Executive Order No. 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order No. 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order No. 12988

The rule meets the applicable standards set forth in sections 3(a) and (3)(b)(2) of E.O. 12988.

List of Subjects in 8 CFR Part 242

Administrative practice and procedure, Aliens, Deportation.

Accordingly, part 242 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALL ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1252 note, 1252a, 1252b, 1254, 1362; 8 CFR part 2.

2. In section 242.25 a new paragraph (i) is added to read as follows:

§ 242.25 Proceedings under section 242A(b) of the Act.

* * * * *

(i) Effective March 3, 1997, the Service will cease issuance of both Form I–851 and Form I–851A. The Service retains the authority to execute at any time Form I–851A that is final before March 3, 1997. The Service will resume the issuance of Form I–851 and Form I–851A after April 1, 1997, pursuant to regulations implementing section 238(b) of the Act, as amended by the Illegal Immigration Reform and Responsibility Act of 1996.

Dated: December 20, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–33092 Filed 12–24–96; 10:56 am]

BILLING CODE 4410–01–M

FEDERAL ELECTION COMMISSION

11 CFR Part 9038

[Notice 1996–22]

Examinations and Audits

AGENCY: Federal Election Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to final regulations which were published June 16, 1995 (60 FR 31854). The regulations relate to the notification of repayment determinations.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: On June 16, 1995, the Commission published final rules revising its regulations governing public financing of presidential primary election candidates. 60 FR 31854 (June 16, 1995). These regulations implement provisions of the Presidential Primary Matching Payment Account Act. Unfortunately, the June 16, 1995 Federal Register document contained a nonsubstantive error which may prove to be confusing. The error occurred when the Federal Register typeset the document for publication. The Commission is publishing this document to correct the error.

List of Subjects in 11 CFR Part 9038

Administrative practice and procedure, Campaign funds.

PART 9038—EXAMINATIONS AND AUDITS

Accordingly, 11 CFR Part 9038 is corrected by making the following correcting amendment:

1. The authority citation for Part 9038 continues to read as follows:

Authority: 26 U.S.C. 9038 and 9039(b).

§ 9038.2 Repayments. [Corrected]

2. In section 9038.2, in the last sentence of paragraph (a)(2), the word ''purchases'' is revised to read ''purposes''.

Dated: December 26, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–33292 Filed 12–30–96; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–0929]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its Regulation D regarding reserve requirements of depository institutions issued pursuant to section 19 of the Federal Reserve Act in order to simplify and update it and reduce regulatory burden. The amendments to modernize Regulation D are in accordance with the Board's policy of regular review of its regulations and the Board's review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ann Owen, Economist, Division of Monetary Affairs (202/736–5671); Sue Harris, Economist, Division of Research and Statistics (202/452–3490); or Rick Heyke, Staff Attorney, Legal Division (202/452–3688), Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

As part of its policy of regular review of its regulations, and consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), the Board of Governors of the Federal Reserve System (Board) is amending its Regulation D regarding reserve requirements of depository institutions (12 CFR part 204) issued pursuant to section 19 of the Federal Reserve Act. Section 303 of the Riegle Act requires each federal banking agency to review and streamline its regulations and written policies to improve efficiency, reduce unnecessary costs, and remove

inconsistencies and outmoded and duplicative requirements. The amendments are designed to reduce regulatory burden and simplify and update the Regulation.

The Board published a notice of proposed rulemaking in the Federal Register on June 17, 1996 (61 FR 30545) that solicited comments on the proposed amendments described below. In general, the amendments deleted transitional rules relating to the expansion of reserve requirements to nonmember depository institutions, the authorization of NOW accounts nationwide, and other matters that no longer have a significant effect. The Board received a total of 22 comments on the proposal. Comments were received from 9 banking organizations, 8 trade associations, 4 Federal Reserve banks, and one savings bank. Of the comments, 17 generally expressed agreement with the proposal as far as it went.

An issue by issue discussion follows.

