

tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been timely notified shall be deemed to have been substituted for excess tobacco, and penalty at the full rate shall be due on each pound of such tobacco.

(Sections 301, 313, 314, 316, 317, 363, 372-375, 377, 378 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995, section 401, 63 Stat. 1054, as amended, sections 106.112, 125, 70 Stat. 191, 195, 198, as amended, section 16(e), 76 Stat. 606; (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372, 1377, 1378, 1421, 1813, 1824, 1836), (16 U.S.C. 590p(e)))

Signed at Washington, D.C., on August 12, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-25330 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 760

[Amdt. 2]

Indemnity Payment Programs: Beekeeper Indemnity Payment Program (1978-1981)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the Beekeeper Indemnity Payment Program Regulations to provide that indemnity claims filed after June 15, 1979 will be paid on the basis of the earliest filing date.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, 4702 South Building, Washington, D.C. 20013 (202) 447-7997. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This regulation has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of this regulation contained in 7 CFR 1446.38-40 for need, currency, clarity and effectiveness will be made within the next five years.

The title and number of the Federal assistance program that this final rule applies to is: Title—Beekeeper Indemnity Payments, NUMBER—10.060 as found in the Catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A-95, was not used to assure that units of local government are informed of this action.

Section 207 of the Food and Agriculture Act of 1977, 91 Stat. 921, 7 U.S.C. 284, extended the authority of the Secretary to conduct the Beekeeper Indemnity Payment Program through September 30, 1981. On July 14, 1978, the Department published final regulations (43 FR 30264) to govern the conduct of the program through September 30, 1981. It is not mandatory that the program be conducted.

Since the proposed budget for the Department of Agriculture for fiscal year 1980 contained no provision for funding the Beekeeper Indemnity Payment Program, the Beekeeper Indemnity Payment Program Regulations were amended on June 15, 1979 to provide that the payment of claims filed after that date would be conditioned upon the availability of funds.

Subsequently, the Agriculture Appropriations Act for Fiscal Year 1980 authorized \$2.89 million for the Beekeeper Indemnity Payment Program. The proposed budget for the Department for fiscal year 1981 again requests no funding for the program. All claims filed prior to June 15, 1979 have been paid. The Department now has remaining approximately \$900,000 to pay an estimated \$4.0 million in claims filed after June 15, 1979. In addition claims are continuing to be filed by beekeepers under the program.

On June 3, 1980, a Notice of Proposed Rulemaking was published in the *Federal Register* at 45 FR 37454, which proposed to pay the remaining claims filed after June 15, 1979 under the Beekeeper Indemnity Payment Program on the basis of the earliest filing date. Comments were solicited on this proposal or on any alternative proposals for payment of such claims. The deadline for receiving comments was July 18, 1980.

Comments on the method of disbursing funds were received from nineteen parties. Only one person commented in favor of making payments on the basis of the earliest filing date. Five parties commenting were opposed to making payments on the basis of the earliest filing date, but offered no alternative method. Thirteen parties

suggested disbursing the available funds on a pro rata basis.

One of the primary concerns expressed in the comments was that making payments on the basis of the earliest filing date would favor beekeepers located in southern States. This position is not correct in that Department records indicate there is no significant difference in the patterns of filing claims by beekeepers located in the various States. Generally, beekeepers have filed their claims for losses in the fall and not at the time that the losses occurred. If payments are made on the basis of the earliest date of filing, over fifty percent of the claims filed prior to April 1, 1980, could be paid in full. Claims are continuing to be filed by beekeepers under the program as losses caused by pesticide are incurred. Therefore, if all claims filed were to be honored and payments were to be made on a pro rata basis, beekeepers filing claims from June 15, 1979 to any termination date established for the program would receive relatively small indemnities in proportion to their claims.

Final Rule

Accordingly, the regulation at 7 CFR 760.119 is revised to read as follows:

§ 760.119 Availability of funds.

Payment of indemnity claims filed after June 15, 1979, is contingent upon availability of funds to the Department to pay such claims. Claims filed after such date will be paid in full, in the order in which they were filed, to the extent that funds are available.

(Sec. 804, 84 Stat. 1382 (7 U.S.C. 135b note); sec. 1(27), 87 Stat. 237 (7 U.S.C. 135b note); and sec. 207, 91 Stat. 921 (7 U.S.C. 284 note))

Signed at Washington, D.C. on August 19, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-25706 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 266]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 24-30, 1980.

Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 24, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings.

This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979-80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The committee met again publicly on August 19, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues very easy.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.566 Lemon Regulation 266.

Order. (a) The quantity of lemons grown in California and Arizona which

may be handled during the period August 24, 1980, through August 30, 1980, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 20, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.
[FR Doc. 80-25945 Filed 8-21-80; 1:38 pm]

BILLING CODE 3410-02-M

7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, Calif.; Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, AMS.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and rate of assessment for the 1980-81 fiscal period to be collected from handlers to support activities of the Industry Committee which locally administers the Federal marketing order for Tokay grapes grown in San Joaquin County, California. It also authorizes the carryover of unexpended funds from the 1979-80 fiscal period.

DATES: Effective April 1, 1980, through March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This final rule is issued under Marketing Order No. 926 (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Industry Committee, established under the order, and upon other information. It is found that the expenses, rate of assessment, and carryover of unexpended funds, as hereafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553). This order requires that the rate of assessment for a particular fiscal year shall apply to all assessable fruit handled from the beginning of such year which began April 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, new § 926.220 (M.O. 926) is added to read as follows: (§ 926.220 expires March 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 926.220 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during the fiscal period April 1, 1980, through March 31, 1981, will amount to \$153,040.

(b) The rate of assessment for said period payable by each handler in accordance with § 926.46 is fixed at \$0.10 per No. 38K grape lug (as specified in § 1380.19(14) of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes.

(c) A portion of the unexpended assessment funds in excess of expenses incurred during the fiscal period ended March 31, 1980, shall be carried over as a reserve in accordance with § 926.47.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 18, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-25951 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM**12 CFR Part 204****[Regulation D, Docket No. R-0306]****Reserve Requirements of Depository Institutions****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Final rule.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. The Act authorizes the Federal Reserve to require reports from depository institutions as necessary or desirable to monitor and control monetary and credit aggregates, provides access to the Federal Reserve discount window for depository institutions with transaction accounts or nonpersonal time deposits, and requires the Federal Reserve to price its services and provide access to system services to all depository institutions. The Board has adopted a revised Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to implement the reserve requirement provisions of the Monetary Control Act. The revised reserve requirement regulation will also apply to Edge Act and Agreement Corporations and United States branches and agencies of foreign banks.

DATE: November 13, 1980. On that date, depository institutions, U.S. branches and agencies of foreign banks, and Edge and Agreement Corporations will be required to commence maintaining required reserves under revised Regulation D based upon deposits held during the seven-day reserve computation period beginning October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625), Paul S. Pilecki, Attorney (202/452-3281), or Thomas D. Simpson, Senior Economist (202/452-3361), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 ("Act") (Title I of Pub. L. 96-221; 94 Stat. 132) imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. Depository institutions subject to reserve requirements include any Federally-insured commercial or savings bank, or any such bank that is eligible to become insured by the

Federal Deposit Insurance Corporation; any mutual or stock savings bank; any savings and loan association that is a member of a Federal Home Loan Bank, insured by, or eligible to apply for insurance with, the Federal Savings and Loan Insurance Corporation; and any credit union that is insured by, or eligible to apply for insurance with, the National Credit Union Administration Board. The reserve requirements of the Act will apply to United States branches and agencies of foreign banks with total worldwide consolidated bank assets in excess of \$1 billion, and to Edge and Agreement Corporations. In this regard, the Act provides that nothing in the reserve requirement provisions of the Act limits the authority of the Board under section 7 of the International Banking Act of 1978 ("IBA") (12 U.S.C. 3105). On March 19, 1980, the Board adopted amendments to Regulation D to impose reserve requirements on such branches and agencies (45 FR 19216); however, as discussed below, the revised regulation modifies certain aspects of that action in view of the enactment of the Monetary Control Act. In addition, since U.S. branches of foreign banks are eligible to apply for Federal deposit insurance, Regulation D also will apply to foreign banks with total worldwide consolidated bank assets of \$1 billion or less in the same manner as applicable to other nonmember depository institutions.

In light of the enactment of the Monetary Control Act, on June 4, 1980, the Board requested public comment (45 FR 38388) on a revised Regulation D to implement the provisions of the Act. The period for public comment expired on July 15, 1980. After consideration of the more than 750 comments received from the public (primarily from depository institutions and financial institution trade groups), the Board has adopted a revised Regulation D substantially in the form proposed. However, certain modifications were made, as discussed below, relating primarily to the definition of a transaction account and in the area of nonpersonal time deposits. In addition, certain technical changes were made in order to clarify regulation.

Digest of Board Actions

The following is a general description of certain aspects of the Board's actions with respect to the imposition of reserve requirements that are broadly applicable to all depository institutions. A detailed discussion of the reserve requirements and various technical issues follows this digest.

General Requirement. A depository institution is required to maintain reserves against its transaction accounts

and nonpersonal time deposits. An institution's reserve requirements are computed on the basis of the institution's average daily net deposit balances during a seven-day period beginning each Thursday (the "computation period"). Required reserve balances must be maintained at a Federal Reserve Bank during a corresponding seven-day period (the "maintenance period") which begins on the second Thursday following the end of the computation period. However, in determining the reserve balance to be held with the Federal Reserve during the maintenance period, the average daily United States currency and coin held during the computation period is deducted from the institution's reserve requirements. The first reserve maintenance period under revised Regulation D will begin November 13, 1980 based on deposits held during the reserve computation period beginning October 30, 1980.

Transaction Accounts. A "transaction account" is defined to include demand deposits, negotiable order of withdrawal (NOW) accounts, savings accounts subject to automatic transfers (ATS), share draft accounts, accounts that permit payments to third parties through use of a check, draft, negotiable instrument, debit card or other similar items, accounts under the terms of which a depositor is permitted to make more than three preauthorized or telephone transfers per month (whether to another account of the depositor or to a third party), and accounts that permit a depositor to make payments to third parties through automated teller machines or remote service units. An account is not regarded as a transaction account merely because it permits repayments or transfers in connection with loans made by the institution itself (as originator or servicer). Whether an account is a transaction account by virtue of the number of telephone or preauthorized transfers (excluding loan repayments) permitted is to be determined based upon the terms of the account contract or by practice of the depository institution and not on the basis of the actual number of transfers made in a particular calendar month. Institutions are expected to establish adequate monitoring procedures or systems to insure that the number of transfers made in a calendar month does not exceed the permissible amount in order for such accounts not to be regarded as transaction accounts.

The reserve ratio on transaction accounts will be 3 percent on amounts of \$25 million or less and 12 percent on amounts in excess of \$25 million. In

computing the amount of its transaction accounts, a depository institution is permitted to deduct all cash items in process of collection and balances due on demand from other depository institutions.

Nonpersonal Time Deposits. The Act defines "nonpersonal time deposit" as a (1) time deposit or account that is transferable or (2) a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor that is not a natural person. Under the regulation, a time deposit includes certificates of deposit, certificate accounts, credit union share certificates, notice accounts, and regular accounts, savings deposits and share accounts that are not regarded as transaction accounts. Time deposits issued to and held by natural persons are not subject to reserve requirements if they are not transferable. Time deposits that are issued in transferable form on or after October 1, 1980 will be regarded as nonpersonal time deposits because of the transferability feature. The definition of nonpersonal time deposit excludes a time deposit issued to and held by a natural person on or after October 1, 1980, if it includes on the deposit instrument or other document evidencing the account a specific statement that it is not transferable, or is transferable *only* on the books of, or with the permission of, the depository institution. To meet this requirement, a depository institution may use the following terminology or any other statement of equivalent legal effect: "Not transferable;" "Nontransferable;" "Not transferable, as defined in 12 CFR Part 204;" or "Not transferable except on the books of the depository institution." However, the words "Not negotiable" and "Nonnegotiable" will not meet this requirement. Depository institutions may stamp the required terminology on existing stocks of deposit documents.

A transferable time deposit issued before October 1, 1980, to a natural person will not be regarded as a nonpersonal time deposit. Prior to that date, depository institutions shall refrain from issuing transferable time deposits to natural persons that might otherwise be issued in the name of a corporation or other organization for the purpose of avoiding reserve requirements.

