

FRB Proposes Guidelines for Access to Master Accounts and Financial Services

May 28, 2021

Earlier this month, the Federal Reserve Board (“FRB”) issued for public comment proposed guidelines (“Proposed Guidelines”) for Federal Reserve Banks (“Reserve Banks”) to use in evaluating requests for master accounts and access to Reserve Bank financial services (“Fed Accounts and Services”).¹

Reserve Banks offer financial institutions a set of core financial services that constitute the basis of the U.S. payments system, including the provision of master accounts, processes for the collection and processing of checks, electronic fund transfers through the Fedwire Funds Service, and the issuance, maintenance, transfer and settlement of certain U.S. government securities through the Fedwire Securities Service. Eligibility for direct access to Fed Accounts and Services is generally limited to banks that are members of the Federal Reserve System and “depository institutions,” as that term is defined in the Federal Reserve Act (the “FRA”).

The staff memorandum accompanying the FRB release explains that the Proposed Guidelines are intended to address the increasing number of inquiries and access requests Reserve Banks are receiving from novel institutions as a result of a recent uptick in novel charter types being authorized or considered across the country.² The inquiries and access requests raise “important interpretive and policy issues” regarding whether such institutions should have access to Fed Accounts and Services.³ The access decisions of individual Reserve Banks, the FRB notes in the preamble to the Proposed

¹ FRB, Press Release, Federal Reserve Board Invites Public Comment on Proposed Guidelines to Evaluate Requests for Accounts and Payment Services at Federal Reserve Banks (May 5, 2021, 12:30p EDT), [available here](#); Proposed Guidelines for Evaluating Account and Services Requests, 86 Fed. Reg. 25865 (May 11, 2021), [available here](#).

² Debate around the Office of the Comptroller of the Currency’s (“OCC”) chartering of non-traditional institutions, however, is ongoing. Most recently, in a May 19, 2021 open letter to the newly appointed Acting Comptroller, Michael Hsu, Senator Sherrod Brown requested that the OCC reassess any conditional national trust charters and temporarily halt the approval of any additional charters to nonbank entities, noting the number of challenges that have been made to the OCC’s authority to grant such charters. See Letter from Senator Sherrod Brown to Acting Comptroller Michael Hsu (May 19, 2021), [available here](#).

³ FRB Staff Memo, Proposed guidelines to evaluate requests for accounts and services at Federal Reserve Banks (Apr. 28, 2021), [available here](#).

Guidelines, “can have implications for a wide array of Federal Reserve System . . . policies and objectives.”

The Proposed Guidelines are intended to provide a “structured, transparent, and detailed framework for evaluating access requests” and “help foster consistent evaluation . . . from both risk and policy perspectives” across the 12 Reserve Banks. The FRB also expects Reserve Banks to use the Proposed Guidelines, if adopted, to re-evaluate the risks posed by an institution that currently has access to Fed Accounts and Services when a potential change in the institution’s risk profile is identified, including a significant change to the institution’s business model.

This Debevoise In Depth provides an overview of the six principles contained in the Proposed Guidelines. Comments on the Proposed Guidelines are due on or before July 12, 2021.

The Principles of the Proposed Guidelines

The Proposed Guidelines outline six risk-based principles for use by a Reserve Bank in reviewing a request for access to Fed Accounts and Services.⁴ These principles are founded on efforts to consider the risks of granting access to a particular institution, such as risk to the Reserve Bank, the U.S. financial system, and the overall economy. Each principle also identifies factors—commonly used in the regulation and supervision of federally insured institutions—to assist the Reserve Banks in evaluating requests. In this regard, the FRB anticipates that more extensive diligence may be required to evaluate requests from non-federally insured institutions. Indeed, the Proposed Guidelines would establish a more robust, consistent approach and decision-making process for access requests, which may pose additional burdens than are currently required by Reserve Banks.

In addition, the Proposed Guidelines would permit a Reserve Bank to impose obligations, conditions, or limitations on an individual institution’s use of Fed Accounts and Services to limit the risks posed by such access to the Reserve Banks, payment system, financial stability or the implementation of monetary policy or to address other considerations.

As part of evaluating a request under the following principles, a Reserve Bank would be expected to incorporate in its review, to the extent possible, assessments by other state

⁴ The Proposed Guidelines note that these principles do not apply to accounts provided by a Reserve Bank as depository and fiscal agent for the Treasury and for certain government-sponsored entities, nor to accounts provided to certain international organizations, designated financial market utilities, or to the Board’s Guidelines for Evaluating Joint Account Requests.

or federal supervisors. A Reserve Bank also would be expected to consider whether the request has the potential to set a precedent that could affect the Federal Reserve's ability to achieve its policy goals.

Principle 1. Legal Eligibility

Each institution requesting an account or services must be eligible under the FRA or other federal statute to maintain an account at a Reserve Bank and receive Federal Reserve services and should have a well-founded, clear, transparent, and enforceable legal basis for its operations.

In evaluating a request under the first principle, a Reserve Bank would be expected to determine whether the institution is legally eligible to obtain access to Fed Accounts and Services. Unless otherwise specified by federal statute, only member banks or institutions that meet the definition of "depository institution" under section 19(b) of the FRA are legally eligible to obtain access to Fed Accounts and Services. Section 19(b) of the FRA defines a "depository institution" to include a bank insured by the Federal Deposit Insurance Corporation ("FDIC") or a bank eligible to apply to become so insured. The FRB notes in the preamble to the Proposed Guidelines that it is considering whether to publish additional guidance in the future clarifying legal eligibility, and emphasizes that eligibility does not bestow a right to obtain Fed Accounts and Services.

