



FEDERAL RESERVE BANK  
OF DALLAS

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

DALLAS, TEXAS  
75265-5906

December 10, 1997

**Notice 97-116**

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

**SUBJECT**

**Final Amendment to Regulation Z  
(Truth in Lending); Amendment to Regulation D (Reserve  
Requirements of Depository Institutions)**

**DETAILS**

The Board of Governors of the Federal Reserve System has published revisions to Regulation Z (*Truth in Lending*). The revisions implement an amendment to the Truth in Lending Act contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 affecting the disclosure of a 15-year historical example of rates and payments.

The amendment applies to variable-rate loans with a term exceeding one year and secured by the consumer's principal dwelling. The amendment allows creditors to provide a statement that the periodic payment may substantially increase or decrease together with a maximum interest rate and payment based on a \$10,000 loan amount, in lieu of having to provide a 15-year historical example of index values. The rule became effective November 21, 1997. Compliance is optional until October 1, 1998.

Also, the Board has amended Regulation D (*Reserve Requirements of Depository Institutions*) to decrease the amount of transaction accounts subject to a reserve requirement ratio of 3 percent from \$49.3 million to \$47.8 million. This adjustment is known as the low reserve tranche adjustment. The Board has increased from \$4.4 million to \$4.7 million the amount of reservable liabilities of each depository institution that is subject to a reserve requirement of zero percent.

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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.

Additionally, the Board has increased the deposit cutoff levels that are used in conjunction with the reservable liabilities exemption to determine the frequency of deposit reporting from \$75.0 million to \$78.9 million for nonexempt depository institutions and from \$48.2 million to \$50.7 million for exempt institutions.

For depository institutions that report weekly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 30, 1997, and the corresponding reserve maintenance period that begins Thursday, January 1, 1998. For institutions that report quarterly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 16, 1997, and the corresponding reserve maintenance period that begins Thursday, January 15, 1998. For all depository institutions, the deposit cutoff levels will be used to screen institutions in the second quarter of 1998 to determine the reporting frequency for the 12-month period that begins in September 1998.

#### ATTACHMENTS

Copies of the Board's notices as they appear on pages 63441-47, Vol. 62, No. 230 of the *Federal Register* dated December 1, 1997, and pages 61620-22, Vol. 62, No. 223 of the *Federal Register* dated November 19, 1997, are attached.

#### MORE INFORMATION

For more information regarding Regulation Z, please contact Eugene Coy at (214) 922-6201. For more information regarding reserve requirements, please contact this Bank's Reserve and Risk Management Division at (214) 922-5646. Depository institutions in the El Paso territory should contact the Reserve Maintenance Division in the El Paso Office at (915) 521-8212. 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) 978-1443.

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

Sincerely yours,

A handwritten signature in black ink that reads "Robert D. McTeer, Jr." The signature is written in a cursive style with a prominent initial 'R' and 'M'.

# Rules and Regulations

Federal Register

Vol. 62, No. 230

Monday, December 1, 1997

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 226

[Regulation Z; Docket No. R-0960]

#### Truth in Lending

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is publishing revisions to Regulation Z. The revisions implement an amendment to the Truth in Lending Act contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 affecting the disclosure of a fifteen-year historical example of rates and payments. The amendment applies to variable-rate loans with a term exceeding one year and secured by the consumer's principal dwelling. The amendment allows creditors to provide a statement that the periodic payment may substantially increase or decrease together with a maximum interest rate and payment based on a \$10,000 loan amount, in lieu of having to provide a fifteen-year historical example of index values.

**DATES:** *Effective date:* This rule is effective November 21, 1997.

*Compliance date:* Compliance is optional until October 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Kyung H. Cho-Miller, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412; for users of Telecommunications Device for the Deaf (TDD) only, contact Diane Jenkins at (202) 452-3544.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The purpose of the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The act requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (the APR). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping. The TILA requires additional disclosures for loans secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal

dwelling. The act is implemented by the Board's Regulation Z (12 CFR part 226).

The credit transactions covered by TILA and Regulation Z fall into two categories—open- or closed-end credit transactions. Open-end credit is defined as a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge that may be computed from time to time on the outstanding unpaid balance, for example, credit extended by means of a credit card (§ 226.2(a)(20)). Closed-end credit is defined as any credit arrangement that does not fall within the definition of open-end credit (§ 226.2(a)(10)). A mortgage loan with a fixed maturity date is an example of closed-end credit.

##### II. Regulatory Provisions

Under Regulation Z, the timing and number of disclosures required for variable-rate loans vary depending on the term and security for the loan. For all variable-rate loans, disclosures are generally provided once—prior to consummation. However, if the loan exceeds a term of one year and is secured by the consumer's principal dwelling, creditors are required to provide disclosures at different times—a loan program disclosure when an application is received (or when a nonrefundable fee is paid, whichever occurs earlier), transaction-specific Truth in Lending disclosures prior to consummation, and disclosures subsequent to consummation when certain rate or payment changes occur. (See Regulation Z, 12 CFR 226.17(b), 18(f), 19, and 20(c).)

Disclosures provided at application for a variable-rate mortgage include the Board-prescribed *Consumer Handbook on Adjustable Rate Mortgages* (or a comparable substitute) and a loan program disclosure for each variable-rate program in which the consumer has expressed interest. The loan program disclosure consists of twelve separate items, including information such as the identification of the index or formula to be used for adjustments and a fifteen-year historical example of how changes in the index values or formula used to compute interest rates would have affected the interest rates and payments on a \$10,000 loan.

On September 30, 1996, the Economic Growth and Regulatory Paperwork

Reduction Act of 1996 (Pub. L. 104-208, 110 Stat. 3009) (1996 amendment) amended the TILA by providing creditors the option to give a statement that the periodic payments may increase or decrease substantially together with the maximum interest rate and payment amount for a \$10,000 loan amount in lieu of having to give the fifteen-year historical example.

The Board issued a proposal in January 1997 (62 FR 5183, Feb. 4, 1997). Sixty-nine comments were received. Based on comments and further analysis, the Board has adopted a final rule that implements the statutory changes. The final rule is discussed in detail in the section-by-section analysis below.

