

FEDERAL RESERVE BANK
OF NEW YORK

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RESERVE REQUIREMENTS

Questions and Answers — Fourth Series

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

Printed on the following pages is the fourth series of questions and answers regarding Regulation D, "Reserve Requirements of Depository Institutions." (The first, second and third series were sent to you on September 29, and October 8 and 17, 1980.) 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.

Please note that there is a typographical error in the answer to Question 5 under "Personal and Nonpersonal Accounts" in the first series. The word "personal" should be "nonpersonal." Thus, the sentence reads, "Accounts held in the name of . . . anything other than a natural person (an individual or sole proprietorship) are nonpersonal, except for . . ."

Additional questions regarding this material or other matters relating to Regulation D, reserve maintenance, or reporting requirements should be directed to the following:

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ANTHONY M. SOLOMON,
President.

FEDERAL RESERVE BANK
OF ST. LOUIS
REGULATION D

Questions and Answers--Fourth Series

Transferability

21. Q: An institution issues a monthly statement to its natural person depositor on which is reported the balance in a transaction account, as well as the balance in a personal savings or time deposit account. Need the statement have the nontransferability legend?
- A: Yes, if the depositor did not previously receive a copy of the deposit contract with the legend. If the statement indicates funds held in a personal savings or time deposit account, it must state that that account is non-transferable even though other types of accounts are also listed.

Transaction Accounts

20. Q: If a depository institution allows ACH debits to be made to a savings account and does not limit the number of such debits by contract to three per month, must the account be treated as a transaction account?
- A: Yes. Institutions may not treat a savings account for which ACH debits are allowed as not being a transaction account simply because three or fewer transfers per month currently are being made. Rather, the limitation of three per month must be in the deposit contract. If that limitation is not in the contract and ACH debits are permitted, the account is a transaction account, even if no ACH debits currently are being made.
21. Q: Need an institution monitor the number of transfers out of savings accounts that are treated as transaction accounts because they are not limited to three telephone or preauthorized transfers per month?
- A: No. Savings accounts that allow telephone or preauthorized transfers but that are not limited in the deposit contract to three such transfers per month are transaction accounts regardless of the number of transfers that actually occur in any month. Thus, no monitoring of actual transfers from such accounts is required. However, as noted in Question 20, savings accounts with a contractual limitation of three such transfers per month

are exempt from treatment as transaction accounts, and a monitoring system is necessary in order to enforce that limitation.

22. Q: A mortgagee institution issues a cashiers check in payment of a mortgage loan to a mortgagor to be delivered to the seller at the closing. The off-setting entry is to an account representing "Loans in the process of Negotiation." At the time the check is paid, the off-setting entry becomes the mortgage loan. Does the issuance of this cashiers check result in a reservable liability?

A: Cashiers checks are considered demand deposits of the issuing institution and are reservable as transaction accounts from the date they are issued to the date they are paid.

23. Q: Many banks receive payments from other banks with unclear information as to whom the funds should be credited. The practice of many institutions is to credit those funds to a suspense account. The funds remain in that account until the institution determines the party to whom the funds are to be credited or transmitted. This process for each such payment may take several days or weeks. During that time, how must an institution report that suspense account for reserve purposes? Many foreign banks find that 90 percent of payments made to them are to be credited to their parent's account, and thus most of these funds should have been subject to Eurocurrency, rather than domestic, reserves during that period.

A: Institutions must treat the entire amount of funds in suspense accounts each day as being transaction accounts (to be reported as other demand deposits in Item 3 of the FR 2900) unless they determine from their past experience that a percentage of such funds usually are to be treated otherwise. For example, if a United States branch of a foreign bank finds that 90 percent of the funds placed in a suspense account go to its parent, it may treat 90 percent of its suspense account each day as a balance due to its parent and 10 percent as a transaction account.

24. Q: If the owner of a personal savings account allows another person to withdraw funds from the account by having that person present the passbook at the institution's office, must the account be treated as a transaction account?

A: No. Technically funds are being withdrawn from the account and paid to a third party without the depositor making the withdrawal in person. However, the funds are being withdrawn from the office of the institution without use of a NOW draft, ATS system, ATM, or telephone or preauthorized transfer, and accordingly the withdrawal is not a transfer for purposes of transaction account treatment.

Personal and Nonpersonal Accounts

25. Q: Escrow accounts may be treated as personal savings or time accounts if the entire beneficial interest in the funds is in natural persons. Does this rule apply to tenant security deposits?

A: Yes. If all of the tenants whose security deposits are in a landlord's account are natural persons, that account may be treated as personal. If a landlord has both natural person and corporate tenants, the landlord could be asked to place the security deposits of natural persons in a separate account, and that account could be treated as personal.

Time Deposits

5. Q: On what date does a 14-day fixed maturity certificate of deposit issued on June 1 mature?

A: June 15.

6. Q: Are direct borrowings from foreign corporations treated as Eurocurrency liabilities?

A: Direct borrowings from nonbank foreign and domestic corporations are liabilities subject to reserve requirements but are not Eurocurrency liabilities. They are nonpersonal time deposits if their maturity is 14 days or more. They are demand deposits and reported as transaction accounts if their maturity is less than 14 days. The exemption for Federal funds and Eurocurrency borrowings cover borrowings from banks and depository institutions.

7. Q: Is a reservable obligation created when a greater than ten percent interest is retained in a pool of mortgages sold to Fannie Mae?

