

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Date: February 16, 2022
To: Board of Governors
From: Staff¹
Subject: Proposed Guidelines to Evaluate Requests for Accounts and Services at Federal Reserve Banks

Action Requested

Staff requests that the Board approve the attached supplemental Federal Register notice and request for public comment on the Board's updated proposed guidelines (Account Access Guidelines) to be used by Federal Reserve Banks (Reserve Banks) in evaluating requests (access requests) by institutions for access to Reserve Bank accounts and financial services (accounts and services). The supplemental notice includes a new section of the proposed Account Access Guidelines that would establish a tiered-review framework to provide additional clarity on the level of due diligence and scrutiny that Reserve Banks would apply to different types of access requests.

Background

On May 11, 2021, the Board published a notice in the Federal Register requesting comment on proposed guidelines (Original Proposal) to be used by Reserve Banks in evaluating access requests.² The Original Proposal reflected the Board's policy goals of (1) ensuring the safety and soundness of the banking system, (2) effectively implementing monetary policy, (3) promoting financial stability, (4) protecting consumers, and (5) promoting a safe, efficient, inclusive, and innovative payment system. The Original Proposal was also intended to ensure that Reserve Banks apply a transparent and consistent set of factors when reviewing access

¹ David Mills, Jeff Walker, Jason Hinkle, Kathy Wilson (RBOPS); Evan Winerman, Sophia Allison, Gavin Smith (Legal).

² Notice and Request for Public Comment, Proposed Guidelines for Evaluating Account and Services Requests, 86 Fed. Reg. 25865 (May 11, 2021).

requests.

The Original Proposal contained six principles. The first principle specified that access requests will only be considered from institutions that are legally eligible for access to Reserve Bank accounts and services. The remaining five principles addressed specific risks, ranging from narrow risks (such as risk to an individual Reserve Bank) to broader risks (such as risk to the U.S. financial system). For each of these five principles, the Original Proposal set forth factors that Reserve Banks should consider when evaluating an institution's access request against the specific risk targeted by the principle (several factors are pertinent to more than one principle).

Discussion

The Board received 46 individual comment letters and 281 duplicate form letters in response to the Original Proposal. Nearly all the comment letters expressed general support for the proposed Account Access Guidelines, and most letters also made recommendations for revisions to the Guidelines. Commenters represented several types of institutions, including (1) institutions with traditional charters, such as banks and credit unions, and their trade associations; (2) institutions with novel charters, such as cryptocurrency custody banks, and their trade associations; and (3) think tanks and non-profit advocacy groups. The views expressed by the first category of commenters often conflicted with the views expressed by the second category of commenters. The duplicate form letters included recommendations that mirrored those submitted by trade associations for institutions with traditional charters, which opposed greater account access for institutions with novel charters.

The Original Proposal noted that the application of the Guidelines to requests by federally-insured institutions should be fairly straightforward, while requests from non-federally insured institutions may require more extensive due diligence. One frequent recommendation by commenters was for the Board to provide more information on how the proposed Account Access Guidelines would be applied to access requests by non-federally insured institutions.

As explained more fully in the attached Federal Register notice (Updated Proposal), the staff recommends that the Board repropose an updated version of the Account Access Guidelines. Section 1 of the Updated Proposal – which describes the six principles that the Reserve Banks will use in evaluating requests for accounts and services – is substantially the

same as the principles described in the Original Proposal.³

Section 2 of the Updated Proposal would establish a three-tier framework to provide additional clarity regarding the review process for different types of institutions.

- Tier 1 would consist of eligible institutions that are federally insured. These institutions would generally be subject to a less intensive and more streamlined review.
- Tier 2 would consist of eligible institutions that are not federally insured but (i) are subject (by statute) to prudential supervision by a federal banking agency; and (ii) any holding company of which would be subject to Federal Reserve oversight (by statute or by commitments). These institutions would generally receive an intermediate level of review.
- Tier 3 would consist of eligible institutions that are not federally insured and not subject to prudential supervision by a federal banking agency at the institution or holding company level. These institutions would generally receive the strictest level of review.

Staff Recommendation

Staff recommends that the Board approve publication of the supplemental notice in the Federal Register. Staff requests the authority to make technical, non-substantive changes to the Federal Register notice prior to publication.

Attachment

³ The Updated Proposal incorporates certain technical changes to Section 1. For example, some commenters read Principle 6 to suggest that Reserve Banks, rather than the Board, have the authority to establish the interest on reserve balances (IORB) rate. The Updated Proposal deletes the language that commenters read to suggest that Reserve Banks have the authority to establish the IORB rate