

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 9197]
November 27, 1981

INTERNATIONAL BANKING FACILITIES
Second Series of Questions and Answers

*To All Depository Institutions in the Second
Federal Reserve District, and Others Concerned:*

Printed on the following pages is the second series of questions and answers regarding the amendments to Regulations D and Q that permit establishment of International Banking Facilities ("IBFs"). These questions and answers were prepared by the staff of the Federal Reserve Bank of New York, in consultation with the staff of the Board of Governors of the Federal Reserve System.

Question 30 in the first series refers to a pending proposal which would amend the Regulation Q definition of IBF time deposit to conform to the definition in Regulation D. The proposal was adopted on October 30 and accordingly, for purposes of Regulation Q, a placement by the foreign office of a bank with an IBF may be referred to as an IBF time deposit, rather than as a borrowing.

Question 11 refers to a proposed interpretation concerning export and import transactions. The Board staff recently issued that interpretation (S-2451) and it is printed on the following page.

Additional questions regarding this material or other matters relating to IBFs should be directed to the following:

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ANTHONY M. SOLOMON,
President.



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

S-2451

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 9, 1981

Beginning December 3, 1981, international banking facilities (IBFs) will be permitted under Regulations D and Q (12 CFR Parts 204 and 217) to extend credit to a non-United States resident or to a foreign affiliate of a domestic corporation "provided that the funds are used only to finance the operations outside the United States of the borrower or its affiliates located outside the United States." Numerous inquiries have been received as to the meaning of the phrase "to finance the operations outside the United States." The purpose of this letter is to clarify some of the issues that have arisen in connection with this phrase.

An IBF will be permitted to extend credit to a foreign resident if the proceeds are to be used by the borrower to purchase goods and services for use in its non-U.S. operations, regardless of where the payment for such goods and services is made. The determining factor as to whether IBF credit is being used to finance operations outside the U.S. is where the goods and services ultimately will be used rather than to whom the funds will be paid. Accordingly, an IBF would be permitted, for example, to extend credit to a foreign corporation to finance the purchase of machinery and equipment from a U.S. manufacturer for use outside the United States, even if the loan proceeds are paid directly to the U.S. manufacturer.

An additional issue on which the staff has received questions involves a foreign resident's international transportation and communication operations in which the United States is an end-point. For example, questions have been raised whether the business of a foreign-based airline flying from foreign cities to points in the U.S. would be regarded as "operations outside the United States." The staff believes that such operations should be considered as "operations outside the United States." Thus, an IBF could extend credit to a foreign airline to purchase an airliner that will be used exclusively in flights from a foreign country to points in the U.S. and return or between points in other foreign countries.

Very truly yours,

A handwritten signature in cursive script that reads "William W. Wiles".

William W. Wiles
Secretary

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS
AND OFFICERS IN CHARGE OF BRANCHES

IBF Questions and Answers

- 35.Q. Can an institution transfer an existing deposit on its books to its IBF without giving the IBF notice requirement?
- 35.A. No, it is necessary to give the notice to, and obtain the acknowledgment, if required, from a customer at the time the deposit is shifted. Notice need be given to and the relevant acknowledgment obtained from an IBF customer only one time. This answer clarifies the answer to question 9 of the first series dated October 27, 1981.
- 36.Q. (a) The answer to question 9 of the first series dated October 27, 1981, implies that with respect to deposits transferred to the IBF, both written notice of the Board's policy concerning IBF deposits and subsequent contact to determine the use of funds is required.
- (b) With respect to assets transferred to the IBF during the four reserve computation weeks after establishment of the IBF, answer 9 implies that, although written notice to the customer is not required, contact with the customer is required.

Is that the intent of the answer?

- 36.A. (a) With respect to deposits transferred, only the written notice of the Board's policy must be given and the acknowledgment obtained, if required. No subsequent contact to determine the use of funds is required.
- (b) Although the "use of proceeds" test applies to loans transferred to the IBF from United States or non-United States offices of the establishing entity, notice to customers regarding the test is not required, provided that the loan was originally made prior to establishing the IBF. The answer to number 9 was intended to imply only that, if the purpose of a loan is not clear from existing documentation, and the knowledgeable loan officer cannot provide sufficient clarification, then contact with the customer may be necessary to determine that loan proceeds are being used only to support operations outside the United States. Refer also to Question and Answer 40.

