See footnote 1 for treatment of accounts existing on March 31, 1986, and for exceptions to the imposition of the early withdrawal penalties imposed by this part. The penalty required by this section 204.2(f)(3) and that required by section 204.2(c)(1) need not be aggregated.

<sup>10</sup> This subparagraph does not apply to assets (1) that were acquired before October 7, 1979, or (2) that were acquired by an IBF from its establishing entity before the end of the second reserve computation period after its establishment.

(including offices thereof located outside the United States), by its parent holding company, by non-United States offices or an IBF of an affiliated Edge or agreement corporation, or by its IBFs.<sup>11</sup>

(i)(1) "*Cash item in process of collection*" means—

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

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

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

(A) drafts payable through another depository institution;

(B) matured bonds and coupons (including bonds and coupons that have been called and are payable on presentation);

(C) food coupons and certificates;

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

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

(F) commodity or bill of lading drafts payable immediately upon presentation in the United States;

(G) returned items and unposted debits; and

(H) broker security drafts.

(2) "*Cash item in process of collection*" does not include items handled as noncash

collections and credit card sales slips and drafts.

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

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

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

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

(l) "*Pass-through account*" means a balance maintained by a depository institution that is not a member bank, by a U.S. branch or agency of a foreign bank, or by an Edge or agreement corporation, (1) in an institution that maintains required reserve balances at a Federal Reserve Bank, (2) in a Federal Home Loan Bank, (3) in the National Credit Union Administration Central Liquidity Facility, or (4) in an institution that has been authorized by the Board to pass through required reserve balances if the institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains the funds in the form of a balance in a Federal Reserve Bank of which it is a member or at which it maintains an account in accordance with rules and regulations of the Board.

(m)(1) "*Depository institution*" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 USC 1813(h)) or any bank that is eligible to apply to become an insured

<sup>11</sup> See footnote 10.

bank under section 5 of such act (12 USC 1815);

(ii) any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 USC 1813(f), (g));

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

(iv) any member as defined in section 2 of the Federal Home Loan Bank Act (12 USC 1422(4)); and

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

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

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

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

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

(q) "*Affiliate*" includes any corporation, association, or other organization—

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

the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions;

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

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

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

(r) "*United States*" means the states of the United States and the District of Columbia.

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

(t) "*Any deposit that is payable only at an office located outside the United States*" means

(1) a deposit of a United States resident<sup>12</sup> that is in a denomination of \$100,000 or more,

<sup>12</sup> A deposit of a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") con-

and as to which the depositor is entitled, under the agreement with the institution, to demand payment only outside the United States or (2) a deposit of a person who is not a United States resident<sup>12</sup> as to which the depositor is entitled, under the agreement with the institution, to demand payment only outside the United States.

(u) *Teller's check* means a check drawn by a depository institution on another depository institution, a Federal Reserve Bank, or a Federal Home Loan Bank, or payable at or through a depository institution, a Federal Reserve Bank, or a Federal Home Loan Bank, and which the drawing depository institution engages or is obliged to pay upon dishonor.

### SECTION 204.3—Computation and Maintenance

(a) *Maintenance of required reserves.* A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or agreement corporation shall maintain reserves against its deposits and Eurocurrency liabilities in accordance with the procedures prescribed in this section and section 204.4 and the ratios prescribed in section 204.9. Reserve-deficiency charges shall be assessed for deficiencies in required reserves in accordance with the provisions of section 204.7. Every depository institution, U.S. branch or agency of a foreign bank, and Edge or agreement corporation shall file reports of deposits in accordance with the instructions of the Board, based on the level of its deposits and reservable liabilities consistent with the Board's need for data to carry out its responsibility to monitor and control monetary and credit aggregates. For purposes of this part, the obligations of a majority-owned (50 percent or more) U.S. subsidiary (except an Edge or agreement corporation) of a depository institution shall be regarded as obligations of the parent depository institution.

Continued

trolled by one or more domestic corporations is not regarded as a deposit of a United States resident if the funds serve a purpose in connection with its foreign or international business or that of other foreign affiliates of the controlling domestic corporation(s).

(1) *United States branches and agencies of foreign banks.*

(i) A foreign bank's United States branches and agencies operating within the same state and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) United States branches and agencies of the same foreign bank shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.9(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same foreign bank until the amount of the tranche or net transaction accounts is exhausted. The foreign bank shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular state, any unused portion must first be assigned to other offices located within the same state and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. If necessary in order to avoid underutilization of the low reserve tranche, the allocation may be changed at the beginning of a calendar month. Under other circumstances, the low reserve tranche may be reallocated at the beginning of a calendar year.

(2) *Edge and agreement corporations.*

(i) An Edge or agreement corporation's offices operating within the same state and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) An Edge or agreement corporation shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.9(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused por-



tion of the tranche may be assigned to other offices of the same institution until the amount of the tranche or net transaction accounts is exhausted. An Edge or agreement corporation shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular state, any unused portion must first be assigned to other offices located within the same state and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. If necessary in order to avoid underutilization of the low reserve tranche, the allocation may be changed at the beginning of a calendar month. Under other circumstances, the low reserve tranche may be reallocated at the beginning of a calendar year.

