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April 30, 2019

State Department  
Harry S Truman Building  
2201 C St NW  
Washington, DC 20520

**Re: Proposal for eligible institutions to assist the State Department**

Dear Sir / Madam:

On January 31 2019, Texico State Bank ("TSB") submitted a Reg H filing to the St. Louis Federal Reserve to enter a new line of business. A program has been created that, if you found it beneficial, would provide an option, for eligible institutions and/or their affiliates to make donations to a 501 (c ) 3 that would forward funds to:

- A. Organizations within countries on a list prepared by the State Department or,
- B. The State Department.

The thrust of this proposal is to see if eligible institutions (banks and credit unions) and/or their affiliates can make donations to countries that could assist your efforts. Everyone recognizes that the State Department could easily say: "Thanks, but no thanks." Even with this program in place, relations could still weaken between other countries, Israel and/or the United States. If, however, the State Department thinks that this program has merit, you are encouraged to:

1. File a comment with the Federal Reserve Board of Governors. Instructions how to file a comment are provided at the bottom of page 1 and the top of page 2 of the enclosed "Advance notice of proposed rulemaking."
2. Ask the Board to:
  - A. Pay the same rate of Interest On Excess Reserves:  
To all eligible institutions and,  
On all balances held at a Reserve Bank.
  - B. Not re-classify any eligible institution as a Pass-Through Investment Entity ("PTIE").
  - C. Permit TBC, other eligible institutions and/or their affiliates, to create a program with the State Department.
3. Explain to the Board how this program benefits the State Department. For clarity, it's best to be direct and specific with your comments to the Board. Leave no room for interpretation.

As outlined in TBC's and TSB's comments to the Board, small, eligible institutions may be best-positioned to work with the State Department to improve relations with all three groups: Israel, other countries and the United States. To submit and view comments, go to:

- <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>
- \_ Scroll down to "Rulemaking proposals" in blue ink
- \_ Scroll down to "Reg D: Reserve Requirements of Depository Institutions [R-1652]"
- \_ Look below "Closing date for comments" 5-13-2019
- \_ Left click "submit" and follow the directions

Sincerely,



Craig Heath, President  
Texico Bancshares Corporation

Enclosures:

- Board's advance notice of proposed rulemaking
- Comments to Board's advance notice of proposed rulemaking

Docked No. R-1652; RIN 7100-AF-40  
Regulation D: Reserve Requirements of Depository Institutions  
Action: Advance notice of proposed rulemaking

## Background

On January 31, 2019, the St. Louis Federal Reserve received a Reg H filing from Texico State Bank ("TSB") one of the smallest, eligible institutions in the country. To block or hinder TSB's Reg H filing, the Board of Governors of the Federal Reserve System ("Board") issued the above-referenced, advance notice of proposed rulemaking ("Rule").

## I Statutory and Regulatory Background

On page 3 of its Rule, the Board states that:

"There is no requirement in the statute that interest be paid to any eligible institution, nor, is there any requirement that the same interest rate or rates be paid to all eligible institutions or on all balances of eligible institutions"

## II Discussion

### A. Recent Developments in Chartering Activity

Near the top of page 6 of its Rule, the Board states that Pass-Through Investment Entities ("PTIE") would be able to "...avoid the costs borne by other eligible institutions, such as the costs of capital requirements and the other elements of federal regulation and supervision..." In the first paragraph on page 14 of its Rule, the Board proposes that an eligible institution could be included in the definition of a PTIE:

"PTIE's could be identified as any eligible institution that holds a very large share of its assets in the form of balances at a Reserve Bank. Alternatively, PTIE's could be identified as any eligible institution that holds a very low level of capital relative to its assets."

