

**FEDERAL RESERVE SYSTEM**  
**12 CFR Part 204**  
**[Regulation D; Docket No. R-0980]**  
**Reserve Requirements of Depository Institutions**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

**SUMMARY:** The Board is proposing to amend its Regulation D, Reserve Requirements of Depository Institutions, to allow U.S. branches and agencies of foreign banks and Edge and Agreement corporations to choose whether to aggregate reserves on a nationwide basis in a single account at one Reserve Bank or to continue to have separate accounts on a same-state/same-District basis as they do today. The amendments would also update and clarify the pass-through account rules in Regulation D for all institutions. These amendments would facilitate interstate banking and eliminate certain restrictions applicable to pass-through accounts.

**DATES:** Comments must be submitted on or before September 12, 1997.

**ADDRESSES:** Comments, which should refer to Docket No. R-0980, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Oliver Ireland, Associate General Counsel, (202/452-3625) or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division. For the hearing impaired only, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** To facilitate interstate banking, the Federal Reserve Banks will begin to implement a new account structure on January 2, 1998, that will provide a single Federal Reserve account for each domestic depository institution. This structure will enable the Federal Reserve Banks to establish a single debtor-creditor relationship with each chartered entity, thereby providing an effective means for Reserve Banks to carry out their risk management responsibilities, and will improve the efficiency of account management for depository institutions. To determine the Federal Reserve Bank where a bank with interstate branches will hold an account, the Board adopted amendments to its Regulation D (12 CFR part 204, Reserve Requirements of Depository Institutions) and Regulation I (12 CFR part 209, Issue and Cancellation of Capital Stock of Federal Reserve Banks) (62 FR 34613, June 27, 1997). These amendments define a domestic depository institution's location for purposes of Federal Reserve membership and reserve account maintenance.

U.S. branches and agencies of the same foreign bank and Edge and Agreement corporations<sup>1/</sup> of the same parent bank were not included in the new single-account structure or in the final amendments to Regulations D and I, pending further consideration of legal and operational issues. The Board is now proposing amendments to Regulation D under which the Federal Reserve Banks will offer a single account to these institutions on an optional basis. Under this proposal, foreign banks and Edge corporations could choose either to designate one office to hold a single account at one Reserve Bank or to continue to have separate accounts on a same-state/same-District basis as they do today. The Board is also proposing changes to the pass-through account rules in Regulation D to accommodate the single-account option and to make other changes applicable to all institutions that will simplify and clarify the pass-through rules.

The Board believes making a single account optional rather than required for families of foreign bank branches is reasonable in light of certain operational, legal, and supervisory differences between U.S. branches and agencies of foreign banks and domestic banks.<sup>2/</sup> For example, certain foreign banks have historically managed their U.S. offices as independent entities that do not necessarily coordinate lending and investment decisions from a central office. Further, each office of a foreign bank family must have a separate license, either state or federal. The majority of U.S. offices of foreign banks are state-licensed and not federally insured and are thus would be liquidated separately based on the law of each licensing state. In addition, U.S. bank supervisory authorities treat U.S. branches of foreign banks as independent units for other purposes, such as asset maintenance requirements. As a result of these differences, U.S. branches of foreign banks may be placed at a disadvantage if they were required, in the short term, to adopt a single account structure.

To ensure stability in account relationships and to move the foreign banks and Edge corporations toward the preferred long-run account structure, the optional single account, where possible, would be a one-way election. That is, once an entity selects a single account it would not be permitted to switch back to multiple accounts without the Board's approval. The single account would be available to U.S. branches of foreign banks and Edge corporations effective January 2, 1998.

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<sup>1/</sup> Edge corporations are organized under section 25A of the Federal Reserve Act (12 U.S.C. 611-631), and Agreement corporations have an agreement or undertaking with the Board under section 25 of the Federal Reserve Act (12 U.S.C. 601-604a). For purposes of this docket, the term "Edge corporation" includes Agreement corporations. Similarly the term "branch" of a foreign bank includes both branches and agencies.

<sup>2/</sup> The distinguishing characteristics of U.S. branches of foreign banks do not necessarily apply to Edge corporations. As a result, the legal, supervisory, and risk management treatment of multiple offices of the same Edge corporation differs from that of multiple U.S. offices of foreign banks. Unless otherwise noted, the following points apply mainly to U.S. branches of foreign banks. Because of the historical parallel regulatory treatment of these entities, however, the account structure for U.S. branches of foreign banks applies to Edge corporations as well.

