

FEDERAL RESERVE BANK
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RESERVE REQUIREMENTS

Questions and Answers — Third Series

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

Printed on the following pages is the third series of questions and answers regarding Regulation D, "Reserve Requirements of Depository Institutions." (The first and second series were sent to you on September 29 and October 8, 1980.) Most of 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. Questions 16 and 17 under Transferability and Questions 12, 13, and 14 under Transaction Accounts were prepared by the legal staff of the Board of Governors. Note that, under Transferability, the answer to Question 17 amends the requirements for the nontransferability legend set forth in the first series of questions and answers (Question 1).

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ANTHONY M. SOLOMON,
President.

REGULATION D

Questions and Answers--Third Series

Transferability

16. Q: What does "not transferable" mean?

A: "Not transferable" means that a time deposit may not be transferred by the named depositor except in the following ways:

- (1) A change in ownership that is reflected on the books or records of the institution;
- (2) A pledge as collateral for a loan; or
- (3) A transaction that occurs due to circumstances such as death, incompetency, marriage, divorce, attachment, or otherwise by operation of law.

In other words, in addition to pledges and transfers by operation of law, any transaction that is reflected on the books of the institution (thus giving the institution an opportunity to reclassify the deposit, if necessary, as nonpersonal for reserve reporting purposes) is permissible. The following legends concerning transferability may be used:

- (1) "Not transferable" or "Nontransferable."
- (2) "Transferable only on the records of the institution."
- (3) "Transferable only with the permission of the institution."
- (4) "Not transferable except as collateral for a loan or as otherwise permitted by regulations of the Federal Reserve Board."

The following statements will not satisfy the requirement concerning nontransferability:

- (1) "Not assignable."
- (2) "Not negotiable."

17. NOTE: The answer to the following question amends the answer given in Question 1 of the first series of Questions and Answers.

Q: In order for a time or savings deposit issued to a natural person on or after October 1, 1980, to be considered a

personal deposit, where must the legend regarding non-transferability appear?

- A: (1) For certificates of deposit or share certificates, the legend must appear on the certificate itself.
- (2) For passbook accounts, the legend must be on the passbook itself.
- (3) For any deposit not evidenced by a certificate or passbook, the legend must be on the agreement or contract which evidences the account if a copy of the agreement or contract is given to the customer when the account is opened.

The nontransferability legend is not required on any periodic statements if the legend appears on a certificate, passbook, contract or agreement given to the depositor. For any time or savings deposit not evidenced by a certificate or passbook, if a copy of the agreement is not given to the customer, then the non-transferability legend must be on periodic statements sent to the customer. The legend does not have to appear on the following: deposit slips, teller receipts, club account coupons, identification cards, IRS Form 1099, and signature cards and other documents retained by the depository institution as its own records.

18. Q: If an institution's standard form for certificates of deposit in use prior to October 1 contains a statement on its face saying that it is not transferable, must the institution place another stamp on the certificate in order to comply with the provisions concerning personal deposits issued after October 1?

A: No. If the standard form already states that it is nontransferable, then an additional nontransferability legend need not be placed on it.

19. Q: If transfers of credit union share accounts may only be made to natural persons, may the transferability legend state, "Transferable only to members?"

A: No. The legend needs to state that the account is transferable on the books of the credit union to members. Transfers among members must be reported to, and recorded by, the credit union in order for the account to be regarded as personal.

20. Q: Personal savings and time accounts for which natural persons receive only monthly statements rather than passbooks or certificates of deposit, and for which no contract or agreement is given to the depositor carrying the nontransferability legend, must state that the account is nontransferable. Instead of placing the legend on the statement itself, may the legend appear in a separate piece of paper mailed to the depositor along with the monthly statement?

A: Yes.

Transaction Accounts

12. Q: Does an account which by its terms or pursuant to an agreement permits transfers to a checking, NOW, or share draft account to cover occasional overdrafts fall within the definition of "transaction"?

A: A number of institutions have entered into agreements with their customers providing that, in the event the customer should overdraw a checking, NOW, or share draft account, the institution will transfer from that customer's savings account an amount sufficient to cover the overdraft. Under Regulation D, an account, including a regular savings account or regular share account, is considered to be a transaction account if, under its terms, or by practice of the depository institution, the depositor is permitted or authorized to make more than three withdrawals per month for purposes of transferring funds to another account or for making a payment to a third party by means of a preauthorized or telephone agreement, order or instruction. The availability of the overdraft protection plan described above would not itself require that the savings account or share account from which transfers could be made be regarded as a transaction account if no more than three such transfers are permitted or authorized in a calendar month. If, however, more than three transfers from a savings account not otherwise regarded as a transaction account are permitted, then the savings account would be regarded as a transaction account and the entire balance in the account would be subject to transaction account reserve requirements.

