

(B) An initial extension of stay, as provided in paragraph (h)(15)(i) of this section; or

(C) Authorization for a change in employment, as provided in paragraph (h)(2)(i)(D) of this section.

(ii) The service will accept remittances of the additional fee only from the United States employer or its representative of record, as defined under 8 CFR part 292 and 8 CFR 103.2(a)(3).

(iii) The following exempt organizations are not required to pay the additional fee:

(A) *An institution of higher education*, as defined in section 101(a) of the Higher Education Act of 1965;

(B) *An affiliated or related nonprofit entity*. A nonprofit entity (including but not limited to hospitals and medical or research institutions) that is connected or associated with an institution of higher education, through shared ownership or control by the same board or federation operated by an institution of higher education, or attached to an institution of higher education as a member, branch, cooperative, or subsidiary;

(C) *A nonprofit research organization or governmental research organization*. A research organization that is either a nonprofit organization of entity that is primarily engaged in basic research and/or applied research or a United States Government entity whose primary mission is the performance or promotion of basic research and/or applied research. Basic research is research to gain more comprehensive knowledge or understanding of the subject under study, without specific applications in mind. Basic research also is not research that advances scientific knowledge, but does not have specific immediate commercial objectives although it may be in fields of present or potential commercial interest. Applied research is research to gain knowledge or understanding to determine the means by which a specific, recognized need may be met. Applied research includes investigations oriented to discovering new scientific knowledge that has specific commercial objectives with respect to products, processes, or services.

(iv) For purposes of paragraphs (h)(19)(iii)(B) and (C) of this section, a nonprofit organization or entity is one that is qualified as a tax exempt organization under section 501(c)(3), (c)(4), or (c)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3), (c)(4) or (c)(6)) and has received approval as a tax exempt organization from the

Internal Revenue Service, as it relates to research or educational purposes.

\* \* \* \* \*

**PART 299—IMMIGRATION FORMS**

5. The authority citation for part 299 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103; 8 CFR part 2.

6. Section 299.1 is amended in the table by adding the Form "I-129W" in numerical order to read as follows:

**§ 299.1 Prescribed forms.**

\* \* \* \* \*

| Form No.  | Edition date | Title  |
|-----------|--------------|--|
| * .. *    | * .. *       | * .. *   |
| I-129W .. | 11-24-98     | Petition for Non-immigrant Worker, Filing Fee Exemption. |
| * .. *    | * .. *       | * .. *   |

7. Section 299.5 is amended in the table by adding Form "I-129W" in numerical order to read as follows:

**§ 299.5 Display of control numbers.**

\* \* \* \* \*

| INS form No. | INS form title   | Currently assigned OMB control No. |
|--------------|--|------------------------------------|
| * .. *       | * .. *   | * .. *                             |
| I-129W ..    | Petition for Nonimmigrant Worker, Filing Fee Exemption | 1115-0225                          |
| * .. *       | * .. *   | * .. *                             |

Dated: November 25, 1998.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 98-31953 Filed 11-25-98; 3:36 pm]

BILLING CODE 4410-10-M

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 204**

[Regulation D; Docket No. R-1026]

**Reserve Requirements of Depository Institutions**

**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 decrease the amount of transaction accounts subject to a reserve requirement ratio of three

percent, as required by section 19(b)(2)(C) of the Federal Reserve Act, from \$47.8 million to \$46.5 million of net transaction accounts. This adjustment is known as the low reserve tranche adjustment. The Board is increasing from \$4.7 million to \$4.9 million the amount of reserveable liabilities of each depository institution that is subject to a reserve requirement of zero percent. This action is required by section 19(b)(11)(B) of the Federal Reserve Act, and the adjustment is known as the reserveable liabilities exemption adjustment. The Board is also increasing the deposit cutoff levels that are used in conjunction with the reserveable liabilities exemption to determine the frequency of deposit reporting from \$78.9 million to \$81.9 million for nonexempt depository institutions and from \$50.7 million to \$52.6 million for exempt institutions. (Nonexempt institutions are those with total reserveable liabilities exceeding the amount exempted from reserve requirements (\$4.9 million) while exempt institutions are those with total reserveable liabilities not exceeding the amount exempted from reserve requirements.) Thus, beginning in September 1999, nonexempt institutions with total deposits of \$81.9 million or more will be required to report weekly while nonexempt institutions with total deposits less than \$81.9 million may report quarterly, in both cases on form FR 2900. Similarly, exempt institutions with total deposits of \$52.6 million or more will be required to report quarterly on form FR 2910q while exempt institutions with total deposits less than \$52.6 million may report annually on form FR 2910a.