Since the provision of the Act defining transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements through the transfer of time deposits from individuals to organizations or governmental units, the Board will not regard as "transfers" a

number of transactions that normally would not be undertaken as reserve avoidance devices. A time deposit will not be regarded as "transferable" because it can be pledged as collateral for a loan, or because title or beneficial interest in the deposit can be passed in circumstances involving death, bankruptcy, divorce, marriage, judicial attachment, incompetency, or by operation of law. In addition, the reissuance of a time deposit by a depository institution in the name of another will not be regarded as a transfer.

Nontransferable time deposits representing funds held pursuant to Individual Retirement Accounts (IRA) and Keogh (H.R. 10) Plans will be regarded as personal time deposits. Escrow accounts, such as funds held for tax or insurance payments, will be regarded as personal time deposits if the depositor is a natural person and the other conditions of a time deposit are met, even though the funds are held by the depository institution or other organization as escrow agent. In addition, the Board will regard nontransferable time deposits held by fiduciaries as personal time deposits exempt from reserve requirements where the entire beneficial interest in the funds is held by natural persons. A natural person is an individual or a sole proprietorship. A partnership, corporation (including one solely owned by an individual), governmental unit, or other association or organization (including a not-for-profit organization) is *not* a natural person.

Depository institutions will be permitted to estimate (using standard sampling methods) the breakdown between personal and nonpersonal categories of fixed maturity time deposits issued prior to October 30, 1980, the beginning of the first deposit reporting period under the revised regulation. All existing savings deposits, time deposit open accounts and notice accounts, as well as fixed maturity time deposits issued on or after October 30, 1980, are required to be classified as either personal or nonpersonal. Savings deposits, time deposit open accounts and notice accounts may not be estimated since these accounts do not have a stated maturity and if estimation were permitted for such accounts, they would always be reported on the basis of estimates rather than actual amounts.

Nonpersonal time deposits with original maturities of 14 days or more but less than four years will be subject to a reserve requirement ratio of 3 per cent. Nonpersonal time deposits in the form of borrowings from non-U.S. offices

of unrelated depository institutions with original maturities of less than four years also will be subject to a reserved requirement of 3 per cent. All nonpersonal time deposits with original maturities of four years or more will be subject to a zero per cent reserve requirement.

Eligible Reserve Assets. The reserves of a depository institution may be held in the form of vault cash or a balance maintained at the Federal Reserve Bank, either directly or indirectly on a pass-through basis. A depository institution that is a member of the Federal Reserve System must hold its required reserve balances directly with its Federal Reserve Bank. A nonmember depository institution may hold its required reserve balance directly with its Federal Reserve Bank or, alternatively, it may pass its required reserve balance to the Federal Reserve through a correspondent. Such a correspondent may be a depository institution that holds a required reserve balance directly with the Federal Reserve, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility. A depository institution is permitted to use all of its vault cash, that is, United States currency and coin, as eligible reserve assets. However, silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value will not be regarded as vault cash.

On June 26, 1980, the Board announced (45 FR 44962) proposed procedures for nonmember depository institutions to follow if they maintain required reserves under a pass-through arrangement. The Board's final pass-through procedures will be announced shortly.

Phase-in of Reserve Requirements. (1) *Member banks* will be phased down to the new structure of reserve requirements over a three and one-half year period from the effective date of the Act, September 1, 1980. During this period, reserves required to be maintained will equal required reserves under the reserve structure in effect on August 31, 1980 ("old structure") less a portion of the difference between reserves calculated under the structure of the Act ("new structure") and the old structure. In order to relieve the reporting burden during the phase-in period, a member bank's required reserves will be computed under the old structure using its average reserve ratio on time deposits during the 14-day period from July 24-August 6, 1980. This average ratio will be used throughout the phase-in period to compute required

reserves on time deposits under the old structure.

Member banks will begin to phase down to the new reserve requirement structure during the reserve maintenance period beginning November 13, 1980. At that time, required reserves will be reduced by $\frac{1}{4}$ of the difference between reserves under the old structure and the new structure. The phase-down adjustment will increase by $\frac{1}{8}$ of the difference between reserves computed under the old and new structures beginning in September 1981, and at each six-month interval thereafter until the new reserve structure is phased in fully.

(2) *Nonmember depository institutions* will be required to hold an amount equal to $\frac{1}{8}$ of reserve requirements calculated under the Act beginning with the reserve maintenance period beginning November 13, 1980. During the seven-day maintenance period beginning on that date, a nonmember depository institution will maintain reserves based on its deposits and vault cash outstanding during the seven-day computation period beginning October 30, 1980. Thereafter, the amount of required reserves will increase by an additional $\frac{1}{8}$ of the reserve requirements under the Act on the first maintenance period beginning after September 1, of each succeeding year until the new reserve structure is implemented fully.

(3) *United States branches and agencies* of foreign banks will phase in to the new reserve requirements on a quarterly basis over a two-year period beginning November 13, 1980.

(4) *Reserve requirements on NOW accounts* outside New England, New York and New Jersey, authorized pursuant to Federal law on December 31, 1980, will not be subject to the phase-in provisions.

Quarterly Reporting and Reserve Maintenance. To ease the reporting burden and Reserve Bank administration, the Board has adopted a procedure of quarterly reporting and reserve maintenance for institutions that have less than \$5 million in total deposits. This procedure will begin in January 1981. This procedure will not apply to Edge or Agreement Corporations or to U.S. branches and agencies of foreign banks.

Deferred Effective Date for Smaller Institutions. To further relieve potential operational problems during the initial period of reserve maintenance by depository institutions, the Board has deferred until May 1981 reserve requirements and reporting for institutions with total deposits of less than \$1 million. At that time, the Board

will make a determination as to whether to continue to defer reserve requirements on such institutions.

Contemporaneous Reserve Accounting. The Board is disposed toward returning to contemporaneous reserve accounting, possibly by September 1981, if a further investigation indicates that such a system is operationally practical.

Detailed Discussion

Transaction Accounts

Definition. The Board proposed to define transaction accounts to include all demand deposits, negotiable order of withdrawal (NOW) accounts, savings accounts subject to automatic transfer (ATS), share draft accounts, accounts subject to preauthorized or telephone transfer or withdrawal and all accounts that permit the account holder to make third-party payments using automated teller machines (ATMs) or remote service units (RSUs). The Board invited comment on the desirability and feasibility of exempting from reserve requirements those accounts subject to preauthorized or telephone transfers that are limited to a minimal number of transfers per month for special purposes, such as loan repayments and occasional transfers or withdrawals by telephone from a savings account to a checking account.

Comments from the public indicated that the proposed definition of a transaction account was too broad, that accounts that were not normally used for transaction purposes would be covered and that the proposal could adversely affect the level of services offered by depository institutions. Consequently, the Board has narrowed the definition of the term "transaction account" so as not to interfere with occasional withdrawal or payment arrangements. Under the regulation, "transaction account" includes demand deposits, NOW accounts, ATS accounts, share draft accounts, accounts that permit payments to third parties through use of checks, drafts, negotiable instruments, debit cards or other similar items, accounts that permit a depositor to make payments to third parties through ATMs or RSUs, and accounts that permit a depositor to make more than three telephone or preauthorized transfers per calendar month. Under this approach, those accounts that are actively used for transaction purposes will be subject to transaction account reserve requirements.

With regard to accounts subject to telephone or preauthorized transfer, the determination of whether such an account is a transaction account must

be made on the basis of the number of transfers *authorized* in a calendar month under the terms of the account agreement rather than on the basis of the number of transfers *actually* made in a particular month. A preauthorized transfer includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)), or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. For example, if under the terms of a savings account agreement (written or oral) or if permitted by custom or practice of the institution a depositor is allowed to make more than three telephone transfers during a calendar month, including transfers to third parties for purposes of making payments or transfers to another account, then such an account would be a transaction account. This account would be a transaction account at all times even if a depositor never made more than three transfers during a particular calendar month.

In order for an account that permits telephone or preauthorized transfers to be exempt from transaction account reserve requirements, the account must provide that no more than three such transfers per calendar month are permitted and the account must not otherwise meet the definition of a transaction account. A depository institution is required to establish a system or other procedure to insure that no more than three such transfers are made during any calendar month from such accounts. A savings account will not be regarded as a transaction account merely because it permits the depositor to make loan repayments and pay associated expenses, such as insurance and escrow requirements, to the institution itself (as servicer or originator). (Arrangements providing for credit extended to cover checks drawn on a zero balance or low balance account are regarded as ATS accounts.) In addition, an account would not be regarded as a transaction account because withdrawals to be paid directly to the depositor could be effected by telephone or preauthorized order. All other telephone and preauthorized transfers, including those made to third parties or to another deposit account of the same depositor, would count toward the three permissible transfers per month.

Summary of Transaction Account Classifications Always Regarded as Transaction Accounts

1. Demand deposits
2. NOW accounts
3. Share draft accounts
4. ATS accounts
5. Accounts that permit third party payments through ATMs or RSUs
6. Accounts that permit third party payments through use of checks, drafts, negotiable instruments, debit cards or other similar items.

Accounts Regarded as Transaction Accounts If More Than Three of the Following Transactions Per Calendar Month Are Permitted To Be Made by Telephone or Preauthorized Order or Instruction

1. Payments or transfers to third parties
2. Transfers to another account of the depositor at the same institution
3. Transfers to an account at another depository institution

Not Regarded as Transaction Accounts (Unless Specified Above)

1. Accounts that permit telephone or preauthorized transfers or transfers by ATMs or RSUs to repay loans made or serviced by the same depository institution
2. Accounts that permit telephone or preauthorized withdrawals where the proceeds are to be mailed to or picked up by the depositor
3. Accounts that permit transfers to other accounts of the depositor at the same institution through ATMs or RSUs
4. Accounts that permit three or less telephone or preauthorized payments or transfers to third parties or to other accounts

Bona Fide Cash Management Arrangements. In determining the amount of outstanding transaction accounts to which the reserve ratio will apply, a depository institution shall not treat overdrafts in a demand deposit account as negative demand deposits. Since overdrafts are properly reflected on an institution's books as assets, they shall not be netted against positive balances in other transaction accounts; for purposes of reporting deposits, accounts in overdraft status shall be regarded as having a zero balance. However, under present interpretations, in cases where a customer has multiple demand deposit accounts with a member bank, overdrafts in one account pursuant to a *bona fide* cash management arrangement are permitted to be netted against demand balances in other accounts for reserve requirement purposes. Under revised Regulation D,

depository institutions will be permitted to continue this practice.

Computation of Net Transaction Accounts. In computing demand deposit reserve requirements, member banks currently are permitted to deduct from their gross demand deposits cash items in the process of collection ("CIPCs") and demand balances due from other banks. The purpose of this deduction is to prevent situations in which more than one institution holds required reserves against the same deposit liability to the nonbank public.

The Board requested comment on the desirability of substituting an exemption from reserve requirements for balances "due to" depository institutions for a "due from" deduction. It was noted that such a treatment of "due from's" and "due to's" is more consistent with an institutional environment in which all depository institutions are subject directly to Federal reserve requirements and, in such an environment, there is no longer a need to control the deposits of nonmember institutions indirectly through reserve requirements on the deposits nonmembers hold with their member bank correspondents. Moreover, it was suggested that such a treatment of interbank transactions would reduce the risk that distortions in measures of the monetary aggregates could arise from the clearing of checks and improve monetary control by removing one source of disturbance to the multiplier connecting reserves to the money stock.

Comment from the public generally was adverse on this issue, indicating that such an approach would be operationally burdensome. In view of the comments received, the Board has determined not to adopt this procedure at this time, but will continue to study the matter. Consequently, a depository institution generally will be permitted to deduct all cash items in process of collection and all balances due on demand from U.S. offices of other institutions subject to Federal reserve requirements from the sum of all transaction accounts in computing reserve requirements. Although requests have been received by the Board to expand the definition of CIPC to include credit card sales slips, the Board has determined that credit card sales slips will continue not to be regarded as cash items in process of collection.

