

featured speaker, or honored speaker, or in any other manner not specifically related to fundraising; and

(B) The publicity includes a clear and conspicuous disclaimer that the solicitation is not being made by the Federal candidate or officeholder.

(ii) The disclaimer required in paragraph (c)(3)(i)(B) of this section must meet the requirements in 11 CFR 110.11(c)(2) if the publicity is written.

(iii) Where publicity is disseminated by non-written means, the disclaimer described in paragraph (c)(3)(i)(B) of this section is required only if the publicity is recorded or follows any form of written script or is conducted according to a structured or organized program.

(iv) Examples of disclaimers that satisfy paragraph (c)(3)(i)(B) of this section include, but are not limited to:

(A) “[Name of Federal candidate/officeholder] is appearing at this event only as a featured speaker. [Federal candidate/officeholder] is not asking for funds or donations”; or

(B) “All funds solicited in connection with this event are by [name of non-Federal candidate or entity], and not by [Federal candidate/officeholder].”

(v) A Federal candidate, officeholder, or an agent of either may not approve, authorize, agree to, or consent to the use of the Federal candidate’s or officeholder’s name or likeness in publicity for a non-Federal fundraising event that contains a solicitation of funds outside the amount limitations and source prohibitions of the Act or Levin funds if:

(A) The Federal candidate or officeholder is identified as serving in a position specifically related to fundraising, such as honorary chairperson or member of a host committee, or is identified in the publicity as extending an invitation to the event, even if the communication contains a written disclaimer as described in paragraph (c)(3)(i)(B) of this section; or

(B) The Federal candidate or officeholder signs the communication, even if the communication contains a written disclaimer as described in paragraph (c)(3)(i)(B) of this section.

(vi) A Federal candidate, officeholder, or an agent of either, may not disseminate publicity for a non-Federal fundraising event that contains a solicitation of funds outside the amount limitations and source prohibitions of the Act or Levin funds by someone other than the Federal candidate or officeholder.

Dated: April 30, 2010.

On behalf of the Commission.

**Matthew S. Petersen,**

*Chairman, Federal Election Commission.*

[FR Doc. 2010-10571 Filed 5-4-10; 8:45 am]

**BILLING CODE 6715-01-P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 204

[Regulation D; Docket No. R-1381]

#### Reserve Requirements of Depository Institutions Policy on Payment System Risk

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to authorize Reserve Banks to offer term deposits. Term deposits are intended to facilitate the conduct of monetary policy by providing a tool for managing the aggregate quantity of reserve balances. Institutions eligible to receive earnings on their balances in accounts at Federal Reserve Banks (“eligible institutions”) may hold term deposits and receive earnings at a rate that does not exceed the general level of short-term interest rates. Term deposits are separate and distinct from balances maintained in an institution’s master account at a Reserve Bank (“master account”) as well as from those maintained in an excess balance account. Term deposits do not satisfy an institution’s required reserve balance or contractual clearing balance and do not constitute excess balances. Term deposits are not available to clear payments and may not be used to reduce an institution’s daylight or overnight overdrafts. The Board is also making minor amendments to the posting rules for intraday debits and credits to master accounts as set forth in the Board’s Policy on Payment System Risk to address transactions associated with term deposits.

**DATES:** The amendments are effective on June 4, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Sophia H. Allison, Senior Counsel (202) 452-3565, or Dena L. Milligan, Staff Attorney (202) 452-3900), Legal Division, or Seth Carpenter, Associate Director (202) 452-2385, or Margaret Gillis DeBoer, Assistant Director (202) 452-3139, Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869; Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