Time Deposits

Section 204.2(c)(1) currently defines time deposits as deposits from which the depositor may not make withdrawals within six days after the date of deposit (or notice of withdrawal) or partial withdrawal unless such withdrawals are subject to an early withdrawal penalty. Under certain circumstances specified in footnote 1, a time deposit may be paid before maturity without imposing the early withdrawal penalty. A time deposit generally may be paid without penalty from the seventh day after deposit through maturity, absent partial withdrawals. The imposition of an early withdrawal penalty is required under the time deposit definition only during the first six days after deposit. The proposal clarified that the footnote is not intended to impose a prohibition on withdrawals before maturity, but to permit penalty-free withdrawals under certain circumstances during the period when the imposition of an early withdrawal penalty otherwise would otherwise be required.

Six commenters supported the proposal to reword footnote 1 in order to avoid any implication that time deposits generally may not be paid before maturity without penalty, while three others, without disagreeing with the proposal, noted that they had no experience of confusion resulting from the footnote. The final rule adopts the proposal as proposed.

Nonpersonal Time Deposits

The definition of nonpersonal time deposit in § 204.2(f)(1)(iii) and (iv) distinguishes between transferable time deposits originally issued before October 1, 1980, and those issued on or after that date. Since the Board believes that most of these deposits have since matured, the Board believes that this distinction is no longer meaningful and proposed to delete it. Three commenters specifically supported the proposal on the basis that this was an obsolete distinction. The Board is adopting this proposal as proposed.

Section 204.2(f)(3) requires that a nonpersonal time deposit with a stated maturity or notice period of 1½ years or more either be subject to a minimum withdrawal penalty of 30 days' interest (if withdrawn more than six days but within 1½ years after the date of deposit) or be treated as a deposit with an original maturity or notice period of less than 1½ years. Since 1991, the reserve requirement ratio has been set at zero for all time deposits regardless of maturity. Moreover, since 1991, the form for reporting reservable liabilities (Form FR 2900) has not required depository institutions to report the amount of time deposits by category of maturity. The requirement to treat time deposits not subject to a minimum penalty of 30 days' interest as having an initial maturity of less than 1½ years is thus of no practical significance. The Board therefore proposed to delete it and footnote 2 to § 204.2(c)(1)(i), which refers to it.

Three commenters specifically supported this proposal. Another commenter expressed concern that by eliminating the requirement, the Board would be unable to distinguish between maturities of time deposits in the future. If, in the future, the Board should wish to distinguish between time deposits based on maturity, the Board could amend Regulation D and/or its reporting forms as appropriate, and could consider at that time whether an additional early withdrawal penalty would be warranted for longer-term deposits. Therefore, the Board is adopting this proposal as proposed.

Eurocurrency Liabilities

The definition of Eurocurrency liabilities in § 204.2(h)(1) includes an amount equal to certain assets that were held by a depository institution's International Banking Facility or by non-United States offices of the depository institution or of an affiliated Edge or agreement corporation and that were acquired from the depository institution's United States offices on or after October 7, 1979. The Board proposed to delete the exclusion of assets acquired before October 7, 1979, because the Board believes that the amount of these assets is immaterial. The Board received no specific comments on this proposal and is adopting it as proposed.

Allocation of Reserve Requirements Exemption

The allocation of the reserve requirements exemption specified in § 204.3(a)(3)(i) requires that the exemption be allocated first to net transaction accounts in the form of NOW (and similar) accounts and second to other transaction accounts. This provision was related to the phase-in of reserve requirements for nonmember banks and the authorization of NOW and similar transaction accounts nationwide. Since the phase-in is now complete and nonmember institutions are subject to the same reserve requirements as member banks, the provision has ceased to have any effect, and the Board proposed to delete it. Two commenters expressed support for the proposed deletion. Another commenter, while noting that the requirement is obsolete, described its elimination as entirely technical. The Board is adopting this proposal as proposed.

Deductions Allowed in Computing Reserves

The deduction in § 204.3(f)(1) limits the amount of cash items in process of collection and balances subject to immediate withdrawal due from domestic depository institutions that may be subtracted from an institution's NOW accounts. Amounts in excess of this limit may be subtracted from other transaction accounts. Since the phase-in of reserve requirements for nonmember banks is now complete, all types of transaction accounts are subject to the same reserve requirements. Therefore, this limitation has ceased to have any effect and the Board proposed to delete it. One commenter specifically supported the Board's proposed deletion, and the Board is adopting this proposal as proposed.

