FEDERAL RESERVE BANK OF NEW YORK

[Circular No. **9177**
October 30, 1981]

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

Recent Rulings Regarding Interest Rate Ceilings

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

Following is the text of a statement issued October 26 by the Depository Institutions Deregulation Committee:

Passbook Savings Increase Postponed. The Depository Institutions Deregulation Committee (DIDC) voted on Monday, October 19, 1981 to postpone indefinitely the one-half of one percentage point increase in the nontransaction savings rate ceiling that was scheduled to become effective on November 1, 1981. Accordingly, the maximum rates payable on passbook and statement savings accounts will remain at 5.50 percent for thrift institutions and at 5.25 percent for commercial banks. Although the Committee will consider this issue again at its December meeting, no decision has been made on whether further action will be taken at that time.

IRA/Keogh. A final rule creating a new IRA/Keogh account category also was issued today by the DIDC. The new account has a minimum maturity of 1½ years and no regulated interest rate ceiling. This means that depository institutions may provide instruments with fixed or floating interest rates. Additional deposits during the term of the account will not require extending its maturity. In addition, any depository institution may waive its mandatory early withdrawal penalties for transfers within the same institution from existing IRA/Keogh deposits to the new IRA/Keogh account category.

The new IRA/Keogh account category becomes effective on December 1, 1981, but it does *not* change the current eligibility requirements or contribution limits for IRAs or Keoghs contained in the Internal Revenue Code. The extended eligibility changes enacted by the Economic Recovery Tax Act of 1981 do not become effective until January 1, 1982. Any questions concerning the income tax treatment of an IRA/Keogh account or the fiduciary responsibilities connected with these accounts should be directed to the Internal Revenue Service (202-566-4576).

MMC/SSC Ceiling Rates. The DIDC issued final rules concerning the maximum interest rates payable on 26-week money market certificates (MMCs) and the 2½ to 4 year small savers certificates (SSCs). These final rules reaffirm the DIDC rules that were adopted on May 28, 1980 and subsequently were amended to remove the interest rate caps and to change the dates that the MMC and SSC rates become effective. Pursuant to a Federal District Court order, these amended rules were published for public comment. Having remained in force during the comment period, the current rules were adopted in final form at the September 22, 1981 DIDC meeting without change.

MMC Ceiling – Optional Four Auction Average. In a separate action, the DIDC also adopted rules at its September 22 meeting that would permit the use of a four-week average of 26-week U.S. Treasury bills in calculating the maximum interest rates payable on MMCs issued by thrift institutions and commercial banks. Current rules limit the MMC maximum rate to the Treasury bill discount rate plus one-quarter of one percentage point. The new rules would set the current ceiling rate at the higher of (a) the most recent auction discount rate plus 25 basis points, or (b) an average of the discount rates for the four auctions immediately prior to the date of the deposit, plus 25 basis points. The Committee believes that the alternative methods of calculating the maximum rate will enable banks and thrift institutions to be more competitive with money market mutual funds throughout an

(OVER)

interest rate cycle, and especially during a declining rate environment when money market funds traditionally have been able to pay more than the money market certificates. This new rule becomes effective on Sunday, November 1, 1981.

For further information about MMC or SSC rates please call 202-566-3734. Questions about the DIDC rules should be directed to the appropriate depository institution regulatory agency.

Enclosed — for member banks in this District — are official notices from the DIDC containing its final rules. They will be published in the *Federal Register*, and copies will be furnished upon request directed to our Circulars Division.

Questions on these matters may be directed to our Consumer Affairs and Bank Regulations Department (Tel. No. 212-791-5914). In addition, interest rate ceilings for MMCs and SSCs are available on a telephone tape recorded message (Tel. No. 212-791-6800).

ANTHONY M. SOLOMON,
President.

DIDC RULINGS

1. Postponement of passbook ceiling rate increase
2. Establishment of new IRA/Keogh time deposit category
3. Adoption of MMC and SSC ceiling rates
4. Permission for optional method for calculating MMC maximum rate

[Enc. Cir. No. 9177]

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0021]

Adjustment of Interest Rates on Savings Accounts

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Postponement of Effective Date of Final Rule.

