Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 204

Docket No. R–1737

RIN 7100–AG07

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking, request for public comment.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') proposes to amend its Regulation D (Reserve Requirements of Depository Institutions) to eliminate references to an ''interest on required reserves'' rate and to an ''interest on excess reserves'' rate and replace them with a reference to a single ''interest on reserve balances'' rate. The Board also proposes to simplify the formula used to calculate the amount of interest paid on balances maintained by or on behalf of eligible institutions in master accounts at Federal Reserve Banks, and to make other conforming changes.

DATES: Comments must be received on or before March 9, 2021.

ADDRESSES: You may submit comments, identified by Docket Number R–1737; RIN 7100–AG07, by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include the docket number and RIN in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel, (202–452–3565), Legal Division, or Matthew Malloy (202–452–2416), Division of Monetary Affairs, or Heather Wiggins (202–452–3674), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 19(b)(2) of the Federal Reserve Act (''Act'') [1] requires each depository institution to maintain reserves against its transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities within ratios prescribed by the Board for the purpose of implementing monetary policy. Reserve requirement ratios for nonpersonal time deposits and Eurocurrency liabilities have been set at zero percent since 1990. Effective March 24, 2020, the Board amended Regulation D to set all reserve requirement ratios for transaction accounts to zero percent, eliminating all reserve requirements.[2]

Section 19(b)(12) of the Act provides that balances maintained by or on behalf of ''eligible institutions'' in accounts at Federal Reserve Banks may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.[3] Eligible institutions include depository institutions and certain other institutions as specified in the Act.[4] Section 19(b)(12) also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[5]

Regulation D currently establishes an ''interest on required reserves'' (''IORR'') rate of 0.10 percent and an ''interest on excess reserves'' (''IOER'') rate of 0.10 percent.[6] Regulation D also applies the IORR rate and the IOER rate to balances maintained by or on behalf of eligible institutions based on whether such balances are or are not maintained to satisfy reserve balance requirements. Specifically, the IORR rate applies to balances that an eligible institution maintains, on average over the maintenance period, that are equal to or lower than ''the top of the penalty-free band.'' [7] The ''top of the penalty-free band'' is defined as ''an amount equal to an institution's reserve balance requirement plus an amount that is the greater of 10 percent of the institution's reserve balance requirement or $50,000.'' [8] A ''reserve balance requirement'' is defined as ''the balance that a depository institution is required to maintain on average over a reserve maintenance period in an account at a Federal Reserve Bank if vault cash does not fully satisfy the depository institution's reserve requirement imposed by this part.'' [9] Regulation D applies the IOER rate to balances maintained in excess of the top of the penalty-free band.[10]

With the setting of transaction account reserve requirement ratios to zero, depository institutions no longer have to maintain balances to satisfy a reserve balance requirement. To account for such changes, the Board is proposing to amend Regulation D in two ways. First, the proposed amendments would replace references to an IORR rate and an IOER rate with references to a single ''interest on reserve balances'' (''IORB'') rate. Second, the proposed amendments would streamline the calculation of interest by multiplying the IORB rate on a day by the balances maintained on that day. The proposed amendments would eliminate the unnecessary distinction between institutions that maintain balances above or below an amount related to reserve requirements.

[1] 12 U.S.C. 461(b)(2).

[2] Regulation D (Reserve Requirements of Depository Institutions) Interim Final Rule, 85 FR 16525 (March 24, 2020).

[3] 12 U.S.C. 461 (b)(12)(A).

[4] See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

[5] See 12 U.S.C. 461(b)(12)(B).

[6] 12 CFR 204.10(b)(5).

[7] 12 CFR 204.10(b)(1)–(3).

[8] 12 CFR 204.2(gg).

[9] 12 CFR 204.2(ee).

[10] 12 CFR 204.2(z).

In addition, the Board is proposing to amend Regulation D to refer to balances maintained in ''excess balance accounts'' [11] (''EBAs'') as ''balances'' rather than as ''excess balances'' and to apply the proposed ''IORB'' rate and proposed interest calculation to such balances.

