

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 10822]
[December 29, 1995]

TRUTH IN SAVINGS
Proposed Changes to the Official Staff Commentary
to Regulation DD

Comments Invited by February 2

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

The following statement has been issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has published for public comment proposed revisions to the official staff commentary to its Regulation DD, Truth in Savings. The commentary applies and interprets the requirements of the Regulation. Comment is requested by February 2, 1996.

The proposed revisions would clarify regulatory provisions and provide further guidance on issues of general interest, such as when credited interest becomes part of principal and how leap years affect the calculation of the annual percentage yield (APY).

Printed on the following pages is the text of the proposal to the Regulation DD Commentary, which has been published in the *Federal Register*. Comments thereon should be submitted by February 2, 1996, and may be sent to the Board of Governors, as specified in the Board's notice, or to our Compliance Examinations Department.

WILLIAM J. McDONOUGH,
President.

12 CFR Part 230

[Regulation DD; Docket No. R-0904]

Truth in Savings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; official staff interpretation.

SUMMARY: The Board is publishing for comment proposed revisions to the official staff commentary to Regulation DD (Truth in Savings). The commentary applies and interprets the requirements of Regulation DD. The proposed revisions would clarify regulatory provisions or provide further guidance on issues of general interest, such as when credited interest becomes part of principal and how leap years affect the calculation of the annual percentage yield.

DATES: Comments must be received on or before February 2, 1996.

ADDRESSES: Comments should refer to Docket No. R-0904, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP-500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Jane Ahrens, Senior Attorney, or Obrea O. Poindexter, or Michael L. Hentrel, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412. For users of Telecommunications Device for the Deaf (TDD) only, please contact Dorothea Thompson, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Savings Act (12 U.S.C. 4301 *et seq.*) is to assist consumers in comparing deposit accounts offered by depository institutions. The act requires institutions to disclose fees, the interest rate, the annual percentage yield (APY), and other account terms whenever a consumer requests the information and before an account is opened. Fees and other information also must be provided on any periodic statement the institution sends to the consumer. Rules are set forth for deposit account advertisements and advance notices to account holders of adverse changes in terms. The act restricts how institutions must determine the account balance on which interest is calculated. The act is implemented by the Board's Regulation DD (12 CFR part 230). The regulation authorizes the issuance of official staff interpretations of the regulation.

The Board is publishing proposed amendments to the commentary to Regulation DD, which provides guidance to depository institutions in applying the regulation to specific transactions and is a substitute for individual staff interpretations. The commentary is updated periodically to address significant questions that arise. The Board expects to adopt the commentary in final form by April 1996 with a six-month time period for optional compliance and a mandatory compliance date of October 1996.

On January 26, 1995, the Board published a proposal to amend the regulation's rules for calculating the APY (60 FR 5142). The Congress is considering legislation that would

repeal several provisions of the Truth in Savings Act, including those calling for an APY. The Board has deferred action on the proposal, pending the Congress's resolution of the legislative proposals.

II. Proposed Commentary

Section 230.2—Definitions

(2)(f) Bonus

Comment 2(f)-2 provides additional guidance regarding bonuses. The proposed comment clarifies the treatment of coupons. It also codifies guidance provided in the supplementary information accompanying the initial rulemaking (57 FR 43337, published September 21, 1992) concerning items given or offered to third parties.

2(u) Time Account

Proposed comment 2(u)-3 clarifies that an interest-bearing account meets the definition of a time account if the amount of the early withdrawal penalty is equal to at least seven days' interest for withdrawals during the first six days the account is opened and the account has a maturity of at least seven days. Thus, the Board believes that where a depository institution imposes a dollar amount as its early withdrawal penalty (assessed during the first six days an account is opened) on an interest-bearing account, rather than applying a periodic rate to a balance ("interest"), the fixed-dollar penalty is the functional equivalent of interest.

Section 230.7—Payment of Interest

7(b) Crediting and Compounding Policies

Comment 7(b)-4 addresses crediting and compounding policies. The Board believes institutions may choose any crediting frequency. However, once interest is credited by posting interest to an account it becomes part of the principal, and if interest remains in the account, interest must accrue on those funds. The Board believes the act requires that once interest is credited to an account, institutions must calculate interest on the full principal in the account. For example, assume a consumer earns \$5 in interest on a \$1,000 balance for the month of January. If the institution credits interest monthly (in the example, at the end of January) and does not pay the interest by check or transfer to another account, the institution must accrue interest on \$1,005 for the month of February. Comment 7(b)-4 would clarify that interest cannot be credited by posting to a consumer's account without becoming part of the principal.

Appendix A—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

Part II. Annual Percentage Yield Earned for Periodic Statements

Comment app. A.II.A.-2 provides additional guidance on rounding the interest earned figure of the annual percentage yield earned. Proposed comment app. A.II.-3 provides additional guidance on calculating interest and the annual percentage yield earned in a leap year.

III. Form of Comment Letters

Comment letters should refer to Docket No. R-0904, and, when possible, should use a standard courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may also be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format, if accompanied by an original document in paper form.