## **Amendments to Regulation D**

### Eligible Pass-Through Correspondents

Under the International Banking Act of 1978, branches of foreign banks are treated as separate banks for reserve purposes, which implies that each branch has a separate reserve liability. Reserves may be held in the form of vault cash, a balance held directly with a Federal Reserve Bank, or in a pass-through account. Regulation D allows foreign bank branches and Edge corporations to pass their reserves through an account of another office of the same institution, subject to the pass-through rules applicable to all depository institutions.

The Board proposes to expand this provision to clarify that a foreign bank or Edge corporation family may choose any eligible institution as a pass-through correspondent, such as a domestic depository institution or a branch of another foreign bank, in addition to an office of its own family. Although the Board believes that these entities will generally choose one of their own offices as the pass-through correspondent, allowing the choice is comparable to the treatment of domestic depository institutions under Regulation D. If a foreign bank chooses to have a single Federal Reserve account, it would likely aggregate all of the reserves of its nationwide branches in that account, i.e., the account would hold the reserves of the account-holding branch and function as a pass-through account for the reserves of the remaining branches.

### Account Maintenance

To accommodate the single account, the Board is proposing amendments to the pass-through provisions in Regulation D. Section 204.3(i)(3) currently requires a pass-through correspondent to maintain pass-through accounts at each Federal Reserve Bank in whose District the respondent institutions are located. The Board proposes to remove the requirement that pass-through accounts must be held in the District where the respondent is located. This proposal would apply to pass-through accounts for all depository institutions as well as for foreign bank branches and Edge corporations.

Regulation D also provides that, when respondents are located in the same District as the pass-through correspondent, the correspondent may choose to maintain its own reserves and the passed-through reserves in a single commingled account or in two separate accounts. Under the Board's proposal, correspondents would hold pass-through balances in a single commingled account, along with the pass-through correspondent's own reserves (if any) at the Reserve Bank in whose District the pass-through correspondent is located. The Board specifically requests comment on whether correspondents should continue to have the option of separate accounts for their own reserves and the reserves they hold on a pass-through basis. The Board believes that separate accounts are probably not necessary, as subaccounts could suffice for purposes of segregating correspondent transactions.

Regulation D is currently unclear as to whose money is in the pass-through account, that is, whether the pass-through account is a Reserve Bank liability to the pass-through correspondent or to the respondent.<sup>3/</sup> The proposed amendments to § 204.3(i)(3) would clarify that the balances held by the pass-through correspondent are the property of the correspondent and represent a liability of the Reserve Bank solely to the correspondent, regardless of whether the funds represent the reserve balances of another office or institution that have been passed through the correspondent.

These proposed changes regarding account maintenance would apply to pass-through accounts for all depository institutions, in addition to those for foreign bank branches and Edge corporations.

### Reporting

For those foreign banks or Edge corporations that choose to have a single Federal Reserve account, the Board is soliciting comment on an amendment to § 204.3(a)(1) of Regulation D to allow the family to submit an aggregated report of deposits for all offices. The submission of a single aggregated report would be similar to the current Regulation D reporting rule, which requires foreign bank and Edge corporation offices in the same state and same Federal Reserve District to aggregate deposits for purposes of reserve-related reports. The current same-state/same District aggregation provides a convenience for offices that maintain reserves in the same Federal Reserve account or pass-through account by allowing them to submit a single report to the Reserve Bank that holds the account. Nationwide aggregation would extend the same convenience to foreign banks and Edge corporations who opt for a single nationwide account by allowing them to file a single report. It would be most consistent with current reporting arrangements if this single report was sent to the Reserve Bank that holds the account with the family's reserves.