II. Discussion

A. Section-by-Section Analysis

1. Section 204.2(aa)

Section 204.2(aa) currently defines an EBA as ''an account at a Reserve Bank pursuant to § 204.10(d) of this part that is established by one or more eligible institutions through an agent and in which only excess balances of the participating eligible institutions may at any time be maintained. An excess balance account is not a ''pass-through account'' for purposes of this part.'' [12] The Board proposes to amend section 204.2(aa) to delete the word ''excess'' from the first sentence of this definition. As revised, the first sentence of section 204.2(aa) would define an EBA as ''an account at a Reserve Bank pursuant to § 204.10(d) of this part that is established by one or more eligible institutions through an agent and in which only balances of the participating eligible institutions may at any time be maintained.''

2. Section 204.10(b)

Section 204.10(b) establishes the interest paid on different types of balances maintained by or on behalf of eligible institutions at Reserve Banks. Sections 204.10(b)(1)–(3) describe how the IORR and IOER rates apply to balances of eligible institutions above and below the top of the penalty-free band and how interest is calculated on those balances. Section 204.10(b)(5) sets forth the current IORR and IOER rates. (Section 204.10(b)(4) addresses term deposits; the Board is not proposing any amendments to this section other than the redesignation discussed below.)

a. Proposed Section 204.10(b)(1)

The Board proposes to delete current 204.10(b)(1) through (3) and replace them with a new section 204.10(b)(1) that would establish interest on balances maintained in a master account at a Reserve Bank by or on behalf of an eligible institution and describe how that interest is calculated. The Board proposes to establish interest on such balances as the amount equal to the IORB rate on a day multiplied by the total balances maintained on that day.[13] Finally, proposed section 204.10(b)(1) would establish the IORB rate.

Section 204.10(b)(5) of Regulation D currently sets forth the IORR rate and the IOER rate. In light of the proposed replacement of such rates with a proposed IORB rate set forth in proposed section 204.10(b)(1), the Board proposes to delete current section 204.10(b)(5) in its entirety.

b. Proposed Section 204.10(b)(2)

The Board proposes to redesignate current section 204.10(b)(4), dealing with term deposits, as proposed section 204.10(b)(2). No changes to the content of current section 204.10(b)(4) are proposed.

a. Proposed Section 204.10(b)(3)

The Board proposes to add a new section 204.10(b)(3) defining ''master account'' for purposes of section 204.10 as ''the record maintained by a Federal Reserve Bank of the debtor-creditor relationship between the Federal Reserve Bank and a single eligible institution with respect to deposit balances of the eligible institution that are maintained with the Federal Reserve Bank. A 'master account' is not a 'term deposit,' an 'excess balance account,' a 'joint account,' [14] or any deposit account maintained with a Federal Reserve Bank governed by an agreement that states the account is not a master account.''

3. Section 204.10(d)

a. Current Section 204.10(d)

Current section 204.10(d)(1) authorizes the establishment of EBAs and specifies that balances in an EBA represent a liability of the Reserve Bank holding the EBA solely to the participating eligible institutions. Current section 204.10(d)(2) requires eligible institutions participating in an EBA to authorize another institution to act as agent of the participating institutions for purposes of general account management (including transferring balances in and out of the EBA), and requires an EBA to be established at the Reserve Bank holding the agent's master account. Current section 204.10(d)(2) also prohibits the agent from maintaining any of its own balances in the EBA. Current section 204.10(d)(3) provides that balances in an EBA do not satisfy any institution's reserve balance requirement, and current section 204.10(d)(4) provides that EBAs are solely for the purpose of maintaining ''excess balances'' of participating institutions and may not be used for general payments or other activities. Current section 204.10(d)(5) establishes interest on balances in an EBA as ''the amount equal to the IOER rate in effect each day multiplied by the total balances maintained on that day for each day of the maintenance period.'' Current section 204.10(d)(6) authorizes Reserve Banks to establish additional terms and conditions with respect to the operation of EBAs.

b. Proposed Section 204.10(d)

Proposed section 204.10(d) would remove references to ''excess balances'' when describing the balances in an EBA and replace them with references to ''balances.'' The Board proposes to retain the name ''excess balance account.'' Specifically, the second sentence of proposed section 204.10(d)(1) would delete the reference to ''excess balances of eligible institutions'' in an EBA and replace it with a reference to ''balances maintained by eligible institutions'' in an EBA. Proposed section 204.10(d)(2) would delete the word ''excess'' from the reference to ''transferring the excess balances of participating institutions in and out'' of an EBA.

