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a depository institution when it offers or originates a loan strip facility. Thus, for example, loan strips sold to domestic offices of other depository institutions are exempt from Regulation D under §204.2(a)(1)(vii)(A)(*1*) because they are obligations issued or undertaken and held for the account of a U.S. office of another depository institution. Similarly, some of these transactions result in Eurocurrency liabilities and are reportable and reservable as such.

[53 FR 24931, July 1, 1988]

§ 204.133 Multiple savings deposits treated as a transaction account.

(a) *Authority.* Under section 19(a) of the Federal Reserve Act, the Board is authorized to define the terms used in section 19, and to prescribe regulations to implement and prevent evasions of the requirements of that section. Section 19(b) establishes general reserve requirements on transaction accounts and nonpersonal time deposits. Under section 19(b)(1)(F), the Board also is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account is used directly or indirectly for the purpose of making payments to third persons or others. This interpretation is adopted under these authorities.

(b) *Background.* Under Regulation D, 12 CFR 204.2(d)(2), the term ''savings deposit'' includes a deposit or an account that 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 is permitted or authorized to make up to six transfers or withdrawals per month or statement cycle of at least four weeks. The depository institution may authorize up to three of these six transfers to be made by check, draft, debit card, or similar order drawn by the depositor and payable to third parties. If more than six transfers (or more than three third party transfers by check, etc.) are permitted or authorized per month or statement cycle, the depository institution may not classify the account as a savings deposit. If the depositor, during the period, makes more than six transfers or withdrawals (or more than three third party transfers by check, etc.), the depository institution may, depending upon the facts and circumstances, be required by Regulation D (Footnote 5 at §204.2(d)(2)) to reclassify or close the account.

(c) *Use of multiple savings deposits.* Depository institutions have asked for guidance as to when a depositor may maintain more than one savings deposit and be permitted to make all the transfers or withdrawals authorized for savings deposits under Regulation D from each savings deposit. The Board has determined that, if a depository institution suggests or otherwise promotes the establishment of or operation of multiple savings accounts with transfer capabilities in order to permit transfers and withdrawals in excess of those permitted by Regulation D for an individual savings account, the accounts generally should be considered to be transaction accounts. This determination applies regardless of whether the deposits have entirely separate account numbers or are subsidiary accounts of a master deposit account. Multiple savings accounts, however, should not be considered to be transaction accounts if there is a legitimate purpose, other than increasing the number of transfers or withdrawals, for opening more than one savings deposit.

(d) *Examples.* The distinction between appropriate and inappropriate uses of multiple accounts is illustrated by the following examples:

Example 1. (i) X wishes to open an account that maximizes his interest earnings but also permits X to draw up to ten checks a month against the account. X's Bank suggests an arrangement under which X establishes four savings deposits at Bank. Under the arrangement, X deposits funds in the first account and then draws three checks against that account. X then instructs Bank to transfer all funds in excess of the amount of the three checks to the second account and draws an additional three checks. Funds are continually shifted between accounts when additional checks are drawn so that no more than three checks are drawn against each account each month.

(ii) Suggesting the use of four savings accounts in the name of X in this example is designed solely to permit the customer to exceed the transfer limitations on savings accounts. Accordingly, the savings accounts should be classified as transaction accounts.

Example 2. (i) X is trustee of separate trusts for each of his four children. X's Bank suggests that X, as trustee, open a savings deposit in a depository institution for each of his four children in order to ensure an independent accounting of the funds held by each trust.

(ii) X's Bank's suggestion to use four savings deposits in the name of X in this example is appropriate, and the third party transfers from one account should not be considered in determining whether the transfer and withdrawal limit was exceeded on any other account. X established a legitimate purpose, the segregation of the trust assets, for each account separate from the need to make third party transfers. Furthermore, there is no indication, such as by the direct or indirect transfer of funds from one account to another, that the accounts are being used for any purpose other than to make transfers to the appropriate trust.

Example 3. (i) X opens four savings accounts with Bank. X regularly draws up to three checks against each account and transfers funds between the accounts in order to ensure that the checks on the separate accounts are covered. X's Bank did not suggest or otherwise promote the arrangement.

(ii) X's Bank may treat the multiple accounts as savings deposits for Regulation D purposes, even if it discovers that X is using the accounts to increase the transfer limits applicable to savings accounts because X's Bank did not suggest or otherwise promote the establishment of or operation of the arrangement.

[57 FR 38427, Aug. 25, 1992]

§ 204.134 Linked time deposits and transaction accounts.

(a) *Authority.* Under section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)), the Board is authorized to define the terms used in section 19, and to prescribe regulations to implement and prevent evasions of the requirements of that section. Section 19(b)(2) establishes general reserve requirements on transaction accounts and nonpersonal time deposits. Under section 19(b)(1)(F), the Board also is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account is used directly or indirectly for the purpose of making payments to third persons or others. This interpretation is adopted under these authorities.

(b) *Linked time deposits and transaction accounts.* Some depository institutions are offering or proposing to offer account arrangements under which a group of participating depositors maintain transaction accounts and time deposits with a depository institution in an arrangement under which each depositor may draw checks up to the aggregate amount held by that depositor in these accounts. Under this account arrangement, at the end of the day funds over a specified balance in each depositor's transaction account are swept from the transaction account into a commingled time deposit. A separate time deposit is opened on each business day with the balance of deposits received that day, as well as the proceeds of any time deposit that has matured that day that are not used to pay checks or withdrawals from the transaction accounts. The time deposits, which generally have maturities of seven days, are staggered so that one or more time deposits mature each business day. Funds are apportioned among the various time deposits in a manner calculated to minimize the possibility that the funds available on any given day would be insufficient to pay all items presented.

(1) The time deposits involved in such an arrangement may be held directly by the depositor or indirectly through a trust or other arrangement. The individual depositor's interest in time deposits may be identifiable, with an agreement by the depositors that balances held in the arrangement may be used to pay checks drawn by other depositors participating in the arrangement, or the depositor may have an undivided interest in a series of time deposits.

(2) Each day funds from the maturing time deposits are available to pay checks or other charges to the depositor's transaction account. The depository institution's decision concerning whether to pay checks drawn on an individual depositor's transaction account is based on the aggregate amount of funds that the depositor has invested in the arrangement, including any amount that may be invested in unmatured time deposits. Only if checks drawn by all participants in the arrangement exceed the total balance of funds available that day (i.e. funds from the time deposit that has matured that day as well as any deposits