The Reserve Bank also would be expected to assess (i) whether the institution's activities and services are consistent with applicable laws and regulations, including those governing electronic funds transfers, and (ii) whether the institution's services would impede compliance by the institution's customers with sanctions, anti-money laundering ("AML"), or consumer protection laws.

Principle 2. Risks to the Reserve Bank

Provision of an account and services to an institution should not present or create undue credit, operational, settlement, cyber or other risks to the Reserve Bank.

In evaluating a request under the second principle, a Reserve Bank would be expected to determine that the institution:

- Has an effective risk management framework and governance arrangements that ensure the institution operates in a safe and sound manner during both normal conditions and periods of idiosyncratic and market stress;
- Is in substantial compliance with supervisory and regulatory requirements;

- Would be able to comply, were it to obtain a master account, with FRB policies, Reserve Bank agreements and operating circulars and other requirements;
- Is in sound financial condition and demonstrates the ability, on an ongoing basis, to meet all of its obligations to remain a going concern and comply with its agreement for Fed Accounts and Services, including by maintaining sufficient liquid resources, the operational capacity to ensure the availability of such liquid resources, and appropriate settlement processes; and
- Has an operational risk framework satisfying certain conditions, including that the framework considers internal and external factors, identifies the range of operational risks, establishes sound governance arrangements, establishes clear rules and procedures, employs adequate resources, and supports compliance with electronic access requirements, including security measures.

Principle 3. Risks to the Overall Payment System

Provision of an account and services to an institution should not present or create undue credit, operational, settlement, cyber or other risks to the overall payment system.

In evaluating a request under the third principle, a Reserve Bank would be expected to:

- Confirm that the institution has an effective risk management framework and governance arrangements to limit the impact that idiosyncratic stress, disruptions, outages, cyber incidents or other incidents at the institution might have on other institutions and the payment system broadly. The framework should include clearly defined operational reliability objectives, a business continuity plan, and policies and procedures for identifying risks posed by external parties; and
- Identify actual and potential interactions between an institution's use of Fed Accounts and Services and other parts of the payment system, and consider whether access might restrict funds from being available to support the liquidity needs of other institutions.

The Proposed Guidelines also would direct Reserve Banks to consider an institution's financial condition and operational risk framework—factors to be considered in evaluating the risk that an institution's access would pose to the Reserve Bank—in evaluating the risks that an institution's access would pose to the overall payment system.

Principle 4. Risk to the U.S. Financial System

Provision of an account and services to an institution should not create undue risk to the stability of the U.S. financial system.

In evaluating a request under the fourth principle, a Reserve Bank would be expected to:

- Determine, in coordination with the other Reserve Banks and the FRB, whether access to Fed Accounts and Services by the institution—or a group of like institutions—could introduce financial stability risk to the U.S. financial system;
- Confirm the institution has an effective risk management framework and governance arrangements for managing liquidity, credit, and other risks that may arise in times of financial or economic stress;
- Consider the extent to which, especially in times of financial or economic stress, liquidity or other strains at the institution may be transmitted to other segments of the financial system; and
- Determine the extent to which, especially during financial or economic stress, access to Fed Accounts and Services by the institution—or a group of like institutions—could affect deposit balances across U.S. financial institutions more broadly and whether any resulting movements in deposit balances could have a deleterious effect on U.S. financial stability. Here, the Proposed Guidelines explain that the potential for sudden and significant deposit inflows into an institution holding mostly central bank balances is particularly large if the institution is not subject to capital requirements similar to a federally-insured institution, “which could disintermediate other parts of the financial system, greatly amplifying stress.”

Principle 5. Risk of Facilitating Illicit Activity

Provision of an account and services to an institution should not create undue risk to the overall economy by facilitating activities such as money laundering, terrorism financing, fraud, cybercrimes, or other illicit activity.

In evaluating a request under the fifth principle, a Reserve Bank would be expected to confirm that an institution has implemented an AML program consistent with certain applicable regulatory requirements, including regulations promulgated by the Office of Foreign Asset Control (“OFAC”). The Reserve Bank should confirm the compliance programs contain a system of internal controls, independent audit and testing, commitment to Bank Secrecy Act (“BSA”)/AML and OFAC compliance by senior

management, ongoing personnel training, and processes that allow for a risk-based classification of the institution’s customer base.

Principle 6. Risk of Adverse Effects on Monetary Policy

Provision of an account and services to an institution should not adversely affect the Federal Reserve’s ability to implement monetary policy.

In evaluating a request under the sixth principle, a Reserve Bank would be expected to determine, in coordination with other Reserve Banks and the FRB, whether access to Fed Accounts and Services by the institution—or by a group of like institutions—could have an effect on the implementation of monetary policy.

Regardless of the current monetary policy implementation framework in place, the Reserve Bank would be expected to consider, among other things, whether access to Fed Accounts and Services could affect the level and variability of the demand for and supply of reserves, the level and volatility of key policy interest rates, the structure of key short-term funding markets, and the overall size of the consolidated balance sheet of the Reserve Banks. The Reserve Banks should also consider implications of providing an account to the institution in both normal times and times of stress.

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