

blending the soybeans to a moisture of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.368(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in paragraphs (c) (1) and (2) of this section, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the soybeans represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "USGA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.371. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the soybeans when CCC is holder of the warehouse receipt.

§ 1421.370 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.371 Warehouse charges.

(a) *Storage charges.* The Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS-KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan rate or purchase price in the case of soybeans stored in an approved warehouse operated under the USGA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) storage charges through the loan maturity date have been prepaid, or (2) the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges through the applicable maturity date accrued or to accrue prior to the acquisition by CCC of the soybeans represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on soybeans stored in

warehouses operating under the USGA shall be the later of the following: (1) The date the soybeans were received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.372 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before May 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible soybeans which are not under loan, such producer must execute and deliver to the county ASCS office on or before May 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC-614) indicating the approximate quantity of soybeans the producer will sell to CCC.

§ 1421.373 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§ 1421.374 Support rates.

Basic county support rates for soybeans and the schedule of premiums and discounts will be available at the county ASCS office for the applicable crop each year. Farm-stored soybean loans will be made at the applicable basic county support rate for the county where stored, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored soybeans acquired by CCC through the purchase program or soybeans delivered in settlement of a farm-stored loan shall be the applicable basic support rate for the county where stored adjusted in accordance with the provisions of this section and the premiums and discounts which are available at the county ASCS office for the applicable crop each year on the basis of quality factors on warehouse receipts or supplemental certificates in the case of soybeans stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of soybeans delivered to other than approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of

§ 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

Signed at Washington, D.C., on August 20, 1982.

Clarence L. Tardy,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-23564 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops of Wheat

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the price support loan and purchase program for 1982 and subsequent crops of wheat (1) to delete all references to normal crop acreage and set-aside requirements currently appearing at 7 CFR 1421.461; (2) to incorporate availability and maturity dates; and (3) to delete all references to the annual crop supplements that are no longer being codified.

DATES: This final rule shall become effective August 27, 1982.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-8480.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512-1 and Executive Order 12291 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, individual

industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loans and Purchases, Number 10.051 as filed in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically 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.

The purpose of this rule is to amend the regulations governing the loan and purchase program for 1982 and subsequent crops of wheat to include eligibility requirements, availability dates, and maturity dates for making loans and purchases, to remove references to the annual crop supplements for wheat that are no longer being codified, and to delete certain other references which are no longer applicable to the program.

A separate Regulatory Impact Analysis was not prepared. The effects of this final rule are primarily administrative. Significant impacts to the private sector would result from annual program determinations. There will be modest savings to the Government as the result of decodification.

Since compliance with set-aside and normal crop acreage requirements may no longer be necessary for price support loan eligibility, references to these requirements have been deleted. The loan availability dates and maturity dates which have previously been published in the *Federal Register* as an annual crop supplement are no longer being codified. Therefore, this continuing regulation is being revised to set forth these dates.

The availability date establishes the period during which the producer may request a price support loan or sign a purchase agreement. The maturity date defines the length of the price support loan and establishes the final date that loans on the commodity mature for that

crop year. Since this final rule makes no substantive changes in the regulations but merely deletes certain obsolete references and generally incorporates and republishes certain existing provisions into a single continuing regulation, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon date of publication in the *Federal Register*. Accordingly, the general regulations governing price support for 1978 and subsequent crops of wheat as set forth at 7 CFR § 1421.460 through § 1421.469 and the title of the subpart are amended as stated herein for the 1982 and subsequent crops of wheat. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Surety bonds, Warehouses.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, 7 CFR Part 1421 is amended by revising the Subpart and Subpart heading for wheat as follows:

* * * * *

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Wheat

Sec.	Purpose.
1421.460	Purpose.
1421.461	Eligible wheat.
1421.462	Determination of quality.
1421.463	Determination of quantity.
1421.464	Warehouse receipts.
1421.465	Fees and charges.
1421.466	Warehouse charges.
1421.467	Availability.
1421.468	Maturity of loans and expiration of purchase agreements
1421.469	Settlement.
1421.470	Support rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 B, 401, 95 Stat. 1221, 63 Stat. 1051, as amended (7 U.S.C. 1445b-1, 1421).

