

ILLINOIS BANKERS ASSOCIATION, CAROLYN SETTANNI

Proposal and Comment Information

Title: Request for Information and Comment on Operational Aspects of Federal Reserve Bank Extensions of Discount Window and Intraday Credit, OP-1838

Comment ID: FR-0000-0137-01-C120

Subject

Docket No. OP-1838

Submitter Information

Organization Name: Illinois Bankers Association

Organization Type: Organization

Name: Carolyn Settanni

Submitted Date: 12/13/2024

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Dear Ms. Misback,

Please accept our comment on the Board of Governors' Request for Information on Operational Aspects of Federal Reserve Bank Extensions of Discount Window and Intraday Credit.

Carolyn

Carolyn Sorock Settanni
Executive Vice President
and General Counsel
Illinois Bankers Association



December 13, 2024

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

Re: Docket No. OP-1838; Request for Information on Operational Aspects of Federal Reserve Bank Extensions of Discount Window and Intraday Credit

Dear Ms. Misback:

The Illinois Bankers Association (IBA)¹ is writing on behalf of its members to respond to the request for information and comment on operational aspects of Federal Reserve Bank extensions of discount window and intraday credit. We appreciate the opportunity to comment on an important tool that supports the banking system's liquidity and stability, and the investment of agency staff and leadership time on important operational aspects of the Federal Reserve Banks' discount window programs.

As the Federal Reserve Board recommended in its [2023 Addendum](#) on the Importance of Contingency Funding Plans, our members have established and maintain operational readiness to borrow from the discount window to ensure they are ready to access liquidity in times of stress. The 2023 Addendum emphasizes the importance of maintaining familiarity with the Reserve Banks' processes for pledging collateral and pre-pledging collateral to ensure that banks can access the discount window should temporary liquidity needs arise.

We understand that each Reserve Bank sets its own policies, and we urge the Board of Governors to encourage all Reserve Banks (1) to adopt consistent policies on accepting collateral, without imposing unnecessary, duplicative, and expensive documentation requirements, and (2) to accept electronic signatures and electronic documents that comply with the requirements of federal and state law without hesitation — two modest changes that will contribute to the efficiency and consistency in Reserve Banks' pledging practices.

Our members have shared with us their experiences with Reserve Banks' borrower-in-custody programs and have identified practices at some Reserve Banks that appear to be unique to one or two Reserve Banks. For example, at least one Reserve Bank has repeatedly insisted that banks include a document termed a promissory note with the paperwork submitted to pledge a loan as collateral pursuant to its borrower-in-custody program. While our members sometimes document loans by using a promissory note, this practice has fallen out of favor over the years, and at some banks it is more common to document loans with a loan agreement, rather than a promissory note.

In our members' views, many of their commercial loans are fully documented and memorialized in a loan agreement, which contains all of the loan terms — such as the date of payment, interest rate, total

¹ The Illinois Bankers Association is a full-service trade association dedicated to creating a positive business climate for the entire banking industry and the communities we serve. Founded in 1891, the IBA brings together state and national banks and savings banks of all sizes in Illinois. Over 52% of IBA members are community banks with less than \$250 million in assets, and over 75% of IBA members are community banks with less than \$750 million in assets. Collectively, the IBA represents nearly 90% of the assets of the Illinois banking industry, which employs more than 105,000 men and women in over 5,000 offices across the state.

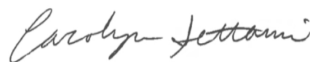
loan amount, and more. A promissory note can be produced for purposes of meeting the borrower-in-custody requirements of a Reserve Bank, but such a document would simply reference the loan agreement, while adding an unnecessary expense to the transaction and the potential for mistakes and confusion. Promissory notes also can be viewed as antiquated by borrowers and other entities, such as lenders partnering with our members in loan participations or syndications. If a loan agreement includes all material loan terms, our members believe that they should be able to pledge the loan as collateral without producing a promissory note.

Our members also have encountered questions about pledging loans with electronic signatures. While some of our members have succeeded in persuading Reserve Bank staff to accept electronic signatures by working to build a comfort level with their individual systems and processes, such efforts eat up staff time and resources.

Under both federal and Illinois law, electronic signatures and electronic documents have "the same force and effect" as wet signatures, and electronic signatures and electronic documents "may not be denied legal effect," or enforceability or validity, solely because they are in electronic form. See Electronic Signatures in Global and National Commerce (ESIGN) Act, 15 USC 7001(a)(1); Illinois Uniform Electronic Transactions Act, 815 ILCS 333/7(a); Illinois Financial Institutions Electronic Documents and Digital Signature Act, 205 ILCS 705/10(a). Given the clear legal status afforded to electronic signatures and loan documents under multiple federal and state statutes, we think the time has come for consistent policies on accepting electronic signatures and documents as part of Reserve Banks' borrower-in-custody programs.

Thank you for your consideration of our comments, and please let us know if you have any questions.

Very truly yours,

A handwritten signature in cursive script, reading "Carolyn Settanni".

Carolyn Settanni
Executive Vice President and
General Counsel