S.2155 - Economic Growth, Regulatory Relief, and Consumer Protection Act "(Sec. 402)

The bill requires the appropriate federal banking agencies to exclude, for purposes of calculating a custodial bank's supplementary leverage ratio, funds of a custodial bank that are deposited with a central bank. ("Supplementary leverage ratio" is a capital adequacy measure that refers to the ratio of a banking organization's tier-one capital to its leverage exposure.) The amount of such funds may not exceed the total value of deposits of the custodial bank linked to fiduciary or custodial and safekeeping accounts. "

According to the ABA Banking Journal, on March 29, 2019, "The FDIC today approved a joint agency proposal to exclude central bank deposits from the denominator of the supplementary leverage ratio for banking organizations predominantly engaged in custody banking activities. This proposal narrowly implements a section of the S. 2155 regulatory reform law that was enacted last year."

The Board:

- Proposes to penalize small, eligible institutions by re-defining an eligible institution as a PTIE.
- Recognizes that TSB, as an eligible institution, must bear "...the costs of capital requirements and the other elements of federal regulation and supervision..."
- Proposes that it:
  - Block TSB from receiving any IOER or,
  - Pay to TSB a lower rate for its IOER than it pays larger, eligible institutions.

## II E. Congressional Intent Considerations

On page 13 of its Rule, the Board states: "When Congress amended the Act to authorize Reserve Banks to pay interest on balances of depository institutions, it specifically restricted the receipt of such interest to a limited class of institutions. The Board is concerned that paying IOER to PTIEs would effectively amount to paying IOER to entities (for example, institutional investors that in many instances are not authorized to maintain balances at Reserve Banks) that Congress did not intend to receive it. As such, the payment of IOER in such cases could be viewed as inconsistent with the intent of Congress in providing the Federal Reserve with the authority to pay interest on balances maintained by the institutions specified in the Act." An eligible institution is not a PTIE.

Institutional investors that hold a portion of their funds in IOER at a mega bank might earn 1.88% tonight. The Board proposes to block the investor from earning 1.89% at TSB. The Board states that it's attempting to follow Congressional Intent, yet, Congress did not exclude any eligible institution. The Board should not reclassify any eligible institution as ineligible. Risk free is risk free.

Some eligible institutions have 100 or 1,000 times the capital of TSB and they have the ability to pay a higher rate to customers because they have multiple income streams. The Board is protecting large, eligible institutions from small ones. The Board requires an eligible institution to bear the costs of capital and the regulatory burden and then it proposes to limit eligible institutions' benefits by reclassifying them as a PTIE.

Some people prefer to work with small, eligible institutions. Furthermore, IOER balances pose no risk to the FDIC insurance fund. The Board is proposing to block or restrict an eligible institution from receiving the full, IOER benefits, one of safest investments on the planet, merely because the eligible institution is small; while paying a higher IOER to larger institutions. The Board is proposing that small, eligible institutions subsidize larger ones.

**Congressional intent**

Few people would run for a Congressional office to:

- A. Ensure that a smaller, eligible institution either:  
  - Receive a lower IOER rate or,
  - Be blocked from receiving any IOER.
- B. Ensure that larger, eligible institutions receive a higher IOER than smaller ones.
- C. Require customers to move funds from a small bank or credit union to a larger one to receive a higher rate on their, risk-free, overnight funds stored at the same Federal Reserve Bank.
- D. Require a customer to open an account in another city / town, at a larger bank or credit union to receive a higher, overnight rate, on their funds, stored at the same Federal Reserve Bank.

**Public policy**

For legitimate reasons, the United States has reduced support to some countries. This withdraw of funding to other countries might have strained relationships that had been cultivated by the State Department.

In an effort to assist the State Department, the Board could ask the State Department if it would like eligible institutions, or their affiliates, to make donations, most likely through a 501 (c) 3, to (a) organizations in other countries or (b) to the State Department. If the answer to that question is "yes," ask the State Department to prepare a list of counties that it would like to receive donations ("List"). Suppose there's nine countries on the List The State Department might:

- a. Want to limit an eligible institution's donations to any one country to a calendar year. In this case, an eligible institution would make donations to a different country the following year. The State Department could determine how many years should pass before an eligible institution makes a donation to a repeat country or,
- b. Permit an eligible institution to continue to make donations to the same country year after year.

**1<sup>st</sup> Option**

Eligible institutions, and/or their affiliates could make donations that are earmarked for specific improvements in a country on the List.