The Board also requests comment on whether reporting changes are necessary for all depository institutions that hold their reserves in pass-through accounts. Current § 204.3(i)(2) of Regulation D requires depository institutions to file reports of deposits with the Reserve Bank in whose District the institution is located, regardless of whether the institution maintains reserves in its own account or in a pass-through account. The Reserve Bank notifies the reporting institution of its reserve requirements and also notifies the pass-through correspondent, if one exists. Each respondent is responsible for reporting; the pass-through correspondent is not responsible for reporting errors made by the respondent, but it is responsible for maintaining the required reserve balances in accordance with the reports. Under the proposed pass-through rules, a depository institution located in one Federal Reserve District could hold reserves in a pass-through account located in another District. In this situation, it may be appropriate for that

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<sup>3/</sup> The call report instructions are more clear, stating that, from the perspective of the Federal Reserve Bank, pass-through balances are treated as balances due to the correspondent, not to the respondent.

depository institution's deposit reports to "follow the money," that is, for the depository institution to send its deposit report to the Reserve Bank that holds the account, rather than the Reserve Bank of the institution's District.

In addition, the Board requests comment on whether it is appropriate for all reports of all institutions (depository institutions as well as foreign bank branches and Edge corporations), including both supervisory and monetary reports, to go to the Reserve Bank that holds the account where that institution's reserves are held. On the one hand, requiring reports to follow the money could provide an efficient means of administering reserve requirements because only one Reserve Bank would be responsible for determining the accuracy of the reports and assessing deficiency penalties. On the other hand, if the Reserve Bank in whose District the institution is located is responsible for supervising the institution, having the institution submit supervisory reports to another Reserve Bank could effect the depth and timeliness of the supervising Reserve Bank's knowledge of the institution's condition.<sup>4/</sup> Currently, this dichotomy would exist only for foreign bank branches, as the Federal Reserve Act requires each member bank to hold reserves directly with the Reserve Bank of its District and does not permit member banks to hold reserves through a pass-through correspondent.

#### Low Reserve Tranche And Exemption Amounts

Current Regulation D provides that foreign bank and Edge corporation families share one low reserve tranche and exemption amount among all related offices.<sup>5/</sup> Regulation D sets out separate provisions (§ 204.3(a)(1) and (a)(2)) for foreign bank branches and Edge corporations covering allocation of the low reserve tranche. The regulation also contains a separate provision (§ 204.3(a)(3)) on allocation of the reserve exemption, which applies to depository institutions as well as foreign bank branches and Edge corporations. Proposed § 204.3(a)(2) would combine the existing provisions on allocation of the low reserve tranche and the reserve exemption among offices of depository institutions, foreign bank branches, and Edge corporations. These allocation rules would continue to apply to offices of the same institution that report deposits separately, such as branches of a foreign bank that choose to continue filing

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<sup>4/</sup> However, split reporting (requiring a depository institution to file supervisory reports with one Reserve Bank and other reports with another Reserve Bank) would lead to inefficiencies in other areas for both the depository institution and the Federal Reserve. The depository institution would have to deal with more than one Reserve Bank on reporting and data editing issues. For the Federal Reserve, each Reserve Bank collecting data from a particular depository institution would have to become knowledgeable about that institution's structure, operations, and balance sheet in order to perform effective data editing and analysis.

<sup>5/</sup> The amount of an institution's net transaction accounts in the low reserve tranche (\$0 to \$49.3 million) carries a lower reserve requirement (3 percent) than the amount above the tranche (which carries a 10 percent requirement). The first \$4.4 million of any institution's reservable liabilities are exempt from reserve requirements.

on a same-state/same-District basis and depository institutions that are in transition from a multiple to a single reporting and account structure. No allocations would be necessary for institutions that hold reserves in a single account.

### Location Of Institution

As noted above, in June the Board amended § 204.3(b) to set forth where a domestic depository institution is located for purposes of determining the Federal Reserve Bank where the institution will maintain its reserve balances. Specifically, an institution is considered to be located in the Federal Reserve District specified in its charter or organizing certificate, or, if no such location is specified, the location of its head office. The Board can make exceptions to the general rule for a particular institution after considering certain criteria. The Board proposes to apply the same rule to foreign bank branches and Edge corporations. For foreign banks and Edge corporations that choose a single account structure and pass all reserves through one office, the location of the office that is the pass-through correspondent would determine which Reserve Bank holds the account.

### Services

Section 204.3(i)(5) contains provisions regarding the services available to pass-through correspondents and respondents. The Board proposes to remove these provisions from Regulation D. The terms of services offered by the Reserve Banks are covered in Regulation J (12 CFR part 210) and the Reserve Banks' operating circulars.

