

during the month of May 1995, _____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ 1004.97 Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature

By (Name) _____

(Title) _____

(Address) _____

(Seal)

Attest

[FR Doc. 95-23194 Filed 9-20-95; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 437

[Docket No. EE-RM-95-202]

RIN 1904-AA-74

Voluntary Home Energy Rating System Guidelines

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Rescheduling of public hearing.

SUMMARY: On July 25, 1995 the Department published a proposed rule on Voluntary Home Energy Rating System Guidelines and announced public hearing dates for that rule. Due to possible fiscal restraints, the facilities at the Department of Energy may not be available on October 2, 1995 to host the scheduled public hearing. The Department is rescheduling the public hearing by extending the date by fifteen (15) days. The Voluntary Home Energy Rating Systems Guidelines public hearing is rescheduled for October 17, 1995.

DATES: Oral views, data, and arguments may be presented at the public hearing to be held in Washington, DC, on October 17, 1995. Requests to speak at the hearing must be received by the Department no later than 4:00 p.m., Thursday, October 12, 1995. Ten copies

of statements to be given at the public hearing must be received by the Department no later than 4:00 p.m., Thursday, October 12, 1995. The hearing will begin at 9:00 a.m. on October 17, 1995, and will be held at the U.S. Department of Energy, Forrestal Building, Room 6E-069, 1000 Independence Avenue, SW., Washington, DC 20585. The length of each presentation is limited to twenty (20) minutes or an equal time for all presenters.

ADDRESSES: Oral statements, requests to speak at the hearing and requests for speaker lists are to be submitted to: Voluntary Home Energy Rating System Guidelines (Docket No. EE-RM-95-202), U.S. Department of Energy, Office of Codes and Standards, Buildings Division, EE-432, 1000 Independence Avenue, SW, Rm 1J-018, Washington, DC 20585, (202) 586-7574.

Copies of the transcript of the public hearing and public comments received may be read at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6020 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Robert L. Mackie, PM., U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE-431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7892

Diane Dean, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507

SUPPLEMENTARY INFORMATION: The Department published a Notice of Proposed Rulemaking (NOPR) on July 25, 1995, entitled "Voluntary Home Energy Rating System Guidelines" (10 CFR Part 437).

Issued in Washington, DC September 14, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 95-23480 Filed 9-20-95; 8:45 am]

BILLING CODE 6450-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064-AB69

Definition of Qualified Financial Contracts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC or Corporation) is publishing for notice and public comment a proposed rule defining spot and other short-term foreign exchange agreements and repurchase agreements on qualified foreign government securities to be "qualified financial contracts" (QFCs) under the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.* (FDI Act). In the interest of providing a measure of protection to the financial markets, the FDI Act provides special rules for the treatment of QFCs held by an insured depository institution in default for which the FDIC is appointed conservator or receiver. The FDIC believes that the market's use of these agreements to obtain liquidity in order to manage financial risk indicates that they should be included as QFCs. Promulgation of the proposed regulation to include spot and other short-term foreign exchange contracts and repurchase agreements on qualified foreign government securities within the definition of QFC is not intended to exclude other agreements that may otherwise qualify to be QFCs.

DATES: Comments must be received by November 20, 1995.

ADDRESSES: Send comments to Jerry L. Langley, Executive Secretary, FDIC, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to Room 400, 1776 F Street, N.W., Washington, D.C. 20429 on business days between 8:30 a.m. and 5 p.m. [FAX number: (202) 898-3838; Internet: comments@fdic.gov]. Comments will be available for inspection or photocopying at the FDIC's Reading Room, Room 7118, 550 17th Street, N.W., Washington, D.C. 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Sharon Powers Sivertsen, Assistant General Counsel, Legal Division, (202) 736-0112; Keith A. Ligon, Senior Counsel, Legal Division, (202) 736-0160; or Christine M. Bradley, Attorney, Legal Division, (202) 736-0106, FDIC,

550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) is contained in the proposed rule. Consequently, no information was submitted to the Office of Management and Budget for review.

II. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is certified that the proposed rule will not have a significant economic impact on a substantial number of small business entities.

III. Discussion

A. The QFC Provisions

Sections 11(e)(8) through (10) of the FDI Act, 12 U.S.C. 1821(e)(8) through (10), provide special rules for the treatment of QFCs in the event the FDIC is appointed receiver or conservator for an insured depository institution in default. The statute seeks, among other things, to protect parties to QFCs by allowing for the liquidation, termination, and netting of their agreements. The statute identifies securities contracts, commodity contracts, forward contracts, repurchase agreements and swap agreements as QFCs.

