

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Date: August 2, 2022

To: Board of Governors (Board)

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 final Federal Register notice to finalize the Board's 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).

Background

On May 5, 2021, the Board requested comment on proposed guidelines to be used by Reserve Banks in evaluating requests for accounts and services (Original Proposal or Proposed Guidelines). This original proposal was intended to ensure that Reserve Banks apply a transparent and consistent set of factors when reviewing access requests. The Original Proposal also 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 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

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factors that Reserve Banks should consider when evaluating an institution's access request against the specific risk targeted by the principle. In addition, the introductory text to the Account Access Guidelines 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.

On March 1, 2022, the Board invited comment on a second, supplemental notice (Supplemental Notice) that built upon the original proposal by adding a three-tiered review framework to provide additional clarity. Where the Original Proposal noted that the level of scrutiny applied by Reserve Banks would hinge on whether the institution is federally-insured, the Supplemental Notice provided more detail by proposing to incorporate into the Account Access Guidelines a three-tiered review framework—which would become Section 2 of the Account Access Guidelines. The three-tiered review framework provided additional clarity on the minimum level of due diligence and scrutiny that Reserve Banks would apply to different types of institutions when applying the six risk-based principles. The Supplemental Notice proposed:

- 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.

Discussion

The Board received 46 individual comment letters and 281 duplicate form letters in response to the Original Proposal. Nearly all of the comment letters expressed general support

for the proposed Account Access Guidelines, and most letters also made recommendations for revisions to the Guidelines. Commenters could generally be categorized into two categories: those which supported and those which opposed greater account access for institutions with novel charters. Many commenters provided general comments on the Original Proposal that addressed one or more of three high-level themes: (1) policy requirements to gain access to accounts and services; (2) implementation of the Proposed Guidelines; and (3) legal eligibility for Reserve Bank accounts. The attached Federal Register notice provides more detail on the comments received and staff's recommended responses to those comments. On policy requirements to gain access to accounts and services, some commenters made recommendations that would, in their opinion, provide an easier path for institutions, particularly those with novel charters, to successfully gain access to accounts and services. Many commenters, on the other hand, recommended that the Proposed Guidelines should provide a more challenging path for institutions with novel charters to gain access to accounts and services. Many commenters provided recommendations related to how the Proposed Guidelines will be implemented and how to ensure consistency in their application by Reserve Banks.

The Board received 24 comment letters on the Supplemental Notice. Most commenters generally expressed support for the proposed tiering framework, and a few commenters objected to the manner in which the proposed tiering framework would treat certain uninsured state-chartered institutions. A different group of commenters supported the tiering framework and called for heightened scrutiny of non-federally-insured depository institutions that request Reserve Bank accounts. Many commenters reiterated the comments that they previously submitted on the Original Proposal.²

As explained more fully in the attached Federal Register notice, staff recommends that the Board adopt the final Account Access Guidelines which are substantially similar to the proposals with some slight revisions. Section 1 of the final Account Access Guidelines is substantially the same as in the Original Proposal and Supplemental Notice with minor changes to improve clarity in response to comments received. Included in these changes is language to emphasize the Board's expectation that Reserve Banks consult with the other Reserve Banks and the Board, as appropriate, to support consistent implementation of the Account Access

² For example, many commenters restated comments relating to legal eligibility for accounts and services, while other commenters restated their view that non-federally-insured institutions should receive accounts and services only if they are subject to the same regulatory framework as federally-insured institutions.

Guidelines.

In response to public comments received, the attached Federal Register notice also makes certain changes in Section 2 of the final Account Access Guidelines to provide more comparable treatment between non-federally-insured institutions chartered under state and federal law (see table in Appendix A). Specifically, Tier 2 would be modified to include a narrower set of non-federally-insured institutions chartered under federal law. Under the revised Tier 2, a non-federally-insured institution chartered under federal law would only be considered in Tier 2 if the institution has a holding company that is subject to Federal Reserve oversight.³ Staff believes it is appropriate to subject non-federally-insured institutions that the Federal Reserve supervises to an intermediate level of review under Tier 2, as Reserve Banks have substantial supervisory information about, as well as a level of regulatory authority over, such institutions. In addition, staff incorporated updates in Section 2 of the tiering framework to emphasize that the review of institutions' requests will be completed on a case-by-case, risk-focused basis within each of the three tiers. For example, Reserve Banks may take comparatively longer to review access requests by institutions that engage in novel activities for which authorities are still developing appropriate supervisory and regulatory frameworks.

By adopting the final Account Access Guidelines, the Board would establish a transparent and equitable framework for Reserve Banks to apply to all access requests. To promote consistency, the Reserve Banks are working together, in consultation with Board staff, to expeditiously develop an implementation plan for the final Guidelines.

Staff Recommendation

Staff recommends that the Board approve publication of the final 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 These revisions to Tier 2 would apply only to non-federally-insured institutions chartered under federal law. Under the final Account Access Guidelines, a non-federally-insured institution chartered under state law would (consistent with the Supplemental Notice) be considered in Tier 2 if (i) the institution is subject to prudential supervision by a federal banking agency, and (ii) to the extent the institution has a holding company, that holding company is subject to Federal Reserve oversight.

Appendix A

	Supplemental Notice	Final Account Access Guidelines	Level of Scrutiny
Tier 1	Eligible institutions that are federally-insured	Eligible institutions that are federally-insured	Streamlined
Tier 2	Eligible institutions that are non-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)	Eligible institutions that are non-federally-insured, but (i) are subject (by statute) to prudential supervision by a federal banking agency; and (ii) (A) for those chartered under state law, any holding company of which would be subject to Federal Reserve oversight (by statute or commitments); or (B) for those chartered under federal law, have a holding company that is subject to Federal Reserve oversight (by statute or commitment).	Intermediate
Tier 3	Eligible institutions that are non-federally insured and not subject to prudential supervision by a federal banking agency at the institution or holding company level	Eligible institutions that are non-federally-insured and are not considered in Tier 2.	Highest