Federal Reserve Credit for Depository Institutions Maintaining Pass-Through Balances

Section 19(e) of the Federal Reserve Act prohibits member banks from acting as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal Reserve Bank except by permission of the Board. Regulation A, Extensions of Credit by Federal Reserve Banks (12 CFR Part 201), was amended in 1993 to delegate authority for granting this permission to the Federal Reserve Bank that extends the credit. 12 CFR 201.6(d). The Board

correspondingly proposed to amend § 204.3(i)(5)(iv) of Regulation D effectively to complete the delegation of this authority to the Federal Reserve Bank that extends the credit. One commenter specifically supported this proposal, and the Board is adopting it as proposed.

Transition Rules

The regulation currently includes in § 204.4(a) a transition rule for depository institutions outside of Hawaii that were nonmembers of the Federal Reserve System on July 1, 1979, and that remained nonmembers. With the completion of the phase-in of reserves for such nonmembers on September 10, 1987, this rule ceased to have any effect. Section 204.4(b) contains a transition rule for depository institutions that were not members between July 1, 1979, and September 1, 1980, and that subsequently became members; since reserve requirements for nonmember institutions are fully phased in, this rule also has ceased to have any effect. Section 204.4(d) contains a transition rule for nonmember depository institutions that were engaged in business in Hawaii on August 1, 1978, and that remained nonmembers; this rule ceased to have any effect on January 7, 1993. Therefore, the Board proposed to delete these rules. The Board received three comments supporting the proposed deletion of §§ 204.4(a) and (b), and no comments on its proposed deletion of § 204.4 (d). The Board is adopting these proposals as proposed.

Section 204.4(c) sets forth a transition rule for *de novo* depository institutions with daily average reservable liabilities of less than $50 million whereby their reserve requirement is 40 percent of the reserves otherwise required in maintenance periods during the first quarter after commencing business, increasing to 100 percent in maintenance periods during the eighth and succeeding quarters. The low reserve tranche of a depository institution's net transaction accounts is currently subject to a reserve requirement of 3 percent, as compared with 10 percent for its net transaction accounts in excess of the low reserve tranche. The *de novo* transition rules precede creation of the low reserve tranche in 1982. The low reserve tranche cutoff is indexed to net transaction accounts of all depository institutions; as a result, the cutoff has increased from $25 million initially to $49.3 million for 1997. Thus, almost all transaction accounts of *de novo* depository institutions that could avail themselves of this transition rule are now covered by the low reserve tranche. Moreover, beginning in 1982, $2 million of reservable deposits have been subject to a zero percent reserve requirement; this exemption is indexed to total reservable liabilities of all depository institutions and has increased to $4.4 million for 1997.

In addition, a depository institution's vault cash may be used to meet its reserve requirement. Since *de novo* depository institutions generally have relatively low levels of deposits in relation to the reserve requirement exemption and the low reserve tranche cutoff, most are able to meet reserve requirements with vault cash and the others maintain minimal reserve balances. (Currently 56 depository institutions are receiving *de novo* phase-ins, and 52 of them are fully meeting their reserve requirements with vault cash.) This rule provides minimal benefits in terms of reducing required reserve balances of *de novo* institutions and unnecessarily complicates the processing of deposit reporting and reserve calculations. Consequently, the Board proposed to delete it. In order to avoid disrupting economic expectations based on the *de novo* transition rule, however, the Board proposed to grandfather any institution covered by the *de novo* transition rule on the effective date of the amendments for purposes of determining its required reserves. The Board received two comments supporting its proposal to delete § 204.4(c) and is adopting this proposal as proposed. As proposed, the Board will also grandfather any institution covered by the *de novo* transition rule on the effective date of the amendments.

Section 204.4(e) governs transition requirements in cases of mergers and consolidations. Paragraph (e)(1) covers ''similar'' mergers, where all depository institutions are subject to the same transition rules, and paragraph (e)(2) covers ''dissimilar'' mergers, where the institutions are subject to different transition rules. Currently, no institution is subject to the ''dissimilar'' merger transition rules. With the phase-in of reserve requirements for nonmember institutions, the transition rules (other than the merger and *de novo* rules) have become inoperative. Moreover, as discussed above, the *de novo* rules no longer have a significant effect in most cases. Therefore, the difference between the ''similar'' and ''dissimilar'' merger rules is minimal. In addition, the *de novo* rules would be eliminated under the proposal, with the result that all mergers would be ''similar'' mergers and the ''dissimilar'' merger rule would be inapplicable. Therefore, the Board proposed to delete the ''dissimilar'' merger transition rule and apply the current ''similar'' merger transition rule to all mergers. The Board received two comments supporting its proposed deletion of § 204.4(e), and is adopting this proposal as proposed.

