



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 Institutions¹

Ladies and Gentlemen:

The Bank Policy Institute² and the Consumer Bankers Association,³ (together, the "Associations") appreciate the opportunity to comment on the interim final rule issued by the Board of Governors of the Federal Reserve System ("Federal Reserve") amending Regulation D to delete from the definition of "savings deposit" the numeric limits on transfers and withdrawals that may be made each month (the "IFR").⁴ We support the Federal Reserve's decision to make changes to Regulation D that reflect the agency's implementation of monetary policy in an ample reserves regime. We also commend the Federal Reserve for moving quickly to effect this change in the form of an interim final rule to permit depositors to more easily access their funds by remote means due to the COVID-19 pandemic, which has caused banks to close or limit in-person access to many of their branches.

¹ Regulation D: Reserve Requirements of Depository Institutions (FRB Docket No. R-1715 and RIN 7100-AF 89).

² The Bank Policy Institute is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation's small business loans, and are an engine for financial innovation and economic growth.

³ The Consumer Bankers Association is the only national trade association focused exclusively on retail banking. Established in 1919, the association is now a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

⁴ 85 Fed. Reg. 23,445 (Apr 28, 2020).

Shortly after issuing the IFR, the Federal Reserve clarified through frequently asked questions the permanence of the amendments and their impact on the requirements in Regulation CC.⁵ However, as the change to the definition of “savings deposit” has implications for other banking statutes, regulations, and reporting requirements, additional guidance is necessary. The Associations’ comments and recommendations focus primarily on these needed clarifications, which include reporting requirements, impact to the Liquidity Coverage Ratio rule (“LCR rule”), and treatment as demand deposits. In addition, the letter addresses the need for ample compliance time in the event of future changes to the regulation.

I. The Federal Banking Agencies Should Clarify Reporting Requirements Impacted by the Amendments to the Regulation.

In its FAQs on savings deposits, the Federal Reserve notes that the IFR does not require depository institutions to suspend enforcement of the six convenient transfer limit on accounts classified as “savings deposits,” rather they are merely permitted to do so.⁶ Further, the FAQs provide that depository institutions may choose to continue to report these accounts as “savings deposits” or may report them as “transaction accounts” on the FR 2900 reporting form if they suspend enforcement of the six-transfer limit.⁷ The Consolidated Reports of Condition and Income (“Call Report”) have also been revised to provide the same option. This optionality has implications for a bank’s reporting obligations that the Federal Reserve and the other federal banking agencies should address.

A. The Federal Reserve Should Review Continued Need for the FR 2900 Reporting Form.

The Federal Reserve has revised the instructions for the FR 2900 reporting form to conform to the amendments to Regulation D by eliminating any reference to a numeric transfer or withdrawal limit from the definition of a savings deposit, but the agency noted that the revisions do not require changes to the forms themselves.⁸ The revised instructions and the preamble to the IFR both state that a depository institution may continue to report accounts as “savings deposits” on the FR 2900 reporting form after it suspends enforcement of the six-transfer limit on those accounts. Depository institutions may also choose to report these accounts as “transaction accounts.”⁹

The stated purpose of the FR 2900 reporting form is “for the calculation of required reserves, for the construction of the monetary aggregates, and to meet the requirement that the exemption amount be indexed annually as specified by the Federal Reserve Act.”¹⁰ The construction of the monetary aggregates is in part dependent on institutions reporting their transaction accounts and savings deposits.¹¹ As a result of the Federal Reserve’s action to eliminate reserve requirements on transaction accounts and provide banks the option to report savings deposits as either “savings deposits” or “transaction accounts” after they suspend enforcement of the six-transfer limit, the utility of the reporting form is now limited. The Associations encourage the Federal Reserve to

⁵ See Board of Directors of the Federal Reserve System, Savings Deposits Frequently Asked Questions, FAQ 13, *available at* <https://www.federalreserve.gov/supervisionreg/savings-deposits-frequently-asked-questions.htm>.

⁶ Board of Directors of the Federal Reserve System, Savings Deposits Frequently Asked Questions, FAQ 4, *available at* <https://www.federalreserve.gov/supervisionreg/savings-deposits-frequently-asked-questions.htm>.

⁷ Board of Directors of the Federal Reserve System, Savings Deposits Frequently Asked Questions, FAQs 5 and 6, *available at* <https://www.federalreserve.gov/supervisionreg/savings-deposits-frequently-asked-questions.htm>.

