

FEDERAL RESERVE BANK
OF NEW YORK

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RESERVE REQUIREMENTS

Questions and Answers

To the Chief Executive Officers of All Depository Institutions
in the Second Federal Reserve District:

Printed on the following pages is a series of questions and answers regarding Regulation D, "Reserve Requirements of Depository Institutions." These questions and answers were prepared by the legal staff of the Federal Reserve Bank of New York in consultation with the legal staff of the Board of Governors of the Federal Reserve System.

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ANTHONY M. SOLOMON,
President.

REGULATION D

Transferability

1. Q: Does the nontransferability legend have to be placed on the following documents relating to personal savings and time deposits:
- a. all monthly statements?
 - b. all passbooks?
 - c. coupons in Holiday or Christmas Club booklets that are mailed to the institution with the depositor's periodic payment?
 - d. deposit slips?
 - e. tellers' receipts?
 - f. plastic identification cards that must be presented in order to operate the account (issued by many banks in lieu of passbooks)?
 - g. the IRS form 1099 showing a depositor's total interest earned?
 - h. the application or signature card that opens the account, or in terms and conditions incorporated into the deposit contract?
 - i. an institution's internal records showing amounts in personal accounts?
 - j. an institution's Report of Transaction Accounts (because it shows total personal deposits)?
 - k. the annual statement of a natural person's mortgage escrow account?

A: The standard is that any document that evidences that a depositor has funds in a personal account must carry the legend. Using that standard, items a and b must carry the legend, and items c, d, e, f, g, i, j and k need not carry the legend. Item h need not carry the legend in order to comply with Regulation D, but the nontransferability provision legally needs to be incorporated into the deposit contract in some way; this may be done by carrying the legend on the application or signature card itself or by carrying the legend in some other document incorporated into the application or card, such as other terms and conditions governing deposits or by-laws provisions governing deposits.

2. Q: Why does a nontransferability legend have to be stamped on a monthly statement of a depositor who has a personal time or savings account?

A: The Board of Governors decided that imposing this requirement was the simplest way to handle the matter. The Board wanted to avoid banks having to determine which types of documents needed to have the legend. Very generally, the rule is that all documents that represent an account need to have the nontransferability legend. The Board understands that this may impose greater start-up costs than a more limited requirement, but believes that in the long run this requirement will be easier for banks to deal with.

3. Q: Passbook savings accounts opened prior to October 1 need not have a nontransferability legend placed on them at the time of opening. Does the legend need to be stamped on such deposits after October 1?

A: No. Any person savings or time account opened before October 1 never has to carry the legend on any document evidencing its existence.

4. Q: Does an institution have to notify its customers who have outstanding accounts of the new nontransferability provision of the regulation?

A: No, so long as it was issued before October 1.

5. Q: Can banks stamp the words "nonnegotiable and nonassignable," rather than "nontransferable," on time and savings deposits documents?

A: It appears that in some jurisdictions transfers may be made that are not considered assignments. Therefore, "nonassignable" may not be used in place of "nontransferable." The inclusion of other words along with "nontransferable" is permissible so long as the latter terms are not conditioned by the other words; "nonnegotiable" may be added to the legend.

6. Q: Are Holiday Club accounts considered to be transferable if the bank has accepted an instruction to send the payment check to a third party?

A: So long as the instruction is received at the time of withdrawal, transmittal of a payment check for a Holiday Club account to a third party does not constitute a transfer. This is the equivalent of closing a time or savings account and remitting the proceeds to someone other than the depositor. If the instruction were accepted at the opening of the account, then the intent of the depositor would be to have a transferable deposit.

7. Q: What is the rationale for requiring passbooks to be stamped "nontransferable" if the bank will not recognize any transfer of passbook deposits?

A: The Board of Governors wanted to have a simple rule covering placement of the nontransferability legend on documents pertaining to personal time and savings accounts. Also, under Regulation Q a withdrawal may be made by anyone presenting the passbook, and such withdrawals need to be prevented for personal accounts.

8. Q: The legend need not be placed on a time deposit issued before October 1 that is automatically rolled-over after that date. If the institution sends a letter to the depositor reminding him of the upcoming roll-over, must the letter indicate nontransferability?

A: No.

9. Q: Are there any circumstances in which the ownership of a nontransferable deposit may be transferred?

A: Yes. Section 204.2(f)(1)(iv) indicates a number of transactions that do not make a nontransferable deposit transferable. Under that section, the deposit may also be transferred on the books of the institution, in which case the institution would know the identity of the transferee and be able to classify the deposit properly.

