

FEDERAL RESERVE SYSTEM

12 CFR Part 204

Docket No. R-1715; RIN 7100-AF 89

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim final rule, request for public comment.

SUMMARY: The Board of Governors of the Federal Reserve System (“Board”) is amending its Regulation D (Reserve Requirements of Depository Institutions) to delete the numeric limits on certain kinds of transfers and withdrawals that may be made each month from “savings deposits.” The amendments are intended to allow depository institution customers more convenient access to their funds and to simplify account administration for depository institutions. There are no mandatory changes to deposit reporting associated with the amendments.

DATES: *Effective date:* The amendments to part 204 (Regulation D) are effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Applicability date: The changes to the numeric limits on certain kinds of transfers and withdrawals that may be made each month from accounts characterized as “savings deposits” were applicable on April 23, 2020.

COMMENTS: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket Number R-1715; RIN 7100- AF 89, by any of the following methods:

- Agency Web site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- E-mail: regs.comments@federalreserve.gov. Include the docket number and RIN in the subject line of the message.
- Fax: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper

in Room 146, 1709 New York Avenue NW, Washington, DC 20006,
between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison,
Senior Special Counsel (202-452-3565), Legal Division, or Matthew Malloy
(202-452-2416), or Heather Wiggins (202-452-3674), Division of Monetary
Affairs; for users of Telecommunications Device for the Deaf (TDD) only,
contact 202-263-4869; Board of Governors of the Federal Reserve System,
20th and C Streets, NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 19 of the Federal Reserve Act (the “Act”) authorizes the Board to impose reserve requirements on certain types of deposits and other liabilities of depository institutions solely for the purpose of implementing monetary policy. Specifically, section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities, as prescribed by Board regulations. Reserve requirement ratios for nonpersonal time deposits and Eurocurrency liabilities have been set at zero percent since 1990 and, as discussed below, were recently set to zero percent for transaction accounts.

Section 11(a)(2) of the Act authorizes the Board to require any depository institution “to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates.”¹ These provisions are specifically implemented in the computation and maintenance provisions of Regulation D (12 CFR 204.4 and 204.5, respectively) and in the Board’s “FR 2900” series of deposit reports (“FR 2900 reports”).²

Regulation D distinguishes between reservable “transaction accounts” and non-reservable “savings deposits” based on the ease with which the depositor may make transfers (payments to third parties) or withdrawals (payments directly to the depositor) from the account. Prior to this interim final rule, Regulation D limited the number of certain convenient kinds of transfers or withdrawals that an account holder may make from a “savings deposit” to not more than six per month (six transfer limit).³ Similarly, prior

¹ 12 U.S.C. 248(a).

² “Report of Transaction Accounts, Other Deposits, and Vault Cash – FR 2900” (OMB Number 7100–0087). *See, e.g.*, FR 2900 (Commercial Banks) at https://www.federalreserve.gov/reportforms/forms/FR_2900cb20180630_f.pdf.

³ “Convenient” transfers or withdrawals for this purpose include preauthorized or automatic transfers (such as overdraft protection transfers or arranging to have bill payments deducted directly from the depositor’s savings account), telephonic transfers (made by the depositor telephoning or sending a fax or online instruction to the bank and

to this interim final rule, Regulation D also imposed requirements on depository institutions for either preventing transfers in excess of six transfer limit or for monitoring such accounts *ex post* for violations of the limit.⁴

II. Discussion

A. Recent Developments

In January 2019, the FOMC announced its intention to implement monetary policy in an ample reserves regime. Reserve requirements do not play a role in this operating framework. In light of the shift to an ample reserves regime, the Board announced that, effective March 26, 2020, reserve requirement ratios were reduced to zero percent. This action

instructing the transfer to be made), and transfers by check, debit card, or similar order payable to third parties. 12 CFR 204.2(d)(2).

