

VI. Deposits — Interest on Deposits

- Corporations
- For-profit partnerships, including a husband and wife partnership
- Individuals who have incorporated, such as Professional Associations (PA)
- Trust accounts where the beneficial interest is held by two or more unrelated parties, such as realty trusts

Refer to the following regulatory provisions for guidance on the definition of a NOW account:

- 12 USC 1832(a), NOW accounts (This citation is the Act which created NOW accounts.)
- Section 329.1(b)(3), footnote 1 (This footnote quotes 12 USC 1832(a) in its entirety.)
- Regulation D, Section 204.2
- Regulation D, Section 204.130 (This is an interpretative section providing further guidance on the eligibility of certain entities to maintain NOW accounts.)

“Savings Accounts” Accounts that are subject to the same transaction limitations as MMDAs (including passbook savings accounts and statement savings accounts).

Examination Objectives

The examination objectives are to:

- Determine whether a bank is effectively managing the compliance risks associated with demand deposit accounts and NOW accounts.
- Assess compliance with the applicable law and regulation.
- Implement corrective actions to address compliance deficiencies and ensure future compliance.

Examination Procedures

Evaluate for Compliance with Part 329

1. Determine which of the following accounts the financial institution offers:
 - Demand deposits (non-interest bearing checking accounts)
 - Savings accounts
 - Negotiable Order of Withdrawal (NOW) accounts
 - Money Market Deposit Accounts (MMDA)
 - Time deposits
2. Interview personnel responsible for opening NOW accounts to ensure they know the requirements and prohibitions of Section 329.1.
3. Determine the category of account according to the activity allowed for that particular account.

*NOTE: Even though an account may be classified by the financial institution as one of the above, **the activity allowed within the account** dictates the actual definition. For example, an account which exceeds the monthly transfer or check processing limits should no longer be classified as a savings account but as a DDA or NOW Account by the institution. Refer to Section 204.2 of Regulation D for account definitions.*

NOW Accounts

4. Determine whether the entire beneficial ownership interest of a NOW account is held by one of the following eligible individuals or entities:
 - One or more individuals, including sole proprietorships
 - A not-for-profit organization operated primarily for religious, philanthropic, charitable, educational, political, or other similar purposes
 - A government unit of the United States, or any state, county, or municipality of the United States, or any United States territory or possession
 - A fiduciary (either individual or corporate) if the beneficiary is otherwise eligible to maintain a NOW account
 - Pension funds, escrow accounts, and security deposits if the entire beneficial interest is held by one of the eligible individuals or entities listed above.

If an account holder(s) does not meet the above definitions, it is ineligible to maintain a NOW account. For example, for-profit partnerships and corporations are ineligible.

Refer to Section 204.130 of Regulation D for further guidance.

5. Determine if the financial institution has adequate internal controls to ensure that ineligible entities do not maintain NOW accounts.
 - Review the NOW account trial balance:

Use existing records, but if warranted, request a full name listing of the trial balance as opposed to a short name version. A short name listing may not include certain portions of the account title; therefore, some ineligible accounts could be missed during the review.
 - Select questionable accounts, including but not limited to the examples below, for documentation review:
 - Accounts which include the designations “Inc.,” “Corp.,” “LLC” (Limited Liability Corporation) or “P.C.” (Professional Corporation), which imply an incorporated entity.
 - Accounts which include the designation “partnership,” “limited partnership,” or “general partnership”.