

**FEDERAL RESERVE BANK
OF NEW YORK**

Circular No. 9157
October 2, 1981

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE
—Decisions at September 22 Meeting
—Additional ASC Questions and Answers

*To All Member Banks
in the Second Federal Reserve District:*

Enclosed are press releases issued by the Depository Institutions Deregulation Committee (a) announcing the decisions made at its September 22, 1981 meeting, and (b) containing the text of additional questions and answers on the All Savers Certificates.

Inquiries regarding the enclosures may be directed to our Consumer Affairs and Bank Regulations Department (Tel. No. 212-791-5914).

ANTHONY M. SOLOMON,
President.

~~DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE~~
Washington, D.C. 20220

PRESS RELEASE

September 30, 1981

Depository Institutions Deregulation Committee
September 22, 1981 Meeting

The Depository Institutions Deregulation Committee made decisions at its September 22, 1981 meeting on the following items.

o IRA/Keogh. Effective December 1, 1981, depository institutions will be able to issue a new deposit instrument available only when placed in an individual retirement account (IRA) or a Keogh plan. The major characteristics of this deposit category include: (1) a maturity of 1-1/2 years or more, (2) no interest rate restrictions, (3) no Federally required minimum denomination, (4) the normal early withdrawal penalty of 6 months interest, and (5) at the option of the institutions, additions may be permitted without extending the original maturity of the deposit. In addition, depository institutions will be permitted, but not required, to allow conversions from any existing IRA/Keogh account to any other IRA/Keogh account in the same institution without imposing an early withdrawal penalty. The Committee believes that these actions should help depository institutions compete for the large volume of retirement deposits that is expected as a result of Congressional action which expands the eligibility for IRA/Keogh accounts beginning January 1, 1982.

o Passbook Savings Rate Ceiling. Effective November 1, 1981, thrift institutions will be able to pay a maximum interest rate of 6 percent on passbook and statement savings accounts and commercial banks will be able to pay 5.75 percent on these accounts. This is a 50 basis point increase over the current ceilings of 5.50 and 5.25 percent for thrifts and commercial banks, respectively. This action does not affect NOW, ATS, other interest bearing transaction accounts, or any other deposit categories. The Committee will be seeking public comment on further adjustments to the passbook ceiling rate along with comments on the desirability of adjusting the ceiling rates on transaction and fixed ceiling time deposits.

o New Short-Term Deposit Category. The Committee will also consider, at the next meeting, several specific new short-term deposit categories to be developed by the staff and published for public comment.

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o MMC Rate Calculation. Effective November 1, 1981, depository institutions offering money market certificates (MMCs) will be permitted to pay up to the higher of the current ceiling rate (i.e. the average auction rate on six-month Treasury bills plus 25 basis points) or a 4-week moving average of past auction rates on the six-month Treasury bills plus 25 basis points. No changes affecting the imposition of the differential on the MMC were made.

o New Deregulation Schedule. The Committee also voted to publish for public comment a proposal to authorize a new schedule for the phaseout of all interest rate ceilings through the creation of new categories of time deposits. The first proposed new deposit instrument would become effective February 1, 1982, would have an initial maturity of 3-1/2 years or more, no interest rate ceiling, a minimum denomination of \$250 and other characteristics that would identify it as a new account. According to the proposed schedule the two other new accounts would become effective in 1984 and 1985. This action was necessary because of the recent U.S. District Court ruling which invalidated portions of the Committee's June 25, 1981 phaseout schedule.

o MMC and SSC Rates. Finally, the Committee voted to readopt the money market certificate (MMC) and small saver certificate (SSC) interest rate schedule originally adopted on May 28, 1980. This action was in response to a U.S. District Court ruling that indicated the DIDC had the authority to make the interest rate changes it adopted on May 28, 1980, but asked the Committee to solicit public comments on the changes and based on the comments to reconsider its May 1980 actions.

Chairman Regan announced that the next DIDC meeting is scheduled for Wednesday, December 16, at 3 o'clock in the Cash Room of the Main Treasury building at 15th Street and Pennsylvania Avenue.

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE
Washington, D.C. 20220

PRESS RELEASE

October 1, 1981

Subject: All Savers Certificates Questions and Answers -- Additions
and Revisions

In response to continuing questions about the All Savers Certificates, the staff of the DIDC member agencies are releasing additional questions and answers. The answers to two questions contained in the September release have been revised.

The following issues are addressed:

1. Payment of Interest Beyond Maturity
2. Weekend or Holiday Maturity
3. Treatment of Affiliates Filing a Consolidated Return
4. Payment of Finders and Brokers Fees
13. (September 21 Revision) Waiver of Service Charges
15. (September 21 Revision) Advertisement of Yield and Nominal Rate

For further information, please call the appropriate regulatory agency.