Reserve Ratios

Section 204.9(b) sets forth the reserve ratios in effect during the last reserve computation period prior to September 1, 1980, for use in transition adjustments that are no longer applicable. The Board proposed to delete the section, and received two comments supporting its proposal. The Board is adopting this proposal as proposed.

Deposit Definitions

Many commenters also commented on provisions of Regulation D other than the proposed changes. Nine commenters suggested that the Board clarify the definition of ''savings deposit,'' and a number of them also suggested that the Board also rewrite the definitions of ''time deposit,'' ''demand deposit,'' and/or ''transaction account.'' One commenter suggested the use of bullet points to distinguish limitations on transfers from exceptions to such limitations. Two commenters appended suggested language designed to clarify the definition of savings account, principally by shortening the sentences.

The Board is publishing concurrently with this notice in the Federal Register a notice of proposed rulemaking to amend the definition of ''savings deposit'' in order to clarify it, and to amend the definition of ''transaction account'' in order to clarify it and conform it to the amended definition of ''savings account.''

One commenter, a trade association, pointed out that many of the questions that it receives regarding the savings deposit definition reflect increased interest in home banking and a consequent desire to avoid any limitation on transfers effected by means of a home computer. Another commenter opined that aggregating the different types of transfers and withdrawals affected by the limitation adds to consumer confusion and increases the monitoring problem for depository institutions, and, together with two other commenters, suggested that the Board eliminate all restrictions on point-of-sale and telephone transfers.[1]

[1] One of these commenters also suggested that the Board pay interest on reserve balances or support legislation to that effect.

On the issue of transfers by means of home computers, the current regulation states explicitly that any ''telephonic (including data transmission) agreement, order, or instruction'' is included in the six transfers and withdrawals limitation. Therefore home banking transfers are included in the limitation.

One commenter requested guidance on the requirement for a penalty of 7 days' simple interest in the event of a withdrawal from a time deposit within 6 days. In particular, this commenter expressed confusion in the case of a second withdrawal within 6 days after a partial withdrawal. In the case of a time deposit account deposited in one lump sum, the Board regards a partial withdrawal from the time deposit as a withdrawal of the entire deposit followed by a new deposit of the balance retained. The regulation therefore provides that a ''time deposit from which partial early withdrawals are permitted must impose additional early withdrawal penalties of at least seven days' simple interest on amounts withdrawn within six days after each partial withdrawal.'' 12 CFR 204.2(c)(1)(i).

The same commenter, in reliance upon a service purporting to explain the Board's regulations, believed that 7 days' simple interest must be charged on withdrawals within 6 days of an additional deposit to the same time deposit. The Board believes that a bank may account for deposits and withdrawals either in order of deposit (FIFO) or in inverse order of deposit (LIFO).[2] Therefore, the regulation does not prescribe an accounting policy to be applied to such withdrawals. However, the Board does expect that a depository institution will be consistent in its choice of policy in this regard.

Another commenter, a trade association, asked if all demand deposits should contain the right to require 7 days' notice of withdrawal pursuant to § 204.2(b)(2). The demand deposits described in § 204.2(b)(2) are in addition to the demand deposits described in § 204.2(b)(1), which do not require 7 days' notice of withdrawal. The demand deposits described in § 204.2(b)(2) are considered demand deposits despite the fact that they may require 7 days' notice of withdrawal.

