

net or a multiple of 40,000 pounds net. Only transportation costs associated with donations to charitable institutions may be arranged for and paid by USDA. USDA will make no other payment with respect to such potatoes.

\* \* \* \* \*

4. In § 80.6, paragraph (a)(5) is revised to read as follows:

**§ 80.6 Eligibility for payment.**

(a) \* \* \*

(5) Diverts fresh Irish potatoes and submits required documentation by July 28, 1997, if Form FSA-117 is approved by USDA from May 29 through July 11, 1997; or diverts fresh Irish potatoes and submits required documentation by August 13, 1997, if Form FSA-117 is approved by USDA from July 14 through July 28, 1997; or diverts fresh Irish potatoes and submits required documentation by August 27, 1997, if Form FSA-117 is approved by USDA from July 29 through August 27, 1997. Allocations unused by the applicable date will no longer be available for that producer. Final dates to complete diversions and submit documentation may be waived by USDA if it is determined that severe weather conditions prevented the completion of the diversion during the allotted time period.

\* \* \* \* \*

Dated: July 24, 1997.

**Lon Hatamiya,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 97-20091 Filed 7-25-97; 3:59 pm]

BILLING CODE 3410-02-P

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 329**

RIN 3064-AC09

**Prohibition Against Payment of Interest on Demand Deposits**

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Interpretive rule.

**SUMMARY:** The FDIC has amended an interpretive rule to provide an additional exception to the limitations on premiums that may be given in connection with demand deposits. Section 18(g) of the Federal Deposit Insurance Act (FDI Act) requires that the FDIC by regulation prohibit the payment of interest or dividends on demand deposits. 12 CFR part 329 implements this prohibition. As an exception to the prohibition, an interpretive rule permits

premiums of up to \$10 for deposits of less than \$5000 and up to \$20 for deposits of \$5000 or more not more than twice per year. The interpretive rule also limits the timing of such premiums to the opening of a new account or an addition to an existing account.

The FDIC has amended the interpretive rule to provide an additional exception that permits premiums which are unrelated to the balance in a demand deposit account and the duration of the account balance. Therefore, insured nonmember banks and insured branches of foreign banks are now permitted to give premiums on demand deposits, without limitation as to the amount of the premium, provided that the premiums are not related to, or dependent upon, the balance in the account and the duration of the account balance. This amendment maintains substantial parity with Regulation Q, 12 CFR Part 217, as recently amended by the Board of Governors of the Federal Reserve System (FRB).

**DATES:** Effective July 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Marc Goldstrom, Counsel, Regulation and Legislation Section, Legal Division, (202-898-8807); Louise Kotoshirodo, Review Examiner, Division of Compliance and Consumer Affairs, (202-942-3599).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 18(g) of the FDI Act provides that the Board of Directors of the FDIC shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. (12 U.S.C. 1828(g)). Accordingly, the FDIC promulgated regulations prohibiting the payment of interest or dividends on demand deposits at 12 CFR part 329. The Board of Governors of the Federal Reserve System (FRB) has a corresponding prohibition for member banks at 12 CFR part 217 (Regulation Q). As an exception to the prohibition, the FDIC issued an interpretive rule that generally permits (1) premiums only at the time of the opening of a new account or an addition to, or renewal of, an existing account; (2) no more than two premiums per deposit in any twelve-month interval; and (3) that the value of the premiums does not exceed \$10 for deposits of less than \$5000 and \$20 for deposits of \$5000 or more. (12 CFR 329.103). The FRB has a corresponding exception for member banks at 12 CFR 217.101.

Section 18(g) of the FDI Act also provides that the FDIC shall make such exceptions to this prohibition as are

prescribed with respect to demand deposits in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the FRB. (12 U.S.C. 1828(g)). The FRB has recently amended its interpretation to establish an additional exception with respect to member banks. The amendment permits member banks to give premiums on demand deposits, without regard to the amount of the premium, provided that the premiums are not related to, or dependent upon, the balance in an account and the duration of the account balance. (12 CFR 217.101(b)). The FDIC is now amending its interpretive rule to provide a similar exception for state nonmember banks and insured branches of foreign banks.

Premium limitations were first adopted by the FDIC and the FRB in 1970. These premium limitations originally applied to all types of deposits and were established in part to prevent evasion of interest rate ceilings at a time when interest rates were regulated. The Depository Institutions Deregulation and Monetary Control Act of 1980 deregulated interest rates on time and savings deposits (including NOW accounts). In 1980, the Depository Institutions Deregulation Committee adopted these premium limitations with respect to time and savings deposits in an effort to preserve a relatively level playing field during the period of deposit interest rate deregulation, which ended in 1986. Since then, banks have been permitted to offer premiums on interest-bearing accounts, including NOW, time, and savings accounts, without regard to the premium limitations. The premium limitations, therefore, have only applied to demand deposit accounts.

Because the preexisting exception is restricted to the opening of, addition to, or renewal of, a deposit account, it has constrained the ability of depository institutions to offer incentives to use their products, including the use of new services such as ATM or debit cards. In the past, the exception has prevented a bank from offering incentives to existing demand deposit customers who signed up for an ATM card because the incentives did not coincide with the opening of, addition to, or renewal of, an account. For the same reason the exception has prevented another bank from offering incentives to encourage deposit customers to use an ATM card more than three times per month. Premiums from the use of a debit card, which reduces the amount on deposit, would also constitute interest on the deposit under the preexisting exception, since they are also not paid upon the

opening of, addition to, or renewal of, an account.

