FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8940
October 23, 1980]

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

Adoption of Rules Regarding Premiums, Finders Fees, Prepayment of Interest, and Interest Rate Ceilings on NOW Accounts and on 14-Day to 90-Day Time Deposits of Under $100,000

To All Commercial Banks, Mutual Savings Banks, and Savings and Loan Associations in the Second Federal Reserve District:

Following is the text of a statement issued by the Depository Institutions Deregulation Committee announcing Committee rules, effective December 31, 1980, on the use of premiums, finders fees, and the prepayment of interest by depository institutions; inviting public comment through November 17, 1980 on a proposal regarding the phaseout of finders fees; announcing a ceiling rate of interest payable on negotiable order of withdrawal (NOW) accounts of 5¼ percent, effective December 31, 1980, for all institutions authorized to offer such accounts; and announcing the establishment of ceiling rates of interest payable on 14-day to 90-day time deposits of under $100,000, including a ceiling rate of 5¼ percent, effective October 30, 1980, for banks that are members of the Federal Reserve System:

The Depository Institutions Deregulation Committee issued final rules concerning premiums, finders fees and prepayment of interest.

The Committee[1] also issued rules establishing a ceiling rate of interest payable on Negotiable Order of Withdrawal (NOW) accounts and on consumer type time accounts with a minimum maturity of 14 days. The new short-term time accounts may be issued by banks that are members of the Federal Reserve System beginning October 30.

Effective December 31, 1980, the Committee took the following actions concerning premiums, finders fees and prepayment of interest with respect to deposits subject to interest rate ceilings:

—Premiums, whether in the form of merchandise, credit or cash, will not be regarded as payment of interest, if:

—The premium is given to a depositor only when a new account is opened, an existing account is renewed or funds are added to an existing account;

—No more than two premiums per account are given in any 12 month period;

—The value of the premium, or, if merchandise is given its total cost, is no more than $10 for deposits of less than $5,000 or $20 for deposits of $5,000 or more.

The cost of merchandise must be certified by an executive officer of the institution and must include shipping, packaging and handling expenses. Averaging of the prices of various premiums will not be permitted.

Finders fees will be defined as payment of interest to the depositor. Such fees may be paid only in cash. Certain incentive plans for employees of institutions are exempted from the rule. For those institutions that have a history of obtaining, on the average, 25 percent or more of their domestic small time and savings deposits through finders fees the Committee proposed, for public comment through November 17, a two-year phase-out program.

Prepayment of interest on deposits of less than $100,000, in either cash or merchandise, will be prohibited.

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[1] The Committee was created by the Depository Institutions Deregulation and Monetary Control Act of 1980 to phase out interest rate ceilings on time and savings deposits over the next six years. [The members of the Committee are the heads of the following agencies: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Department of the Treasury, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.]

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The Committee established a ceiling rate of interest of 5¼ percent on the new category of 14-90 day time accounts at banks that are members of the Federal Reserve System, effective October 30. This will apply to accounts at member banks under $100,000 with original maturities or notice periods of 14-90 days.

In the event that their Federal regulators authorize them to issue such accounts, the ceiling rate on 14-90 day time accounts at insured non-member commercial banks will be 5¼ percent. At insured mutual savings banks and savings and loan associations it will be 5½ percent.

The Committee established a 5¼ percent ceiling rate of interest on NOW accounts to apply at all types of depository institutions authorized to issue NOW accounts on December 31. The ceiling rate payable on the NOW accounts by institutions already authorized to offer them will remain at 5 percent through December 30.

The Committee said it intends to consider raising the passbook savings rate as soon as feasible and will consider the issue no later than September 30, 1981.

Enclosed is a copy of the text (reprinted from the *Federal Register* of October 16, 1980) of the Committee's rules, and the proposal regarding the phaseout of finders fees. Comments on the proposal, which should be submitted by November 17, may be sent to our Consumer Affairs and Bank Regulations Department; questions regarding the DIDC's rules may be directed to the Regulations Division of that Department (Tel. No. 212-791-5914).

