

holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 7, 2002.

**A. Federal Reserve Bank of San Francisco** (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *CBA Bancshares, Inc.*, Minneapolis, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Arizona, Wickenburg, Arizona.

Board of Governors of the Federal Reserve System, December 7, 2001.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

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## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or

other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 2001.

**A. Federal Reserve Bank of Minneapolis** (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *Provincial Corp.*, Lakeville, Minnesota; to engage *de novo*, through AmericEd Financial Services, LLC, Lakeville, Minnesota, in the origination and sale of government guaranteed student loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, December 7, 2001.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 01-30784 Filed 12-12-01; 8:45 am]

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## FEDERAL RESERVE SYSTEM

[Docket Nos. R-1107, R-1108, R-1109, and R-1110]

### Policy Statement on Payments System Risk

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Policy statement.

**SUMMARY:** The Board has revised its Policy Statement on Payments System Risk (PSR policy) to modify the net debit cap calculation for U.S. branches and agencies of foreign banks, to modify the time electronic check presentments are posted to depository institutions' Federal Reserve accounts for purposes of measuring daylight overdrafts, and to incorporate, with minor modifications, its interim policy that allows certain depository institutions to pledge

collateral to the Federal Reserve in order to access additional daylight overdraft capacity above their net debit caps. These changes to the policy should benefit the few financially healthy institutions that have been constrained by their net debit caps by increasing their daylight overdraft capacity and should remove a potential impediment to the use of electronic check presentment. The Board has also removed provisions from the PSR policy that are now addressed in the Reserve Banks' Automated Clearing House operating circular. Finally, the Board has decided to retain the \$50 million limit on the value of book-entry securities transfers.

**DATES:** The revised PSR policy is effective December 10, 2001 with the following exceptions: (1) revisions to the criteria used to determine the U.S. capital equivalency measure for foreign banking organizations will take effect on February 21, 2002 and (2) the modification to post electronic check presentments to depository institutions' Federal Reserve accounts at 1 p.m. local time will take effect on April 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Paul Bettge, Associate Director (202/452-3174), Stacy Coleman, Manager (202/452-2934), or Connie Horsley, Senior Financial Services Analyst (202/452-5239), Division of Reserve Bank Operations and Payment Systems.

## SUPPLEMENTARY INFORMATION:

### I. Background

The Board recently conducted a review of its PSR policy to evaluate the effectiveness of its daylight credit policies, recognizing that significant changes have occurred in the banking, payments, and regulatory environment in the past few years. The Board's daylight credit policies addressed net debit caps, capital measures, the daylight overdraft fee, the book-entry securities transfer limit, interaffiliate transfers, third-party access to Fedwire, counseling, ex post and real-time monitoring, and the posting rules.<sup>1</sup> In addition, the Board evaluated further changes to the rate charged on average daily daylight overdrafts in depository institutions' Federal Reserve accounts.<sup>2</sup>

<sup>1</sup> As part of its review, the Board rescinded its policies on Fedwire third-party access effective April 9, 2001 (66 FR 19165, April 13, 2001) and interaffiliate transfers effective January 1, 2002 (66 FR 30198, June 5, 2001).

<sup>2</sup> In October 1992, the Board approved charging a fee for daylight overdrafts, which was to be phased in as 24 basis points in 1994, 48 basis points in 1995, and 60 basis points in 1996 (57 FR 47084, October 14, 1992). In March 1995, however, the Board decided to raise the daylight overdraft fee to

Continued

The Board determined that these policies appear to be generally effective in controlling risk to the Federal Reserve and creating incentives for depository institutions to manage their intraday credit exposures. Furthermore, the PSR policy appears to be well understood by the industry, and private-sector participants have generally benefited from the policy's risk controls. The Board also recognized, however, that the policy has imposed costs on the industry and is considered burdensome by some depository institutions.

In conducting its review, the Board evaluated the effect of past policy actions on depository institutions' behavior and on the markets generally and also considered the effect of various payment system initiatives on payments activity and the demand for daylight credit. Through its analysis, the Board identified growing liquidity pressures among certain payments system participants. Specifically, the Board learned that a small number of financially healthy institutions regularly find their net debit caps to be constraining, causing them to delay sending payments and, in some cases, to turn away business. To address these liquidity concerns, the Board adopted on an interim basis, and requested comment on, a policy that allows depository institutions with self-assessed net debit caps (average, above average, or high) to pledge collateral to the Federal Reserve in order to access additional daylight overdraft capacity above their net debit cap levels (66 FR 30199, June 5, 2001).