⁸ 85 Fed. Reg. 25,436, 25,437 (May 1, 2020).

⁹ 85 Fed. Reg. at 23,446 and Instructions for Preparation of Report of Transaction Accounts, Other Deposits, and Vault Cash, *available at* <https://www.federalreserve.gov/apps/reportforms/reportdetail.aspx?sOoYJ+5BzDbll7g2+r203S0gg6NcUlj6>.

¹⁰ See Instructions for Preparation of Report of Transaction Accounts, Other Deposits, and Vault Cash, *available at* <https://www.federalreserve.gov/apps/reportforms/reportdetail.aspx?sOoYJ+5BzDbll7g2+r203S0gg6NcUlj6>.

¹¹ See Board of Governors of the Federal Reserve System, “What is the money supply? Is it important,” *available at* https://www.federalreserve.gov/faqs/money_12845.htm.

consider whether the FR 2900 may be streamlined or eliminated. The Associations recommend the Federal Reserve review the FR 2900 reporting form to determine whether institutions need to report the various components of transaction accounts or whether the aggregate amount is sufficient. In addition, we recommend the Federal Reserve assess whether the information collection is still necessary to perform the remaining functions or whether the data may be obtained from another report. For example, the Board's description of its H.6 statistical release provides that for firms that do not submit the FR 2900, the data is estimated using data reported on the Call Report.¹² Eliminating or streamlining the FR 2900 reporting form would significantly reduce burden for firms that are required to submit the requested data frequently. If the Federal Reserve opts to retain the FR 2900 reporting form, the Associations recommend that the agency provide clear instructions on how an institution should report savings deposits after it suspends enforcement of the six-transfer limit.

B. The Federal Reserve, Through the FFIEC, Should Clarify the Call Report Instructions.

The Federal banking agencies have requested and received emergency approval from the U.S. Office of Management and Budget to revise the instructions for the Call Report to conform to the amendments to Regulation D.¹³ Similar to the revised instructions for the FR 2900, the revised Call Report instructions provide that an institution may continue to report savings deposits as savings accounts after it suspends enforcement of the six-transfer limit, or it may choose to report those deposits as transaction accounts if certain characteristics are present. Through further revision to the Call Report instructions, the FFIEC should provide banks with clear guidance on how to report savings deposits after the bank suspends enforcement of the six-transfer limit. The agencies should ensure that revised reporting instructions for the Call Report are consistent with any clarifying instructions issued regarding reporting savings deposits on the FR 2900.

II. The Federal Reserve and the Other Federal Banking Agencies Should Confirm Treatment of Savings Deposits as Stable Retail Deposits Under the Liquidity Coverage Ratio Rule.

The LCR rule defines a "stable retail deposit" in part as "a retail deposit that is entirely covered by deposit insurance and is held by the depositor in a transactional account."¹⁴ Stable retail deposits receive the most favorable outflow rate under the rule due to the lower likelihood that a customer will move these deposits to another institution during a liquidity event.¹⁵ While the LCR rule does not include a definition of "transactional account," the FR 2052a Liquidity Monitoring Report defines the term by reference to the definition of "transaction account" in Regulation D.¹⁶ The amendments to Regulation D now include savings accounts described in section 204.2(d)(2) as a subset of "transaction account."¹⁷ The Associations acknowledge that this rulemaking is not directly related to the LCR rule. However, because of the impact of this amendment to the LCR rule, the Associations respectfully request that the

¹² Board of Governors of the Federal Reserve System, "Performance Evaluation of Statistical Release H.6: Money Stock Measures," dated December 2015, *available at* <https://www.federalreserve.gov/releases/h6/perfeval2015.htm#>.

¹³ Federal Financial Institutions Examination Council, Revisions to the Consolidated Reports of Condition and Income (Call Report) and the FFIEC 101 Report, FIL-60-2020, dated June 12, 2020.

¹⁴ 12 CFR 249.3.

¹⁵ 79 Fed. Reg. 61440, 61479 (Oct. 10, 2014).

¹⁶ While the FR 2052a is not intended to provide guidance on treatment of accounts or transactions under the LCR rule, it does relate to the LCR rule in that data collected is used to monitor compliance and it states that any terms not defined in the reporting form's instructions should have the meaning set forth in the LCR rule.

¹⁷ 12 CFR 204.2(e)(2).