SUMMARY: The Depository Institutions Deregulation Committee ("the Committee) has postponed indefinitely the effective date of a final rule that would have increased by 50 basis points the ceiling rate of interest payable on nontransaction savings deposits on November 1, 1981. Accordingly, depository institutions will continue to be subject to existing rules: commercial banks are permitted to pay interest on savings deposits at a rate of 5-1/4 percent, and savings and loan associations and mutual savings banks are permitted to pay 5-1/2 percent on such accounts. None of the other rules of the Committee are affected by this action.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT: Allan Schott, Attorney-Advisor, or Elaine Boutilier, Attorney-Advisor, Department of the Treasury (202) 566-6798 or 566-8737; Daniel L. Rhoads, Attorney, Board of Governors of the Federal Reserve System (202) 452-3711; Rebecca H. Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202) 377-6446; David Ansell, Attorney, Office of the Comptroller of the Currency (202) 447-1880; Randall J. Miller, Acting Director, Office of Policy Analysis, National Credit Union Administration (202) 357-1090; and F. Douglas Birdzell, Counsel, or Kathy A. Johnson, Attorney, Federal Deposit Insurance Corporation (202) 389-4324 or 389-4384.

SUPPLEMENTARY INFORMATION: At its meeting on September 22, 1981, the Committee adopted a final rule to increase by 50 basis points the maximum interest rates payable on nontransaction savings deposits 1/ to be effective November 1, 1981

1/ The final rule defined transaction savings accounts as those savings accounts subject to transaction account reserve requirements under the Federal Reserve's Regulation D (12 CFR 204.2(e)). Such accounts include: all negotiable order of withdrawal accounts (NOWs); all credit union share draft accounts (CUSDs); all savings accounts subject to automatic transfers (ATS); savings accounts that permit more than three transfers per month through telephone transfers (TTS) or pre-authorized nonnegotiable transfers (PNTS); and all savings accounts that permit payment to third parties by means of an automated teller machine (ATM), remove service unit (RSU), or other electronic device. Nontransaction savings accounts would then be defined as all savings accounts with the exception of those mentioned above. It should be noted that the National Credit Union Administration Board has sole authority to set interest rate ceilings on deposits at Federally chartered credit unions.

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE
12 CFR Part 1204
[Docket No. D-0024]
New IRA/Keogh Time Deposits

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee (the "Committee") has adopted a final rule which establishes a new IRA/Keogh time deposit category. The new deposit category has a minimum maturity of 1-1/2 years and no regulated interest rate ceiling. Accounts established under the new category may be structured to permit additions at any time without extending the maturity of the funds in the account. In addition, the Committee has determined that depository institutions, at their discretion, may waive the mandatory early withdrawal penalty governing time deposit accounts for transfers within the same institution from any IRA/Keogh time deposit in existence on or prior to December 1, 1981 to the new IRA/Keogh deposit category.

EFFECTIVE DATE: December 1, 1981

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389-4324), Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3281), Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798), Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6466), Mark Leemon, Attorney, Office of the Comptroller of the Currency (202/447-1880) or Randall J. Miller, Acting Director, Office of Policy Analysis, National Credit Union Administration (202/357-1090). For IRA/Keogh tax information: Internal Revenue Service (202/566-4576).

SUPPLEMENTARY INFORMATION: At its December 12, 1980 meeting the Committee requested comments on five proposals concerning IRA/Keogh accounts. The first proposal was to reduce the maturity on the special IRA/Keogh time deposit from three years to one. The second and third proposals were to establish one-year IRA/Keogh notice accounts. The fourth proposal presented several options for increasing, revising, or eliminating IRA/Keogh interest rate ceilings. The fifth proposal was to establish an IRA/Keogh time deposit with a minimum required maturity or notice period of 14 days and no regulated ceiling rate.

In seeking comments on these proposals, the Committee cited three basic objectives. The first objective was to reduce the complexities associated with the administration of IRA/Keogh accounts under current agency regulations, especially with regard to additional deposits to the accounts. The second was to help fulfill the Congressional intent of the Employee Retirement Income Security Act of 1974 (ERISA) to encourage qualified individuals to save for their retirement. The third objective was to proceed with the Committee's mandate to provide for the orderly (see 46 Federal Register 50782 (October 15, 1981)). This action was taken after public notice and consideration of public comments submitted in response to the notice. The Committee believed that this action would help stem the outflow of funds from such accounts and further the intent of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. § 3501 et. seq.) to provide increased rates of return to savers.