### III. Section-by-Section Analysis

#### Subpart A—General

##### Section 226.19—Certain Residential Mortgage Transactions

*19(b) Certain variable-rate transactions.* Section 226.19(b) requires the historical example disclosure for loans exceeding a term of one year that are secured by a consumer's principal dwelling and in which the APR may increase after consummation (such as when the rate is tied to an index). The 1996 amendment refers to "residential mortgage transactions" to identify when the alternative disclosure option is available, but does not explicitly limit application of the alternative disclosure to loans that exceed a term of one year. "Residential mortgage transaction" is defined in Regulation Z (§ 226.2(a)(24)) as credit secured by the consumer's principal dwelling to finance the acquisition or initial construction of that dwelling. Under this definition, the alternative disclosure option would not extend to refinance and second-mortgage transactions. The Board believes that the amendment was intended to apply to loans where the fifteen-year historical example is currently required, namely loans that exceed one year and are secured by the consumer's principal dwelling. Accordingly, the Board proposed to apply the alternative disclosure option to variable-rate loans with a term greater than one year and secured by the consumer's principal dwelling.

The majority of commenters strongly supported the Board's proposal to apply the amendment to loans where the fifteen-year historical example is currently required. Those commenters stated that an interpretation to apply the amendment only to "residential mortgage transactions"—primarily purchase-money mortgages—would result in increased regulatory burden on

creditors by requiring two sets of disclosures.

The Board believes that the Congress did not intend to limit the flexibility in the 1996 amendment to purchase-money transactions nor to apply the provision to loans that do not currently require the historical example. The Board believes that the Congress intended to provide this option to all credit transactions secured by the consumer's principal dwelling, given that the committee report to the 1996 amendment broadly states the alternative disclosure option would be available to lenders in consumer credit transactions under closed-end plans. Pursuant to its authority under section 105(a) of the TILA, the Board has adopted a final rule that makes the alternative disclosure option available for any close-end credit transactions where the term exceeds one year and is secured by the consumer's dwelling. Section 105(a) provides that the Board's regulations "may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of [the TILA], to prevent circumvention or evasion thereof, or to facilitate compliance therewith."

Paragraph 19(b)(2)(viii) currently sets forth the required historical example based on a \$10,000 loan amount and paragraph 19(b)(2)(x) the required disclosure of the maximum interest rate and payment for a \$10,000 loan amount. The proposal revised paragraph 19(b)(2)(viii) to set forth the historical example requirements in paragraph 19(b)(2)(viii)(A); and incorporated the substance of paragraph 19(b)(2)(x) on the maximum interest rate and payment disclosure in paragraph 19(b)(2)(viii)(B). If the creditor chose to disclose the maximum interest rate and payment in lieu of a historical example, a statement that the periodic payment may increase or decrease substantially must accompany the rate and payment amount. The proposal provided that the statement requirement may be satisfied by providing the disclosure required by paragraph 19(b)(2)(vi) that states, for example, "your monthly payment can increase or decrease substantially based on annual changes in the interest rate."

A question was raised about whether the proposed wording would allow creditors to provide both the historical example and the maximum interest rate and payment. The Board believes that the 1996 amendment allows creditors to substitute the maximum interest rate and payment for the historical example

or to provide both disclosures. The commentary to paragraph 19(b)(2)(viii) has been revised accordingly. The commentary to paragraph 19(b)(2)(viii)(B) provides that the statement that must accompany the maximum rate and payment disclosure is not separately required if a similar disclosure is made pursuant to the requirement in paragraph 19(b)(2)(vi).

Regulation Z currently requires creditors to disclose a maximum interest rate using the most recent interest rate shown in the historical example. Because creditors are not required to provide the historical example under the 1996 amendments, creditors instead must use a "recent" interest rate as determined by the Board. The Board proposed to require creditors to calculate the maximum rate and payment based on an initial rate that was in effect within one year of the disclosure. A more frequent basis for updating the index or formula would place greater burden on creditors than currently exists under the regulation, whereas the Congress intended to reduce burden with the alternative. The Board solicited comment on whether there are circumstances in which the consumer benefit from updating the initial interest rate more frequently than annually would outweigh the compliance burden of producing the disclosures more frequently.

The majority of the commenters supported the proposal to base the maximum rate and payment on an interest rate in effect within one year of the disclosure. They believed that this was consistent with the current requirement regarding revisions to the historical example. Several commenters observed, however, that the proposed language would require creditors to update the maximum rate and payment twice a year and suggested adopting one of the timing rules already applicable to variable-rate transactions under § 226.19(b)(2). For example, the timing rules for revising the loan program disclosure in comment 19(b)(2)-5 permit creditors to update once a year, as soon as reasonably possible after the new index value becomes available. Similarly, comments 19(b)(2)(viii)-3 and -4 allow disclosures to use a margin or discount or premium used during the six months preceding preparation of the disclosures. Based on these comments and further analysis, the staff has revised the draft rule for determining the initial interest rate that will be used for the maximum rate and payment disclosure; it defines the initial interest rate as one in effect as of an identified month and year for the particular loan program. The final rule eliminates any



requirement for creditors to update the maximum rate and payment disclosure more frequently than the loan program disclosure.

Commenters asked for clarification on whether the amount of a recent discount or premium is reflected in the alternative disclosure. Several commenters requested general clarification on how the initial rate was derived. Several commenters also suggested that all references to "the most recent rate" be deleted since it implies that creditors must continually update the information. Several commenters questioned whether an explanation of how the consumer may calculate the payments for the loan amount to be borrowed would be required absent the historical example.

Based on comments and further analysis, the Board believes that the initial and maximum interest rates and payments should reflect any offered discount or premium in order to reduce consumer confusion. References to "the most recent rate" have been deleted and replaced by "initial interest rate." A definition of the "initial interest rate" is provided and clarifies that it is based on the index plus margin, adjusted by the amount of any discount or premium.

Since the maximum rate and payment is based on a \$10,000 loan amount, the Board believes that an explanation on how to calculate the payments for another loan amount would allow consumers to better understand the relationship of the maximum rate and payment disclosure to their particular transaction without placing undue burden on the creditors. Section 226.19(b)(2)(ix) has been revised to require the explanation under either alternative.

*Appendix H to Part 226—Closed-end Model Forms and Clauses*

The sample clauses and model forms to appendix H-4 and H-14 have been revised in response to comments.

*Supplement I—Official Staff Interpretation*

Revisions have been made to the Official Staff Commentary to conform with the amendments to Regulation Z.

**IV. Regulatory Flexibility Analysis**

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603), the Board's Office of the Secretary has reviewed the amendments to Regulation Z. Overall, the amendments are not expected to have any significant impact on small entities. The regulatory revisions required to implement the 1996 amendment reduce the number of disclosures required for variable-rate

mortgages and ease compliance by providing creditors with the option of disclosing either a fifteen-year historical example or a maximum payment example.

**V. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Board has reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. 5 CFR part 1320, Appendix A.1.

The respondents are individuals or businesses that regularly offer or extend consumer credit. The purpose of the TILA and Regulation Z is to promote the informed use of consumer credit by requiring creditors to disclose its terms and cost. Records must be retained by creditors for 24 months. The disclosure requirements revised by this final rule are found in 12 CFR 226.19 and part 226, appendix H.

The Board's Regulation Z applies to all types of creditors, not just state member banks. For purposes of the Paperwork Reduction Act, however, the Federal Reserve accounts for the paperwork burden associated with Regulation Z disclosures only for state member banks. The estimates of paperwork burden for institutions other than state member banks are provided by the federal agency or agencies that supervise those lenders.

The final rule is expected to decrease the ongoing annual burden of Regulation Z. There are 1,014 state member banks, making an estimated 5,750 closed-end credit disclosures each year on average, at 6.5 minutes per disclosure. The proportion of such loans that are mortgages with an adjustable rate is estimated to be small. It is estimated that the combined annual burden for state member banks under Regulation Z will decrease by approximately 10,000 burden hours to an average 6.4 minutes per disclosure. The Federal Reserve estimates an associated start-up cost of \$160 per respondent to replace the fifteen-year historical example with the maximum rate and payment example. No comments specifically addressing the burden estimate were received.

The disclosures made by creditors to consumers under Regulation Z are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises. Disclosures relating to specific transactions or accounts are not publicly available.

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently

valid OMB control number. The OMB control number for Regulation Z is 7100-0199.

The Federal Reserve has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments, at any time, regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden. Comments may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0199), Washington, DC 20503.

**List of Subjects in 12 CFR Part 226**

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

For the reasons set forth in the preamble, the Board amends 12 CFR part 226 as follows:

**PART 226—TRUTH IN LENDING (REGULATION Z)**

1. The authority citation for part 226 continues to read as follows:

**Authority:** 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

- 2. Section 226.19 is amended by:
  - a. Republishing the introductory text of paragraph (b)(2);
  - b. Revising paragraph (b)(2)(viii);
  - c. Revising paragraph (b)(2)(ix);
  - d. Removing paragraph (b)(2)(x); and
  - e. Paragraphs (b)(2)(xi), (b)(2)(xii), and (b)(2)(xiii) are redesignated as paragraphs (b)(2)(x), (b)(2)(xi) and (b)(2)(xii) respectively.

The revisions read as follows:

**§ 226.19 Certain residential mortgage and variable-rate transactions.**

\* \* \* \* \*

(b) Certain variable-rate transactions.

\* \* \*

\* \* \* \* \*

(2) A loan program disclosure for each variable-rate program in which the consumer expresses an interest. The following disclosures, as applicable, shall be provided:

- \* \* \* \* \*
- (viii) At the option of the creditor, either of the following:
  - (A) A historical example, based on a \$10,000 loan amount, illustrating how payments and the loan balance would have been affected by interest rate changes implemented according to the terms of the loan program disclosure. The example shall reflect the most recent 15 years of index values. The example shall reflect all significant loan

program terms, such as negative amortization, interest rate carryover, interest rate discounts, and interest rate and payment limitations, that would have been affected by the index movement during the period.

(B) The maximum interest rate and payment for a \$10,000 loan originated at the initial interest rate (index value plus margin, adjusted by the amount of any discount or premium) in effect as of an identified month and year for the loan program disclosure assuming the maximum periodic increases in rates and payments under the program; and the initial interest rate and payment for that loan and a statement that the periodic payment may increase or decrease substantially depending on changes in the rate.

(ix) An explanation of how the consumer may calculate the payments for the loan amount to be borrowed based on either:

(A) The most recent payment shown in the historical example in paragraph (b)(2)(viii)(A) of this section; or

(B) The initial interest rate used to calculate the maximum interest rate and payment in paragraph (b)(2)(viii)(B) of this section.

\* \* \* \* \*

3. In part 226, Appendix H is amended by revising the appendix heading, H-4(C) Variable-Rate Model Clauses, and H-14 Variable-Rate Mortgage Sample to read as follows:

**Appendix H to Part 226—Closed-end Model Forms and Clauses**

\* \* \* \* \*

*H-4(C)—Variable-Rate Model Clauses*

This disclosure describes the features of the adjustable-rate mortgage (ARM) program

you are considering. Information on other ARM programs is available upon request.

*How Your Interest Rate and Payment Are Determined*

- Your interest rate will be based on [an index plus a margin] [a formula].
- Your payment will be based on the interest rate, loan balance, and loan term.
- [The interest rate will be based on (identification of index) plus our margin. Ask for our current interest rate and margin.]
- [The interest rate will be based on (identification of formula). Ask us for our current interest rate.]
- Information about the index [formula for rate adjustments] is published [can be found] \_\_\_\_\_.
- [The initial interest rate is not based on the (index) (formula) used to make later adjustments. Ask us for the amount of current interest rate discounts.]

*How Your Interest Rate Can Change*

- Your interest rate can change (frequency).
- [Your interest rate cannot increase or decrease more than \_\_\_\_\_ percentage points at each adjustment.]
- Your interest rate cannot increase [or decrease] more than \_\_\_\_\_ percentage points over the term of the loan.