(3) *Allocation of exemption from reserve requirements.* (i) In determining the reserve requirements of a depository institution, the exemption provided for in section 204.9(a) shall apply in the following order of priorities:

(A) first, to net transaction accounts that are first authorized by federal law in any state after April 1, 1980; and

(B) second, to other net transaction accounts.

(ii) A depository institution, United States branches and agencies of the same foreign bank, or an Edge or agreement corporation shall, if possible, assign the reserve requirement exemption of section 204.9(a) to only one office or to a group of offices filing a single aggregated report of deposits. If the reserve requirement exemption cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the exemption may be assigned to other offices of the same institution until the amount of the exemption or reservable liabilities is exhausted. A depository institution, foreign bank, or Edge or agreement corporation shall determine this assignment subject to the restriction that if a portion of the exemption is assigned to an office in a particular state, any unused portion must first be assigned

to other offices located within the same state and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The exemption may be reallocated at the beginning of a calendar year, or, if necessary to avoid underutilization of the exemption, at the beginning of a calendar month. The amount of the reserve requirement exemption allocated to an office or group of offices may not exceed the amount of the low reserve tranche allocated to such office or offices under this paragraph.

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

(c) *Computation of required reserves for institutions that report on a weekly basis.*

(1) Required reserves are computed on the basis of daily average balances of deposits and Eurocurrency liabilities during a 14-day period ending every second Monday (the "computation period"). Reserve requirements are computed by applying the ratios prescribed in section 204.9 to the classes of deposits and Eurocurrency liabilities of the institution. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a 14-day period (the "maintenance period") which begins on a Thursday and ends on the second Wednesday thereafter.

(2) A reserve balance shall be maintained during a given maintenance period based on the daily average net transaction accounts held by the depository institution during the computation period that began immediately prior to the beginning of the maintenance period.

(3) In determining the reserve balance that is required to be maintained with the Federal Reserve, the daily average vault cash held during the computation period that ended 3 days prior to the beginning of the maintenance period is deducted from the

amount of the institution's required reserves.

(d) *Computation of required reserves for institutions that report on a quarterly basis.* For a depository institution that is permitted to report quarterly, required reserves are computed on the basis of the depository institution's daily average deposit balances during a seven-day computation period that begins on the third Tuesday of March, June, September, and December. In determining the reserve balance that such a depository institution is required to maintain with the Federal Reserve, the daily average vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding period that begins on the fourth Thursday following the end of the institution's computation period and ends on the fourth Wednesday after the close of the institution's next computation period.

(e) *Computation of transaction accounts.* Overdrafts in demand deposit or other transaction accounts are not to be treated as negative demand deposits or negative transaction accounts and shall not be netted since overdrafts are properly reflected on an institution's books as assets. However, where a customer maintains multiple transaction accounts with a depository institution, overdrafts in one account pursuant to a bona fide cash-management arrangement are permitted to be netted against balances in other related transaction accounts for reserve requirement purposes.

(f) *Deductions allowed in computing reserves.*

(1) In determining the reserve balance required under this part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and agreement corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction ac-

counts. However, if a depository institution maintains any transaction accounts that are first authorized under federal law after April 1, 1980, it may deduct from these balances cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States only to the extent of the proportion that such newly authorized transaction accounts are of the institution's total transaction accounts. The remaining cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States shall be deducted from the institution's remaining transaction accounts.

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

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

(g) *Availability of cash items as reserves.* Cash items forwarded to a Federal Reserve Bank for collection and credit shall not be counted as part of the reserve balance to be carried with the Federal Reserve until the expiration of the time specified in the appropriate time schedule established under Regulation J, "Collection of Checks and Other Items and Transfers of Funds" (12 CFR 210). If a depository institution draws against items before that time, the charge will be made to its reserve account if the balance is sufficient to pay it; any resulting impairment of reserve balances will be subject to the penalties provided by law and to the reserve-deficiency charges



provided by this part. However, the Federal Reserve Bank may, at its discretion, refuse to permit the withdrawal or other use of credit given in a reserve account for any time for which the Federal Reserve bank has not received payment in actually and finally collected funds.

(h) *Carryover of excesses or deficiencies.* Any excess or deficiency in a depository institution's account that is held directly or indirectly with a Federal Reserve Bank shall be carried over and applied to that account in the next maintenance period as specified in this paragraph. The amount of any such excess or deficiency that is carried over shall not exceed the greater of—

(1) the amount obtained by multiplying .04 times the sum of the depository institution's required reserves and the depository institution's required clearing balance, if any, and then subtracting from this product the depository institution's required clearing-balance penalty-free band, if any; or

(2) \$50,000, minus the depository institution's required clearing-balance penalty-free band, if any. Any carryover not offset during the next period may not be carried over to subsequent periods.