Current section 204.10(d)(3) provides that ''balances maintained in an excess balance account will not satisfy any institution's reserve balance requirement.'' The Board proposes to delete current section 204.10(d)(3) and redesignate current section 204.10(d)(4) as section 204.10(d)(3). Current section 204.10(d)(4) provides that an EBA ''must be used exclusively for the purpose of maintaining the excess balances of participants'' and may not be used for general payments or other activities. Proposed section 204.10(d)(3) would provide that ''[b]alances maintained in an [EBA] may not be used for general payments or other activities.'' Finally, proposed section 204.10(d)(4) would delete the references in current section 204.10(d)(5) to the ''IOER rate'' in establishing interest paid on EBAs and replace it with a reference to the ''IORB rate.'' Proposed section 204.10(d)(4) would also revise the reference to the rate ''in effect each day'' and to ''total balances maintained on that day for each day of the maintenance period'' to provide that interest on balances in an EBA is the amount equal to ''the IORB rate in effect on a day

[11] See 12 CFR 204.2(aa) (definition of excess balance account).

[12] The Board authorized excess balance accounts in 2009 to permit eligible institutions to maintain established correspondent-respondent relationships while mitigating the implications for the correspondent's balance sheet and its leverage ratio for capital adequacy purposes. Proposed Rule, 74 FR 5628, 5629 (Jan. 30, 2009); *see* Final Rule, 74 FR 25620, 25625–25628 (May 29, 2009).

[13] The amount of a balance in an account maintained by or on behalf of an eligible institution at a Reserve Bank is determined at the close of the Reserve Bank's business day. 12 CFR 204.10(a)(2).

[14] *See* Final Guidelines for Evaluating Joint Account Requests, 82 FR 41951 (Sep. 5, 2017).

multiplied by the total balances maintained on that day.''

III. Request for Comment

The Board seeks comment on all aspects of the proposed rule.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') [15] generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.

The Board has considered the potential impact of the proposal on small entities in accordance with the RFA. The Board believes that the proposal will not have a significant economic impact on a substantial number of small entities. As discussed in the Supplementary Information above, the proposed rule would apply to all eligible institutions regardless of size. The Board's proposed rule would also not impose any new recordkeeping, reporting, or compliance requirements. The Board does not believe that the proposed rule duplicates, overlaps, or conflicts with any other Federal rules. The Board also does not believe that there are any significant alternatives to the proposal which accomplish its stated objectives. In light of the foregoing, the Board does not believe that the proposal, if adopted in final form, would have a significant economic impact on a substantial number of small entities. Nonetheless, the Board seeks comment on whether the proposal would impose undue burdens on, or have unintended consequences for, small banking organizations and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with the purpose of the proposal.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act,[16] the Board has reviewed the proposed rule under authority delegated to the Board by the Office of Management and Budget. The proposed rule contains no collections of information pursuant to the Paperwork Reduction Act.

VI. Plain Language

Section 772 of the Gramm-Leach-Bliley Act [17] requires the Board to use ''plain language'' in all proposed and final rules. In light of this requirement, the Board has sought to present the interim final rule in a simple and straightforward manner. The Board invites comment on whether the Board could take additional steps to make the rule easier to understand.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the **SUPPLEMENTARY INFORMATION**, the Board proposes to amend 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Amend § 204.2 by revising paragraph (aa) to read as follows:

§ 204.2 Definitions.

* * * * *

(aa) *Excess balance account* means an account at a Reserve Bank pursuant to § 204.10(d) that is established by one or more eligible institutions through an agent and in which only balances of the participating eligible institutions may at any time be maintained. An excess balance account is not a ''pass-through account'' for purposes of this part.

■ 3. Amend § 204.10 by revising paragraphs (b) introductory text through (b)(3) and paragraphs (d) introductory text through (d)(4) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) *Payment of interest.* Interest on balances maintained at Federal Reserve Banks by or on behalf of an eligible institution is established as set forth in paragraphs (b)(1) and (b)(2) of this section.

(1) For balances maintained in an eligible institution's master account, interest is the amount equal to the interest on reserve balances rate (''IORB rate'') on a day multiplied by the total balances maintained on that day. The IORB rate is 0.10 percent.

(2) For term deposits, interest is:

(i) The amount equal to the principal amount of the term deposit multiplied by a rate specified in advance by the Board, in light of existing short-term market rates, to maintain the federal funds rate at a level consistent with monetary policy objectives; or

(ii) The amount equal to the principal amount of the term deposit multiplied by a rate determined by the auction through which such term deposits are offered.

(3) For purposes of § 204.10(b), a ''master account'' is the record maintained by a Federal Reserve Bank of the debtor-creditor relationship between the Federal Reserve Bank and a single eligible institution with respect to deposit balances of the eligible institution that are maintained with the Federal Reserve Bank. A ''master account'' is not a ''term deposit,'' an ''excess balance account,'' a ''joint account,'' or any deposit account maintained with a Federal Reserve Bank governed by an agreement that states the account is not a master account.

* * * * *

(d) *Excess balance accounts.* (1) A Reserve Bank may establish an excess balance account for eligible institutions under the provisions of this paragraph (d). Notwithstanding any other provisions of this part, the balances maintained by eligible institutions in an excess balance account represent a liability of the Reserve Bank solely to those participating eligible institutions.

(2) The participating eligible institutions in an excess balance account shall authorize another institution to act as agent of the participating institutions for purposes of general account management, including but not limited to transferring the balances of participating institutions in and out of the excess balance account. An excess balance account must be established at the Reserve Bank where the agent maintains its master account, unless otherwise determined by the Board. The agent may not commingle its own funds in the excess balance account.

(3) Balances maintained in an excess balance account may not be used for general payments or other activities.

(4) Interest on balances of eligible institutions maintained in an excess balance account is the amount equal to the IORB rate in effect on a day multiplied by the total balances maintained on that day.

* * * * *

[15] 5 U.S.C. 601 *et seq.*

[16] 44 U.S.C. 3506.

[17] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

By order of the Board of Governors of the Federal Reserve System.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2020–28755 Filed 1–7–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1241

RIN 2590–AB09

Enterprise Liquidity Requirements

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Housing Finance Agency (FHFA) requests comment on a proposed rule that would implement four liquidity and funding requirements for Fannie Mae and Freddie Mac (the Enterprises). The 2008 financial crisis demonstrated substantial weaknesses in the liquidity positions of the Enterprises. Liquidity and funding challenges were a significant contributing factor to establishment of the conservatorships in September 2008. The proposed rule builds on the improvements made to the U.S. banking supervision framework's regulation of institutions' liquidity requirements, and on experience since the 2008 financial crisis including with the more recent 2020 COVID–19-related financial market stress. FHFA believes that a robust Enterprise liquidity framework will improve market confidence in the Enterprises' ability to fulfill their mission and provide countercyclical support to housing finance markets in times of stress, while further minimizing the likelihood that they will need further taxpayer support. FHFA envisions that an appropriate framework would incent the Enterprises to build their liquidity portfolios in good times, so that it is available to be deployed as necessary in times of stress.

DATES: Comments must be received on or before March 9, 2021.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB09, by any one of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB09.
- *Hand Delivered/Courier:* The hand delivery address is Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AB09, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AB09, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

FOR FURTHER INFORMATION CONTACT: Jamie Newell, Associate Director, Division of Resolutions, (202) 649–3530, *Jamie.Newell@fhfa.gov;* Ming-Yuen Meyer-Fong, Associate General Counsel, Office of General Counsel, (202) 649–3078, *Ming-Yuen.Meyer-Fong@fhfa.gov;* or Mark Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054, *Mark.Laponsky@fhfa.gov.* These are not toll-free numbers. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION: The proposed rule establishes four quantitative liquidity requirements that address the short, intermediate and long-term liquidity needs of the Enterprises. The short-term 30-day liquidity requirement is designed to promote the short-term resilience of the liquidity risk profile of the Enterprises, thereby improving the Enterprise's ability to absorb shocks arising from financial market and economic stresses. In addition, the proposed rule includes an intermediate-term 365-day liquidity requirement to ensure that the Enterprises manage their liquidity needs beyond the short-term, and to provide additional incentives to fund their activities in a more stable fashion. Finally, the proposed rule includes two longer-term liquidity and funding requirements that encourage the issuance of an appropriate mix of longer-term debt to reduce the Enterprises' rollover risk. FHFA expects that this more appropriate mix of longer-term debt will also reduce the risk that the Enterprises would have to sell less-liquid assets in distressed markets.

Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Copies of all comments will be posted without change, and will include any personal information you provide such as your name, address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule also located on the FHFA website.

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