

# Rules and Regulations

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 204

[Docket No. R-1754]

RIN 7100-AG 18

#### Regulation D: Reserve Requirements of Depository Institutions

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

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (“Board”) is amending Regulation D, Reserve Requirements of Depository Institutions, to revise the rate of interest paid on balances maintained at Federal Reserve Banks by or on behalf of eligible institutions (“IORB” rate). The final amendments specify that the IORB rate is 0.15 percent, an 0.05 percentage point increase from its prior level. The amendment is intended to establish the IORB rate at a level consistent with maintaining the Federal funds rate in the target range established by the Federal Open Market Committee (“FOMC” or “Committee”). This amendment does not reflect a change in the stance of monetary policy. The Board is also making certain conforming deletions for clarity to the provisions of Regulation D governing interest payable on balances at Reserve Banks.

**DATES:**

*Effective date:* The amendments to part 204 (Regulation D) are effective September 8, 2021.

*Applicability date:* The IORB rate change was applicable on July 29, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Sophia H. Allison, Senior Special Counsel (202-452-3565), Legal Division, or Laura Lipscomb, Deputy Associate Director (202-834-2979), 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. Statutory and Regulatory Background

Section 19 of the Federal Reserve Act (“Act”) provides that balances maintained by or on behalf of certain institutions in an account at a Federal Reserve Bank (“Reserve Bank”) may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.<sup>1</sup> Institutions that are eligible to receive earnings on their balances held at Reserve Banks (“eligible institutions”) include depository institutions and certain other institutions.<sup>2</sup> Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.<sup>3</sup>

On June 4, 2021, the Board published a final rule in the **Federal Register** amending Regulation D, effective July 29, to eliminate references to “IORR” and “IOER” and replace those references with references to a single “IORB” (interest on reserve balances) rate and to establish the IORB rate at 0.10 percent.<sup>4</sup>

#### II. Amendments to IORB

The Board is amending § 204.10(b)(1) of Regulation D to establish the IORB rate at 0.15 percent. The amendment represents a 0.05 percentage point increase in the IORB rate. This decision was announced on July 28, 2021, with an effective date of July 29, 2021, in the Federal Reserve Implementation Note (“Implementation Note”) that accompanied the FOMC’s statement on July 28, 2021 (“FOMC Statement”). The FOMC Statement stated that the Committee decided to maintain the target range for the Federal funds rate at 0 to ¼ percent.

The Federal Reserve Implementation Note stated:

The Board of Governors of the Federal Reserve System voted unanimously to establish the interest rate paid on reserve balances at 0.15 percent, effective July 29, 2021.

<sup>1</sup> 12 U.S.C. 461(b)(1)(A) & (b)(12)(A).

<sup>2</sup> See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

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

<sup>4</sup> Final Rule, 86 FR 29937 (June 4, 2021).

The Implementation Note further stated:

As announced on June 2, 2021, the Federal Reserve Board approved a final rule, effective July 29, amending Regulation D to eliminate references to an interest on required reserves (IORR) rate and to an interest on excess reserves (IOER) rate and replace them with a single interest on reserve balances (IORB) rate. Therefore, the Board voted on one rate, the IORB rate, at this meeting and will continue to do so going forward.

As a result, the Board is amending § 204.10(b)(1) of Regulation D to establish the IORB rate at 0.15 percent. The amendment is intended to establish the IORB rate at a level consistent with maintaining the Federal funds rate in the target range established by the Committee. This amendment does not reflect a change in the stance of monetary policy.

Finally, the Board is also making certain conforming deletions for clarity to the provisions of Regulation D governing interest payable on balances at Reserve Banks.

#### III. Administrative Procedure Act

In general, the Administrative Procedure Act (“APA”)<sup>5</sup> imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule’s content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be “unnecessary, impracticable, or contrary to the public interest.”<sup>6</sup> Section 553(d) of the APA also provides that publication at least 30 days prior to a rule’s effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.<sup>7</sup>

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective

<sup>5</sup> 5 U.S.C. 551 *et seq.*

<sup>6</sup> 5 U.S.C. 553(b)(3)(A).

<sup>7</sup> 5 U.S.C. 553(d).

date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate change for IORB that is reflected in the final amendment to Regulation D was made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board's action from being effective as promptly as necessary in the public interest and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board's action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to this final amendment to Regulation D.

#### IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act ("RFA") does not apply to a rulemaking where a general notice of proposed rulemaking is not required.<sup>8</sup> As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

#### V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act ("PRA") of 1995,<sup>9</sup> the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements 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 amends 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), 461, 601, 611, and 3105.

- 2. Section 204.10 is amended by:
  - a. Revising paragraph (b)(1);
  - b. Removing paragraphs (b)(4) and (5) and (d)(5); and
  - c. Redesignating paragraph (d)(6) as paragraph (d)(5).

The revision reads as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) For balances maintained in an eligible institution's master account, interest is the amount equal to the interest on reserve balances rate ("IORB rate") on a day multiplied by the total balances maintained on that day. The IORB rate is 0.15 percent.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2021-19280 Filed 9-7-21; 8:45 am]

**BILLING CODE 6210-01-P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 121 and 123

[Docket Number SBA-2021-0016]

RIN 3245-AH80

#### Disaster Loan Program Changes

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule implements changes to the Disaster Loan Program regulations. For applications for COVID-19 Economic Injury Disaster (COVID EIDL) loans, in this rule SBA is changing the definition of affiliation, the eligible uses of loan proceeds, and application of the size standard to certain hard-hit eligible entities, and is establishing a maximum loan limit for borrowers in a single corporate group. In addition, for all disaster assistance programs, in this rule, SBA is changing which SBA official may make the decision on the appeal of an application that has been declined for a second time.

#### DATES:

**Effective date:** The provisions of this interim final rule are effective September 8, 2021.

**Applicability dates:** The change to the regulation at 13 CFR 123.13 applies to applications submitted under all of SBA's Disaster Loan Programs on or after September 8, 2021. The changes to

the regulation at 13 CFR 123.303 apply to COVID EIDL loan proceeds available on or after September 8, 2021, without regard to the date such proceeds were received from SBA. The other changes in this interim final rule apply to applications submitted under the COVID EIDL Program on or after September 8, 2021, through December 31, 2021, or until funds available for this purpose are exhausted, whichever is earlier. Additionally, with the exception of the regulation at 123.304, this interim final rule applies to original applications under the COVID EIDL Program that are submitted before but approved on or after September 8, 2021.

**Comment date:** Comments must be received on or before October 8, 2021.

**ADDRESSES:** You may submit comments, identified by number SBA-2021-0016 through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

SBA will post all comments on [www.regulations.gov](http://www.regulations.gov). If you wish to submit confidential business information (CBI) as defined in the User Notice at [www.regulations.gov](http://www.regulations.gov), please send an email to [COVIDEIDLHelp@sba.gov](mailto:COVIDEIDLHelp@sba.gov). All other comments must be submitted through the Federal eRulemaking Portal described above. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

**FOR FURTHER INFORMATION CONTACT:** An SBA Disaster Customer Service Representative at (800) 659-2955 (individuals who are deaf or hard of hearing may call (800) 877-8339), or a local SBA Field Office; the list of SBA field offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background Information

Section 7(b)(2) of the Small Business Act authorizes SBA to make EIDL loans to eligible small businesses and nonprofit organizations located in a disaster area. 15 U.S.C. 636(b)(2). On March 6, 2020, Congress deemed COVID-19 to be a disaster in Title II of the Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020, Public Law 116-123, 134 Stat. 146, 147, allowing SBA to declare disasters and make EIDL loans available to small businesses and nonprofit organizations suffering substantial economic injury as a result of the COVID-19 pandemic. The Coronavirus

<sup>8</sup> 5 U.S.C. 603, 604.

<sup>9</sup> 44 U.S.C. 3506; see 5 CFR part 1320, appendix A.1.