

FRB Issues Supplement to Proposed Guidelines for Access to Master Accounts and Financial Services

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On March 8, 2022, the Federal Reserve Board (“FRB”) issued for public comment proposed supplemental guidelines (“Supplemental 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 The Supplemental Proposed Guidelines would build on the proposed guidelines the FRB issued for public comment on May 11, 2021 (“Initial Proposed Guidelines”) by proposing a tiered framework that would prescribe the scrutiny of review based on the level of oversight to which the requesting institution is subject.² Comments on the Supplemental Proposed Guidelines are due by April 22, 2022.

As background, 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 (“FRA”).

The Initial Proposed Guidelines were intended to (i) address the increasing number of inquiries and access requests Reserve Banks received from novel institutions as a result of a recent uptick in novel charter types being authorized or considered across the country and (ii) 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 Initial Proposed Guidelines indicated 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. In response to comments received on the Initial Proposed Guidelines, the Supplemental Proposed Guidelines

¹ See Guidelines for Evaluating Account and Services Requests, 87 Fed. Reg. 12,957 (Mar. 8, 2022), available [here](#).

² See Proposed Guidelines for Evaluating Account and Services Requests, 86 Fed. Reg. 25865 (May 11, 2021), available [here](#).

incorporate the principles outlined in the Initial Proposed Guidelines and provide more information on how these principles would be applied to access requests by non-federally insured institutions.

This Debevoise Update first summarizes the Initial Proposed Guidelines at a high level for context, and then provides an overview of the Supplemental Proposed Guidelines.

OVERVIEW OF THE INITIAL PROPOSED GUIDELINES

The Initial Proposed Guidelines outlines six risk-based principles that set forth the factors Reserve Banks would be expected to consider when evaluating a request for access to Fed Accounts and Services. 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. The six principles are: (1) legal eligibility, (2) risk to Reserve Banks, (3) risk to the overall payment system, (4) risk to the U.S. financial system, (5) risk of facilitating illicit activity, and (6) risk of adverse effects on monetary policy. A more detailed discussion of the Initial Proposed Guidelines and the principles can be found in the Debevoise Update located [here](#).

THE SUPPLEMENTAL PROPOSED GUIDELINES

In response to requests to clarify how the principles outlined in the Initial Proposed Guidelines would apply to institutions that are not federally insured, the FRB proposes to organize the Supplemental Proposed Guidelines into two sections: (i) Section 1 describes the six principles Reserve Banks would use in evaluating all requests for access to Fed Accounts and Services;³ and (ii) Section 2 establishes a three-tiered review framework to provide additional clarity on level of review for different institutions.

Section 1: Six Principles for the Evaluation of Access Requests

The Supplemental Proposed Guidelines would adopt, in Section 1, six principles a Reserve Bank would be expected to use when evaluating access requests by all institutions that are legally eligible to receive Fed Accounts and Services, as discussed in the first principle. These principles are substantially same as the principles described in the Initial Proposed Guidelines. A Reserve Bank would be expected to evaluate how each requesting institution meets each of the six principles. As with the Initial Proposed

³ Section 1 of the Supplemental Proposal Guidelines also would incorporate certain technical changes, including removing language that would suggest that Reserve Banks have the authority to establish the interest on reserve balances (IORB) rate.

Guidelines, each principle would identify factors—commonly used in the regulation and supervision of federally insured institutions—a Reserve Bank would be expected to consider when evaluating an institution against the risk that is the focus of the principle. The six principles are:

- **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. As to eligibility under statute, unless otherwise specified by federal statute, only an institution that is a member bank or meets the definition of depository institution under section 19(b) is legally eligible to obtain Fed Accounts and Services. In evaluating this principle, a Reserve Bank also would be expected to, among other factors, assess whether the design of the institution’s services would prevent its full compliance with certain laws and regulations, such as anti-money laundering (“AML”) regulations, U.S. sanctions, and consumer protection laws.
- **Principle 2. Risk to Reserve Banks.** 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 this principle, a Reserve Bank would be expected to, among other factors, confirm that the institution complies with its supervisory agency’s requirements and demonstrates an ability to comply with the FRB’s ongoing requirements while managing operational risk.
- **Principle 3. Risk 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 this principle, a Reserve Bank would be expected to, among other factors, identify the interactions between the institution and the payment system and determine that the institution is in sound financial condition with the potential to continuously meet its obligations and risk management requirements.
- **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 this principle, a Reserve Bank would be expected to, among other factors, coordinate with the other Reserve Banks and the FRB and consider how strains on this institution could pass to other segments of the financial system, including deposit balances in the United States.
- **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 this principle, a Reserve Bank would be expected to, among other factors, verify the institution's Bank Secrecy Act and AML compliance programs meet certain requirements and confirm the institution has a compliance program that satisfies regulations of the Treasury Department's Office of Foreign Assets Control regulations.

- **Principle 6. Risk of Adverse Effects on Monetary Policy.** Provision of an account and services to an institution should not adversely affect the FRB's ability to implement monetary policy. In evaluating this principle, a Reserve Bank would be expected to, among other factors, assess the effect on supply and demand of reserves, key policy interest rates, and the structure of key short-term funding markets.

Section 2: Tiered Review Framework

The Supplemental Proposed Guidelines would provide guidance regarding the level of due diligence and scrutiny to be applied by Reserve Banks to different types of institutions. Although institutions in a higher tier (i.e., Tier 3) will face greater diligence and scrutiny than institutions in a lower tier (i.e., Tier 1), a Reserve Bank would nonetheless have authority to grant or deny an access request by an institution in any of the three proposed tiers, based on the Reserve Bank's application of the six principles outlined in Section 1.

- **Tier 1: Institutions That Are Federally-Insured Institutions.** The Supplemental Proposed Guidelines recognizes that Tier 1 institutions already are subject to a set of comprehensive federal banking regulations, and detailed regulatory and financial information about these institutions typically is readily available. Accordingly, requests by Tier 1 institutions generally would be subject to less intensive and more streamlined FRB review. Where a Tier 1 institution has a potentially higher risk profile, the FRB would expect the institution to receive additional attention.
- **Tier 2: Institutions That Are Not Federally-Insured but Are Subject to Federal Prudential Supervision at the Institution and, if Applicable, at the Holding Company Level.** The FRB indicates that "[a]lthough not federally insured, Tier 2 institutions are subject to prudential supervision at the institution level by a federal banking agency (by statute)" and any holding company of a Tier 2 institution would be subject to FRB oversight (by statute or by commitments). The Supplemental Proposed Guidelines states that Tier 2 institutions are "subject to similar, but not identical, set of regulations as federally insured institutions," and detailed regulatory and financial information about these institutions is less likely to be readily available. As a result, the FRB indicates that these institutions may present greater risks than Tier 1 institutions. Accordingly, requests by these institutions would generally receive an intermediate level of review.

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- **Tier 3: Institutions That Are Not Federally-Insured and Not Subject to Federal Prudential Supervision at the Institution or Holding Company Level.** The FRB states in the Supplemental Proposed Guidance that Tier 3 institutions “may be subject to a supervisory or regulatory framework that is substantially different from, and less rigorous than,” the frameworks applied to federally insured institutions. Detailed regulatory and financial information regarding these institutions may not exist or may be unavailable. Accordingly, Tier 3 institutions would generally receive the strictest level of review.

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