On the basis of preliminary information since its last meeting, the Committee has determined that the likely benefits to depositors now appear to be outweighed by the probable adverse effects (in terms of increased costs) to the depository institutions. Accordingly, on October 19, 1981, the Committee voted to postpone indefinitely the effective date of its final rule that would have increased the ceiling rates on nontransaction savings accounts. Although the Committee will discuss this issue again at its December meeting, no decision has been made on whether further action will be taken at that time.

The existing interest rate ceilings on deposits will continue to apply to Federally insured depository institutions. Under these rules, commercial banks may pay up to 5-1/4 percent on all savings accounts (both transaction and nontransaction accounts) and thrifts may pay up to 5-1/2 percent on all such accounts. The interest rate ceiling for NOW accounts at all institutions also will remain at 5-1/4 percent. No other actions taken by the Committee at the September 22 meeting are affected by the postponement of the savings ceiling rate rule.

Immediate postponement of the effective date of the nontransaction savings account ceiling rate rule is necessary to assure that depository institutions will have this information in a timely manner. The Committee finds for good cause that the notice and public procedure provisions of 5 U.S.C. §553 with regard to this action are impracticable and contrary to the public interest and that the deferred effective date provision of 5 U.S.C. §553 would be inconsistent with this action. In view of the Committee's findings, sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. §§ 603 and 604) are not applicable. Furthermore, because of the nature of this action, the Committee finds that good cause exists under section 1201.6(e) of the Committee's regulations for making this action effective less than 30 days from the date of publication in the Federal Register.

Pursuant to its authority under section 203(a) of the Depository Institutions Deregulation Act of 1980 (Title II of P.L. 96-221; 12 U.S.C. §3502(a)), the Committee hereby postpones the effective date of section 117 of it rules, 12 C.F.R. §1204.117, until further notice.

By order of the Committee, October 23, 1981.

Steven L. Skancke

Steven L. Skancke
Executive Secretary

phaseout and ultimate elimination of deposit ceilings. In this regard, the Committee viewed IRA/Keogh accounts as appropriate vehicles for deregulation because of their stability and because they accounted for a small proportion (less than 3%) of total time and savings deposits.

Summary of Public Comments

A total of 366 comments were received representing 153 commercial banks, 138 savings and loan associations, 26 mutual savings banks, 15 credit unions, 15 trade associations, 2 government regulators, 7 Federal Reserve Banks, and 10 other groups or individuals.

The respondents' views on the Committee's proposals to reduce the maturity on the special IRA/Keogh account from three years to one were evenly divided within all classes of institutions except for mutual savings banks which were generally opposed. The 124 respondents favoring this option generally cited its greater flexibility and its compatibility with the ERISA provision for a rollover of IRA/Keogh accounts once per year with no tax penalty. The 135 respondents opposed to this option indicated that it would tend to increase deposit volatility and increase administrative complexities.

Most respondents addressed the two notice account proposals together. All types of depository institutions expressed similar views on these options. Considering the comments on the two options together, a majority of commenters opposed one-year notice accounts. However, many commenters, whether supporting or opposing notice accounts, expressed the view that it would be desirable to permit additions to IRA/Keogh accounts without extending the maturity of the account.

With respect to the proposals to increase, revise, or eliminate the ceiling rates governing IRA/Keogh accounts, about three-fifths of the 333 respondents expressed a preference for floating rate ceilings indexed to U.S. Treasury security yields. However, there was a diversity of opinion as to which Treasury security yield would be an appropriate index, and at what frequency (weekly, monthly, quarterly, etc.) this ceiling rate should change. There was also support, particularly among commercial banks and credit unions, for elimination of all interest rate ceilings on retirement accounts. On the other hand, less than one-tenth of those responding preferred a higher fixed ceiling rate.

A majority of the respondents opposed a ceiling-free, minimum 14-day IRA/Keogh account. Those favoring the option stressed its flexibility and the ability it would provide depository institutions to compete effectively against nondepository institutions. Others noted that it would provide valuable experience in operating in a deregulated environment. The respondents that were opposed cited increased deposit volatility and higher deposit costs as their primary concerns. Many also questioned the logic of authorizing an account with a 14-day minimum maturity to accumulate traditionally long-term funds.