ANTHONY M. SOLOMON,
President.

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Depository Institutions Deregulation Committee

INTEREST ON DEPOSITS

Rules Regarding Ceiling Rates of Interest on 14- to 90-Day Time Deposits of Under $100,000; Use of Premiums, Finders Fees, and the Prepayment of Interest; and Ceiling Rate of Interest on NOW Accounts

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0013]

Ceiling Rates of Interest on 14- to 90-Day Time Deposits of Under $100,000

October 9, 1980.

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Deregulation Committee ("the Committee") has adopted a final rule concerning the ceiling rate of interest payable, effective October 30, 1980, by banks that are members of the Federal Reserve System on time deposits of under $100,000 with original maturities (or notice periods) of 14 to 90 days. The rate established for such deposits is 5¼ percent. The Committee's action was prompted by the recent action of the Federal Reserve Board, effective October 30, 1980, shortening the minimum maturity of time deposits at banks that are members of the Federal Reserve System from 30 to 14 days. In the event the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board take similar action in the future. the ceiling rate of interest payable on such time deposits will be 5¼ percent for insured nonmember commercial banks, and 5½ percent for insured mutual savings banks and savings and loan associations.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446), Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447-1632), F. Douglas Birdzell. Counsel, Federal Deposit Insurance Corporation (202/389-4324), Margaret Egginton, Attorney, Board of Governors of the Federal Reserve System (202/452-2489), or Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798).

SUPPLEMENTARY INFORMATION: Current regulations of the Board of Governors of the Federal Reserve System ("Federal Reserve"), the Federal Deposit Insurance Corporation ("FDIC") and the Federal Home Loan Bank Board ("FHLBB") establish 30 days as the minimum maturity for time deposits that may be issued by depository institutions subject to their respective jurisdictions. The Federal Reserve, in amending its Regulation D (12 CFR Part 204) to implement the reserve requirement provisions of the Monetary Control Act of 1980 (Title I of P. L. 96-221), shortened the minimum maturity of time deposits at member banks from 30 to 14 days, effective October 30, 1980. (The Federal Reserve will adopt conforming technical amendments to its Regulation Q (12 CFR Part 217) that also will be effective October 30, 1980). Under the Federal Reserve's new rule, banks that are members of the Federal Reserve System, effective October 30, 1980, may issue and pay interest on 14 to 90 day time deposits of over $100,000 at any rate since time deposits issued in such denominations are not subject to interest rate limitations.

The new maturity also applies to time deposits under $100,000 issued by member banks. In the case of such time deposits issued to domestic governmental units, the current ceiling of 8 percent (the highest rate payable on any fixed-ceiling category of time deposit by any federally insured commercial bank, mutual savings bank, or savings and loan association) will apply to new 14 to 90 day accounts (see 12 CFR 217.7(d)). However, no ceiling rate exists for nongovernmental unit time deposits of under $100,000 with original maturities of less than 30 days. Accordingly, the Committee has established a ceiling rate of interest of 5¼ percent payable by member banks on time deposits with original maturities (or notice periods) of between 14 and 90 days issued to other than governmental units in denominations of less than $100,000. This is the same ceiling rate of interest currently payable by member banks on time deposits of under $100,000 with original maturities (or notice periods) of 30 to 90 days. In the event that the FDIC and FHLBB also authorize a reduction to 14 days in the minimum maturity of time deposits, the ceiling rate of interest payable on such time deposits issued to other than domestic governmental units will be 5¼ percent for insured nonmember commercial banks, and 5½ percent for insured mutual savings banks and savings and loan associations. As in the case of member banks, the ceiling rate of interest payable on such time deposits issued to governmental units would be 8 percent.