Reserve Requirement Ratio. The Act specifies that any reserve requirement imposed by the Board shall be solely for the purpose of implementing monetary policy and shall be applied uniformly to all transaction accounts at all depository institutions. A reserve ratio of 3 per cent on transaction accounts of

\$25 million or less is established by the Act. This low reserve requirement tranche will be adjusted annually beginning in 1982 based on the change in the total of transaction accounts at all depository institutions during the previous year. With regard to transaction accounts in excess of \$25 million, the Board has established a reserve ratio of 12 per cent, the initial ratio established by law. This ratio may be varied within a range of from 8 to 14 per cent.

Nonpersonal Time Deposits

Definition. The Act defines "nonpersonal time deposit" as a (1) transferable time deposit or account, or (2) a time deposit or account representing funds deposited to the credit of or in which any beneficial interest is held by a depositor that is not a natural person. Nontransferable time deposits solely in the name of, or in which the entire beneficial interest is held by, a natural person are not to be subject to reserve requirements. Under the revised Regulation D, the term "savings deposit" will continue to be included in the definition of "time deposit," thus any savings deposit that is not otherwise regarded as a transaction account and that is held by a business or nonprofit organization or a domestic governmental unit would be regarded as a nonpersonal time deposit.

Time deposits that are issued in transferable form on or after October 1, 1980 will be regarded as nonpersonal time deposits because of the transferability feature. The provision of the Act that defines transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements through the transfer of time deposits from individuals to organizations or governmental units. Accordingly, the Board has determined that a transferable time deposit issued before October 1, 1980, to a natural person in a denomination of less than \$100,000 would not be regarded as a nonpersonal time deposit.¹ In addition, a transferable time deposit of any denomination issued to a natural person before that date will be regarded as exempt from the reserve requirement on nonpersonal time deposits. The definition of nonpersonal time deposit excludes a time deposit issued to and held by a natural person on or after October 1, 1980, if it includes on its face a statement that it is not

¹ The date was originally proposed as July 15, 1980. However, in response to numerous comments expressing concern over the ability of institutions to meet this deadline, the Board modified the date to September 1, 1980 (see 45 FR 47846). This date has been modified further to October 1, 1980.

transferable or if it is transferable only on the books of, or with the permission of, the depository institution. To meet this requirement, a depository institution may use the following terminology or any other statement of equivalent legal effect: "Not Transferable;" "Nontransferable;" "Not transferable, as defined in 12 CFR Part 204;" or "Not transferable except on the books of the depository institution." However, the words "Not negotiable" and "Nonnegotiable" will not meet this requirement since such terms would not prohibit the depositor from engaging in certain types of transactions that could lead to an evasion of reserve requirements. In this regard, the transferee of a nonnegotiable time deposit would not be a holder in due course and would not have the ability to cut off certain defenses of an obligor. Although such a transferee would be in a less desirable position vis-a-vis a transferee of a negotiable time deposit, an exchange for value can be made and reserve avoidance transactions would be possible. Consequently, in order to prevent this possibility, a time deposit issued to a natural person on or after October 1, 1980 must be nontransferable in order to be exempt from reserve requirements.

Depository institutions may stamp, type or otherwise affix the required legend to existing stocks of deposit documents. Any personal time deposit or account originally issued before October 1, 1980, would not require a legend to be exempt from reserve requirements, including time deposits that automatically renew after that date and accounts to which additional funds can be added. The required legend must appear on the document that evidences an account issued on or after October 1, 1980 whether in certificate, passbook, statement, or book-entry form.

Depository institutions should not issue time deposits in the name of natural person prior to October 1 that normally would be issued in the name of a corporation or other organization. The Board expects that depository institutions will observe the grandfather date for transferable personal time deposits in good faith.

Transferability. A number of comments received from the public raised questions concerning the potential limitations that could be imposed by designating a time deposit "not transferable." As stated above, the provision of the Act including transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements by transferring time

deposits from natural persons to nonexempt entities. Accordingly, the Board will not regard a time deposit as "transferable" although it can be pledged as collateral for a loan from any lender, or even if title or beneficial interest in the deposit or account can be passed on in circumstances arising from death, bankruptcy, divorce, marriage, incompetency, attachment or otherwise by operation of law. In addition, the reissuance of a time deposit by an institution in the name of another or the addition or subtraction of names on the time deposit will not be regarded as a transfer. In this regard, a depository institution's involvement in the transaction would enable it to know if any beneficial interest in the time deposit is being acquired by other than a natural person, and, thus, the appropriate reserve requirement change could be made.

IRA and Keogh Plan Time Deposits and Escrow Funds. The Monetary Control Act provides that any time deposit held in the name of a depositor that is not a natural person is subject to reserve requirements on nonpersonal time deposits. Under this provision IRA and Keogh Plan time deposits, which can only be issued to individuals, would be treated as nonpersonal time deposits since they are held by the depository institution as trustee or custodian due to the technical requirements of the Internal Revenue Code. Since these deposits are indistinguishable from other personal time deposits and are regarded by the depositor as his own funds subject to his direct control, the Board will regard such funds as personal time deposits.

In addition, escrow accounts, such as funds held for tax or insurance payments, will be regarded as personal time deposits if the depositor is a natural person and the other conditions of a time deposit are met, notwithstanding that the funds are held by the depository institution or other organization as escrow agent. (If escrow funds are held in any other type of deposit account, they will be regarded as a transaction account.)

Time Deposits Held by Trustees. A number of commentators raised the issue as to the appropriate treatment of time deposits held by trustees and other fiduciaries where the entire beneficial interest is held by natural persons. The Board believes that the imposition of reserve requirements on such funds is not necessary for the conduct of monetary policy. Therefore, any nontransferable time deposit held in the name of a trustee or other fiduciary, whether or not a natural person, will be

regarded as a personal time deposit if the entire beneficial interest is held by natural persons. A nontransferable time deposit that is an asset of a pension fund would normally be regarded as a personal time deposit since the entire beneficial interest of such funds normally is held by natural persons.

Definition of Natural Person. Consistent with its longstanding positions currently embodied in Regulations D and Q as to what constitutes an individual for purposes of maintaining a NOW, ATS, or savings account, the Board will regard a "natural person" to consist of an individual and a sole proprietorship. "Natural person" will not include a partnership, corporation (including one solely owned by an individual), governmental unit, or other association or organization.

Estimation of Personal Time Deposits. A number of depository institutions inquired during the comment period whether they would be permitted to estimate the breakdown between the amount of outstanding personal and nonpersonal time deposits. The Board has determined to permit depository institutions to estimate (using standard sampling methods) funds held in fixed maturity time deposits issued before October 30, 1980, the beginning of the first computation period for reserve requirements under the revised regulation.

Amounts of personal and nonpersonal time deposits held in savings accounts, time deposit open accounts and notice accounts may not be estimated since such accounts do not have a stated maturity and reliance on estimates of such accounts, therefore, would continue indefinitely into the future. An institution will be required to classify as personal or nonpersonal all existing savings, time deposit open accounts and notice accounts as well as new fixed maturity time deposits issued on or after October 30, 1980.

Maturity of Time Deposits. The Board has adopted its proposal to shorten the minimum maturity of time deposits for purposes of Regulations D and Q from the present 30 days to 14 days. The Board believes that the shorter minimum maturity on time deposits will improve the competitive position of domestic depository institutions vis-a-vis open market instruments and foreign banking offices. Beginning October 30, 1980, member banks and U.S. branches and agencies of foreign banks that are subject to Regulation Q (12 CFR Part 217) may issue time deposits with original maturities between 14 and 29 days issued in denominations of \$100,000 or more and pay interest on

such deposits at any rate since there are no Federal interest rate limitations on time deposits issued in such denominations. It is anticipated that the other Federal financial institution regulatory agencies will consider taking similar action with respect to the definition of the term time deposit and that the Depository Institutions Deregulation Committee will consider the establishment of an interest rate ceiling on time deposits under \$100,000 with maturities of 14 to 29 days.

Gross Borrowings From Non-U.S. Offices of Unrelated Institutions. The Board has determined that the term time deposit also will include, regardless of maturity, a promissory note, an acknowledgment of advance, or a similar obligation that is issued to any office located outside the United States of another depository institution or another foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under § 217.3(g) of Regulation Q (12 CFR Part 217.3(g)).

Reserve Requirement Ratio. The Board has established a reserve ratio of 3 per cent on nonpersonal time deposits with original maturities of less than four years. Nonpersonal time deposits with original maturities of four years or more will be subject to a zero per cent reserve ratio.

Treatment of Promissory Notes, Due Bills and Other Miscellaneous Obligations of Depository Institutions

Regulation D currently defines as deposits a number of sources of funds that frequently are not classified as deposits for other purposes. The Board will continue to regard as deposits promissory notes (commercial paper), ineligible acceptances (finance bills), due bills, acknowledgments of advance, repurchase agreements against assets other than obligations of, or fully-guaranteed as to principal and interest by, the United States government and its agencies, and funds supplied from nondepository affiliates. Generally, such obligations having original maturities of less than 14 days will be regarded as demand deposits and will be subject to the reserve requirement on transaction accounts; those having maturities of 14 days or more will be regarded as nonpersonal time deposits, if transferable or held by a depositor other than a natural person. Under this approach, certificates of indebtedness issued by credit unions and mortgage-backed bonds and commercial paper issued by all depository institutions including savings and loan associations will be defined as deposits. While such obligations with original maturities of four years or more will be regarded as

time deposits, they will be subject to a zero percent reserve requirement.

Subordinated Notes. Under Regulations D and Q (Interest on Deposits) subordinated capital debt of member banks is not regarded as a deposit subject to reserve requirements or interest rate limitations provided that certain conditions are met, including a minimum maturity of seven years or more. The Board proposed to retain these conditions for depository institutions. In this regard, the Federal Deposit Insurance Corporation has similar rules concerning issuance of subordinated notes exempt from interest rate limitations by insured nonmember commercial banks (see 12 CFR Part 329). For thrift institutions, the Board proposed a similar exemption from reserve requirements for subordinated capital debt. Such a debt obligation would be exempt from reserve requirements if it would have a minimum original maturity of seven years or more and was approved by the institution's primary Federal supervisor or was issued under the rules of the primary Federal supervisor. The Board has adopted these proposals as published.

Obligations of Nondepository Affiliates. The Board has adopted its proposal to revise the reserve treatment of funds advanced by affiliates to depository institutions. At present, deposits of member banks include the liability of an affiliate that it has issued to the extent that the proceeds are used for the purpose of supplying funds to the affiliated institution. However, these rules relating to determination of deposit status of such obligations are complex. In order to simplify the determination of the deposit status of affiliate obligations, the Board will apply the following rules. An obligation issued by the affiliate will not be regarded as a deposit of the affiliated depository institution if the obligation has a maturity of four years or more. In addition, an obligation issued by an affiliate will not be regarded as a deposit of the affiliated depository institution if the obligation would not have been a deposit had it been issued directly by the affiliated depository institution. For example, a borrowing by an affiliate from an unaffiliated depository institution will not be regarded as a deposit of the affiliated depository institution. However, if the proceeds from such obligations are placed with the affiliated depository institution in the form of a deposit or other nonexempt borrowing, then such funds are reservable to the affiliated depository institution. An obligation of a nondepository affiliate

will be regarded as a deposit if the obligation issued by the affiliate would have been a deposit had it been issued directly by the affiliated depository institution. For example, a borrowing by an affiliate from a nondepository business organization will be regarded as a deposit of the affiliated depository institution if the funds are supplied to the depository institution by the affiliate. If the affiliate's obligation is determined to be a deposit, then the appropriate reserve ratio to be applied will be determined by the shorter of the maturity of the affiliate's obligation or the maturity of the obligation issued to the affiliate by its affiliated depository institution. If the affiliate's obligation is determined to be a deposit and the proceeds are used to purchase assets, then the appropriate reserve ratio to be applied will be determined by the shorter of the affiliate's obligation or the remaining maturity of the assets purchased.

Due Bills. A due bill is a promise by the depository institution to deliver at some future date a security purchased by the institution's customer. Under existing provisions, due bills issued or undertaken by a member bank principally as a means of obtaining funds to be used in its banking business are regarded as deposits subject to reserves. However, due bills that are not issued principally as a means of obtaining funds to be used in the banking business are deposits only if they are not collateralized with a similar security within three days after issuance. The principal questions that arise in connection with these transactions involve whether a member bank is utilizing due bill transactions as a means of obtaining funds principally for use in its banking business and whether such obligations are collateralized with a "similar" security.