*How Your Payment Can Change*

- Your payment can change (frequency) based on changes in the interest rate.
- [Your payment cannot increase more than (amount or percentage) at each adjustment.]
- You will be notified in writing \_\_\_\_\_ days before the due date of a payment at a new level. This notice will contain information about your interest rates, payment amount, and loan balance.
- [You will be notified once each year during which interest rate adjustments, but no payment adjustments, have been made to your loan. This notice will contain

information about your interest rates, payment amount, and loan balance.]

• [For example, on a \$10,000 [term] loan with an initial interest rate of \_\_\_\_\_ [(the rate shown in the interest rate column below for the year 19 \_\_\_\_\_)] [(in effect (month) (year))], the maximum amount that the interest rate can rise under this program is \_\_\_\_\_ percentage points, to \_\_\_\_\_%, and the monthly payment can rise from a first-year payment of \$ \_\_\_\_\_ to a maximum of \$ \_\_\_\_\_ in the \_\_\_\_\_ year. To see what your payments would be, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, the monthly payment for a mortgage amount of \$60,000 would be:  $\$60,000 \div \$10,000 = 6$ ;  $6 \times \text{_____} = \$ \text{_____}$  per month.)]

*Example*

The example below shows how your payments would have changed under this ARM program based on actual changes in the index from 1982 to 1996. This does not necessarily indicate how your index will change in the future.

The example is based on the following assumptions:

|  |             |
|--|-------------|
| Amount .....                                   | \$10,000    |
| Term .....                                     | _____       |
| Change date .....                              | _____       |
| Payment adjustment .....                       | (frequency) |
| Interest adjustment .....                      | (frequency) |
| [Margin] * .....                               | _____       |
| Caps _____ [periodic interest rate cap]        |             |
| _____ [lifetime interest rate cap]             |             |
| _____ [payment cap]                            |             |
| [Interest rate carryover]                      |             |
| [Negative amortization]                        |             |
| [Interest rate discount] **                    |             |
| Index.....(identification of index or formula) |             |

\* This is a margin we have used recently, your margin may be different.

\*\* This is the amount of a discount we have provided recently; your loan may be discounted by a different amount.]

| Year       | Index (%) | Margin (Percentage points) | Interest Rate (%) | Monthly Payment (\$) | Remaining Balance (\$) |
|------------|-----------|----------------------------|-------------------|----------------------|------------------------|
| 1982 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1983 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1984 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1985 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1986 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1987 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1988 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1989 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1990 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1991 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1992 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1993 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1994 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1995 ..... | .....     | .....                      | .....             | .....                | .....                  |
| 1996 ..... | .....     | .....                      | .....             | .....                | .....                  |

Note: To see what your payments would have been during that period, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, in 1996 the monthly payment for a mortgage amount of \$60,000 taken out in 1982 would be:  $\$60,000 \div \$10,000 = 6$ ;  $6 \times \text{_____} = \$ \text{_____}$  per month.)

\* \* \* \* \*

**H-14—Variable-Rate Mortgage Sample**

This disclosure describes the features of the adjustable-rate mortgage (ARM) program you are considering. Information on other ARM programs is available upon request.

**How Your Interest Rate and Payment Are Determined**

- Your interest rate will be based on an index rate plus a margin.
  - Your payment will be based on the interest rate, loan balance, and loan term.
- The interest rate will be based on the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year (your index), plus our margin. Ask us for our current interest rate and margin.
- Information about the index rate is published weekly in the Wall Street Journal.
- Your interest rate will equal the index rate plus our margin unless your interest rate “caps” limit the amount of change in the interest rate.

**How Your Interest Rate Can Change**

- Your interest rate can change yearly.
- Your interest rate cannot increase or decrease more than 2 percentage points per year.
- Your interest rate cannot increase or decrease more than 5 percentage points over the term of the loan.

**How Your Monthly Payment Can Change**

- Your monthly payment can increase or decrease substantially based on annual changes in the interest rate.
- [For example, on a \$10,000, 30-year loan with an initial interest rate of 12.41 percent in effect in July 1996, the maximum amount that the interest rate can rise under this program is 5 percentage points, to 17.41 percent, and the monthly payment can rise from a first-year payment of \$106.03 to a maximum of \$145.34 in the fourth year. To see what your payment is, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, the monthly payment for a mortgage amount of \$60,000 would be:  $\$60,000 \div \$10,000 = 6$ ;  $6 \times \$106.03 = \$636.18$  per month.)

- You will be notified in writing 25 days before the annual payment adjustment may be made. This notice will contain information about your interest rates, payment amount and loan balance.]

**[Example**

The example below shows how your payments would have changed under this ARM program based on actual changes in the index from 1982 to 1996. This does not necessarily indicate how your index will change in the future. The example is based on the following assumptions:

|   |                     |
|---|---------------------|
| Amount .....  | \$10,000            |
| Term .....  | 30 years            |
| Payment adjustment .....  | 1 year              |
| Interest adjustment .....   | 1 year              |
| Margin .....  | 3 percentage points |
| Caps _____ 2 percentage points annual interest rate   |                     |
| _____ 5 percentage points lifetime interest rate  |                     |
| Index _____ Weekly average yield on U.S. Treasury securities adjusted to a constant maturity of one year. |                     |

| Year<br>(as of 1st week ending in July) | Index (%) | Margin*<br>(percentage points) | Interest Rate (%) | Monthly Payment (\$) | Remaining Balance (\$) |
|---|-----------|--------------------------------|-------------------|----------------------|------------------------|
| 1982 .....                              | 14.41     | 3                              | 17.41             | 145.90               | 9,989.37               |
| 1983 .....                              | 9.78      | 3                              | **15.41           | 129.81               | 9,969.66               |
| 1984 .....                              | 12.17     | 3                              | 15.17             | 127.91               | 9,945.51               |
| 1985 .....                              | 7.66      | 3                              | **13.17           | 112.43               | 9,903.70               |
| 1986 .....                              | 6.36      | 3                              | ***12.41          | 106.73               | 9,848.94               |
| 1987 .....                              | 6.71      | 3                              | ***12.41          | 106.73               | 9,786.98               |
| 1988 .....                              | 7.52      | 3                              | ***12.41          | 106.73               | 9,716.88               |
| 1989 .....                              | 7.97      | 3                              | **12.41           | 106.73               | 9,637.56               |
| 1990 .....                              | 8.06      | 3                              | ***12.41          | 106.73               | 9,547.83               |
| 1991 .....                              | 6.40      | 3                              | ***12.41          | 106.73               | 9,446.29               |
| 1992 .....                              | 3.96      | 3                              | ***12.41          | 106.73               | 9,331.56               |
| 1993 .....                              | 3.42      | 3                              | ***12.41          | 106.73               | 9,201.61               |
| 1994 .....                              | 5.47      | 3                              | ***12.41          | 106.73               | 9,054.72               |
| 1995 .....                              | 5.53      | 3                              | ***12.41          | 106.73               | 8,888.52               |
| 1996 .....                              | 5.82      | 3                              | ***12.41          | 106.73               | 8,700.37               |