Section 11(e)(8)(D) of the FDI Act identifies in some detail the types of contracts to be treated as QFCs, but additionally affords the FDIC express authority to adopt regulations extending the definition to any similar agreements. 12 U.S.C. 1821(e)(8)(D)(i). As discussed below, the Corporation is proposing rules that would extend the QFC definition to spot and other short-term foreign exchange agreements and to repurchase agreements on securities issued or guaranteed by the central governments belonging to the Organization for Economic Cooperation and Development (OECD). Promulgation of the proposed regulation to include spot and other short-term foreign exchange contracts and repurchase agreements on qualified foreign government securities within the definition of QFC is not intended to be interpreted so as to exclude other agreements that may otherwise qualify to be QFCs under the language of section 11(e)(8)(D) itself.

As the Board of Directors of the FDIC has previously recognized, QFCs occupy a unique and important position in the financial markets, allowing appropriate

liquidity, hedging and financial intermediation operations in financial institutions, and are generally conducted within a highly supervised industry. FDIC Statement of Policy on Qualified Financial Contracts (Dec. 12, 1989). See 55 FR 7027 (1990). The Corporation believes that these goals would be well served by expressly extending QFC treatment to spot and other short-term foreign exchange agreements and repurchase agreements on foreign government securities issued or guaranteed by the central governments of the OECD-based group of countries.

B. Foreign Exchange Agreements

Although section 11(e)(8)(D)(vi) of the FDI Act, defining "swap agreements" which are to be included within the statutory definition of QFCs, refers to forward foreign exchange agreements, the statute does not explicitly mention spot or other short-term foreign exchange agreements. The statute, in relevant part, covers any agreement, including the terms and conditions incorporated by reference in any such agreement, which is a forward foreign exchange agreement or any other similar agreement. 12 U.S.C. 1821(e)(8)(D)(vi). While the FDIC believes that spot and other short-term foreign exchange agreements fall within the QFC definition of swap agreement even in the absence of FDIC regulatory action, the FDIC also believes that market participants would be best served by the certainty of an explicit rule providing that spot foreign exchange agreements are QFCs. "Spot" foreign exchange agreements, like forwards, do not settle immediately; spot agreements are typically outstanding for one or two days. As is the case with other QFCs, market participants tend to enter into multiple spot agreements for both long and short positions in many products with the same counterparty. As a result, market participants are also creating the same termination and netting agreements as are used with other QFCs.

The Corporation is proposing a rule to recognize the inclusion of spot and other short-term foreign exchange agreements as QFCs. The language of the proposed rule would extend QFC treatment to short-dated transactions such as spots, tomorrow/next day and same day/tomorrow transactions, thus eliminating any concern that spot and other short-term foreign exchange agreements are not included within the definition of QFC.

C. Repurchase Agreements on Qualified Foreign Government Securities

Although section 11(e)(8)(D)(v) of the FDI Act includes repurchase agreements within the definition of a QFC, the statute does not cover repurchase agreements on foreign government securities. Section 11(e)(8)(D)(v) incorporates the repurchase agreement definition under section 101(47) of the Bankruptcy Code, 11 U.S.C. 101(47), with certain additions not relevant here, and restricts the definition of qualified financial contract to repurchase agreements on securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States. Section 101(47) of the Bankruptcy Code defines a repurchase agreement as:

an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than one year after such transfers or on demand, against the transfer of funds;

11 U.S.C. 101(47).

In the years since the QFC provisions were added to the FDI Act by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73, 101 Stat. 183 (1989), the market for foreign government repurchase agreements appears to have developed to a point that such repurchase agreements have become a recognized source of liquidity. However, the FDIC also believes that it is appropriate to limit the kinds of foreign government securities which may be the subject of a repurchase agreement for QFC purposes. The FDIC proposes to extend QFC treatment only to repurchase agreements on securities issued or guaranteed by the central governments of countries that are either full members of the OECD or that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangements to Borrow.¹

¹ The OECD is an international organization of countries which are committed to market-oriented economic policies, including the promotion of private enterprise and free-market prices, liberal trade policies, and the absence of exchange controls.

The FDIC believes that repurchase agreements on foreign government securities issued or guaranteed by the OECD-based group of countries are similar in nature to the repurchase agreements on securities issued or guaranteed by the United States, which are presently included within the statutory definition of QFC. The risk weightings recommended for such securities by the International Convergence of Capital Measurement and Capital Standards of July 1988 by the Basle Committee on Banking Supervision (Basle Accord)² reflects that the securities issued or guaranteed by the OECD-based group of countries present similar degrees of credit risk. Further, the FDIC's risk-based capital rules at 12 CFR part 325, appendix A, implementing the Basle Accord, consider the credit risk among the securities issued or guaranteed by the central governments of the OECD-based group of countries as being equal for purposes of determining capital requirements. And, pursuant to 12 CFR part 325, appendix A, section II.B.2, securities issued or guaranteed by the central governments of the OECD-based group of countries are among the limited forms of collateral which are formally recognized by the FDIC's risk-based capital framework. Accordingly, repurchase agreements on securities issued or guaranteed by the OECD-based group of countries are treated consistently under the risk-based capital rules. See 12 CFR part 325, appendix A, section II.C.

