

(3) Any noninsured bank in a State if the total amount of time and savings deposits held in all such banks in the State, plus the total amount of deposits, shares, and withdrawable accounts held in all building and loan, savings and loan, and homestead associations (including cooperative banks) in the State which are not members of a Federal home loan bank, is more than 20 per centum of the total amount of such deposits, shares, and withdrawable accounts held in all banks and building and loan, savings and loan, and homestead associations (including cooperative banks) in the State.

(b) The term *demand deposit* includes:

(1) Any deposit that has a maturity or required-notice period of less than seven days;

(2) Any deposit regarding which the bank does not reserve the right to require at least seven days' written notice prior to withdrawal or transfer of any funds from the account; or

(3) Any other deposit from which, under the terms of the deposit contract, the depositor is authorized to make, during any month or statement cycle of at least four weeks, more than six transfers by means of a preauthorized or automatic transfer or telephonic (including data transmission) agreement, order or instruction, which transfers are made to another account of the depositor at the same bank, to the bank itself, or to a third party:

*Provided*, That any deposit specified in this paragraph (b)(3) will be deemed to be a *demand deposit* if more than three of the six authorized transfers are authorized to be made by check, draft, debit card or similar order made by the depositor;

*And provided further*, That no deposit specified in this paragraph (3) will be deemed to be a *demand deposit* if the entire beneficial interest of the deposit is held by a depositor identified in paragraph (2) of section 2(a) of Pub. L. 93-100 (12 U.S.C. 1832(a)(2)).<sup>1</sup>

<sup>1</sup>Paragraph (1) of 12 U.S.C. 1832(a) authorizes banks to let certain depositors make withdrawals from interest-bearing deposits by negotiable or transferable instruments for the purpose of making transfers to third parties—*i.e.*, to hold deposits commonly called *NOW accounts*.

(c) The term *interest* means any payment to or for the account of any depositor as compensation for the use of funds constituting a deposit. A bank's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

[51 FR 10808, Mar. 31, 1986, as amended at 53 FR 47523, Nov. 23, 1988]

#### § 329.2 Payment of interest.

No bank shall, directly or indirectly, by any device whatsoever, pay interest on any demand deposit.

#### § 329.3 Exception to prohibition on payment of interest.

Section 329.2 shall not apply to the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C. 371a and 461, or by regulation of the Board of Governors of the Federal Reserve System.

[63 FR 8342, Feb. 19, 1998]

#### § 329.101 Transfers not included within the six transfers allowed for nondemand deposits pursuant to § 329.1(b)(3).

This interpretive rule describes certain transfers that are not included as any of the six transfers allowed pursuant to § 329.1(b)(3).

(a) Transfers from a deposit described in § 329.1(b)(3) that are made to the bank are not deemed to be included within the six transfers permitted for a nondemand deposit by that paragraph (3) when the transfers are made for the

Paragraph (2) of 12 U.S.C. 1832(a) provides: "Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, political, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.