13. Q: Are intra-family allocations of a direct payroll deposit regarded as part of the three telephone or preauthorized transfers allowable per month in Section 204.2(e)(6)?

A: No. Direct deposit transactions at many depository institutions require that all funds be deposited only to one account of a customer. Institutions and depositors have entered into agreements whereby funds involving direct deposit transactions are subsequently transferred to other accounts of the employee or his or her family at the same institution. Where a deposit is made directly to one account but within a very short time routine disbursements of a portion of a payroll deposit are made to family member accounts or other accounts of the depositor, such disbursements are an element of the deposit transaction and are not to be regarded as "transfers." Thus, the capability of a depositor to distribute funds in this manner would not itself render an account to which the payroll funds are initially deposited to be a transaction account.

14. Q: How should transaction accounts that meet the criteria for more than one type of transaction account be reported on the FR 2900?

A: All demand deposit accounts should be classified as demand deposits (Items 1, 2, or 3) even if preauthorized or telephone transfers or third party payments through the use of debit cards, ATMs, or RSUs are allowed. Similarly, all NOW accounts or share draft accounts should be classified as NOW/share draft accounts (Item 6) even if preauthorized or telephone transfers or third party payments through the use of debit cards, ATMs, or RSUs are allowed. Savings accounts that meet the criteria for ATS accounts should be classified as ATS accounts (Item 4), even if telephone or preauthorized transfers or third party payments through the use of debit cards, ATMs, or RSUs are allowed. Savings accounts other than NOW, share draft, and ATS accounts that permit more than three telephone or preauthorized transfers per month or that permit third party payments through the use of debit cards, ATMs, or RSUs should be reported as telephone or preauthorized transfer accounts (Item 5).

15. Q: If a depositor walks into an institution, withdraws funds from his savings account in the form of an officer's check, endorses the check, and deposits it in an account of another person at that same institution, does that savings account thereby become a transaction account?

A: No. The depositor did not write a NOW draft, did not make a telephone transfer, did not use ATS services, did not

make a preauthorized transfer, and did not use an ATM or RSU. Accordingly, this transaction is not a transfer and the savings account is not a transaction account. Note, however, that, if a depositor is able to transfer funds through an ATM to another person's account at the institution, that savings account is a transaction account, unless either the three-per-month or loan repayment exception applies.

16. Q: If a club account is withdrawable on demand, may it be treated as a savings account?

A: Yes. Funds in savings accounts are withdrawable on demand unless the institution exercises its right to require prior notice. Permitting withdrawals on demand is not prohibited if the institution has not exercised that right. Regular accounts at savings and loan associations, and share account at credit unions, are also treated as savings accounts, and club accounts in the form of regular or share accounts may be treated as savings accounts.

17. Q: A depositor with a savings account leaves a supply of deposit slips with the institution. The deposit slips are for a checking account held by the depositor at another institution. The depositor telephones the institution from time to time and requests that funds be withdrawn from his savings account in the form of a check and that the check, along with the deposit slip, be mailed to the institution holding his checking account. Or the depositor may have standing instructions with the institution to do so. Does this practice make that savings account a transaction account?

A: Yes. This transaction is the equivalent of a telephone transfer or preauthorized transfer, even though the funds are transmitted to another institution, and the savings account is a transaction account. The institution may avoid transaction account treatment by limiting by contract or policy the number of such transfers to three per month.

18. Q: The instructions to FR 2900 require that a bona fide cash management program be evidenced by a written contract with the depositor covering the reduction of a balance in one demand account by the amount of the overdraft in the other demand account. Does this mean that there actually must be a reduction on the books of the

institution in order to reduce the balance by the overdraft amount for purposes of reserves?

A: Yes. The purpose of the bona fide cash management exception is to allow a reduction in a transaction account balance by the overdraft amount on the day that the overdraft arises even though the institution does not transfer funds into the overdrawn account from the other account until the opening of business on the next day. The exception is not intended to allow a balance to be reduced by the amount of an overdraft in the depositor's other account for reserve purposes if such a transfer is never actually made on the institution's books.

