

Cooperative Credit Union Association

Creating Cooperative Power

June 29, 2020

Ms. Ann E. Misback
Secretary
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Docket Number R-1715; RIN 7100- AF

BY ELECTRONIC DELIVERY ONLY: regs.comments@federalreserve.gov

Dear Secretary Misback:

On behalf of the member credit unions of the Cooperative Credit Union Association, Inc. (“Association”), please accept this letter relative to the Federal Reserve Board’s (“Board”) request for comments on its interim final rule (“Rule”) relative to Regulation D, under the Depository Institutions Deregulation and Monetary Control Act (“Monetary Control Act”), which appeared in the Federal Register on April 28, 2020. The Association is the state trade association representing credit unions located in the states of Delaware, Massachusetts, New Hampshire, and Rhode Island, serving approximately 200 credit unions which further serve over 3.6 million consumer members.

The Board’s Rule allows depository institutions to suspend the six transfer per month limit on savings accounts under Regulation D. To facilitate the development of this comment letter, the Association solicited members’ views through a survey regarding the proposal.

Overview

The Association commends the Board for proceeding to suspend the Regulation D limit of six transfers per month on savings accounts and supports the Rule. Member credit unions agree that the distinctions between transaction accounts, such as share drafts which have been subject to Regulation D reserves, and savings accounts, which have not been subject to such reserves, have outlived their utility for monetary policy purposes.¹ This is particularly the case in light of the Board’s decision to implement monetary policy through an ample reserves approach which does not necessitate imposing reserve requirements on financial institutions. Moreover, the practical

¹ Due to today’s banking technology and the multiple ways in which members manage their accounts, survey respondents noted that the six transaction per month limit is unnecessary and a burden to members.

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impact of the limit on savings accounts has been confusing and irksome to consumers², as well as burdensome for credit unions, regulators, and others to implement and supervise.

Due to fears of fraud, some credit union members use their savings accounts as an account that holds funds that are not needed at the time in a checking account but will be needed in the near future. As such, they transfer regularly from the savings to the checking to keep the checking at the bare minimum amounts needed to cover checks/debit transactions. Furthermore, as electronic banking has become popular, credit unions believe that the Rule should have been finalized and permanent earlier. The credit union experience is that many members do not keep track of the number of transfers from their accounts. Consumer members simply seek full access to their funds regardless of the access channel used.

The Board's Rule will enable accountholders to better manage their funds and reduce compliance costs to financial institutions that have been associated with monitoring account transactions and enforcing the admittedly arbitrary six-per-month transfer limit.³ This change, arriving at a time of unprecedented, declared states of emergency, could not be more timely for maximum beneficial impact to consumers.

The Association also notes that such action will generally relieve credit unions and others of the burden of educating members at account opening, as well as implementing a federal government policy, that has been difficult to explain and justify.⁴ Many credit unions observed that the Rule

² The most direct and immediate member benefits noted by survey respondents are the elimination of consumer member worry about transfer limitations and increased access to funds. One survey respondent observed that younger members, in particular, will benefit as they seek the simplest, non-contact payment methods. Another survey respondent reported that a number of members exceeded the original limit by 60 transactions in one month and now these prohibitions will be eliminated. Some noted that as transactions were not allowed, members were forced to contact the credit union by telephone or find time to travel to a branch office in person to complete their banking. Finally, others noted that the requirement is a massive headache for consumer members, who became angry because they do not understand the concept. With the Rule, items that would have been returned unposted due to the limit will now clear without issue. Finally, consumer members will be able to use their savings accounts without limitations and not be forced to open a checking account that ultimately is not going to be used.

³ Survey respondents have enforced the monthly limit by disabling the ability to perform the transfer, using warnings to members who exceeded the limit, assessing fees for excessive transfers or withdrawals, and in some cases, closing the affected savings account. Others noted that due to regulatory examination directives, items presented were returned. One survey respondent reported that the credit union would provide up to 3 notices of excessive transactions in a 12-month rolling period with the third causing a conversion to an electronic transaction account.

⁴ Regulatory relief noted by survey respondents for credit unions include less tracking for reporting purposes, reduced exception processing and less monitoring of member transactions.

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will free up time for both compliance and operations staff as the monthly monitoring of excess transactions and associated member outreach for correction would be eliminated.

Moving forward, some Association members have already amended their account agreements, or plan to do so, to eliminate a contractual obligation to enforce the six-transfer limit on its savings deposit accounts.⁵ Others are waiting until the Rule becomes permanent. These efforts, once final, will further assist in promoting member clarity.

One survey respondent did, however, note a concern relative to the potential impact of the movement of funds into money market accounts prompted by the Rule. Such accounts have generally evolved into high yield checking accounts. The potential volatility in these balances created by the movement of funds is unclear going forward. Another credit union noted that they may continue to limit the number of withdrawals on money market accounts in a month and not allow them to be used for debit/ATM transactions.