The Board also learned through its policy review that some foreign banking organizations (FBOs) believe that their net debit caps constrain their business activity and place them at a competitive disadvantage in comparison with U.S. depository institutions. Some FBOs assert that certain U.S. depository institutions hold a significant portion of their assets in foreign markets but are able to use 100 percent of their total risk-based capital in establishing their

caps, while the PSR policy does not recognize the FBOs' worldwide financial strength. In considering the concerns raised by FBOs, the Board assessed the criteria used in determining their U.S. capital equivalency measure. In addition, the Board evaluated trends in FBOs' daylight credit use, considered supervisory and legal issues, assessed the potential impact of new or emerging payments system initiatives, and held discussions with FBOs. To address the liquidity concerns identified by FBOs, the Board requested comment on proposed modifications to the criteria used to determine an FBO's U.S. capital equivalency measure (66 FR 30205, June 5, 2001).

The Board also evaluated the effectiveness of the current daylight overdraft posting rules and found these rules to be generally effective and well understood by the industry. In reviewing the posting rules, however, the Board found that the posting times for electronic check presentment (ECP) transactions often create a disincentive for depository institutions to use Federal Reserve electronic check services. As a result, the Board requested comment on changing the posting time associated with ECP transactions in an effort to remove any disincentive created by the posting rules (66 FR 30195, June 5, 2001).

Finally, the Board considered the effectiveness of the \$50 million limit on the transaction size of book-entry securities transfers on Fedwire. The Board focused on whether the limit was imposing an undue regulatory burden on depository institutions and their securities-dealer customers. Because the industry bears a significant portion of the limit's costs in terms of transaction fees and receives a benefit in terms of reduced daylight overdraft fees, the Board requested comment on the desirability of retaining the \$50 million limit (66 FR 30193, June 5, 2001).

## II. Summary of Comments and Analysis

The Board has updated its PSR policy to incorporate most aspects of its near-term proposals. The following section describes the proposed changes to the PSR policy, provides a summary and analysis of the comments received on the proposals, and highlights the provisions of the revised PSR policy.

### *A. Increased Daylight Overdraft Capacity Through Collateralization (Docket No. R-1107)*

In its review of the PSR policy, the Board identified growing liquidity pressures among certain payments system participants. The Board also

recognized that certain payment system initiatives, such as the Clearing House Interbank Payments System with intraday finality (new CHIPS), the Continuous Linked Settlement (CLS) system, and the Federal Reserve's settlement-day finality for ACH credit transactions, may exacerbate these institutions' liquidity needs at specific times during the day. To address these liquidity concerns, the Board adopted on an interim basis and requested comment on a policy that allows a depository institution with a self-assessed net debit cap to pledge collateral to its administrative Reserve Bank to secure daylight overdraft capacity in excess of its net debit cap (interim policy).<sup>3</sup>

In the interim policy, the Board eliminated the separate treatment of book-entry securities overdrafts for self-assessed institutions; however, the Board proposed eliminating the separate treatment of book-entry securities overdrafts for *all* depository institutions with the adoption of a final policy. By eliminating the separate treatment of book-entry securities overdrafts for self-assessed institutions, the Board abolished its collateralization requirement for self-assessed institutions that incurred "frequent and material" book-entry securities overdrafts.<sup>4</sup> The previous policy required institutions that met the frequent and material criteria to collateralize fully their peak book-entry securities overdrafts, not just the portion that exceeded the net debit cap. Under the interim policy, Reserve Banks could require self-assessed depository institutions that frequently exceeded their caps as a result of transactions with settlement-day finality to collateralize the difference between their peak daylight overdrafts and their net debit cap levels, rather than the entire amount of their peak book-entry securities overdrafts.<sup>5</sup>

The Board received twenty-five comment letters on its interim policy statement. The commenters included eleven commercial banking organizations and six of their trade

<sup>3</sup> The administrative Reserve Bank is responsible for the administration of Federal Reserve credit, reserves, and risk management policies for a given depository institution or other legal entity.

<sup>4</sup> Under the previous policy, an account holder met the "frequent and material" criteria when it exceeded its net debit cap, because of book-entry securities transactions, on more than three days in any two consecutive reserve-maintenance periods and by more than 10 percent of its capacity.

