19 West 24th Street, 9th Floor
New York, NY 10010
www.wise.com

July 12, 2021

Submitted Via Email:
Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
regs.comments@federalreserve.gov

Re: Docket No. OP-1747: Proposed Guidelines for Evaluating Account and Services Requests

Dear Ms. Misback:

Wise (formerly TransferWise) appreciates the opportunity to submit comments to the Board of Governors of the Federal Reserve System (**Federal Reserve**) in response to its Proposed Guidelines for Evaluating Account and Services Requests (the **Proposal**).

Wise applauds the Federal Reserve for seeking to adopt guidelines to be used by the Federal Reserve Banks (**Reserve Banks**) in evaluating requests for master accounts and/or access to Reserve Bank services. We believe the Proposal will help bring transparency, ensure clarity and consistency, better protect the financial system and end users, and be responsive to rapidly evolving technology-driven trends in financial services. Additionally, it will support responsible financial innovation and inclusion, which will ultimately benefit end users.

Background

Wise is a global payments company[1] that is building the best way to move money around the world. Ten million people and businesses use Wise, which processes over $7 billion in cross-border transactions every month, saving customers over $1 billion a year. Wise launched in the United Kingdom in 2011 under its original name TransferWise, and as of last week, is traded on the London Stock Exchange under the ticker symbol "WISE PLC."

In the United States, Wise is a licensed money transmitter in 48 states[2] and is also appropriately licensed and/or regulated in every country where it operates. It satisfies its compliance requirements with large in-house financial crime, identity verification, due diligence, and customer support teams. Wise has over 2,400 employees in 14 offices, including sizable offices in New York City and Tampa, Florida.

---

[1] While Wise is primarily focused on remittances for consumers, it also provides those services to small and midsized businesses. In addition, it serves customers by partnering with banks that might not otherwise offer their customers a remittance service on efficiently terms.
[2] Wise offers its services only in the states in which it is licensed or that do not currently require it to be licensed, which includes all states except for Nevada, where a partner financial institution offers a Wise-branded money transmission service.

Overview

Financial services and customer expectations of them are changing rapidly due to innovation. For this reason, the participation requirements for the use of Federal Reserve services, which are embedded in *The Federal Reserve Act* (the **Act**), initially written in 1913, requires updating by lawmakers, and that for the purposes of the Guidelines at hand, the Federal Reserve should exercise its full powers and define "depository institution" as broadly as possible, and then ultimately determine access based on clear criteria. Furthermore, in the alternative, the Federal Reserve should facilitate direct access to Federal Reserve services, with or without direct access to master accounts or correspondent services, by decoupling direct access to master accounts from direct access to Federal Reserve services to the extent possible, allowing qualifying entities to submit directly payment orders for settlement of payments through the master accounts of their correspondent banks, and allowing the Reserve Banks to offer necessary correspondent services.

Access to Services

We note that the Federal Reserve's approach to determining whether to provide institutions with accounts and services depends on (i) whether the institution is legally eligible to obtain an account and (ii) whether doing so would advance the Federal Reserve's policy goals of ensuring the safety and soundness of the banking system, effectively implementing monetary policy, promoting financial stability, protecting consumers, and promoting a safe, effective, efficient, accessible and innovative payment system.[3] We have considered these in turn:

(i) Whether the institution is legally eligible to obtain an account

The first eligibility prong is whether an institution is eligible for an account, which pursuant to the Act, is only available to depository institutions that are either (i) insured by the FDIC or (ii) eligible to make an application to become insured by the FDIC (*see* the Act, section 19(b)). The Proposal references that there has been an uptick in novel charters and that institutions receiving these charters provide a variety of services, such as payments, deposit-taking, and lending. While many of these novel charters may be sought because the applicant wishes to engage in traditional banking services, some may seek a banking charter because the U.S. offers limited options for a company that wants a charter tailored to the types of services it wants to offer and that also meets the above-cited requirement of the Act. The Act is indeed based on a very different financial services landscape and does not necessarily contemplate the services and service providers of today. However, the Act need not present an absolute bar to participation in Federal Reserve services by non-traditional banks and financial services companies. There may be cases where institutions do not require a master account at the Federal Reserve but could benefit from the use of the Federal Reserve's services.