In order to minimize compliance and enforcement problems involving due bills, the Board proposed to revise Regulation D so that all due bills would be reservable deposits from the date of issuance without regard to the purpose of the due bill unless collateralized within three days from date of issuance by a security identical to the security purchased by the depository institution's customer.

Comments from the public indicated that the requirement that securities identical to those purchased be used as collateral would place dealer banks at a significant competitive disadvantage to nonbank dealers and could impair the market for U.S. government securities. In view of these comments, the Board has adopted the proposed simplifications

concerning due bills in modified form, that is, eliminating the distinction between *bona fide* and other due bills, but requiring that the collateral provided by *similar* to, rather than identical to, the securities purchased. In this regard, a security will be regarded as "similar" if it is of the same type and if its maturity is comparable to that of the obligation purchased by the customer. A due bill that remains uncollateralized after three business days is a deposit from that time forward. In addition, the Board is reviewing other aspects relating to due bills and may adopt additional operational safeguards on due bills at some future date.

Eurocurrency Reserve Requirement

Under the Act, the Board's authority to establish a reserve requirement necessary for the implementation of monetary policy on Eurocurrency transactions is extended to cover all domestic depository institutions. In addition to imposing basic reserve requirements on all depository institutions, the Board is authorized also to place reserve requirements on: net borrowings from related foreign offices, net borrowing from unaffiliated foreign depository institutions, loans to United States residents made by overseas offices of depository institutions located in the United States, and sales of assets by depository institutions in the United States to their overseas offices. With the exception of net borrowings from unaffiliated foreign depository institutions, these are essentially the same categories that are reservable under Regulation D currently. As explained below, using its basic reserve requirement authority as well as a portion of its Eurocurrency reserve requirement authority, the Board has determined to continue to subject to reserve requirements the same categories of transactions that currently are reservable as Eurocurrency transactions, except that the proceeds of sales to foreign branches of all assets—rather than only domestic assets—will be reservable. Loans to U.S. residents made by non-U.S. offices of foreign banks will not be reservable.

Under the Board's proposed regulations, borrowings from foreign offices of unaffiliated depository institutions would continue to be reservable on a gross rather than a net basis. U.S. agencies and branches of foreign banks and some large domestic banks objected to the proposal to reserve such liabilities on a gross basis. These institutions indicated their view that the Monetary Control Act authorizes the Board to impose reserve requirements on borrowings from

unaffiliated institutions only on a net basis. The Board has determined to treat these borrowings on a gross basis as time deposits under the basic reserve requirement authority of the Board rather than under the Board's additional Eurocurrency reserve requirement authority. The Board intends to review the matter of gross versus net borrowings from unaffiliated depository institutions in the context of proposals to establish Domestic International Banking Facilities.

The Board has adopted a reserve ratio of 3 per cent on Eurocurrency transactions, the same ratio applied to nonpersonal time deposits. The Board believes that this action will eliminate any artificial incentive through the reserve requirement structure that favors raising funds offshore as compared with the domestic market. As a technical matter, the revised Regulation D reflects a change in the four-week computation and maintenance period for Eurocurrency reserves to one week periods coinciding with normal reserve computation and maintenance periods, as proposed.

Eligible Reserve Assets

The reserves of a depository institution may be held in the form of vault cash or a balance maintained at the Federal Reserve Bank, either directly or indirectly on a pass-through basis. A depository institution that is a member of the Federal Reserve System must hold its required reserve balances directly with its Federal Reserve Bank. A nonmember depository institution may hold its required reserve balance directly with its Federal Reserve Bank or, alternatively, it may pass its required reserve balance to the Federal Reserve through a correspondent. Such a correspondent may be a depository institution that holds a required reserve balance directly with the Federal Reserve, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility.

The Board has the authority to specify the portion of vault cash that a depository institution may use to meet its reserve requirements. Under Regulation D, a depository institution will be permitted to use all of its vault cash as eligible reserve assets. Vault cash consists of United States currency and coin, and does not include securities or earnings assets of any type. In addition, all silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value will not be regarded as vault cash.

Reserve Requirement Calculation by United States Branches and Agencies of Foreign Banks

The Board has determined to continue the system of statewide aggregation for reserve computation and maintenance for branches and agencies. This procedure was adopted by the Board on March 19, 1980, in regulations (45 FR 19216) implementing section 7 of the IBA (12 U.S.C. 3105), which authorizes the Board to impose reserve requirements on United States branches and agencies of foreign banks with total worldwide consolidated assets in excess of \$1 billion. However, only one \$25 million low reserve requirement tranche on transaction accounts will be permitted for each foreign bank, since its U.S. branches and agencies compete primarily with domestic money center banks, which, by statute, have only one low reserve requirement tranche. Allowing a foreign bank only one low reserve tranche is consistent with the IBA's goal of promoting competitive equality between branches and agencies and domestic depository institutions. The Board also will allow an Edge or Agreement Corporation only one low reserve tranche on transaction accounts regardless of the number of its branches.

Under the Board's rules, a foreign bank or an Edge or Agreement Corporation will be allowed to assign its low reserve requirement tranche to any of its offices. However, if possible, the low reserve tranche must be assigned to a single office or to a group of offices filing a single aggregated report of deposits. In the event that the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing an aggregated report of deposits, the unused portion may be assigned to other offices. Reassignment of the low reserve requirement tranche will be permitted on an annual basis.

Phase-in of Reserve Requirements

Member Banks. Member banks will be phased down to the new structure of reserve requirements over a three and one-half year period from the effective date of the Act, September 1, 1980. During this period, reserves required to be maintained will equal required reserves under the reserve structure in effect on August 31, 1980 ("old structure"), less a portion of the difference between reserves calculated under the structure of the Act ("new structure") and the old structure.

In order to relieve the reporting burden during the phase-in period, the Board has adopted a simplified procedure for computing reserve requirements under the old structure

during this period. The Board believes that this procedure will be beneficial to the Federal Reserve and to member banks and is consistent with Congressional intent concerning transitional adjustments. Under this approach, required reserves of a member bank on time deposits under the old structure will be computed by using its average reserve ratio on total time deposits during the 14-day period from July 24-August 6, 1980. This average ratio will be used throughout the entire phase-in period. A former member bank that did not maintain Federal reserves during this period and, thus, did not report deposits to the Federal Reserve may use the period from August 14-27, 1980 as its base period for purposes of determining its average reserve ratio on time deposits. Required reserves on remaining deposits (including savings deposits) will be computed using the existing ratios.

The current reserve ratios on time deposits are as follows:

	Percent
By original maturity less than 180 days:	
—\$0—\$5 million.....	3
—over \$5 million.....	6
180 days to less than 4 years.....	2½
4 years or more.....	1

Time deposits are subject, at present under the Federal Reserve Act, to a 3% minimum reserve ratio. The average reserve ratio on time deposits will be computed by dividing the daily average total amount of required reserves on such deposits by the daily average total time deposits for the 14-day period.

Member banks will begin to phase-down to the new reserve requirement structure during the reserve maintenance period beginning November 13, 1980. Required reserves computed under the old structure will be reduced at that time by ¼ of the difference between required reserves under the old structure and required reserves under the new structure. By having an initial reserve reduction of 25 per cent rather than ¼ as originally proposed, member banks will be compensated for the two-month delay in implementation of the new reserve requirements. The phase-down adjustment will increase by ⅓ of the difference between reserves computed under the old and new structures, beginning in September 1981, and at each six-month interval thereafter until the new reserve structure is fully implemented.

Nonmember Banks and Thrift Institutions. Reserve requirements of nonmember banks and thrift institutions will be phased in over an eight-year

period. Nonmember institutions (other than U.S. branches and agencies of foreign banks) will be required to hold an amount equal to ⅓ of reserve requirements calculated under the Act, starting with the reserve maintenance period which begins on Thursday, November 13, 1980. During the seven-day maintenance period beginning on that date, a nonmember depository institution will maintain reserves based on its deposits and vault cash outstanding during the seven-day computation period beginning October 30, 1980. Thereafter, the amount of required reserves will increase by an additional ⅓ of the reserve requirements under the Act on the first maintenance period beginning after September 1 of each succeeding year until the new reserve structure is fully implemented.

The Act provides a special phase-in provision for certain State-chartered nonmember depository institutions located in a State outside the continental United States. The Board's proposed Regulation D would have applied this provision to such institutions located in Alaska and Hawaii. However, because the Alaska Omnibus Act (Pub. L. 86-70) provides that Alaska is part of the "continental United States," the special phase-in provision of the Monetary Control Act can only apply to certain State-chartered nonmember depository institutions in Hawaii. State-chartered nonmembers in Alaska that were engaged in business on July 1, 1979, and that were not Federal Reserve members will receive the eight-year phase-in applicable to other depository institutions.

Deposits or Accounts Authorized After April 1, 1980. The Act exempts from the transitional phase-in provisions any category of deposits or accounts that are first authorized pursuant to Federal law in any State after April 1, 1980. This provision most immediately applies to interest-bearing negotiable order of withdrawal (NOW) accounts that are authorized in States outside of New England,² New York and New Jersey on December 31, 1980. Therefore, depository institutions outside of New England, New York and New Jersey maintaining NOW accounts will be required to maintain reserves against such accounts at the full transaction account reserve ratio.

In computing reserves required to be maintained on net NOW accounts, a depository institution located outside of New England, New York and New

Jersey will be permitted to deduct from its total NOW accounts a portion of its cash items in process of collection and balances due on demand from other depository institutions equal to the ratio of its NOW accounts to its total transaction accounts. In order to provide the most benefit to depository institutions, the Board will permit the \$25 million low reserve tranche for transaction accounts to apply to transaction accounts subject to the highest reserve ratio. Under this approach, a nonmember depository institution outside of New England, New York and New Jersey phasing in reserves may apply the \$25 million tranche to its NOW accounts initially with any remaining portion applied to other transaction accounts subject to the phase-in. Transaction accounts in excess of \$25 million (other than NOW accounts) will be subject to a reserve ratio of 12 per cent, but the effective reserve ratio applicable to these accounts will be lower than 12 per cent because of the phase-in. A member bank may apply the \$25 million low reserve tranche to demand deposits or NOW accounts in computing its reserve requirements.

Branches and Agencies. Under the amendments to Regulation D adopted in connection with implementation of the IBA, branches and agencies were granted a phase-in of reserve requirements over a two-year period. This phase-in period is similar to that allowed to nonmember banks joining the Federal Reserve System. The Board has determined to allow branches and agencies to phase-in to the new reserve requirement structure that becomes effective on November 13, 1980, rather than requiring a more complicated and burdensome procedure of phasing up to member bank actual reserve requirements by the end of two years, and then phasing down to the new structure over the next two years in line with member banks. On November 13, when revised Regulation D becomes effective, branches and agencies will begin to maintain reserves subject to a two-year phase-in schedule similar to that proposed in June. Reporting will not be required of branches and agencies until the reserve computation period that begins on October 30, 1980. The deposits of new branches and agencies of a foreign bank that has existing United States Branches or agencies will be entitled only to the remaining phase-in, if any, available to the existing United States branches or agencies.

The amendments to Regulations D and Q (Interest on Deposits (12 CFR Part 217)) that were adopted in March in

²Massachusetts, New Hampshire, Connecticut, Rhode Island, Vermont and Maine.

connection with implementation of the IBA will go into effect on September 4, 1980, as originally scheduled, although reserves will not be required to be held until November 13, 1980. Federal Reserve credit facilities also will be available beginning September 4, 1980. System services will be made available to branches and agencies beginning in November 1980 when they actually begin holding reserves. However, clearing balances may be required commensurate with the level of services provided. This will promote competitive equality with member banks and take into account the shorter reserve requirement phase-in period applicable to branches and agencies.

De Novo Banks and New Members. The Act provides an eight-year phase-in only for nonmember depository institutions engaged in business on July 1, 1979. Consequently, a *de novo* nonmember depository institution opening after July 1, 1979, would be required to maintain full reserve requirements beginning on the effective date of the Act. In addition, under the Act, a *de novo* member or a nonmember joining the System ("new member") would be required to maintain full present member bank reserve requirements, and then phase down to the new requirements of the Act. Current Board policy provides a two-year transitional period to full reserve requirement levels for *de novo* and new member banks.

