

June 29, 2020

Via Electronic Mail

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Regulation D: Reserve Requirements of Depository Institutions (FRB Docket No. R-1715 and RIN 7100-AF 89).

Dear Ms. Misback:

The American Bankers Association,¹ (ABA) appreciates the opportunity to comment on the interim final rule (IFR) issued by the Board of Governors of the Federal Reserve System (“Federal Reserve”) to amend Regulation D. The IFR removes the limits on transfers and withdrawals that savings account holders may make each month. The amendments are intended to allow bank customers more convenient access to their funds and to simplify account administration for depository institutions.

We support the Federal Reserve’s removal of the six transfer limit on savings deposits, which allows banks to better meet their customers’ need for convenient access to their funds. We are concerned, however, about the potential unintended consequences of the significant blurring of the distinctions between savings deposit accounts and transaction accounts. Changing Regulation D, by consolidating definitions, without prior modification of the rules that rely on the granularity of the definitions, has caused confusion and likely creates unintended policy changes.

As a threshold matter, we encourage the Federal Reserve to identify and review the rules and regulations and reporting that look to Regulation D, aligning and updating them as needed. As part of its review, we would support consideration of whether or not Regulation D is itself necessary or in need of modernization. Until the Federal Reserve has finalized any changes to relevant regulations, we urge it to maintain a distinction between savings deposits and

¹The American Bankers Association is the voice of the nation’s \$20.3 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$15.8 trillion in deposits and extend nearly \$11 trillion in loans.

transaction accounts. Additionally, we suggest the Federal Reserve review the necessity of FR 2900, work with the Federal Financial Institutions Examination Council (FFIEC) to align the Call Report, and revisit the FR-Y9 and other reporting as needed.

Establish a definition of “savings deposit” for regulatory and reporting purposes

Regulation D defines the institutions and deposits that were subject to reserve requirements, and, prior to the IFR, differentiated among “transaction accounts,” “savings deposits” and “time deposits,” with the reserve requirement based on the ease with which the depositor could make transfers or withdrawals from the account.

The Federal Reserve’s move to an ample reserves approach to implementing monetary policy, and subsequent removal of reserve requirements, has diminished the role of Regulation D for monetary policy purposes.² For bank regulatory purposes, however, Regulation D is the source of key definitions that are referenced by a variety of other laws, regulations and reporting instructions, including Regulation CC (Expedited Funds Availability Act) and required regulatory reports (e.g. Call reports and FR Y9), and the liquidity coverage ratio (LCR) (FR 2502a), among others.

Under Regulation D’s previous structure, the six transfer limit and the banks’ right to require seven-day notice prior to the withdrawal of funds were the two defining characteristics of a “savings deposit.” After implementation of the IFR, the right to require seven days’ notice is the only characteristic that defines a savings deposit, which is not sufficient to differentiate savings deposits from other types of deposits, resulting in the arguably effective removal of the “savings deposit” category from the regulation. This creates confusion with respect to how certain deposits are treated under the Bank Holding Company Act, and what deposits are covered under consumer compliance regulations such as Regulation CC.³ Moreover, we are concerned that the lack of a uniform regulatory baseline of what constitutes a “savings deposit” will lead to confusion for users of bank data, including investors and supervisors.

ABA appreciates the flexibility the IFR gives banks with respect to deciding whether to maintain or remove the six transfer limit, and continue offering savings deposits, and by extension what product mix best serves their customers.

In order to maintain this the flexibility and mitigate the confusion and unintended consequences that surround the merging of “savings deposit” accounts with “transaction accounts,” we suggest the following language for the definition of “savings deposit” in 204.2(d)(2):

A “savings deposit” is a deposit or account, such as an account commonly known as a passbook savings account, a statement savings account, or as a money market deposit account (MMDA), that otherwise meets the requirements of §204.2(d)(1) and

² <https://www.federalreserve.gov/monetarypolicy/reservereq.htm>

³ For example if a financial institution continues to impose limits (of any amount) is the account still a savings deposit for Reg. D purposes? If banks continue to impose limits, so not a (d)(2) savings deposit, are they exposed to Reg. CC funds availability rules?

(1) From which, under the terms of the deposit contract or by practice of the depository institution, the depositor may be permitted or authorized to make transfers and withdrawals to another account (including a transaction account) of the depositor at the same institution or to a third party, regardless of the number of such transfers and withdrawals or the manner in which such transfers and withdrawals are made.

(2) Is reported by the bank or bank holding company as such for regulatory reporting and compliance purposes; and

(3) Is not a NOW account as defined under 12 U.S.C. §1832

In addition, we suggest removing the reference to “savings deposits” in 204.2(e)(2) in the definition of “transaction account.”

Work with the FFIEC to modify the Call Report

Clarity is needed with respect to the Call Report, which relies heavily on the definitions contained within Regulation D. Moreover, Schedule RC_E (Deposits) essentially eliminating savings deposits for reporting purposes. For example, the instructions for memo items 6 and 7 defining a transaction account as, “Accounts that otherwise meet the definition of savings deposits but that authorize or permit the depositor to exceed the transfer and withdrawal rules for a savings deposit⁴” We urge the Federal Reserve to work with the FFIEC Task Force on Reports to make these changes permanent to ensure that the Call Reports align with the policy and intent of the IFR. Additionally, we urge the Federal Reserve to update the FR Y-9, and other reporting such as the 2052a, in a timely manner.

Review the necessity of FR 2900

The FR 2900, Report of Transaction Accounts, Other Deposits and Vault Cash, was created over 30 years ago in response to legislation that required banks to hold required reserves.⁵ The stated purpose of the report is: “...for calculation of required reserves and for construction of the monetary and reserves aggregates, used by the Board and the Federal Open Market Committee in the formulation of monetary policy.” Given the move away from required reserves the purpose of the report is unclear. Considering banks’ general regulatory reporting burden, we urge the Federal Reserve to revise the report to accommodate the policy change or merge the data collection with another report, such as the Call Report.

Similar to the issue described above with respect to Call Reports, the instructions seem to drive banks to an outcome, where the IFR intends flexibility. We appreciate that the Federal Reserve has temporarily changed the instructions to align with the IFR, to avoid confusion and ensure the intended policy outcome is not undermined by required reporting, we urge the Federal Reserve to make these changes permanent.

⁴ Instructions for Preparation of Consolidated Reports of Condition and Income (RC-E-18) https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_202003_i.pdf

⁵ the Monetary Control Act of 1980 (Public Law 96-221) and the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. No. 97-320; 96 Stat. 1469).

Ensure there is a sufficient transition period, should the Fed decide to re-establish required reserves as a monetary policy tool.

ABA appreciates the Federal Reserve's clarification that the IFR represent a permanent change. However, in the event the Federal Reserve decides that a return to required reserves is appropriate, we note that a sufficient transition period, of at least 5 years, would be necessary to accommodate the systems and other changes that would be required to come into compliance with the return to a required reserves regime.

We appreciate the Federal Reserve's efforts to ease outdated consumer burdens. If you have any questions about these comments, please contact the undersigned at (202) 663-5182 or email: atouhey@aba.com or, for consumer compliance questions, Nessa Feddis (202) 663-5433 or Nfeddis@aba.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Alison Touhey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Alison Touhey