While the deposit-taking and lending activities referenced in the Act are inherently linked, payment services are universally recognized as a separate function, carrying a different set of benefits to society and a different set of attendant risks. A company that seeks to provide specific types of payment-related services, such as the consumer-focused remittance services that Wise offers, may be able to provide those services efficiently, and safely without a bank charter. This may be possible if it is able to access certain Federal Reserve services without access to a master account. This line of thinking is consistent with guidance from international

[3] 89 Fed. Reg. at 25867.

bodies like the United Nations[4] and Financial Stability Board,[5] which have called for "improving payment infrastructures and arrangements to support the requirements of the cross-border payments market" and the accessibility and affordability of remittances—an important and discrete problem that is unrelated to traditional banking. Facilitating access by specialized financial services entities, and making the criteria for their participation clear, would be an important step in encouraging these developments. As discussed in more detail below, we believe that the proposed guidelines will prove to be of some help in achieving these goals.

However, we would propose that the Federal Reserve consider additional measures to facilitate the development of efficient, safe and cost-effective services for consumers and businesses in the United States. We believe there are at least two ways in which these goals could be addressed.

First, the Federal Reserve should consider the extent to which it may decouple the question of eligibility for a master account from the question of eligibility to engage directly with Federal Reserve services. For example, it may be possible for the Federal Reserve to permit non-bank payments companies to submit ACH entries directly to the FedACH service by such services, even if those entries are settled through the master account of a correspondent bank. Doing so may permit those companies to achieve a higher level of risk management and control over the settlement of customer transactions.

The idea that at least the soon-to-be-launched FedNow^SM service may be offered to parties that do not hold an account at the Federal Reserve, is referenced in the *Proposed Amendments to Regulation J to Govern Transfers over the FedNow^SM Service*, issued on May 7, 2021 by the Federal Reserve (**FedNow Proposal**),[6] which states that "…the FedNow Service will accommodate participants that choose to settle their activity over the service in the master account of a correspondent bank."[7]

Although Article 4-A of the UCC, which will be incorporated into the FedNow Rules, references "banks" as participants in the system, that term has been interpreted to include entities that are not actually banks. For example, one case found that a broker-dealer (Merrill Lynch) was a bank and stated that:

> "Defendant, a brokerage firm, does not fit into any of the enumerated examples.
>
> However, as stated in the Official Comment to U.C.C. § 4-A–105, that section's definition of a bank 'reflects the fact that many financial institutions now perform functions previously restricted to commercial banks, including acting on behalf of customers in funds transfers.' This comment alone strongly implies that MLPF & S, which certainly qualifies as a financial institution, should be deemed a bank for purposes of the U.C.C."[8]

---

4 UN Global Forum on Remittances, Investment and Development, "Blueprint for Action" (November 2020).
5 FSB CPMI, "Enhancing Cross-Border Payments" (October 2020).
6 *See* Proposed Amendments to Regulation J, 86 Fed. Reg. 111 (proposed June 11, 2021) (to be codified at 12 C.F.R. Part 210 (2021); *see also* "Another difference between the FedNow Service and the Fedwire Funds Service is that the FedNow Service will accommodate participants that choose to settle their activity over the service in the master account of a correspondent bank. In contrast, participants in the Fedwire Funds Service are limited to settling their activity over that service in their own master account. The terms of proposed subpart C reflect the fact that FedNow Service will support this additional mechanism for settling obligations that arise between Reserve Banks and FedNow participants." *Id.* at 31378. "Whether it is its own master account or that of a correspondent, a FedNow participant would need to designate a settlement account on the books of a Reserve Bank that the Reserve Banks may use to settle the participant's activity over the FedNow Service." *Id.* at 31379..
7 *Id.* at 31379.
8 Gold v. Merrill Lynch Company, Inc., No. 09-318-PHX-JAT, 2009 WL 2132698, at *3 (D. Ariz. July 14, 2009).