Subsequent DIDC Action

At its June 25, 1981 meeting, the Committee considered the five proposals and several ancillary issues which had been issued for comment. However, the Committee elected to defer action on these issues pending anticipated Congressional revisions to the law governing IRA/Keogh accounts.

On August 13, 1981, the President signed the Economic Recovery Tax Act of 1981 which amended the laws governing IRA/Keogh accounts. In general, these amendments expand the eligibility of IRA accounts to individuals already covered by some form of employer sponsored retirement plan and increase the allowable annual contribution limits for both IRA and Keogh accounts. It is estimated that these revisions will increase the number of taxpayers eligible for IRAs and Keogh plans by about 48 million.

At its June meeting, the Committee also reviewed the public comments and concluded that the areas of concern could be narrowed to two: (1) providing institutions with the ability to accept additions without extending the maturity of IRA/Keogh accounts and (2) allowing for variable rates on such accounts in order to provide depositors with a market return on funds invested.

In light of the public comments on its proposals, the Committee, on September 22, 1981, approved a final rule establishing a new time deposit category available only to IRA/Keogh account holders. This new rule is effective on December 1, 1981. The new IRA/Keogh category provides for a minimum maturity of 1-1/2 years and no regulated interest rate ceiling. The new account may accept additional deposits at any time without extending the maturity of any or all of the funds in the account. The Committee also ruled that mandatory early withdrawal penalties may be waived for transfers within the same institution from any IRA/Keogh account in existence on or prior to December 1, 1981 to the new IRA/Keogh account category. Depository institutions are given the discretion to permit such penalty-free transfers. During its deliberations, the Committee stated that the existing early withdrawal penalty provisions governing certificates with maturities greater than one year would apply to the new IRA/Keogh deposit category. In addition, the existing, permissive DIDC exceptions to the early withdrawal penalty for IRA/Keogh depositors who are 59-1/2 or older, or disabled, apply to the new deposit category.

The minimum early withdrawal penalty for a floating rate time deposit (the interest rate for which varies during the term of the deposit) with a maturity of more than one year is an amount equal to six months' simple interest. If a depository institution ties the interest rate on its new IRA/Keogh account to an index that is beyond its control (e.g., Treasury security rate, commercial paper rate, Federal funds rate, Federal Reserve discount rate, etc.) for the entire term of the deposit, the institution may base the simple interest rate, for purposes of calculating the minimum early withdrawal penalty, on the rate in effect on the date the account is opened or on the date of withdrawal, or on an average of the rates in effect during the term of the deposit, as described below. At the time the account is opened, however, the institution must specify whether it will use the initial interest rate, the rate on the date of withdrawal or the average rate. For example, if the rate on the account is set at the twenty-six week Treasury bill discount rate plus 100 basis points and it changes weekly with the most recent auction results, the early withdrawal penalty rate could be the discount rate (plus 100 basis points) in effect on the date the account was opened or the date of the withdrawal, or an average of all the rates in effect during the term of the deposit, but whichever is used must be specified in the deposit agreement.

If the depository institution chooses not to tie the interest rate on its new IRA/Keogh account to an index, but instead chooses to set the precise way in which the rate varies over the term of the deposit, or if it changes the relationship of the IRA/Keogh rate to the index (e.g., the commercial paper rate minus 50 basis points for the first six months of the instrument and the commercial paper rate at minus 100 basis points thereafter), then the early withdrawal penalty must be computed using an average of the simple interest rates on the deposit during the time period that the deposit was outstanding. If the interest rate is established at regular intervals and remains in effect for regular periods (e.g., the rate is established once a month and remains in effect for one month), the average simple interest rate would be the sum of the rates established at each interval while the funds were on deposit, divided by the number of periods the funds were on deposit. Each partial period will be considered a full period for the purpose of this calculation. For example, if a 1-1/2 year time deposit with an interest rate that varies monthly was established on December 15, 1981, and withdrawn on February 7, 1982, the average simple interest rate would be the sum of the December, January, and February rates, divided by three.