The FDIC believes that in cases where a premium is not related to, or dependent on, the balance in a demand deposit account and the duration of that balance, such a premium generally should not be viewed as interest. From an economic point of view, such premiums do not appear to constitute interest on the account, since interest is generally a payment to, or for the account of, a depositor as compensation for the use of the depositor's funds. (12 CFR 329.1(c)).

As an additional matter, since interest rates on time deposits were deregulated, there is no longer any need to provide that premiums that are paid at the time of renewal are permissible. This revision removes the reference to renewal in the preexisting exception.

In light of all the foregoing, the FDIC is amending its interpretive rule effective on date of publication in the **Federal Register** to except from the prohibition of the payment of interest on demand deposits, any premiums that are not related to the balance in an account and the duration of the account balance.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an agency to publish a regulatory flexibility analysis for any final rule for which the agency was required to publish a general notice of proposed rulemaking. Under 5 U.S.C. 553(b), a general notice of proposed rulemaking is not required for interpretative rules. Accordingly, no regulatory flexibility analysis is required in this case.

Under 5 U.S.C. 553(d), a 30-day period between publication date and effective date is not required for interpretative rules. Accordingly, this interpretive rule is effective on date of publication in the **Federal Register**.

**Paperwork Reduction Act**

No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

**List of Subjects in 12 CFR Part 329**

Banks, banking, Interest rates.

For the reasons set forth in the preamble, the FDIC amends 12 CFR part 329 as set forth below:

**PART 329—INTEREST ON DEPOSITS**

1. The authority citation for part 329 continues to read as follows:

**Authority:** 12 U.S.C. 1819, 1828(g) and 1832(a).

2. In § 329.103, paragraph (a)(1) is amended by removing “, or renewal of,” and a new paragraph (e) is added after paragraph (d) to read as follows:

\* \* \* \* \*

**§ 329.103 Premiums.**

\* \* \* \* \*

(e) Notwithstanding paragraph (a) of this section, any premium that is not, directly or indirectly, related to or dependent on the balance in a demand deposit account and the duration of the account balance shall not be considered the payment of interest on a demand deposit account and shall not be subject to the limitations in paragraph (a) of this section.

By order of the Board of Directors.

Dated at Washington, D.C. this 23rd day of July, 1997.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. 97-20018 Filed 7-29-97; 8:45 am]

BILLING CODE 6714-01-P

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**

[Release No. 34-38870; File No. S7-30-95]

RIN 3235-AG66

**Order Execution Obligations**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Revised compliance dates; exemptive order.

**SUMMARY:** The Securities and Exchange Commission (“Commission”) is announcing the final phase-in schedule for compliance with Rules 11Ac1-1(c)(5) (“ECN Amendment” of the “Quote Rule”) and 11Ac1-4 (“Limit Order Display Rule”) under the Securities Exchange Act of 1934 (“Exchange Act”) and is providing exemptive relief to accommodate the new schedule. In addition, the Commission is providing temporary exemptive relief from compliance with the 1% requirement of the Quote Rule with respect to non-19c-3 securities.

**DATES: Effective Date:** July 24, 1997.

**Compliance Dates:** The phase-in schedule with respect to the remaining approximately 5,766 Nasdaq securities will be as follows: 250 Nasdaq securities on August 4, 1997; 250 Nasdaq securities on August 11, 1997; 850 Nasdaq securities on September 8, 1997; 850 Nasdaq securities on September 15, 1997; 850 Nasdaq securities on

September 22, 1997; 850 Nasdaq securities on September 29, 1997; 850 Nasdaq securities on October 6, 1997; and the remaining approximately 930 Nasdaq securities on October 13, 1997.

Concurrently, the Commission is exempting responsible broker and dealers, electronic communications networks, exchanges and associations from compliance with the Order Execution Rules, with respect to the Nasdaq securities that are not phased in under such schedule, until October 13, 1997. In addition, the Commission is exempting substantial market makers and specialists from compliance with the 1% requirement of the Quote Rule with respect to non-Rule 19c-3 securities until September 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Gail Marshall-Smith, Special Counsel, or David Oestreicher, Special Counsel, (202) 942-0158, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 5-1, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 28, 1996, The Commission adopted Rule 11Ac1-4, the Limit Order Display Rule, and amendments to Rule 11Ac1-1, the Quote Rule under the Exchange Act.<sup>1</sup> The Limit Order Display Rule requires over-the-counter (“OTC”) market makers and exchange specialists to publicly display certain customer limit orders. The ECN Amendment of the Quote Rule requires OTC market makers and specialists to publicly disseminate the best prices that they enter into an electronic communications network (“ECN”),<sup>2</sup> or to comply indirectly with the ECN Amendment by using an ECN that furnishes the best market maker and specialist prices therein to the public quotation system (the “ECN Display Alternative”).<sup>3</sup> In addition, the Quote Rule term “subject security”<sup>4</sup> was amended, thereby requiring OTC market makers and specialist to publish quotes in any exchange-listed security if their volume in that security exceeds 1% of the aggregate volume during the most recent calendar quarter.<sup>5</sup>

<sup>1</sup> See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (“Adopting Release”).

<sup>2</sup> 17 CFR 240.11Ac1-1(c)(5)(i).

<sup>3</sup> 17 CFR 240.11Ac1-1(c)(5)(ii).

<sup>4</sup> 17 CFR 240.11Ac1-1(a)(25).

<sup>5</sup> 17 CFR 11Ac1-1(c)(1). See Securities Exchange Act Release No. 38110 (January 2, 1997), 62 FR 1279 (January 9, 1997) which postponed the effective date of the 1% Rule, with respect to the amended definition of “subject security,” from January 10, 1997, to April 10, 1997. See also Securities Exchange Act Release No. 38490 (April