- 37.Q. The answer to question 17 of the first series dated October 27, 1981, states that the written notice must be provided when the commitment to lend is made in connection with the establishing of a nonbinding line of credit. However, the commitment to lend is not made when the nonbinding line is first arranged, but at some later time when it is mutually agreed that the party wants to borrow and the bank is willing to lend. Must the notice be provided and acknowledgment obtained at the initial point when the nonbinding line is arranged, or at the later point when the parties become committed?
- 37.A. The notice must be provided and the acknowledgment obtained at the time the bank is committed to lend, not when a nonbinding line of credit is arranged. However, it is permissible to give notice to such customer and obtain the acknowledgment, if required, at the time the nonbinding line is arranged and such notice and acknowledgment will fulfill the notice and acknowledgment requirements for IBF loans to that customer.
- 38.Q. A customer maintains \$150,000 in an IBF time deposit and then withdraws \$100,000. Can the IBF continue to hold the \$50,000 deposit?
- 38.A. Yes. In addition, the deposit may be rolled-over. However, a partial withdrawal of the remaining \$50,000 is not permitted; the entire amount must be withdrawn and the account must be closed.
- 39.Q. If an office of a bank has amounts "due from" its IBF in excess of the other net Eurocurrency liabilities, can that bank consider the excess "due from" amount as an amount "due from" domestic banks and therefore a deduction against domestic transactions accounts?
- 39.A. No. Net amounts "due from" its IBF may only be applied against certain Eurocurrency liabilities.

- 40.Q. A bank transfers a \$5 million loan to its IBF during the first four reserve computation periods following establishment of the IBF. This loan is a partial advance of a \$30 million line of credit. During the four-week period the borrower draws down an additional \$10 million; after the four-week period the borrower draws down the final \$15 million. What notices must be given to the borrower? How much of the draw-down is a "shift" of assets which must be reported on the F.R. 2076, and F.R. 2076S.
- 40.A. Only the amount of the loan made prior to establishing the IBF may be transferred to the IBF without giving the notice and obtaining the acknowledgment, if required, in this example the \$5 million. If the bank intends to book in its IBF any drawing of the \$30 million line subsequent to the IBF's establishment, notice needs to be given and any required acknowledgment obtained. In the example, notice must be given and any required acknowledgment if the bank intends to book the additional \$10 million in the IBF. However, notice need be given to and the relevant acknowledgment obtained from an IRF customer only one time. Only the amount drawn down prior to being booked as an IBF asset is a "shift" for report purposes, in the example, the \$5 million.
- 41.Q. Do the notice and acknowledgment requirements and limitations on the use of funds apply to foreign currency deposits and foreign currency loans?
- 41.A. Yes.
- 42.Q. The total amount of IBF assets and IBF liabilities denominated in foreign currencies must be reported on the weekly report of International Banking Facility Accounts, F.R. 2072. Does this require the reporting of the U.S. dollar value of assets and liabilities held in foreign currencies?
- 42.A. Yes. Further, the dollar value of foreign currency denominated assets need not equal the dollar value of foreign currency denominated liabilities.
- 43.Q. May an IBF borrow from its establishing entity to make Eurodollar placements with other foreign banks or branches?
- 43.A. Yes. A borrowing from the establishing entity is a permissible IBF liability and a placement with a bank located outside the United States is a permissible IBF asset.