### Technical Changes

In addition to the sections discussed above, the Board is also proposing editorial and conforming amendments to §§ 204.3(i) and 204.9(b) of Regulation D.

### **Initial Regulatory Flexibility Analysis**

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all institutions subject to the regulations, regardless of size. The proposal would not impose any significant burden on any institution, but rather would

provide increased flexibility for many institutions. Approximately 90 foreign banks and 10 Edge corporations that currently have multiple Federal Reserve accounts would have the option of consolidating their reserves in a single account under the proposal. Approximately 36 pass-through correspondents for domestic depository institutions would no longer have to hold pass-through accounts at multiple Federal Reserve Banks under the proposal.

### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed revised rule under the authority delegated to the Board by the Office of Management and Budget. The proposed rule contains no new collections of information and proposes no substantive changes to the existing collections of information pursuant to the Paperwork Reduction Act. The collection of information requirements that could be affected by this proposal are found in 12 CFR 204. All types of depository institutions file these information collections, but only a small subset of respondents, Edge corporations and U.S. branches of foreign banks, has the potential to be affected by the reporting burden reductions implicit in this proposal.

Edge corporations and U.S. branches of foreign banks currently file deposits and Eurocurrency reports (FR 2900 and FR 2951; OMB No. 7100-0087) aggregated by each state and Federal Reserve District in which their offices are located. If offices of the same institution are located in more than one state/District, they must file an additional report annually (FR 2930; OMB No. 7100-0088) to allocate the single low reserve tranche and exemption they share.

As noted in the sections above, U.S. branches of the same foreign bank and Edge corporations of the same parent bank could choose to establish a single Federal Reserve account beginning January 2, 1998. Respondents with a single account would file one FR 2900 report and one FR 2951 report, aggregated nationwide, with the Reserve Bank that holds the account. Since no allocations are necessary for institutions that hold reserves in a single account, these respondents would no longer be required to file FR 2930. Thus the proposed changes could reduce FR 2900, FR 2951, and FR 2930 reporting burden for these U.S. branches of foreign banks and Edge corporations. This in turn would reduce at least somewhat the total burden for the affected information collections.

The Federal Reserve invites comments on the effect on reporting burden of the proposed changes. Copies of such comments may also be sent to the Office of Management and Budget, Paperwork Reduction Project (7100-0087 and 7100-0088), Washington, DC 20503.

### **List of Subjects**

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 12 CFR part 204 is proposed to be amended as set forth below.

**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. Section 204.3 is amended as follows:

- a. Paragraphs (a)(1) and (a)(2) are revised and paragraph (a)(3) is removed;
- b. The last sentence of paragraph (b)(1) is removed and paragraph (b)(2)(i) is revised; and
- c. Paragraph (i) is revised to read as follows:

**§ 204.3 Computation and Maintenance.**

(a) \* \* \*

(1) United States branches and agencies of foreign banks; Edge and Agreement corporations. (i) A foreign bank's United States branches and agencies and an Edge or Agreement corporation's offices shall prepare and file a report of deposits on an aggregated basis either:

(A) For each group of branches and agencies, or each group of offices, operating within the same state and within the same Federal Reserve District; or

(B) For all branches and agencies, or all offices, operating in the United States.

(ii) A foreign bank or an Edge or Agreement corporation that elects to aggregate deposits for all branches and agencies, or all offices, operating in the United States may not subsequently elect to aggregate deposits in another manner without the Board's approval.

(2) Allocation of low reserve tranche and exemption from reserve requirements. A depository institution, a foreign bank, or an Edge or Agreement corporation shall, if possible, assign the low reserve tranche and reserve requirement exemption prescribed in § 204.9(a) to only one office or to a group of offices filing a single aggregated report of deposits. The amount of the reserve requirement exemption allocated to an office or group of offices may not exceed the amount of the low reserve tranche allocated to such office or offices. If the low reserve tranche



or reserve requirement exemption 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 or exemption may be assigned to other offices or groups of offices of the same institution until the amount of the tranche (or net transaction accounts) or exemption (or reservable liabilities) is exhausted. The tranche or exemption may be reallocated each year concurrent with implementation of the indexed tranche and exemption, or, if necessary during the course of the year to avoid underutilization of the tranche or exemption, at the beginning of a reserve computation period.