(i) *Pass-through rules.*

(1) *Procedure*

(i) A nonmember depository institution required to maintain reserve balances ("respondent") may select only one institution to pass through its required reserves. Eligible institutions through which respondent required reserve balances may be passed ("correspondents") are Federal Home Loan Banks, the National Credit Union Administration Central Liquidity Facility, and depository institutions that maintain required reserve balances at a Federal Reserve office. In addition, the Board reserves the right to permit other institutions, on a case-by-case basis, to serve as pass-through correspondents. The correspondent chosen must subsequently pass through the required reserve balances of its respondents directly to the appropriate Federal Reserve office. The correspondent placing funds with the Federal Reserve on behalf

of respondents will be responsible for reserve account maintenance as described in subparagraphs (3) and (4) below.

(ii) Respondent depository institutions or pass-through correspondents may institute, terminate, or change pass-through arrangements for the maintenance of required reserve balances by providing all documentation required for the establishment of the new arrangement and/or termination of the existing arrangement to the Federal Reserve Bank in whose territory the respondent is located. The time period required for such a change to be effected shall be specified by each Reserve Bank in its operating circular.

(iii) U.S. branches and agencies of foreign banks and Edge and agreement corporations may (a) act as pass-through correspondents for any nonmember institution required to maintain reserves or (b) pass their own required reserve balances through correspondents. In accordance with the provision set forth in subparagraph (3) below, the U.S. branches and agencies of a foreign bank or offices of an Edge and agreement corporation filing a single aggregated report of deposits may designate any one of the other U.S. offices of the same institution to serve as a pass-through correspondent for all of the offices filing such a single aggregated report of deposits.

(2) *Reports*

(i) Every depository institution that maintains transaction accounts or non-personal time deposits is required to file its report of deposits (or any other required form or statement) directly with the Federal Reserve Bank of its District, regardless of the manner in which it chooses to maintain required reserve balances.

(ii) The Federal Reserve Bank receiving such reports shall notify the reporting depository institution of its reserve requirements. Where a pass-through arrangement exists, the Reserve Bank will also notify the correspondent passing respondent reserve balances through to the Fed-

eral Reserve of its respondent's required reserve balances.

(iii) The Federal Reserve will not hold a correspondent responsible for guaranteeing the accuracy of the reports of deposits submitted by its respondents to their local Federal Reserve Banks.

(3) *Account maintenance*

(i) A correspondent that passes through required reserve balances of respondents whose main offices are located in the same Federal Reserve territory in which the main office of the correspondent is located shall have the option of maintaining such required reserve balances in one of two ways: (a) A correspondent may maintain such balances, along with the correspondent's own required reserve balances, in a single commingled account at the Federal Reserve Bank office in whose territory the correspondent's main office is located, or (b) A correspondent may maintain its own required reserve balance in an account with the Federal Reserve Bank office in whose territory its main office is located. The correspondent, in addition, would maintain in a separate commingled account the required reserve balances passed through for respondents whose main offices are located in the same Federal Reserve territory as that of the main office of the correspondent.

(ii) A correspondent that passes through required reserve balances of respondents whose main offices are located outside the Federal Reserve territory in which the main office of the correspondent is located shall maintain such required reserve balances in a separate commingled account at each Federal Reserve office in whose territory the main offices of such respondents are located.

(iii) A Reserve Bank may, at its discretion, require a pass-through correspondent to consolidate in a single account the reserve balances of all of its respondents whose main offices are located in any territory of that Federal Reserve District.

(4) *Responsibilities of parties*

(i) Each individual depository institution is responsible for maintaining its re-

quired reserve balance with the Federal Reserve Bank either directly or through a pass-through correspondent.

(ii) A pass-through correspondent shall be responsible for assuring the maintenance of the appropriate aggregate level of its respondents' required reserve balances. A Reserve Bank will compare the total reserve balance required to be maintained in each reserve account with the total actual reserve balance held in such reserve account for purposes of determining required reserve deficiencies, imposing or waiving penalties for deficiencies in required reserves, and for other reserve maintenance purposes. A penalty for a deficiency in the aggregate level of the required reserve balance will be imposed by the Reserve Bank on the correspondent maintaining the account.

(iii) Each correspondent is required to maintain detailed records for each of its respondents in a manner that permits Reserve Banks to determine whether the respondent has provided a sufficient required reserve balance to the correspondent. A correspondent passing through a respondent's reserve balance shall maintain records and make such reports as the Federal Reserve System requires in order to insure the correspondent's compliance with its responsibilities for the maintenance of a respondent's reserve balance. Such records shall be available to the Federal Reserve Banks as required.

(iv) The Federal Reserve Bank may terminate any pass-through relationship in which the correspondent is deficient in its recordkeeping or other responsibilities.

(v) Interest paid on supplemental reserves (if such reserves are required under section 204.6 of this part) held by respondent(s) will be credited to the commingled reserve account(s) maintained by the correspondent.

(5) *Services*

(i) A depository institution maintaining its reserve balances on a pass-through basis may obtain available Federal Reserve System services directly from its local Federal Reserve office. For this purpose, the pass-through account in which a re-

spondent's required reserve balance is maintained may be used by the respondent for the posting of entries arising from transactions involving the use of such Federal Reserve services, if the posting of these types of transactions has been authorized by the correspondent and the Federal Reserve. For example, access to the wire transfer, securities transfer, and settlement services that involve charges to the commingled reserve account at the Reserve Bank will require authorization from the correspondent and the Reserve Bank for the type of transaction that is occurring.