⁴ In order to ensure that no more than the permitted number of withdrawals or transfers are made, for an account to come within the definition of “savings deposit,” a depository institution must either:

(a) Prevent withdrawals or transfers of funds from this account that are in excess of the limits established by paragraph (d)(2) of this section, or

(b) Adopt procedures to monitor those transfers on an *ex post* basis and contact customers who exceed the established limits on more than occasional basis. For customers who continue to violate those limits after they have been contacted by the depository institution, the depository institution must either close the account and place the funds in another account that the depositor is eligible to maintain or take away the transfer and draft capacities of the account. An account that authorizes withdrawals or transfers in excess of the permitted number is a transaction account regardless of whether the authorized number of transactions is actually made. For accounts described in paragraph (d)(2) of this section, the institution at its option may use, on a consistent basis, either the date on the check, draft, or similar item, or the date the item is paid in applying the limits imposed by that section. 12 CFR 204.2(d)(2) n.4.

eliminated reserve requirements for thousands of depository institutions and helped to support lending to households and businesses.

As a result of the elimination of reserve requirements on all transaction accounts, the retention of a regulatory distinction in Regulation D between reservable “transaction accounts” and non-reservable “savings deposits” is no longer necessary. In addition, financial disruptions arising in connection with the novel coronavirus situation have caused many depositors to have a more urgent need for access to their funds by remote means, particularly in light of the closure of many depository institution branches and other in-person facilities.

B. Interim Final Rule

Because of the elimination of reserve requirements and because of financial disruptions related to the novel coronavirus, the Board is amending Regulation D, effective immediately, to delete the six transfer limit from the “savings deposit” definition. This interim final rule includes deletion of the provisions in the “savings deposit” definition that require depository institutions either to prevent transfers and withdrawals in excess of the limit or to monitor savings deposits *ex post* for violations of the limit. The interim final rule also makes conforming changes to other definitions in Regulation D that refer to “savings deposit” as necessary.

The interim final rule allows depository institutions immediately to suspend enforcement of the six transfer limit and to allow their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits. The interim final rule permits, but does not require, depository institutions to suspend enforcement of the six transfer limit. The interim final rule also does not require any changes to the deposit reporting practices of depository institutions. Additional information on the impact of the interim final rule is set forth in the next section.

C. Impact of the Interim Final Rule

The Board anticipates that the adoption of the interim final rule could give rise to questions from depository institutions and their customers regarding the impact of the interim final rule on access to funds, account agreements, reporting practices, and other related matters. Some anticipated questions are set forth below, together with brief answers, in a “frequently asked questions” (FAQ) format. Concurrently with the adoption of the interim final rule, the Board is setting forth these FAQs on its existing “Savings Deposit Frequently Asked Questions” webpage⁵ and will update that page with FAQ revisions and additional FAQs as needed.

⁵ <https://www.federalreserve.gov/supervisionreg/savings-deposits-frequently-asked-questions.htm>.

Q.1. Does the interim final rule require depository institutions to suspend enforcement of the six convenient transfer limit on accounts classified as “savings deposits”?

A.1. No. The interim final rule permits depository institutions to suspend enforcement of the six transfer limit, but it does not require depository institutions to do so.

Q.2. May depository institutions continue to report accounts as “savings deposits” on their FR 2900 deposit reports even after they suspend enforcement of the six transfer limit on those accounts?

A.2. Yes. Depository institutions may continue to report these accounts as “savings deposits” on their FR 2900 reports after they suspend enforcement of the six transfer limit on those accounts.

Q.3. If a depository institution suspends enforcement of the six transfer limit on a “savings deposit,” may the depository institution report the account as a “transaction account” rather than as a “savings deposit”?

A.3. Yes. If a depository institution suspends enforcement of the six transfer limit on a “savings deposit,” the depository institution may report that account as a “transaction account” on its FR 2900 reports. A depository institution may instead, if it chooses, continue to report the account as a “savings deposit.”

Q.4. Does the interim final rule have any impact on the “reservation of right” provisions set forth in section 204.2(d)(1) of Regulation D?⁶

A.4. No. The interim final rule does not have any impact on section 204.2(d)(1) of Regulation D. The “reservation of right” continues to be a part of the definition of “savings deposit” under the interim final rule.