<sup>5</sup> These transactions include Fedwire funds transfers, book-entry securities transfers, net settlement service entries, and ACH credit originations.

36 basis points instead of 48 basis points and stated it would evaluate further changes to the fee after two years (60 FR 12559, March 7, 1995). In June 2001, the Board requested comment on the benefits and drawbacks associated with the following potential longer-term changes to the PSR policy: (1) Lowering self-assessed net debit caps and eliminating the two-week average caps, (2) implementing a two-tiered pricing regime for daylight overdrafts in which institutions that pledge collateral to the Reserve Banks would pay a lower fee on their collateralized daylight overdrafts than on their uncollateralized daylight overdrafts, and (3) rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (66 FR 30208, June 5, 2001). The Board will continue to evaluate these policy options.

associations, two clearing organizations, and six Federal Reserve Banks.

Commenters generally supported the Board's interim policy statement. Ten of the commenters explicitly noted that the potential benefits of allowing depository institutions with self-assessed net debit caps to pledge collateral for additional daylight overdraft capacity outweighed any potential drawbacks. Several commenters stated that the interim policy's primary benefits were additional flexibility in managing intraday liquidity and the potential for improved efficiency in payments activity. One commenter believed the policy's elimination of the frequent and material collateralization requirement for book-entry securities overdrafts would reduce regulatory burden. Only one commenter recommended that the Board not adopt the interim policy because it believed the policy would increase its organization's regulatory burden.

Three commenters stated that allowing collateral to support daylight overdraft capacity above net debit cap levels would reduce Federal Reserve credit risk and could more closely align the Federal Reserve's policies with those of other central banks. One commenter who generally supported the policy stated that the costs of pledging additional collateral to the Federal Reserve might negate the benefits of acquiring additional daylight overdraft capacity. Six commenters, however, noted that under the interim policy, depository institutions would primarily use collateral already pledged to a Reserve Bank. Two commenters indicated that institutions might pledge additional collateral once they gain experience with the policy. Three commenters stated that some depository institutions might pledge additional collateral if certain longer-term policy proposals were adopted, such as lowering the single-day net debit cap level and implementing two-tiered pricing for collateralized versus uncollateralized credit.

The Board has adopted the interim policy's provision enabling self-assessed depository institutions to obtain additional daylight credit by pledging collateral, which was intended to provide flexibility in addressing the liquidity needs of the few financially healthy institutions that are or may be constrained by their current net debit caps. In addition, the revised PSR policy continues to allow depository institutions to pledge collateral accepted today for discount window or PSR purposes. In conducting its review of the policy, the Board found that more than 25 percent of account holders

already have collateral pledged to the Reserve Banks. The Board believes it would be reasonable for depository institutions to use collateral already pledged to a Reserve Bank for discount window purposes to obtain additional daylight overdraft capacity when that collateral is not supporting an outstanding discount window loan. In addition, the Board expects that very few depository institutions will seek to expand their daylight overdraft capacity levels by pledging collateral because approximately 97 percent of all account holders use less than 50 percent of their net debit caps for their average peak overdrafts.

Two commenters expressed concern about the policy placing limits on the amount of book-entry securities overdrafts that institutions could incur and the potential implications for government securities market participants. The interim policy's elimination of the separate treatment of book-entry securities overdrafts for self-assessed institutions may require certain depository institutions to establish a maximum daylight overdraft capacity limit to accommodate their book-entry securities transactions. The commenters believed that any limitation on book-entry securities overdrafts might cause market disruptions and further noted that as long as these overdrafts were collateralized, a rigid limit would not be necessary. One commenter suggested that if a limit were to be imposed, that the limit be allowed to vary on a daily basis depending on the amount of collateral that the institution had pledged to its Reserve Bank. Another commenter recommended limiting the amount of additional daylight overdraft capacity to 50 percent of current net debit cap levels.

Two commenters supported allowing all book-entry securities overdrafts that are secured pursuant to the Reserve Banks' Operating Circular 10 (Lending) to be excluded from overdrafts measured against the cap.<sup>6</sup>

Alternatively, two commenters recommended that the policy allow only those book-entry securities overdrafts in

excess of the net debit cap to be secured pursuant to the Operating Circular 10 and exclude them from overdrafts measured against the cap.