## SUPPLEMENTARY INFORMATION:

### I. Summary of Proposal

In order to help the Federal Reserve implement monetary policy, on December 31, 2009, the Board requested public comment on a proposal to amend Regulation D to authorize Reserve Banks to offer term deposits to eligible institutions.<sup>1</sup> “Eligible institution” is defined in Regulation D and includes the depository institutions defined in section 19(b)(1)(A) of the Act, including banks, savings associations, savings banks and credit unions that are federally insured or eligible to apply for federal insurance. “Eligible institution” also includes trust companies, Edge and agreement corporations, and U.S. agencies and branches of foreign banks.<sup>2</sup> Under the proposal, the Reserve Banks would accept term deposits subject to such terms and conditions as the Board may establish from time to time, including but not limited to conditions regarding the maturity of the term deposits being offered, maximum and minimum amounts that may be maintained by an eligible institution in a term deposit, the interest rate or rates offered and, if term deposits are offered through an auction mechanism, the size of the offering, and maximum and minimum bid amounts. Term deposits would not satisfy required reserve balances or contractual clearing balances and would not be available for general payments or other activities.

The Board also proposed to amend section 204.10(b)(3) of Regulation D to reflect the fact that term deposits would earn interest, and that like other balances maintained at Reserve Banks by or on behalf of eligible institutions, the interest rate on term deposits could not exceed the general level of short-term interest rates, consistent with the limitation in the Federal Reserve Act.<sup>3</sup> For purposes of that statutory requirement, the Board proposed to amend section 204.10(b)(3) to define the term “short-term interest rates” as including “the primary credit rate and rates on obligations with maturities of up to one year in which eligible institutions may invest, such as rates on term federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar rates.”

<sup>1</sup> 74 FR 69301 (Dec. 31, 2009).

<sup>2</sup> “Eligible institution” does not include all entities for which the Reserve Banks hold accounts. For example, the term does not include entities for which the Reserve Banks act as fiscal agents, such as Federal Home Loan Banks, Fannie Mae, and Freddie Mac. 12 CFR 204.2(y).

<sup>3</sup> See 12 U.S.C. 461(b)(12).

## II. Summary of Comments

The Board's proposal indicated that the Federal Reserve could offer term deposits in several ways and outlined a potential structure for offering term deposits through auctions. The Board requested comment on all aspects of the proposal, and specifically requested comment on three topics:

(1) Whether it is necessary to place any limitations on the maximum amount of term deposits that an institution may hold or on the maximum portion of a single offering that an institution may win at auction;

(2) What maturity or maturities would eligible institutions recommend as appropriate for term deposits, and whether more than one maturity should be offered; and

(3) Whether basic terms and structures for term deposits other than those described in the proposal should be considered.

The Board received twenty-two comments on the proposal. Comments were received from eight individuals, two foreign central banks, four bankers' banks, four commercial banks, and four trade associations.

Many commenters supported term deposits as an additional tool for draining excess reserves balances to support the effective implementation of monetary policy and stated that offering term deposits would not be disruptive to markets. Some commenters believed that term deposits would be effective in draining excess reserves balances, but questioned the underlying policies of reducing the availability of federal funds and putting upward pressure on the cost of borrowing. Additionally, a few commenters asked that the Board more clearly express the purpose of term deposits. A few other commenters questioned the effectiveness and necessity of term deposits as a monetary policy tool. Two commenters suggested that if the use of term deposits is temporary, the Board's final rule should announce a sunset date for the facility.

## III. Final Rule

The Board expects term deposits to be one of several tools that could be employed to drain reserve balances and support the effective implementation of monetary policy. Term deposits drain reserve balances because the funds that pay for the term deposits are removed from the accounts of participating institutions for the life of the term deposit. Reducing the quantity of reserve balances should tighten the link between the interest rate the Federal Reserve pays on excess reserve balances and other short-term interest rates,

resulting in improved control in implementing monetary policy. Authorization of term deposits does not, however, preclude the use of other tools to drain reserve balances.

Because of the potential usefulness of term deposits in implementing monetary policy, the Board has determined to adopt the proposed amendments to Regulation D with some changes to address issues raised by commenters and other issues. In doing so, the Board has determined not to adopt a sunset provision for these amendments. Actual offerings of term deposits, however, will occur as needed based on monetary policy objectives. Details about the periods when term deposits will be offered will be announced periodically in order to allow institutions to adjust their use of this facility.