(b) \* \* \*

(2) (i) For purposes of this section, a depository institution, a U.S. branch or agency of a foreign bank, or an Edge or Agreement corporation is located in the Federal Reserve District that contains the location specified in the institution's charter, organizing certificate, or license or, if no such location is specified, the location of its head office, unless otherwise determined by the Board under paragraph (b)(2)(ii) of this section.

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(i) Pass-through rules. (1) Procedure. (i) A nonmember depository institution, a U.S. branch or agency of a foreign bank, or an Edge or Agreement corporation required to maintain reserve balances (respondent) may select only one institution to pass through its required reserves. Eligible institutions through which respondent required reserve balances may be passed (correspondents) are Federal Home Loan Banks, the National Credit Union Administration Central Liquidity Facility, and depository institutions, U.S. branches or agencies of foreign banks, and Edge and Agreement corporations that maintain required reserve balances at a Federal Reserve office. In addition, the Board reserves the right to permit other institutions, on a case-by-case basis, to serve as pass-through correspondents. The correspondent chosen must subsequently pass through the required reserve balances of its respondents directly to a Federal Reserve Bank. The correspondent placing funds with a Federal Reserve Bank on behalf of respondents will be responsible for account maintenance as described in paragraphs (i)(3) and (i)(4) of this section.

(ii) Respondents or correspondents may institute, terminate, or change pass-through arrangements for the maintenance of required reserve balances by providing all documentation required for the establishment of the new arrangement or termination of the existing arrangement to the Federal Reserve Banks involved within the time period provided for such a change by those Reserve Banks.

(2) Reports. (i) Every depository institution that maintains transaction accounts or nonpersonal time deposits is required to file its report of deposits (or any other required form or statement) with the Federal Reserve Bank of its District, regardless of the manner in which it chooses to maintain required reserve balances.

(ii) The Federal Reserve Bank receiving such reports shall notify the reporting depository institution of its reserve requirements. Where a pass-through arrangement exists, the Reserve Bank will also notify the pass-through correspondent of its respondent's required reserve balances.

(iii) The Board will not hold a correspondent responsible for guaranteeing the accuracy of the reports of deposits submitted by its respondents to a Federal Reserve Bank.

(3) Account maintenance. A correspondent that passes through required reserve balances of respondents shall maintain such balances, along with the correspondent's own required reserve balances (if any), in a single commingled account at the Federal Reserve Bank in whose District the correspondent is located. The balances held by the correspondent in an account at a Reserve Bank are the property of the correspondent and represent a liability of the Reserve Bank solely to the correspondent, regardless of whether the funds represent the reserve balances of another institution that have been passed through the correspondent.

(4) Responsibilities of parties. (i) Each individual depository institution, U.S. branch or agency of a foreign bank, or Edge or Agreement corporation is responsible for maintaining its required reserve balance either directly with a Federal Reserve Bank or through a pass-through correspondent.

(ii) A pass-through correspondent shall be responsible for assuring the maintenance of the appropriate aggregate level of its respondents' required reserve balances. A Federal Reserve Bank will compare the total reserve balance required to be maintained in each account with the total actual reserve balance held in such account for purposes of determining required reserve deficiencies, imposing or waiving charges for deficiencies in required reserves, and for other reserve maintenance purposes. A charge for a deficiency in the aggregate level of the required reserve balance will be imposed by the Reserve Bank on the correspondent maintaining the account.

(iii) Each correspondent is required to maintain detailed records for each of its respondents in a manner that permits Federal Reserve Banks to determine whether the respondent has provided a sufficient required reserve balance to the correspondent. A correspondent passing through a respondent's reserve balance shall maintain records and make such reports as the Board or Reserve Bank requires in order to insure the correspondent's compliance with its responsibilities for the maintenance of a respondent's reserve balance. Such records shall be available to the Reserve Banks as required.

(iv) The Federal Reserve Bank may terminate any pass-through relationship in which the correspondent is deficient in its recordkeeping or other responsibilities.

(v) Interest paid on supplemental reserves (if such reserves are required under § 204.6) held by a respondent will be credited to the account maintained by the correspondent.

3. In section 204.9, the reference in paragraph (b) to "§ 204.3(a)(3)" is revised to read "§ 204.3(a)(2)".

By order of the Board of Governors of the Federal Reserve System, August 4, 1997.

William W. Wiles  
Secretary of the Board.