If the length of the periods for which rates are effective varies, the average simple interest rate would be arrived at by dividing the amount of time a deposit was outstanding into equal periods and then adding the rates that were in effect during those periods and dividing by the number of periods. The period used should be the shortest period for which a rate was in effect. For example, a time deposit might have the following rates in effect for the following periods at the time a depositor wished to withdraw his/her funds.

six months............15%
1-1/2 years...........16%
2 years...............14%

The total amount of time the deposit was outstanding was 3 years (6 months + 1-1/2 years + 1 year). This 3 year period would then be divided into 6 periods of 6 months each. Then the rates in effect for each period would be:

1st six month period..............15%
2nd six month period..............16%
3rd six month period..............16%
4th six month period..............16%
5th six month period..............14%
6th six month period..............14%

To arrive at the average simple interest rate, the rate in effect during each period would be added together -- 15 + 16 + 16 + 16 + 14 + 14 = 91. The resulting sum would then be divided by the number of periods -- 91 ÷ 6 -- to yield an average simple interest rate of 15.17%.

In the case of lump-sum payments of cash that would be regarded as interest under 12 C.F.R. 1204.108, such payments must be taken into account in computing the penalty rate. Any lump-sum payment must be prorated over the life of the deposit. The portion that is attributed to the time period during which the deposit was outstanding must be regarded as interest for purposes of computing the penalty rate. The portion attributable to the remaining life of the deposit is regarded as unearned interest and must be deducted from the principal amount of the deposit and returned to the member bank. (Note: Individuals and institutions should consult the Internal Revenue Service concerning permissable transactions involving IRA/Keogh accounts.)

For example, assume that cash of $100 that would be regarded as interest were given to a depositor at the opening of a $1,000, 4-year variable rate time deposit, that the entire amount is withdrawn after one year, and that the average of the rates paid on the deposit during the time it was outstanding was 12 percent. The lump-sum of $100 would be regarded by the DIDC as a payment of interest and must be taken into account in computing the penalty rate. Since the deposit was outstanding for one-fourth of its expected life, a corresponding amount of the lump-sum must be taken into account in computing the penalty rate. Thus, 2.5 percent (25 divided by 1,000) must be added to the average of the rates paid during the time the deposit was outstanding (12 percent) to achieve a penalty rate of 14.5 percent. The remaining three-fourths of the lump-sum payment ($75) would be regarded as unearned interest and would be returned to the member bank. Thus the amount that the customer would return would be $147.50.

The new rule provides greater flexibility in designing IRA/Keogh accounts. Under the new rule, depository institutions will be permitted to accept additions to a 1-1/2 year or more IRA/Keogh account governed by whatever interest rate structure -- fixed or floating -- they would choose, provided that the method of varying the interest rate is adequately disclosed in the contract. The Committee believes this could lead to more attractive overall rates and other terms on retirement accounts and thus encourage their use.

The new rule does not alter the income tax treatment of IRA/Keogh accounts or the fiduciary responsibilities of IRA/Keogh fiduciaries under Title I of ERISA.

The Committee considered the impact of its final ruling on small entities, as required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In this regard, the Committee's action does not impose any new regulatory burden, or impose any new reporting or recordkeeping requirements. Rather, this action eliminates regulatory restrictions on the maximum interest rate payable on IRA/Keogh accounts. Small entities that are depository institutions could have increased operating expenses as a result of this action, because it is likely they will be paying higher interest rates on IRA/Keogh deposits; however, their competitive position vis-a-vis nondepository institution competitors should be enhanced by their ability to offer higher rates on IRA/Keogh deposits. Furthermore, this action reduces an administrative burden which has been associated with IRA/Keogh deposits by permitting periodic additions to the accounts without a maturity extension.

For the reasons set out in the preamble, Part 1204, Chapter XII of Title 12 Code of Federal Regulations, is amended as set forth below.

1. The authority citation for Part 1204 reads as follows: AUTHORITY: Secs. 203, 204, and 205, Title II, Pub. L. 96-221, 94 Stat. 142 and 143 (12 U.S.C. 3502, 3503, and 3504).

2. In Part 1204, a new section 1204.118 is added to read as follows:

Section 1204.118 Individual Retirement Accounts and Keogh (H.R. 10) Plan Deposits of less than $100,000.