19. Q: Many institutions offer their depositors "prestige cards" which allow the depositors to withdraw funds from their savings accounts by filling out a withdrawal slip at another institution. This type of service is also known as "traveller's convenience." The institution disbursing the funds sends the withdrawal slip to the depositor's institution and obtains payment through the collection process. Does this service make the savings account a transaction account?

A: No. The depositor is viewed as simply making a withdrawal from his savings account.

Personal and Nonpersonal Accounts

21. Q: Many institutions have bearer certificates of deposit outstanding. The institutions have no record of the purchasers of these bearer CDs; a record of the owner is made only at maturity, when the holder obtains the interest on the CD and must record his identity for tax purposes. For such bearer CDs sold prior to October 1, must institutions record all of them as nonpersonal because they cannot show that they were purchased by natural persons?

A: No, so long as the institution reasonably concludes that almost all of the bearer CDs issued prior to October 1 were issued to natural persons; inquiry of an institution's branches should be made on this point. Alternatively, the institution could apply the percentages obtained by sampling its other fixed maturity time deposits to its amount of outstanding bearer CDs.

Institutions are expected to record the identity of personal deposits issued on or after October 1 in order to properly report such deposits as personal.

22. Q: Does an institution have to go through its entire mortgage portfolio in order to identify each mortgage as individual or corporate for the purpose of separating its mortgage escrow account into two accounts, one personal and one nonpersonal?

A: In order to treat an escrow account as a personal savings account, all of the funds in the escrow account must be received from natural persons. Thus, if an institution has both individuals and corporations as mortgagors, the account must be treated as nonpersonal unless a separation into two accounts is made. It may be for many non-member institutions that total reserves for all transaction and nonpersonal accounts, including the mortgage escrow account, would still be less than total vault cash due to the one-eighth phase-in that will be in effect until September 1981. If that is the case, no reserve cost would result from treatment of the account as nonpersonal, and an institution could make the separation into personal and nonpersonal escrow accounts during the next several months.

23. Q: If an institution makes deductions from its employees' wages for purposes of purchasing savings bonds and it holds those funds until enough money is obtained in order to buy those bonds, how are those funds to be reported?

A: Those funds are essentially in an escrow account in the name of the institution. If all of the funds in the account are those of employees who are natural persons, that account may be treated as a personal savings account.

24. Q: As indicated in the answer to Question 17 in the second series of Questions and Answers, trustees, executors, and escrow agents may give representations that the entire beneficial interest of funds in a time or savings account are natural persons in order to treat the account as personal. Must that representation be made in writing?

A: Yes. However, the representation may simply be noted on the signature card or other instrument evidencing the

account that is signed by the trustee, executor, or escrow agent.

Time Deposits

3. Q: Repurchase agreements on U.S. Government or agency securities are exempt from reserves. Are Ginnie Mae, Fannie Mae, Freddie Mac and Sallie Mae securities considered to be agency securities?

A: Yes. A list of agency obligations which the Federal Reserve considers to be agency securities for purposes of this exception may be found at the Board's Published Interpretation ¶ 925 (12 C.F.R. § 201.108). Ginnie Mae, Fannie Mae, and Freddie Mac are on that list. Sallie Mae is not on the list, but it has been determined that Sallie Mae is a Government agency for this purpose.

4. Q: Is a borrowing from the New Jersey Mortgage Finance Agency reservable?

A: Borrowings by institutions under so-called "loan to lender" programs are exempt from reserves. The requirements for qualification as a "loan to lender" program are included in Regulation D at Section 204.2(a)(2)(x). Basically, the lender to the institution must be a State or municipal housing authority, the borrowing must be of proceeds from tax-exempt bonds, and the institution must lend the proceeds for housing finance purposes. We understand that the New Jersey Mortgage Finance Agency is within this exception. It should also be noted that all time deposit obligations with an original maturity, or weighted average maturity, of four years or more will be subject to zero percent reserves at the inception of the new reserve system.

Balances Due to/Due from Banks

7. Q: Is the Investment Credit Union ("ICU") a depository institution?

A: ICU is a pooled investment account for credit unions that invests solely in Government securities. Funds placed in ICU by a credit union are not balances due from a depository institution and may not be included as balances due from depository institutions in Item 8 of the FR 2900.

8. Q: Are balances due to banker's banks such as Savings Bank Trust Company included in Item 1.a. on the Report of Transaction Accounts? Are balances due to private banks that are not depository institutions to be reported in Item 1.a. of the Report?