The Board believes that, in order to provide an orderly adjustment to reserve requirements, it is appropriate for the Federal Reserve to continue its policy of providing a 24-month transitional phase-in for all *de novo* depository institutions and new members. Under the Board's action, *de novo* institutions and new members will be phased in to the new reserve requirements under the Act rather than to present member bank reserve requirements. New member banks on or after September 1, 1980, will not be required to report deposits or maintain reserves until the revised regulation becomes effective. This transition policy will also apply to a newly formed Edge or Agreement Corporation, or a foreign bank establishing its initial branch or agency in the United States.

Former Members and Mergers. On April 23, 1980, the Board announced an interpretation (12 CFR 204.120; 45 FR 28305) of section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. § 461(b), as amended by section 103 of the Act). This interpretation applies to the reserves required of any bank that was a member of the Federal Reserve

System on July 1, 1979, and which subsequently withdraws from membership. That interpretation also establishes a System policy for reserve requirements of depository institutions involved in mergers.

Coverage of the Act

During the comment period, several questions were received concerning the scope of institutions covered by the Act. The Board has determined that industrial banks that engage in a deposit-taking function are covered by the Act and are subject to reserve requirements on their transaction accounts and nonpersonal time deposits, since they are eligible for Federal deposit insurance.

New York Investment (Article XII) Companies, on the other hand, are not subject to reserve requirements under the IBA, and since they accept credit balances rather than deposits, they are not eligible for Federal deposit insurance. Consequently, the Board has concluded that New York Investment Companies are not depository institutions subject to the Act.

Under the Act, bankers' banks are not subject to Federal reserve requirements. Bankers' banks are defined as depository institutions that are organized solely to do business with other financial institutions, do not do business with the general public, and are owned primarily by the financial institutions with which they do business. Questions have arisen with respect to how the Board will apply these criteria in individual cases, particularly with regard to corporate central credit unions. The Board will consider in the near future the issue of what institutions qualify for the exemption.

Quarterly Reporting for Certain Depository Institutions

The Board recognizes that many very small depository institutions—especially credit unions—may not be equipped to report to the Federal Reserve and to maintain reserves on a weekly basis. Moreover, given the substantial number of such very small institutions that might have small amounts of reservable liabilities, the Federal Reserve could encounter operational difficulty in processing reports of these institutions on a weekly basis. In an effort to reduce the reporting and reserve management burdens of very small depository institutions and to reduce the processing burden of the Reserve Banks, depository institutions with total deposits of less than \$5 million will report their deposits to the Federal Reserve for a 7-day computation period only once each

calendar quarter and maintain reserves over a subsequent three-month period based on such deposits reported.

Quarterly reporting will be staggered so that each month one-third of all quarterly reporters will report deposit data for one week. Reserves will be maintained during a period beginning two weeks after the start of the computation period and ending one week after the end of the institution's next computation period. Balances to be held at the Federal Reserve over the three-month maintenance period, either directly or indirectly on a pass-through basis, would equal required reserves based on the deposit report for one week less vault cash held during the seven-day reporting period. An institution will remain eligible for quarterly reporting until its total deposits are \$5 million or more for two consecutive quarterly reports. Depository institutions eligible for quarterly reporting and reserve maintenance would retain the option of reporting and maintaining required reserves on a weekly rather than quarterly basis. Additional details will be supplied to depository institutions in the near future.

The quarterly reporting system will commence in January 1981. Small member banks will continue to report deposits and maintain reserves on a weekly basis until that time. Eligible nonmember institutions will not be required to report or maintain reserves until the quarterly procedure begins. It should be noted that Edge and Agreement Corporations and U.S. branches and agencies of foreign banks will not be eligible for quarterly reporting and reserve maintenance. Rather, all such institutions will—regardless of size—be required to report and to maintain reserves on a weekly basis.

In addition, the Board has deferred reserve requirements for institutions that have less than \$1 million in total deposits as of December 31, 1979. These institutions will be exempt from reporting and reserve maintenance until May 1981, at which time the Board will determine whether a further delay is warranted.

Contemporaneous Reserve Accounting

The Federal Reserve Board is disposed toward returning to contemporaneous reserve accounting, possibly by September 1981, if a further investigation of potential operational difficulties indicates that such a system is practical. Under contemporaneous reserve accounting, the reserve computation and reserve maintenance weeks would coincide. Reserve

computation would be based on daily opening-of-business balances while reserves maintained would be based on daily close-of-business balances. Among the issues to be studied are the feasibility of such a reserve accounting system for all types of depository institutions, potential complications arising from pass-through arrangements, and the relation to reserve carryover.

Business Day Computation Period

The Board has determined not to adopt a business-day computation period at this time. However, the Federal Reserve Board expects that depository institutions will not engage in reserve avoidance practices under which reserve requirements are lowered by transactions that artificially increase cash items in the process of collection and "due from" deductions. Included among such practices are so-called "week-end Eurodollar arbitrage" transactions and borrowing arrangements involving the receipt of uncollected funds and repayment in collected (or Federal) funds. To ensure compliance, the Federal Reserve will monitor individual institutions and consider the need for implementation of additional measures, including adoption of a business-day reserve computation week.

The following table presents reporting categories that will be required of depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks.

Table

Reporting categories for institutions subject to reserve requirements:

1. Demand deposits to banks.
2. Demand deposits due to other depository institutions.
3. Demand deposits due to the U.S. Government.
4. Other demand deposits (including noninterest-bearing negotiable orders of withdrawal).
5. Savings deposits authorized for automatic transfer (ATS accounts).
6. Savings deposits that permit more than three telephone or preauthorized transfers or payments per calendar month or that permit payments to third parties through automated teller machines, including remote service units.
7. Negotiable order of withdrawal (NOW) accounts; share drafts.
8. Demand deposits due from depository institutions.
9. Cash items in process of collection.
10. Other savings deposits (i.e., all savings deposits other than those included in items 5, 6, or 7 above)—personal.
11. Other savings deposits—nonpersonal.
12. Personal time deposits.

13. Nonpersonal time deposits with original maturities of 14 days or more but less than 4 years.

14. Nonpersonal time deposits with original maturities of 4 years or more.

15. Time deposits of \$100,000 or more.

16. Vault cash.

17. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances have remaining maturities of less than 14 days.

18. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more but less than 4 years—personal.

19. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more but less than 4 years—nonpersonal.

20. Borrowings from offices of other depository institutions outside the United States, foreign national governments, and international institutions.

21. Gross balances due to own non-U.S. branches.¹

22. Gross balances due from own non-U.S. branches.¹

23. Assets sold to and held by own non-U.S. branches acquired from U.S. offices (including assets that are claims on both U.S. and non-U.S. residents).¹

24. Credit extended by own non-U.S. branches to U.S. residents.¹

25. Gross liabilities to the foreign bank (including its offices located outside the United States).²

26. Gross claims on the foreign bank (including its offices located outside the United States).²

27. Total assets less the sum of United States coin and currency, cash items in process of collection and unposted debits, balances due from domestic banks and other foreign banks, balances due from foreign central banks and net balances due from the foreign bank and the foreign bank's United States and non-United States offices.²

28. Assets sold by a branch or agency to its foreign bank (including its offices located outside the United States) or its foreign parent bank holding company.²

Effective November 13, 1980, pursuant to the Board's authority under sections 19, 25, and 25(a) of the Federal Reserve Act (12 U.S.C. §§ 461 *et seq.*, 601 *et seq.*, 611 *et seq.*) and section 7 of the International Banking Act of 1978 (12 U.S.C. § 3105), Regulation D (12 CFR Part 204) is revised to read as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

Sec.

204.1 Authority, purpose and scope.

204.2 Definitions.

204.3 Computation and maintenance.

204.4 Transitional adjustments.

204.5 Emergency reserve requirement.

204.6 Supplemental reserve requirement.

204.7 Penalties.

204.8 Reserve requirement ratios.

¹ To be reported only by U.S. depository institutions and Edge and Agreement Corporations.

² To be reported only by U.S. branches and agencies of foreign banks.

Authority: Sections 19, 15, 25(a) of the Federal Reserve Act, 12 U.S.C. 461, 601, 611; and Section 7 of the International Banking Act of 1978, 12 U.S.C. 3105.

§ 204.1 Authority, purpose and scope.

(a) *Authority.* This Part is issued under the authority of section 19 (12 U.S.C. 461 *et seq.*) and other provisions of the Federal Reserve Act and of section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

(b) *Purpose.* This Part relates to reserves that depository institutions are required to maintain for the purpose of facilitating the implementation of monetary policy by the Federal Reserve System.

(c) *Scope.* (1) The following depository institutions are required to maintain reserves in accordance with this Part:

(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(ii) Any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(f), (g));

(iii) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or any credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); and

(v) Any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).

(2) Except as may be otherwise provided by the Board, a foreign bank's branch or agency located in the United States is required to comply with the provisions of this Part in the same manner and to the same extent as if the branch or agency were a member bank, if its parent foreign bank (i) has total worldwide consolidated bank assets in excess of \$1 billion; or (ii) is controlled by a foreign company or by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1 billion. In addition, any other foreign bank's branch located in the United States that is eligible to apply to become an insured bank under section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is required to maintain reserves in

accordance with this Part as a nonmember depository institution.

(3) Except as may be otherwise provided by the Board, an Edge Corporation (12 U.S.C. 611 *et seq.*) or an Agreement Corporation (12 U.S.C. 601 *et seq.*) is required to comply with the provisions of this Part in the same manner and to the same extent as a member bank.

(4) This Part does not apply to any financial institution that (i) is organized solely to do business with other financial institutions; (ii) is owned primarily by the financial institutions with which it does business; and (iii) does not do business with the general public.

(5) The provisions of this Part do not apply to any deposit that is payable only at an office located outside the United States.

§ 204.2 Definitions.

For purposes of this Part, the following definitions apply unless otherwise specified:

(a)(1) "Deposit" means:

(i) The unpaid balance of money or its equivalent received or held by a depository institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to an account, including interest credited, or which is evidenced by an instrument on which the depository institution is primarily liable;

(ii) Money received or held by a depository institution, or the credit given for money or its equivalent received or held by the depository institution in the usual course of business for a special or specific purpose, regardless of the legal relationships established thereby, including escrow funds, funds held as security for securities loaned by the depository institution, funds deposited as advance payment on subscriptions to United States government securities, and funds held to meet its acceptances;

(iii) An outstanding draft, cashier's check, money order, or officer's check drawn on the depository institution and issued in the usual course of business for any purpose, including payment for services, dividends, or purchases;

(iv) Any due bill or other liability or undertaking on the part of a depository institution to sell or deliver securities to, or purchase securities for the account of, any customer (including another depository institution), involving either the receipt of funds by the depository institution, regardless of the use of the proceeds, or a debit to an account of the customer before the securities are delivered. A deposit arises thereafter, if after three business days from the date

of issuance of the obligation, the depository institution does not deliver the securities purchased or does not fully collateralize its obligation with securities similar to the securities purchased. A security is similar if it is of the same type and if it is of comparable maturity to that purchased by the customer;

(v) Any liability of a depository institution's affiliate that is not a depository institution, on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral), with a maturity of less than four years, to the extent that the proceeds are used to supply or to maintain the availability of funds (other than capital) to the depository institution, except any such obligation that, had it been issued directly by the depository institution, would not constitute a deposit. If an obligation of an affiliate of a depository institution is regarded as a deposit and is used to purchase assets from the depository institution, the maturity of the deposit is determined by the shorter of the maturity of the obligation issued or the remaining maturity of the assets purchased. If the proceeds from an affiliate's obligation are placed in the depository institution in the form of a reservable deposit, no reserves need be maintained against the obligation of the affiliate since reserves are required to be maintained against the deposit issued by the depository institution. However, the maturity of the deposit issued to the affiliate shall be the shorter of the maturity of the affiliate's obligation or the maturity of the deposit;

(vi) Credit balances;

(vii) Any liability of a depository institution on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral), including mortgage-backed bonds, that is issued or undertaken by a depository institution as a means of obtaining funds, except any such obligation that:

(A) Is issued or undertaken and held for the account of;

(I) An office located in the United States of another depository institution, foreign bank, Edge or Agreement Corporation, or New York Investment (Article XII) Company;

(2) The United States government or an agency thereof; or

(3) The Export-Import Bank of the United States, Minbanc Capital Corporation, the Government Development Bank for Puerto Rico, a Federal Reserve Bank, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility;

(B) Arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States government or any agency thereof that the depository institution is obligated to repurchase;

(C) Is not insured by a Federal agency, is subordinated to the claims of depositors, has a weighted average maturity of seven years or more, is not subject to Federal interest rate limitations, and is issued by a depository institution with the approval of, or under the rules and regulations of, its primary Federal supervisor;

(D) Arises from a borrowing by a depository institution from a dealer in securities, for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank or other immediately available funds (commonly referred to as "Federal funds"), received by such dealer on the date of the loan in connection with clearance of securities transactions; or

(E) Arises from the creation, discount and subsequent sale by a depository institution of its bankers' acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372).