(a) A commercial bank, mutual savings bank or savings and loan association may pay interest at any rate as agreed to by the depositor on any time deposit with a maturity of one and one-half years or more, that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 219, 401, 404, 408 and related provisions. An institution may permit additional deposits to be made to such a time deposit at any time prior to its maturity without extending the maturity of all or a portion of the entire balance in the account.

(b) The early withdrawal penalty required to be imposed for the premature withdrawal of time deposits may be waived at the discretion of the institution when funds are transferred within the same institution from an Individual Retirement Account or Keogh Plan Account which was entered into prior to December 1, 1981 to a time deposit described in Paragraph (a).

By order of the Committee, October 23, 1981.

Steven L. Skancke
Executive Secretary

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 C.F.R. Part 1204

[Docket No. D-0008]

Interest Rate Ceilings on Money Market Certificates (MMCs)
and Small Savers Certificates (SSCs)

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Retention of certain rules adopted on May 28, 1980.

SUMMARY: Pursuant to a recently issued Federal District Court order,[1/] the Depository Institutions Deregulation Committee ("Committee") has reconsidered certain final rules it adopted on May 28, 1980. These rules concern the ceiling rates of interest payable on the 26-week money market certificate (MMC) and on the 2-1/2 year to 4 year small savers certificate (SSC). Upon reconsideration, the Committee has decided to retain the ceiling rates established in its May 28, 1980 rules, as subsequently amended. Under the rules adopted, the ceiling rate of interest payable on the MMC by all federally insured commercial banks, mutual savings banks, and savings and loan associations was at least one quarter of one per cent above the rate established for 26-week United States Treasury bills and in no event would the ceiling rate drop below 7-3/4 per cent. The ceiling rate of interest payable by all institutions on the SSC was increased by one-half of one per cent and in no event would the ceiling rate drop below 9.25 per cent for commercial banks and 9.50 per cent for mutual savings banks and savings and loan associations. Upon reconsideration, the Committee has decided to retain the ceiling rates established in its May 28, 1980 rules.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: For recorded information regarding current interest rate ceilings on MMCs, SSCs, and All Savers Certificates (ASCs), please call 202/566-3734. For other information, please contact: Allan Schott, Attorney-Advisor, Department of the Treasury (202/566-6798); Anthony S. Winer, Attorney, Board of Governors of the Federal Reserve System (202/452-2418); Rebecca H. Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446); Holly Malloy, Attorney, Office of the Comptroller of the Currency (202/447-1880); or F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389-4324).

1/ U.S. League of Sav. Ass'ns v. DIDC, Civ. Action No. 80-1486 (D.D.C. June 30, 1981).

SUPPLEMENTARY INFORMATION: On June 30, 1981, the United States District Court for the District of Columbia ordered the Committee to reconsider certain rules it adopted on May 28, 1980, and to provide notice and opportunity for public comment concerning the rules. The Committee had not published the rules for public comment prior to their adoption, and the Court determined that the Committee was required to provide notice and opportunity for public comment in this particular case. Accordingly, the Committee solicited public comment on these rules on August 13, 1981 (46 Federal Register 40892). Upon considering all comments received and the economic basis for the May 28, 1980 rules, the Committee has decided that the ceiling rates of interest issued on that date for MMCs and SSCs should be retained.

One of the rules adopted by the Committee established a new MMC ceiling rate for all institutions that was at least 25 basis points above the rate established (auction average on a discount basis) for 26-week Treasury bills issued on or immediately prior to the date of deposit. The rule also established a minimum ceiling rate of 7-3/4 per cent which all institutions were authorized to pay regardless of the Treasury bill rate. The rule provided that when the Treasury bill rate is 8-3/4 per cent or higher, both commercial banks and thrift institutions could pay interest at a ceiling rate of 25 basis points above the bill rate. A differential of up to 25 basis points on the ceiling rate payable by commercial banks and thrift institutions was retained only where the Treasury bill rate was more than 7-1/4 per cent, but less than 8-3/4 per cent.

The other rule adopted by the Committee established new SSC ceiling rates for all institutions that generally were 50 basis points higher than the previous ceiling rates. The rules also established minimum ceiling rates of 9-1/4 per cent for commercial banks and 9-1/2 per cent for thrift institutions, regardless of the average 2-1/2 year Treasury rate.