The Board, in light of the comments received, also considered whether substantive revisions to the definitions of the different types of deposits could be implemented in an effort to simplify the regulation further. It concluded that the practical scope for any such redefinitions is limited. The Board notes that Section 19 of the Federal Reserve Act establishes separate ranges for required reserve ratios on transaction accounts and nonpersonal time and savings deposits, and provides no authority for imposing reserve requirements on personal time and savings deposits. This statutory requirement for different reserve treatment of the various types of deposits creates a need for regulatory definitions to distinguish between the various types of deposits. Moreover, technological change and financial innovation have led to a proliferation of types of deposits and transfer arrangements. Many depository institutions have implemented so-called ''retail sweep'' programs in order to reduce their reserve requirements. These programs have already resulted in a substantial decline in transaction accounts and required reserves. The more widespread adoption of these programs that is evidently in process could impair the predictability of overall reserve demand and hence adversely affect the ability of the Federal Reserve to gauge the supply of reserves consistent with its intended monetary policy stance. These developments could eventually suggest changes in the structure of reserve requirements, potentially including changes in deposit definitions. Depending on the type of change that might be found appropriate, such a change could require legislation or be implemented administratively. The Federal Reserve will continue to monitor closely developments in the federal funds market for evidence about how lower levels of required reserves may influence the implementation of monetary policy and the appropriate structure of reserve requirements. Under the circumstances, the Board believes that a major revision of the definitions that serve as the basis for determining the liabilities against which reserves are required is not appropriate at the present time.

Other Comments

One commenter suggested that Regulation D contain an explicit cross reference to the Board Interpretation on multiple savings accounts treated as transaction accounts (12 CFR 204.133, FRRS 2–286). Another believed that the Board's notice of August 25, 1992 (57 Federal Register 38417) discussing several Regulation D issues should be included in the regulation because of difficulty in obtaining a copy. A third suggested that Board Interpretations and Staff Opinions related to Regulation D be streamlined and made consistent with the final rule. Two others suggested that this guidance be replaced with an official staff commentary. The Board will consider streamlining its guidance related to Regulation D or issuing an official staff commentary.

However, the Board believes that specific cross references in the regulation to selected interpretations could be construed to mean that the other guidance is of less importance, and therefore the Board believes that such cross references generally should be avoided.

A Federal Reserve Bank commented that sweeps into and out of retail savings accounts should be prohibited, because of the economic waste involved in this form of avoidance of the transaction limitations otherwise applicable to savings accounts. Alternatively, if the Board permits these sweep accounts, the applicable limitations should be spelled out in the regulation. Another commenter and an industry trade association similarly requested clarification on sweep accounts in the regulation. Regulation D currently limits transfers from savings accounts, with certain exceptions, to six per month or monthly statement cycle. The Board believes that the regulation is clear that two separate accounts, established by agreement with the depositor, one of which is a transaction account and the other of which is a savings account, can be structured so that transfers between the two accounts can take place provided that no more than six transfers and/or withdrawals from the savings account will take place in any month or statement cycle, and so that the savings account will otherwise meet the qualifications required by Regulation D.

A bank holding company objected to the transfer limitations on savings accounts, stating that competitive pressures in the market for business deposits combine with these limitations to make necessary alternative products such as sweep repurchase agreements, with consequent additional legal and system support costs that serve no economic purpose. The commenter suggested that the Board support possible legislation to remove some of these restrictions. Section 19 of the Federal Reserve Act requires the Board to distinguish transaction accounts from other accounts, because it requires different reserve requirements for transaction accounts and other accounts. (Currently, net transaction accounts in excess of the low reserve tranche are subject to a 10 percent

[2] The Board proposed in 1991 to require LIFO accounting in the case of multiple credits. See 56 FR 15522, 15526. In response to comments opposing the proposal, the Board withdrew it.

reserve requirement whereas nonpersonal time deposits are subject to a zero percent reserve requirement and personal time deposits are exempt from reserve requirements by statute.) The Board has based the distinction between transaction accounts and other accounts on the depositor's convenience of access and consequent ability to use savings deposits for transactional purposes.

Another bank requested additional guidance on sweeps from major accounts, principally those held by corporations and partnerships. The commenter has implemented a master repurchase agreement for these accounts to replace a previous arrangement involving funds secured by Treasury and federal agency securities, and requested guidance with respect to agreements and collateral. Regulation D clearly excludes from the definition of deposit any obligation that ''arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States government or any agency thereof that the depository institution is obligated to repurchase.'' 12 CFR 204.2(a)(1)(vii)(B). In order for a repurchase obligation to qualify under this exclusion and be thus exempted, in effect, from the requirements of Regulations D and Q, the transaction generally must meet regulatory requirements for agreements to repurchase government securities under the Government Securities Act of 1986 (as amended). See, *e.g.,* 17 CFR parts 403, 404, and 450.