In view of the fact that this act facilitates implementation of an action taken by the Board of Governors of the Federal Reserve System on which public comment already has been received, the Committee finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to this action is unnecessary and would be contrary to the public interest. Therefore, pursuant to its authority under Title II of Public Law 96-221, 94 Stat. 142 (12 U.S.C. § 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, mutual savings banks and savings and loan associations, the Committee amends Part 1204 (Interest on Deposits), effective October 30, 1980, by adding section 112 as follows:

PART 1204—INTEREST ON DEPOSITS

§ 1204.112 Time deposits of less than $100,000.

Depository institutions that are members of the Federal Reserve System may pay interest on any time deposit with an original maturity or notice period of 14 days or more, but less than 90 days, at a rate not to exceed 5¼ percent. In the event the Federal Deposit Insurance Corporation shortens the minimum required maturity or notice period of time deposits to 14 days, federally insured commercial banks that are not members of the Federal Reserve System also may pay interest on such time deposits at a rate not to exceed 5¼ percent, and federally insured mutual savings banks may pay interest on such time deposits at a rate not to exceed 5½ percent. In the event the Federal Home Loan Bank Board shortens the minimum required maturity or notice period of

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time deposits to 14 days, institutions insured by the Federal Savings and Loan Insurance Corporation may pay interest on such time deposits at a rate not to exceed 5½ percent.

By order of the Committee, October 9, 1980.

Normand R. V. Bernard,

Executive Secretary of the Committee.

[FR Doc. 80–32127 Filed 10–15–80; 8:45 am]

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12 CFR Part 1204

[Docket No. D-0004]

Premiums, Finders Fees, and the Prepayment of Interest

October 9, 1980.

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rules.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has adopted final rules concerning the use of premiums, finders fees, and the prepayment of interest by depository institutions. The rules adopted by the Committee apply only to deposits subject to interest rate ceiling limitations. Under the rules adopted, premiums (whether in the form of merchandise, credit, or cash) given by depository institutions to their depositors will not be regarded as a payment of interest if: (a) the premium is given to a depositor only at the time of the opening of a new account or an addition to or renewal of an existing account; (b) no more than two premiums per account are given within a twelve-month period; and (c) the value of the premium or, in the case of articles of merchandise, the total cost (including shipping, packaging and handling expenses) does not exceed $10 for deposits of less than $5,000 and $20 for deposits of $5,000 or more. In addition, averaging the price of various premiums will not be permitted and depository institutions will be required to certify that the total cost of a premium does not exceed the $10/$20 limitations.

With regard to finders fees, the Committee adopted a rule defining such fees as a payment of interest to the depositor and requiring that such fees be paid only in cash. Certain incentive programs for the employees of depository institutions are excepted from this rule. The Committee is aware that some institutions may have relied extensively on the use of finders fees to attract or retain deposits. Accordingly, the Committee requests public comment on a proposal (explained below) to permit the phaseout of finders fees at such institutions. The Committee also adopted a rule prohibiting depository institutions from prepaying interest on deposits of less than $100,000 in either cash or merchandise.

The rules adopted by the Committee apply to all commercial banks, mutual savings banks, and savings and loan associations subject to the authorities conferred by section 19(j) of the Federal Reserve Act, section 18(g) of the Federal Deposit Insurance Act, and section 5B(a) of the Federal Home Loan Bank Act.

EFFECTIVE DATE: December 31, 1980. Comments on the proposed phaseout of finders fees should be received by November 17, 1980.

ADDRESS: Interested parties are invited to submit written comments on the proposed phaseout of finders fee programs to Normand R. V. Bernard, Executive Secretary, Depository Institutions Deregulation Committee, Federal Reserve Building, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All material submitted should include the Docket Number D–0012. Such material will be made available for inspection and copying upon request except as provided in section 1202.5 of the Committee's Rules Regarding Availability of Information (12 CFR 1202.5).

FOR FURTHER INFORMATION CONTACT: Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446), Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447–1632), F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389–4324), Daniel L. Rhoads, Attorney, Board of Governors of the Federal Reserve System (202/452–3711), Allan Schott, Attorney-Advisor, Treasury Department (202/566–6798), or Anthony F. Cole, Deputy General Counsel, Depository Institutions Deregulation Committee (202/452–3612).

SUPPLEMENTARY INFORMATION: On May 6, 1980, the Committee issued for comment proposals to: (1) prohibit depository institutions from giving depositors premiums or gifts associated directly with the receipt of a deposit; (2) require that finders fees paid to a person who introduces a depositor to an institution be paid only in cash and be regarded as a payment of interest to the depositor; (3) require that interest be paid only in the form of cash or a credit to a deposit account; and (4) prohibit the prepayment of interest. (45 Fed. Reg. 32323). Over 5,000 comments were received on the Committee's proposals. The majority of commenters opposed a prohibition on the use of premiums by depository institutions to attract deposits. Many of these respondents favored strengthening existing regulations as an alternative to the proposal. A majority of commenters favored the finders fees proposals, and the proposals to prohibit the prepayment of interest and to require that interest be paid in cash.

Premiums

The rules of the Board of Governors of the Federal Reserve System ("Federal Reserve"), Federal Deposit Insurance Corporation ("FDIC"), and Federal Home Loan Bank Board ("FHLBB") currently limit the cost of premiums to $5 for deposits of less than $5,000 and $10 for deposits of $5,000 or more. Premiums may be in the form of cash or merchandise, but merchandise is used more commonly. In the case of merchandise, the $5 and $10 limits apply to the cost to the institution, excluding shipping and packaging costs. Depository institutions can offer premiums at any time to depositors who open new accounts or add to existing accounts. However, premiums may not be given on a recurring basis to the same individual. The current premium rules were adopted by the agencies in 1970 in order to establish what constituted a *de minimis* amount that would not be regarded as the payment of interest. The rules were intended to clarify this matter and reduce time spent by the agencies in reviewing individual programs. This has not been accomplished, however, because in practice the rules are difficult to enforce since they can be circumvented by attributing an inflated portion of the total cost of the premium to shipping and packaging, rather than to the direct cost of the premium. In view of these considerations, the Committee has modified the current premium rules to lessen the potential for abuses.

The rule adopted by the Committee permits depository institutions to continue to offer depositors a premium at the time of opening a new account or adding to or renewing an account. However, a depository institution may not give more than two premiums per account during a 12-month period. The 12-month period begins on the date the depositor receives the first premium. In addition, the dollar limitations on the permissible cost of premiums has been raised to $10 for deposits of less than $5,000 and to $20 for deposits of $5,000 or more. All costs associated with a premium, including its costs and all other charges such as shipping, warehousing, handling and packaging costs must be included in determining compliance with the $10/$20 limitations.

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The expenses associated with developing, advertising or promoting a premium program need not be included in determining the cost of a premium, and such expenses may not be used to absorb any of the cost of the premium. In addition, repackaging and return freight expenses may not be used to defray the cost of a premium. Any averaging of the cost of various items of merchandise offered in a premium program is prohibited. An executive officer of the institution will be required to certify, prior to the beginning of a premium program, that the institution's program complies with these requirements and that no portion of the cost of a premium has been attributed to development, advertising, promotional, or other expenses. This certification must be retained in the institution's files and must be made available to the institution's primary Federal supervisor upon request. Falsified certifications can result in the imposition of criminal penalties under 18 U.S.C. §§ 1001, 1005, and 1006. Model certifications that must be used by depository institutions are contained in the regulations.

Merchandise sold to a depositor pursuant to a self-liquidating program in which the depositor pays the total cost of the merchandise (including shipping, warehousing, handling and packaging costs) would not be regarded as a premium. An executive officer of the institution, however, would be required to certify that the depositor had paid a price at least equal to the total cost of the merchandise as defined above and that no portion of the total cost had been attributed to development, advertising, promotional, or other expenses. Continuity programs where a depositor receives a premium for one deposit and has the right to purchase additional items at the time of subsequent deposits are subject to the premium rule. (For example, under a continuity program where a depositor receives a gift for the first deposit and for a subsequent deposit, the depositor will have received two premiums under the Committee's rule.) An executive officer of the institution must certify that both the premium portion and the self-liquidating portion of a continuity program comply with the regulations by using both certifications provided for in the regulations. Promotional items such as pencils, pens and calendars, distributed to existing or potential depositors, would not be regarded as premiums in the absence of a requirement that an account be opened, renewed or added to.

Finders Fees

Finders fees, whether in the form of cash or merchandise, are fees paid to a person who introduces a depositor to an institution. The amount of a finders fee typically is related to the size of the deposit received by the institution. Under the current rules of the FHLBB, the total cost of any premiums given to a depositor and finders fees given to a third party are regarded as a payment of interest if in excess of $5 for deposits of less than $5,000 and $10 for deposits of $5,000 or more. The FHLBB excepts from the rule, however, prizes in cash given to employees who participate in a new account drive or contest sponsored by an association or, with certain limitations, sales commissions paid to a broker with respect to accounts opened or increased as a result of the services of the broker. The rules of the FDIC and Federal Reserve do not restrict the use of finders fees paid to third parties. However, if any portion of the fee is passed on to the depositor or a member of the depositor's household, that portion is regarded as additional interest on the deposit.

In view of the increased use of finders fees and the consideration that finders fees may, in some cases, be used to circumvent interest rates ceilings, the Committee has determined that such fees should be regarded as a payment to or for the account of the depositor. Accordingly, the Committee has adopted a rule defining finders fees as a payment of interest to the depositor for purposes of determining compliance with interest rate ceiling limitations. This rule also requires that such fees, when paid for deposits subject to interest rate ceiling limitations, be paid only in cash. This requirement extends to fees paid to individuals or firms that are in the business of brokering funds, but does not apply to bonuses or amounts paid to a depository institution's own employees for participating in an account drive, contest, or other incentive plan provided such bonuses or amounts are tied to the total amount of deposits solicited and are not tied to specific, individual deposits.

The Committee is aware that some institutions may have relied extensively on the use of finders fees to attract or retain deposits and that immediate application of this rule on December 31, 1980, may cause hardship for such institutions. Accordingly, the Committee is prepared to consider a phaseout of finders fee programs. If a phaseout is adopted, certain principles would apply. First, in order to be eligible for the phaseout, an institution would be required to demonstrate that finders fees have accounted for a significant share of its outstanding domestic small-denomination (under $100,000) time and savings deposits over a meaningful period of time. Second, the phaseout would be designed to encourage institutions to develop alternative marketing strategies as soon as possible. Third, to ensure that an undue competitive advantage would not be given to any eligible institution, the phaseout period would be of limited duration and the marketing practices for finders fees could be restricted. In this regard, those institutions qualifying for the phaseout could be limited to contacting directly the original finder.

Comment is requested on a proposal that would provide a phaseout of finders fee programs only for those institutions that can demonstrate that finders fees have accounted, on average, for 25 per cent or more of their outstanding domestic small-denomination time and savings deposits over the ten-quarter period ending June 30, 1980. Under this proposal, the base for the phaseout would be the amount of domestic small-denomination time and savings deposits outstanding on June 30, 1980, on which finders fees had been paid. This base amount could not be exceeded during the phaseout period. The maximum amount of domestic small-denomination time and savings deposits that could be raised through the continued use of finders fees would be limited to 90 per cent of the amount of domestic small-denomination time and savings deposits on which finders fees had been paid maturing in the quarter ending March 31, 1981. In each succeeding quarter, the maximum amount permitted to be raised would be subject to the percentages outlined in the schedule below. Under this proposal, any maturing domestic small-denomination time deposit on which a finders fee had been paid and that is renewed will be included in the amount of deposits obtained through the use of finders fees for the purpose of the schedule below. An institution would be required in advance to receive certification from its primary Federal supervisory agency that it had met the criteria to be eligible for the phaseout.

Quarter ending	Maximum percentage[1]
1981:	
Mar. 31	90
June 30	80
Sept. 30	70
Dec. 31	60
1982:	
Mar. 31	50
June 30	35
Sept. 30	20

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Quarter ending	Maximum percentage[1]
Dec. 31	5
1983:	
Mar. 31	0

[1] Maximum percentage of maturing finders fee deposits permitted to be raised through the continued use of finders fees.

Specific comments are requested on: (1) the minimum proportion of domestic small-denomination time and savings deposits and the minimum period of time for which finders fees have been paid necessary to qualify for the proposed phaseout; (2) whether the remaining maturity structure of outstanding deposits obtained through finders fees is consistent with the proposed phaseout schedule; (3) whether limitations or restrictions on advertising the continued availability of finders fees during the phaseout period should be imposed and, if so, what types of limitations or restrictions; (4) the ability of institutions to identify prior recipients of finders fees; and (5) whether records maintained by institutions are adequate to implement the proposed phaseout.

Prepayment of Interest

The Federal Reserve and the FDIC both currently permit prepayment of interest either in cash or merchandise. However, prepaid interest must be discounted to its present value—that is, the amount of prepaid interest plus interest thereon at the maximum rate that may be paid on the type of deposit involved may not exceed the aggregate amount of interest that could have been paid on the deposit at maturity computed at the applicable maximum rate. Under FHLBB rules, however, insured savings and loan associations are not permitted to prepay interest.

The Committee believes that the prepayment of interest, particularly in the form of merchandise, can result in confusion as to the actual rate of return earned on a deposit and presents increased problems of enforcing deposit interest rate ceilings. In view of these considerations, the Committee has adopted a rule prohibiting the prepayment of interest to depositors, in either cash or merchandise, on all deposits subject to interest rate ceilings. This rule does not affect or limit the use of finders fees offered pursuant to the requirements of 12 CFR § 1204.110. The Committee has determined not to adopt its proposal to require that interest be paid only in the form of cash or a credit to a deposit account. Accordingly, depository institutions may pay interest, as it is earned, in the form of merchandise rather than in cash or a credit to a deposit account. For purposes of determining compliance with interest rate ceiling limitations, the cost of any merchandise given in lieu of cash interest must include the total cost of the merchandise. An executive officer of the institution must certify that the total cost includes shipping, warehousing, packaging, and handling fees, and that no portion of the cost has been attributed to development, advertising, promotional, or other expenses. A model certification that institutions must use if they pay interest in the form of merchandise is contained in the regulations.

Pursuant to its authority under Title II of Public Law 96–221, 94 Stat. 142 (12 U.S.C. § 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations and mutual savings banks, effective December 31, 1980, the Committee amends Part 1204 (Interest on Deposits) by adding sections 1204.109, 1204.110, and 1204.111 as follows:

PART 1204—INTEREST ON DEPOSITS

Sec.

* * * * *

1204.109 Premiums not considered payment of interest.
1204.110 Finders fees.
1204.111 Prepayment of interest and payment of interest in merchandise.

§ 1204.109 Premiums not considered payment of interest.

(a) Premiums, whether in the form of merchandise, credit, or cash, given by a depository institution to a depositor will be regarded as an advertising or promotional expense rather than a payment of interest if: (1) the premium is given to a depositor only at the time of the opening of a new account or an addition to, or renewal of, an existing account; (2) no more than two premiums per account are given within a 12-month period; and (3) the value of the premium or, in the case of articles of merchandise, the total cost (including shipping, warehousing, packaging, and handling costs) does not exceed $10 for deposits of less than $5,000 or $20 for deposits of $5,000 or more. The costs of premiums may not be averaged. Prior to the beginning of a premium program, an executive officer of the depository institution must certify that the total cost of a premium, including shipping, warehousing, packaging, and handling costs, does not exceed the applicable $10/$20 limitations and that no portion of the total cost of any premium has been attributed to development, advertising, promotional, or other expenses. The certification and supporting documents must be retained by the institution in its files and must be made available to the institution's primary Federal supervisory agency upon request.

(b) Certifications required by paragraph (a) must contain the following language:

(1) (For use with premium programs.)

I, ______________, (name and title of certifying officer and institution) do hereby certify, to the best of my knowledge and belief, that the total cost(s) of the premium(s) offered by this institution during a premium program to be conducted from __________ (date) to __________, (date) including the wholesale cost, shipping, warehousing, packaging and handling costs, does (do) not exceed $10 for deposits of less than $5,000 or $20 for deposits of $5,000 or more. I further certify that the costs of premium items have not been averaged, that no portion of the cost of any premium has been attributed to development, advertising, promotional, or other expenses, and that this program complies in all respects with the requirements of 12 CFR § 1204.109.

____

(Signature)

____

(Date)

Falsification of this document may result in a fine of not more than $10,000 or imprisonment of not more than five years, or both. 18 U.S.C. §§ 1001, 1005, 1006.

(2) (For use with self-liquidating programs.)

I, ______________________________

(name and title of certifying officer and institution)

do hereby certify, to the best of my knowledge and belief, that depositors are required to absorb the total costs of items sold by this institution in a self-liquidating program to be conducted from __________ (date) to __________ (date), including the wholesale cost, shipping, warehousing, packaging and handling costs. I further certify that the costs of items have not been averaged, that no portion of the cost of any item has been attributed to development, advertising, promotional, or other expenses, and that this program complies in all respects with the requirements of 12 CFR § 1204.109.

____

(Signature)

____

(Date)

Falsification of this document may result in a fine of not more than $10,000 or imprisonment of not more than five years, or both. 18 U.S.C. §§ 1001, 1005, 1006.

§ 1204.110 Finders fees

Any fee paid by a depository institution to a person who introduces a

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depositor to the institution must be paid in cash when paid for deposits subject to interest rate ceilings, and will be regarded as a payment of interest to the depositor for purposes of determining compliance with interest rate ceilings, except that a depository institution may pay bonuses in cash or merchandise to its employees for participating in an account drive, contest, or other incentive plan, provided such bonuses are tied to the total amount of deposits solicited and are not tied to specific, individual deposits.

§ 1204.111 Prepayment of interest and payment of interest in merchandise.

(a) Interest may be paid in the form of merchandise, cash, or a credit to a deposit account. However, interest on a deposit subject to deposit interest rate ceilings, whether in the form of merchandise, cash, or credit to an account, may not be paid by a depository institution until such interest has been earned, except as provided in 12 CFR § 1204.110. Where merchandise is paid in lieu of cash interest, an executive officer of the depository institution must certify that the total cost of such merchandise includes shipping, warehousing, packaging, and handling costs, and that no portion of the cost has been attributed to development, advertising, promotional, or other expenses. The costs of individual items of merchandise may not be averaged. The certification and supporting documents must be retained by the institution in its files and must be made available to the institution's primary Federal supervisory agency on request.

(b) Certifications required by paragraph (a) must contain the following language:

I, ———— (name and title of certifying officer and institution), do hereby certify, to the best of my knowledge and belief, that the total cost(s) of merchandise offered by this institution in lieu of cash interest during a program conducted from ———— (date) to ———— (date) includes the wholesale cost, shipping, warehousing, packaging and handling costs, and does not exceed the maximum amount of earned interest that could have been paid in the form of cash or a credit to an account. I further certify that the costs of the items have not been averaged, that no portion of the cost of any item has been attributed to development, advertising, promotional, or other expenses, and that this program complies in all respects with the requirements of 12 CFR § 1204.111.

————————————

(Signature)

————————————

(Date)

Falsification of this document may result in a fine of not more than $10,000 or imprisonment of not more than five years, or both. 18 U.S.C. §§ 1001, 1005, 1006.

By order of the Committee, October 9, 1980.

Normand R. V. Bernard,

Executive Secretary of the Committee.

[FR Doc. 80-32128 Filed 10-15-80; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 1204

[Docket No. D-0011]

Maximum Rate of Interest Payable on Negotiable Order of Withdrawal Accounts

October 9, 1980.