The Committee has determined that many of the considerations regarding the competitive position of depository institutions that were instrumental in its decision to issue the May 1980 rules are also of significant concern in the current competitive environment. The Committee's May 1980 action to increase the ceiling rates on MMCs and SSCs was taken to improve the competitive position of depository institutions relative to market instruments, primarily money market mutual funds (MMMFs). If the Committee were to revert to the lower level of ceiling rates in effect prior to May 1980, the attractiveness of small time deposits at commercial banks and thrifts could be reduced significantly.

The Treasury bill rate range over which thrifts have a differential on MMCs was narrowed in May 1980, for the purpose of preventing deposit attrition at small commercial banks. Given the declining rate environment that existed at the time, the Committee faced the prospect that a differential would reemerge for a substantial period. If this were to occur, small commercial banks, which had become increasingly dependent upon MMCs as a source of funds, could have faced substantial deposit attrition and subsequent pressure on their ability to extend credit. Thus, the ultimate impact of a sustained differential could have been higher loan rates and reduced credit availability to mortgage borrowers, agriculture, and small businesses, the customers highly dependent on small commercial banks. The Committee believes that the reemergence of a differential for a sustained period could result in deposit attrition and reduced credit availability to the customers of small commercial banks, and that the small corresponding benefit to thrift institutions may not be sufficient to outweigh the detriment to small commercial banks.

The Committee received 14 responses to its request for public comment on this issue: 10 from commercial banks and two each from savings and loan associations and trade associations. Three respondents (all commercial banks) fully supported the Committee's action while the other 11 respondents favored some type of adjustment in the ceiling rate schedules. Among the commercial banks favoring a rate adjustment, six requested that the thrift differential be eliminated and one requested that the minimum ceilings on MMCs and SSCs be eliminated. The two savings and loan associations and the two trade associations commenting on the ceiling rate schedules requested that the Committee restore the thrift differential on MMCs at all interest rate levels and remove the minimum ceilings on both MMCs and SSCs. In addition, one trade association requested that the 12 per cent cap on SSCs at thrifts and the 11-3/4 per cent cap at commercial banks be reinstated.

In light of the continued importance of the competitive considerations on which the May 28, 1980 rules were grounded, the Committee has decided to retain the MMC and SSC interest rate ceilings issued on that date. Since the Committee's action does not institute a change in the current effect of the rules involved, deferral of the effective date pursuant to 5 U.S.C. § 553(d) is not necessary. Furthermore, because of the public nature of the meeting where the rule was adopted, the press release issued following that meeting, and publication in the media of the Committee's action, adequate notice of the action has been given to the public. Accordingly, the Committee finds that good cause exists under Section 1201.6 of the DIDC's regulations for making the effective date less than 30 days from date of publication in the Federal Register.

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 September 22, 1981, the Committee confirms the continued application of sections 104 and 106 of Part 1204--Interest on Deposits (12 C.F.R. §§ 1204.104, 1204.106) so as to reflect the SSC and MMC ceiling rates issued on May 28, 1980, and as subsequently amended.

By order of the Committee,

Steven L. Skancke 10/19/81

Steven L. Skancke
Executive Secretary

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0021]

Ceiling Rates for 26-Week Money Market Certificates

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Amendment of Final Rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has amended its rule relating to the establishment of interest rate ceilings for $10,000 minimum denomination 26-week money market certificates ("MMCs") (12 CFR 1204.104). Under the amended rule, the interest rate ceilings on MMCs will be indexed to the higher of (a) the rate for 26-week U.S. Treasury bills established immediately prior to the date of deposit or (b) the average of the rates for 26-week Treasury bills for the four weeks immediately prior to the date of deposit.

EFFECTIVE DATE: November 1, 1981.

FOR FURTHER INFORMATION CONTACT: For recorded information regarding current interest rate ceilings on MMCs, Small Saver Certificates ("SSCs"), and All Saver Certificates ("ASCs"), please call (202/566-3734). For other information, please call: Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798); John Harry Jorgenson, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3778); F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389-4324); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446); or David Ansell, Attorney, Office of the Comptroller of the Currency (202/447-1880).