A trade association suggested that the Regulation D definition of demand deposit should preempt a state law provision applicable to its members, which defines demand deposit to include any deposit withdrawable within 30 days. The definition in Regulation D is for the purpose of calculating reserve requirements (since demand deposits are included in transaction accounts) and is also employed in Regulation Q. The Board is not aware of any circumstances under which the state law impairs the effectiveness of these regulations.

One Federal Reserve bank reported receiving a number of requests from depository institutions and bank holding companies for the elimination of member bank pass-through restrictions and of the requirement that reserves passed through a correspondent be held in the Federal Reserve district where the respondent is located. The pass-through restrictions are based on section 19(c) of the Federal Reserve Act, which states that reserve balances of member banks must be held at the Federal Reserve bank of which the bank maintaining the balance is a member, and on operating considerations. The Board will be considering these issues further in light of the growth in interstate banking arrangements that span Federal Reserve district lines.

Finally, § 204.3(i)(1)(ii), which specifies procedure for changes in correspondent-respondent relationships for required reserve balances, incorrectly refers to Reserve Banks' operating circulars that do not exist; § 204.3(i)(4)(ii), which assigns to correspondents responsibility for respondents' required reserve balances, incorrectly refers to ''penalties'' for reserve deficiencies rather than ''charges''; and § 204.7(a)(1), which discusses charges for reserve deficiencies, incorrectly refers to ''the 2 percent carryover provided in § 204.3(h),'' whereas § 204.3(h) provides a carryover of 4 percent or $50,000, whichever is greater. Accordingly, the Board is replacing ''in its operating circular'' by ''in its discretion,'' replacing ''penalties'' by ''charges'' in § 204.3(i)(4)(ii) and simplifying § 204.7(a)(1) to refer to ''the carryover provided in § 204.3(h).'' Similarly, the references to ''penalty-free band'' in § 204.3(h) are replaced by references to ''charge-free band.''

Final Rule

The Board is adopting the revisions to Regulation D substantially as proposed. In addition, the Board is correcting the references to penalties in the sections on correspondent's responsibility and reserve deficiencies, and clarifying the carryover reference in the section on reserve deficiencies. No substantive change to these two sections is intended.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish a final regulatory flexibility analysis with any notice of proposed rulemaking. One of the requirements of a final regulatory flexibility analysis (5 U.S.C. 604(a))—a statement of the need for, and the objectives of, the rule—is contained in ''Background'' above. The Regulation D amendments being proposed require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

A second requirement for the final regulatory flexibility analysis is a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis that was included in the notice of proposed rulemaking. The Board received no comments specifically related to the initial regulatory flexibility analysis, and the comments it received on the rule are discussed in ''Background'' above.

The third requirement for the final regulatory flexibility analysis is a description of any significant alternatives to the rule consistent with the stated objectives of the applicable statutes and designed to minimize any significant impact of the rule on small entities. The rule will apply to all depository institutions regardless of size, except that the transition rule for *de novo* institutions applies only to institutions with total transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities of less than $50 million.

Except for the transition rules relating to dissimilar mergers and *de novo* institutions, the amendments are burden-reducing and no appropriate alternatives to the provisions in the proposal were found which would further reduce burdens. (The Board considered whether substantive revisions to the definitions of deposits could be implemented in an effort to simplify the regulation further, and concluded that a major revision of the definitions is not appropriate at present. See ''Background'' above.) The current transition rules for dissimilar mergers provide a minor temporary potential reduction in reserve requirements for certain merged institutions. However, no institution is currently benefitting from the dissimilar merger rules. The transition rules for *de novo* institutions, which are only applicable to institutions with reservable liabilities of less than $50 million and provide only a temporary benefit, have become much less significant with the increase in the low-reserve tranche cutoff ($49.3 million for 1997). Partly for this reason, only 56 institutions are currently receiving *de novo* phase-in benefits and only 4 of these institutions are not fully meeting their reserve requirements with vault cash. In order to avoid disrupting economic expectations based on the *de novo* transition rule, any institution covered by the *de novo* transition rule on the effective date of the amendments will be grandfathered for the purpose of determining its required reserves. Therefore, the Board believes that the amendments will not have a significant adverse economic impact on a substantial number of small entities.