The final rule also adjusts the definition of "short-term interest rates" in two ways. First, it has been amended to clarify that interest rates with maturities equal to one year would be "short term." Second, it has been changed to allow reference to interest rates on instruments with the relevant maturities but that may not be eligible for investment by eligible institutions. These changes result in a definition of "short-term interest rates" that is more consistent with market practice and understanding of the term.

The Board is also revising proposed section 204.10(e)(1) to clarify that the Board may from time to time set conditions regarding the early withdrawal of term deposits and pledging term deposits as collateral. As discussed *infra*, the Board is not at this time finalizing those conditions.

The Board is also revising proposed section 204.10(e)(3) to clarify that term deposits may not be used for general payments or settlement activities.

## IV. Terms and Conditions of Term Deposit Offerings

As explained above, the Board requested and received comment on a variety of matters related to the structure, amount and method for offering term deposits. Final determination of those matters depends largely on related monetary policy discussions, including decisions regarding the most effective way to drain the appropriate level of reserves. As a result, the Board has determined to finalize the parts of its proposal that facilitate the authorization of term deposits and to reserve to a later date the final decisions regarding the manner in which term deposits will be offered (for example, by auction, by open offer

or by some other method) and the details of those offerings.

In making those final decisions as to the terms and conditions of term deposits, the Board will take into account the comments received in this process. In order to aid institutions in preparing for the availability of term deposits, the Board is providing its preliminary views on several of those matters while reserving final judgment on all of these matters in order to adjust the decisions to most effectively implement the Federal Reserve's monetary policy objectives. For one of these matters (role of correspondents), however, the Board has made a final determination in order to allow potential participants to begin now to formulate plans and structures for participating in term deposits.

To help eligible institutions to become familiar with the term deposit process, the Federal Reserve anticipates that it will conduct small-value offerings of term deposits in the coming months. More detailed information about these offerings, as well as information about how to participate in these offerings and term deposit offerings generally, will be provided at a later date.

### A. Correspondents

Some commenters expressed concerns that the proposal would disadvantage private-sector correspondents. These commenters argued that private-sector correspondent institutions likely would be unable to compete with term deposits offered by Reserve Banks and that term deposits would thus jeopardize existing correspondent-respondent relationships. These commenters indicated that term deposits would likely earn a higher interest rate than other similar term investments or overnight investments, would carry no risk and would be available to pledge as collateral for discount window advances.

These commenters proposed that, in order to mitigate unintended strain on existing correspondent-respondent relationships, correspondent institutions be permitted to aggregate their respondents' funds and maintain those funds in term deposits on behalf of their respondents. Commenters also proposed that correspondents be permitted to bid on term deposits as agent for their respondents, even on an individual or unaggregated basis. According to these commenters, small institutions cannot justify the staff resources required to participate actively in the proposed term deposit offerings, and instead could more effectively and efficiently participate in those offerings by placing funds with a

correspondent acting as aggregator or as agent, or both. These commenters indicated that allowing correspondents to aggregate the funds of smaller institutions in a single term deposit account would provide an efficient mechanism for correspondents to invest on behalf of their respondents, would allow small institutions to compete for term deposits by overcoming a high minimum bid amount and aggressive bidding on the rates by larger institutions. The commenters also asserted that allowing correspondents to hold term deposits as agents would be consistent with the existing provisions of Regulation D relating to excess balance accounts. Finally, these commenters asserted that the offering of term deposits was a "service" in direct competition with private-sector deposits and funds management services, and therefore the rates paid should be subject to a private-sector adjustment factor under section 11A of the Federal Reserve Act.