- i. The Board could match those donations. If an eligible institution, or its affiliates, are willing to invest 5 bp into a 501 (c) 3 that spends the funds for specific improvements in one of the countries on the List, the Board could match that donation.

Eligible institution donates to a 501 (c) 3:	5 bp
Board matches the donation a 501 (c) 3:	5 bp
Total bp donated to the 501 (c) 3:	10 bp

Understandably, audit procedures would need to be put into place.

- ii. Or, the Board could match an eligible institution's, or its affiliates, donations based upon the State Department's ranking of importance in its List.

**A. Countries where a donation could help the United States**

Green level	Board matches \$ .50 for \$1	Country A	Country B	Country C
Yellow level	Board matches \$ .75 for each \$1	Country D	Country E	Country F

Red level	Board matches \$ 1.00 for each \$1	Country G	Country H	Country I
B. Countries where a donation could help Israel and the United States				
Green level	Board matches \$ .50 for each \$1	Country J	Country K	Country L
Yellow level	Board matches \$ .75 for each \$1	Country M	Country N	Country O
Red level	Board matches \$ 1.00 for each \$1	Country P	Country Q	Country R
C. Countries where a donation from an eligible institution, or its affiliates could help Israel				
Green level	Board matches \$ .50 for each \$1	Country S	Country T	Country U
Yellow level	Board matches \$ .75 for each \$1	Country V	Country W	Country X
Red level	Board matches \$ 1.00 for each \$1	Country Y	Country Z	Country AA

2<sup>nd</sup> Option

Eligible institutions, and/or their affiliates could make donations to a 501 (c ) 3 designated for specific improvements in Countries A, B or C on the List with no matching of funds from the Board.

The Board could ask the State Department whether or not this program could benefit the interests of Israel and/or the United States. The State Department could add or subtract countries on the List and post the countries on its web site. The State Department could provide examples of safe harbor donations; such as:

Crutches, prosthetics or wheelchairs for:	Adults / children w/ without disabilities
Construction, add-on rooms, remodeling for:	Adults / children w/ without disabilities
Beds for:	Orphans / Widows / Hospitals Adults / children w/ without disabilities
Food for:	Orphans / Widows / Hospitals Adults / children w / without disabilities
Clothing for:	Orphans / Widows / Hospitals Adults / children w / without disabilities
Water wells:	Orphans / Widows / Hospitals Adults / children w / without disabilities
Vaccinations:	Orphans / Widows / Hospitals Adults / children w / without disabilities
The State Department could add additional, safe harbor donations:        -        -        -	

Small, eligible institutions; such as, one-shareholder banks and holding companies might find it easier to support all three categories: A, B & C. Very small, eligible institutions, particularly bank holding companies and their affiliates, maybe even more so than credit unions, might find it easier to make donations to countries on the List that benefit only group C; that is, Israel. Larger, eligible institutions, or their affiliates, might find it difficult to explain to their shareholders (banks) or members (credit unions) that they made a donation to a country that has strained relations with Israel and/or the United States. However, a very small, single-shareholder holding company, or its affiliates, could make the donation. Larger, eligible institutions may find it easier to support counties in groups A and/or B on the List. Even if the State Department thinks that this program has merit, the Board would need to:

- See a public benefit
- Be willing to adjust its policies to achieve its monetary targets

3<sup>rd</sup> Option

Eligible institutions, and/or their affiliates could make donations to a 501 (c ) 3 that would forward funds to the State Department.

If the Board and the State Departments see a value in this, or a similar, program, the Board should:

- Pay the same IOER on all reserves and to each eligible institution.
- Pay IOER on all balances that an eligible institution holds at a Reserve bank.

The Board should not:

- Reclassify any eligible institution as a PTIE.
- Exclude, or pay, a lower IOER to an eligible institution because of:
  - Its capital or,
  - The ratio of its assets in the form of balances at a Reserve Bank.

Sincerely,



Craig Heath, President  
Texico Bancshares Corporation

cc: State Department