

Federal Reserve Issues Final Guidelines for Master Account Access

The Board of Governors of the Federal Reserve System (the Board), on August 15, 2022, issued [final guidelines](#) for regional Federal Reserve Banks to use when considering applications for Federal Reserve "master accounts"—deposit accounts that, among other things, enable direct access to the Federal Reserve's payment systems, including Fedwire and the forthcoming real-time payments network, FedNow. The final guidelines came more than a year after the [initial proposal](#) and a [second, supplemental draft](#) issued in March 2022. The Board's release follows other recent efforts by federal banking regulators, like the Office of the Comptroller of the Currency ([OCC](#)) and the Federal Deposit Insurance Corporation ([FDIC](#)), to provide guidance on how fintech companies, including neobanks and special-purpose institutions, may fit within the current bank regulatory framework.

Federal Reserve payment services have historically been made available only to depository institutions and other traditional financial services providers, requiring fintech companies and neobanks to rely on incumbent institutions for access. As the digital transformation of financial services continues, the fintech community has long sought clarity on how, if at all, new entrants to the market may gain direct access to these critically important services. To that end, the Board acknowledges the final guidelines are intended to respond to "an increasing number of inquiries and access requests from institutions that have obtained, or are considering obtaining," what it described as "novel charter types."

Although it has authorized Reserve Banks to approve or deny account access applications from within their respective districts, only the Board has statutory authority to determine eligibility standards for access to Federal Reserve services. The final guidelines provide helpful structure and transparency to the factors that the Board expects Reserve Banks to consider and the level of scrutiny to be applied in determining how to act on any application, but the Board expressly declined to address certain fundamental questions, most notably whether and on what terms institutions holding "novel charter types" may be eligible for master accounts in the first instance. Without clarity from the Board on this question and guidance on what particular charter types or categories may be eligible, we expect the debate about who should have access and on what conditions to continue.^[1]

The final guidelines take the form of six principles (the Six Principles) that Reserve Banks will be expected to consider when reviewing requests for master accounts and related services. These are coupled with a three-tiered review framework intended to "serve as a guide to the level of due diligence and scrutiny to be applied" when a Reserve Bank considers any particular application.

Below, we provide a summary of the final guidelines and discuss takeaways and open questions that may be helpful to institutions evaluating whether to apply for master account access and the financial services industry as a whole.

Six Principles for Evaluating Requests for Account Access

The Six Principles included in the final guidelines are largely unchanged from the Board's initial and supplemental proposals. According to the Board, the principles, and the factors underlying them "are commonly used in the regulation and supervision of federally-insured institutions" and should assist a potential applicant in

making "enhancements to its risk management, documentation, or other practices to demonstrate how" it would satisfy the enumerated expectations.

Six Principles

1. **Legal eligibility.** Each institution requesting a master account must be eligible under the Federal Reserve Act or other federal statute to maintain an account at a Federal Reserve Bank.
2. **Risk to Reserve Bank.** Provision of a master account and services to an institution should not present or create undue credit, operational, settlement, cyber, or other risks to the Federal Reserve Bank.
3. **Risk to overall payment system.** Provision of a master account and services to an institution should not present or create undue credit, liquidity, operational, settlement, cyber, or other risks to the overall payment system.
4. **Risk to stability of U.S. financial system.** Provision of a master account and services to an institution should not create undue risk to the stability of the U.S. financial system.
5. **Risk to overall economy.** Provision of a master 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, economic or trade sanctions violations, or other illicit activity.
6. **Adverse effect on ability to implement monetary policy.** Provision of a master account and services to an institution should not adversely affect the Federal Reserve's ability to implement monetary policy.

Tiered Review Framework

The final guidelines also set out a tiered framework to govern the review of applications against the Six Principles. Although a Reserve Bank must evaluate each application on a "case-by-case basis," in consultation with the Board and other Reserve Banks, the Board explains that the tiered framework should "serve as a guide to the level of due diligence and scrutiny to be applied" to different types of institutions seeking account access, based on their "key characteristics." The tiers are organized by the level of scrutiny to be applied relative to other tiers (e.g., "less intensive," "strictest," etc.), with institutions in a lower tier generally facing greater due diligence and scrutiny than institutions in higher tiers.

Tier Characteristics

Expected Scrutiny

Tier 1	Eligible institutions that are federally insured (e.g., FDIC-insured state-chartered industrial loan company)	Least intensive and most streamlined level of review
Tier 2	Eligible institutions that: (1) are not federally insured but are subject by statute to prudential supervision by a federal banking agency <i>and</i> , if chartered under federal law, (2) have a holding company subject to Board oversight by statute or commitments (e.g., federally chartered, uninsured trust bank wholly owned by a bank holding company)	Intermediate level of review
Tier 3	Eligible institutions that are not federally insured and do not qualify for Tier 2 consideration (e.g., state-chartered institution owned or controlled by an unregulated holding company)	Strictest level of review

Applying the Framework

The following schematic summarizes how the framework would likely apply to any specific application for account access.