**DATES: Effective date:** December 1, 1998.

**Compliance dates:** For depository institutions that report weekly, the low reserve tranche adjustment and the reserveable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 1, 1998, and the corresponding reserve maintenance period that begins Thursday, December 31, 1998. For institutions that report quarterly, the low reserve tranche adjustment and the reserveable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 15, 1998, and the corresponding reserve maintenance period that begins Thursday, January 14, 1999. For all depository institutions, the deposit cutoff levels will be used to screen institutions in the second quarter of 1999 to determine the reporting

frequency for the twelve month period that begins in September 1999.

**FOR FURTHER INFORMATION CONTACT:** Rick Heyke, Attorney (202/452-3688), Legal Division, or June O'Brien, Economist (202/452-3790), Division of Monetary Affairs; for the hearing impaired only, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452-3544); Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations. The initial reserve requirements imposed under section 19(b)(2) were set at three percent for net transaction accounts of \$25 million or less and at 12 percent on net transaction accounts above \$25 million for each depository institution. Effective April 2, 1992, the Board lowered the required reserve ratio applicable to transaction account balances exceeding the low reserve tranche from 12 percent to 10 percent. Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The adjustment in the tranche is to be 80 percent of the percentage increase or decrease in net transaction accounts at all depository institutions over the one-year period that ends on June 30 prior to the adjustment.

Currently, the low reserve tranche on net transaction accounts is \$47.8 million. Net transaction accounts of all depository institutions decreased by 3.5 percent (from \$713.6 billion to \$688.6 billion) from June 30, 1997, to June 30, 1998. In accordance with section 19(b)(2), the Board is amending Regulation D (12 CFR Part 204) to decrease the low reserve tranche for transaction accounts for 1998 by \$1.3 million to \$46.5 million.

Section 19(b)(11)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(11)(A)) provides that \$2 million of reserveable liabilities<sup>1</sup> of each depository institution shall be subject to a zero percent reserve requirement. Each depository institution may, in accordance with the rules and

regulations of the Board, designate the reserveable liabilities to which this reserve requirement exemption is to apply. However, if net transaction accounts are designated, only those that would otherwise be subject to a three percent reserve requirement (i.e., net transaction accounts within the low reserve requirement tranche) may be so designated.

Section 19(b)(11)(B) of the Federal Reserve Act provides that, before December 31 of each year, the Board shall issue a regulation adjusting for the next calendar year the dollar amount of reserveable liabilities exempt from reserve requirements. Unlike the adjustment for the low reserve tranche on net transaction accounts, which adjustment can result in a decrease as well as an increase, the change in the exemption amount is to be made only if the total reserveable liabilities held at all depository institutions increase from one year to the next. The percentage increase in the exemption is to be 80 percent of the increase in total reserveable liabilities of all depository institutions as of the year ending June 30. Total reserveable liabilities of all depository institutions increased by 4.6 percent (from \$1,821.2 billion to \$1,904.6 billion) from June 30, 1997, to June 30, 1998. Consequently, the reserveable liabilities exemption amount for 1999 under section 19(b)(11)(B) will be increased by \$0.2 million to \$4.9 million.<sup>2</sup>

The effect of the application of section 19(b) of the Federal Reserve Act to the change in the total net transaction accounts and the change in the total reserveable liabilities from June 30, 1997, to June 30, 1998, is to decrease the low reserve tranche to \$46.5 million, to apply a zero percent reserve requirement on the first \$4.9 million of transaction accounts, and to apply a three percent reserve requirement on the remainder of the low reserve tranche.

