

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8819]
May 6, 1980

CREDIT RESTRAINT PROGRAM
Additional Questions and Answers—Eighth Series

To All Member Banks, and Others Concerned,
in the Second Federal Reserve District:

Printed below is the eighth series of questions and answers, representing the views of the legal staffs of the Federal Reserve Bank of New York and of the Board of Governors of the Federal Reserve System, regarding the Credit Restraint Program. This series of questions and answers relates to the credit restraint program for short-term financial intermediaries (Subpart B of the Board's regulation on Credit Restraint).

Any questions concerning the Credit Restraint Program may be directed to the persons listed in our Circular No. 8794, dated April 9, 1980.

ANTHONY M. SOLOMON,
President.

Short Term Financial Intermediaries
Subpart B

B-9. Q: Section 222.12(c) of the revised Subpart excludes from covered credit the proportion of a covered creditor's extensions of credit that represent the holdings of trustees and other fiduciaries whose holdings would be eligible for collective investment by a bank provided they are held incidentally to the management of other trust assets. What can be considered to be held incidentally to the management of other trust assets?

A: The preamble to revised Subpart B indicates that, generally, moneys held by a bank or trust company pursuant to a *bona fide* trust purpose are within the incidental exclusion even though they may temporarily be invested largely in a short-term investment fund. The holdings of any trust whose income is not considered to be the current income of the grantor under the attribution rules of the Internal Revenue Service (Treasury Regulations §§ 1.671-1.678) are not covered credit under this rule. The holdings of a trust (other than a pension plan whose beneficiary has retired and is receiving benefits) the income of which is currently attributable to the grantor are covered credit if 50% or more of its assets are in a money market fund or the short-term investment fund of a bank.

B-10. Q: Are funds held by other types of fiduciaries excluded from covered credit?

A: Generally, only funds held by a trustee, executor, administrator, guardian, or a custodian

under the Uniform Gifts to Minors Act are excluded. However, holdings of a private foundation organized as a corporation are excluded. Also excluded are funds held by any tax deferred retirement planning vehicle, including funds held by a separate account of an insurance company under annuity contracts which provide for a substantial front or rear end sales load or redemption charge, IRA and Keogh Plans, and funds held pursuant to sections 403(b) or 457 of the Internal Revenue Code, whether or not these funds would otherwise be eligible for collective investment by a bank. These exempt funds must be deducted from a covered creditor's base as well as from its weekly report. An amended base report should be filed if necessary.

B-11. Q: What methods can a money market fund use to determine the proportion of its shares, units, or other interests that represent exempt funds of fiduciaries, for the purpose of weekly reports?

A: For new accounts, a fund must determine whether funds of the shareholder are eligible for exclusion. This can be accomplished by permitting the purchaser to identify himself as eligible on his purchase order, provided the purchase forms clearly set forth the substance of interpretations as to who is eligible.

For existing accounts with balances of at least \$100,000, the fund must determine the eligibility of the funds of each account holder. For existing accounts with balances under \$100,000, the fund may determine exempt

(over)

holdings by sampling at least one-tenth of those accounts.

Funds accepting moneys from bank trust departments or insurance companies may rely on the representations of those organizations as to the proportion of shares they hold that may be excluded.

B-12. Q: Can a covered creditor choose not to take the exemption and assume that it has no fiduciary shareholders for reporting purposes?

A: No. It must determine its proportion of fiduciary shareholders.

B-13. Q: Which covered creditors must be aggregated for reporting purposes?

A: All managed creditors that are series of shares of a single registered investment company and are not tax exempt bond funds must be aggregated for reporting and special deposit purposes. All tax exempt managed creditors that are series of shares of a single investment company must be aggregated apart from the series that are not tax exempt. An investment company that has a series of shares that is a managed creditor, and series that are not, may not aggregate those series even though the investment company as a whole is a managed creditor: it must report only the series that are managed creditors.

A bank trust department must aggregate for reporting and special deposit purposes all of its collective investment funds, master notes, and other collective investment vehicles that

are managed creditors. Separate series of a unit investment trust are never aggregated; each series that is a covered creditor must file a separate report.

B-14. Q: Must a managed creditor that has no special deposit liability file reports?

A: All managed creditors must file a base report. A managed creditor whose covered credit is less than 80% of its base need not file regular weekly reports. Thereafter, when such a managed creditor's covered credit exceeds its base, it should file weekly reports, whether or not it is required to hold a special deposit, until its covered credit falls below 80% of its base.

CORRECTION

Question B-1 of the "General" questions regarding short term financial intermediaries contained an error in the second paragraph. The corrected question and answer are as follows:

B-1. Q: What does primarily really mean?

A: For a unit investment trust primarily means any amount greater than zero percent. A trust whose investments have initial maturities of 14 months may be 100% invested in assets with remaining maturities of 13 months for most of its duration. Therefore, in order to avoid the special deposit requirement, a unit investment trust must be fully invested in longer term assets on its settlement date.

May 6, 1980

To the Addressee:

Enclosed, for those who have complete sets of the rules and regulations of the Board of Governors of the Federal Reserve System, is a revised table of contents to those rules and regulations. The revised contents page includes the Board's new regulation on Credit Restraint.

Circulars Division
FEDERAL RESERVE BANK OF NEW YORK

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