



Submitted via e-mail to  
[\[regs.comments@federalreserve.com\]](mailto:regs.comments@federalreserve.com)

April 22, 2022

Anne E. Misback  
Secretary, Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, N.W.  
Washington, DC 20551

RE: Updated Proposal on Guidelines for Evaluating Account and Services Requests

Dear Ms. Misback:

Payward, Inc. d/b/a Kraken (“Kraken”) is pleased to submit a comment in response to the Board of Governors of the Federal Reserve System (“Board”) supplemental notice and request for comment on its proposed *Guidelines for Evaluating Account and Services Requests* (“Updated Proposal”).<sup>1</sup> Kraken operates an online platform that provides a number of digital asset services to its worldwide customer base, including exchange, staking, custody, and futures trading. An independently operated Kraken affiliate, Payward Financial, Inc. d/b/a Kraken Bank (“Kraken Bank”), obtained a special purpose depository institution (“SPDI”) bank charter from the State of Wyoming in September 2020. In October 2020, Kraken Bank applied for a master account with the Federal Reserve Bank of Kansas City. In March 2022, Kraken Bank received a routing number from the American Bankers Association, but the master account application remains pending.<sup>2</sup>

We appreciate the Board’s ongoing attempt to bring consistency and transparency to the master account application process. The Board acknowledges that the Updated Proposal is substantially the same as the original *Guidelines for Evaluating Account and Services Requests* (“Original Proposal”),<sup>3</sup> with the only substantive change being a new Section 2 that establishes a three-tiered review framework. We refer the Board to our [comment letter to the Original](#)

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<sup>1</sup> [87 Fed. Reg. 12,957 \(Mar. 8, 2022\)](#).

<sup>2</sup> Routing numbers are issued by the American Bankers Association to institutions eligible to maintain an account at a Federal Reserve Bank. The purpose of a routing number is to identify “the specific financial institution responsible for the payment of a negotiable instrument.” [American Bankers Association, ABA Routing Numbers](#). Kraken Bank received notification in February 2022 from the Federal Reserve Bank of Kansas City that it was deemed eligible to maintain a master account, and that the eligibility decision was conveyed to the Registrar of Routing Numbers. However, an ABA Routing Number without a master account has limited utility; for example, Kraken Bank cannot directly access the payment system with only an ABA Routing Number and must still rely on correspondent banks.

<sup>3</sup> [86 Fed. Reg. 25,865 \(May 11, 2021\)](#).

[Proposal](#), which we incorporate by reference here as comments to Section 1 of the Updated Proposal.<sup>4</sup>

Regarding Section 2 of the Updated Proposal, the concept of applying different due diligence standards to financial institutions based on the presence of a federal regulator was contemplated in the Original Proposal, wherein the Board mentioned that “assessments of access requests from non-federally insured institutions may require more extensive due diligence.”<sup>5</sup> The Updated Proposal expands on this idea in Section 2 and proposes grouping account and services applicants into tiers as follows:

- Federally-insured eligible institutions, which generally will be subject to a less intensive and more streamlined review (Tier 1);
- Institutions that are not federally insured but are subject to prudential supervision by a federal banking agency, which generally will receive an intermediate level of review (Tier 2); and
- Eligible institutions that are not federally insured and not subject to federal prudential supervision, which generally will receive the strictest level of review (Tier 3).

Although we agree that a risk-based approach to evaluating applicants is appropriate, this tiered framework is based on an erroneous assumption that the existence of federal prudential supervision or deposit insurance is paramount in assessing an institution’s risk to the Federal Reserve Banks, the payment system, and financial stability. As described in our response to the Original Proposal,<sup>6</sup> we believe the more appropriate starting point is whether an institution’s applicable regulatory and supervisory framework sufficiently mitigates the risks associated with its business activities. For example, a state-regulated financial institution such as Kraken Bank that does not engage in lending could present a lower risk profile than a federally-regulated financial institution that uses deposits to engage in commercial and consumer lending and depends on that lending activity for revenue. Using a more comprehensive risk-based approach also advances Congress’s mandate that Federal Reserve services be offered to eligible financial institutions on a non-discriminatory basis, as financial institutions with similar business plans will be evaluated using similar criteria and due diligence rigor.<sup>7</sup>

Finally, we note that the Updated Proposal does not adopt procedural measures that would require Reserve Banks to provide timely and transparent responses to applicants. Guidance on the review process is equally important as more comprehensive risk-based guidance to ensure clear and consistent application of the guidelines within the Federal Reserve System.

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<sup>4</sup> Comment Letter from Payward Inc. (July 12, 2021) *available at* [https://www.federalreserve.gov/SECRS/2021/October/20211005/OP-1747/OP-1747\\_071221\\_138726\\_427179837337\\_1.pdf](https://www.federalreserve.gov/SECRS/2021/October/20211005/OP-1747/OP-1747_071221_138726_427179837337_1.pdf)

<sup>5</sup> 86 Fed. Reg. at 25,867.

<sup>6</sup> Comment Letter from Payward Inc. (July 12, 2021).

<sup>7</sup> Depository Institutions Deregulation and Monetary Control Act of 1980, P.L. 96-221 (March 31, 1980).

Transparency would also allow financial institutions to structure their operations to meet the expectations of the Federal Reserve Banks before submitting an application for services, thereby streamlining the review process and allowing financial institutions to bring innovative products to the marketplace faster.<sup>8</sup> Uncertainty and prolonged delays hinder the ability of financial institutions to develop and bring innovative products to the marketplace, and could leave applicants waiting on a decision without any procedural clarity or a legal remedy.

We welcome the opportunity to discuss our comments further with the Board and the Reserve Banks and we would be pleased to provide additional detail at your request. You may contact us at [legal@kraken.com](mailto:legal@kraken.com).

Sincerely,

Payward, Inc.

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<sup>8</sup> The Board appropriately acknowledges that granting access does not solely create risks and can also carry benefits to the financial system. 87 Fed. Reg. 12,957,12,958 at footnote 2.