So, an entity that is not a "bank" from the perspective of the Act, but that, like Wise, certainly qualifies as a financial institution and could be a "bank" for purposes of Article 4-A, and, depending on what FedNow participation requirements are adopted, that institution could use a correspondent to submit payments.[9]

Second, we believe that the healthiest option is for the Reserve Banks to act as correspondents qualifying retail payment networks, since the central bank naturally understands and has an interest in how payments work in society, and retail payments is a growing area that could benefit from a close relationship with the Reserve Banks. This approach would allow the Reserve Bank some oversight over retail payments (whether contractually or pursuant to participation requirements or other rules or regulations), and in this way, will reduce the risks, competition issues and conflicts of interest, and attendant costs and inefficiencies, associated with using a commercial bank to act as a correspondent. Currently, two banks[10] originate nearly 50% of ACH transactions in the United States. Unsurprisingly, it's these same two banks that originate payments for nearly all payments companies. It is hard to argue that having intermediaries like these, that are not solely focused on payments risks and not closest to the risks that retail payments companies actually manage, does not add risk to systems. Retail payments providers are closest to the kinds of risks they face, and are best able to articulate them, control them, and explain them to the payment systems operator.

Most important, allowing payments companies to connect to Federal Reserve services in this way will have a direct and positive effect on end users. In the U.S., the direct cost of a FedACH origination is only .35 cents,[11] or less with sufficient volume. However, banks often charge other financial institutions as much as 35 cents or more for origination services, a markup of 100x. End consumers are the ones absorbing these additional costs.

In light of these public policy considerations, other countries have already implemented or are implementing payment system rules and regulation that include entities other than traditional banks as participants.

- In 2017, the United Kingdom first allowed non-bank payments companies to gain direct access to the faster payments scheme through settlement accounts with the Bank of England.[12] Wise was the first non-bank member of the U.K. Faster Payments Scheme.

- In Canada,[13] Finance Canada has proposed *The Canadian Payments Act* to create an "associate member" class to enable non-traditional payment service providers to participate in Canada's national core payment systems.

- The European Union[14] recently opened a consultation to include payments companies in the Settlement Finality Directive, a first step to their inclusion in payment systems.

[9] Moreover, for the purposes of finality through the FedNow system, a covered financial institution under 12 U.S. Code § 4402 includes "a broker or dealer, a depository institution, a futures commission merchant, or *any other institution as determined by the Board of Governors of the Federal Reserve System*." (emphasis added).
[10] NACHA "Nacha Releases the 2020 Top 50 Financial Institution ACH Originators and Receivers" (March 2021).
[11] Federal Reserve, "FedACH Services 2021 Fee Schedule" (January 2021).
[12] Bank of England, FCA, Pay.UK, "Access to UK Payment Schemes for Non-Bank Payment Service Providers" (December 2019).
[13] Government of Canada, "Report on the Review of the Canadian Payments Act" (February 2019).
[14] European Commission, "Targeted consultation on the review of the Directive on settlement finality in payment and securities settlement systems" (February 2021).

- In Singapore,[15] the Monetary Authority of Singapore announced in 2020 that eligible non-bank financial institutions (NFIs) would have direct access to the banking system's retail payment infrastructure beginning February 2021 and Wise is already directly connected to FAST, the instant domestic payment system in Singapore.

- In Japan,[16] in 2010, the government for the first time allowed nonbank institutions to offer fund transfer services, which had been offered exclusively by banks for centuries.

