

Rules and Regulations

Federal Register

Vol. 61, No. 230

Wednesday, November 27, 1996

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FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R-0945]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to decrease the amount of transaction accounts subject to a reserve requirement ratio of three percent, as required by section 19(b)(2)(C) of the Federal Reserve Act, from \$52.0 million to \$49.3 million of net transaction accounts. This adjustment is known as the low reserve tranche adjustment. The Board is increasing from \$4.3 million to \$4.4 million the amount of reservable liabilities of each depository institution that is subject to a reserve requirement of zero percent. This action is required by section 19(b)(11)(B) of the Federal Reserve Act, and the adjustment is known as the reservable liabilities exemption adjustment. The Board is also increasing the deposit cutoff levels that are used in conjunction with the reservable liabilities exemption to determine the frequency of deposit reporting from \$57.0 million to \$59.3 million for nonexempt depository institutions and from \$46.4 million to \$48.2 million for exempt institutions. (Nonexempt institutions are those with total reservable liabilities exceeding the amount exempted from reserve requirements (\$4.4 million) while exempt institutions are those with total reservable liabilities not exceeding the amount exempted from reserve requirements.) Thus nonexempt institutions with total deposits of \$59.3 million or more will be required to report weekly while nonexempt

institutions with total deposits less than \$59.3 million may report quarterly, in both cases on form FR 2900. Similarly, exempt institutions with total deposits of \$48.2 million or more will be required to report quarterly on form FR 2910q while exempt institutions with total deposits less than \$48.2 million may report annually on form FR 2910a.

DATES: Effective date, December 17, 1996.

Compliance dates. For depository institutions that report weekly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 31, 1996, and the corresponding reserve maintenance period that begins Thursday, January 2, 1997. For institutions that report quarterly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 17, 1996, and the corresponding reserve maintenance period that begins Thursday, January 16, 1997. For all depository institutions, the deposit cutoff levels will be used to screen institutions in the second quarter of 1997 to determine the reporting frequency for the twelve month period that begins in September 1997.

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SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations. The initial reserve requirements imposed under section 19(b)(2) were set at three percent for net transaction accounts of \$25 million or less and at 12 percent on net transaction accounts above \$25 million for each depository institution. Effective April 2, 1992, the Board lowered the required reserve ratio applicable to transaction account balances exceeding the low reserve tranche from 12 percent to 10 percent. Section 19(b)(2) also provides that,

before December 31 of each year, the Board shall issue a regulation adjusting for the next calendar year the total dollar amount of the transaction account tranche against which reserves must be maintained at a ratio of three percent. The adjustment in the tranche is to be 80 percent of the percentage increase or decrease in net transaction accounts at all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Currently, the low reserve tranche on net transaction accounts is \$52.0 million. Net transaction accounts of all depository institutions decreased by 6.5 percent (from \$789.2 billion to \$737.7 billion) from June 30, 1995, to June 30, 1996. In accordance with section 19(b)(2), the Board is amending Regulation D (12 CFR Part 204) to decrease the low reserve tranche for transaction accounts for 1997 by \$2.7 million to \$49.3 million.

Section 19(b)(11)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(11)(B)) provides that \$2 million of reservable liabilities¹ of each depository institution shall be subject to a zero percent reserve requirement. Each depository institution may, in accordance with the rules and regulations of the Board, designate the reservable liabilities to which this reserve requirement exemption is to apply. However, if net transaction accounts are designated, only those that would otherwise be subject to a three percent reserve requirement (i.e., net transaction accounts within the low reserve requirement tranche) may be so designated.

Section 19(b)(11)(B) of the Federal Reserve Act provides that, before December 31 of each year, the Board shall issue a regulation adjusting for the next calendar year the dollar amount of reservable liabilities exempt from reserve requirements. Unlike the adjustment for the low reserve tranche on net transaction accounts, which adjustment can result in a decrease as well as an increase, the change in the exemption amount is to be made only if the total reservable liabilities held at all depository institutions increase from one year to the next. The percentage

¹ Reservable liabilities include transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities as defined in section 19(b)(5) of the Federal Reserve Act. The reserve ratio on nonpersonal time deposits and Eurocurrency liabilities is zero percent.

increase in the exemption is to be 80 percent of the increase in total reservable liabilities of all depository institutions as of the year ending June 30. Total reservable liabilities of all depository institutions increased by 3.6 percent (from \$1,632.3 billion to \$1,691.8 billion) from June 30, 1995, to June 30, 1996. Consequently, the reservable liabilities exemption amount for 1997 under section 19(b)(11)(B) will be increased by \$0.1 million to \$4.4 million.² The effect of the application of section 19(b) of the Federal Reserve Act to the change in the total net transaction accounts and the change in the total reservable liabilities from June 30, 1995, to June 30, 1996, is to decrease the low reserve tranche to \$49.3 million, to apply a zero percent reserve requirement on the first \$4.4 million of transaction accounts, and to apply a three percent reserve requirement on the remainder of the low reserve tranche.

The tranche adjustment and the reservable liabilities exemption adjustment for weekly reporting institutions will be effective on the reserve computation period beginning Tuesday, December 31, 1996, and on the corresponding reserve maintenance period beginning Thursday, January 2, 1997. For institutions that report quarterly, the tranche adjustment and the reservable liabilities exemption adjustment will be effective on the computation period beginning Tuesday, December 17, 1996, and on the reserve maintenance period beginning Thursday, January 16, 1997. In addition, all institutions currently submitting form FR 2900 must continue to submit reports to the Federal Reserve under current reporting procedures.

In order to reduce the reporting burden for small institutions, the Board has established deposit reporting cutoff levels to determine deposit reporting frequency. Institutions are screened during the second quarter of each year to determine reporting frequency beginning the following September. In July of 1988 the Board set a single cutoff level for all depository institutions of \$40 million plus an amount equal to 80 percent of the annual rate of increase of total deposits.³ In August of 1994, the Board replaced the single deposit cutoff level that had applied to both nonexempt and exempt institutions

with separate cutoff levels. The cutoff level for nonexempt institutions, which determines whether they report (on FR 2900) quarterly or weekly, was raised from the indexed level of \$44.8 million to \$55.0 million. The deposit cutoff level for exempt institutions, which determines whether they report annually (on FR 2910a) or quarterly (on FR 2910q), remained at the indexed level of \$44.8 million. In 1996, these levels were increased to \$57.0 million and \$46.4 million, respectively.

From June 30, 1995, to June 30, 1996, total deposits increased 4.9 percent, from \$3,975.5 billion to \$4,172.0 billion. Accordingly, the nonexempt deposit cutoff level will increase by \$2.3 million to \$59.3 million and the exempt deposit cutoff level will increase by \$1.8 million to \$48.2 million. Based on the indexation of the reservable liabilities exemption, the cutoff level for total deposits above which reports of deposits must be filed will rise from \$4.3 million to \$4.4 million. Institutions with total deposits below \$4.4 million will be excused from reporting if their deposits can be estimated from other data sources. The \$59.3 million cutoff level for weekly versus quarterly FR 2900 reporting for nonexempt institutions, the \$48.2 million cutoff level for quarterly FR 2910q versus annual FR 2910a reporting for exempt institutions, and the \$4.4 million level threshold for reporting will be used in the second quarter 1997 deposits report screening process, and the adjustments will be made when the new deposit reporting panels are implemented in September 1997.

All U.S. branches and agencies of foreign banks and all Edge and agreement corporations, regardless of size, are required to file weekly the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900). After the indexations become effective in 1997, all other institutions that have reservable liabilities in excess of the exemption level of \$4.4 million prescribed by section 19(b)(11) of the Federal Reserve Act (known as "nonexempt institutions") and total deposits at least equal to the nonexempt deposit cutoff level (\$59.3 million) will be required to file weekly the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900) for the twelve month period starting September 1997. However, nonexempt institutions with total deposits less than the nonexempt deposit cutoff level (\$59.3 million), will be able to file the FR 2900 quarterly. Institutions that obtain funds from non-U.S. sources or that have foreign branches or international banking facilities are required to file the Report

of Certain Eurocurrency Transactions (FR 2950/2951) at the same frequency as they file the FR 2900.

Institutions with reservable liabilities at or below the exemption level (\$4.4 million) (known as exempt institutions) will be required to file the Quarterly Report of Selected Deposits, Vault Cash, and Reservable Liabilities (FR 2910q) if their total deposits equal or exceed the exempt deposit cutoff level (\$48.2 million). Exempt institutions with total deposits less than the exempt deposit cutoff level (\$48.2 million) but at least equal to the exemption amount (\$4.4 million) will be able to file the Annual Report of Total Deposits and Reservable Liabilities (FR 2910a). Institutions that have total deposits less than the exemption amount (\$4.4 million) are not required to file deposit reports if their deposits can be estimated from other data sources.

Finally, the Board may require a depository institution to report on a weekly basis, regardless of the cutoff level, if the institution manipulates its total deposits and other reservable liabilities in order to qualify for quarterly reporting. Similarly, any depository institution that reports quarterly may be required to report weekly and to maintain appropriate reserve balances with its Reserve Bank if, during its computation period, it understates its usual reservable liabilities or overstates the deductions allowed in computing required reserve balances.

Notice and public participation. The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because the amendments involve expected, ministerial adjustments prescribed by statute and by an interpretative statement reaffirming the Board's policy concerning reporting practices. Moreover, the low reserve tranche adjustment and the reservable liabilities exemption adjustment are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reservable liabilities exemption adjustment and the increases for reporting purposes in the deposit cutoff levels reduce regulatory burdens on depository institutions, and the low reserve tranche adjustment will have a *de minimis* effect on depository institutions with net transaction accounts exceeding \$49.3 million. Accordingly, the Board finds good cause for determining, and so determines, that notice and public participation is unnecessary, impracticable, or contrary to the public interest.

² Consistent with Board practice, the tranche and exemption amounts have been rounded to the nearest \$0.1 million.

³ "Total deposits" as used in determining the cutoff level includes not only gross transaction deposits, savings accounts, and time deposits, but also reservable obligations of affiliates, ineligible acceptance liabilities, and net Eurocurrency liabilities.

The provisions of 5 U.S.C. 553(d) relating to notice of the effective date of a rule have not been followed in connection with the adoption of these amendments because the low reserve tranche adjustment and the reservable liabilities adjustment are expected, ministerial amendments prescribed by statute. Moreover, they are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reservable liabilities adjustment and the increase in deposit cutoff levels for reporting purposes relieve a restriction on depository institutions, and the low reserve tranche will have a *de minimis* effect on depository institutions with net transaction accounts exceeding \$49.3 million. Accordingly, there is good cause to determine, and the Board so determines, that such notice is impracticable or unnecessary.

Regulatory Flexibility Analysis

The Board certifies that these amendments will not have a substantial economic impact on small depository institutions. See "Notice and public participation" above.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 12 CFR Part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for Part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. In § 204.9 paragraph (a) is revised to read as follows:

§ 204.9 Reserve requirement ratios.

(a)(1) *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 ¹
Net transaction accounts: \$0 to \$49.3 million Over \$49.3 million	3 percent of amount. \$1,479,000 plus 10 percent of amount over \$49.3 million.
Nonpersonal time deposits.	0 percent.

Category	Reserve requirement ¹
Eurocurrency liabilities.	0 percent.

¹ Before deducting the adjustment to be made by the paragraph (a)(2) of this section.

(2) *Exemption from reserve requirements.* Each depository institution, Edge or agreement corporation, and U.S. branch or agency of a foreign bank is subject to a zero percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a)(1) of this section not in excess of \$4.4 million determined in accordance with § 204.3(a)(3).

* * * * *

By order of the Board of Governors of the Federal Reserve System, November 21, 1996.
William W. Wiles,

Secretary of the Board.

[FR Doc. 96-30148 Filed 11-26-96; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 545, 556, 560, 563, 571

[No. 96-111]

RIN 1550-AA89

Conflicts of Interest, Corporate Opportunity and Hazard Insurance

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS or agency) is today issuing a final rule updating and substantially streamlining its regulations and policy statements concerning conflicts of interest, usurpation of corporate opportunity and hazard insurance. These amendments are being made pursuant to the Regulatory Reinvention Initiative of the Vice President's National Performance Review (Reinvention Initiative) and section 303 of the Community Development and Regulatory Improvement Act of 1994 (CDRIA), which requires OTS and other federal banking agencies to review, streamline, and modify regulations and policies to improve efficiency, reduce unnecessary costs, and remove inconsistent, outmoded and duplicative requirements.

EFFECTIVE DATE: January 1, 1997.

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SUPPLEMENTARY INFORMATION:

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I. Background

In a comprehensive review of its regulations, beginning in the spring of 1995, pursuant to section 303 of the CDRIA¹ and the Administration's Reinvention Initiative, OTS identified its conflicts of interest, corporate opportunity and hazard insurance regulations and policy statements as an important area for updating and streamlining. Each conflicts of interest, corporate opportunity and hazard insurance regulation and policy statement was reviewed to determine whether it was current and understandable; imposed the least possible burden consistent with safety and soundness and statutory requirements; addressed subject matter more suited for handbook guidance; and was written in a clear, straightforward manner. OTS also sought industry input regarding staff's initial recommendations through an industry focus group consisting of five thrift representatives, an industry trade association and OTS staff. As a result of this review, OTS identified a number of ways in which its conflicts of interest, corporate opportunity and hazard insurance regulations and policy statements could be revised to reduce regulatory burden. On June 14, 1996, OTS issued a notice of proposed rulemaking.²

Today's final rule is substantially similar to the June proposal. The conflicts of interest rule has been clarified to give more specificity on what conflicts are prohibited. The conflicts of interest provisions apply if there is disclosure to the board of directors, the interested person refrains from participation in discussion of the

¹ 12 U.S.C. 4803(a)(1).

² 61 FR 30190 (June 14, 1996).