Seven commenters expressed concern over the types of collateral accepted under the interim policy, particularly with regard to government securities market participants. Two of these commenters asked that the revised PSR policy reflect the continued acceptance of securities "in transit" to collateralize book-entry securities overdrafts.<sup>7</sup> One commenter recommended exploring alternatives to stable pool collateral to secure daylight overdrafts arising from particular transactions whose dollar amounts have the potential to make stable pool collateral requirements impracticable. Two commenters recommended allowing a depository institution to pledge collateral held for its benefit at another depository institution to secure funds overdrafts, provided the collateral is held in an account maintained by a Reserve Bank or is otherwise acceptable to the Reserve Bank.

The Board has decided to include book-entry securities overdrafts for purposes of determining an institution's compliance with its cap. Under the revised PSR policy, the Board requires that those depository institutions with self-assessed net debit caps that wish to expand their daylight overdraft capacity by pledging collateral consult with their Reserve Banks to establish a maximum daylight overdraft capacity limit.<sup>8</sup> The Reserve Banks will consider the institution's reasons for requesting additional daylight overdraft capacity as well as the institution's financial and supervisory information in determining the appropriate level of collateralized credit, if any, to grant above the net debit cap. Depository institutions will continue to have some flexibility as to the specific types of collateral they may pledge to the Reserve Banks; however, all collateral must be acceptable to the Reserve Banks.

The Board recognizes that with the policy's elimination of the separate treatment of book-entry securities overdrafts, some depository institutions may find their net debit cap levels insufficient in accommodating their book-entry securities overdrafts and may request a maximum daylight

<sup>6</sup> Depository institutions that pledge collateral to a Reserve Bank must sign an agreement in Operating Circular 10, which provides the Reserve Bank with a security interest in all the borrower's right, title, and interest in property (wherever located, now owned or hereafter acquired), including, but not limited to, accounts, chattel paper, inventory, equipment, instruments, investment property, general intangibles, payment intangibles, documents, deposit accounts, commercial tort claims, real property, and intellectual property, and which is (a) identified on a collateral schedule, (b) identified on the books or records of a Reserve Bank as pledged to the Bank, or (c) for which a financing statement has been filed.

<sup>7</sup> Securities in transit refer to book-entry securities transferred over Fedwire's National Book-Entry System that have been purchased by a depository institution, but not yet paid for and owned by the institution's customers.

<sup>8</sup> A depository institution's "maximum daylight overdraft capacity limit" is the total amount of Reserve Bank-approved daylight overdraft capacity, both uncollateralized and collateralized.

overdraft capacity limit to expand their capacity. To address commenters' concerns related to placing a limit on the amount of an institution's book-entry securities overdrafts, the revised PSR policy will allow the Reserve Banks to continue to accept securities in transit on the Fedwire book-entry securities system as collateral to support an institution's maximum daylight overdraft capacity limit. The Reserve Banks recognize that by accepting securities in transit as collateral to support an institution's additional daylight overdraft capacity, the institution's daylight overdraft capacity will vary on a daily basis.<sup>9</sup>

Two commenters expressed concern about the interim policy's provision that a Reserve Bank could require a depository institution with a self-assessed net debit cap that frequently exceeded its daylight overdraft capacity level to collateralize the difference between its peak daylight overdraft and its net debit cap level. These commenters noted that this requirement could marginally increase Federal Reserve credit risk because, unlike the previous policy that stipulated a depository institution with book-entry securities overdrafts that met the frequency and materiality thresholds had to collateralize fully those overdrafts, a depository institution would need to collateralize only the portion of its peak book-entry securities overdraft in excess of its net debit cap.

The Board agrees that this change could increase the Federal Reserve's credit exposure; however, the Board believes the increase in Federal Reserve credit risk would be minimal given that the majority of institutions that participate in the government-securities market do not meet the frequent and material criteria. In addition, for the past several years, the policy has allowed the Reserve Banks to protect themselves from risk when they believe it is appropriate by requiring institutions to pledge collateral. The interim policy allowed Reserve Banks to require collateral for the portion of an institution's daylight overdraft above its net debit cap level if the institution

frequently exceeded its cap as a result of transactions with settlement-day finality. In considering the frequency threshold, the Board determined that its longstanding policy of allowing Reserve Banks to exercise discretion in applying risk controls to their account holders is more practicable and precludes the need for the frequency threshold.