In countries where Wise has direct access, our customers have directly benefitted from lower costs, faster payments, and increased predictability when using the relevant currency routes. In the U.K., for example, Wise was able to drop prices by 20% for our customers and the average payment speed improved from 15 minutes to less than 20 seconds. Similarly, we dropped prices in Hungary (another country where Wise has direct access) by 15%. For this reason, we would encourage the Federal Reserve to consider this type of approach. Even if legislative, operational or technological changes are needed, the benefits to consumers and other customers will be considerable.

(ii) The Federal Reserve's policy goals of ensuring the safety and soundness of the banking system, effectively implementing monetary policy, promoting financial stability, protecting consumers, and promoting a safe, effective, efficient, accessible and innovative payment system.

The second consideration in the Proposal is the policy goals of the Federal Reserve. We would like to underscore that payments companies,[17] and any institution accessing any payment system, should be required to duly address the risks that they, as participants, would bring to the payment system. The Federal Reserve, as an experienced operator of payment systems, is well placed to assess this risk.

In Canada, in order to, among other things, better regulate institutions that will have associate-level access to payment systems, the federal government introduced the *Retail Payment Activities Act*. This approach includes an operational risk management and incident response framework, rules on safeguarding for end user funds, and requirements that retail payment providers register, have sound third party service providers, and follow applicable AML/KYC rules. The Federal Reserve could use a similar framework either as a participation requirement for a particular system or in relevant regulation. Given that payments companies cannot hold accounts at the Federal Reserve, such rules could include the provision of collateral in a suspense account, or other credit support as necessary (although as payments increasingly become "instant" or nearly instant, open credit positions are reduced).

As the legal and compliance requirements for licensed money transmitters in the U.S. resemble those in the Canadian *Retail Payment Activities Act*, many larger payments companies would likely be able to meet these requirements. As financial institutions, money transmitters must

---

[15] NFIs that are licensed as major payments institutions under *The Payment Services Act* will be allowed to connect directly to Fast and Secure Transfers (FAST) and PayNow, *see* Monetary Authority of Singapore, "Non-Bank Financial Institutions to have Access to FAST and PayNow" (November 2020).

[16] In Japan, money transmitters are not subject to the Deposit Insurance Corporation, the prudential insurance afforded to banking institutions in Japan. However, these types of licensees can set up collateral measures to secure their customer obligations (generally in the amount calculated on a daily basis) and they may keep customers' funds beyond the period necessary for fund transfer purpose. For instance, acceptance of customer funds is not allowed, unless it has a specific transfer amount, transfer date and known recipient designated by the transferor. Jones Day, "Japan's Amended Payment Services Act Could Prompt More Nonbank Entries Into Traditional Banking Services" (May 2021).

[17] *i.e.,* companies that are in the business of and licensed to undertake payments and other financial services, and not in other lines of business such as data collection or commerce that could be a source of conflict.

register with the Financial Crimes Enforcement Network (FinCEN), and are subject to, amongst other laws and regulations, the Bank Secrecy Act, Regulation E of the Electronic Fund Transfer Act, and the Gramm-Leach-Bliley Act. Money transmitters must also register with and be regulated by every state where they operate, unless the state declines to regulate them. Payments companies are required to hold "permissible investments," which are exempt from their bankruptcy estates, pursuant to state laws, and are held for the benefit of customers should the company fail. Payments companies licensed as money transmitters must also maintain capital reserves to mitigate business risk and must demonstrate proper risk mitigation and operational resiliency programs, such as compliance with New York Department of Financial Services regulation on cybersecurity (23 NYCRR 500), one of the most stringent cyber regulations in the nation. Wise would be happy to provide more information on the regulation of money transmitters or more advanced thinking around what participation requirements or enhanced regulations for payments companies using Federal Reserve services might look like.

Specific Comments and Responses

Question 1. Do the proposed account access guidelines address all the risks that would be relevant to the Federal Reserve's policy goals?

At a high level, yes. However, it would be useful to address separately the risks faced by a payment system and the risks associated with accounts generally, as they are not the same.