Subpart—Loan and Purchase Program for 1982 and Subsequent Crops Wheat

§ 1421.460 Purpose.

This subpart contains program provisions which, together with (a) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (b) the Cooperative Marketing Associations eligibility requirements for price support as set forth in Part 1425 of this title and (c) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1982 and subsequent crops of wheat.

§ 1421.461 Eligible wheat.

(a) *General.* (1) In order to be eligible for a price support loan or purchase agreement, the wheat may be of any class except unclassified wheat, must be merchantable for food, feed, or for other uses, as determined by the Commodity Credit Corporation (CCC); must not contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals; and must not contain two or more rodent pellets or comparable amounts of other excreta per 1,000 grams of wheat or one percent or more by weight of kernels visibly damaged by weevils or other insects.

(2) The wheat must have been produced by a producer who has complied with the program eligibility requirements prescribed in Parts 713, 718, and 791 of this title and any amendments thereto.

(b) *Warehouse-stored loan grade requirements.* In order to be eligible for a warehouse-stored loan, the wheat must also meet the following requirements:

(1) The wheat must grade No. 5 or better, except that the wheat may grade "Sample" on the factors of: (i) Test weight provided that the test weight is not less than 40 pounds per bushel, (ii) damaged kernels (total) with not more than 3 percent heat damage, (iii) foreign material, (iv) total defects with not more than 3 percent heat damage, or (v) any combination of subdivisions (i) through (iv) of this subparagraph.

(2) If of the class Mixed Wheat, the wheat must consist of mixtures of grades of eligible wheat as specified in subparagraph (1) of this paragraph, provided such mixtures are the natural products of the field.

(3) The wheat may have the special grade designations "Garlicky," "Smutty," or both.

(4) The wheat must not grade "Ergoty" or "Treated."

(5) The wheat must not grade "Weevily" or have moisture over 13.5 percent unless the warehouse receipt representing the wheat is accompanied by a supplemental certificate which provides that the warehouseman shall deliver wheat which is not "Weevily," does not contain in excess of 13.5 percent moisture, and is otherwise of an eligible grade or quality. The grade, quality, and quantity shown on the supplemental certificate shall be as provided in § 1421.464(c).

§ 1421.462 Determination of quality.

(a) The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the

United States for Wheat, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

(b) *Protein content determinations.* Producers may obtain official protein content determinations or protein content determinations arrived at by mutual agreement between the producer and the warehouseman with respect to the following: (i) wheat of the classes Hard Red Winter and Hard Red Spring to be placed under warehouse-stored loans or stored in approved warehouses for later purchase by CCC and (ii) wheat delivered from farm storage in satisfaction of a loan or for purchase by CCC. Producers may also obtain official protein determinations on wheat of such classes placed under farm-stored loans in accordance with paragraph (c) of this section. The cost of official protein content determinations shall not be for the account of CCC.

(c) *Protein determinations on farm-stored loan wheat.* If a producer at time of request for a farm-stored loan also requests that the premium for protein content be applied to the basic support rate for the classes of wheat specified in paragraph (b) of this section, the Agricultural Stabilization and Conservation Service will draw a representative sample of, and arrange for protein tests on, the wheat to be placed under loan. The premium applicable to the values determined by such tests shall be applied to the basic support rate at the time the loan is made. However, settlement shall be based on the protein content determined upon delivery of the wheat to CCC. If a producer requests a protein premium on his farm-stored wheat to be placed under loan, a fee for the account of the producer will be charged for each bin of wheat tested for protein content.

§ 1421.463 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 60 pounds of wheat free of dockage.

(a) *In warehouse.* The quantity of wheat on which a warehouse-stored loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net bushels specified on the warehouse receipt or on the supplemental certificate, if applicable. If the wheat has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the

receiving weight excluding dockage of 1.2 times the percentage difference between the moisture content of the wheat, when received, and 13.5 percent.

(b) *On farm.* The quantity of wheat eligible to be placed under a farm-stored loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase agreement shall be determined by the weight of the wheat at the time of delivery to CCC.

§ 1421.464 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a price support loan or purchase agreement must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of wheat.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight and net bushels, (2) subclass, (3) grade (including special grades), (4) test weight, (5) moisture content if above 13.5 percent, (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) protein content when applicable, (9) whether the wheat arrived by rail, truck, or barge, (10) the date the wheat was received or deposited in the warehouse, and (11) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates that the wheat grades "Weevily" or contains over 13.5 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.461(b)(5) in order for the wheat to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows:

(1) When the warehouse receipt shows "Weevily" and the wheat has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt.

(2) When the warehouse receipt shows a moisture content of over 13.5 percent and the wheat has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the wheat to a moisture of not over 13.5 percent which shall reflect a drying or blending shrink as specified in § 1421.463(a). The supplemental

certificate must state that no lien for processing will be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. In the case of conditions specified in paragraphs (c)(1) and (2) of this section, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the wheat represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.466. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the wheat when CCC is holder of the warehouse receipt.

(e) *Freight certificate requirements.* Warehouse receipts representing wheat which has been shipped by rail or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission (ICC), from a country shipping point to a normal trade channel market or to a storage point and stored in transit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the wheat and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the Agricultural Stabilization and Conservation Service Kansas City Commodity Office (ASCS-KCCO) and shall be signed by the warehouseman.

§ 1421.465 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.466 Warehouse charges.

(a) *Storage charges.* The ASCS-KCCO approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan rate or purchase price in the case of wheat stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. No storage deductions shall be made if written evidence is submitted with the warehouse receipts that (1) Storage charges have been prepaid through the loan maturity date, or (2) the producer has arranged with the warehouseman for the payment of storage charges

through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges accrued or to accrue prior to the acquisition by CCC of the wheat represented by this warehouse receipt have been paid or otherwise provided for through the applicable maturity date and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt."

(b) *Storage start date.* The beginning date to be used for computing the storage deduction on wheat stored in warehouses operating under the UGSA shall be the later of the following: (1) The date the wheat was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.467 Availability.

(a) *Loans.* If a producer desires to participate in the price support loan program, such producer must request a loan on or before March 31 of the year following the year the crop is normally harvested.

(b) *Purchases.* If a producer desires to enter into a purchase agreement with CCC by offering eligible wheat which is not under loan, such producer must execute and deliver to the county ASCS office on or before March 31 of the year following the year the crop is normally harvested a Purchase Agreement (Form CCC-614) indicating the approximate quantity of wheat the producer will sell to CCC.

§ 1421.468 Maturity of loans and expiration of purchase agreements.

(a) *Loans.* Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(b) *Purchase Agreements.* Purchase agreements expire on the last day of the ninth calendar month following the month in which the purchase agreement is approved.

§ 1421.469 Settlement.

Notwithstanding the provisions of § 1421.22, if the wheat delivered is of a quality which does not meet the sanitation requirements of § 1421.461(a), the wheat shall be sold for uses other than for human consumption and the settlement value shall be the same as the sale price. However, if CCC is unable to sell the wheat for such other uses, the settlement value shall be market value determined by CCC as of the date of delivery.

§ 1421.470 Support rates.

Basic county support rates for wheat and the schedule of discounts will be available at the county ASCS office for the applicable crop each year. Farm-stored wheat loans will be made at the applicable basic county support rate, adjusted only for the weed control discount where applicable. The support rate for warehouse-stored wheat loans and for wheat acquired by CCC through the purchase program or wheat delivered in settlement of a farm-stored loan shall be the applicable basic support rate adjusted in accordance with the provisions of this section and the premiums and discounts which are available at the county ASCS office for the applicable crop each year on the basis of quality factors on warehouse receipts or supplemental certificates in the case of wheat stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of wheat delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored wheat.* The applicable basic support rates for farm-stored loans shall be the basic county support rate established for the county in which the wheat is stored.

(b) *Basic support rates for warehouse-stored wheat received by rail or utilizing combination barge-rail rates—*

(1) *When shipped by rail.* The applicable basic support rates for warehouse-stored loans on wheat which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rates established for the county from which the wheat was shipped the following: (i) The amount of freight charges per bushel actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse. If the wheat is destined to a normal trade channel market that would be used in commercial channels of trade but such wheat is stored in an approved warehouse resulting in additional costs because of out-of-line movement, such

additional cost shall be deducted from the support rates as otherwise determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse-stored loans on wheat which is stored in an approved warehouse and which was shipped utilizing combination barge-rail freight rates, published and on file with the ICC, shall be determined by adding to the basic support rate established for the county from which the wheat was shipped the following: (i) The amount of freight charges per bushel actually paid in and (ii) an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. If the wheat is destined to a normal trade channel market that would be used in commercial channels of trade but such wheat is stored in an approved warehouse resulting in additional costs because of out-of-line movement, such additional costs shall be deducted from the support rates as otherwise determined in this paragraph.

(c) *Basic support rates for warehouse-stored wheat received by truck or nontariff barge.* (1) The basic support rate for wheat delivered by truck by the producer to a warehouse at normal delivery point shall be the rate for the county where the wheat is stored.

(2) The basic support rate for wheat delivered by truck by the producer to an in-line warehouse located 20 miles or more beyond the normal delivery point shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0 to 19.....	\$0.00
20 to 50.....	\$0.15 per bushel.
51 to 100 add.....	\$0.0016 per bushel per mile.
101 to 125.....	\$0.0008 per bushel per mile.
126 and over add.....	\$0.0004 per bushel per mile.

(3) The basic support rate for wheat delivered to a warehouse and shipped by truck 20 miles or more to an in-line warehouse shall be the total of: (i) The support rate for the county in which the shipping warehouse is located; (ii) the smaller of the actual freight charge or the amount of the truck freight from the schedule shown in paragraph (c)(2); and (iii) the truck receiving and truck load-out charges for the shipping warehouse.

(4) The basic support rate for wheat shipped by barge or truck-barge at a negotiated rate when map mileage from the origin warehouse is 20 miles or more to an in-line warehouse shall be the total of: (i) The support rate for the county from where shipped; (ii) the smaller of the actual freight charge or the amount of the truck freight from schedule shown in paragraph (c)(2); and (iii) the origin truck receiving and load-out charge.

(d) *Storing responsibilities.* With respect to wheat received by rail or by combination barge-rail, the storing warehouseman shall be responsible for determining the normal trade channel market that would be used in commercial channels of trade. The storing warehouseman shall also execute supplemental certificates showing: (1) The rate of freight paid into the storage point; (2) the amount of penalty, if any, backhaul or out-of-line movement; (3) the applicable normal trade channel market that would be used in commercial channels of trade; and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman liability, if any, for the failure to comply with the provisions of this paragraph will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

Signed at Washington, D.C., on August 23, 1982.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-23566 Filed 8-26-82; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0419]

Regulation Q; Interest on Deposits; Member Bank Participation in the Secondary Market for Its Own Time Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board of Governors has issued an interpretation of Regulation Q—Interest on Deposits (12 CFR Part 217) concerning arrangements entered into by a member bank to facilitate the secondary market for negotiable time deposits that it has issued as an alternative to its depositors incurring an

early withdrawal penalty. Under the interpretation, a member bank may act on behalf of a depositor to find a purchaser of the depositor's negotiable time deposit issued by the member bank. In addition, a member bank may enter into an arrangement whereby an unaffiliated third party stands ready to purchase from depositors negotiable time deposits issued by the bank. However, a member bank may not repurchase its own time deposit or arrange for the sale to its affiliate of a time deposit that the bank has issued. Further, a member bank may not enter into reciprocal arrangements with another depository institution to purchase each other's negotiable time deposits. In addition, a member bank may not pay a fee to a third party for the purchase of its time deposits or provide interim financing to such a party at other than market terms. The Board believes that such transactions constitute devices to avoid the interest penalty required for payment of a time deposit prior to maturity.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT:

Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Paul S. Pilecki, Senior Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

List of Subjects in 12 CFR Part 217

Advertising; Banks, banking; Federal Reserve System; Foreign banking.

SUPPLEMENTARY INFORMATION: Effective August 24, 1982, pursuant to its authority under section 19(a), 19(i), and 19(j) of the Federal Reserve Act (12 U.S.C. 461(a), 371a, 371b), the Board amends Regulation Q (12 CFR Part 217) by adding a new § 217.159 as follows:

PART 217—INTEREST ON DEPOSITS

§ 217.159 Member bank participation in the secondary market for its own time deposits.

(a) Effective May 1, 1982, the Depository Institutions Deregulation Committee ("DIDC") authorized depository institutions, including member banks, to issue 3½ year or more time deposits not subject to an interest rate ceiling and 91-day, \$7,500 time deposits with an interest rate ceiling tied to the most recent 91-day Treasury bill rate. Such deposits may be issued in negotiable form, thereby facilitating the ability of depositors to liquidate the deposit through sales on the secondary market. Member banks have asked the extent to which they may participate in, or facilitate, the secondary market for

such time deposits that they have issued.

(b) The Board of Governors believes that a fundamental principle behind the penalty for payment of a time deposit prior to maturity is to distinguish time deposits from demand deposits. Under section 19(i) of the Federal Reserve Act (12 U.S.C. 371a), member banks are prohibited from paying interest on demand deposits. In addition, the early withdrawal penalty is intended to discourage depositors from withdrawing time deposit funds prior to maturity, thereby enabling member banks to better plan their asset and liability structures. The question of participation by a member bank in secondary market transactions involving its own time deposits raises the issue of whether such activity would circumvent the purposes intended to be served by the early withdrawal penalty.

(c) *Direct participation.* (1) The Board has concluded that if a member bank or one of its affiliates purchases a time deposit issued by the bank, the member bank should be regarded as having paid the deposit prior to maturity. The effect of the transaction is that the member bank has cancelled a liability as opposed to having acquired an asset for its portfolio. Thus, the member bank is required to impose the early withdrawal penalty on the party from whom it purchases the instrument. With respect to an affiliate making the purchase, the effect of the penalty rule could be easily circumvented by redemption of the time deposit by the affiliate at the member bank. Even if an early withdrawal penalty is imposed, because of the affiliate relationship, there likely would be no impact on the consolidated earnings of the entity comprising the member bank and the affiliate redeeming the deposit. Consequently, the Board believes that the purchase of a time deposit issued by a member bank by the bank itself or by one of its affiliates constitutes a payment of a deposit prior to maturity.

(2) Many member banks engage in secondary market activities in negotiable time certificates of deposit of \$100,000 or more ("CDs"). In many instances, sales and purchases of these CDs are negotiated primarily by rate and maturity and without regard to the specific identity of the issuing bank. In some cases a member bank might purchase a block of CDs of various obligors and later discover one of the CDs purchased to be its own. Since this situation appears to be one in which the member bank has inadvertently purchased its own deposit, the Board believes that the member bank should

not be required to impose an early withdrawal penalty; however, it must sell the CD in the secondary market as soon as possible after it has been received.

(d) *Participation as a "broker."* (1) The Board believes that it is permissible for a member bank to facilitate the secondary market for its own small denomination time deposits by arranging to find a purchaser for a time deposit that a customer is trying to sell. In such instances, the bank will not be paying out any of its own funds and the depositor does not have a guarantee that the member bank will actually be able to find a buyer. Member banks may establish and advertise arrangements whereby an unaffiliated third party agrees in advance to purchase time deposits issued by the bank. Such transactions would not be inconsistent with the purposes that the early withdrawal penalty is intended to serve. However, the Board believes that an arrangement established wherein a member bank pays a fee to a third party that purchases negotiable time deposits from the bank's depositors constitutes a device to avoid the early withdrawal penalty, and, thus, is prohibited. In addition any interim financing provided to such a third party by a member bank in connection with its secondary market activity involving the bank's small denomination time deposits must be made substantially on the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other similarly situated persons and may not involve more than the normal risk of repayment or present other unfavorable features.