Federal Reserve and the other Federal banking agencies confirm the Associations' understanding that savings deposits may be treated as stable retail deposits under the LCR rule.¹⁸

III. The Final Rule Should Codify Treatment of Savings Deposits as Demand Deposits in Certain Circumstances

As a result of the amendments to Regulation D, "savings deposits" may be "demand deposits" if certain criteria are met. Although the text of Regulation D continues to exempt a "savings deposit" from the definition of "demand deposit,"¹⁹ the revised instructions for the FR 2900 and a presentation given by Federal Reserve Staff during an "Ask the Fed" session provide that if an institution suspends the six-transfer limit and does not retain the right to require advance written notice of withdrawal, the account may be reported as either a savings deposit or a demand deposit.²⁰ In addition, the definition of "demand deposit" includes deposits that are "payable on demand."²¹ Without restrictions on withdrawals or transfers, savings deposits would be payable on demand and thus would be demand deposits. This may have unintended consequences for the definition of "bank" in section 2(c) of the Bank Holding Company Act ("BHC Act").²²

The Associations recommend that the final rule codify the guidance in the FR 2900 instructions and Ask the Fed presentation on when a savings deposit is a demand deposit. In addition, the final rule should codify all classifications of savings deposits based on characteristics of the account. Specifically, the final rule should provide that a savings deposit for which a bank has suspended enforcement of the six-transfer limit is: (i) a demand deposit if the institution does not retain the reservation of right to request advanced written notice of withdrawal; (ii) a NOW account or savings deposit, at the discretion of the institution, if the institution retains the reservation of right to request advanced written notice of withdrawal and the depositor is eligible to hold a NOW account; or (iii) a savings deposit if the institution retains the reservation of right to request advanced written notice of withdrawal and the depositor is ineligible to hold a NOW account.

In addition, the amendment to the definition of savings deposit may result in an expansion of the availability of accounts that act as NOW accounts, such that an institution may offer to a corporation an account that is nominally a savings deposit but functionally a transaction account. The Federal Reserve should confirm that the amendments to Regulation D do not expand the universe of depositors eligible to hold NOW accounts and that corporations will continue to be prohibited from holding these accounts.

IV. The Federal Reserve Should Allow Depository Institutions Time to Make Systems Changes if the Agency Reimposes Reserve Requirements.

In its FAQs issued along with the announcement of the elimination of reserve requirements, the Federal Reserve has stated that it has no plans to re-impose reserve requirements, but that the agency may adjust reserve

¹⁸ An institution may choose not to treat savings deposits as stable retail deposits based on its business needs or judgment.

¹⁹ 12 CFR 204.2(b)(3)(i).

²⁰ Instructions for Preparation of Report of Transaction Accounts, Other Deposits, and Vault Cash, p. CB-12, *available at* <https://www.federalreserve.gov/apps/reportforms/reportdetail.aspx?sOoYJ+5BzDbll7g2+r203S0gg6NcUlj6>; Federal Reserve System, Ask the Fed, "Deletion of the Six Convenient Transfer Limit in Regulation D and Reporting Changes to the FR 2900 Series," dated May 27, 2020, *available at* <https://bsr.stlouisfed.org/askthefed/Home/DeliverFile/1588>.

²¹ See 12 CFR 204.2(b)(1).

²² 12 U.S.C. § 1841(c).

requirements in the future if conditions warrant.²³ Similarly, the Federal Reserve has stated that it does not have plans to re-impose transfer limits under Regulation D, but may make adjustments to the definition of savings deposits in the future if conditions warrant.²⁴ Depository institutions may make structural changes to their deposit programs and corresponding changes to reporting systems as a result of this amendment. If, in the future, the Federal Reserve re-imposes reserve requirements or amends the definition of savings deposits, banks will have to undo those systems changes. In taking any future action, the Federal Reserve should ensure that implementation timelines are sufficient to permit banks to make the systems changes necessary to come into compliance with revised requirements.

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The Associations appreciate the opportunity to comment on the proposal. If you have any questions, please contact the undersigned.

Respectfully submitted,



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²³ Reserves Central—Reserve Account Administration Application Frequently Asked Questions, *available at* <https://www.frbservices.org/resources/central-bank/faq/reserve-account-admin-app.html>.

²⁴ Board of Directors of the Federal Reserve System, Savings Deposits Frequently Asked Questions, *available at* <https://www.federalreserve.gov/supervisionreg/savings-deposits-frequently-asked-questions.htm>.