The FDIC is thus proposing a rule to include repurchase agreements on securities issued or guaranteed by the OECD-based group of countries within the definition of a QFC. In the interests of consistency and simplicity, the rule would incorporate by reference the definition of "central government" as set forth in 12 CFR part 325, appendix A, section II.C note 17³ and "OECD-based group of countries" as set forth in

²The Basle Accord established a risk-based framework for measuring the capital adequacy of internationally active banks. The Basle Accord was originally proposed by the Basle Committee on Banking Supervision (Basle Supervisors' Committee) and endorsed by the central bank governors of the Group of Ten (G-10) countries in July 1988. See, Int'l Convergence of Capital Measurement & Capital Standards, Comm. on Banking Regulations & Supervisory Practices, reprinted in 30 I.L.M. 967, 989 (1991).

³The definition of central government includes departments and ministries of the central government, as well as central banks, but does not extend to state, provincial, or local governments or commercial enterprises owned by central governments. Nor does it extend to securities of local government entities or commercial enterprises guaranteed by the central government. 12 CFR part 325, section II.C., note 17 (1995).

12 CFR part 325, appendix A, section II.B.2, note 12 (and incorporating any changes to these definitions that should occur by future amendment).⁴

List of Subjects in 12 CFR Part 360

Banks, Banking, Savings Associations.

For the reasons set out in the preamble, the FDIC Board of Directors proposes to amend 12 CFR part 360 as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

1. The authority citation for part 360 is revised to read as follows:

Authority: 12 U.S.C. 1821(d)(11), 1821(e)(8)(D)(i), 1823(c)(4); Sec. 401(h), Pub. L. 101-73, 103 Stat. 357.

2. Section 360.5 is added to Part 360 as follows:

§ 360.5 Definition of qualified financial contracts.

(a) *Authority and purpose.* Sections 11(e)(8) through (10) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(e)(8) through (10), provide special rules for the treatment of qualified financial contracts of an insured depository institution for which the FDIC is appointed conservator or receiver, including rules describing the manner in which qualified financial contracts may be transferred or closed out. Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(e)(8)(D)(i), grants the Corporation authority to determine by regulation whether an agreement in addition to those identified by section 11(e)(8)(D) itself should be included in the definition of qualified financial contract. The purpose of this section is to identify additional agreements which the Corporation has determined to be qualified financial contracts.

(b) The following agreements shall be deemed "qualified financial contracts" under section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(e)(8)(D)(i)):

(1) *Spot foreign exchange agreements.* A spot foreign exchange agreement is any agreement or combination of agreements (including master agreements) providing for or effecting the purchase or sale of one currency in exchange for another currency (or a unit of account established by an intergovernmental organization such as the European Currency Unit) with a maturity date of two days or less after the agreement has been entered into,

⁴The Corporation has recently issued a Notice of Proposed Rulemaking proposing to amend the existing definition of "OECD-based group of countries." 60 FR 8582 (Feb. 15, 1995).

and includes short-dated transactions such as tomorrow/next day and same day/tomorrow transactions.

(2) *Repurchase agreements on qualified foreign government securities.* (i) A repurchase agreement on qualified foreign government securities is an agreement or combination of agreements (including master agreements) which provides for the transfer of securities that are direct obligations of, or that are fully guaranteed by, the central governments (as set forth at 12 CFR part 325, appendix A, section II.C, n. 17, as may be amended from time to time) of the OECD-based group of countries (as set forth at 12 CFR part 325, appendix A, section II.B.2., note 12 as may be amended from time to time) against the transfer of funds by the transferee of such securities with a simultaneous agreement by such transferee to transfer to the transferor thereof securities as described above, at a date certain not later than one year after such transfers or on demand, against the transfer of funds.

(c) Nothing in this section shall be construed as limiting or changing a party's obligation to comply with all reasonable trading practices and requirements, non-insolvency law requirements and any other requirements imposed by other provisions of the FDI Act. This section in no way limits the authority of the Corporation to take supervisory or enforcement actions, or to otherwise manage the affairs of a financial institution for which the Corporation has been appointed conservator or receiver.

By Order of the Board of Directors.

Dated at Washington, D.C., this 6th day of September, 1995.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95-23479 Filed 9-20-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95-ANE-11]

Proposed Alteration of V-2 and V-14; New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would alter Federal Airways V-2 and V-14 between Albany, NY, and Gardner, MA.