Q.5. If a depository institution suspends enforcement of the six transfer limit on a “savings deposit,” is the depository institution required to change the way that interest on the account is calculated or reported?

A.5. No. The interim final rule does not require a depository institution to change the way it calculates or reports interest on an account where the depository institution has suspended enforcement of the six transfer limit.

Q.6. Suppose a depository institution has account agreements with its “savings deposit” customers that require the depository institution to enforce the six transfer limit. Suppose further that the depository institution would like to amend those account agreements so that the depository institution no

⁶ The “reservation of right” refers to the provisions of section 204.2(d)(1) of Regulation D where a depository institution is not required to impose seven days’ advance notice of withdrawals from “savings deposits” but reserves the right at any time to do so. Section 204.2(d)(1) provides that “[s]avings 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 seven 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. The term savings deposit includes a regular share account at a credit union and a regular account at a savings and loan association.” 12 CFR 204.2(d)(1).

longer has a contractual obligation to enforce the six transfer limit on its “savings deposit” accounts. Does the interim final rule require the depository institution to amend those agreements in any particular way?

A.6. No. The interim final rule does not specify the manner in which depository institutions that choose to amend their account agreements may do so.

Q.7. If a depository institution chooses to suspend enforcement of the six transfer limit on a “savings deposit,” must the depository institution change the name of the account or product if the account or product name has the words “savings” or “savings deposit” in it?

A.7. No. The interim final rule does not require depository institutions to change the name of any accounts or products that have the words “savings” or “savings deposit” in the name of the account or product.

Q.9. May depository institutions suspend enforcement of the six transfer limit on a temporary basis, such as for six months?

A.9. Yes.

Q.10. Suppose that a depository institution currently has policies or provisions in their savings deposit account agreements pursuant to which the depository institution charges fees to savings deposit customers for transfers and withdrawals that exceed the six transfer limit. May a depository

institution that suspends enforcement of the six transfer limit continue to charge these fees when savings deposit customers make seven or more convenient transfers and withdrawals in a month?

A.10. Regulation D does not require or prohibit depository institutions from charging their customers fees for transfers and withdrawals in violation of the six transfer limit. Accordingly, the deletion of the six transfer limit does not have a direct impact on the policies or account agreements of depository institutions that charge such fees to their customers.

III. Request for Comment

The Board seeks comment on all aspects of this interim final rule. In particular, the Board seeks comment on the considerations that may lead depository institutions to choose, or to be required, to retain a numeric limit on the number of convenient transfers that may be made each month from a savings deposit.

IV. Administrative Procedure Act

In accordance with the Administrative Procedure Act (“APA”) section 553(b) (5 U.S.C. 553(b)), the Board finds, for good cause, that providing notice and an opportunity for public comment before the effective date of this rule would be contrary to the public interest. In addition, pursuant to APA section 553(d) (5 U.S.C. 553(d)), the Board finds good cause for

making this amendment effective without 30 days advance publication. The amendments relieve depository institutions of a regulatory burden and permit all customers, particularly those impacted by the coronavirus situation, to have increased immediate access to their funds. Implementation of the rule without 30 days advance publication will help both depository institutions and their customers to deal with the unique pressures of the coronavirus situation and to alleviate the adverse impacts it has caused. The Board believes that any delay in implementing the rule would prove contrary to the public interest. The Board is requesting comment on all aspects of the rule and will make any changes that it considers appropriate or necessary after review of any comments received.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act requires an agency that is issuing a final rule to prepare and make available a regulatory flexibility analysis that describes the impact of the final rule on small entities. 5 U.S.C. 603(a). The Regulatory Flexibility Act provides that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

Pursuant to section 605(b), the Board certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. The interim final rule eliminates the numeric limits on certain types of transfers that may be made each month from a “savings deposit.” All depository institutions, including small depository institutions, will benefit from the elimination of the transfer limits. There are no new reporting, recordkeeping, or other compliance requirements associated with the interim final rule.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the interim final rule under authority delegated to the Board by the Office of Management and Budget.

