§ 204.125 Foreign, international, and supranational entities referred to in §§ 204.2(c)(1)(iv)(E) and 204.8(a)(2)(i)(B)(5).

The entities referred to in §§ 204.2(c)(1)(iv)(E) and 204.8(a)(2)(i)(B)(5) are:

EUROPE
Bank for International Settlements.
European Atomic Energy Community.
European Central Bank.
European Coal and Steel Community.
The European Communities.
European Development Fund.
European Economic Community.
European Free Trade Association.
European Fund.
European Investment Bank.

LATIN AMERICA
Andean Development Corporation.
Andean Subregional Group.
Caribbean Development Bank.
Caribbean Free Trade Association.
Caribbean Regional Development Agency.
Central American Bank for Economic Integration.
The Central American Institute for Industrial Research and Technology.
Central American Monetary Stabilization Fund.
East Caribbean Common Market.
Latin American Free Trade Association.
Organization for Central American States.
Permanent Secretariat of the Central American General Treaty of Economic Integration.
River Plate Basin Commission.

AFRICA
African Development Bank.
Banque Centrale des Etats de l’Afrique Equatoriale et du Cameroun.
Banque Centrale des Etats d’Afrique de l’Ouest.
Conseil de l’Entente.
East African Community.
Organisation Commune Africaine et Malagache.
Organization of African Unity.
Union des Etats de l’Afrique Centrale.
Union Douaniere et Economique de l’Afrique Centrale.
Union Douaniere des Etats de l’Afrique de l’Ouest.

ASIA
Asia and Pacific Council.

Association of Southeast Asian Nations.
Bank of Taiwan.
Korea Exchange Bank.

MIDDLE EAST
Central Treaty Organization.
Regional Cooperation for Development.


§ 204.126 Depository institution participation in “Federal funds” market.

(a) Under § 204.2(a)(1)(vii)(A), there is an exemption from Regulation D for member bank obligations in nondeposit form to another bank. To assure the effectiveness of the limitations on persons who sell Federal funds to depository institutions, Regulation D applies to nondocumentary obligations undertaken by a depository institution to obtain funds for use in its banking business, as well as to documentary obligations. Under § 204.2(a)(1)(vii) of Regulation D, a depository institution’s liability under informal arrangements as well as those formally embodied in a document are within the coverage of Regulation D.

(b) The exemption in § 204.2(a)(1)(vii)(A) applies to obligations owed by a depository institution to a domestic office of any entity listed in that section (the exempt institutions). The exempt institutions explicitly include another depository institution, foreign bank, Edge or agreement corporation, New York Investment (article XII) Company, the Export-Import Bank of the United States, Minbanic Capital Corp., and certain other credit sources. The term exempt institutions also includes subsidiaries of depository institutions:

(1) That engage in businesses in which their parents are authorized to engage; or

(2) The stock of which by statute is explicitly eligible for purchase by national banks.

(c) To assure that this exemption for liabilities to exempt institutions is not used as a means by which nondepository institutions may arrange through an exempt institution to sell Federal funds to a depository institution, obligations within the exemption must be issued to an exempt institution for its
own account. In view of this requirement, a depository institution that purchases Federal funds should ascertain the character (not necessarily the identity) of the actual seller in order to justify classification of its liability on the transaction as Federal funds purchased rather than as a deposit. Any exempt institution that has given general assurance to the purchasing depository institution that sales by it of Federal funds ordinarily will be for its own account and thereafter executes such transactions for the account of others, should disclose the nature of the actual lender with respect to each such transaction. If it fails to do so, the depository institution would be deemed by the Board as indirectly violating section 19 of the Federal Reserve Act and Regulation D.

[52 FR 47695, Dec. 16, 1987]

§ 204.127 Nondepository participation in "Federal funds" market.

(a) The Board has considered whether the use of interdepository institution loan participations (IDLPs) which involve participation by third parties other than depository institutions in Federal funds transactions, comes within the exemption from deposit classification for certain obligations owed by a depository institution to an institution exempt in § 204.2(a)(1)(vii)(A) of Regulation D. An IDLP transaction is one through which an institution that has sold Federal funds to a depository institution, subsequently sells or participates out that obligation to a non-depository third party without notifying the obligated institution.

(b) The Board’s interpretation regarding Federal funds transactions (12 CFR 204.126) clarified that a depository institutions’s liability must be issued to an exempt institution described in §204.2(a)(1)(vii)(A) of Regulation D for its own account in order to come within the nondepository exception for interdepository liabilities. The Board regards transactions which result in third parties gaining access to the Federal funds market as contrary to the exemption contained in §204.2(a)(1)(vii)(A) of Regulation D regardless of whether the nondepository institution third party is a party to the initial transaction or thereafter becomes a participant in the transaction through purchase of all or part of the obligation held by the selling depository institution.

(c) The Board regards the notice requirements set out in 12 CFR 204.126 as applicable to IDLP-type transactions as described herein so that a depository institution selling Federal funds must provide to the purchaser—

(1) Notice of its intention, at the time of the initial transaction, to sell or participate out its loan contract to a nondepository third party, and

(2) Full and prompt notice whenever it (the selling depository institution) subsequently sells or participates out its loan contract to a non-depository third party.

[52 FR 47695, Dec. 16, 1987]

§ 204.128 Deposits at foreign branches guaranteed by domestic office of a depository institution.

(a) In accepting deposits at branches abroad, some depository institutions may enter into agreements from time to time with depositors that in effect guarantee payment of such deposits in the United States if the foreign branch is precluded from making payment. The question has arisen whether such deposits are subject to Regulation D, and this interpretation is intended as clarification.

(b) Section 19 of the Federal Reserve Act which establishes reserve requirements does not apply to deposits of a depository institution “payable only at an office thereof located outside of the States of the United States and the District of Columbia” (12 U.S.C. 371a; 12 CFR 204.1(c)(5)). The Board rule in 1918 that the requirements of section 19 as to reserves to be carried by member banks do not apply to foreign branches (1918 Fed. Res. Bull. 1123). The Board has also defined the phrase Any deposit that is payable only at an office located outside the United States, in §204.2(t) of Regulation D, 12 CFR 204.2(t).

(c) The Board believes that this exemption from reserve requirements should be limited to deposits in foreign branches as to which the depositor is entitled, under his agreement with the depository institution, to demand payment only outside the United States, regardless of special circumstances.