



April 14, 2022

Ann Misback, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue  
Washington, D.C. 20551

**Regarding: Supplemental Notice and Request for Comments, Guidelines for  
Evaluating Account and Services Request – Docket No. OP-1747**

Dear Ms. Misback:

The Community Bankers Association of Illinois (“CBAI”), which proudly represents nearly 300 Illinois community banks, appreciates the opportunity to provide our observations and recommendations regarding the Board of Governors of the Federal Reserve System’s (“Board” or “Federal Reserve” or “Fed”) proposed supplemental guidelines for evaluating requests for account and services at Federal Reserve Banks (“New Proposal”). CBAI acknowledges that the Board is issuing this supplemental notice and request for comments to update “its proposed guidelines (Account Access Guidelines) for Federal Reserve Banks (Reserve Banks) to utilize in evaluating account requests for access to Reserve Bank master accounts and services (accounts and services).” In addition, we recognize that this New Proposal “would establish a tiered-review framework to provide additional clarity on the level of due diligence and scrutiny to be applied to requests for Reserve Bank accounts and services.”

CBAI is a professional trade association dedicated to exclusively representing the interests of Illinois community banks and thrifts through effective advocacy, outstanding education, and access to high-quality products and services. CBAI members hold more than \$80 billion in assets, operate from 850 locations statewide, employ more than 17,000 individuals, and lend to consumers, small businesses, and agriculture. For more information, please visit [www.cbai.com](http://www.cbai.com).

On July 9, 2021, CBAI responded to the Federal Reserve's May of 2021 original proposal and acknowledged the significant rise in fintechs and nonbanks (referred to as Novel Charters in the proposal) applying to the Federal Reserve for accounts and direct access to its services. CBAI stated these Novel Charters do not satisfy the definition of a bank because they do not offer all the required services, they are not subject to all the appropriate laws, rules, and regulations, and they are not supervised by all the appropriate federal regulators. CBAI urged the Federal Reserve to prohibit Novel Charters from being legally eligible to apply for Fed accounts and direct access to its services which should be strictly limited in eligibility to actual, full-service, fully regulated, legitimate banks.

CBAI also urged the Federal Reserve to impose a system-wide moratorium on applications from Novel Charters until the conclusion of this regulatory process. In addition, CBAI urged the Board to make certain that the appropriate and strict standards are not merely guidelines for application approvals but actual requirements that each of the Federal Reserve Banks must follow. Finally, CBAI urged the Fed to establish an audit process to ensure consistency throughout the System in the review, approval, and ongoing examination of Federal Reserve Banks to ensure compliance with the new requirements.

**For the many reasons stated in its July 9, 2021, comment letter (which is included in its entirety by reference herein), CBAI renews its recommendation that fintechs, novel charters, challenger banks, neobanks, and others (collectively "Not-Banks") be prohibited from being legally eligible to apply for Federal Reserve accounts and to have direct access to its services.**

With respect to the New Proposal, CBAI believes the bifurcation of ineligible applicants into separate Tiers with different levels of due diligence and scrutiny (particularly those that fall to the bottom – Tier 3) does not satisfy the policy goals of the Proposal which are to (1) ensure the safety and soundness of the banking system, (2) effectively implement monetary policy, (3) promote financial stability, (4) protect consumers, and (5) promote a safe, efficient, inclusive, and innovative payments system. These policy goals can only be achieved if Not-Banks are only able to access a Fed account and services by either becoming a bank through the rigorous application and approval process or working with and through actual, full service, fully regulated, legitimate banks which already have Federal Reserve accounts and direct access to the Fed's services. **If a Not-Bank is ineligible, as CBAI recommends, no level of additional due diligence or scrutiny should make them more eligible.**

CBAI's position on this matter is neither being blind to innovation nor is it protectionism. We appreciate the need for innovation to satisfy consumer and small business demands and to be competitive with the rest of the world in providing financial services. CBAI and its community bank members are actively engaged in financial modernization efforts, namely faster payments, by supporting the earliest possible launch of the FedNow Service with robust functionality and interoperability. We are engaged in opining on different types of digital assets including the Federal Reserve's potential offering Central Bank Digital Currency (CBDC), and in the modernization of the Community Reinvestment Act (CRA) to reflect and give credit for offering new and modern banking products and services to satisfy consumer demand.

CBAI disagrees with the belief held by some that restricting access to the Federal Reserve is protectionism or being anti-competitive. Community banks not only compete vigorously among themselves, but also with the largest banks, credit unions, commercial and consumer finance companies, payment services, check cashing services, and a host of others. If all competitors are being appropriately and consistently regulated and examined for compliance, and the playing field is otherwise level, community bankers have no objection to competition. However, Not-Banks are not subject to the same robust regulatory regime, they have not demonstrated the fair and respectful treatment of customers and their communities for many decades or over a century, they do not meet regulatory capital requirements, and they have not met the exacting standards achieved by community banks in compliance with a host of laws, rules, and regulations. If Not-Banks are allowed Fed Reserve accounts and services, they will have an unfair competitive advantage over community banks and risk harming consumers and the financial system.

**Prudential regulators, who are charged with protecting the safety and soundness of the banks they regulate, and the financial system, must not show favoritism to Not-Banks by granting them the ability to apply for Fed accounts and direct access to its services. Allowing these privileges to Not-Banks would be discriminating against community banks.**

CBAI believes providing access to Not-Banks to Fed accounts and services under the justification of potentially creating a more inclusive financial services environment (i.e., financial inclusion) is specious. CBAI strongly supports financial inclusion and believes every responsible and able consumer and business should have a banking relationship with their local community bank. The fact that 95% of the population is "banked" (as reported by the FDIC and the Federal Reserve) is indisputable confirmation that the banking industry excels at serving the banking needs of American individuals and households. The challenge is to encourage the 5% of the population that remains "unbanked" to embrace traditional and responsible financial service

providers because not doing so is the more costly alternative and one that does not lead to a bright financial future.