- 44.Q. A deposit of a nonbank customer at a New York office matures and the funds are then placed in the IBF; is this a "shift" for the purpose of the F.R. 2076 and F.R. 2076S?
- 44.A. Yes. Deposits of existing customers which are transferred to the IBF books, prior to, or at maturity, are reported as a "shift" for the purposes of the F.R. 2076 and 2076S.
- 45.Q. What documentation must a bank maintain to demonstrate that IBF loans and deposits are being used to support operations outside the United States?
- 45.A. Any internal memorandum or file documenting that notice has been sent, and in the case of non-United States subsidiaries or affiliates of United States residents, a copy of the acknowledgment should be retained. An IBF should maintain the same type of documentation concerning IBF loans as it routinely maintains with respect to other types of loans.
- 46.Q. Is the notice to IBF depositors required to be received by the depositor before an institution accepts funds to be placed in an IBF time deposit? For example, if a nonbank customer that has never received a notice of the Board's policy informs an institution by telephone that it intends to make a wire transfer of funds for placement in an IBF account that day, can the institution accept the funds, and then send the written notice out to the customer that same day? In the case of a foreign subsidiary or affiliate of a domestic corporation, must the institution receive the acknowledgment before it accepts the funds?
- 46.A. An institution may accept the wire transfer of funds for deposit to an IBF account prior to the receipt of the notice by the IBF customer and, when required, prior to the receipt of the acknowledgment, provided that the customer is notified orally or by wire of the support test and that the notice is sent with the confirmation of the transaction.
- 47.Q. May a bank incorporate in its loan or deposit agreement the notice regarding the limitations on the use of IBF loan or deposit proceeds and, if required, the acknowledgment of those limitations and thereby satisfy its obligation to provide the notice to and receive the acknowledgment from IBF customers?
- 47.A. Yes.

48.Q. Is an establishing entity required to create "due to" and "due from" accounting entries on its books when assets and liabilities are "shifted" to the IBF?

48.A. No. For weekly IBF reports and for reserve reporting purposes only, a balance is struck between IBF assets and IBF liabilities by supplying a figure which is reported as a "due to" or "due from" the United States office of the establishing entity; it is not necessary to create "due to/due from" accounting entries or contra accounts when designating and segregating certain assets or liabilities as IBF assets or liabilities on a subsidiary ledger of the institution. If, however, an institution establishes a separate general ledger for its IBF, accounting entries and contra accounts will be created on the IBF books and the establishing entity's books.

49.Q. If an institution maintains separate IBF revenue/expense or profit/loss accounts, how are these items reflected in the Federal Reserve IBF accounts?

49.A. (a) To the extent that accrued revenue and accrued expense items are clearly attributable to IBF loans and IBF liabilities, they may be designated as IBF assets and liabilities and will be reported respectively on lines 6, "other assets" and 10e, "other liabilities" on the F.R. 2072.

(b) To the extent that accrued revenue and expense items have been posted directly to the IBF asset or IBF liability, they will be reported with the IBF asset or IBF liability on lines 1-5 or 9-10d of the report, as relevant.

(c) The Federal Reserve does not require the separate calculation or reporting of IBF revenue received or expenses paid; however, if an institution calculates these items, they are reported for Federal Reserve purposes as part of the "due to/due from" establishing entity figure.

50.Q. If a foreign bank (or an Edge Corporation) has two branches in a single state and in a single Federal Reserve district, can each branch make IBF eligible loans and receive IBF eligible deposits?

50.A. Yes either or both branches of the foreign bank (or the Edge Corporation) can conduct an IBF business. However, for Federal Reserve weekly IBF and reserve reporting purposes, the two branches are a consolidated unit, and are considered the establishing entity for one IBF. Therefore, the weekly IBF

report must be filed on a consolidated basis by the same "administrative" office filing the F.R. 2900, and the F.R. 2951 (or the F.R. 2950, for an Edge Corporation). In contrast, note that for the purposes of the FFIECC 002 and F.R. 2886B (which are, respectively, the quarterly call report for agencies and branches of foreign banks and Edge Corporations), the two branches report separately and each therefore should include the IBF loans and deposits actually made and received at the branch on its quarterly call report.

51.Q. If a commercial bank (or a foreign bank) has a subsidiary Edge Corporation in the United States with an IBF, may the United States offices of the bank (or U.S. branch or agency of a foreign bank) place deposits or take loans from the IBF of the Edge? Conversely, if the commercial bank (or U.S. branch or agency of a foreign bank) has the IBF, may the United States offices of the Edge Corporation place deposits with or take loans from the IBF of the bank?

51.A. The commercial bank (or U.S. branch or agency of a foreign bank) and the Edge Corporation are different legal, establishing and reporting entities. Accordingly, just as it may not take deposits from or make loans to United States offices of other banks, the IBF of the Edge may not take deposits from or make loans to the United States offices of the bank (or U.S. branches or agencies of a foreign bank) directly, but could transact business with the IBF of the bank. Conversely, the IBF of the bank (or U.S. branches and agencies of the foreign bank) could not take deposits from the United States branches of the Edge Corporation directly, but could transact business with the IBF of the Edge Corporation.