\*This is a margin we have used recently; your margin may be different.  
 \*\*This interest rate reflects a 2 percentage point annual interest rate cap.  
 \*\*\*This interest rate reflects a 5 percentage point lifetime interest rate cap.

Note: To see what your payments would have been during that period, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, in 1996 the monthly payment for a mortgage amount of \$60,000 taken out in 1982 would be:  $\$60,000 \div \$10,000 = 6$ ;  $6 \times \$106.73 = \$640.38$ .)

- You will be notified in writing 25 days before the annual payment adjustment may be made. This notice will contain information about your interest rates, payment amount and loan balance.]

\* \* \* \* \*

4. In Supplement I to Part 226, under Section 226.19—*Certain Residential Mortgage and Variable-Rate Transactions*, under paragraph 19(b) *Certain variable-rate transactions*, the following amendments are made:

- a. Paragraph 2, under the heading “Paragraph 19(b)(2)”, is revised.
- b. Paragraph 1, under the heading “Paragraph 19(b)(2)(v)”, is revised.

c. The heading “Paragraph 19(b)(2)(viii)” is revised to read “Paragraph 19(b)(2)(viii)(A)”.

d. A new heading “Paragraph 19(b)(2)(viii)” and a new paragraph 1 is added below the new heading, and both are transferred immediately preceding “Paragraph 19(b)(2)(viii)(A).”

e. The heading “Paragraph 19(b)(2)(x)” is revised to read “Paragraph 19(b)(2)(viii)(B)” and the paragraph heading and text are transferred immediately preceding the heading “Paragraph 19(b)(2)(ix).”

f. Paragraphs 1 and 2, under the heading “Paragraph 19(b)(2)(viii)(B)”

are revised and a new paragraph 5 is added.

g. Paragraph 1, under the heading “Paragraph 19(b)(2)(ix)” is revised.

h. The heading “Paragraph 19(b)(2)(xi)” is revised to read “Paragraph 19(b)(2)(x).”

i. The heading “Paragraph 19(b)(2)(xii)” is revised to read “Paragraph 19(b)(2)(xi).”

j. The heading “Paragraph 19(b)(2)(xiii)” is revised to read “Paragraph 19(b)(2)(xii).”

The revisions and additions read as follows:



**Supplement 1 to Part 226—Official Staff Interpretations**

\* \* \* \* \*

*Section 226.19—Certain Residential Mortgage Transactions.*

\* \* \* \* \*

*19(b) Certain variable-rate transactions.*

\* \* \* \* \*

*Paragraph 19(b)(2).*

\* \* \* \* \*

2. *Variable-rate loan program defined.* i. Generally, if the identification, the presence or absence, or the exact value of a loan feature must be disclosed under this section, variable-rate loans that differ as to such features constitute separate loan programs. For example, separate loan programs would exist based on differences in any of the following loan features:

- A. The index or other formula used to calculate interest rate adjustments.
- B. The rules relating to changes in the index value, interest rate, payments, and loan balance.
- C. The presence or absence of, and the amount of, rate or payment caps.
- D. The presence of a demand feature.
- E. The possibility of negative amortization.
- F. The possibility of interest rate carryover.
- G. The frequency of interest rate and payment adjustments.
- H. The presence of a discount feature.

I. In addition, if a loan feature must be taken into account in preparing the disclosures required by § 226.19(b)(2)(viii), variable-rate loans that differ as to that feature constitute separate programs under § 226.19(b)(2).

ii. If, however, a representative value may be given for a loan feature or the feature need not be disclosed under § 226.19(b)(2), variable-rate loans that differ as to such features do not constitute separate loan programs. For example, separate programs would not exist based on differences in the following loan features:

- A. The amount of a discount.
- B. The amount of a margin.

\* \* \* \* \*

*Paragraph 19(b)(2)(v).*

1. *Discounted and premium interest rate.* In some variable-rate transactions, creditors may set an initial interest rate that is not determined by the index or formula used to make later interest rate adjustments. Typically, this initial rate charged to consumers is lower than the rate would be if it were calculated using the index or formula. However, in some cases the initial rate may be higher. If the initial interest rate will be a discount or a premium rate, creditors must alert the consumer to this fact. For example, if a creditor discounted a consumer's initial rate, the disclosure might state, "Your initial interest rate is not based on the index used to make later adjustments." (See the commentary to § 226.17(c)(1) for a further discussion of discounted and premium variable-rate transactions.) In addition, the disclosure must suggest that consumers inquire about the amount that the program is currently

discounted. For example, the disclosure might state, "Ask us for the amount our adjustable rate mortgages are currently discounted." In a transaction with a consumer buydown or with a third-party buydown that will be incorporated in the legal obligation, the creditor should disclose the program as a discounted variable-rate transaction, but need not disclose additional information regarding the buydown in its program disclosures. (See the commentary to § 226.19(b)(2)(viii) for a discussion of how to reflect the discount or premium in the historical example or the maximum rate and payment disclosure).

\* \* \* \* \*

*Paragraph 19(b)(2)(viii).*

1. *Historical example and initial and maximum interest rates and payments.* A creditor may disclose both the historical example and the initial and maximum interest rates and payments.