(ii) In addition, in obtaining Federal Reserve services, respondents maintaining their required reserves on a pass-through basis may choose to have entries arising from the use of Federal Reserve services posted to (a) with the prior authorization of all parties concerned, the reserve account maintained by any institution at a Federal Reserve Bank, or (b) an account maintained for clearing purposes at a Federal Reserve Bank by the respondent.

(iii) Accounts at Federal Reserve Banks consisting only of respondents' reserve balances that are passed through by a correspondent to a Federal Reserve Bank may be used only for transactions of respondents. A correspondent will not be permitted to use such pass-through accounts for purposes other than serving its respondents' needs.

(iv) A correspondent may not apply for Federal Reserve credit on behalf of a respondent. Rather, a respondent should apply directly to its Federal Reserve Bank for credit. Any Federal Reserve credit obtained by a respondent may be credited, at the respondent's option and with the approval of the parties concerned, to the reserve account in which its required reserves are maintained by a correspondent, to a clearing account maintained by the respondent, or to any account to which the respondent is authorized to post entries arising from the use of in Federal Reserve services.

## SECTION 204.4—Transitional Adjustments

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

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

<i>Reserve maintenance periods occurring between</i>	<i>Percentage that computed reserves will be reduced</i>
November 13, 1980 to September 2, 1981	87.5
September 3, 1981 to September 1, 1982	75
September 2, 1982 to August 31, 1983	62.5
September 1, 1983 to September 12, 1984	50
September 13, 1984 to September 11, 1985	37.5
September 12, 1985 to September 10, 1986	25
September 11, 1986 to September 9, 1987	12.5
September 10, 1987 forward	0

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

(b) *New members.* The required reserves of a nonmember depository institution that was engaged in business but was not a member bank during the period between July 1, 1979 and September 1, 1980, inclusive, and which becomes a member of the Federal Reserve System after September 1, 1980, shall be determined under paragraph (a) as if it had remained a nonmember and adding to this amount an amount determined by multiplying the difference between its required reserves

computed using the ratios specified in section 204.9(a) and its required reserves computed as if it had remained a nonmember times the percentage specified below in accordance with the following schedule:

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

(c) *De novo institutions.* (1) The required reserves of any depository institution that was not engaged in business on September 1, 1980, shall be computed under section 204.3 in accordance with the following schedule:

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

This paragraph shall also apply to a United States branch or agency of a foreign bank if such branch or agency is the foreign bank's first office in the United States. Additional branches or agencies of such a foreign bank shall be entitled only to the remaining phase-in available to the initial office.

(2) Notwithstanding subparagraph (1), the required reserves of any depository institution that—

(i) was not engaged in business on November 18, 1981, and

(ii) has \$50 million or more in daily average total transaction accounts, nonper-

sonal time deposits and Eurocurrency liabilities for any computation period after commencing business

shall be 100 percent of the required reserves computed under section 204.3 starting with the maintenance period that begins 17 days after the computation period during which such institution has daily average total transaction accounts, nonpersonal time deposits and Eurocurrency liabilities of \$50 million or more.

(d) *Nonmember depository institutions with offices in Hawaii.* Any depository institution that, on August 1, 1978, (1) was engaged in business as a depository institution in Hawaii, and (2) was not a member of the Federal Reserve System at any time on or after such date shall not maintain reserves imposed under this part against deposits held or maintained at its offices located in Hawaii until January 2, 1986. Beginning January 2, 1986, the required reserves on deposits held or maintained at offices located in Hawaii of such a depository institution shall be determined by reducing the amount of required reserves under section 204.3 in accordance with the following schedule:

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

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

(1) Where all depository institutions involved in a merger or consolidation are subject to the same paragraph of the transitional adjustment rules contained in paragraphs (a) through (d) of this section during the reserve computation period immediately preceding the merger, the surviving institution shall continue to compute its transitional adjustment of required reserves under such applicable paragraph, except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceed the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

<i>Maintenance periods occurring during quarterly periods following merger</i>	<i>Percentage applied to difference to compute amount to be subtracted</i>
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

(2)(i) Where the depository institutions involved in a merger or consolidation are not subject to the same paragraph of the transitional adjustment rules contained in paragraphs (a) through (d) of this section and such merger or consolidation occurs—

(A) on or after July 1, 1979, between a nonmember bank and a bank that was a member bank on or after July 1, 1979, and the survivor is a nonmember bank;

(B) on or after March 31, 1980, between a member bank and a nonmember bank and the survivor is a member bank; or

(C) on or after September 1, 1980, be-

tween any other depository institutions,

the required reserves of the surviving institution shall be computed by allocating its deposits, Eurocurrency liabilities, other reservable claims, balances due from other depository institutions and cash items in process of collection to each depository institution involved in the merger transaction and applying to such amounts the transitional adjustment rule of paragraphs (a) through (d) of this section to which each such depository institution was subject during the reserve computation period immediately prior to the merger or consolidation.