List of Subjects in 12 CFR Part 230

Advertising, Banks, banking, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements, Truth in savings.

Certain conventions have been used to highlight the proposed revisions to the regulation. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets. Comments are numbered to comply with new Federal Register publication rules.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 230 as follows:

PART 230—TRUTH IN SAVINGS (REGULATION DD)

1. The authority citation for part 230 would continue to read as follows:

Authority: 12 U.S.C. 4301 *et seq.*

2. In Supplement I to part 230, under Section 230.2 Definitions., the following amendments would be made:

- a. Under *(f) Bonus*, paragraph 1. would be revised, paragraphs 2. through 4. would be redesignated as paragraphs 3. through 5., respectively, and a new paragraph 2. would be added; and
- b. Under *(u) Time account*, a new paragraph 3. would be added.

The revisions and additions would read as follows:

Supplement I to Part 230—Official Staff Interpretations

* * * * *
 Section 230.2 Definitions
 * * * * *

(f) Bonus.
 1. ► General Rule ◀ [Examples] Bonuses include items of value, other than interest, offered as incentives to consumers, such as an offer to pay the final installment deposit for a holiday club account. [Items that are not a bonus include discount coupons for goods or services at restaurants or stores.]

►2. Examples of Excluded Items. Items that are not bonuses include:
 i. Discount coupons distributed by institutions for goods or services at restaurants or stores where the consumer must pay a sum to the restaurant or store to receive the benefit of the coupon
 ii. Items of value given to a third party by an institution when a consumer opens, maintains, or renews an account—such as donations made to a charitable organization. ◀

* * * * *
 (u) Time account
 * * * * *

►3. Fee for early withdrawal. Time accounts include interest-bearing accounts with a maturity of at least seven days that impose a dollar amount for withdrawals during the first six days after the account is opened that is equal to at least seven days' interest. ◀

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3. In Supplement I to part 230, under Section 230.7 Payment of interest, the following amendments would be made:
 a. Under (a)(1) Permissible methods, paragraph 4. would be revised; and
 b. Under (b) Compounding and crediting policies, a new paragraph 4. would be added.

The revisions and additions would read as follows:

* * * * *
 Section 230.7 Payment of Interest
 * * * * *
 (a)(1) Permissible methods.
 * * * * *

4. Leap year. Institutions may apply a daily rate of 1/366 or 1/365 of the interest rate for 366 days in a leap year, if the account will earn interest for February 29. ►“Leap year” is a calendar year in which February 29 occurs. For example, if the term of a time account includes days in a nonleap year but extends through February 29 of a leap year, the institution must use a daily rate of 1/365 (or a greater daily rate such as 1/360) each day the account is open in the nonleap year.

* * * * *
 (b) Compounding and crediting policies.
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►4. Crediting and accrual of interest. Once interest is credited to an account it becomes part of the principal on which an institution must accrue interest. ►

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4. In Supplement I to part 230, under Appendix A, the following amendments would be made:

a. Under Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes, a new paragraph 2. would be added; and

b. Under Part II. Annual Percentage Yield Earned for Periodic Statements, under A. General Formula, paragraph 2. would be revised, and a new paragraph 3. would be added.

The additions and revisions would read as follows:

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Appendix A to Part 230—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

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►2. Leap year. Institutions that use a daily rate of 1/366 to pay interest on an account during a leap year may calculate the annual percentage yield using 365 or 366 days in a leap year, as follows:

- i. Institutions may use 365 days in all cases.
- ii. For time accounts, institutions must use 365 if the account term includes days in a nonleap year. ◀

Part II. Annual Percentage Yield Earned for Periodic Statements

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A. General Formula

* * * * *

2. Rounding. The interest earned figure used to calculate the annual percentage yield earned must be rounded to two decimals and reflect the amount actually paid, if at the end of the statement period the institution only accrues interest on two decimals. For example ►: ◀[, if]

- i. If ◀ the interest earned for a statement period is \$20.074 and the institution pays the consumer \$20.07, the institution must use \$20.07 (not \$20.074) to calculate the annual percentage yield earned ►if the institution does not accrue interest on the \$20.074 if interest is credited to the account, or on the \$.004 if interest is paid by check or transfer to another account for the next statement period ◀.
- ii. If an institution accrues interest on the .004 for the next statement period, \$20.074 may be used to calculate the annual percentage yield earned for the statement period.
- iii. ◀ For accounts paying interest based on the daily balance method that compound and credit interest quarterly, and send monthly statements, the institution may, but need not, round accrued interest to two decimals for calculating the annual percentage yield earned on the first two monthly statements issued during the quarter. [However, on the quarterly statement the interest earned figure must reflect the amount actually paid].

►3. Leap year. Institutions that use a daily rate of 1/366 to pay interest on an account

during a leap year may calculate the annual percentage yield earned using 365 or 366 days during the leap year. ◀

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By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 1, 1995.

Jennifer J. Johnson,
 Deputy Secretary of the Board.

[FR Doc. 95-29712 Filed 12-5-95; 8:45 am]

BILLING CODE 6210-01-P

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