10. Q: Explain the difference between "nontransferable" and "nonnegotiable."

A: A negotiable instrument is one which a buyer may take free of most defenses that the debtor on the instrument has against the original creditor. For example, if a

salesman accepts a promissory note in exchange for a product, and the product is defective, the buyer may refuse to pay the salesman when the note becomes due; however, if the salesman sells the note to another person and the note is negotiable, then the buyer cannot refuse to pay the other person. Negotiability is concerned simply with the cutting off of defenses. A nonnegotiable instrument can be transferred; the difference is that the buyer of the instrument is subject to the same defenses to which the original creditor was subject. A person who is willing to accept the risk of those defenses is willing to buy a nonnegotiable instrument as well as a negotiable one. The Board of Governors was concerned that a market in nonnegotiable certificates of deposit might develop, and that nonreservable personal time deposits would be bought by corporations, if transferability were not prohibited.

11. Q: A personal time deposit may be transferred under Regulation D if the bank either changes the name of the accountholder on its books or issues a replacement deposit instrument with the new owner's name. If the bank takes either of these actions, does this constitute an early withdrawal of a time deposit under Regulation Q?

A: No. The Board of Governors issued a ruling in 1960 indicating that the sale by a depositor of his time deposit does not constitute early withdrawal and that the bank may record that transfer on its books without having to treat the transfer as an early withdrawal. The principal, maturity and interest rate of the deposit must be unchanged.

12. Q. Does the three-transfer-per-month exception pertain only to calendar months?

A: Yes.

Transaction Accounts

1. Q: Is a savings account a transaction account solely because a depositor mails or wires a request to an institution asking that funds be transferred to a third party and the institution does so?

A: No. The Board of Governors has always treated letter requests as the functional equivalent to the depositor coming into the bank office; thus, a transfer in response to a letter from a personal account does not make that account a transaction account. Transfers in response to requests by telephone, telegram or other electronic means are not covered by this rule; such transfers may cause the account to be a transaction account.

2. Q: If a savings account contract allows ACH debits but none are actually made, must the account be treated as a transaction account?

A: Such an account must be treated as a transaction account unless the deposit contract limits the number of such debits to three per month.

3. Q: If a customer has a savings account from which no third party or automatic withdrawals are permissible except for a weekly transfer to the depositor's club account, is that savings account a transaction account?

A: Yes. The weekly transfer technically falls within the definition of a preauthorized transfer. If the account were limited to three such transactions per month, then the account would not be treated as a transaction account. In this case, if the deduction were made every two weeks, then the three-transfer-per-month limitation could be met.

4. Q: How is a bank to treat compensating balances of the United States Government kept in Treasury Tax and Loan deposit accounts?

A: If the deposit is subject to immediate withdrawal by the Government, then it must be treated as a demand deposit of the Government and reserved against as a transaction account. Note balances in TT&L accounts are exempt from reserves. Funds received in the form of borrowings, rather than deposits, are exempt from reserves.

5. Q: Money market certificate owners are often allowed to have their interest credited periodically by the

institution to another account. Does that make the certificate a transaction account?

A: No. The language of Section 204.2(e)(6) does not limit treatment as transaction accounts of deposits with pre-authorized transfers to savings accounts, but that is its intent. Also, interest credited to another account is not "transferred" from the time account if the interest had not previously been credited to the time account.

6. Q: Many employers allow employees to have portions of their weekly wages to be distributed to accounts in the name of the employee's relatives. Computer companies require that the entire amount of wages be credited to the employee's account and then credited to the relatives' accounts. If the employee has his wages credited to a savings account, must that account be treated as a transaction account?

A: This is being looked into further.

7. Q: Are statement savings accounts subject to ACH debits and credits included in the definition of transaction accounts?

A: The definition of "transaction account" in Section 204.2(e) states at Subparagraph 6 that ACH debits from a savings account constitute preauthorized transfers, and the account is a transaction account. If credits only may be made to the account, then it is not a transaction account.

8. Q: Page 9 of the instructions indicates that demand deposits include "funds held to meet the reporting institution's acceptances." Does this include installment payments made to the institution by its acceptance customer as the related goods are manufactured or sold?

A: This is being looked into further.

Personal and Nonpersonal Accounts

1. Q: Must passbook savings be broken down between personal and nonpersonal?

A: Yes. Savings accounts are treated as a class of time accounts, and therefore savings deposits must be classified as personal or nonpersonal under the same rules pertaining to time deposits and reported separately.

2. Q: Are time deposits of a "personal corporation" considered to be personal time deposits?

A: A time deposit of any corporation, including a corporation owned by one person, is nonpersonal. In order to be a personal time deposit, a deposit must be held by a human being or a sole proprietorship.

3. Q: Are time deposits for an "estate" considered to be personal time deposits?

A: A time deposit held in the name of an estate will be personal or nonpersonal depending on the status of the beneficiaries of the estate. If all of the beneficiaries are human beings or sole proprietorships, the deposit is a personal time deposit. If any beneficiary is not a human being or sole proprietorship, the deposit is nonpersonal.