Payment systems: The risks that payment systems face, whether from their participants or other forces, are well documented at an international and national level[18] and are well understood in theory and practice by the Federal Reserve. These include the risk that participants will not be able to settle or fund, or that they may create undue credit, operational, settlement, cyber, or other risks to the payment system, and therefore to the financial system as a whole. There are plenty of frameworks assessing participation risk that can be used. It would be useful to understand which of these frameworks will apply and how a potential recipient of services can assess against them.

Accounts: Accounts at the Federal Reserve can be and are used for different purposes: holding funds for settlement in payment systems or holding funds for Reserve administration and for other purposes, such as accessing the discount window. As described in the paragraph above, credit and liquidity risk associated with payment systems are commonly addressed in a system's participation requirements and rules and relevant regulations and are an important part of risk mitigation for a system. However, we understand that there are separate risks associated with holding funds for other purposes, namely risks to the Federal Reserve's ability to implement monetary policy, including those around monetary supply, maximum employment, stable prices, and moderate long-term interest rates. While these risks are mentioned, it would be useful if they were articulated in more detail as we believe that both the Federal Reserve and commercial banks are concerned that non-banks will use master accounts to hold funds that should rather sit in the banking system as deposits and that, if they are held at large scale, they may affect the Federal Reserve's ability to achieve its monetary policy and systemic risk mitigation goals.

[18] *i.e.*, the pillars set forth in the Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) Principles for financial market infrastructures (PFMI) (2012); Regulation HH (12 C.F.R. Part 234)(2015).

It would be useful to understand the extent to which the Federal Reserve could simply state in regulations what is appropriate with respect to account usage and business model, including in times of market stress. It would also be useful to understand whether the Federal Reserve would presume that an institution would hold funds in reserve accounts just because an institution is permitted to do so under its charter, and how to rebut that presumption. Wise would expect, if given access to a Federal Reserve account, to use the account to maintain enough funding to meet its obligations responsibly, as well as a buffer and required collateral, as it does with the U.K. Faster Payments Scheme today.

Question 2. Does the level of specificity in each principle provide sufficient clarity and transparency about how the Reserve Banks will evaluate requests?

We believe that payment services should have objective, risk-based, and publicly disclosed criteria for participation, which would permit fair and open access. While we understand that the Proposal does not constitute the participation requirements for any particular payment system, so long as access to payment services is coupled with master account ownership, it is, in practice, a gateway to access. Thus, while a principles-based approach offers some guideposts, is a move toward clarity and transparency, and may help preserve flexibility for the wide array of current and future business models, we would hope that the final product would be clear and specific. Existing institutions and institutions in the charter planning stages (considering, for example, a special purpose charter), with the assistance of experienced counsel, ought to be able to determine with clarity whether upon application it will be granted access, assuming it meets the statutory requirement.

Question 3. Do the proposed account access guidelines support responsible financial innovation?

To some degree, but they could go further. The Federal Reserve's position as a neutral and trusted intermediary means that it can play a very meaningful role in facilitating acceptance of innovation that will improve the efficiency of payments in the U.S., ultimately to the benefit of end users. For various reasons, banks are entrenched in the U.S. and innovation has not moved as quickly as it has in other places. As discussed at the outset, financial services and customer expectations of them are changing rapidly due to innovation. Pushing innovators to the side and not allowing them to compete alongside traditional players so that all boats can rise ultimately can add risk, rather than reduce it. For this reason, the Federal Reserve should exercise its full powers and define "depository institution" as broadly as reasonably practicable, and then determine whether institutions are unduly risky based on clear criteria.

* * *

We appreciate the opportunity to provide comments to the Federal Reserve on the Proposal. Please do not hesitate to contact us if you have any questions regarding these comments or if we can be of any assistance.

Best,

Andrea Gildea, Head of Legal for the Americas, MEA, and APAC
Nick Catino, Head of Policy and Campaigns