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has adopted a final rule concerning the ceiling rate of interest payable on negotiable order of withdrawal ("NOW") accounts. Effective December 31, 1980, the ceiling rate of interest payable on NOW accounts will be 5¼ per cent for all institutions authorized to offer such accounts. The rule applies to all commercial banks, mutual savings banks, and savings and loan associations subject to the authorities conferred by section 19(j) of the Federal Reserve Act, section 18(g) of the Federal Deposit Insurance Act, and section 5B(a) of the Federal Home Loan Bank Act.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446), Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447-1632), F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389-4324), John Harry Jorgenson, Attorney, Board of Governors of the Federal Reserve System (202/452-3778), Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798), or Anthony F. Cole, Deputy General Counsel, Depository Institutions Deregulation Committee (202/452-3612).

SUPPLEMENTARY INFORMATION: Title III of the Depository Institutions Deregulation and Monetary Control Act of 1980 (P.L. 96-221) authorizes depository institutions nationwide, except credit unions, to offer NOW accounts to individuals and certain nonprofit organizations effective December 31, 1980. On June 25, the Committee requested public comment on proposed rules concerning the maximum rate of interest payable on interest-bearing transaction accounts (45 Fed. Reg. 45303). The Committee proposed to establish a uniform ceiling rate on all interest-bearing transaction accounts at commercial banks, mutual savings banks, and savings and loan associations. To encourage depositors to segregate transaction balances from balances that are inactive and thus facilitate the conduct of monetary policy, the Committee also proposed to establish a ceiling rate on transaction accounts that was below the ceiling rate payable on nontransaction accounts. In this regard, the Committee proposed to define interest-bearing transaction accounts to include: NOW accounts; savings accounts subject to automatic transfers, telephone transfers and preauthorized nonnegotiable transfers; and savings accounts that permit payments to third parties by means of an automated teller machine, remote service unit or other electronic device. Comment was requested on four options for uniform ceilings on transaction accounts. The options called for ceilings of 5 per cent, 5¼ per cent, 5½ per cent, or a ceiling higher than 5½ per cent.

After considering over 770 comments on its proposals, the Committee has determined to take action at this time only with respect to the ceiling rate of interest payable on NOW accounts. The ceiling rate of interest payable on NOW accounts for all depository institutions authorized to offer such accounts will be 5¼ per cent effective December 31, 1980. The ceiling rate of interest payble on NOW accounts by those institutions already authorized to offer such accounts will remain at 5 per cent until December 31, 1980. The ceiling rates of interest payable on all other accounts, including savings accounts subject to automatic transfers, telephone transfers, preauthorized nonnegotiable transfers, and savings accounts accessible by automated teller machine, remote service unit or other electronic device, are not affected by this action and remain unchanged. The Committee determined not to adopt any of its original proposals at this time in order to avoid reduction in the rates of interest on certain accounts, as required by some of the proposals, and in view of its concern that consideration of increases in the passbook savings rate should be deferred at this time. The Committee announced its intent, however, to consider increasing the passbook savings rate as soon as feasible and will consider this issue no later than September 30, 1981.

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Pursuant to its authority under Title II of Public Law 96–221, 94 Stat. 142 (12 U.S.C. § 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations, and mutual savings banks, effective December 31, 1980, the Committee amends Part 1204 (Interest on Deposits) by adding 1204.108 as follows:

PART 1204—INTEREST ON DEPOSITS

* * * * *

§ 1204.108 Maximum rates of interest payable by depository institutions on deposits subject to negotiable orders of withdrawal.

No depository institution subject to the authorities conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. § 371(b)), section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. § 1828(g)), or section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. § 1425b(a)) shall pay interest at a rate in excess of 5¼ per cent per annum on any deposit or account subject to negotiable or transferable orders of withdrawal that is authorized pursuant to 12 U.S.C. § 1832(a).

By order of the Committee, October 9, 1980.

Normand R. V. Bernard,

Executive Secretary of the Committee.

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