(2) "Deposit" does not include:

(i) Trust funds received or held by the depository institution that it keeps properly segregated as trust funds and apart from its general assets or which it deposits in another institution to the credit of itself as trustee or other fiduciary. If trust funds are deposited with the commercial department of the depository institution or otherwise mingled with its general assets, a deposit liability of the institution is created;

(ii) An obligation that represents a conditional, contingent or endorser's liability;

(iii) Obligations, the proceeds of which are not used by the depository institution for purposes of making loans, investments, or maintaining liquid assets such as cash or "due from" depository institutions or other similar purposes. An obligation issued for the purpose of raising funds to purchase business premises, equipment, supplies, or similar assets is not a deposit;

(iv) Accounts payable;

(v) Hypothecated "deposits" created by payments on an installment loan where (A) the amounts received are not used immediately to reduce the unpaid balance due on the loan until the sum of the payments equals the entire amount of loan principal and interest; (B) and where such amounts are irrevocably assigned to the depository institution

and cannot be reached by the borrower or creditors of the borrower;

(vi) Dealer reserve and differential accounts that arise from the financing of dealer installment accounts receivable, and which provide that the dealer may not have access to the funds in the account until the installment loans are repaid, as long as the depository institution is not actually (as distinguished from contingently) obligated to make credit or funds available to the dealer;

(vii) A dividend declared by a depository institution for the period intervening between the date of the declaration of the dividend and the date on which it is paid;

(viii) An obligation representing a "pass through account," as defined in this section;

(ix) An obligation arising from the retention by the depository institution of no more than a 10 per cent interest in a pool of conventional 1-4 family mortgages that are sold to third parties;

(x) An obligation issued to a State or municipal housing authority under a loan-to-lender program involving the issuance of tax exempt bonds and the subsequent lending of the proceeds to the depository institution for housing finance purposes;

(xi) Shares of a credit union held by the National Credit Union Administration or the National Credit Union Administration Central Liquidity Facility under a statutorily authorized assistance program; and

(xii) Any liability of a United States branch or agency of a foreign bank to another United States branch or agency of the same foreign bank, or the liability of the United States office of an Edge Corporation to another United States office of the same Edge Corporation.

(b)(1) "Demand deposit" means a deposit that is payable on demand, or a deposit issued with an original maturity or required notice period of less than 14 days, or a deposit representing funds for which the depository institution does not reserve the right to require at least 14 days' written notice of an intended withdrawal. The term includes all deposits other than time and savings deposits. Demand deposits may be in the form of (i) checking accounts; (ii) certified, cashier's and officer's checks (including checks issued by the depository institution in payment of dividends); (iii) traveler's checks and money orders that are primary obligations of the issuing institution; (iv) checks or drafts drawn by, or on behalf of, a non-United States office of a depository institution on an account maintained at any of the institution's United States offices; (v) letters of credit

sold for cash or its equivalent; (vi) withheld taxes, withheld insurance and other withheld funds; (vii) time deposits that have matured or time deposits upon which the required notice of withdrawal period has expired and have not been renewed (either by action of the depositor or automatically under the terms of the deposit agreement); and (viii) an obligation to pay on demand or within 14 days a check (or other instrument, device, or arrangement for the transfer of funds) drawn on the depository institution, where the account of the institution's customer already has been debited. The term does not include an obligation that is a time deposit under section 204.2(c)(1)(ii).

(2) A "demand deposit" does not include checks or drafts drawn by the depository institution on the Federal Reserve or on another depository institution.

(c)(1) "Time deposit" means (i) a deposit that the depositor does not have a right to withdraw for a period of 14 days or more after the date of deposit. "Time deposit" includes funds:

(A) Payable on a specified date not less than 14 days after the date of deposit;

(B) Payable at the expiration of a specified time not less than 14 days after the date of deposit;

(C) Payable upon written notice which actually is required to be given by the depositor not less than 14 days before the date of repayment;

(D) Such as "Christmas club" accounts and "vacation club" accounts, that are deposited under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than three months even though some of the deposits may be made within 14 days from the end of the period; or

(E) That constitute a "savings deposit" which is not regarded as a "transaction account."

(ii) Borrowings, regardless of maturity, represented by a promissory note, an acknowledgement of advance, or similar obligation described in section 204.2(a)(1)(vii) that is issued to any office located outside the United States of another depository institution or Edge or Agreement Corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR Part 217.3(g)).

(2) A time deposit may be represented by a transferable or nontransferable, or a negotiable or nonnegotiable,

certificate, instrument, passbook, statement, or otherwise. A "time deposit" includes share certificates and certificates of indebtedness issued by credit unions, and certificate accounts and notice accounts issued by savings and loan associations.

(d)(1) "Savings deposit" means a deposit or account with respect to which the depositor is not required by the deposit contract but may at any time be required by the depository institution to give written notice of an intended withdrawal not less than 14 days before withdrawal is made, and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. A deposit may continue to be classified as a savings deposit even if the depository institution exercises its right to require notice of withdrawal. A "savings deposit" includes a regular share account at a credit union and a regular account at a savings and loan association.

(2) For depository institutions subject to 12 CFR Part 217 or 12 CFR Part 329, funds deposited to the credit of, or in which any beneficial interest is held by, a corporation, association, partnership or other organization operated for profit may be classified as a savings deposit if such funds do not exceed \$150,000 per depositor at the depository institution.

(3) "Savings deposit" does not include funds deposited to the credit of the depository institution's own trust department where the funds involved are utilized to cover checks or drafts. Such funds are "transaction accounts."

(e) "Transaction account" means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar device for the purpose of making payments or transfers to third persons or others. "Transaction account" includes:

(1) Demand deposits;

(2) Deposits or accounts subject to check, draft, negotiable order of withdrawal, share draft, or other similar item;

(3) Savings deposits or accounts in which withdrawals may be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account in order to cover checks or drafts drawn upon the institution or to maintain a specified balance in, or to make periodic transfers to, such accounts (automatic transfer accounts);

(4) Deposits or accounts in which payments may be made to third parties by means of an automated teller

machine, remote service unit or other electronic device; and

(5) Deposits or accounts in which payments may be made to third parties by means of a debit card;

(6) Deposits or accounts under the terms of which, or which 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 preauthorized or telephone agreement, order or instruction. An account that permits or authorizes more than three such withdrawals in a calendar month is a "transaction account" whether or not more than three such withdrawals actually are made in a calendar month. A "preauthorized transfer" includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)), or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. An account is not a "transaction account" by virtue of an arrangement that permits withdrawals for the purpose of repaying loans and associated expenses at the same depository institution (as originator or servicer).

(f)(1) "Nonpersonal time deposit" means:

(i) A time deposit, including a savings deposit, that is not a transaction account, representing funds in which any beneficial interest is held by a depositor which is not a natural person;

(ii) A time deposit, including a savings deposit that is not a transaction account, that represents funds deposited to the credit of a depositor that is not a natural person, other than a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iii) A time deposit that is transferable, except a time deposit originally issued before October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iv) A time deposit that is transferable, issued on or after October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest is held by one or more natural persons. A time deposit is transferable unless it contains a specific statement on the certificate,

instrument, passbook, statement or other form representing the account that it is not transferable. A time deposit that contains a specific statement that it is not transferable is not regarded as transferable even if the following transactions can be effected: a pledge as collateral for a loan; a transaction that occurs due to circumstances arising from death, incompetency, marriage, divorce, attachment or otherwise by operation of law or a transfer on the books or records of the institution; and

(v) A time deposit represented by a promissory note, an acknowledgement of advance, or a similar obligation described in section 204.2(a)(1)(vii) that is issued to any office located outside the United States of another depository institution or Edge or Agreement Corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR 217.3(g)).

(2) "Nonpersonal time deposit" does not include nontransferable time deposits to the credit of or in which the entire beneficial interest is held by an individual pursuant to an Individual Retirement Account or Keogh (H.R. 10) Plan under 26 U.S.C. (I.R.C. 1954) §§ 408, 401.

(g) "Natural person" means an individual or a sole proprietorship. The term does not mean a corporation owned by an individual, a partnership or other association.

(h) "Eurocurrency liabilities" means the sum of the following:

(1) Transactions with related offices outside the United States.

(i) In the case of a depository institution or an Edge or Agreement Corporation organized under the laws of the United States,

(A) Positive net balances due to its non-United States offices from its United States offices, and

(B) Assets (including participations) held by its non-United States offices or by non-United States offices of an affiliated Edge or Agreement Corporation that were acquired from its United States offices.

(ii) In the case of a United States branch and agency of a foreign bank,

(A) Positive net balances due to its foreign bank (including offices thereof located outside the United States) after deducting an amount equal to 8 percent of the following: the United States branch's or agency's total assets less the sum of United States coin and currency, cash items in the process of collection and unposted debits, balances due from domestic banks and other foreign banks,

balances due from foreign central banks, and net balances due from its foreign bank and the foreign bank's United States and non-United States offices; however, the amount that may be deducted may not exceed net balances due to the foreign bank (including offices thereof located outside the United States), and

(B) Assets (including participations) held by its foreign bank (including offices thereof located outside the United States) or by its parent holding company that were acquired from the United States branch or agency (other than assets required to be sold by Federal or State supervisory authorities) or from an affiliated Edge or Agreement Corporation.

(2) *Foreign branch credit extended to United States residents.* Credit outstanding from the non-United States office of a depository institution organized under United States law to United States residents (other than assets acquired and net balances due from its United States offices), except credit extended (i) in the aggregate amount of \$100,000 or less to any United States resident, (ii) by a non-United States office that at no time during the computation period had credit outstanding to United States residents exceeding \$1 million, or (iii) to an institution that will be maintaining reserves on such credit pursuant to this Part. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations is regarded as credit extended to a United States resident unless the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s). This subparagraph does not apply to United States branches and agencies of foreign banks.

(i)(1) "Cash item in process of collection" means:

(i) Checks in the process of collection, drawn on a bank or other depository institution that are payable immediately upon presentation in the United States, including checks forwarded to a Federal Reserve Bank in process of collection and checks on hand that will be presented for payment or forwarded for collection on the following business day;

(ii) Government checks drawn on the Treasury of the United States that are in the process of collection; and

(iii) Such other items in the process of collection, that are payable immediately upon presentation in the United States and that are customarily cleared or collected by depository institutions as cash items, including:

(A) Drafts payable through another depository institution;

(B) Redeemed bonds and coupons;

(C) Food coupons and certificates;

(D) Postal and other money orders, and traveler's checks;

(E) Amounts credited to deposit accounts in connection with automated payment arrangements where such credits are made one business day prior to the scheduled payment date to insure that funds are available on the payment date;

(F) Commodity or bill of lading drafts payable immediately upon presentation in the United States;

(G) Returned items and unposted debits; and

(H) Broker security drafts.

(2) "Cash item in process of collection" does not include items handled as noncash collections and credit card sales slips and drafts.

(j) "Net transaction accounts" means the total amount of a depository institution's transaction accounts less the deductions allowed under the provisions of § 204.3.

(k)(1) "Vault cash" means United States currency and coin owned and held by a depository institution that may, at any time, be used to satisfy depositors' claims.

(2) "Vault cash" includes United States currency and coin in transit to a Federal Reserve Bank or a correspondent depository institution for which the reporting depository institution has not yet received credit, and United States currency and coin in transit from a Federal Reserve Bank or a correspondent depository institution when the reporting depository institution's account at the Federal Reserve or correspondent bank has been charged for such shipment.

(3) Silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value is not vault cash for purposes of this Part.