A number of the comments included suggestions with respect to other provisions of Regulation D that could reduce burdens on all depository institutions, especially with respect to distinguishing time and savings deposits from transaction accounts. The

Board's responses to these comments are set forth under ''Background'' above.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act notice of 1995 (44 U.S.C. Ch. 3506; 5 CFR Part 1320, Appendix A.1), the Board has reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collection of information pursuant to the Paperwork Reduction Act is contained in the rule.

List of Subjects in 12 CFR Part 204

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

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending part 204 of chapter II of title 12 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. Section 204.2 is amended as follows:

a. In paragraph (c)(1)(i) introductory text, the introductory text of footnote 1 is amended by removing ''before maturity'' and adding in its place ''during the period when an early withdrawal penalty would otherwise be required under this part'', removing ''the'' after ''imposing'' and adding in its place ''an'', removing ''penalties'' and adding in its place ''penalty'', and footnote 2 is removed.

b. In paragraphs (c)(1)(iv)(C), (c)(1)(iv)(E), and (d)(2), footnotes 3 through 5 are redesignated as footnotes 2 through 4, respectively, and footnote 6 is removed.

c. Paragraph (f)(1)(iii) is revised.

d. Paragraph (f)(1)(iv) is removed and paragraph (f)(1)(v) is redesignated as paragraph (f)(1)(iv).

e. In newly redesignated paragraphs (f)(1)(iv)(C) and (f)(1)(iv)(E), footnotes 7 and 8 are redesignated as footnotes 5 and 6, respectively.

f. Paragraph (f)(3) is removed and footnote 9 is removed.

g. In paragraph (h)(1)(ii)(A), footnote 10 is redesignated as footnote 7 and is amended by removing ''(1) that were acquired before October 7, 1979, or (2)''.

h. In paragraph (h)(2)(ii), footnote 11 is redesignated as footnote 8 and is amended by revising ''Footnote 10'' to read ''footnote 7''.

i. In paragraph (t), footnote 12 is redesignated as footnote 9, and footnote reference 2 is redesignated as footnote reference 9. The revisions are as follows:

§ 204.2 Definitions.

* * * * *

(f)(1) * * *

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

* * * * *

3. Section 204.3 is amended as follows:

a. Paragraph (a)(3)(i) is removed and the paragraph designation (a)(3)(ii) is removed.

b. Paragraph (f)(1) is revised.

c. In paragraphs (h)(1) and (h)(2), the words ''required clearing balance penalty-free band'' are revised to read ''required charge-free band''.

d. Paragraph (i)(1)(ii) is amended in the last sentence by removing ''in its operating circular'' and adding in its place ''in its discretion''.

e. Paragraph (i)(4)(ii) is amended by removing ''penalties'' in the second sentence and ''penalty'' in the third sentence and adding in their place ''charges'' and ''charge'', respectively.

f. Paragraph (i)(5)(iv) is removed.

The revisions are as follows:

§ 204.3 Computation and maintenance

* * * * *

(f) *Deductions allowed in computing reserves.* (1) In determining the reserve balance required under this part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and agreement corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts.

* * * * *

4. Section 204.4 is revised to read as follows:

§ 204.4 Transitional adjustments in mergers

In cases of mergers and consolidations of depository institutions, the amount of reserves that shall be maintained by the surviving institution shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

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

§ 204.7 [Amended]

5. Section 204.7 is amended in paragraph (a)(1) by removing ''after application of the 2 percent carryover provided in § 204.3(h)'' and adding in its place ''after application of the carryover provided in § 204.3(h)''.

6. Section 204.8 is amended as follows:

a. In paragraph (a)(2)(i)(B)(5), footnotes 13 and 14 are redesignated as footnotes 10 and 11, respectively.

b. In paragraph (a)(3)(v), footnotes 15 and 16 are redesignated as footnotes 12 and 13, respectively, and revised to read as follows:

§ 204.8 International banking facilities.