4. Q: Because a transfer of a time deposit to an estate upon the death of the owner need not be done with notice to the institution, how can the institution be required to determine whether all of the beneficiaries are natural persons?

A: If such a transfer occurs without notice to the institution, then it need not make that determination. However, if the institution is asked to change the name on the account to that of the estate, then it must make that determination.

5. Q: Is an account personal if it is held in the name of an association such as a bowling club or vacation club, or of a monastery or convent?

A: No. Accounts held in the name of, or in which the beneficial interest is held by, anything other than a natural

person (an individual or sole proprietorship) are personal, except for (1) IRA or Keogh accounts and (2) trust and escrow accounts in which the beneficial interest is held by natural persons.

6. Q: Are Keogh (or Defined Benefit Keogh) Accounts in the name of a partnership excluded from reserve requirements?

A: Yes. Time deposits held in Keogh or IRA accounts are presumed to be for the beneficial interest of individuals under Section 204.2(f)(2).

7. Q: Please explain the status of escrow deposits in relation to reserve requirements.

A: Escrow accounts are treated in the same manner as other types of deposits for purposes of determining whether they are personal or nonpersonal, except that, if the funds in an escrow account belong to a natural person but the account is in the name of an escrow holder that is not a natural person, the deposit nevertheless may be treated as a personal time deposit. (Section 204.2(f)(1)(iv).)

8. Q: Are landlord security deposits placed in time or savings accounts to be treated as personal or nonpersonal?

A: This is being looked into further.

9. Q: Are pension and welfare fund accounts opened in the name of a corporation or partnership nonpersonal?

A: Pension and welfare funds accounts normally consist of funds in which the beneficial interest is held solely by natural persons. If the institution's pension and welfare accounts are of this type, then such time deposits and savings deposits are treated as personal deposits even though the name on the account is that of a corporation or partnership.

10. Q: Is an escrow account into which funds are paid monthly or quarterly a personal or nonpersonal account?

A: If the funds are placed in a savings or time account, it may be treated as personal if the beneficial interest is held by a natural person.

11. Q: If funds in an escrow account that is in the name of an insurance company were not deposited by an individual but are for the benefit of a natural person, is such an account a personal time account?

A: Funds in an escrow account may be treated as a personal time or savings account if the entire beneficial interest is held by a natural person. The source of the funds is irrelevant.

12. Q: Are club accounts reservable?

A: Club accounts are treated as either time or savings deposits and are either personal or nonpersonal. If the deposit qualifies as a personal time or savings deposit, it is not reservable. Member banks should report all club accounts as savings accounts.

13. Q: Are all savings and time deposits issued before October 30 considered personal or must they be broken out? Can they be estimated by means of sampling?

A: Time deposits on the books beginning October 30 must be categorized as either personal or nonpersonal. However, the Board has allowed institutions to estimate this breakdown by means of standard sampling methods for fixed maturity deposits issued prior to October 30. That sample will indicate the proportion of its total fixed maturity time deposits that are personal and nonpersonal. Deposits issued after October 30 must be classified from the date of issuance by their actual status and not under a sample. Sampling is not permitted for savings accounts, notice accounts, or time deposit-open accounts. Fixed maturity time deposits issued before October 30 that are rolled-over after that date must be classified by their actual status as of the roll-over date.

14. Q: Many trust departments often place funds in a single time or savings account in the commercial department of the institution. May an institution determine the proportion

of funds in that account that are allocable to trusts or estates in which the entire beneficial interest is owned by natural persons and treat that amount as a personal deposit? May the institution establish a percentage of the account that is personal and use that percentage each day?

A: The regulation requires that all of the funds in an account belong to natural persons, and accordingly an allocation within one account is not permissible. The trust department could place its funds in two accounts, one personal and one nonpersonal, but the funds in the personal account must be from trusts and estates in which the beneficial interest is held entirely by natural persons, and this may not be determined by estimation or percentages.

Vault Cash

1. Q: May coin sent by an institution to a coin-wrapping servicer and kept there for several days be treated as vault cash?

A: Yes, so long as the institution continues to book the coin as an asset and has the right to obtain possession of the coin immediately to satisfy depositors' claims.

2. Q: May a bank sell its excess vault cash to another bank for use in satisfying reserve requirements by means of an overnight trust receipt? The selling bank will continue to hold the vault cash in its vault.

A: No. Only actual transfers of coin and currency may be included in the buying bank's vault cash.

Federal Funds

1. Q: A depository institution purchases Federal funds through a broker (not a depository institution) that is acting as agent for a depository institution. Are the Federal funds reserve-free?

A: Yes. Under Section 204.2(a)(1)(vii)(A)(1), Federal funds purchased from a depository institution are not considered a deposit. If the broker acts solely as

agent, the funds in the example are considered to have been purchased from the depository institution.