(i) "Pass through account" means a balance maintained by a depository institution that is not a member bank, by a U.S. branch or agency of a foreign bank, or by an Edge or Agreement Corporation, (1) in an institution that maintains required reserve balances at a Federal Reserve Bank, (2) in a Federal Home Loan Bank, (3) in the National Credit Union Administration Central Liquidity Facility, or (4) in an institution that has been authorized by the Board to pass through required reserve balances if the institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains the funds in the form of a balance in a Federal Reserve Bank

of which it is a member or at which it maintains an account in accordance with rules and regulations of the Board.

(m)(1) "Depository institution" means:

(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(ii) Any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(f), (g));

(iii) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or any credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. § 1781);

(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); and

(v) Any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).

(2) "Depository institution" does not include international organizations such as the World Bank, the Inter-American Development Bank, and the Asian Development Bank.

(n) "Member bank" means a depository institution that is a member of the Federal Reserve System.

(o) "Foreign bank" means any bank or other similar institution organized under the laws of any country other than the United States or organized under the laws of Puerto Rico, Guam, American Samoa, the Virgin Islands, or other territory or possession of the United States.

(p) "De novo depository institution" means a depository institution that was not engaged in business on July 1, 1979, and is not the successor by merger or consolidation to a depository institution that was engaged in business prior to the date of merger or consolidation.

(q) "Affiliate" includes any corporation, association, or other organization:

(1) Of which a depository institution, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 percent of the numbers of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions;

(2) Of which control is held, directly or indirectly, through stock ownership or

in any other manner, by the shareholders of a depository institution who own or control either a majority of the shares of such depository institution or more than 50 percent of the number of shares voted for the election of directors of such depository institution at the preceding election, or by trustees for the benefit of the shareholders of any such depository institution;

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one depository institution; or

(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a depository institution or more than 50 percent of the number of shares voted for the election of directors, trustees or other persons exercising similar functions of a depository institution at the preceding election, or controls in any manner the election of a majority of the directors, trustees, or other persons exercising similar functions of a depository institution, or for the benefit of whose shareholders or members all or substantially all the capital stock of a depository institution is held by trustees.

(r) "United States" means the States of the United States and the District of Columbia.

(s) "United States resident" means (1) any individual residing (at the time of the transaction) in the United States; (2) any corporation, partnership, association or other entity organized in the United States ("domestic corporation"); and (3) any branch or office located in the United States of any entity that is not organized in the United States.

§ 204.3 Computation and maintenance.

(a) *Maintenance of required reserves.* A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or Agreement Corporation shall maintain reserves against its deposits and Eurocurrency liabilities in accordance with the procedures prescribed in this section and § 204.4 and the ratios prescribed in § 204.8. Penalties shall be assessed for deficiencies in required reserves in accordance with the provisions of § 204.7. Every institution holding transaction accounts or nonpersonal time deposits shall file a report of deposits each week with the Federal Reserve Bank of its District (see § 204.3(d) for the special rule for depository institutions with total deposits of less than \$5 million) and any other reports that the Board may require by rule, regulation or order. For purposes of this Part, the obligations of

a majority owned (50% or more) U.S. subsidiary (except an Edge or Agreement Corporation) of a depository institution shall be regarded as obligations of the parent depository institution.

(1) *United States branches and agencies of foreign banks.*

(i) A foreign bank's United States branches and agencies operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) United States branches and agencies of the same foreign bank shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.8(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same foreign bank until the amount the tranche or net transaction accounts is exhausted. The foreign bank shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The designation of office(s) to which the low reserve tranche is assigned may be changed at the beginning of a calendar year.

(2) *Edge and Agreement Corporations.*

(i) An Edge or Agreement Corporation's offices operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) An Edge or Agreement Corporation shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.8(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same institution until the amount of the tranche or net transaction accounts is exhausted. An Edge or Agreement Corporation shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same

State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The designation of office(s) to which the low reserve tranche is assigned may be changed at the beginning of a calendar year.

(b) *Form of reserves.* Reserves shall be held in the form of (1) vault cash, (2) a balance maintained directly with the Federal Reserve Bank in the District in which it is located, or (3) a pass through account. Reserves held in the form of a pass through account shall be considered to be a balance maintained with the Federal Reserve.

(c) *Computation of required reserves.* Required reserves are computed on the basis of the daily average deposit balances during a seven-day period ending each Wednesday (the "computation period"). Reserve requirements are computed by applying the ratios prescribed in section 204.8 to the classes of deposits and Eurocurrency liabilities of the institution. In determining the reserve balance that is required to be maintained with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding seven-day period (the "maintenance period") which begins on the second Thursday following the end of a given computation period.

(d) *Special rule for depository institutions that have total deposits of less than \$5 million.*

(1) A depository institution with total deposits of less than \$5 million shall file a report of deposits once each calendar quarter for a seven-day computation period that begins on the third Thursday of a given month during the calendar quarter. Each Reserve Bank shall divide the depository institutions in its District that qualify under this paragraph into three substantially equal groups and assign each group a different month to report during each calendar quarter.

(2) Required reserves are computed on the basis of the depository institution's daily average deposit balances during the seven-day computation period. In determining the reserve balance that a depository institution is required to maintain with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding period that begins on the second Thursday

following the end of the institution's computation period and ends on the first Wednesday after the close of the institution's next computation period.

(3) A depository institution that has less than \$5 million in total deposits as of December 31, 1979, shall qualify under this paragraph until it reports total deposits of \$5 million or more for two consecutive calendar quarters.

(4) A depository institution that qualifies under this paragraph may elect at the beginning of a calendar year to report deposits and maintain reserves on a weekly basis.

(5) This paragraph shall not apply to an Edge or Agreement Corporation or a United States branch or agency of a foreign bank.

(e) *Computation of transaction accounts.* Overdrafts in demand deposit or other transaction accounts are not to be treated as negative demand deposits or negative transaction accounts and shall not be netted since overdrafts are properly reflected on an institution's books as assets. However, where a customer maintains multiple transaction accounts with a depository institution, overdrafts in one account pursuant to a *bona fide* cash management arrangement are permitted to be netted against balances in other related transaction accounts for reserve requirement purposes.

(f) *Deductions allowed in computing reserves.*

(1) In determining the reserve balance required under this Part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and Agreement Corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts. However, if a depository institution maintains any transaction accounts that are first authorized under Federal law after April 1, 1980, it may deduct from these balances cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States only to the extent of the proportion that such newly authorized transaction accounts are of the institution's total transaction accounts. The remaining cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States shall be deducted from the

institution's remaining transaction accounts.

(2) United States branches and agencies of a foreign bank may not deduct balances due from another United States branch or agency of the same foreign bank, and United States offices of an Edge or Agreement Corporation may not deduct balances due from another United States office of the same Edge Corporation.

(3) Balances "due from other depository institutions" do not include balances due from Federal Reserve Banks, pass through accounts, or balances (payable in dollars or otherwise) due from banking offices located outside the United States. An institution exercising fiduciary powers may not include in "balances due from other depository institutions" amounts of trust funds deposited with other banks and due to it as a trustee or other fiduciary.

(g) *Availability of cash items as reserves.* Cash items forwarded to a Federal Reserve Bank for collection and credit shall not be counted as part of the reserve balance to be carried with the Federal Reserve until the expiration of the time specified in the appropriate time schedule established under Regulation J, "Collection of Checks and Other Items and Transfers of Funds" (12 CFR Part 210). If a depository institution draws against items before that time, the charge will be made to its reserve account if the balance is sufficient to pay it; any resulting impairment of reserve balances will be subject to the penalties provided by law and by this Part. However, the Federal Reserve Bank may, at its discretion, refuse to permit the withdrawal or other use of credit given in a reserve account for any time for which the Federal Reserve bank has not received payment in actually and finally collected funds.

(h) *Carryover of deficiencies.* Any excess or deficiency in a required reserve balance for any maintenance period that does not exceed 2 percent of institution's required reserves shall be carried forward to the next maintenance period. Any carryover not offset during the next period may not be carried forward to additional periods.

§ 204.4 Transitional adjustments.

The following transitional adjustments for computing Federal reserve requirements shall apply to all member and nonmember depository institutions, except for reserves imposed under §§ 204.5 and 204.6.

(a) *Nonmembers.* Except as provided

below, the required reserves of a depository institution that was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date shall be determined by reducing the amount of required reserves computed under section 204.3 in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage that computed reserves will be reduced
Nov. 13, 1980 to Sept. 2, 1981	87.5
Sept. 3, 1981 to Sept. 1, 1982	75
Sept. 2, 1982 to Aug. 31, 1983	62.5
Sept. 1, 1983 to Sept. 5, 1984	50
Sept. 6, 1984 to Sept. 4, 1985	37.5
Sept. 5, 1985 to Sept. 3, 1986	25
Sept. 4, 1986 to Sept. 2, 1987	12.5
Sept. 3, 1987 forward	0

However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980.

(b) *Members and former members.* The required reserves of any depository institution that is a member bank on September 1, 1980, or was a member bank on or after July 1, 1979 and withdrew from membership before March 31, 1980, or withdraws from membership on or after March 31, 1980, shall be determined as follows:

(1) A depository institution whose required reserves are higher using the reserve ratios in effect during a given computation period (§ 204.8(a)) than its required reserves using the reserve ratios in effect on August 31, 1980 (§ 204.8(b)) (without regard to required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980):

(i) Shall maintain the full amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and

(ii) Shall reduce the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which required reserves computed under section 204.3 exceeds the amount of required reserves computed using the reserve ratios that were in effect on August 31, 1980 (§ 204.8(b)), times the appropriate

percentage specified below in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage applied to difference to compute amount to be subtracted
Nov. 13, 1980 to Sept. 2, 1981	75
Sept. 3, 1981 to Sept. 1, 1982	50
Sept. 2, 1982 to Aug. 31, 1983	25
Sept. 1, 1983 forward	0

(2) A depository institution whose required reserves are lower using the reserve ratios in effect during a given computation period (§ 204.8(a)) than its required reserves computed using the reserve ratios in effect on August 31, 1980 (§ 204.8(b)) (without regard to required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980):

(i) Shall maintain the full amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and

(ii) Shall increase the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which required reserves computed using the reserve ratios that were in effect on August 31, 1980 (§ 204.8(b)), exceeds the amount of required reserves computed under section 204.3, times the appropriate percentage specified below in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage applied to difference to compute amount to be added
Nov. 13, 1980–Sept. 2, 1981	75
Sept. 3, 1981–Mar. 3, 1982	62.5
Mar. 4, Sept. 1, 1982	50
Sept. 2, 1982–Mar. 2, 1983	37.5
Mar. 3–Aug. 31, 1983	25
Sept. 1, 1983–Feb. 29, 1984	12.5
Mar. 1, 1984 forward	0

(c) *Certain nonmembers and branches and agencies of foreign banks.* The required reserves of a nonmember depository institution that was not engaged in business on or before July 1, 1979, but commenced business between July 2, 1979, and September 1, 1980, and any United States branch or agency of a foreign bank with total worldwide consolidated bank assets in excess of \$1 billion shall be determined by reducing the amount of its required reserves computed under section 204.3 in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage that computed reserves will be reduced
Nov. 13, 1980-Feb. 11, 1981	87.5
Feb. 12-May 13, 1981	75.0
May 14-Aug. 12, 1981	62.5
Aug. 13-Nov. 11, 1981	50.0
Nov. 12, 1981-Feb. 10, 1982	37.5
Feb. 11-May 12, 1982	25.0
May 13-Aug. 11, 1982	12.5
Aug. 12, 1982 forward	0

However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980. An additional United States branch or agency of a foreign bank operating a branch or agency in the United States as of September 1, 1980, shall be entitled only to the remaining phase-in available to the existing U.S. branch or agency.

(d) *New members.* The required reserves of nonmember depository institution that was engaged in business but was not a member bank during the period between July 1, 1979 and September 1, 1980, inclusive, and which becomes a member of the Federal Reserve System after September 1, 1980, shall be determined under paragraph (a) or (c), as applicable, as if it had remained a nonmember and adding to this amount an amount determined by multiplying the difference between its required reserves computed using the ratios specified in § 204.8(a) and its required reserves computed as if it had remained a nonmember times the percentage specified below in accordance with the following schedule:

Maintenance periods occurring during successive quarters after becoming a member bank	Percentage applied to difference to compute amount to be added
1	12.5
2	25.0
3	37.5
4	50.0
5	62.5
6	75.0
7	87.5
8 and succeeding	100.0

(e) *De novo institutions.* The required reserves of any depository institution that was not engaged in business on September 1, 1980, shall be computed under § 204.3 in accordance with the following schedule:

Maintenance periods occurring during successive quarters after entering into business	Percentage of reserve requirement to be maintained
1	40
2	45
3	50
4	55
5	65
6	75
7	85
8 and succeeding	100

This paragraph shall also apply to a United States branch or agency of a foreign bank if such branch or agency is the foreign bank's first office in the United States. Additional branches or agencies of such a foreign bank shall be entitled only to the remaining phase-in available to the initial office.