*Paragraph 19(b)(2)(viii)(A).*

\* \* \* \* \*

*Paragraph 19(b)(2)(viii)(B).*

1. *Initial and maximum interest rates and payments.* The disclosure form must state the initial and maximum interest rates and payments for a \$10,000 loan originated at an initial interest rate (index value plus margin adjusted by the amount of any discount or premium) in effect as of an identified month and year for the loan program disclosure. (See comment 19(b)(2)–5 on revisions to the loan program disclosure.) In calculating the maximum payment under this paragraph, a creditor should assume that the interest rate increases as rapidly as possible under the loan program, and the maximum payment disclosed should reflect the amortization of the loan during this period. Thus, in a loan with 2 percentage point annual (and 5 percentage point overall) interest rate limitations or "caps," the maximum interest rate would be 5 percentage points higher than the initial interest rate disclosed. Moreover, the loan would not reach the maximum interest rate until the fourth year because of the 2 percentage point annual rate limitations, and the maximum payment disclosed would reflect the amortization of the loan during this period. If the loan program includes a discounted or premium initial interest rate, the initial interest rate should be adjusted by the amount of the discount or premium.

2. *Term of the loan.* In calculating the initial and maximum payments, the creditor need not base the disclosures on each term to maturity or payment amortization offered under the program. Instead, the creditor may follow the rules set out in comment 19(b)(2)(viii)(A)–5.

If a historical example is provided under § 226.19(b)(2)(viii)(A), the terms to maturity or payment amortization used in the historical example must be used in calculating the initial and maximum payment. In addition, creditors must state the term or payment amortization used in making the disclosures under this section.

\* \* \* \* \*

5. *Periodic payment statement.* The statement that the periodic payment may increase or decrease substantially may be satisfied by the disclosure in paragraph 19(b)(2)(vi) if it states for example, "your monthly payment can increase or decrease substantially based on annual changes in the interest rate."

*Paragraph 19(b)(2)(ix).*

1. *Calculation of payments.* A creditor is required to include a statement on the disclosure form that explains how a consumer may calculate his or her actual monthly payments for a loan amount other than \$10,000. The example should be based upon the most recent payment shown in the historical example or upon the initial interest rate reflected in the maximum rate and payment disclosure. In transactions in which the latest payment shown in the historical example is not for the latest year of index values shown (such as in a five-year loan), a creditor may provide additional examples based on the initial and maximum payments disclosed under § 226.19(b)(2)(viii)(B). The creditor, however, is not required to calculate the consumer's payments. (See the model clauses in appendix H–4(C).)

*Paragraph 19(b)(2)(x).*

\* \* \* \* \*

*Paragraph 19(b)(2)(xi).*

\* \* \* \* \*

*Paragraph 19(b)(2)(xii).*

\* \* \* \* \*

5. In Supplement I to Part 226, under paragraph heading *Paragraph 19(b)(2)(viii)(A)*, all references in paragraphs 3 and 4 to "§ 226.19(b)(2)(viii)" are revised to read "§ 226.19(b)(2)(viii)(A)".

6. In Supplement I to Part 226, under paragraph heading *Paragraph 19(b)(2)(viii)(A)*, in paragraphs 6 and 7 the words "comment 19(b)(2)(x)" are revised to read "comment 19(b)(2)(viii)(B)" each place they appear.

7. In Supplement I to Part 226, under paragraph heading *Paragraph 19(b)(2)(viii)(B)*, in paragraphs 2, 3, and 4 the words "comment 19(b)(2)(viii)" are revised to read "comment 19(b)(2)(viii)(A)" each place they appear.

8. In Supplement I to Part 226, Appendix H—Closed-End Model Forms and Clauses, Paragraphs 6 and 18, are revised to read as follows:

\* \* \* \* \*

**Appendix H—Closed-End Model Forms and Clauses**

\* \* \* \* \*



6. *Model H-4(C)*. This model clause illustrates the early disclosures required generally under § 226.19(b). It includes information on how the consumer's interest rate is determined and how it can change over the term of the loan, and explains changes that may occur in the borrower's monthly payment. It contains an example of how to disclose historical changes in the index or formula values used to compute interest rates for the preceding 15 years. The model clause also illustrates the disclosure of the initial and maximum interest rates and payments based on an initial interest rate (index value plus margin, adjusted by the amount of any discount or premium) in effect as of an identified month and year for the loan program disclosure and illustrates how to provide consumers with a method for calculating the monthly payment for the loan amount to be borrowed.

\* \* \* \* \*

18. *Sample H-14*. This sample disclosure form illustrates the disclosures under § 226.19(b) for a variable-rate transaction secured by the consumer's principal dwelling with a term greater than one year. The sample form shows a creditor how to adapt the model clauses in Appendix H-4(C) to the creditor's own particular variable-rate program. The sample disclosure form describes the features of a specific variable-rate mortgage program and alerts the consumer to the fact that information on the creditor's other closed-end variable-rate programs is available upon request. It includes information on how the interest rate is determined and how it can change over time. Section 226.19(b)(2)(viii) permits creditors the option to provide either a historical example or an initial and maximum interest rates and payments disclosure; both are illustrated in the sample disclosure. The historical example explains how the monthly payment can change based on a \$10,000 loan amount, payable in 360 monthly installments, based on historical changes in the values for the weekly average yield on U.S. Treasury Securities adjusted to a constant maturity of one year. Index values are measured for 15 years, as of the first week ending in July. This reflects the requirement that the index history be based on values for the same date or period each year in the example. The sample disclosure also illustrates the alternative disclosure under § 226.19(b)(2)(viii)(B) that the initial and the maximum interest rates and payments be shown for a \$10,000 loan originated at an initial interest rate of 12.41 percent (which was in effect July 1996) and to have 2 percentage point annual (and 5 percentage point overall) interest rate limitations or caps. Thus, the maximum amount that the interest rate could rise under this program is 5 percentage points higher than the 12.41 percent initial rate to 17.41 percent, and the monthly payment could rise from \$106.03 to a maximum of \$145.34. The loan would not reach the maximum interest rate until its fourth year because of the 2 percentage point annual rate limitations, and the maximum payment disclosed reflects the amortization of the loan during that period. The sample form also illustrates how to provide consumers with a method for calculating

their actual monthly payment for a loan amount other than \$10,000.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, November 21, 1997.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 97-31087 Filed 11-28-97; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 204