The tranche adjustment and the reserveable liabilities exemption adjustment for weekly reporting institutions will be effective for the reserve computation period beginning Tuesday, December 1, 1998, and for the corresponding reserve maintenance period beginning Thursday, December 31, 1998. For institutions that report quarterly, the tranche adjustment and the reserveable liabilities exemption adjustment will be effective for the computation period beginning Tuesday, December 15, 1998, and for the reserve maintenance period beginning

Thursday, January 14, 1999. In addition, all institutions currently submitting form FR 2900 must continue to submit reports to the Federal Reserve under current reporting procedures.

In order to reduce the reporting burden for small institutions, the Board has established deposit reporting cutoff levels to determine deposit reporting frequency. Institutions are screened during the second quarter of each year to determine reporting frequency beginning the following September. In July of 1988 the Board set a single cutoff level for all depository institutions of \$40 million plus an amount equal to 80 percent of the annual rate of increase of total deposits.<sup>3</sup> In August of 1994, the Board replaced the single deposit cutoff level that had applied to both nonexempt and exempt institutions with separate cutoff levels, increasing the cutoff level for nonexempt institutions, and in September 1997 further increased the cutoff level for nonexempt institutions to \$75.0 million. In September 1998, the cutoff level for nonexempt institutions, which determines whether they report (on FR 2900) quarterly or weekly, was raised to \$78.9 million, and the deposit cutoff level for exempt institutions, which determines whether they report annually (on FR 2910a) or quarterly (on FR 2910q), was raised to \$50.7 million.

From June 30, 1997, to June 30, 1998, total deposits increased 4.8 percent, from \$4,441.3 billion to \$4,653.2 billion. Accordingly, the nonexempt deposit cutoff level will increase by \$3.0 million to \$81.9 million and the exempt deposit cutoff level will increase by \$1.9 million to \$52.6 million. Based on the indexation of the reserveable liabilities exemption, the cutoff level for total deposits above which reports of deposits must be filed will rise from \$4.7 million to \$4.9 million. Institutions with total deposits below \$4.9 million will be excused from reporting if their deposits can be estimated from other data sources. The \$81.9 million cutoff level for weekly versus quarterly FR 2900 reporting for nonexempt institutions, the \$52.6 million cutoff level for quarterly FR 2910q versus annual FR 2910a reporting for exempt institutions, and the \$4.9 million level threshold for reporting will be used in the second quarter 1999 deposits report screening process, and the adjustments will be made when the new deposit

<sup>1</sup> Reserveable liabilities include transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities as defined in section 19(b)(5) of the Federal Reserve Act. The reserve ratio on nonpersonal time deposits and Eurocurrency liabilities is zero percent.

<sup>2</sup> Consistent with Board practice, the tranche and exemption amounts have been rounded to the nearest \$0.1 million.

<sup>3</sup> "Total deposits" as used in determining the cutoff level includes not only gross transaction deposits, savings accounts, and time deposits, but also reserveable obligations of affiliates, ineligible acceptance liabilities, and net Eurocurrency liabilities.

reporting panels are implemented in September 1999.

All U.S. branches and agencies of foreign banks and all Edge and agreement corporations, regardless of size, are required to file weekly the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900). After the indexations become effective in 1999, all other institutions that have reserveable liabilities in excess of the exemption level of \$4.9 million prescribed by section 19(b)(11) of the Federal Reserve Act (known as "nonexempt institutions") and total deposits at least equal to the nonexempt deposit cutoff level (\$81.9 million) will be required to file weekly the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900) for the twelve month period starting September 1999. However, nonexempt institutions with total deposits less than the nonexempt deposit cutoff level (\$81.9 million), will be able to file the FR 2900 quarterly. Institutions that obtain funds from non-U.S. sources or that have foreign branches or international banking facilities are required to file the Report of Certain Eurocurrency Transactions (FR 2950/2951) at the same frequency as they file the FR 2900.

Institutions with reserveable liabilities at or below the exemption level (\$4.9 million) (known as exempt institutions) will be required to file the Quarterly Report of Selected Deposits, Vault Cash, and Reserveable Liabilities (FR 2910q) if their total deposits equal or exceed the exempt deposit cutoff level (\$52.6 million). Exempt institutions with total deposits less than the exempt deposit cutoff level (\$52.6 million) but at least equal to the exemption amount (\$4.9 million) will be able to file the Annual Report of Total Deposits and Reserveable Liabilities (FR 2910a). Institutions that have total deposits less than the exemption amount (\$4.9 million) are not required to file deposit reports if their deposits can be estimated from other data sources.

Finally, the Board may require a depository institution to report on a weekly basis, regardless of the cutoff level, if the institution manipulates its total deposits and other reserveable liabilities in order to qualify for quarterly reporting. Similarly, any depository institution that reports quarterly may be required to report weekly and to maintain appropriate reserve balances with its Reserve Bank if, during its computation period, it understates its usual reserveable liabilities or overstates the deductions allowed in computing required reserve balances.

**Notice and Public Participation**

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because the amendments involve expected, ministerial adjustments prescribed by statute and by an interpretative statement reaffirming the Board's policy concerning reporting practices. Moreover, the low reserve tranche adjustment and the reserveable liabilities exemption adjustment are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reserveable liabilities exemption adjustment and the increases for reporting purposes in the deposit cutoff levels reduce regulatory burdens on depository institutions, and the low reserve tranche adjustment will have a *de minimis* effect on depository institutions with net transaction accounts exceeding \$46.5 million. Accordingly, the Board finds good cause for determining, and so determines, that notice and public participation is unnecessary, impracticable, or contrary to the public interest.

The provisions of 5 U.S.C. 553(d) relating to notice of the effective date of a rule have not been followed in connection with the adoption of these amendments because the low reserve

tranche adjustment and the reserveable liabilities adjustment are expected, ministerial amendments prescribed by statute. Moreover, they are required to be effective for the next calendar year even though the data which they are required to reflect are only available late in the prior year. In addition, the reserveable liabilities adjustment and the increase in deposit cutoff levels for reporting purposes relieve a restriction on depository institutions, and the low reserve tranche will have a *de minimis* effect on depository institutions with net transaction accounts exceeding \$46.5 million. Accordingly, there is good cause to determine, and the Board so determines, that such notice is impracticable or unnecessary.

**Regulatory Flexibility Analysis**

The Board certifies that these amendments will not have a substantial economic impact on small depository institutions. See "Notice and Public Participation" above.

**List of Subjects in 12 CFR Part 204**

Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 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 3105.

2. Section 204.9 is revised to read as follows:

**§ 204.9 Reserve requirement ratios.**

(a) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement corporations, and United States branches and agencies of foreign banks:

| Category                        | Reserve requirement <sup>1</sup>                           |
|---------------------------------|--|
| Net transaction accounts:       |  |
| \$0 to \$46.5 million .....     | 3 percent of amount.                                       |
| Over \$46.5 million .....       | \$1,395,000 plus 10 percent of amount over \$46.5 million. |
| Nonpersonal time deposits ..... | 0 percent.   |
| Eurocurrency liabilities .....  | 0 percent.   |

<sup>1</sup> Before deducting the adjustment to be made by paragraph (b) of this section.

(b) *Exemption from reserve requirements.* Each depository institution, Edge or agreement corporation, and U.S. branch or agency of a foreign bank is subject to a zero

percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a) of this section not in

excess of \$4.9 million determined in accordance with § 204.3(a)(3).

By order of the Board of Governors of the Federal Reserve System, November 23, 1998.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 98-31764 Filed 11-27-98; 8:45 am]

BILLING CODE 6210-01-P

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Part 502

[No. 98-118]

RIN 1550-AB20

#### Assessments and Fees

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is amending its regulations to more equitably impose assessments on savings associations. OTS's experience has shown that the current assessment structure may cause some savings associations to pay assessments over or under OTS's costs of supervising those savings associations. The final rule is designed to correlate OTS's assessments on savings associations more closely with the costs associated with supervising those associations. At the same time, the final rule establishes a regulatory structure that allows OTS to keep its assessment rates as low as possible while providing OTS the resources essential to effectively supervise the industry. The rule also clarifies certain other matters involving assessments and other fees, and revises the entire assessment and fee regulation using a plain language format.

**EFFECTIVE DATE:** January 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Christine Harrington, Counsel (Banking and Finance), (202) 906-7957, or Karen Osterloh, Assistant Chief Counsel, (202) 906-6639, Regulations and Legislation Division, Chief Counsel's Office; or Eric Hirschhorn, Principal Financial Economist, (202) 906-7350, Research & Analysis; William Brady, Director, Planning & Budget, (202) 906-7408, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

OTS is charged with the mission of examining, regulating, and providing for the safe and sound operation of savings associations.<sup>1</sup> Under 12 U.S.C. 1467,

OTS funds these operations through assessments on savings associations and through other fees, as necessary and appropriate. This section authorizes the Director of OTS to assess examination costs against savings associations and their affiliates, and to recover the agency's direct and indirect expenses, as the Director deems necessary or appropriate.

Recently, OTS analyzed its operating costs and compared these costs to its assessments on savings associations under its current regulation. OTS found that its assessments could be more closely correlated to its costs in certain respects. For these reasons, on August 14, 1998, OTS proposed to amend its assessment regulation.<sup>2</sup> The proposed rule based assessments on three components: the savings association's asset size, its condition, and its complexity. The proposed rule also streamlined and clarified OTS's regulation concerning fees, and clarified administrative matters.

Today, OTS is issuing a final assessments rule. Briefly, this final rule is substantially identical to the proposal, but with certain changes to the complexity component. OTS limits its trust examinations fee to those associations not subject to the complexity component's coverage of trust assets. Additionally, OTS has decided to adopt a structure that will permit OTS to use one or more different assessment rates for each of the different activities covered by the complexity component. Currently, for trust assets and recourse obligations and direct credit substitutes, OTS will use flat rates. In contrast, for loans serviced for others, OTS will initially use two rates to reflect economies of scale in examining these activities. Additionally, the final rule clarifies which assets and activities are covered by each of the three categories within the complexity component. The final rule is described more specifically below.

##### II. General Discussion of Comments

The comment period on the proposed rule closed on October 13, 1998. OTS received thirteen comments from eight savings associations, four trade associations, and one holding company. The comments were mixed, with most commenters supporting some parts of the proposal while opposing others. Several commenters opposed the complexity component as proposed, but expressed no opinions on other aspects of the proposal. One commenter supported the proposal, but suggested alternatives. One commenter discussed

the proposal but did not take a position. All others had mixed reactions.

In the proposed rule, OTS indicated that it has two goals with respect to the assessment rule. First, OTS wants to establish an assessment structure that keeps assessment rates as low as possible while providing the resources essential to effective supervision of a changing industry. One commenter opposed the proposal to the extent that it would result in an overall increase in assessments. The final rule adopted today is designed to correlate OTS assessments to the costs of supervision of the thrift industry. As the industry's size, condition, and complexity change in the future, OTS's costs will also change. The final rule will enable OTS's revenues to move along with these changes in its supervisory expenses. OTS believes the approach in the final rule is appropriate and should not result in overcharging the thrift industry.

As its second goal, OTS wants to more closely tailor assessments with OTS's supervisory costs. To do so, OTS used statistical analyses of examiner hours to correlate its proposed assessments with supervisory costs. Two commenters supported basing assessments on examination costs, while one opposed this method, believing examiner hours are excessive. Examiner hours are the main component of OTS's supervisory expenses that vary with the size, condition, or other attributes of thrift institutions. As such, they are a useful standard for evaluating consistency between an assessment schedule and actual supervision. OTS has not found, and no one has proposed, a better alternative. OTS, therefore, will continue to base its assessments on its statistical analyses of examination costs.

Commenters specifically argued that OTS did not provide empirical evidence supporting its assertions regarding examination time and costs. One commenter noted that OTS did not provide details regarding the actual supervision costs, the structure of the quantitative model used to analyze costs, or the variables in the model.

While OTS studied examination costs and examination hours devoted to different tasks, it did not publish these studies in the **Federal Register** because they are too voluminous. Instead, OTS provided adequate details through other means. First, OTS summarized its findings in the notice of proposed rulemaking. In addition, OTS placed a paper providing background analysis in the public comment file. This paper has been available for inspection in the OTS public reading room. Moreover, the Principal Financial Economist who conducted the studies was listed as an

<sup>1</sup> 12 U.S.C. 1463(a).

<sup>2</sup> 63 FR 43642 (Aug. 14, 1998).