The Board has carefully considered these comments and has determined not to authorize the aggregation of funds of multiple respondents in a single term deposit that is managed by a correspondent as agent. However, correspondents will be able to facilitate respondent participation in term deposit offerings, such as by submitting a tender on behalf of each respondent that authorizes the correspondent to do so. Because of operational complexities and other accommodations being made to enable the participation by small institutions, the Board will not allow a correspondent to submit as agent a single tender for the aggregate quantity of term deposits that its respondents wish to hold. Correspondents that are eligible institutions would be able to participate in term deposit offerings for their own account.

As noted above, some commenters argued that term deposits were a "service" in direct competition with private-sector correspondent institutions, and therefore should be subject to a private-sector adjustment factor under section 11A of the Federal Reserve Act.

Section 11A of the Act was added by the Monetary Control Act of 1980 ("MCA") to promote competitive equality between member and nonmember banks and to improve the efficiency of the nation's payments mechanism by making specific Reserve Bank services, known as "priced services," available to all depository institutions at a competitive price. Section 11A requires the Board to establish pricing principles and a schedule of fees to cover the specified

Reserve Bank "priced services"<sup>4</sup> in order to enable private-sector service providers to compete more effectively with Reserve Banks.<sup>5</sup> The Federal Reserve's governmental-type functions (such as conducting monetary policy) were not intended to be included as "services" covered by MCA's pricing principles.<sup>6</sup> As stated in the proposal, offering term deposits is a tool to drain excess reserves balances and support the effective implementation of monetary policy. Accordingly, even though private-sector correspondents may offer some investments that are similar in certain respects to term deposits, the offering of term deposits is not a "service" that is subject to the pricing principles of Section 11A of the Act. Finally, as noted above, rates on term deposits are subject to an independent statutory limit: these rates may not exceed the general level of short-term interest rates.<sup>7</sup>

#### B. Maturities of Term Deposits

The Board also requested comment on the appropriate maturity or maturities for term deposits, and on whether more than one maturity should be offered. The Board's proposal suggested that term deposit maturities would not exceed one year and likely would be between one and six months. The proposal also suggested that term deposit maturities could be aligned with 14-day reserve maintenance periods.

Commenters generally supported offering term deposits with multiple maturities in order to help institutions manage their liquidity positions and interest-rate risk, and suggested maturities for term deposits ranging from 14 days to one year. Two commenters suggested that term deposits of varying maturities could be offered in a single offering, and one commenter suggested that term deposits of multiple maturities be offered from the first auction. One commenter suggested that term deposits with shorter maturities be offered regularly, with less frequent offerings of term deposits with six-month maturities.

<sup>4</sup> Section 11A(b) lists the services which the Board must include in its schedule of fees: Currency and coin services; check clearing and collection services; wire transfer services; automated clearinghouse services; settlement services; securities and safekeeping services; Federal Reserve float, and "[a]ny new services which the Federal Reserve System offers, including but not limited to payment services to effectuate the electronic transfer of funds." 12 U.S.C. 248a.

<sup>5</sup> See 125 CONG. REC. 525 (1979) (statement of Sen. Proxmire).

<sup>6</sup> *Monetary Control and the Membership Problem: Hearing on H.R. 12706, Before the H. Comm. On Fin. Svcs.*, 95th Cong. 127 (1978) (Federal Reserve Board's Preliminary Proposal).

<sup>7</sup> 12 U.S.C. 461(b).

Generally, commenters felt that demand would be greatest for term deposits with maturities less than six months.

Several commenters supported maturities that were multiples of 14 days to coincide with reserve maintenance periods. Many of these commenters specifically suggested maturities that mirrored the maturities of advances under the Federal Reserve's Term Auction Facility (TAF) (those maturities have generally been 28 days and 84 days), or maturities of U.S. Treasury debt offerings or other investments similar to term deposits. Another commenter suggested that term deposit maturities not exceed three months (approximately twice the time between Federal Open Market Committee meetings), because institutions could establish reasonable interest rate expectations over a three-month period.

In recognition of the demand to hold term deposits of varying maturities, the Board expects that term deposits of more than one maturity will be offered and that maturities of term deposits likely will be six months or less. The Board also expects that term deposit maturities will be aligned with 14-day reserve maintenance periods. Maturities will be announced in advance of a term deposit offering.

#### C. Early Withdrawal

Some commenters requested that the Board reconsider its proposal to prohibit early withdrawal of term deposits. Two commenters suggested that institutions be permitted to make early withdrawals of term deposits for a fee; one of these commenters suggested that early withdrawals be limited to term deposits with maturities of 28 days or more. Both commenters cited the ability to maintain flexibility in the event of changing financial circumstances.

The Board believes that, as stated in the proposal, early withdrawal of term deposits would weaken the ability of term deposits to serve as an effective tool for draining reserve balances, and therefore would undermine the effective implementation of monetary policy. Accordingly, the Board expects that early withdrawals from term deposits will not be permitted.

#### D. Offering Mechanism

The Board's proposal described a potential auction mechanism for offering term deposits. The Board received several comments (discussed below) related specifically to offering term deposits through an auction, none of which opposed using an auction mechanism. The Board expects that an auction mechanism may be the most

effective way to allocate term deposits in a manner that effectively achieves the Federal Reserve's monetary policy objectives. Based on monetary policy considerations and experience with the auction mechanism, the Board may consider offering term deposits through different mechanisms.

As stated above, the Board is not at this time setting forth definitive terms and conditions of term deposit offerings (e.g., the maximum interest rate for an offering). The Board will take the comments received into consideration when determining the terms and conditions. Many commenters expressed a desire for the Federal Reserve to communicate in advance the terms and conditions of the offerings, as well as the purpose and desired outcome of the program. The Board anticipates announcing the terms and conditions of any auction in advance, including the quantity of term deposits offered and their maturity, any minimum and maximum bid amounts, and a maximum-allowable bid interest rate.

One commenter suggested that the Board provide notice and an opportunity to comment prior to changing the terms and conditions of term deposit offerings. The amendments to Regulation D adopted by the Board were designed to be sufficiently flexible to support various approaches to term deposit offerings, including auctions or posted-rate term deposit offerings, and offerings of varying amounts, maturities, and interest rates. This flexibility is necessary to enable the Board to adjust the terms and conditions based on evolving market conditions and monetary policy needs. The Board does not expect to seek comment in advance of changing the terms and conditions of term deposit offerings unless those changes require amendments to Regulation D.

One commenter suggested that each institution be permitted to submit multiple bids and proposed a maximum of two bids per institution at each auction. The Board is considering permitting multiple bids per institution for term deposits and anticipates that, if multiple bids are permitted, there will likely be some limit on the number of bids an institution may submit.

#### E. Interest Rate or Rates Offered

The Board received a number of comments on term deposit interest rates. Some commenters supported structuring auction bids as fixed-rate bids, and others suggested that bids be in the form of a spread over a reference rate, resulting in a floating rate. Commenters supporting a floating rate

suggested specific reference rates such as the target federal funds rate, the rate paid on required reserves, the rate paid on excess reserves, and the overnight indexed swap rate.

In addition, the Board received several comments related to setting the maximum interest rate on term deposits. One commenter supported maintaining flexibility as to the benchmark rates considered when setting the maximum interest rate. One commenter stated that for term deposits of longer maturities, the primary credit rate was not necessarily an appropriate maximum rate; rather, this commenter suggested that auctions of term deposits of longer maturities have a higher maximum rate, where the increase relative to the rates on term deposits with shorter maturities is consistent with the steepness of the yield curve.

The Board did not receive any comments related to determining the "general level" of short-term interest rates. In identifying the "general level" of short-term interest rates, the Board could look to a specific short-term interest rate, or to a range of such rates. The "general level" of short-term interest rates could include both fixed and floating rates and will vary over time in accordance with movements in short-term interest rates. As short-term interest rates may move within the maturity period of a term deposit, the Board will consider the applicable "general level" for any particular term deposit offering to be the general level of short-term interest rates at the time the rate for that particular offering is established.

In accordance with statutory requirements, the maximum interest rate for each offering will not exceed the general level of short-term interest rates. The maximum interest rate for a given offering will be announced in advance of that offering. The Board expects that interest rates on term deposits initially will be fixed, although the Board may consider floating-rate term deposits based on future experience with term deposit offerings.

#### F. Noncompetitive Tenders

One commenter suggested allowing small institutions to make noncompetitive tenders, similar to auctions for Treasury securities. The Board will consider including a noncompetitive tender feature whereby small institutions could submit a tender outside the competitive bidding process for the quantity of term deposits they wish to hold and receive the rate established by the competitive auction.

#### G. Individual Limits on Maximum Amount of Deposit

The Board specifically requested comment on whether limitations on the amount an eligible institution may maintain as term deposits were necessary. Many commenters suggested placing some limitation on the amount of term deposits that a single institution can hold. The limitations on an institution's term deposit holdings suggested by various commenters included restrictions based on (1) A percentage of an institution's capital; (2) an institution's average daily balance in its master account over the prior three months, and (3) 10 percent of total term deposits outstanding.

Some of these commenters asserted that limiting the amount of a single offering that any institution can be awarded would ensure that small depository institutions effectively have access to term deposits, foster greater participation in the program, and curb the ability of a few large institutions to dominate term deposit offerings. Proposals suggested by these commenters included *de minimis* minimum bid amounts, and limits based on auction size (e.g., limiting any one institution to between 5 percent and 25 percent of a single auction). Another commenter suggested imposing such limitations only on the twenty largest institutions.

The Board expects to implement the term deposit program in a way that promotes equitable access to term deposits for institutions of all sizes, while most effectively meeting the Federal Reserve's monetary policy objectives. Eligible institutions would not be required to maintain required reserve balances at Reserve Banks in order to hold term deposits, nor would they need to maintain a master account at a Reserve Bank in order to participate in term deposit offerings. The Board also expects to set minimum bid amounts for term deposit offerings low enough so as to not be a barrier to participation by smaller institutions.

#### H. Use as Collateral

Several commenters raised concerns related to the potential availability of term deposits to satisfy unexpected liquidity needs of the depositor. In addition, two commenters suggested that term deposits be available to pledge as collateral for advances by Federal Home Loan Banks so that institutions would be able to meet liquidity needs through mechanisms other than the discount window. One of these commenters suggested that term

deposits be available to pledge as collateral for any interbank loan.

The potential complexity of administering pledges (and re-pledges) of term deposits as collateral to third parties throughout the term of the deposit could be substantial. The Board expects that institutions will be permitted to use their term deposits as collateral for discount window advances in order to manage unanticipated funding needs. This would allow institutions to obtain liquidity from the Federal Reserve by pledging term deposits or to obtain liquidity from other sources by substituting term deposits for other types of collateral pledged to the discount window that could then be pledged as collateral to secure advances from Federal Home Loan Banks and other third parties. Accordingly, the Board does not expect to permit pledges of term deposits to third parties.

In 2008, the Board announced revisions to its Policy on Payment System Risk ("Revised PSR Policy").<sup>8</sup> Under the Revised PSR Policy, collateralized daylight overdrafts would incur no fee.<sup>9</sup> The Board received many comments supporting the availability of term deposits to collateralize daylight overdrafts. The Board expects that term deposits will be available to collateralize daylight overdrafts under the Revised PSR Policy.<sup>10</sup>

## V. Final Amendments to PSR Policy Posting Rules

The Reserve Banks measure depository institutions' intraday account balances according to a set of posting rules outlined in the Board's Policy on Payment System Risk (PSR Policy).<sup>11</sup> To reflect the settlement of term deposits in the posting rules, the Board is amending section II.A. of the PSR Policy under the heading "Procedures for Measuring Daylight Overdrafts" as follows (changes identified by *italics*):

### Procedures for Measuring Daylight Overdrafts

#### Opening Balance (Previous Day's Closing Balance)

Post at 8:30 a.m. Eastern Time:  
+ *Term deposit maturities and accrued interest*

Post After the Close of Fedwire Funds Service:

<sup>8</sup> 73 FR 79109 (Dec. 24, 2008).

<sup>9</sup> 73 FR 79109, 79114 (Dec. 24, 2008).

<sup>10</sup> The Board anticipates implementing the Revised PSR Policy in late 2010 or early 2011. The Board will announce the specific date at least 90 days in advance of the implementation date. 74 FR 79117 (Dec. 24, 2008).

<sup>11</sup> Available at [http://www.federalreserve.gov/paymentsystems/psr\\_policy.htm](http://www.federalreserve.gov/paymentsystems/psr_policy.htm).

+/- All other transactions. These transactions include the following: Local Federal Reserve Bank checks presented after 3 p.m. Eastern Time but before 3 p.m. local time; noncash collection; currency and coin shipments; small-dollar credit adjustments; *term deposit settlements*; and all debit adjustments.

The Board received no comments on the proposed amendments to the PSR Policy and is adopting them as proposed. These amendments to the PSR Policy will be effective at the same time as the amendments to Regulation D.<sup>12</sup>

## VI. Solicitation of Comments Regarding use of "Plain Language"

Section 722 of the Gramm-Leach-Bliley Act of 1999 (12 U.S.C. 4809) requires the Board to use "plain language" in all final rules published after January 1, 2000. The Board has sought to present this final rule in a simple and straightforward manner. The Board received no comments on whether the proposed rule was clearly stated and effectively organized, or on how the Board might make the text of the rule easier to understand.

## VII. Regulatory Flexibility Act

An initial regulatory flexibility analysis (IRFA) was included in the Board's proposed rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). In the IRFA, the Board specifically solicited comment on significant alternatives that would minimize the impact of the proposal on small entities. The Board's final regulatory flexibility analysis is set forth below. For purposes of this analysis, banks and other depository institutions are considered "small" if they have less than \$175 million in assets. For the reasons stated below, the Board expects that the final rule will not have a significant economic impact on small entities.

### 1. Statement of the Need for and the Objectives of the Final Rule

The Board is publishing final amendments to Regulation D to authorize Reserve Banks to offer interest-bearing deposits of specified maturities to eligible institutions. Term deposits are intended to facilitate the conduct of monetary policy by providing a tool for managing the aggregate quantity of reserve balances. Additional discussion of the need for

<sup>12</sup> See n. 10, *supra*, and accompanying text regarding the effective date of other amendments to the PSR Policy relating to the ability of term deposits to serve as collateral for daylight overdrafts.

and objectives of the final rule is contained in the **SUPPLEMENTARY INFORMATION** above.

## 2. Summary of Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

Although the Board received no comments that were specifically in response to the IRFA, the Board received comments regarding the proposal's impact on small entities. As discussed in the **SUPPLEMENTARY INFORMATION** above, some commenters expressed concern about small institutions' ability to participate in term deposit offerings and to compete with larger institutions in the offerings, particularly if an auction mechanism were used. To address these concerns, commenters suggested that minimum bid amounts for auctions be set sufficiently low to allow smaller institutions to participate and suggested that noncompetitive tenders be offered alongside competitive auctions. Some commenters also suggested that there be limits on the portions of offerings a single institution could be awarded so as to prevent larger institutions from being awarded an entire offering.

As discussed above, the Board expects to implement term deposits in a way that promotes the access of small entities to term deposits.

## 3. Small Entities Affected by the Final Rule

Participation in term deposit offerings would be optional for eligible institutions of all sizes. The Board estimates that approximately 16,010 would be eligible to hold term deposits, of which approximately 12,267 would be considered "small" for purposes of the RFA (entities with assets of \$175 million or less). The impact on eligible institutions choosing to hold term deposits would be positive, because term deposits would expand the range of investment opportunities available to those institutions.

## 4. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements of the Final Rule

The final rule does not impose any new reporting, recordkeeping or compliance requirements.

## 5. Significant Alternatives to the Revisions of the Final Rule

The Board received no comments suggesting significant alternatives to the proposed rule that would minimize the impact of the rule on small institutions. The final rule, like the proposed rule, provides the Board with significant

flexibility to structure the terms and conditions for term deposit offerings to minimize any adverse effects on small institutions. The Board will set terms and conditions of term deposit offerings that promote the access of small institutions to term deposits while still maintaining the effectiveness of term deposits as a tool to implement monetary policy. These steps could include those suggested by commenters, such as low minimum bid amounts, aggregate limits, and noncompetitive tenders.

### VIII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget (OMB). The final rule contains no collections of information subject to the PRA.

### List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

### Authority and Issuance

■ For the reasons set forth in the preamble, the Board is proposing to amend 12 CFR part 204 as follows:

### PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for Part 204 continues to read as follows:

**Authority:** 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 6105.

■ 2. Amend § 204.2 by adding paragraph (dd) to read as follows:

#### § 204.2 Definitions.

\* \* \* \* \*

(dd) *Term deposit* means those funds of an eligible institution that are maintained by that institution for a specified maturity at a Federal Reserve Bank pursuant to section 204.10(e) of this part.

■ 3. Section 204.10 is amended by revising paragraph (b)(3) and by adding a new paragraph (e) to read as follows:

#### § 204.10 Payment of interest on balances.

\* \* \* \* \*

(b) \* \* \*

(3) For required reserve balances, excess balances, and term deposits, at any other rate or rates as determined by the Board from time to time, not to exceed the general level of short-term interest rates. For purposes of this subsection, “short-term interest rates” are rates on obligations with maturities

of no more than one year, such as the primary credit rate and rates on term federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar instruments.

\* \* \* \* \*

(e) *Term deposits.* (1) A Federal Reserve Bank may accept term deposits from eligible institutions under the provisions of this paragraph (e) subject to such terms and conditions as the Board may establish from time to time, including but not limited to conditions regarding the maturity of the term deposits being offered, maximum and minimum amounts that may be maintained by an eligible institution in a term deposit, the interest rate or rates offered, early withdrawal of term deposits, pledging term deposits as collateral and, if term deposits are offered through an auction mechanism, the size of the offering, maximum and minimum bid amounts, and other relevant terms.

(2) A term deposit will not satisfy any institution's required reserve balance or contractual clearing balance.

(3) A term deposit may not be used for general payments or settlement activities.

By order of the Board of Governors of the Federal Reserve System, April 29, 2010.

**Jennifer J. Johnson,**  
*Secretary of the Board.*

[FR Doc. 2010-10483 Filed 5-4-10; 8:45 am]

**BILLING CODE 6210-01-P**

### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2010-0435; Directorate Identifier 2010-NM-084-AD; Amendment 39-16283; AD 2010-10-04]**

**RIN 2120-AA64**

#### Airworthiness Directives; Bombardier, Inc. Model DHC-8-400 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation

product. The MCAI describes the unsafe condition as:

Operators of DHC-8 400 Series aeroplanes have been reporting chafing of wires in the AC wire harnesses located along the lower wing shroud on either wing resulting in a loss of various system services. Chafed wires may lead to arcing, local overheating and AC generator failure. The AC generators provide power to the anti-icing heaters, including pitot/static heater, engine adapter heater, and propeller heater. Failure of both AC generators would result in the loss of these systems and poses a safety concern.

\* \* \* \* \*

Loss of both AC generators could lead to unannounced loss of heat to both engine inlets, which could lead to loss of power in both engines during icing conditions. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** This AD becomes effective May 20, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 20, 2010.

We must receive comments on this AD by June 21, 2010.

**ADDRESSES:** You may send comments by any of the following methods:

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Fax:* (202) 493-2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

### FOR FURTHER INFORMATION CONTACT:

Craig Yates, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury,