



Financial Market Utilities: Federal Reserve Proposes Rule on Accounts at Reserve Banks

Yesterday, March 4, 2013, the Federal Reserve Board (the “Board”) published a proposed rule on the standards governing the establishment of accounts by the Federal Reserve Banks (the “Reserve Banks”) for the provision of services to financial market utilities (FMUs) that have been designated as systemically important by the Financial Stability Oversight Council (the “Council”).¹ The proposal is another step in the unfolding regulation of designated FMUs. The Council designated eight FMUs as systemically important on July 18, 2012,² and these FMUs are now subject to the risk management standards of the Board.³ The comment period on the proposal ends on May 3, 2013.

The proposed regulation would implement two provisions in section 806 of the Dodd-Frank Act in order to allow Reserve Banks to provide services to FMUs.

First, section 806(a) of the Dodd-Frank Act empowers the Reserve Banks to provide FMUs with payment services, including wire transfers, automated clearinghouse transactions, and settlement services. A Reserve Bank must receive authorization from the Board before offering services to a designated FMU. Authority will be granted on an FMU-specific rather than a blanket basis. The Board will consult with the FMU’s primary supervisor—i.e., the Commodity Futures Trading Commission or the Securities and Exchange Commission—before granting such authority and will continue discussions with the supervisor thereafter.

A Reserve Bank would have broad supervisory responsibilities over each designated FMU that receives Reserve Bank services to ensure that the services do not create undue credit, settlement, or other risk to the Reserve Bank. Under section 234.6(b) of the proposed rule, an FMU would be required to maintain a sound financial condition, to comply with the Board’s risk management standards for designated FMUs, as well as with other requirements or policies issued by the FMU’s primary supervisor or the Board, and to demonstrate the ability to meet its obligations to the Reserve Bank during periods of market stress.

An FMU account could be closed if a Reserve Bank finds a violation of the account agreement or related conditions, or the Reserve Bank or the Board could order termination if significant issues arise and are not resolved relating to risk to the Reserve Bank or violation of rules or policies.

Second, section 806(c) of Dodd-Frank authorizes a Reserve Bank to pay interest on the balance in a designated FMU’s deposit account. The proposal provides that the interest rate would be either the rate now paid on depository institution accounts or a lower rate as determined by the Board.

¹ The proposal is published in 78 Fed. Reg. 14024 (Mar. 4, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-03-04/pdf/2013-04841.pdf>.

² The announcement is available at <http://www.treasury.gov/initiatives/fsoc/designations/Pages/default.aspx>.

³ The standards comprise new Regulation HH, 12 C.F.R. part 234, published in 77 Fed. Reg. 45907 (Aug. 2, 2012), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-08-02/pdf/2012-18762.pdf>.

Conclusion

The Board has asked for comment specifically on the conditions in proposed section 234.6(b) that a designated FMU must satisfy in order to establish an account at a Reserve Bank. The entire proposal is open for comment, however, and an FMU should analyze whether the proposal addresses risks that the FMU believes would arise in connection with its use of Reserve Bank accounts or services.

Author

Dwight Smith
Washington, D.C.
(202) 887-1562
dsmith@mofocom

Contacts

Henry Fields
Los Angeles
(213) 892-5275
hfields@mofocom

Charles Horn
Washington D.C.
(202) 887-1555
chorn@mofocom

Oliver Ireland
Washington, D.C.
(202) 778-1614
oireland@mofocom

Barbara Mendelson
New York
(212) 468-8118
bmendelson@mofocom

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