Step	Answer
1. Legal eligibility. Is the applicant legally eligible for a master account under the Federal Reserve Act or other federal statute?	Yes. Proceed to Step 2. No. Applicant is not eligible.
2. Federal insurance. Is the applicant federally insured by either the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA)?	Yes. Applicant is a "Tier 1" institution. Application would generally be subject to a less intensive and more streamlined review than Tier 2 and Tier 3 institutions. No. Proceed to Step 3.
3. Specific institution types. Is the applicant an Edge or Agreement Corporation or a U.S. branch or agency of a foreign bank?	Yes. Applicant institution would fall under a Tier 2 level of review and receive an intermediate level of review. No. Proceed to Step 4.

Step**Answer**

4. Multifactor matrix. For applications subject to this step, a more detailed analysis based on several characteristics is required.

4(a). Is the applicant chartered under federal or state law?	4(b). Is the applicant subject (by statute) to prudential supervision by a federal banking agency?[1]	4(c). Does the applicant have a holding company?	4(d). Is the holding company subject to Board oversight (by statute or commitments)?	Result
Federal	Yes[2]	Yes	Yes	Tier 2
			No	Tier 3
		No	N/A	Tier 3
			Yes	Tier 2
	Yes (FRS member)[3]	Yes	No	Tier 3
State		No	N/A	Tier 2
			Yes	Tier 3
		Yes		
	No (Not FRS member)		No	Tier 3
		No	N/A	Tier 3

Takeaways and Open Issues**Legal Eligibility**

The Board makes clear that, as a threshold matter, any applicant must establish that it is legally eligible for a master account and the associated services and has a "well-founded, clear, transparent, and enforceable legal

basis for its operations." But the relevant statutory standard leaves substantial room for interpretation, and, as noted, the final guidelines include no meaningful discussion of the Board's position on eligibility.

Specifically, the Federal Reserve Act authorizes account access for institutions that either: (1) are members of the Federal Reserve System, which status requires an application to the Board that satisfies certain statutory criteria; or (2) qualify as a "depository institution" under Section 19(b) of the Federal Reserve Act. That definition includes, however, not only qualifying "depository institutions" but also "banks" that are *eligible* to apply for federal deposit insurance, a category that is not clearly defined and that many believe includes certain types of limited purpose institutions and "novel charter types." By declining to address what it means to be *eligible* to make an application for deposit insurance—and, therefore, account access—the Board left unanswered what may be the most important question.

Prudential and Risk Management Considerations

Apart from legal eligibility, the Six Principles focus principally on prudential and risk management considerations that Reserve Banks are expected to consider when evaluating any application. These include matters that are both macroprudential (e.g., whether granting account access to the applicant would pose undue risk to the U.S. financial system or the effectiveness of monetary policymaking) and microprudential (e.g., whether the applicant appears to operate in accordance with an effective risk management framework and can comply with applicable law and regulation) in nature.

Despite providing principles that are wide-ranging and comprehensive, however, the Board is silent on the relative importance of the various considerations set forth. It is far from clear how a Reserve Bank reviewing any particular application should weigh these factors—irrespective of whether the institution falls in Tier 1, 2, or 3. Accordingly, whether the final guidelines provide an effective roadmap to aspiring applicants for Federal Reserve master accounts—or, as the Board suggests, "support consistency ... across Reserve Banks"—remains to be seen.

Conclusion

In summary, the Board's final guidelines help to move the discussion around Federal Reserve account access forward but leave open key interpretive issues. It appears final resolution will continue to play out incrementally as Reserve Banks act on applications and federal courts rule in ongoing litigations.

We will continue monitoring developments and provide additional updates as appropriate. Please contact any of the authors with specific questions.

Endnotes

[1] This debate will occur, at least in part, through ongoing litigation currently before federal courts.

[2] The federal banking agencies include the Board, the OCC, the FDIC, and the NCUA.

[3] Nonfederally insured institutions that are chartered under federal law are subject to prudential supervision by the OCC.

[4] Nonfederally insured institutions that are chartered under state law are subject to prudential supervision by the Board if they become members of the Federal Reserve System.

Authors



Logan S. Payne

Counsel

LPayne@perkinscoie.com [202.654.6265](tel:202.654.6265)

Explore more in

[Technology Transactions & Privacy Law & Digital Assets](#) [Investment Management](#) [Financial Transactions](#) [Blockchain](#) [Fintech & Payments](#)

Related insights

Update

[Wrapping Paper Series: Issues and Trends Facing the Retail Industry During the Holiday Season](#)

Update

[Department of Commerce Adopts Final Rule Restricting Tech and Telecom Supply Chain Transactions With Foreign Adversaries](#)