(ii) The deposits of the surviving institution shall be allocated according to the ratio that daily average total required reserves of each depository institution involved in the merger were to the sum of daily average total required reserves of all institutions involved in the merger or consolidation during the reserve computation period immediately preceding the date of the merger.

(A) If the merger occurs before November 6, 1980, such ratio of daily average total required reserves shall be computed using the reserve requirement ratios in section 204.9(b).

(B) If the merger occurs on or after November 6, 1980, such ratio of daily average total required reserves shall be computed using the reserve requirement ratios in section 204.9(a) without regard to the transitional adjustments of this section.

(iii) The low reserve tranche on transaction accounts (section 204.9(a)) shall be allocated to each institution involved in the merger or consolidation using the ratio computed in paragraph (e)(2)(ii) and the reserve requirement tranches on demand deposits (section 204.9(b)) shall be allocated to member bank deposits using such ratio of daily average total required reserves.

(iv) The vault cash of the surviving depository institution also will be allocated to each institution involved in the merger



or consolidation according to the ratio that daily average total required reserves of each depository institution involved in the merger was to the sum of daily average total required reserves of all institutions involved in the merger or consolidation during the reserve computation period immediately preceding the date of the merger.

(v) The amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceed the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

<i>Maintenance periods occurring during quarterly periods following merger</i>	<i>Percentage applied to difference to compute amount to be subtracted</i>
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

#### SECTION 204.5—Emergency Reserve Requirement

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

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

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

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

#### SECTION 204.6—Supplemental Reserve Requirement

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

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

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

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

(4) on the date on which supplemental reserve requirements are imposed, the total amount of basic reserve requirements is not less than the amount of reserves that would be required on transaction accounts and nonpersonal time deposits under the initial reserve ratios established by the Monetary Control Act of 1980 (Pub. L. 96-221) in effect on September 1, 1980.

(b) *Term.*

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

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

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

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

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

#### SECTION 204.7—Reserve Deficiencies

(a) *Charges for deficiencies.*

(1) *Assessment of charges.* Deficiencies in a depository institution's required reserve balance, after application of the 2 percent carryover provided in section 204.3(h) are subject to reserve-deficiency charges. Federal Reserve Banks are authorized to assess charges for deficiencies in required reserves at a rate of 2 percent per year above the lowest rate in effect for borrowings from the Federal Reserve Bank on the first day of the calendar month in which the deficiencies occurred. Charges shall be assessed on the basis of daily average deficiencies during each maintenance period. Reserve Banks may, as an alternative to levying monetary charges, after consideration of the circum-

stances involved, permit a depository institution to eliminate deficiencies in its required reserve balance by maintaining additional reserves during subsequent reserve maintenance periods.

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

(ii) In individual cases, where a federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Reserve Bank in the District where the involved depository institution is located shall waive the reserve requirement imposed under this part for such depository institution when requested by the federal supervisory authority involved.

(b) *Penalties for violations.* Violations of this part may be subject to assessment of civil money penalties by the Board under authority of section 19(1) of the Federal Reserve Act (12 USC 505) as implemented in 12 CFR 263. In addition, the Board and any other federal financial institution supervisory authority may enforce this part with respect to depository institutions subject to their jurisdiction under authority conferred by law to undertake cease-and-desist proceedings.

## SECTION 204.8—International Banking Facilities

(a) *Definitions.* For purposes of this part, the following definitions apply:

(1) “*International banking facility*” or “*IBF*” means a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or agreement corporation that includes only international banking facility time deposits and international banking facility extensions of credit.

(2) “*International banking facility time deposit*” or “*IBF time deposit*” means a deposit, placement, borrowing or similar obligation represented by a promissory note, acknowledgment of advance, or similar instrument that is not issued in negotiable or bearer form, and

(i) (A) that must remain on deposit at the IBF at least overnight; and

(B) that is issued to—

(1) any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or agreement corporation;

(2) any office located outside the United States of a foreign bank;

(3) a United States office or a non-United States office of the entity establishing the IBF;

(4) another IBF; or

(5) a foreign national government, or an agency or instrumentality thereof,<sup>13</sup> engaged principally in activities which are ordinarily performed in the United States by governmental entities; an international entity of which the United States is a member; or any other foreign international or supranational entity specifically designated by the Board;<sup>14</sup> or

(ii) (A) that is payable—

(1) on a specified date not less than

two business days after the date of deposit;

(2) upon expiration of a specified period of time not less than two business days after the date of deposit; or

(3) upon written notice that actually is required to be given by the depositor not less than two business days prior to the date of withdrawal;

(B) that represents funds deposited to the credit of a non-United States resident or a foreign branch, office, subsidiary, affiliate, or other foreign establishment (“foreign affiliate”) controlled by one or more domestic corporations provided that such funds are used only to support the operations outside the United States of the depositor or of its affiliates located outside the United States; and

(C) that is maintained under an agreement or arrangement under which no deposit or withdrawal of less than \$100,000 is permitted, except that a withdrawal of less than \$100,000 is permitted if such withdrawal closes an account.

(3) “*International banking facility extension of credit*” or “*IBF loan*” means any transaction where an IBF supplies funds by making a loan, or placing funds in a deposit account. Such transactions may be represented by a promissory note, security, acknowledgment of advance, due bill, repurchase agreement, or any other form of credit transaction. Such credit may be extended only to—

(i) any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or agreement corporation;

(ii) any office located outside the United States of a foreign bank;

(iii) a United States or a non-United States office of the institution establishing the IBF;

(iv) another IBF;

(v) a foreign national government, or an agency or instrumentality thereof,<sup>15</sup> en-

<sup>13</sup> Other than states, provinces, municipalities, or other regional or local governmental units or agencies or instrumentalities thereof.

<sup>14</sup> The designated entities are specified in 12 CFR 204.125 (page 25).

<sup>15</sup> See footnote 13.



gaged principally in activities which are ordinarily performed in the United States by governmental entities; an international entity of which the United States is a member; or any other foreign international or supranational entity specifically designated by the Board,<sup>16</sup> or

(vi) a non-United States resident or a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations provided that the funds are used only to finance the operations outside the United States of the borrower or of its affiliates located outside the United States.

(b) *Acknowledgment of use of IBF deposits and extensions of credit.* An IBF shall provide written notice to each of its customers (other than those specified in section 204.8(a)(2)(i)(B) and section 204.8(a)(3)(i) through (v)) at the time a deposit relationship or a credit relationship is first established that it is the policy of the Board of Governors of the Federal Reserve System that deposits received by international banking facilities may be used only to support the depositor's operations outside the United States as specified in section 204.8(a)(2)(ii)(B) and that extensions of credit by IBFs may be used only to finance operations outside of the United States as specified in section 204.8(a)(3)(vi). In the case of loans to or deposits from foreign affiliates of U.S. residents, receipt of such notice must be acknowledged in writing whenever a deposit or credit relationship is first established with the IBF.

(c) *Exemption from reserve requirements.* An institution that is subject to the reserve requirements of this part is not required to maintain reserves against its IBF time deposits or IBF loans. Deposit-taking activities of IBFs are limited to accepting only IBF time deposits and lending activities of IBFs are restricted to making only IBF loans.

(d) *Establishment of an international banking facility.* A depository institution, an Edge or agreement corporation or a United States branch or agency of a foreign bank may estab-

lish an IBF in any location where it is legally authorized to engage in IBF business. However, only one IBF may be established for each reporting entity that is required to submit a Report of Transaction Accounts, Other Deposits and Vault Cash (Form FR 2900).

(e) *Notification to Federal Reserve.* At least 14 days prior to the first reserve computation period that an institution intends to establish an IBF it shall notify the Federal Reserve Bank of the District in which it is located of its intent. Such notification shall include a statement of intention by the institution that it will comply with the rules of this part concerning IBFs, including restrictions on sources and uses of funds, and recordkeeping and accounting requirements. Failure to comply with the requirements of this part shall subject the institution to reserve requirements under this part or result in the revocation of the institution's ability to operate an IBF.

(f) *Recordkeeping requirements.* A depository institution shall segregate on its books and records the asset and liability accounts of its IBF and submit reports concerning the operations of its IBF as required by the Board.

#### SECTION 204.9—Supplement: Reserve Requirement Ratios

(a)(1) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and agreement corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement
NET TRANSACTION ACCOUNTS*	
\$0 to \$46.8 million	3% of amount
Over \$46.8 million	\$1,404,000 plus 10% of amount over \$46.8 million
NONPERSONAL TIME DEPOSITS	0%
EUROCURRENCY LIABILITIES	0%

\* Dollar amounts do not reflect the adjustment to be made by the next paragraph.

<sup>16</sup> See footnote 14.

(2) *Exemption from reserve requirements.*

Each depository institution, Edge or agreement corporation, and U.S. branch or agency of a foreign bank is subject to a zero percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a)(1) of this section not in excess of \$3.8 million determined in accordance with section 204.3(a)(3) of this part.

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

Category	Reserve requirement
<b>NET DEMAND DEPOSITS</b>	
Deposit tranche:	
\$0-\$2 million	7%
over \$2 million-\$10 million	\$140,000 + 9½% of amount over \$2 million
over \$10 million-\$100 million	\$900,000 + 11¾% of amount over \$10 million
over \$100 million-\$400 million	\$11,475,000 + 12¾% of amount over \$100 million
over \$400 million	\$49,725,000 + 16¼% of amount over \$400 million
<b>SAVINGS DEPOSITS</b>	3%

Category	Reserve requirement
<b>TIME DEPOSITS</b> (subject to 3% minimum specified by law)	
By initial maturity:	
less than 180 days	
\$0-5 million	3%
over \$5 million	6%
180 days to four years	2½%
four years or more	1%
Accounts authorized pursuant to section 303 of Pub. L. 96-221 offered by member banks located in states outside Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont	
	12%
Club accounts	3%

For purposes of computing the reserves under this part, that would have been required using the reserve ratios that were in effect on August 31, 1980, the reserve ratio on time deposits of a member bank shall be the average time deposit ratio of the member bank during the 14-day period ending August 6, 1980, except that the reserve ratio on time deposits of a nonmember bank that was a member bank on or after July 1, 1979, but which became a nonmember bank before March 31, 1980, may be the average time deposit ratio of the nonmember during the 14-day period ending August 27, 1980.

**SECTION 204.125—Deposits of Exempt Foreign, International, and Supranational Entities**

The entities referred to in section 204.2(c)(1)(iv)(E) and 204.8(a)(2)(i)(B)(5) are:

*Europe*

Bank for International Settlements  
European Atomic Energy Community  
European Coal and Steel Community  
The European Communities  
European Development Fund  
European Economic Community  
European Free Trade Association  
European Fund  
European Investment Bank

*Latin America*

Andean Development Corporation  
Andean Subregional Group  
Caribbean Development Bank  
Caribbean Free Trade Association  
Caribbean Regional Development Agency  
Central American Bank for Economic Integration  
The Central American Institute for Industrial Research and Technology  
Central American Monetary Stabilization Fund  
East Caribbean Common Market  
Latin American Free Trade Association

Organization for Central American States  
Permanent Secretariat of the Central American General Treaty of Economic Integration  
River Plate Basin Commission

*Africa*

African Development Bank  
Banque Centrale des Etats de l'Afrique Equatoriale et du Cameroun  
Banque Centrale des Etats d'Afrique de l'Ouest  
Conseil de l'Entente  
East African Community  
Organisation Commune Africaine et Malagache  
Organization of African Unity  
Union des Etats de l'Afrique Centrale  
Union Douaniere et Economique de l'Afrique Centrale  
Union Douaniere des Etats de l'Afrique de l'Ouest

*Asia*

Asia and Pacific Council  
Association of Southeast Asian Nations  
Bank of Taiwan  
Korea Exchange Bank

*Middle East*

Central Treaty Organization  
Regional Cooperation for Development



## FEDERAL RESERVE ACT

### SECTION 19—Bank Reserves

(a) The Board is authorized for the purposes of this section to define the terms used in this section, to determine what shall be deemed a payment of interest, to determine what types of obligations, whether issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, shall be deemed a deposit, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this section and to prevent evasions thereof.

(b) *Reserve requirements.*

(1) *Definitions.* The following definitions and rules apply to this subsection, subsection (c), section 11A, the first paragraph of section 13, and the second, thirteenth, and fourteenth paragraphs of section 16:

(A) The term “depository institution” means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(v) any member as defined in section 2 of the Federal Home Loan Bank Act;

(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and

(vii) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi).

(B) The term “bank” means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act, other than a mutual savings bank or a savings bank as defined in such section.

(C) The term “transaction account” means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

(D) The term “nonpersonal time deposits” means a transferable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

(E) The term “reservable liabilities” means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).

(F) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

(2) *Reserve requirements.* (A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) in the ratio of 3 per centum for that portion of its total transaction accounts of \$25,000,000 or less, subject to subparagraph (C); and

(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum and not less than 8 per centum, for that portion of its total transaction accounts in excess of \$25,000,000, subject to subparagraph (C).

(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institu-

tions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

(3) *Waiver of ratio limits in extraordinary circumstances.* Upon a finding by at least 5 members of the Board that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

(4) *Supplemental reserves.* (A) The Board may, upon the affirmative vote of not less

than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

- (i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;
- (ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);
- (iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and
- (iv) on the date on which the supplemental reserve requirement is imposed, except as provided in paragraph (11), the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System

during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.

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

(E) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

(5) *Reserves related to foreign obligations or assets.* Foreign branches, subsidiaries, and international banking facilities of non-member depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of non-related depository institutions;

(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and

(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

(6) *Exemption for certain deposits.* The re-



quirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act or the authority of the Board under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

(7) *Discount and borrowing.* Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

(8) *Transitional adjustments.*

(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any cate-

gory of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required reserves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(ii) If a bank becomes a member bank during the four-year period beginning on the effective date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank, determined as if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied, and as if such bank had



been a member during such period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(D)(i) Any bank which was a member bank on July 1, 1979, and which withdraws from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on the date of enactment of this clause in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required.

(ii) Any bank which withdraws from membership in the Federal Reserve System on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

(E) This subparagraph applies to any depository institution that, on August 1, 1978, (i) was engaged in business as a depository institution in a State outside the continental limits of the United States, and (ii) was not a member of the

Federal Reserve System at any time on or after such date. Such a depository institution shall not be required to maintain reserves against its deposits held or maintained at its offices located in a State outside the continental limits of the United States until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against its deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

(9) *Exemption.* This subsection shall not apply with respect to any financial institution which—

(A) is organized solely to do business with other financial institutions;

(B) is owned primarily by the financial institutions with which it does business; and

(C) does not do business with the general public.

(10) *Waivers.* In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.