The reasons for remaining “unbanked” include not trusting financial institutions, not having sufficient financial resources, not being able to satisfy Know Your Customer requirements, and not having managed prior financial relationships in a satisfactory manner. Providing Not-Banks with access to Fed accounts and services will not responsibly help consumers clear these financial inclusion hurdles. **CBAI urges the Fed to support responsible innovation and fair competition, and not discriminate against the many thousands of actual, full-service, fully regulated, legitimate banks which are already providing access to the banking and payments system and are explicitly eligible for application for Federal Reserve accounts and to have direct access to Fed services.**

The motivation of these Not-Banks gaining access to Fed accounts and services is obvious. This access would lend greater credibility to their fledgling operations by connoting strength and stability. Other benefits Not-Banks are seeking include being able to offer low-cost deposits, having access to FDIC insurance, access to Discount Window borrowings, and direct access to the payments system with reduced operating costs. Performing only some but not all banking functions, however, allows Not-Banks to gain a competitive advantage over actual, full-service, fully regulated, legitimate banks because these other institutions are not subject to a complete, necessary, and costly regulatory compliance regime (i.e., safety and soundness, consumer protection, GLBA data security, BSA/AML/sanctions, and the Community Reinvestment Act, to name a few). As a result, the competitive landscape is skewed in favor of the Not-Banks and against community banks.

Some of these Not-Banks create a toxic mix of commercial and financial services activity which CBAI has consistently opposed. When large commercial and technology companies gain entry into financial services, their concentrations of power and influence can present serious privacy concerns for consumers in addition to undermining financial stability and creating significant risks to the economy. **CBAI urges the Federal Reserve to be additionally concerned about breaching the firewall between banking and commerce, and for consumer privacy and data security reasons, when considering accounts and access to services for Not-Banks.**

In the unfortunate event the Federal Reserve is willing to consider allowing even a small subset of Not-Banks to have access to its accounts and services, despite all the valid reasons stated in

this letter to the contrary, great care should be taken to construct an application process, initial and ongoing requirements, regular examinations, and rigorous enforcement which mirror, at an absolute minimum, that which is required for actual, full-service, fully regulated, legitimate banks. Doing so will at least present the possibility that the Fed's policy objectives will be achieved and that there will be a level playing field which does not discriminate against community banks.

The application process, initial and ongoing requirements, regular examinations, and rigorous enforcement should encompass not only the Not-Bank but also extend to its hold company and affiliates ("Entire Entity") and should include but shall not be limited to the following.

- Depending on its size, the Entire Entity should be designated as a Significantly Important Financial Institution (SIFI).
- The Not-Bank organizing documents should clearly state management and board responsibilities to ensure that no harm comes to the payments and financial system and consumers.
- The initial approval by the Federal Reserve of the Not-Bank's senior management team and board of directors, and prior written approval for any additions or changes.
- A sufficient number of independent directors shall serve on the board and committees.
- Approval of a complete suite of policies, notification and approval for any changes, and annual board approval.
- Robust KYC, BSA/AML and OFAC compliance policies and programs.
- Approval of comprehensive strategic, contingency, and disaster recovery plans.
- Robust data and cyber security protections.
- Approval of an orderly liquidation plan.

- Serious consideration should be given to the establishment of a prefunded orderly liquidation fund (OLF).
- Robust capital requirements, capital contingency plans, and a significant capital buffer at the Not-Bank level, and also at the holding company level, to ensure that the holding company can quickly serve as a source of strength to the Not-Bank.
- Robust liquidity requirements and liquidity contingency plans. The liquidity must be in the form of highly liquid assets that are virtually immune from significant unrealized mark-to-market losses during times of economic or financial stress.
- Prior written approval for the distribution of dividends.
- Robust and comprehensive insurance shall be maintained.
- Rigorous internal auditing requirements and supervision by an audit committee.
- Audited annual financial statement by a reputable accounting firm.
- Bank-type quarterly call reports shall be submitted to the Federal Reserve.
- The Federal Reserve shall perform minimum annual full-scope examinations of the Not-Banks, the holding companies (to ensure they have the ability to serve as a source of strength), and affiliates (as necessary) to ensure safe and sound operations.
- The ability of the Federal Reserve to terminate the account and access to any services must be maintained to prevent harm to the Fed or the payments system, the banking industry, the financial system, the economy, American consumers, and taxpayers.

All these requirements are necessary in recognition of the fact that access to a Federal Reserve account and services is a privilege – not a right. The Fed may make an accommodation (despite many legitimate objections) to select a few Not-Banks for Fed accounts and access to services, but these Not-Banks pose new and unique risks and threats, and we must all be protected from harm.

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CBAI appreciates the opportunity to provide our observations and recommendations about this Supplemental Proposal. CBAI objects to its fundamental premise of the Proposal, believing that a tiered system of analyzing the applications of Not-Banks, which should never be eligible to apply for accounts and services in the first place, cannot conceivably produce a successful outcome. If, however, the Federal Reserve is determined to consider applications and approve even a small number of Not-Banks, then CBAI urges incorporating, at a minimum, all the requirements detailed in this letter into the application process and ongoing requirements.

If you have any questions or require any additional information, please contact me at [davids@cbai.com](mailto:davids@cbai.com) or (847) 909-8341.

Sincerely,

/s/

David G. Schroeder  
Senior Vice President  
Federal Governmental Relations