52.Q. A foreign bank has a branch in New York and an agency in California with an IBF. Can the New York branch have an IBF time deposit with the California agency's IBF?

52.A. No. The branch in New York is a United States resident for the purpose of the IBF regulation and may not place funds with the IBF of the New York agency. However, the IBF of the branch in New York can place funds with the IBF of the California agency.

53.Q. May the New York branch of an Edge Corporation have a time deposit with the IBF of the Miami branch of that same Edge Corporation?

53.A. No. The Edge Corporation in New York is a United States resident for the purpose of the IBF regulation and may not place funds with the IBF of the New York agency. However, the IBF of the New York branch of the Edge Corporation can place funds with the IBF of the Miami branch of the same Edge Corporation.

54.Q. Can a branch of an Edge Corporation in Miami transfer assets free of the Eurocurrency reserve requirement to the IBF of the New York branch of that Edge Corporation?

54.A. No. The branch of an Edge Corporation in Miami must first transfer assets to New York branch of that Edge Corporation which may then transfer those assets to its IBF. The transfer to the IBF by the New York branch is free of Eurocurrency reserves only if executed during the first four reserve computation periods after the New York branch establishes its IBF.

55.Q. May assets or liabilities be transferred from the domestic or foreign books to the IBF only during the four reserve computation periods after establishment of the IBF? May assets or liabilities be transferred only one time?

55.A. There is no time limit for the transfer of assets or liabilities to the IBF books. However, assets transferred from the domestic books after the expiration of the four-week period subsequent to the establishment of the IBF are subject to Eurocurrency reserve requirements. No Eurocurrency requirements apply to the transfer of assets or liabilities from the foreign books to the IBF either within or without the four-week period. The notice requirements discussed in the answers to questions 35, 36 and 40 apply to transfers from foreign offices to the same extent that such requirements apply to transfers of assets and liabilities from the books of the domestic office. Assets or liabilities may be transferred to the IBF books more than once, however, the caveat in the answer to question 6 of the first series should be kept in mind.

56.Q. How is the period during which assets may be transferred on a reserve free basis from the domestic books to the IBF determined, if an IBF is established after December 31?

56.A. The period for reserve free transfers starts on the first day the IBF opens for business and ends on the last day of the

fourth reserve computation period that ends after the establishment of the IBF. Thus, any IBF that opens during the period between December 3 and December 9, inclusive, would have its period for reserve free asset transfers end on December 30.

57.Q. May interest income from an IBF deposit be transferred to another account such as a brokerage account in the United States?

57.A. This depends on the circumstances of the particular case. The mere transfer of interest income to another account in the United States does not necessarily mean the deposit is not being used to support non-United States operations and may be permissible depending on the circumstances.

58.Q. May an IBF maintain a clearing account at a non-United States office of a foreign bank?

58.A. An IBF may maintain a clearing account at non-United States offices of a foreign bank, at non-United States offices of the establishing entity, and at non-United States offices of other United States depository institutions and Edge or Agreement Corporations.

59.Q. If the IBF customer is a foreign government, is written notice of the Board's policy regarding IBF deposits and loans necessary?

59.A. No. It is required only for non-United States residents, and foreign offices or subsidiaries of a domestic corporation.

60.Q. May an establishing entity transfer a domestic liability to its IBF simply because it funds a qualifying IBF asset which will be transferred to the IBF?

60.A. No. The domestic liability is not a permissible IBF liability.

61.Q. May an IBF hold as assets, bonds, or notes issued in the London market (Euro bonds); bonds or notes issued in the New York market by foreign entities (Yankee bonds), if consistent with other laws and regulations?

61.A. This matter is being reviewed by the Board's staff.

62.Q. May an IBF of an agency outside of a foreign bank's "home-State" obtain funds from any other IBF?

62.A. Yes if otherwise consistent with the regulations of the agency's primary supervisor. The characterization of the taking of funds by the agency as an "IBF time deposit" under Regulations D and Q is not dispositive for the purposes of Regulation K, since "IBF time deposit" is defined broadly to include transactions that would otherwise be regarded as borrowings.