Issues for Consideration to Promote Clarify

The Rule is straightforward and allows financial institutions to decide for themselves whether they want to retain transfer limits on saving accounts and how to address related issues, including whether to assess fees for excessive transfers. This is a flexible approach, which the Association strongly supports and believes will allow institutions to determine how best to manage operational decisions in maintaining savings and transaction accounts.

A few issues that the Association respectfully requests the Board to clarify follow, whether in the Rule, in Regulation D staff interpretations, and/or in the Board's "Small Entity Compliance Guidance On Regulation D," should it be updated to reflect the Board's recent changes:

- Making the Regulation D interim final rule change permanent;
- Including in the Regulation D official staff interpretation its response relative to no impact of Regulation CC, Expedited Funds Availability Act, on saving accounts;
- Clarifying access to the discount window; and
- Addressing additional reporting issues.

Permanent Interim Final Rule

The Association recognizes the scope of the Board's authority under Section 19(b)(2) of the Monetary Control Act⁶ regarding the regulation of reserve requirements and related issues. The

⁵ This cost, for a credit union serving over 800,000 members, is expected to be material and has been estimated to approximate \$50,000. Another survey respondent noted that the impact has been relatively minimal to date. Essentially, it entailed the time to make the requisite programming changes to their core system, estimated at less than 2 hours. There is an initial cost to communicate the changes to all members; however, it is expected that over the long-term, the credit union will save in the high five figures from reduced staff time for tracking, reporting, expenses for written communications of violations, fee waivers, and lost accounts.

⁶12 U.S.C. 461(b)(2).

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Association believes that it is more helpful to credit unions and other interested parties that the Board be direct and clear regarding the durability of the Rule by expressly declaring its permanence within the rule itself, rather than in Frequently Asked Questions, to incorporate and reflect the Board's intent.⁷

It is understood that future Boards could return to a reserves policy approach to accomplish monetary policy objectives and that any Board may not forestall or undermine the authority of any subsequent Board. However, stakeholders seek to know with increased certainty, beyond that which has been indicated to date, that the Rule will be in place well into the future. This clarification is important to serve member accountholders, to respond to regulators, as well as to manage operational issues associated with share and/or deposit accounts.

No Impact on Regulation CC

Several credit unions have expressed concern that additional requirements could be triggered by the Regulation D changes under Regulation CC, the *Expedited Funds Availability Act*. The Association believes that this issue has been addressed in the Board's "Savings Deposits Frequently Asked Questions," under Question 13, which indicates that no Regulation CC requirements will ensue as a result of Regulation D changes. To ensure clarity and further the avoidance of doubt, the Board can either incorporate this information into Regulation D or into official staff interpretations.⁸

Discount Window Clarification

The Association does not believe that it is the intent of the Board to alter access to the Federal Reserve's discount window as a result of the Regulation D changes. This premise is further supported by the Board's earlier actions to reduce reserve requirements to zero. In light of current economic uncertainties, and if this assumption is correct, then the Association urges the Board to address this issue. The Monetary Control Act provides that any depository institution that holds transaction accounts or non-personal time deposits is entitled to borrow from the discount window. In supplementary information or other readily accessible guidance, a clarification that the regulatory reporting of accounts as savings accounts would not affect an institution's eligibility to access borrowings from the discount window is welcomed.

Reporting Requirements

While the Regulation D changes are laudatory, the approach to regulatory reporting is confusing at best. This is further complicated as savings accounts may be reported as savings or transaction accounts. The Association questions the usefulness of this approach as it will result in inconsistent applications amongst financial institutions. The Board is applauded for its efforts to minimize the impact of the Regulation D changes and to afford considerable flexibility to

⁷ The overwhelming majority of survey respondents, 95%, support making the Regulation D changes permanent.

⁸ One survey respondent noted the need for further guidance and clarification between transaction account and non-transaction accounts as Regulation CC provides different availability requirements for each type.

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institutions. Credit unions encourage the Board and all federal financial institution regulators to consider whether the appropriate reporting is under one category of “deposit accounts.”

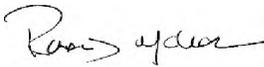
Conclusion

The Association salutes the Board for moving forward to update and improve Regulation D by suspending limits on savings account transfers. This important step alone provides options for accountholders and financial institutions, including credit unions, in managing these accounts which members have requested of their credit unions for decades. The Association firmly believes that efforts to make the Rule permanent will yield easier access to funds in savings accounts and therefore promote consumer savings, build wealth, and ultimately access to capital. Credit unions seek every opportunity and tool to encourage members to save funds for the future.

This comment letter presents a few issues for the Board to consider and clarify. Such clarifications will serve to increase the understanding, benefits, and operation of the Rule for all stakeholders consistent with the Board’s objectives in issuing the Rule.

Thank you for the opportunity to share the Association’s member’s views and recommendations on the Rule. If you have any questions about the recommendations set forth in this comment letter or require further information, then please do not hesitate to contact me.

Sincerely,



Ronald McLean
President/CEO
Cooperative Credit Union Association, Inc.

RM/mac/kb