



CYNTHIA L. BLANKENSHIP
Chairman

R. MICHAEL MENZIES
Chairman-Elect

JAMES D. MACPHEE
Vice Chairman

LARRY W. WINUM
Treasurer

WILLIAM C. ROSACKER
Secretary

TERRY J. JORDE
Immediate Past Chairman

CAMDEN R. FINE
President and CEO

March 2, 2009

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Submitted via email

RE: Docket No. R-1350, Reserve Requirements of Depository Institutions

Dear Ms. Johnson:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to comment on the Board of Governors of the Federal Reserve System (Board) proposal to amend Regulation D, Reserve Requirements of Depository Institutions, to establish limited-purpose accounts at Federal Reserve Banks for the maintenance of excess balances.

Background

The Financial Services Regulatory Relief Act of 2006, Public Law 109-351, granted Federal Reserve Banks the authority to pay interest on required reserves and excess balances commencing October 1, 2011. Section 128 of the Emergency Economic Stabilization Act of 2008, accelerated the effective date of this new authority to October 1, 2008.

On October 9, 2008, the Board published an interim final rule amending Regulation D, Reserve Requirements of Depository Institutions, to implement the

¹ The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing over 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

accelerated payment of interest. The Board has authority to adjust the formula for the rate of interest for excess balances and required reserve balances.

Since the implementation of interest on excess balances, the interest rate paid on excess balances has generally averaged above the federal funds rate. This interest rate differential and the unprecedented volume of excess balances provided through the Federal Reserve's open market operations and liquidity facilities created an incentive for respondents to shift surplus funds from Agent federal funds programs to excess balances with Reserve Banks. This shift has substantially disrupted correspondent-respondent relationships. Although correspondents have the ability to purchase funds directly from their respondents, such an arrangement significantly reduces their regulatory capital leverage ratios.

To address the referenced disruptions, the Board is proposing the establishment of limited-purpose accounts, known as excess balance accounts (EBAs).

EBA Characteristics

Under the proposal, an EBA Participant (a respondent), would establish an EBA at the Reserve Bank where an EBA Agent (a correspondent) maintains its own master account. All EBA balances would be the sole property of EBA Participants and represent a liability of the Reserve Bank to the EBA Participants and not the EBA Agent. EBA Participant funds could not be commingled with the EBA Agent's own funds.

EBA Agent responsibilities would include: 1) depositing and withdrawing EBA Participant excess balances; 2) generally managing the EBA (which may include facilitating the opening of the EBA on behalf of EBA Participants; 3) determining amounts of excess balances to deposit into the EBA; 4) maintaining adequate records reflecting each EBA Participant's excess balances; and 5) calculating the amount of interest earned by each EBA Participant. EBA Participants would be responsible for providing the EBA Agent instructions with respect to the disposition of interest earned and balances.

EBAs would exist for the sole purpose of holding EBA Participants' excess balances, generally on an overnight basis, and not for general payments or other activities. EBA funds would not satisfy required reserve balances or contractual clearing balances for either the EBA Participant or Agent. EBA overdrafts, intra-day or overnight, would not be permitted at any time.

ICBA Position

ICBA fully supports the Board's proposal to authorize the establishment of EBAs. ICBA greatly appreciates the Board's action to address disruptions in correspondent-respondent federal funds relationships. This action would allow

correspondent banks to continue serving over 6,000 of their community bank respondents. The proposed new accounts, consistent with ICBA's request in its comment letter to the Board dated November 21, 2008 and our letter to Chairman Bernanke dated December 5, 2008, would permit bankers' banks and other correspondent banks to deposit overnight, aggregated respondent excess funds with Reserve Banks and pass back the proportional interest to their respondents. Community banks that establish EBAs would be able to earn the rate of interest paid by Reserve Banks on excess balances without disrupting established relationships with bankers' banks and other correspondent institutions.

ICBA's specific comments on several aspects of the proposal are discussed below.

Number of EBAs

According to the proposal's summary, an EBA Participant would authorize one correspondent to serve as its EBA Agent. The actual language of the proposed amendments to the Regulation however, is silent regarding the number of EBA Agents an EBA Participant could maintain. Today, it is common for respondents to have more than one correspondent. In the interest of maintaining a competitive marketplace, ICBA recommends the Board permit an EBA Participant to designate more than one EBA Agent if they so desire.

EBA Agreements

The proposal's summary creates uncertainty regarding whether the EBA Participant or EBA Agent would establish the EBA Agreement. One section of the summary indicates that an EBA Participant must establish an EBA with its Reserve Bank while another section indicates the EBA Agent's role may include facilitating the opening of the EBA on behalf of EBA Participants. The proposed amendments to the Regulation are silent regarding the operational aspects of establishing EBA Agreements at Reserve Banks.

ICBA recommends that the Board's final rule clarify EBA Participant and Agent roles in establishing EBA Agreements. ICBA encourages the Board to authorize EBA Agents to establish and maintain EBA agreements on behalf of their EBA Participants if they so desire. Such authority would facilitate the establishment EBAs for Participants, particularly those who are not members of the Federal Reserve System, and relieve Reserve Banks of additional recordkeeping requirements. This authority, if granted, would complement the roles which correspondents currently perform in maintaining well-documented agreements and records for their Agent federal funds programs which are subject to routine banking agency examination.

EBA Accounting Treatment

Proposed section 204.10(e) (1) provides that EBA balances are the property of the EBA Participant, and represent a liability of the Reserve Bank solely to the Participant. ICBA encourages the Board to clarify in the final rule the correct accounting treatment for EBA Participants to facilitate uniform and accurate accounting practices. For example, ICBA believes that an EBA Participant should classify EBA funds as an asset account held in a “Due From” account.

Continuing Need for EBAs

The proposal’s summary indicates the Board will evaluate the continuing need for EBAs once more normal market functioning is restored. ICBA urges the Board to solicit public comments to assist in ascertaining whether there is a continuing need for EBAs prior to making such a determination.

Conclusion

Again, ICBA appreciates the opportunity to comment on this proposed rule. We strongly urge the Board to expeditiously finalize amendments to Regulation D authorizing the establishment of excess balance accounts. Additionally, ICBA strongly encourages the Board to: 1) permit EBA Participants the flexibility to designate more than one EBA Agent if they so desire; 2) authorize EBA Agents to establish and maintain EBA agreements on behalf of their EBA Participants if they so desire; 3) clarify the accounting treatment for EBA Participants; and 4) solicit public comments to assist the Board in determining whether there is a continuing need for EBAs once more normal market functioning is restored.

If you have any questions or need additional information, please contact the undersigned by email at viveca.ware@icba.org or by telephone at (202) 659-8111. Thank you.

Sincerely,

/s/

Viveca Y. Ware
Senior Vice President
Payments and Technology Policy