Press Inquiries: Mr. Robert Levine (202)566-5158.

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Questions & Answers

1. Q. The Committee's regulations (12 C.F.R. § 1204.102) state that an institution may provide in any time deposit contract that if the deposit or any portion thereof is withdrawn not more than seven days after a maturity date, interest may be paid thereon at the originally specified contract rate or some lower rate not less than the current rate paid on regular savings accounts by the institution. Does this rule also permit the payment of interest on ASCs for up to seven days after maturity if the deposit is withdrawn within seven days after maturity?

A. Yes. However, interest paid after maturity on an ASC under this rule may not be tax-exempt. The tax treatment of the additional interest is subject to IRS regulation.
2. Q. If an ASC matures on a weekend or holiday, may the institution treat the deposit as maturing on the next business day?

A. Yes. However, the additional interest may not be tax-exempt. Again, this is a question for the IRS.
3. Q. Section 128(d)(6) of the Internal Revenue Code concerning All Saver Certificates provides that all members of an affiliated group of corporations that file a consolidated return under Section 1504 of the Code shall be treated as one corporation for purposes of Section 128(d). May qualified residential financing extended by a nondepository institution subsidiary of a holding company be included in determining whether depository institution subsidiaries of the same holding company qualify to issue ASCs?

A. The history of Section 128(d)(6) indicates that it was the intent of this provision that all members of the same affiliated group of corporations (as defined in Section 1504) were to be aggregated for purposes of determining whether the members of the group that are depository institutions meet the qualified residential financing requirements. Therefore, extensions of qualified residential financing by nondepository institution subsidiaries (such as mortgage companies and consumer finance companies) of a holding company may be included with extensions of such financing by depository institution subsidiaries provided the affiliated group files a consolidated federal income tax return.

4. Q. May a depository institution pay finders fees for ASCs?
- A. The Committee's finders' fee regulation (12 C.F.R. §1204.110) requires that any fee paid by a depository institution to a person who introduces a 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. There is a limited exception to this rule for employee incentive plans established by depository institutions.

At the time the Committee adopted its finders' fee rule, it expressed some concern that the normal activities of legitimate, bona fide brokers not be unduly restricted by the operation of finders' fee rule. Although there had been some problems in the past as a result of certain improper practices between "brokers" and depository institutions, the Committee recognized the important role that bona fide brokers can play in soliciting and placing deposits for depository institutions. Furthermore, the Committee recognized that it was unlikely that bona fide brokers would pass a portion of their fee back to the depositor in an attempt to circumvent interest rate restrictions.

In one case, the Committee determined that the payment of a fee by a depository institution would not be regarded as a payment of interest if: (1) the fee is paid to a bona fide broker engaged in the business of soliciting, placing, and retaining deposits for depository institutions; (2) the relationships between the broker and depository institutions are memorialized in written agreements, copies of which are retained by the depository institutions and made available to examiners; (3) an officer of the broker certifies that no payment (which would include any payment in the form of cash, merchandise or services other than those services associated with placing deposits) is made directly or indirectly to the depositor; and (4) a copy of the certification is given to the depository institution and retained by the institution with the agreement to facilitate the examination process.

Accordingly, in cases where the above four limitations are met, fees paid to bona fide brokers are not to be regarded as a payment of interest or as increasing the yield on ASCs. Generally, a bona fide broker for purposes of this interpretation would include any person principally engaged in the business of acting as a broker or dealer with respect to deposits, securities or money market instruments (such as bankers acceptances, deposits and commercial paper). It should be noted, however, that the Federal Home Loan Bank Board restricts the amount of the finders' fee that may be paid by a federally chartered or federally insured savings and loan association to 2 percent of the amount of the deposit.

The following are corrections to questions and answers released on September 21:

13. Waiver of Service Charges. The last sentence of the answer to question 13 in the September 21 Press and questions and answers release should read "If an institution waives service charges in an amount exceeding these limits, the interest on the ASC could lose its tax-exempt status." In responding to this question, it was not the Committee's intent to speak definitively for the Internal Revenue Service. Further questions on this issue should be directed to the depository institution's counsel or to the IRS.

15. Advertisement of Yield and Nominal Rate. The answer to question 15 in the September 21 release should read "Yes, as required by current regulations of the FDIC, FHLBB, and Federal Reserve." Delete the remainder of the answer. Upon further review of this question it was determined that current regulations of the FDIC, FHLBB, and Federal Reserve concerning advertisements or solicitations for deposits are sufficient to provide adequate information to depositors.