SUPPLEMENTARY INFORMATION: Under the regulations of the Committee in effect prior to this amendment, the maximum interest rate that could be paid on MMCs by Federally insured depository institutions was indexed to the rate (auction average on a discount basis) for 26-week U.S. Treasury bills established immediately prior to the date of the deposit ("Bill rate"). Such bills normally are auctioned on Monday, and the interest rate ceiling based on the Bill rate was effective the following day (12 CFR 1204.104). This ceiling rate is effective through the end of the day on which 26-week U.S. Treasury bills are next auctioned.

Under the Committee's amended rule, depository institutions have the option of offering MMCs with a fixed interest rate ceiling indexed to the higher of either (1) the rate for 26-week U.S. Treasury bills established and announced under the existing procedure ("single bill rate") or (2) a moving average of the rate established for 26-week

U.S. Treasury bills at the auctions held during the four weeks immediately prior to the date of deposit (average Bill rate). The average Bill rate for the four week period will be determined weekly by averaging the Bill rates for the past four weeks (including the current single Bill rate). Depository institutions will not have to calculate the average Bill rate since it will be announced simultaneously with the current Bill rate for 26-week U.S. Treasury bills. The ceiling on MMCs will be the higher of these two rates.

On July 9, 1981, the Committee issued for public comment proposed rules that would permit depository institutions to offer MMCs with a fixed interest rate ceiling indexed to the higher of (1) the rate for 26-week U.S. Treasury bills established and announced under the existing procedure or (2) a moving average of the rate established for 26-week U.S. Treasury bills at the auctions held during the eight weeks immediately prior to the date of deposit. The Committee specifically requested comment on the period of time on which to base the average (46 FR 36712 (1981)). The Committee received 553 comments from depository institutions, individuals, trade associations, and nondepository parties on this proposal. Comments in opposition generally criticized the eight-week period as being too long, and commentators stating a preference generally suggested a four week average. Commentators opposing the proposal in any form generally believed that the proposal, if adopted, would increase costs while providing only marginal benefits and would confuse consumers by establishing an additional rate ceiling to be monitored. Many commentators stated that the proposal, if adopted, would assist depository institutions in retaining MMC deposits in periods of declining rates.

After considering all the comments, the Committee decided at its meeting on September 22, 1981, to adopt the proposal but to use a four-week average rather than an eight-week average. The Committee believes that the alternative methods of calculating MMC interest ceilings will enable banks and thrift institutions to be more competitive with money market mutual funds ("MMMFs") throughout an interest rate cycle. The most rapid periods of MMMF growth generally have occurred in declining rate environments when the existing assets in MMMF portfolios allow them to offer yields that are frequently more attractive than contemporary MMC ceiling rates. With the alternative methods of calculating the MMC rate ceiling, however, depository institutions will have the option of basing their MMC rate on an average of past Treasury bill rates, and thus offer yields more competitive with MMMFs during periods of declining rates. In an environment of rising rates, depository institutions generally have an advantage since they are offering current market rates while existing MMMF assets lock them into lower yields for a short period of time. Since commercial banks and thrift institutions will have the option of indexing MMC rate ceilings to the current Treasury bill rate, they would retain this yield advantage during periods of rising rates. Since this amendment is simply a modification of an existing instrument, the Committee expects the shifting of deposits to be minimal.

Pursuant to its authority under the Depository Institutions Deregulation Act (12 U.S.C. § 3501, et seq.), the Committee amends section 1204.104 (26 Week Money Market Time Deposits of less than $100,000) of Part 1204--Interest on Deposits (12 CFR § 1204.104) to read as follows:

Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks at a rate not to exceed the higher of either (1) the rates set forth below or (2) the average of the rates below for the four weeks immediately prior to the date of deposit.

Rate established and announced (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks at the auction held immediately prior to the date of deposit ("Bill Rate")	Maximum per cent
Commercial Banks	
7.50 per cent or below	7.75
Above 7.50 per cent	Bill Rate plus one-quarter of one per cent
Mutual Savings Banks and Savings and Loan Associations	
7.25 per cent or below	7.75
Above 7.25 per cent, but below 8.50 per cent	Bill Rate plus one-half of one per cent
8.50 per cent, but below 8.75 per cent	9
8.75 per cent or above	Bill Rate plus one-quarter of one per cent

By order of the Committee,

Steven L. Skancke 10/19/81

Steven L. Skancke
Executive Secretary