[Regulation D; Docket No. R-0945]

#### Reserve Requirements of Depository Institutions

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to decrease the amount of transaction accounts subject to a reserve requirement ratio of three percent, as required by section 19(b)(2)(C) of the Federal Reserve Act, from \$49.3 million to \$47.8 million of net transaction accounts. This adjustment is known as the low reserve tranche adjustment. The Board is increasing from \$4.4 million to \$4.7

million the amount of reservable liabilities of each depository institution that is subject to a reserve requirement of zero percent. This action is required by section 19(b)(11)(B) of the Federal Reserve Act, and the adjustment is known as the reservable liabilities exemption adjustment. The Board is also increasing the deposit cutoff levels that are used in conjunction with the reservable liabilities exemption to determine the frequency of deposit reporting from \$75.0 million to \$78.9 million for nonexempt depository institutions and from \$48.2 million to \$50.7 million for exempt institutions. (Nonexempt institutions are those with total reservable liabilities exceeding the amount exempted from reserve requirements (\$4.7 million) while exempt institutions are those with total reservable liabilities not exceeding the amount exempted from reserve requirements.) Thus, beginning in September 1998, nonexempt institutions with total deposits of \$78.9 million or more will be required to report weekly while nonexempt institutions with total deposits less than \$78.9 million may report quarterly, in both cases on form FR 2900. Similarly, exempt institutions with total deposits of \$50.7 million or

more will be required to report quarterly on form FR 2910q while exempt institutions with total deposits less than \$50.7 million may report annually on form FR 2910a.

**DATES:** *Effective date:* December 16, 1997.

*Compliance dates:* For depository institutions that report weekly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 30, 1997, and the corresponding reserve maintenance period that begins Thursday, January 1, 1998. For institutions that report quarterly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 16, 1997, and the corresponding reserve maintenance period that begins Thursday, January 15, 1998. For all depository institutions, the deposit cutoff levels will be used to screen institutions in the second quarter of 1998 to determine the reporting frequency for the twelve month period that begins in September 1998.

**FOR FURTHER INFORMATION CONTACT:** Rick Heyke, Attorney (202/452-3688), Legal

Division, or June O'Brien, Economist (202/452-3790), Division of Monetary Affairs; for the hearing impaired only, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD)(202/452-3544); Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations. The initial reserve requirements imposed under section 19(b)(2) were set at three percent for net transaction accounts of \$25 million or less and at 12 percent on net transaction accounts above \$25 million for each depository institution. Effective April 2, 1992, the Board lowered the required reserve ratio applicable to transaction account balances exceeding the low reserve tranche from 12 percent to 10 percent. Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The adjustment in the tranche is to be 80 percent of the percentage increase or decrease in net transaction accounts at all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Currently, the low reserve tranche on net transaction accounts is \$49.3 million. Net transaction accounts of all depository institutions decreased by 3.7 percent (from \$740.1 billion to \$712.8 billion) from June 30, 1996, to June 30, 1997. In accordance with section 19(b)(2), the Board is amending Regulation D (12 CFR Part 204) to decrease the low reserve tranche for transaction accounts for 1998 by \$1.5 million to \$47.8 million.

Section 19(b)(11)(A) of the Federal Reserve Act (12 U.S.C. 461 (b)(11)(B)) provides that \$2 million of reservable liabilities<sup>1</sup> of each depository institution shall be subject to a zero percent reserve requirement. Each depository institution may, in accordance with the rules and regulations of the Board, designate the reservable liabilities to which this reserve requirement exemption is to apply. However, if net transaction accounts are designated, only those that

<sup>1</sup> Reservable liabilities include transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities as defined in section 19(b)(5) of the Federal Reserve Act. The reserve ratio on nonpersonal time deposits and Eurocurrency liabilities is zero percent.

would otherwise be subject to a three percent reserve requirement (i.e., net transaction accounts within the low reserve requirement tranche) may be so designated.

Section 19(b)(11)(B) of the Federal Reserve Act provides that, before December 31 of each year, the Board shall issue a regulation adjusting for the next calendar year the dollar amount of reservable liabilities exempt from reserve requirements. Unlike the adjustment for the low reserve tranche on net transaction accounts, which adjustment can result in a decrease as well as an increase, the change in the exemption amount is to be made only if the total reservable liabilities held at all depository institutions increase from one year to the next. The percentage increase in the exemption is to be 80 percent of the increase in total reservable liabilities of all depository institutions as of the year ending June 30. Total reservable liabilities of all depository institutions increased by 7.7 percent (from \$1,695.1 billion to \$1,824.8 billion) from June 30, 1996, to June 30, 1997. Consequently, the reservable liabilities exemption amount for 1998 under section 19(b)(11)(B) will be increased by \$0.3 million to \$4.7 million.<sup>2</sup>

The effect of the application of section 19(b) of the Federal Reserve Act to the change in the total net transaction accounts and the change in the total reservable liabilities from June 30, 1996, to June 30, 1997, is to decrease the low reserve tranche to \$47.8 million, to apply a zero percent reserve requirement on the first \$4.7 million of transaction accounts, and to apply a three percent reserve requirement on the remainder of the low reserve tranche.

The tranche adjustment and the reservable liabilities exemption adjustment for weekly reporting institutions will be effective for the reserve computation period beginning Tuesday, December 30, 1997, and for the corresponding reserve maintenance period beginning Thursday, January 1, 1998. For institutions that report quarterly, the tranche adjustment and the reservable liabilities exemption adjustment will be effective for the computation period beginning Tuesday, December 16, 1997, and for the reserve maintenance period beginning Thursday, January 15, 1998. In addition, all institutions currently submitting form FR 2900 must continue to submit reports to the Federal Reserve under current reporting procedures.

<sup>2</sup> Consistent with Board practice, the tranche and exemption amounts have been rounded to the nearest \$0.1 million.

