

transfer risk are taken into account in evaluating the adequacy of the capital of banking institutions.

(Pub. L. 98-181, title I [title IX, §904], Nov. 30, 1983, 97 Stat. 1279.)

#### § 3904. Reserves

##### (a) Establishment and maintenance of special reserves

(1) Each appropriate Federal banking agency shall require a banking institution to establish and maintain a special reserve whenever, in the judgment of such appropriate Federal banking agency—

(A) the quality of such banking institution's assets has been impaired by a protracted inability of public or private borrowers in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as—

(i) a failure by such public or private borrowers to make full interest payments on external indebtedness;

(ii) a failure to comply with the terms of any restructured indebtedness; or

(iii) a failure by the foreign country to comply with any International Monetary Fund or other suitable adjustment program; or

(B) no definite prospects exist for the orderly restoration of debt service.

(2) Such reserves shall be charged against current income and shall not be considered as part of capital and surplus or allowances for possible loan losses for regulatory, supervisory, or disclosure purposes.

##### (b) Accommodation of potential losses on foreign loans by United States banks

The appropriate Federal banking agencies shall analyze the results of foreign loan rescheduling negotiations, assess the loan loss risk reflected in rescheduling agreements, and, using the powers set forth in section 3907 of this title (regarding capital adequacy), ensure that the capital and reserve positions of United States banks are adequate to accommodate potential losses on their foreign loans.

##### (c) Regulations and orders of Federal banking agencies

The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this section within one hundred and twenty days after November 30, 1983.

(Pub. L. 98-181, title I [title IX, §905], Nov. 30, 1983, 97 Stat. 1279.)

#### § 3904a. Additional reserve requirements

##### (a) In general

Each appropriate Federal banking agency shall review the exposure to risk of United States banking institutions arising from the medium- and long-term loans made by such institutions that are outstanding to any highly indebted country. Each agency shall provide direction to such institutions regarding additions to general reserves maintained by each banking in-

stitution for potential loan losses and special reserves required by such agency arising from such review.

##### (b) Determination of institutional exposure to risk

In determining the exposure of an institution to risk for purposes of subsection (a) of this section, the appropriate Federal banking agency—

(1) shall determine whether any country exposure that is, and has been for at least 2 years, rated in the category "Other Transfer Risk Problems" or the category "Substandard" by the Interagency Country Exposure Review Committee should be reevaluated;

(2) may exempt, in full or in part, from reserve requirements established pursuant to subsection (a) of this section, any loan—

(A) to a country that enters into a debt reduction, debt service reduction, or financing program with its bank creditors that is supported by the International Bank for Reconstruction and Development or the International Monetary Fund; or

(B) secured, in whole or in part, by appropriate collateral for payment of interest or principal;

(3) take into account any other factors which bear on such exposure and the particular circumstances of the institution; and

(4) shall consider as indicators of risk, where appropriate, the average reserve levels maintained by or required of banking institutions in foreign countries and secondary market prices for such loans.

##### (c) Timing and report

###### (1) Determined by agency

Except as provided in paragraph (3), each appropriate Federal banking agency shall determine the timing of any addition to reserves required by subsection (a) of this section.

###### (2) Report

Each appropriate Federal banking agency shall include in each report required to be made under section 3912(d)<sup>1</sup> of this title after 1989 a report on the actions taken pursuant to this section.

###### (3) Deadline

Each Federal agency required to undertake a review described in subsection (a) of this section shall complete the review not later than December 31, 1990.

##### (d) "Highly indebted country" defined

As used in this section, the term "highly indebted country" means any country designated as a "Highly Indebted Country" in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before December 19, 1989.

(Pub. L. 98-181, title I [title IX, §905A], as added Pub. L. 101-240, title IV, §402(b), Dec. 19, 1989, 103 Stat. 2501.)

#### REFERENCES IN TEXT

Section 3912(d) of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 104-208, div. A, title II, §2224(c), Sept. 30, 1996, 110 Stat. 3009-415.

<sup>1</sup> See References in Text note below.