(f) *Certain nonmembers chartered under laws of Hawaii.* Any State-chartered depository institution that was engaged in business on August 1, 1978, which was not a member of the Federal Reserve System on that date, and whose principal office was located in Hawaii on and after that date shall not maintain reserves against its deposits imposed under this Part until January 2, 1986. On or after January 2, 1986, the required reserves of such a depository institution shall be determined by reducing the amount of required reserves computed under § 204.3 in accordance with the following schedule:

Maintenance periods occurring between	Percentage that computed reserves will be reduced
Jan. 2 to Dec. 31, 1986	87.5
Jan. 1, 1987 to Jan. 6, 1988	75
Jan. 7, 1988 to Jan. 4, 1989	62.5
Jan. 5, 1989 to Jan. 3, 1990	50
Jan. 4, 1990 to Jan. 2, 1991	37.5
Jan. 3, 1991 to Jan. 1, 1992	25
Jan. 2, 1992 to Jan. 6, 1993	12.5
Jan. 7, 1993 forward	0

(g) *Mergers and consolidations.* The following rules concerning transitional adjustments apply to mergers and consolidations of depository institutions:

(1) *Nonmembers.* Where the surviving institution of a merger or consolidation between nonmember depository institutions that were engaged in business on July 1, 1979, and were not members of the Federal Reserve System on or after that date is a nonmember institution, it shall compute its transitional adjustment of required reserves under paragraph (a), except that the amount of required reserves shall be reduced by an amount determined by multiplying the amount by which the required reserves during

the computation period immediately preceding the date of the merger (computed as if the institutions had merged) exceeds the sum of the actual required reserves of each bank during the same computation period times the appropriate percentage as specified in the following schedule:

Reserve maintenance periods occurring during quarterly periods following merger	Percentage applied to difference to compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

(2) *Member with surviving nonmember.* Where the surviving institution of a merger or consolidation between a nonmember bank and a bank that was a member bank on or after July 1, 1979, is a nonmember bank, it shall apply the transitional rules for member banks in paragraphs (b) or (d), as applicable, on the proportion of its deposits attributable to the absorbed member bank. This proportion will be the ratio that daily average deposits of the absorbed member bank were to the daily average deposits of the combined banks during the reserve computation period immediately preceding the date of the merger. The bank will compute and maintain reserves against the remaining proportion of deposits applying the transitional rules applicable to nonmember depository institutions in paragraphs (a), (c) or (e), as applicable. A ratio of vault cash also will be computed and applied.

(3) *De novo with surviving nonmember.* Where the surviving institution of a merger or consolidation between a depository institution that was engaged in business on July 1, 1979, and was not a member of the Federal Reserve System on or after that date, and a *de novo* depository institution is a nonmember depository institution, it shall compute and maintain reserves applying the transitional rules for *de novo* depository institutions in paragraphs (c) or (e), as applicable, on a proportion of its deposits attributable to the absorbed *de novo* bank. This proportion will be the ratio that daily average deposits of the absorbed *de novo* institution were to the daily average deposits of the combined institutions during the reserve computation period immediately

preceding the date of the merger. The institution will compute and maintain reserves against the remaining proportion of its deposits by applying the transitional rules applicable to nonmember depository institutions in paragraph (a). A ratio of vault cash also will be computed and applied.

(4) *Nonmember with surviving member.* Where the surviving institution of a merger or consolidation between a member bank and a nonmember bank is a member bank, it shall apply the transitional rules under paragraphs (a), (c) or (e), as applicable, only on the amount of deposits of the nonmember bank outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the balance of the deposits of the surviving member bank under paragraphs (b), (d) or (e), as applicable.

(5) *Members.* Where a merger or consolidation involves member banks, required reserves shall be computed and maintained applying the transitional rules in paragraph (b), except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the banks had merged) exceeds the sum of the actual required reserves of each bank during the same computation period times the appropriate percentage as specified in the following schedule:

Reserve maintenance periods occurring during quarterly periods following merger	Percentage applied to difference to compute amount to be subtracted
1.....	87.5
2.....	75.0
3.....	62.5
4.....	50.0
5.....	37.5
6.....	25.0
7.....	12.5
8 and succeeding.....	0

(6) *De novo with surviving member.* Where the surviving institution of a merger or consolidation between a bank that was a member bank at any time between July 1, 1979, and September 1, 1980, or that was engaged in business on July 1, 1979 and became a member after September 1, 1980, and a *de novo* depository institution is a member bank, it shall compute and maintain reserves by applying paragraph (e) only to the amount of deposits of the *de novo*

institution outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the remaining deposits of the surviving member bank under paragraphs (b) or (d), as applicable.

(7) *De novos.* Where a merger involves *de novo* depository institutions, required reserves shall be computed and maintained in accordance with section 204.3, except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance periods occurring during quarterly periods following merger	Percentage applied compute amount to be subtracted
1.....	87.5
2.....	75.0
3.....	62.5
4.....	50.0
5.....	37.5
6.....	25.0
7.....	12.5
8 and succeeding.....	0

§ 204.5 Emergency reserve requirement.

(a) *Finding by Board.* The Board may impose, after consulting with the appropriate committees of Congress, additional reserve requirements on depository institutions at any ratio on any liability upon a finding by at least five members of the Board that extraordinary circumstances require such action.

(b) *Term.* Any action taken under this section shall be valid for a period not exceeding 180 days, and may be extended for further periods of up to 180 days each by affirmative action of at least five members of the Board for each extension.

(c) *Reports to Congress.* The Board shall transmit promptly to Congress a report of any exercise of its authority under this paragraph and the reasons for the exercise of authority.

(d) *Reserve requirements.* At present, there are no emergency reserve requirements imposed under this section.

§ 204.6 Supplemental reserve requirement.

(a) *Finding by Board.* Upon the affirmative vote of at least five members of the Board and after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board may impose a supplemental reserve requirement on every depository institution of not more than 4 percent of its total transaction accounts. A supplemental reserve requirement may be imposed if:

(1) The sole purpose of the requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(2) The requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of basic reserve requirements;

(3) Such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(4) On the date on which supplemental reserve requirements are imposed, the total amount of basic reserve requirements is not less than the amount of reserves that would be required on transaction accounts and nonpersonal time deposits under the initial reserve ratios established by the Monetary Control Act of 1980 (Pub. L. 96-221) in effect on September 1, 1980.

(b) *Term.* (1) If a supplemental reserve requirement has been imposed on for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need for continuing such requirement.

(2) Any supplemental reserve requirement shall terminate at the close of the first 90-day period after the requirement is imposed during which the average amount of supplemental reserves required are less than the amount of reserves which would be required if the ratios in effect on September 1, 1980, were applied.

(c) *Earnings Participation Account.* A depository institutions's supplemental reserve requirement shall be maintained by the Federal Reserve Banks in an Earnings Participation Account. Such balances shall receive earnings to be paid by the Federal Reserve Banks during each calendar quarter at a rate not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. Additional rules and regulations may be prescribed by the Board concerning the payment of

earnings on Earnings Participation Accounts by Federal Reserve Banks.

(d) *Report to Congress.* The Board shall transmit promptly to the Congress a report stating the basis for exercising its authority to require a supplemental reserve under this section.

(e) *Reserve requirements.* At present, there are no supplemental reserve requirements imposed under this section.

§ 204.7 Penalties.

(a) *Penalties for Deficiencies.*—(1) *Assessment of Penalties.* Deficiencies in a depository institution's required reserve balance, after application of the 2 per cent carryover provided in § 204.3(f) are subject to penalties. Federal Reserve Banks are authorized to assess penalties for deficiencies in required reserves at a rate of 2 per cent per year above the lowest rate in effect for borrowings from the Federal Reserve Bank on the first day of the calendar month in which the deficiencies occurred. Penalties shall be assessed on the basis of daily average deficiencies during each computation period. Reserve Banks may, as an alternative to levying monetary penalties, after consideration of the circumstances involved, permit a depository institution to eliminate deficiencies in its required reserve balance by maintaining additional reserves during subsequent reserve maintenance periods.

(2) *Waivers.* (i) Reserve Banks may waive the penalty for reserve deficiencies except when the deficiency arises out of a depository institution's gross negligence or conduct that is inconsistent with the principles and purposes of reserve requirements. Each Reserve Bank has adopted guidelines that provide for waivers of small penalties. The guidelines also provide for waiving the penalty once during a two-year period for any deficiency that does not exceed a certain percentage of the depository institution's required reserves. Decisions by Reserve Banks to waive penalties in other situations are based on an evaluation of the circumstances in each individual case and the depository institution's reserve maintenance record. If a depository institution has demonstrated a lack of due regard for the proper maintenance of required reserves, the Reserve Bank may decline to exercise the waiver privilege and assess all penalties regardless of amount or reason for the deficiency.

(ii) In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the

penalty for failing to satisfy a liquidity requirement, the Reserve Bank in the District where the involved depository institution is located shall waive the reserve requirement imposed under this Part for such depository institution when requested by the Federal supervisory authority involved.

(b) Penalties for Violations.

Violations of this Part may be subject to assessment of civil money penalties by the Board under authority of section 19(1) of the Federal Reserve Act (12 U.S.C § 505) as implemented in 12 CFR Part 263. In addition, the Board and any other Federal financial institution supervisory authority may enforce this Part with respect to depository institutions subject to their jurisdiction under authority conferred by law to undertake cease and desist proceedings.

§ 204.8 Reserve requirement ratios.

(a) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts:	
\$0 to \$25 million	3 percent of amount.
Over \$25 million	\$750,000 plus 12 percent of amount over \$25 million.
Nonpersonal time deposits:	
By original maturity (or notice period):	
Less than 4 years	3 percent.
4 years or more	0 percent.
Eurocurrency liabilities	3 percent.

(b) *Reserve ratios in effect during last computation period prior to September 1, 1980.*

Category	Reserve requirement
Net Demand Deposits:	
Deposit Tranche:	
\$0 to \$2 million	7 percent.
Over \$2 million to \$10 million.	\$140,000 + 9½ percent of amount over \$2 million.
Over \$10 million to \$100 million.	\$900,000 + 11½ percent of amount over \$10 million.
Over \$100 million to \$400 million.	\$11,475,000 + 12½ percent of amount over \$100 million.
Over \$400 million	\$49,725,000 + 16½ percent of amount over \$400 million.
Savings deposits	3 percent.
Time deposits (subject to 3 percent minimum specified by law):	
By initial maturity:	
Less than 180 days:	
\$0 to \$5 million	3 percent.
Over \$5 million	6 percent.
180 days to 4 years	2½ percent.
4 years or more	1 percent.

Category	Reserve requirement
Accounts authorized pursuant to Section 303 of Public Law 96-221 offered by member banks located in States outside Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont.	12 percent.
Club accounts	3 percent.

For purposes of computing the reserves under this Part, that would have been required using the reserve ratios that were in effect on August 31, 1980, the reserve ratio on time deposits of a member bank shall be the average time deposit ratio of the member bank during the 14-day period ending August 6, 1980, except that the reserve ratio on time deposits of a nonmember bank that was a member bank on or after July 1, 1979, but which became a nonmember bank before March 31, 1980, may be the average time deposit ratio of the nonmember during the 14-day period ending August 27, 1980.

By order of the Board of Governors, August 15, 1980.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-25715 Filed 8-21-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 339

Loans in Areas Having Special Flood Hazards; Notice of Revision

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: As part of its regulatory reform program for improving the quality of its regulations, FDIC has revised Part 339 of its regulations. Part 339 relates to the flood insurance protection that is required for certain loans that are secured by improved real estate or mobile homes located in areas having special flood hazards. The revision is intended to simplify the regulation by restructuring it for easier reading and by eliminating unnecessary and outdated provisions. In addition, minor technical amendments have been made to the part to conform it to the requirements of the International Banking Act of 1978.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation.