

RESCINDED

Office of Thrift Supervision
Department of the Treasury

November 6, 2003

Transmittal

TR-336

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Federal Register, Vol. 68, No. 194, pp. 57788 - 57790

Number TR-336

The Federal Reserve Board published the attached final rule amending Regulation D, Reserve Requirements of Depository Institutions on October 7, 2003.

Approval of the direct final rule will eliminate this problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 [5 U.S.C. 605(b)], the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Transnuclear, Inc. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the

Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED WASTE GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.
Initial Certificate Effective Date: January 23, 1995.
Amendment Number 1 Effective Date: April 27, 2000.
Amendment Number 2 Effective Date: September 5, 2000.
Amendment Number 3 Effective Date: September 12, 2001.
Amendment Number 4 Effective Date: February 12, 2002.
Amendment Number 5 Effective Date: November 3, 2003.
Amendment Number 6 Effective Date: December 22, 2003.

SAR Submitted by: Transnuclear, Inc.
SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular.

Storage System for Irradiated Nuclear Fuel.

Docket Number: 72-1004.

Certificate Expiration Date: January 23, 2015.

Model Number: Standardized NUHOMS®-24P, NUHOMS®-52B, NUHOMS®-61BT, NUHOMS®-32PT, and NUHOMS®-24PHB.

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Dated at Rockville, Maryland, this 11th day of September, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03-25366 Filed 10-6-03; 8:45 am]

BILLING CODE 7590-01-P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R-1163]

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 reflect the annual indexing of the low reserve tranche and of the reserve requirement exemption amount for 2004. The Board is also announcing the annual indexing of the deposit cutoff level and the reduced reporting limit that will be effective beginning in September 2004. The Regulation D amendments increase the amount of net transaction accounts at each depository institution that are subject to a three percent reserve requirement in 2004 from \$42.1 million to \$45.4 million. This amount is known as the low reserve tranche. The Regulation D amendments also increase the amount of total reservable liabilities of each depository institution that are subject to a zero percent reserve requirement in 2004 from \$6.0 million to \$6.6 million. This amount is known as the reserve requirement exemption amount. The adjustments to both of these amounts are derived using statutory formulas specified in the Federal Reserve Act. The Board is also announcing increases in two other amounts, the deposit cutoff level and the reduced reporting limit, that are used to determine the frequency with which depository institutions must

submit deposit reports. The deposit cutoff level is being increased from \$150.0 million in 2003 to \$161.2 million in 2004, and the reduced reporting limit is being increased from \$1.0 billion in 2003 to \$1.074 billion in 2004. These amounts are indexed annually in order to reduce reporting burden for smaller depository institutions. Thus, beginning in September 2004, depository institutions will be required to file the FR 2900 report each week under the following conditions: if they have net transaction accounts over \$6.6 million *and* have total deposits of at least \$161.2 million; or if they have net transaction accounts of \$6.6 million or less but have total deposits of at least \$1.074 billion. Depository institutions will be required to file the FR 2900 report each quarter if they have net transaction accounts over \$6.6 million but have total deposits of less than \$161.2 million. Depository institutions will be required to file the FR 2910a report annually if they have net transaction accounts of \$6.6 million or less but have total deposits greater than \$6.6 million but less than \$1.074 billion. Depository institutions with \$6.6 million or less in total deposits are not required to file a deposit report.

DATES: Effective date: November 6, 2003.

Compliance dates: For depository institutions that report weekly, the adjusted low reserve tranche and reserve requirement exemption amount will apply to the fourteen-day reserve computation period that begins Tuesday, November 25, 2003, and the corresponding fourteen-day reserve maintenance period that begins Thursday, December 25, 2003. For depository institutions that report quarterly, the adjusted low reserve tranche and reserve requirement exemption amount will apply to the seven-day reserve computation period that begins Tuesday, December 16, 2003, and the corresponding seven-day reserve maintenance period that begins Thursday, January 15, 2004. For all depository institutions, the deposit cutoff level, the reserve requirement exemption amount, and the reduced reporting limit will be used to screen depository institutions in July of 2004 to determine reporting frequency for the twelve month period that begins in September 2004.

FOR FURTHER INFORMATION CONTACT: Heatherun Allison, Counsel (202/452-3565), Legal Division, or Gretchen Weinbach, Senior Economist (202/452-2841), Division of Monetary Affairs; for user of Telecommunications Device for the Deaf (TDD) only, contact (202/872-4984); 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, for the purpose of implementing monetary policy. Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) authorizes the Board to require reports of liabilities and assets from depository institutions to enable the Board to conduct monetary policy. The Board's actions with respect to each of these provisions are discussed in turn below.

1. **Reserve Requirements.** Pursuant to section 19(b)(2) of the Federal Reserve Act, transaction account balances maintained at each depository institution up to a certain amount, known as the low reserve tranche, are subject to a three percent reserve requirement. Net transaction account balances over the low reserve tranche are subject to a ten percent reserve requirement. 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 low reserve 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 the June 30 prior to the adjustment.

Currently, the low reserve tranche is \$42.1 million. Net transaction accounts of all depository institutions rose 9.9 percent (from \$611.5 billion to \$671.9 billion) between June 30, 2002 and June 30, 2003. Accordingly, the Board is amending Regulation D (12 CFR part 204) to increase the low reserve tranche for net transaction accounts by \$3.3 million, from \$42.1 million in 2003 to \$45.4 million in 2004.

Section 19(b)(11)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(11)(A)) provides that a zero percent reserve requirement shall apply to total reservable liabilities at each depository institution that do not exceed a certain amount, known as the reserve requirement exemption amount. Section 19(b)(11)(B) provides that, before December 31 of each year, the Board shall issue a regulation adjusting the reserve requirement exemption amount for the next calendar year if total reservable liabilities held at all depository institutions increase from one year to the next. Unlike the low reserve tranche, which can be adjusted upward or downward, no adjustment is

made to the reserve requirement exemption amount if total reservable liabilities held at all depository institutions should decrease during the applicable time period. The percentage increase in the reserve requirement exemption amount is to be 80 percent of the increase in total reservable liabilities at all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Total reservable liabilities of all depository institutions increased by 12.9 percent (from \$2,472.3 billion to \$2,792.2 billion) between June 30, 2002, and June 30, 2003. Accordingly, the Board is amending Regulation D to increase the reserve requirement exemption amount by \$0.6 million, from \$6.0 million in 2003 to \$6.6 million in 2004.¹

For depository institutions that report weekly, the adjusted low reserve tranche and reserve requirement exemption amount will be effective for the fourteen-day reserve computation period beginning Tuesday, November 25, 2003, and for the corresponding fourteen-day reserve maintenance period beginning Thursday, December 25, 2003. For depository institutions that report quarterly, the adjusted low reserve tranche and reserve requirement exemption amount will be effective for the seven-day computation period beginning Tuesday, December 16, 2003, and for the corresponding seven-day reserve maintenance period beginning Thursday, January 15, 2004.

2. **Deposit Reports.** Section 11(b)(2) of the Federal Reserve Act authorizes the Board to require depository institutions to file reports of their liabilities and assets as the Board may determine to be necessary or desirable to enable it to discharge its responsibility to monitor and control monetary and credit aggregates. The Board screens depository institutions each year to determine whether they must file deposit reports and, if so, how frequently they must file them (weekly, quarterly, or annually). These deposit reporting assignments become effective each September.

The screening of depository institutions for assignment to one of the four deposit reporting categories is based on three amounts: The reserve requirement exemption amount, the deposit cutoff level, and the reduced reporting limit. The annual adjustment to the first amount, the reserve requirement exemption amount, is

¹ Consistent with Board practice, the low reserve tranche and reserve requirement exemption amounts have been rounded to the nearest \$0.1 million.

described in Section 1 above. The other two amounts, the deposit cutoff level and the reduced reporting limit, are also adjusted annually, by an amount equal to 80 percent of the increase, if any, in total deposits at all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Total deposits at all depository institutions increased by 9.3 percent (from \$5,959.5 billion to \$6,513.9 billion) between June 30, 2002 and June 30, 2003. Accordingly, the Board is adjusting the deposit cutoff level upward by \$11.2 million, from its current level of \$150.0 million in 2003 to \$161.2 million in 2004. The Board is also adjusting the reduced reporting limit upward by \$74 million, from its current level of \$1.0 billion in 2003 to \$1.074 billion in 2004.²

Beginning in September 2004, the boundaries of the four deposit reporting categories will be defined as follows. Those depository institutions with net transaction accounts over \$6.6 million (the reserve requirement exemption amount) or total deposits greater than or equal to \$1.074 billion (the reduced reporting limit) are subject to detailed reporting, and must file an FR 2900 report either weekly or quarterly. Of this group, those with total deposits greater than or equal to \$161.2 million (the deposit cutoff level) are required to file the FR 2900 report each week, while those with total deposits less than \$161.2 million are required to file the FR 2900 report each quarter. Those depository institutions with net transaction accounts less than or equal to \$6.6 million (the reserve requirement exemption amount) and with total deposits less than \$1.074 billion (the reduced reporting limit) are eligible for reduced reporting, and must either file a deposit report annually or not at all. Of this group, those with total deposits greater than \$6.6 million (but less than \$1.074 billion) are required to file the FR 2910a report annually, while those with total deposits less than or equal to \$6.6 million are not required to file a deposit report. A depository institution that manipulates its reporting, however, in an attempt to qualify for less frequent reporting or to reduce its reserve requirement may be required to report the FR 2900 on a weekly basis and maintain appropriate reserve balances with its Reserve Bank, regardless of its most recent panel assignment.

²Consistent with Board practice, the deposit cutoff level has been rounded to the nearest \$0.1 million, while the reduced reporting limit has been rounded to the nearest \$1 million.

Notice and Regulatory Flexibility Act. The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments prescribed by statute and by the Board's policy concerning reporting practices. The increases in the reserve requirement exemption amount, the low reserve tranche, the deposit cutoff level, and the reduced reporting limit serve to reduce regulatory burdens on depository institutions. Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary. Consequently, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, do not apply to these amendments.

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.

The following reserve requirement ratios are prescribed for all depository institutions, banking Edge and agreement corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts: \$0 to \$6.6 million ... Over \$6.6 million and up to \$45.4 million. Over \$45.4 million	0 percent of amount. 3 percent of amount. \$1,164,000 plus 10 percent of amount over \$45.4 million.
Nonpersonal time deposits. Eurocurrency liabilities.	0 percent.

By order of the Board of Governors of the Federal Reserve System, October 1, 2003.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. 03-25318 Filed 10-6-03; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 559, 562, and 563

[No. 2003-50]

RIN 1550-AB55

Savings Associations—Transactions With Affiliates

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: In December 2002, the Board of Governors of the Federal Reserve System (FRB) issued a final rule implementing sections 23A and 23B of the Federal Reserve Act (FRA). FRB's rule (Regulation W) combines statutory restrictions on transactions with affiliates with new and existing interpretations and exemptions. In today's final rule, the Office of Thrift Supervision (OTS) conforms its regulations on transactions with affiliates to Regulation W and implements additional restrictions imposed on savings associations under section 11(a) of the Home Owners' Loan Act (HOLA).

DATES: This final rule is effective November 6, 2003.

FOR FURTHER INFORMATION CONTACT: Karen A. Osterloh, Special Counsel, (202) 906-6639, Regulations and Legislation Division, Chief Counsel's Office, or Donna Deale, Manager, (202) 906-7488, Supervision Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Section 11(a)(1) of the HOLA (12 U.S.C. 1468(a)(1)) applies sections 23A and 23B of the FRA (12 U.S.C. 371c and 371c-1) to every savings association "in the same manner and to the same extent" as if the savings association were a member bank of the Federal Reserve System.

Section 23A of the FRA imposes three major limitations on a member bank's (and its subsidiaries') transactions with affiliates. First, section 23A limits the amount of "covered transactions" with any single affiliate to no more than 10 percent of the member bank's capital stock and surplus. Covered transactions with all affiliates are limited to no more than 20 percent of the member bank's capital stock and surplus. A covered transaction includes a loan or extension of credit to an affiliate, a purchase of or investment in securities issued by an affiliate, a purchase of assets from an