(2) A member bank may enter into an arrangement with an unaffiliated third party wherein the third party agrees to stand ready to purchase time deposits held by the member bank's customers. However, the Board is of the opinion that a member bank may not establish reciprocal arrangements with another depository institution for purchases of each other's time deposits of less than \$100,000 held by customers. The Board believes that arrangements with such parties present serious potential for circumvention of the early withdrawal penalty rule and the purposes that it is designed to serve. In this regard, arrangements entered into with another depository institution to purchase time deposits of the other institution's customers could give rise to significant contingent liabilities for the entities agreeing to purchase the deposits. While the institution issuing the deposit might not be impaired in planning its asset and

liability structure, the institution agreeing to purchase deposits from the customers of the issuing institution could be so affected. Such arrangements could have an adverse effect on the safety and soundness of member banks and other depository institutions.

By order of the Board of Governors, August 24, 1982.

William W. Wiles,
Secretary of the Board.

[FR Doc. 82-23578 Filed 8-26-82; 8:45 am]
BILLING CODE 6210-01-M

12 CFR Part 217

[Docket No. R-0418]

Deposits as Including Certain Promissory Notes and Other Obligations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended Regulation Q—Interest on Deposits (12 CFR Part 217) to permit member banks to issue automatically renewable repurchase agreements on U.S. government or agency securities ("RPs") of less than \$100,000 with maturities of 89 days or less exempt from Federal interest rate ceilings. In addition, member banks will be permitted to issue small denomination RPs with maturities of 90 days or more exempt from interest rate ceilings. This action was taken to maintain the competitive position of member banks *vis-a-vis* other depository institutions.

EFFECTIVE DATE: August 24, 1982.

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

SUPPLEMENTARY INFORMATION: Effective August 1, 1979, the Board amended Regulation Q—Interest on Deposits (12 CFR Part 217) to subject small denomination repurchase agreements on U.S. government or agency securities ("RPs") of 90 days or more to interest rate ceilings. Under that action, an RP is defined as a deposit if issued in a denomination of less than \$100,000 with a maturity of 90 days or more. Small denomination RPs with maturities of less than 90 days are exempt from the interest rate ceilings of Regulation Q unless they can be automatically renewed or extended. The Board continued the exemption from the definition of deposits for small

denomination RPs of less than 90 days in order to not affect adversely the practice of small businesses and government units using RPs for cash management purposes. This action was taken in response to the increased use of RPs as a method of avoiding Regulation Q interest rate ceilings for longer-term time deposits. The provision prohibiting automatic renewals or extensions was intended to make effective the 89-day maturity limit to insure that such instruments would not be used as longer-term, small time deposit substitutes.

The Depository Institutions Deregulation Committee has announced recently a schedule to deregulate the interest rate ceilings on small denomination time deposits. Under the initial step of the program, time deposits that mature in 3½ years or longer are not subject to a Federal interest rate ceiling. Thus, there is less incentive for depository institutions to raise longer term funds through the issuance of small denomination RPs. In addition, depository institutions now have a greater variety of deposit instruments with which to compete than were available in 1979. Accordingly, the Board believes that it is no longer necessary to subject small denomination RPs of 90 days or more to interest rate ceilings or to restrict member banks from offering automatically renewable RPs of 89 days or less. Consequently, the Board has amended Regulation Q to exempt from interest rate limitations all member bank RPs on U.S. government and agency securities.

This action is consistent with previous actions taken by other Federal financial institutions regulatory agencies. In this regard, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation recently authorized Federally-insured savings and loan associations and nonmember Federally-insured commercial banks and mutual savings banks, respectively, to issue automatically renewable small denomination RPs with maturities of less than 89 days exempt from interest rate ceilings.

Because this action is necessary to place member banks in a competitive position similar to other depository institutions with respect to short-term instruments, the Board believes that good cause exists for not adhering to the notice and public participation provisions of 5 U.S.C. 553(b) and for making this action effective immediately.