(a) *Definitions.* * * *

(3) * * *

(v) * * * [12] * * * [13] * * *

* * * * *

§ 204.9 [Amended]

7. Section 204.9 is amended by removing paragraph (b), by redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b), respectively.

[12] See footnote 10.

[13] See footnote 11.

By order of the Board of Governors of the Federal Reserve System, December 24, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33158 Filed 12–30–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–279–AD; Amendment 39–9867; AD 96–26–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This action requires a one-time inspection to detect fatigue cracking of the vertical beam webs and chords of the nose wheel well (NWW) at body station (BS) 300 and BS 320, and repair, if necessary. This action also requires inspections to detect fatigue cracking of the inner chord and web of the fuselage frames at BS 300 and BS 320, and repair, if necessary. This amendment is prompted by a report indicating that the fuselage frames at BS 300 and BS 320 severed approximately 10 inches outboard of the NWW side panel and resulted in accelerated fatigue cracking and subsequent failure of the adjacent NWW vertical beams. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in collapse of the NWW pressure bulkhead and subsequent rapid decompression of the airplane.

DATES: Effective January 6, 1997.

Comments for inclusion in the Rules Docket must be received on or before March 3, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–279–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2776; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that the flight crew of a Boeing Model 747–200 series airplane heard a loud noise below the cockpit area during flight descent. The flight continued with an uneventful landing. Investigation revealed that the left-hand side wall of the nose wheel well (NWW) was bulging. Further investigation revealed that the fuselage frames at body stations (BS) 300 and BS 320 had severed approximately 10 inches outboard of the NWW side panel. Additionally, the vertical beam of the NWW at BS 300 contained multiple cracks in the inner chord, a severed web, and a cracked and deformed outer chord. The vertical beam of the NWW at BS 320 also was found to have a severed web and cracks in the radius of the inner chord, as well as severe damage to numerous horizontal stiffeners and clips. The apparent cause of this cracking is fatigue.

Fatigue cracking of the BS 300 and BS 320 fuselage frames in the area of the NWW, if not detected and corrected in a timely manner, could result in collapse of the NWW pressure bulkhead, and subsequent rapid decompression of the airplane.

Other Relevant Rulemaking

The FAA previously issued AD 90–06–14, amendment 39–6544 (55 FR 10045, March 19, 1990), which is applicable to certain Boeing Model 747 series airplanes. [A correction of that rule was published in the Federal Register on May 18, 1990 (55 FR 20590).] That AD requires repetitive visual inspections to detect fatigue cracking of the vertical beams, webs, clips, side wall web, top panel and intercostals of the NWW. That AD requires that the initial inspection be accomplished prior to the accumulation of 10,000 total flight cycles, and that repetitive inspections be accomplished at intervals of 1,500 or 3,000 flight cycles, depending on the inspection method used.

The FAA also issued AD 91–11–01, amendment 39–6997 (56 FR 22306, May 15, 1991), which also is applicable to certain Boeing Model 747 series airplanes. That AD requires the inspection to detect fatigue cracking of the fuselage frames adjacent to the NWW, prior to the accumulation of 16,000 flight cycles. That AD provides an optional terminating modification that entails installing new fuselage frames (including the frames adjacent to the NWW) with improved durability. That modification is required prior to the accumulation of 20,000 flight cycles in accordance with AD 90–06–06 (aging fleet AD).

The airplane involved in the incident described previously had accumulated 14,341 total flight cycles at the time of structural failure. A visual inspection to detect cracking of the vertical beams of the NWW in accordance with AD 90–06–14 had been performed only 621 cycles prior to the reported failure. The fuselage frames in its NWW area had not yet been replaced with the new, improved durability frames in accordance with AD 91–11–01.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 747 series airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking of BS 300 and BS 320 fuselage frames adjacent to the NWW, which could result in collapse of the NWW pressure bulkhead and possibly result in rapid decompression of the airplane. This AD requires repetitive visual inspections to detect fatigue cracking of the inner chord and web of the left and right side of fuselage frames at BS 300 and BS 320, from the NWW side panel outboard to stringer 39. This AD also requires a one-time visual inspection to detect fatigue cracking of the vertical beam webs and chords of the NWW at BS 300 and BS 320. This AD also requires that any cracking detected during those inspections be repaired in accordance with a method approved by the FAA.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the