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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

made to participating accounts during the day) is a time deposit withdrawn prior to maturity so as to incur an early withdrawal penalty. The arrangement may be marketed as providing the customer unlimited access to its funds with a high rate of interest.

(c) *Determination.* In these arrangements, the aggregate deposit balances of all participants generally vary by a comparatively small amount, allowing the time deposits maturing on any day safely to cover any charges to the depositors' transaction accounts and avoiding any early withdrawal penalties. Thus, this arrangement substitutes time deposit balances for transaction accounts balances with no practical restrictions on the depositors' access to their funds, and serves no business purpose other than to allow the payment of higher interest through the avoidance of reserve requirements. As the time deposits may be used to provide funds indirectly for the purposes of making payments or transfers to third persons, the Board has determined that the time deposits should be considered to be transaction accounts for the purposes of Regulation D.

[57 FR 38428, Aug. 25, 1992]

§ 204.135 Shifting funds between depository institutions to make use of the low reserve tranche.

(a) *Authority.* Under section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)) the Board is authorized to define terms used in section 19, and to prescribe regulations to implement and to prevent evasions of the requirements of that section. Section 19(b)(2) establishes general reserve requirements on transaction accounts and nonpersonal time deposits. In addition to its authority to define terms under section 19(a), section 19(g) of the Federal Reserve Act also give the Board the specific authority to define terms relating to deductions allowed in reserve computation, including ''balances due from other banks.'' This interpretation is adopted under these authorities.

(b) *Background.* (1) Currently, the Board requires reserves of zero, three, or ten percent on transaction accounts, depending upon the amount of transaction deposits in the depository institution, and of zero percent on nonpersonal time deposits. In determining its reserve balance under Regulation D, a depository institution may deduct the balances it maintains in another depository institution located in the United States if those balances are subject to immediate withdrawal by the depositing depository institution (§ 204.3(f)). This deduction is commonly known as the ''due from'' deduction. In addition, Regulation D at § 204.2(a)(1)(vii)(A) exempts from the definition of ''deposit'' any liability of a depository institution on a promissory note or similar obligation that is issued or undertaken and held for the account of an office located in the United States of another depository institution. Transactions falling within this exemption from the definition of ''deposit'' include federal funds or ''fed funds'' transactions.

(2) Under section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)), the Board is required to impose reserves of three percent on total transaction deposits at or below an amount determined under a formula. Transaction deposits falling within this amount are in the ''low reserve tranche.'' Currently the low reserve tranche runs up to $42.2 million. Under section 19(b)(11) of the Federal Reserve Act (12 U.S.C. 461(b)(11)) the Board is also required to impose reserves of zero percent on reservable liabilities at or below an amount determined under a formula. Currently that amount is $3.6 million.

(c) *Shifting funds between depository institutions.* The Board is aware that certain depository institutions with transaction account balances in an amount greater than the low reserve tranche have entered into transactions with affiliated depository institutions that have transaction account balances below the maximum low reserve tranche amount. These transactions are intended to lower the transaction reserves of the larger depository institution and leave the economic position of the smaller depository institutions unaffected, and have no apparent purpose other than to reduce required reserves of the larger institution. The larger depository institution places funds in a demand deposit at a small domestic depository institution. The