Regarding the Board's proposal to eliminate the separate treatment of book-entry securities overdrafts for all depository institutions, commenters were generally supportive. The proposed policy change would require depository institutions with exempt-from-filing and *de minimis* caps to apply for higher net debit caps if they frequently exceed their caps because of book-entry securities transfers. Commenters did not believe such a policy change would create any undue burden. Two commenters noted that depository institutions frequently exceeding their net debit caps might be an indication that the institutions' payment activities have expanded or become more complex. They believed the requirement for such an institution to apply for a higher net debit cap was useful and appropriate.

As mentioned previously, the Board has determined that its existing policies preclude the need for a frequency threshold. Under the Board's policy, Reserve Banks review the status of institutions that exceed their net debit caps during any two-week reserve-maintenance period. In addressing situations where an institution exceeds its net debit cap level, Reserve Banks may recommend that the institution apply for a higher net debit cap. In addition, if the institution does not qualify for a higher net debit cap, Reserve Banks have the discretion to apply risk controls, including requiring collateral, imposing clearing balance requirements, and delaying or rejecting transactions that would exceed the institution's account balance.

Under the revised PSR policy, Reserve Banks will review the status of an institution that exceeds its *de minimis* cap during a reserve-maintenance period and decide if the institution's cap level should be maintained or if the institution should be required to perform a self-assessment for a higher cap. Similarly, Reserve Banks will decide if an institution with an exempt-from-filing cap that incurs overdrafts in its Federal Reserve account in excess of the lesser of \$10 million or 20 percent of capital on more than two days in any two consecutive reserve-maintenance periods should maintain its exemption or be required to file for a higher cap. Finally, Reserve Banks will also review

the status of any zero cap institution that incurs a daylight overdraft and may decide to monitor the institution's activity in real time and reject or delay certain transactions. If the institution qualifies for a positive cap, the Reserve Bank may suggest that the institution accept an exempt-from-filing cap or file for a higher cap if the institution believes that it will continue to incur daylight overdrafts.

One commenter stated that the policy should allow Reserve Banks to have flexibility in dealing with bankers' banks because they typically have limited ability to pledge collateral to their Reserve Banks but experience large intraday account fluctuations. While the Board's policy allows bankers' banks to access Federal Reserve payment services, bankers' banks that are exempt from reserve requirements do not have regular access to the discount window and, therefore, may not incur daylight overdrafts. Bankers' banks that waive their reserve requirement exemption would be free to establish net debit caps and would be subject to the same PSR policies as other depository institutions.

Another commenter requested clarification on the method used to determine the maximum limit on an institution's daylight overdraft capacity and advocated consistent administration of the revised PSR policy throughout the Federal Reserve System. The Board believes that the revised PSR policy clarifies the conditions under which a depository institution may receive additional daylight overdraft capacity and notes that, pursuant to the Federal Reserve Act, the Board exercises general supervision over the Reserve Banks (section 11j). The Board expects to exercise this authority in a manner that should ensure equitable administration of the revised PSR policy.

Based upon its analysis of the comments received, the Board is adopting all of the provisions of the interim policy except the frequency threshold that determined when a Reserve Bank would require a depository institution with a self-assessed net debit cap to collateralize the difference between its peak daylight overdraft and its net debit cap level. As mentioned previously, the Board believes its longstanding policy of allowing Reserve Banks to exercise discretion in applying risk controls to their account holders is more practicable and precludes the need for a frequency threshold.

In adopting all of the other provisions of the interim policy, the Board recognizes the importance of providing an environment in which payment systems may function effectively and

<sup>9</sup> Depository institutions with self-assessed net debit caps that receive Reserve Bank approval to support a maximum daylight overdraft capacity limit with securities in transit must submit a board-of-directors resolution at least once in each twelve-month period. The resolution requires the depository institution's board of directors to acknowledge that (1) securities in transit will be used to collateralize daylight overdraft capacity in a manner consistent with the reasons and purposes submitted to the institution's administrative Reserve Bank and (2) the value of the securities in transit pledged to the Reserve Bank will fluctuate intraday and over time.

efficiently and remove barriers, as appropriate, to foster risk-reducing payment system initiatives. Under the revised PSR policy, certain depository institutions with self-assessed net debit caps may pledge collateral to their administrative Reserve Banks to secure daylight overdraft capacity in excess of their net debit caps. The Board believes that requiring collateral allows the Federal Reserve to protect the public sector from additional credit risk while providing extra liquidity to the few institutions that might otherwise be constrained. Providing extra liquidity to constrained institutions should help prevent liquidity-related market disruptions. In addition, the Board's decision to eliminate the separate treatment of book-entry securities overdrafts for *all* depository institutions should simplify administration of and compliance with the policy.

