

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Docket No. R-1585; RIN 7100-AE 90

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting final amendments to its Regulation A to (1) revise the provisions regarding the establishment of the primary credit rate in a financial emergency, and to (2) delete the provisions relating to the use of credit ratings for collateral for extensions of credit under the former Term Asset-Backed Securities Loan Facility (TALF). The final amendments are intended to allow the regulation to address circumstances in which the Federal Open Market Committee (FOMC) has established a target range for the federal funds rate rather than a single target rate, and to reflect the expiration of the TALF program.

DATES: The final rule is effective June 8, 2018.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Special Counsel, (202-452-3565), Legal Division, or Lyle Kumasaka, Senior Financial Analyst, (202-452-2382), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202-263-4869; Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary, secondary, and seasonal credit available to depository institutions subject to rules and regulations prescribed by the Board. The primary,

secondary, and seasonal credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. Under the primary credit program, Federal Reserve Banks may extend credit on a very short-term basis, typically overnight, to depository institutions that are in generally sound condition in the judgment of the Federal Reserve Bank. In accordance with the Federal Reserve Act, the primary credit rate is established by the boards of directors of the Federal Reserve Banks, subject to review and determination of the Board. The primary credit rate is set forth in section 201.51(a) of Regulation A.

Section 201.3(e) of Regulation A, adopted in December 2009, established criteria and procedures governing the acceptance by the Federal Reserve Bank of New York (FRBNY) of credit ratings issued by credit rating agencies in connection with extensions of credit under the former TALF. On June 30, 2010, the TALF was closed for new loan extensions, and the final outstanding TALF loan was repaid in full in October 2014.¹

I. Notice of Proposed Rulemaking

On December 8, 2017, the Board published a notice of proposed rulemaking in the Federal Register proposing amendments to Regulation A that would (1) revise the regulatory procedures for establishing the primary credit rate in a financial emergency; and (2) delete the provisions relating to the use of credit ratings for collateral for extensions of credit under the former TALF.² Specifically, the Board proposed to amend section 201.51(d)(1) of Regulation A to provide that, in a financial emergency, the primary credit rate is the target federal funds rate or, if the FOMC has established a target range for the federal

¹ <https://www.federalreserve.gov/monetarypolicy/talf.htm>.

² 82 Fed. Reg. 57886 (Dec. 8, 2017).

funds rate, a rate corresponding to the top of the target range. In addition, the Board proposed to delete section 201.3(e) of Regulation A as unnecessary given the expiration of the TALF program. The comment period on the proposed rule closed on January 8, 2018.

II. Comments Received on the Proposed Rule and Adoption of Final Rule

The Board received five comments on the proposal. One comment supported the flexibility the amendment provides during times of crisis, and raised other issues regarding the size of the Federal Reserve balance sheet that were outside the scope of the proposal. Another commenter expressed support for the proposal as eliminating roadblocks while dealing with an emergency. The other three comments raised issues outside the scope of the proposal. Accordingly, the final rule adopts the proposal as proposed.

III. Administrative Law Matters

A. Regulatory Flexibility Act

An initial regulatory flexibility analysis (IRFA) was included in the proposal in accordance with section 3(a) of the Regulatory Flexibility Act (RFA).³ In the IRFA, the Board requested comment on the effect of the proposed rule on small entities and on any significant alternatives that would reduce the regulatory burden on small entities. The Board did not receive any comments on the IRFA.

The RFA requires an agency to prepare a final regulatory flexibility analysis unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. In accordance with section 3(a) of the RFA, the Board has reviewed the final rule.

³ 5 U.S.C. 601 et seq.

Based on its analysis, and for the reasons stated below, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 201.51(d) of Regulation A. Currently, there are 1,523 depository institutions that are able to request primary credit that meet the definition of “small” business entity, out of a total of 2,777 institutions that are able to request primary credit. The final rule makes a ministerial amendment to conform the provision to the current operating framework of the FOMC in establishing a target range for the federal funds rate. The final rule affects the actions of the Federal Reserve Banks and the Board, and requires no action or changes in procedures for any depository institution, large or small, and so there are no costs associated with the final rule. In addition, the final rule clarifies the operation of the provision for reducing the primary credit rate in a financial emergency from its current level to a lower level based on the target federal funds rate or the target range for the federal funds rate. Any economic impact of the final rule on small entities would be beneficial, because the final rule enables large and small entities to obtain primary credit at an interest rate that would be lower than the existing primary credit rate. Accordingly, the Board believes that a reasonable basis exists for assuming that the economic effect of the final rule would be *de minimis* or insignificant for small entities affected by it.

Section 201.3(e) of Regulation A. The final rule deletes obsolete provisions applicable to credit extended under the TALF program. Since the TALF program no longer exists, the deletion of regulatory provisions governing the use of credit ratings in it will have no impact, economic or otherwise, on any credit rating agency. Accordingly, the Board believes that a reasonable basis

exists for assuming costs would be *de minimis* or insignificant for small entities affected by it.

B. Paperwork Reduction Act Analysis

Office of Management and Budget (OMB) regulations implementing the Paperwork Reduction Act (PRA) state that agencies must submit “collections of information” contained in proposed rules published for public comment in the Federal Register in accordance with OMB regulations. OMB regulations define a “collection of information” as obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency, third parties or the public of information by or for an agency “by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit.”

In accordance with the PRA, the Board reviewed the proposed rule under the authority delegated to the Board by OMB. The proposed rule contained no requirements subject to the PRA, and the Board received no comments on its PRA analysis in the proposed rule. The final rule adopts the proposed rule as proposed, and contains no requirements subject to the PRA.

C. Plain Language

Each Federal banking agency, including the Board, is required to use plain language in all proposed and final rulemakings published after January 1, 2000.⁴ The Board has sought to present the final rule, to the extent possible, in a simple and straightforward manner. The Board received one comment that addressed the extent to which the proposed rule used plain language. This

⁴ 12 U.S.C. 4809.

comment expressed appreciation for the Board's plain language interpretation of the regulation as set forth in the proposed rule.

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II as follows:

PART 201 – EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)-(j) and (s), 343 et seq., 347a, 347b, 347c, 348 et seq., 357, 374, 374a, and 461.

§ 201.3 Extensions of credit generally. [Amended]

2. Section 201.3 is amended to remove paragraph (e).

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.³

3. Section 201.51 is amended by revising paragraph (d)(1) introductory text to read as follows:

* * * * *

(d) * * *

(1) The primary credit rate at a Federal Reserve Bank is the target federal funds rate of the Federal Open Market Committee or, if the Federal Open Market

Committee has set a target range for the federal funds rate, the rate corresponding to the top of the target range, if:

(i) * * *

(ii) * * *

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By the Board of Governors of the Federal Reserve System, May 3, 2018.

Michele T Fennell (signed)

Michele T. Fennell,
Assistant Secretary of the Board.