A: No. A reservable obligation is not created by the sale of assets to Fannie Mae. A reservable obligation is created when securities backed by a pool of conventional one-to-four family mortgages are sold to third parties if the institution keeps a greater than ten percent interest and when mortgage-backed bonds are sold to nonexempt entities. (See Section 204.2(a)(2)(ix) of Regulation D.)

Due Bills

2. Q: The permissible collateral for outstanding due bills consists of securities of similar type and comparable maturity to the security underlying the due bill. What is considered to be comparable maturity for this purpose?

A: All Treasury bills may be treated as being of comparable maturity to each other because they are issued in original maturities of one year or less. Treasury notes and bonds and other securities will be determined at a later date.

Vault Cash

4. Q: Coin and currency must be in the possession of the reporting institution, subject to the in-transit exception, in order to be treated as vault cash. Is currency and coin considered to be in an institution's possession if placed in a vault on the premises of another institution that is rented by the reporting institution?

A: Yes, so long as (1) the reporting institution has full rights of ownership of the coin and currency, (2) the reporting institution has full rights to obtain the coin and currency immediately in order to satisfy customer demands (and accordingly must be reasonably nearby), and (3) the institution from which the vault is rented does not include that coin and currency as its own vault cash.

Eurocurrency: Balances and Borrowings From Foreign Offices

8. Q: Eurocurrency liabilities include borrowings from "non-United States offices" of the reporting domestic institution. Do "non-United States offices" include foreign offices of a nonbank corporation that is an affiliate of the reporting institution?

A: No. "Non-United States offices" in this context means foreign offices of the reporting institution itself. Affiliates are separate corporate entities, and their foreign offices are not foreign offices of the institution. Borrowings from foreign offices of affiliated banks are treated as Eurocurrency borrowings from other banks and are reported in Column 1 of the FR 2950. Borrowings from foreign offices of affiliated nonbank corporations are treated as deposits and are subject to domestic reserves as demand or time deposits depending on maturity; if the borrowing is a demand deposit (because the maturity is less than 14 days), then Regulation Q and Part 329 of the FDIC's regulations prohibit the payment of interest on the borrowing.

9. Q: A depository institution has separate demand accounts for each of several foreign branches of a single foreign bank. May amounts due to some of the branches be "netted" against amounts due from other branches for computing amounts due to banks?

A: No, unless the separate accounts of the foreign institution serve a bona fide cash management function. Of course, it must be legal to "net" these accounts under the law where the branches are located.

10. Q: Many depository institutions and foreign bank branches and agencies have on their books liabilities owing to Iranian entities that have been frozen pursuant to Presidential Order since November 1979. Many of those liabilities were short-term Eurocurrency borrowings, and the original maturity date has long since been passed; payment of the obligation is prevented by the freeze. For purposes of reserves, may such Eurocurrency liabilities continue to be treated as a Eurocurrency borrowing even though the maturity date of the obligation has passed?

A: Yes. Institutions should note that demand deposits payable to Iranian entities frozen under the Order continue to be demand deposits despite the existence of the Order. This is consistent with the position taken by the Board of Governors during the Chinese assets freeze and with decisions made earlier this year on the Iranian freeze. Institutions may transfer frozen demand deposits funds into time deposits on their books so long as they will pay some interest on those funds after the transfer.

Eurocurrency: Sales of Assets

3. Q: Eurocurrency reserves must be kept against sales of assets from domestic offices of an institution to its foreign offices for as long as the foreign office holds the asset. Very often foreign offices sell these assets to other banks, and thus Eurocurrency reserves are no longer required. However, many foreign branches also buy assets from other banks, and it is possible that an asset previously sold by that foreign office, or by another foreign office of the same bank, will be purchased by the foreign office. Are foreign offices required to establish a system in order that they may identify assets that had previously been purchased by them from domestic offices?

A: The need for such a system depends on the level of activity of a foreign office in the purchase of assets generally. Clearly, to fail to require the maintenance of reserves in the event of a purchase back of such an asset would be a large loophole in the coverage of Eurocurrency reserves. Foreign offices that engage in very little asset trading would seem not to need such a system; the likelihood of their repurchasing such an asset would seem to be small and they would likely be able to identify such an asset on an ad hoc basis. Foreign offices with large amounts of asset purchases and sales would seem to need some kind of system that would allow them to spot such assets rather than leaving them to ad hoc determinations.

Miscellaneous

2. Q: Are the funds of the life insurance department which New York mutual savings banks are authorized to establish by Section 262 et seq. of the New York Banking Law and whose assets are kept segregated from the general bank's assets subject to reserve requirements?

A: No. Funds of the life insurance department, like funds of the trust department of a commercial bank, if kept segregated as life insurance funds, are not subject to reserves.

3. Q: May a CD kept by the issuing institution as collateral for a loan be exempt from reserves as a cash collateral account irrevocably assigned to the institution?

A: No. Cash collateral accounts are those in which cash, rather than an asset, is placed with the institution as collateral. A CD used as collateral is not "cash" for this purpose and continues to be reservable.

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Miscellaneous

Q: Are the funds of the life insurance department which New York mutual savings banks are authorized to establish by Section 141 of the New York Banking Law and whose assets are kept segregated from the general bank's assets subject to reserve requirements?

A: No. Funds of the life insurance department, like funds of the trust department of a commercial bank, if kept segregated as life insurance funds, are not subject to reserve requirements.

Q: May a CD kept by the issuing institution as collateral for a loan be exempt from reserves as a cash collateral account if previously assigned to the institution?