A: Yes. Savings Banks Trust Company is a trust company, and accordingly should be treated as a bank. Balances due to private banks that are not depository institutions are to be reported as bank demand accounts in Item 1.a. Balances due from Savings Banks Trust Company, but not from private banks, are to be included in Item 8.

9. Q: If an institution is servicing loans for another institution that originally made the loans, which institution is obligated to maintain reserves on the funds paid by borrowers?

A: Reservability of these funds will depend on how they are booked by both the servicing institution and the other institution. If the servicing institution receives payments and immediately credits the other institution's account for those funds, then the servicing institution has a balance due to an institution, which is reservable. If the proceeds of these borrowings are remitted periodically to the other institution, then the amount of balances due to the other institution would be reduced, and reservability, if any, on those proceeds would depend on the method by which the remitted proceeds are booked by the other institution. For example, if the institution writes down the amount of loans outstanding, then no reserves are paid on those funds. If it chooses not to write down the amount of the loan and places the proceeds in a hypothecated deposit account, then the hypothecated deposit would not be reservable so long as the rules on hypothecated deposits are observed; those rules are contained in the introductory material of the instructions to Form FR 2900.

10. Q: The actual balance in a reporting institution's demand account at another institution usually will be greater than the amount shown on the reporting institution's books in its due-from entry. This occurs because the reporting institution will write down the due-from account on its books for checks and drafts that have not yet been paid by the institution holding the account. In reporting the total amount of balances due from depository institutions, must an institution report its

book amount, or may it report the amount shown each day at the institution as balances due to it?

A: The reporting institution must use its book amount as balances due from depository institutions for purposes of Item 8. The reporting institution will have written down a liability account for the check that it has issued, and, because that liability account is likely to be a reservable deposit account, it has already obtained a reduction in reserves on the transaction. To permit a deduction for that amount would essentially permit a double deduction for the amount of the check.

Federal funds

2. Q: Most United States branches and agencies of foreign banks are subject to Regulation Q. Both Regulations D and Q disallow institutions from selling Federal funds on behalf of their nonbank customers and passing interest through to those customers. Is a foreign bank branch or agency prohibited from selling Federal funds for a customer of its foreign parent bank's head office?

A: Foreign banks with branches or agencies in the United States are expected to comply with the prohibitions of Regulations D and Q. Accordingly, they may not sell Federal funds on behalf of any nonbank customer in the United States. Of course, foreign banks are free to perform transactions at their foreign offices on behalf of their customers subject only to the restrictions in effect at those offices.

Eurocurrency: Balances and Borrowings from Foreign Offices

4. Q: If a foreign bank issues commercial paper in the United States and the bank's United States branch or agency borrows the proceeds from the bank's head office, are those funds subject to reserves at the domestic ratios?

A: No. Commercial paper issued in the United States by a foreign bank's head office is not subject to Federal Reserve reserve requirements. However, when the proceeds of the sale are lent to the United States branch or agency, it becomes subject to Eurocurrency reserve requirements.

5. Q: If an amount due to an institution's foreign office is overdrawn because of a Clearing House funds payment on its behalf for which a payment in immediately available funds is expected the next day, must the account be raised to zero for reserve purposes?

A: Yes. All accounts in overdraft must be raised to zero for reserve purposes.

6. Q: Are balances due from a Federal Reserve Bank to be deducted from total assets in calculating a foreign bank's United States office's capital equivalency deduction?

A: Yes.

7. Q: The calculation by foreign banks of their capital equivalency deduction requires that they use an amount for total assets as determined by their quarterly call report (FFIEC 002). In order to calculate total assets in Schedule A of that report, unearned income on loans is to be subtracted. Many foreign banks do not calculate unearned income on loans each day; rather they calculate it only monthly or quarterly. Must such foreign banks calculate this figure daily?

A: No. Foreign banks may use the most recently available figure on a consistent basis.

Capital Equivalency: Balances and Borrowings from Foreign Offices

Q: If a foreign bank issues commercial paper in the United States and the bank's United States branch or agency borrows the proceeds from the bank's head office, are those funds subject to reserves at the domestic ratios?

A: Commercial paper issued in the United States by a foreign bank's head office is not subject to federal reserve requirements. However, when the proceeds of the sale are sent to the United States branch or agency, it becomes subject to currency reserve requirements.