



FEDERAL RESERVE BANK  
OF DALLAS

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

DALLAS, TEXAS  
75265-5906

March 19, 1997

**Notice 97-26**

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

**SUBJECT**

**Request for Public Comment on a  
Proposal to Amend Regulation D (Reserve Requirements  
of Depository Institutions) and Regulation I  
(Issue and Cancellation of Capital Stock  
of Federal Reserve Banks)**

**DETAILS**

The Board of Governors of the Federal Reserve System has requested public comment on proposed amendments to Regulation D and Regulation I to define the location of a depository institution to facilitate interstate branching. The proposed amendments would clarify the Federal Reserve District where a depository institution is eligible for Federal Reserve membership and the location of a depository institution's reserve account.

The Board must receive comments by April 18, 1997. Please address comments to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All comments should refer to Docket No. R-0963.

**ATTACHMENT**

A copy of the Board's notice as it appears on pages 11117-20, Vol. 62, No. 47, of the *Federal Register* dated March 11, 1997, is attached.

**MORE INFORMATION**

For more information regarding Regulation D, please contact the Reserve Management Division at (214) 922-5646 at the Dallas Office. Depository institutions in the El Paso territory should contact the Reserve Maintenance Division in the El Paso Office at (915) 521-8213. Depository institutions in the Houston territory should contact the Reserve Maintenance Division in the Houston Office at (713) 652-1538. Depository institutions in the San Antonio territory should contact the Reserve Maintenance Division in the San Antonio Office at (210) 978-1426. For more information regarding Regulation I, please contact Claude Davis at (214) 922-5607.

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

Sincerely yours,

*Robert D. McTeer, Jr.*

**FEDERAL RESERVE SYSTEM****12 CFR Parts 204 and 209****[Regulations D and I; Docket No. R-0963]****Reserve Requirements of Depository Institutions and Issue and Cancellation of Capital Stock of Federal Reserve Banks****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Proposed rule.

**SUMMARY:** The Board is proposing amendments to Regulations D and I, Reserve Requirements of Depository Institutions and Issue and Cancellation of Capital Stock of Federal Reserve Banks, to define the location of a depository institution. The proposed amendments would clarify the Federal Reserve District where a depository institution is eligible for Federal Reserve membership and the location of a depository institution's reserve account. The Board is proposing these changes to facilitate interstate banking.

**DATES:** Comments must be submitted on or before April 18, 1997.

**ADDRESSES:** Comments, which should refer to Docket No. R-0963, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Oliver Ireland, Associate General Counsel, (202/452-3625) or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division. For the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** Recent statutory changes have eliminated many barriers to interstate banking.<sup>1</sup> The advent of interstate banking raises questions as to how certain provisions of the Federal Reserve Act (FRA)<sup>2</sup> will apply to banks with interstate branches. Many of these questions are related to a bank's "location." To date, the Board and the Federal Reserve Banks generally have interpreted the term "location," as used in the FRA, to mean the geographic location of a bank, heavily influenced by the location specified in the bank's charter, or if no charter location is specified, the location of the bank's head office. This interpretation, however, may not always make sense in an interstate branching environment, where a bank may have offices in multiple Federal Reserve districts and do most of its business in places other than its charter or head office location. The Board, therefore, is proposing to amend its Regulation D (12 CFR part 204, Reserve Requirements of Depository Institutions) and Regulation I (12 CFR part 209, Issue and Cancellation of Capital Stock of Federal Reserve Banks) to define "location" for purposes of the Federal Reserve membership and reserve accounts.

A member bank with interstate branches must be a member of a particular Federal Reserve Bank. The membership question is closely related to other location issues such as where reserve accounts are located and where account entries are posted. Every national bank is required to become a member and stockholder of the Federal Reserve Bank of its district (FRA section 2(1)). State banks may apply to the Board to subscribe to the stock of the Federal Reserve Bank organized within the district in which the applying bank is located (FRA section 9(1)). These provisions suggest that membership is limited to one Federal Reserve Bank and that membership is to be determined by the geographical location of the bank.

A bank must hold reserves at the Federal Reserve Bank of which it is a member or where it maintains an account (FRA section 19(c)(1)). Therefore, a nonmember bank would hold its reserve account at the Reserve Bank where it maintains an account for purposes of check collection and other payments services. FRA section 13(1) provides that the nonmember bank may maintain this clearing account with the Federal Reserve Bank of its district.

Charter or head office location is the *status quo* under the FRA as to where a bank is located for membership purposes and nonmember reserve account purposes. The National Bank Act requires a national bank's organization certificate to state the place where its operations of discount and deposit are to be carried on, designating the state, territory, or district, and the particular county and city, town, or village (12 U.S.C. 22). State laws may be less specific, and the determination of the bank's location may not be ascertainable from the bank's charter.

Under a strict interpretation of the charter/head office rule, a bank could be a member only of the Reserve Bank whose district encompasses the location specified in its charter or, in the case of a state bank with no specific charter location, the location of its head office. For a bank with interstate branches, however, this location may not be the appropriate means of determining where the bank is located for membership or reserve account purposes. An interstate bank may have its main office or do the bulk of its business somewhere other than its charter location and may wish to establish a Federal Reserve Bank relationship closer to its business headquarters. Similarly, a bank holding company with subsidiary banks in multiple Federal Reserve districts that manages those banks as a combined business may wish to centralize operations in a single district. In addition, the Board and the Federal Reserve Banks may find it more efficient to administer a bank's account and perform other functions in a district other than the district encompassing the charter or head office location.

Section 9(1) of the FRA provides that state banks may apply to the Board, under such rules and regulations as it may prescribe, for the right to subscribe to the stock of the Federal Reserve Bank organized within the district in which the applying bank is located. Section 2(1) of the FRA requires national banks to become member banks in accordance with the provisions of the FRA, and section 11(i) gives the Board general authority to write rules necessary to perform its duties, functions, and services under the FRA. Accordingly, the Board is proposing to amend Regulation I (Issue and Cancellation of Capital Stock of Federal Reserve Banks) to set forth a definition of "location" for the purpose of acquiring Federal Reserve Bank stock. This proposed amendment on the location of a bank for membership purposes also would help answer other member bank location questions related to reserve account

maintenance, supervision, and other issues.

The proposed new section to Regulation I would state a general rule that, for membership purposes, a bank is considered to be located in the Federal Reserve district specified in the bank's charter or, if no charter location is specified, the location of its head office. The Board could make exceptions to the general rule for a particular bank after considering certain criteria. Thus, if the bank's location were uncertain or its location based on its charter or head office differed from the location where it conducted most of its business, the Board, after consultation with the relevant Reserve Banks, could designate the appropriate location for membership purposes. (The relevant Reserve Banks would be the Reserve Bank whose district contains the bank's charter or head office location and the Reserve Bank in whose district the bank is proposed to be located.)

One consideration in making this determination would be whether any other laws that would require the bank to have a relationship with a particular Reserve Bank. For example, Massachusetts and Nebraska laws provide that state banks may become members of the Boston and Kansas City Reserve Banks, respectively.<sup>3</sup> The Board could also consider other criteria, such as the business needs of the bank, where the head office of the bank is located, where the bank does the bulk of its business, and the location that would allow the bank, the Board, and the Reserve Banks to perform their functions most efficiently and effectively. For example, the Board might consider the efficiency of bank supervisory functions, account management, and Federal Reserve monetary policy. Generally, these amendments would not affect current relationships between banks and Federal Reserve Banks. A bank that already owns stock in or has an account at a Federal Reserve Bank may, but need not, seek a Board determination to change its location. The Board anticipates that the "location" issue will arise principally from mergers of existing banks or other changes in the organization or management of bank holding companies. Ordinarily, the Board expects that "location" decisions would be worked out between the Reserve Banks and the bank.

Although the proposed Regulation I amendment would likely be sufficient to determine where a member bank's

<sup>3</sup> Mass. Gen. L. ch. 167F, section 8 (1995) and Neb. Rev. Stat. section 8-130 (1995).

<sup>1</sup> See, the Riegle-Neal Interstate Banking and Branching Efficiency Act, Pub. L. 103-328, 108 Stat. 2338 (1994).

<sup>2</sup> 12 U.S.C. 221 *et seq.*

reserve account would be located, the Board is also proposing to amend Regulation D (Reserve Requirements of Depository Institutions) to clarify the location of nonmember bank reserve accounts. Section 19(c)(1) of the FRA provides that depository institutions must hold reserves subject to such rules and regulations that the Board may prescribe. Under this authority, the Board proposes to amend Regulation D to define where banks are considered located for reserve account purposes. The proposed Regulation D amendment is similar to the proposed Regulation I language and would, in effect, assure that nonmember banks are treated comparably to member banks for account location purposes.

Regulation D also applies to Edge and agreement corporations and branches and agencies of foreign banks. Section 25A of the FRA requires Edge corporations to carry reserves in the same amounts as the Board prescribes for member banks and authorizes the Board to write rules governing the operations of such corporations. Section 25 of the FRA also authorizes the Board to require agreement corporations to maintain reserves. Section 7 of the International Banking Act provides that Federal branches and agencies of foreign banks are subject to the FRA's reserve requirement provisions (including section 19(c)) as if they were member banks. That Act also provides that the Board may impose the same requirements on state branches and agencies of foreign banks after consultation and in cooperation with the state bank supervisory authorities. The Board's proposed amendments do not address the location of reserve accounts for these institutions. The Board requests comment on whether it should apply the same or similar criteria for determining the location of reserve accounts for U.S. branches and agencies of foreign banks and Edge and agreement corporations as it does for depository institutions.

#### Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting or recordkeeping requirements

and do not overlap with other federal rules.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all institutions subject to the regulations, regardless of size, but would not impose any significant burden on any institution.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (7100-0042, 7100-0087, 7100-0088, and 7100-0175), Washington, DC 20503, with copies of such comments to be sent to Mary M. McLaughlin, Chief, Financial Reports Section, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The collection of information requirements in this proposed regulation are found in 12 CFR parts 204 and 209. This information is required to evidence compliance with the requirements of the Federal Reserve Act. The respondents are for-profit financial institutions, including small businesses.

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, these information collections unless they display a currently valid OMB control number. The OMB control numbers are 7100-0042, 7100-0087, 7100-0088, and 7100-0175.

The proposed amendments are not expected to change the ongoing annual burden. The estimated burden per response varies among the reports from 15 minutes (for tranche allocation reports) to 3.5 hours (for reports of deposits). It is estimated that there are 21,983 respondents with frequency of response per respondent varying from daily to annually. Therefore the total amount of annual burden is estimated to be 1,501,479 hours. Based on an hourly cost of \$20, the annual cost to the public is estimated to be \$30,029,580. There is not estimated to be any annual cost burden over the annual hour burden.

Individual responses to all of these data collections except those under OMB control number 7100-0042, which are available to the public, are considered confidential under section

225(b)(4) of the Freedom of Information Act.

Comments are invited on: a. whether the proposed revised collections of information are necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility; b. the accuracy of the Federal Reserve's estimate of the burden of the proposed revised information collection, including the cost of compliance; c. ways to enhance the quality, utility, and clarity of the information to be collected; and d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

#### List of Subjects

##### 12 CFR Part 204

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

##### 12 CFR Part 209

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, 12 CFR parts 204 and 209 are proposed to be amended as set forth below.

#### PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

**Authority:** 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. In § 204.3, paragraph (b) is revised to read as follows:

##### § 204.3 Computation and maintenance.

\* \* \* \* \*

(b) *Form and location of reserves.* (1) A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or agreement corporation shall hold reserves in the form of vault cash, a balance maintained directly with the Federal Reserve Bank in the Federal Reserve district in which it is located, or a pass-through account. Reserves held in the form of a pass-through account shall be considered to be a balance maintained with a Federal Reserve Bank.

(2) (i) For purposes of this section, a depository institution (other than a U.S. branch or agency of a foreign bank) is located in the Federal Reserve district that contains the location specified in the institution's charter or organizing certificate or, if no such location is

specified, the location of its head office, unless otherwise determined by the Board under paragraph (b)(2)(ii) of this section.

(ii) If the location specified in paragraph (b)(2)(i) of this section is, in the Board's judgment, ambiguous or would impede the ability of the Board or the Federal Reserve Banks to perform their functions under the Federal Reserve Act, the Board will, after consultation with the relevant Federal Reserve Banks, determine the Federal Reserve district in which the depository institution is located. The relevant Federal Reserve Banks are the Federal Reserve Bank whose district contains the location specified in paragraph (b)(2)(i) of this section and the Federal Reserve Bank in whose district the institution is proposed to be located. In making this determination, the Board will consider any applicable laws, the business needs of the institution, the location of the institution's head office, the locations where the institution performs its business, and the locations that would allow the institution, the Board, and the Federal Reserve Banks to perform their functions efficiently and effectively.

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#### **PART 209—ISSUE AND CANCELLATION OF CAPITAL STOCK OF FEDERAL RESERVE BANKS (REGULATION I)**

3. The authority citation for part 209 continues to read as follows:

**Authority:** 12 U.S.C. 248, 321–338, 486, 1814, 1816.

4. A new § 209.15 is added to read as follows:

##### **§ 209.15 Location of bank.**

(a) *General rule.* For purposes of this part, a national bank or a state bank is located in the Federal Reserve district that contains the location specified in the bank's charter or organizing certificate, or if no such location is specified, the location of its head office, unless otherwise determined by the Board under paragraph (b) of this section.

(b) *Board determination.* If the location of a bank as specified in paragraph (a) of this section is, in the Board's judgment, ambiguous or would impede the ability of the Board or the Federal Reserve Banks to perform their functions under the Federal Reserve Act, the Board, after consultation with the relevant Federal Reserve Banks, will determine the Federal Reserve district in which the bank is located. The relevant Federal Reserve Banks are the Federal Reserve Bank whose district

contains the location specified in paragraph (a) of this section and the Federal Reserve Bank in whose district the institution is proposed to be located. In making this determination, the Board will consider any applicable laws, the business needs of the bank, the location of the bank's head office, the locations where the bank performs its business, and the locations that would allow the bank, the Board, and the Federal Reserve Banks to perform their functions efficiently and effectively.

By order of the Board of Governors of the Federal Reserve System, March 5, 1997.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 97–5963 Filed 3–10–97; 8:45 am]

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