The interim final rule affects the following Board information collections: the Reports of Deposits (FR 2900 series; OMB Control Number 7100-0087); the Financial Statements for Holding Companies (FR Y-9 reports; OMB Control Number 7100-0128); and the Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b; OMB Control Number 7100-0086). The Board has temporarily revised the

instructions for the FR 2900 series, the FR Y-9 reports, and the FR 2886b to reflect accurately aspects of the interim final rule.

The interim final rule also affects the following Federal Financial Institutions Examination Council (“FFIEC”) reports, which are shared by the Board, the Federal Deposit Insurance Corporation (“FDIC”), and the Office of the Comptroller of the Currency (“OCC”) (together, the agencies): the Consolidated Reports of Condition and Income (“Call Reports”) (Board OMB Control Number: 7100-0036; FDIC OMB Control Number 3064-0052; and OCC OMB Control Number 1557-0081) and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB Control Number: 7100-0032). The agencies have determined that there are revisions that should be made to the affected FFIEC reports as a result of this rulemaking. Although there may be substantive changes to the affected FFIEC reports that result from the revised definition of the “savings deposit” definition in Regulation D, the changes should be minimal and result in a zero net change in hourly burden. Submissions will, however, be made by the agencies to OMB.

The changes to the affected Board and FFIEC reports and their instructions will be addressed in a separate *Federal Register* notice.

Plain Language

Section 772 of the Gramm-Leach-Bliley Act requires the Board to use “plain language” in all proposed and final rules. In light of this requirement, the Board has sought to present the interim final rule in a simple and straightforward manner. The Board invites comment on whether the Board could take additional steps to make the rule easier to understand.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements

Authority and Issuance

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.

§204.2 Definitions. (Amended)

2. Section 204.2(c)(1)(ii) is removed and paragraphs (c)(1)(iii)-(iv)(E) are redesignated as paragraphs (c)(1)(ii)-(c)(iii)(E).

3. Section 204.2(d)(2) is revised to read as follows:

(2) The term “savings deposit” also means: a deposit or account, such as an account commonly known as a passbook savings account, a statement savings account, or as a money market deposit account (MMDA), that otherwise meets the requirements of §204.2(d)(1) and from which, under the terms of the deposit contract or by practice of the depository institution, the depositor may be permitted or authorized to make transfers and withdrawals to another account (including a transaction account) of the depositor at the same institution or to a third party, regardless of the number of such transfers and withdrawals or the manner in which such transfers and withdrawals are made.

4. In § 204.2(e), revise the introductory paragraph, paragraphs (e)(2)-(e)(4) and (e)(6) to read as follows:

Transaction account means a deposit or account from which the depositor or account holder is permitted to make transfers or withdrawals by negotiable or transferable instrument, payment order of withdrawal, telephone transfer, or other similar device for the purpose of making payments or transfers to third persons or others or from which the depositor may make third party payments at an automated teller machine (ATM) or a remote service unit, or other electronic device, including by debit card.

Transaction account includes:

(1) * * *

(2) Deposits or accounts on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account and that are subject to check, draft, negotiable order of withdrawal, share draft, or other similar item, including accounts described in paragraph (d)(2) of this section (savings deposits) and including accounts authorized by 12 U.S.C. 1832(a) (NOW accounts).

(3) Deposits or accounts on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account and from which withdrawals may be made automatically through payment to the depository institution itself or through transfer or 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, including accounts authorized by 12 U.S.C. 371a (automatic transfer accounts or ATS accounts).

(4) Deposits or accounts on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account and under the terms of which, or by practice of the depository institution, the depositor is permitted or authorized

to make withdrawals for the purposes of transferring funds to another account of the depositor at the same institution (including transaction account) or for making payment to a third party, regardless of the number of such transfers and withdrawals and regardless of the manner in which such transfers and withdrawals are made.

(5) * * *

(6) All deposits other than time deposits, including those accounts that are time deposits in form but that the Board has determined, by rule or order, to be transaction accounts.

By order of the Board of Governors of the Federal Reserve System, April 23, 2020.

Ann Misback (signed)
Ann Misback,
Secretary of the Board.