In order to reduce the reporting burden for small institutions, the Board has established deposit reporting cutoff levels to determine deposit reporting frequency. Institutions are screened during the second quarter of each year to determine reporting frequency beginning the following September. In July of 1988 the Board set a single cutoff level for all depository institutions of \$40 million plus an amount equal to 80 percent of the annual rate of increase of total deposits.<sup>3</sup> In August of 1994, the Board replaced the single deposit cutoff level that had applied to both nonexempt and exempt institutions with separate cutoff levels, increasing the cutoff level for nonexempt institutions, and in September 1997 further increased the cutoff level for nonexempt institutions. The cutoff level for nonexempt institutions, which determines whether they report (on FR 2900) quarterly or weekly, was thereby raised to \$75.0 million. The deposit cutoff level for exempt institutions, which determines whether they report annually (on FR 2910a) or quarterly (on FR 2910q), remained at the indexed level of \$48.2 million.

From June 30, 1996, to June 30, 1997, total deposits increased 6.6 percent, from \$4,168.2 billion to \$4,442.2 billion.

Accordingly, the nonexempt deposit cutoff level will increase by \$3.9 million to \$78.9 million and the exempt deposit cutoff level will increase by \$2.5 million to \$50.7 million. Based on the indexation of the reservable liabilities exemption, the cutoff level for total deposits above which reports of deposits must be filed will rise from \$4.4 million to \$4.7 million. Institutions with total deposits below \$4.7 million will be excused from reporting if their deposits can be estimated from other data sources. The \$78.9 million cutoff level for weekly versus quarterly FR 2900 reporting for nonexempt institutions, the \$50.7 million cutoff level for quarterly FR 2910q versus annual FR 2910a reporting for exempt institutions, and the \$4.7 million level threshold for reporting will be used in the second quarter 1998 deposits report screening process, and the adjustments will be made when the new deposit reporting panels are implemented in September 1998.

All U.S. branches and agencies of foreign banks and all Edge and agreement corporations, regardless of size, are required to file weekly the

<sup>3</sup> "Total deposits" as used in determining the cutoff level includes not only gross transaction deposits, savings accounts, and time deposits, but also reservable obligations of affiliates, ineligible acceptance liabilities, and net Eurocurrency liabilities.



Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900). After the indexations become effective in 1998, all other institutions that have reservable liabilities in excess of the exemption level of \$4.7 million prescribed by section 19(b)(11) of the Federal Reserve Act (known as "nonexempt institutions") and total deposits at least equal to the nonexempt deposit cutoff level (\$78.9 million) will be required to file weekly the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900) for the twelve month period starting September 1998. However, nonexempt institutions with total deposits less than the nonexempt deposit cutoff level (\$78.9 million), will be able to file the FR 2900 quarterly. Institutions that obtain funds from non-U.S. sources or that have foreign branches or international banking facilities are required to file the Report of Certain Eurocurrency Transactions (FR 2950/2951) at the same frequency as they file the FR 2900.

Institutions with reservable liabilities at or below the exemption level (\$4.7 million) (known as exempt institutions) will be required to file the Quarterly Report of Selected Deposits, Vault Cash, and Reservable Liabilities (FR 2910q) if their total deposits equal or exceed the exempt deposit cutoff level (\$50.7 million). Exempt institutions with total deposits less than the exempt deposit cutoff level (\$50.7 million) but at least equal to the exemption amount (\$4.7 million) will be able to file the Annual Report of Total Deposits and Reservable Liabilities (FR 2910a). Institutions that have total deposits less than the exemption amount (\$4.7 million) are not required to file deposit reports if their deposits can be estimated from other data sources.

Finally, the Board may require a depository institution to report on a weekly basis, regardless of the cutoff level, if the institution manipulates its total deposits and other reservable liabilities in order to qualify for quarterly reporting. Similarly, any depository institution that reports quarterly may be required to report weekly and to maintain appropriate reserve balances with its Reserve Bank if, during its computation period, it understates its usual reservable liabilities or overstates the deductions allowed in computing required reserve balances.

**Notice and Public Participation**

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because the amendments

involve expected, ministerial adjustments prescribed by statute and by an interpretative statement reaffirming the Board's policy concerning reporting practices. Moreover, the low reserve tranche adjustment and the reservable liabilities exemption adjustment are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reservable liabilities exemption adjustment and the increases for reporting purposes in the deposit cutoff levels reduce regulatory burdens on depository institutions, and the low reserve tranche adjustment will have a *de minimis* effect on depository institutions with net transaction accounts exceeding \$47.8 million. Accordingly, the Board finds good cause for determining, and so determines, that notice and public participation is unnecessary, impracticable, or contrary to the public interest.

The provisions of 5 U.S.C. 553(d) relating to notice of the effective date of a rule have not been followed in connection with the adoption of these amendments because the low reserve tranche adjustment and the reservable liabilities adjustment are expected, ministerial amendments prescribed by statute. Moreover, they are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reservable liabilities adjustment and the increase in deposit cutoff levels for reporting purposes relieve a restriction on depository institutions, and the low reserve tranche will have a *de minimis* effect on depository institutions with net transaction accounts exceeding \$47.8 million. Accordingly, there is good cause to determine, and the Board so determines, that such notice is impracticable or unnecessary.

**Regulatory Flexibility Analysis**

The Board certifies that these amendments will not have a substantial economic impact on small depository institutions. See "Notice and Public Participation" above.

**List of Subjects in 12 CFR Part 204**

Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 204 as follows:

**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. Section 204.9 is revised to read as follows:

**§ 204.9 Reserve requirement ratios.**

(a) *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 <sup>1</sup>  |
|--|---|
| Net transaction accounts:<br>\$0 to \$47.8 million<br>over \$47.8 million .. | 3 percent of amount.<br>\$1,434,000 plus 10 percent of amount over \$47.8 million |
| Nonpersonal time deposits.   | 0 percent.  |
| Eurocurrency liabilities.  | 0 percent.  |

<sup>1</sup> Before deducting the adjustment to be made by the paragraph (b) of this section.

(b) *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) of this section not in excess of \$4.7 million determined in accordance with § 204.3(a)(3).

By order of the Board of Governors of the Federal Reserve System, November 13, 1997.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 97-30237 Filed 11-18-97; 8:45 am]

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