(11) *Additional exemptions.* (A)(i) Notwithstanding the reserve requirement ratios established under paragraphs

(2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed \$2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than \$2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total

reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.

(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b)(4)(C); and

(B) balances maintained by a depository institution which is not a member bank in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to

satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

(2) The balances maintained to meet the reserve requirements of subsection (b) by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.

[12 USC 461(a)-(c). As amended by acts of June 21, 1917 (40 Stat. 239); Aug. 23, 1935 (49 Stat. 714); Sept. 21, 1966 (80 Stat. 823); Dec. 23, 1969 (83 Stat. 374, 375); Oct. 29, 1974 (88 Stat. 1557); March 31, 1980 (94 Stat. 133, 138); Aug. 13, 1981 (95 Stat. 433); Oct. 15, 1982 (96 Stat. 1520, 1521, 1522, 1523, 1540); and Aug. 9, 1989 (103 Stat. 439).]

\* \* \* \* \*

(f) The required balance carried by a member bank with a Federal Reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Board of Governors of the Federal Reserve System, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities.

[12 USC 464. As amended by acts of Aug. 15, 1914 (38 Stat. 691); June 21, 1917 (40 Stat. 239); Aug. 23, 1935 (49 Stat. 704); and July 7, 1942 (56 Stat. 648).]

(g) In estimating the reserve balances required by this Act, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable immediately upon presentation in the United States, within the meaning

of these terms as defined by the Board of Governors of the Federal Reserve System.

[12 USC 465. As amended by acts of Aug. 15, 1914 (38 Stat. 691); June 12, 1917 (40 Stat. 239); and Aug. 23, 1935 (49 Stat. 714).]

## SECTION 11 —Powers of the Board of Governors of the Federal Reserve System

The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a)(1) To examine at its discretion the accounts, books, and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each Federal reserve bank and a consolidated statement for all Federal reserve banks. Such statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature, and maturities of the paper and other investments owned or held by Federal reserve banks.

(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under section 19 of this Act exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or

which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the United States pursuant to other reporting requirements shall be made available to the Board. The Board may classify depository institutions for the purposes of this paragraph and may impose different requirements on each such class.

\* \* \* \* \*

(c) To suspend for a period not exceeding thirty days, and from time to time to renew such suspensions for periods not exceeding fifteen days, any reserve requirements specified in this Act.

\* \* \* \* \*

(e) To add to the number of cities classified as reserve cities under existing law in which national banking associations are subject to the reserve requirements set forth in section [nineteen] of this Act; or to reclassify existing reserve cities or to terminate their designation as such.

[12 USC 248 (a), (c), and (e). As amended by acts of June 12, 1945 (59 Stat. 237); July 28, 1959 (73 Stat. 264); March 18, 1968 (82 Stat. 50) and March 31, 1980 (94 Stat. 132).]

**SECTION 25 —Foreign Branches**

Any national banking association possessing a capital and surplus of \$1,000,000 or more may file application with the Board of Governors of the Federal Reserve System for permission to exercise, upon such conditions and under such regulations as may be prescribed by the said board, the following powers:

First. To establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States, and to

act if required to do so as fiscal agents of the United States.

\* \* \* \* \*

[12 USC 601. As amended by act of Sept. 7, 1916 (39 Stat. 755).]

**SECTION 25A\*—Banking Corporations Authorized to Do Foreign Banking Business**

\* \* \* \* \*

Each corporation so organized shall have power, under such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe:

(a) To purchase, sell, discount, and negotiate, with or without its indorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell with or without its indorsement or guaranty, securities, including the obligations of the United States or of any State thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the Board of Governors of the Federal Reserve System may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the Board of Governors of the Federal Reserve System may prescribe; to receive deposits outside of the United States and to receive only such deposits within the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States; and generally to exercise such powers as are incidental to the powers conferred by this Act or as may be usual, in the determination of the Board of Governors of the Federal Reserve System, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependen-

\* Previously section 25(a), this section was redesignated by act of Dec. 19, 1991 (105 Stat. 2281).

cies, or possessions in which it shall transact business and not inconsistent with the powers specifically granted herein. Nothing contained in this section shall be construed to prohibit the Board of Governors of the Federal Reserve System, under its power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation organized under this section receives deposits in the United States authorized by this section it shall carry reserves in such amounts as the Board of Governors of the Federal Reserve System may prescribe for member banks of the Federal Reserve System.

\* \* \* \* \*

[12 USC 615. As amended by acts of Aug. 23, 1935 (49 Stat. 704) and Sept. 17, 1978 (92 Stat. 609).]

## INTERNATIONAL BANKING ACT OF 1978

### SECTION 7—Authority of Federal Reserve System

(a)(1)(A) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulation or ruling may waive

the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

(B) After consultation and in cooperation with the State bank supervisory authorities, the Board may make applicable to any State branch or State agency any requirement made applicable to, or which the Board has authority to impose upon, any Federal branch or agency under subparagraph (A) of this paragraph.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of \$1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1,000,000,000.

\* \* \* \* \*

[12 USC 3105.]

