§ 204.130 Eligibility for NOW accounts.

(a) Summary. In response to many requests for rulings, the Board has determined to clarify the types of entities that may maintain NOW accounts at member banks.

(b) Individuals. (1) Any individual may maintain a NOW account regardless of the purposes that the funds will serve. Thus, deposits of an individual used in his or her business including a sole proprietor or an individual doing business under a trade name is eligible to maintain a NOW account in the individual’s name or in the “DBA” name. However, other entities organized or operated to make a profit such as corporations, partnerships, associations, business trusts, or other organizations may not maintain NOW accounts.

(2) Pension funds, escrow accounts, security deposits, and other funds held under various agency agreements may also be classified as NOW accounts if the entire beneficial interest is held by individuals or other entities eligible to maintain NOW accounts directly. The Board believes that these accounts are similar in nature to trust accounts and should be accorded identical treatment. Therefore, such funds may be regarded as eligible for classification as NOW accounts.

(c) Nonprofit organizations. (1) A nonprofit organization that is operated primarily for religious, philanthropic, charitable, educational, political or other similar purposes may maintain a NOW account. The Board regards the following kinds of organizations as eligible for NOW accounts under this standard if they are not operated for profit:

(i) Organizations described in section 501(c)(3) through (13), and (19) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(3) through (13) and (19));

(ii) Political organizations described in section 527 of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 527); and

(iii) Homeowners and condominium owners associations described in section 528 of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 528), including housing cooperative associations that perform similar functions.

(2) All organizations that are operated for profit are not eligible to maintain NOW accounts at depository institutions.

(3) The following types of organizations described in the cited provisions of the Internal Revenue Code are among those not eligible to maintain NOW accounts:

(i) Credit unions and other mutual depository institutions described in section 501(c)(14) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(14));

(ii) Mutual insurance companies described in section 501(c)(15) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(15)).
§ 204.131 Participation by a depository institution in the secondary market for its own time deposits.

(a) Background. In 1982, the Board issued an interpretation concerning the effect of a member bank’s purchase of its own time deposits in the secondary market in order to ensure compliance with regulatory restrictions on the payment of interest on time deposits, with the prohibition against payment of interest on demand deposits, and with regulatory requirements designed to distinguish between time deposits and demand deposits for federal reserve requirement purposes (57 FR 37878, Aug. 27, 1992). The interpretation was designed to ensure that the regulatory early withdrawal penalties in Regulation Q used to achieve these three purposes were not evaded through the purchase by a member bank or its affiliate of a time deposit of the member bank prior to the maturity of the deposit.

(b) Because the expiration of the Depository Institutions Deregulation Act (title II of Pub. L. 96–221) on April 1, 1986, removed the authority to set interest rate ceilings on deposits, one of the purposes for adopting the interpretation was eliminated. The removal of the authority to set interest rate ceilings on deposits required the Board to revise the early withdrawal penalties which were also used to distinguish between types of deposits for reserve requirement purposes. Effective April 1, 1986, the Board amended its Regulation D to incorporate early withdrawal penalties applicable to all depository institutions for this purpose (51 FR 9629, Mar. 20, 1986). Although the new early withdrawal penalties differ from the penalties used to enforce interest rate ceilings, secondary market purchases still effectively shorten the maturities of deposits and may be used to evade reserve requirements. This interpretation replaces the prior interpretation and states the application of the new early withdrawal penalties to purchases by depository institutions and their affiliates of the depository institution’s time deposits. The interpretation applies only to situations in which the Board’s regulatory penalties apply.

(c) Secondary market purchases under the rule. The Board has determined

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