Due Bills

1. Q: On what is a "similar" security, may a Treasury bill collateralize a due bill for a Treasury bond? A note for a bond? A note for a bill? A bill for a municipal?

A: Collateral must be of the same type. Thus, a Treasury bill can be used for a bill, a note for a note, and so on. A Treasury bill may not collateralize a due bill for a bond even though the former may be considered to be of higher quality. Remaining maturity of the collateralizing security may serve as the maturity to be compared with the owed security.

Pass-Throughs

1. Q: If a correspondent is assessed a penalty for a deficiency in reserves maintained that arose because a respondent bank was deficient, may the correspondent pass the penalty on to the respondent?

A: Yes. The Reserve Bank will impose the penalty on the correspondent and the correspondent is free to pass it on to the respondent, but is not required to.

2. Q: Under Section 204.3(i)(4)(iii), what records is the correspondent required to maintain with respect to a respondent?

A: The Board has not indicated particular records yet. The correspondent is not required to maintain FR 2900 "Report of Transaction Accounts, Other Deposits and Vault Cash" or FR 2950 "Report of Certain Eurocurrency Transactions" for respondents, however.

Obligations of Affiliates

1. Q: If an affiliate issues obligations and places its proceeds at its off-shore branch, are those funds to be treated as a reservable obligation? The regulation

imposes reserve requirements on obligations of affiliates to the extent that the proceeds "are used . . . to maintain the availability of funds" to the bank under Section 204.2(a)(1)(v).

A: Generally, funds placed on deposit at an off-shore branch are not reservable without more. Whether those funds are being held off-shore in order to escape reserve requirements while keeping them available to the bank must be determined on a case by case basis.

Eurocurrency: Balances and Borrowings
from Foreign Offices

1. Q: How are balances due to foreign offices of a reporting institution and of other banks treated?

A: Balances subject to immediate withdrawal (i.e., demand deposits) of foreign offices of other banks are reservable as demand deposits at the domestic reserve rate on transaction accounts. Borrowings with original maturities of less than four years from those offices are treated as nonpersonal time deposits and are reported on the Eurocurrency report form. Balances due to, and borrowings from, an institution's own foreign branches, whether or not subject to immediate withdrawal, are reported as Eurocurrency liabilities and are reservable net of balances due from those offices. Demand balances and borrowings from foreign offices of affiliated banks are treated as balances and borrowings from other banks.

2. Q: For purposes of the foreign bank eight percent capital equivalency deduction, why are bank time deposits treated as nonrisk assets and United States Treasury obligations treated as risk assets? Also, why are bank acceptances not treated as nonrisk assets, similar to bank time deposits?

A: The capital equivalency deduction is measured against standard banking assets and not against cash assets. Treasury obligations and bankers' acceptances are considered standard assets; balances due from banks are cash assets.

3. Q: If a foreign bank parent places funds with its United States branch in a capital account, is that account exempt from Eurocurrency reserves?

A: No. That must be treated as a balance due to parent. The capital equivalency deduction takes the place of capital for reserve purposes.

Eurocurrency: Loans to
U.S. Residents

1. Q: There are two de minimis exceptions to the Eurocurrency reserve requirement on loans to United States residents, i.e., the \$1 million per branch exception and the \$100,000 per borrower exception. How do these exceptions interrelate?

A: Example One: If Mr. Jones, a United States resident, has a \$50,000 loan at a bank's Nassau branch and a \$90,000 loan at the bank's London branch, the resident exception does not apply. If both branches report more than \$1 million in loans to U.S. residents, reportable loans to Mr. Jones total \$140,000.

Example Two: In the previous example, if the London branch had less than \$1 million in loans to U.S. residents and the Nassau branch had more than \$1 million, only the Nassau branch loans would be reported. Thus, reservable loans to Mr. Jones would total \$50,000 for the entire bank.

Example Three: If a bank's Nassau branch has twelve loans of \$90,000 each to twelve different U.S. residents, it would have no reportable loans. The branch's total loans are more than \$1 million, but its loan to any one U.S. resident is less than \$100,000.

Example Four: In example 3, if one of those U.S. residents had an additional loan at the London branch of \$20,000, the Nassau branch must report \$90,000 in loans. This is true regardless of whether London has more or less than \$1 million in loans. If London has more than \$1 million, it must report the \$20,000 loan to the resident because in the aggregate the bank's loan to that resident totals more than \$100,000.

Eurocurrency: Sales of Assets

1. Q: The sale of foreign assets, as well as domestic assets, to an institution's foreign branches are covered. In the past, member banks have had to keep reserves only against sales of domestic assets. Does this apply only to sales of foreign assets that take place after the effective date of the change?

A: No. It applies to all sales of foreign assets in the past if the foreign branch continues to hold the foreign asset.