*B. Daylight Overdraft Capacity for Foreign Banking Organizations (Docket No. R-1108)*

During the Board's policy review, a few FBOs indicated that their net debit caps constrain their business activity and place them at a competitive disadvantage to U.S. depository institutions. These FBOs assert that certain U.S. depository institutions hold a significant portion of their assets in foreign markets but are able to use 100 percent of their total risk-based capital in establishing their caps, while the PSR policy does not recognize the FBOs' worldwide financial strength. The Board found that during 2000, approximately 35 percent of U.S. branches and agencies of foreign banks with positive net debit caps had cap utilization levels of 75 percent or more.<sup>10</sup> In contrast, during the same time period, less than 5 percent of domestically chartered institutions used more than 50 percent of their net debit caps for their average daily peak daylight overdrafts.

To address the liquidity concerns identified by FBOs during its review of the policy, the Board requested comment on proposed modifications to the criteria used to determine the U.S. capital equivalency measure for FBOs. The Board proposed (1) eliminating the Basle Capital Accord (BCA) criteria used in the policy to determine U.S. capital equivalency measure for FBOs, (2) replacing the BCA criteria with the strength of support assessment (SOSA) rankings and financial holding company (FHC) status in determining U.S. capital equivalency measure for FBOs, and (3)

raising the percentage of capital used in calculating U.S. capital equivalency measure for certain FBOs. The Board also proposed replacing "liabilities to nonrelated parties" with "net due to related depository institutions" as a proxy for calculating the U.S. capital equivalency measure for SOSA 3-ranked FBOs.<sup>11</sup> Specifically, an FBO's U.S. capital equivalency measure would be equal to one of the following:

- 35 percent of capital for FBOs that are FHCs
- 25 percent of capital for FBOs that are not FHCs and are ranked a SOSA 1
- 10 percent of capital for FBOs that are not FHCs and are ranked a SOSA 2
- 5 percent of "net due to related depository institutions" for FBOs that are not FHCs and are ranked a SOSA 3.

The Board received ten comment letters on its proposal regarding daylight overdraft capacity for FBOs. The commenters included three commercial banking organizations and three of their trade associations, one clearing organization, and three Federal Reserve Banks.

All of the commenters supported the proposed changes to the calculation of FBOs' net debit caps. Commenters generally believed that the proposed net debit cap structure, combined with the interim policy that allows depository institutions with self-assessed net debit caps to obtain additional daylight overdraft capacity, reasonably addresses the liquidity needs of FBOs. One commenter noted that the proposal would improve FBOs' capacity to clear and settle U.S. dollar payments.

Four commenters supported further increases in the percentage of capital used in the calculation of FBOs' net debit caps, particularly for institutions that hold an FHC classification. One commenter recommended allowing Reserve Banks to use discretion on a case-by-case basis when providing daylight credit to FBOs. In particular, the commenter stated that the percentage applied to determine the U.S. capital equivalency measure for institutions that are ranked SOSA 1 should be allowed to exceed 25 percent if the Reserve Bank agrees, presuming the institution has demonstrated adequate need for additional liquidity.

With respect to FBOs' access to the U.S. payments system, two commenters stated that the proposed policy changes provided FBOs with appropriate access. Four commenters, although in support

of the proposed policy, requested to be treated more similarly to domestically-chartered institutions in the calculation of their net debit caps. Two of these commenters expressed concern that the proposal leaves FBOs at a competitive disadvantage in comparison with domestically-chartered depository institutions. These commenters recommended that the Board consider further actions to address differences in the net debit cap calculation between FBOs and domestic institutions. They maintain that, in many instances, the supervision of FBOs, particularly for large and complex banking organizations, is comparable to, if not more stringent than, the supervision of domestically-chartered depository institutions and that this should offset concerns outlined in the Board's proposal about the risks these institutions pose. One commenter also recommended that foreign banks and domestically-chartered banks be treated comparably with respect to the real-time monitor. None of the commenters, however, addressed the extent to which the Board should consider the legal risks, such as differing international solvency laws, involved in the evaluation of the net debit cap calculation for FBOs.

While the Board recognizes commenters' concerns regarding the criteria used to determine the U.S. capital equivalency measure for FBOs, it believes that the criteria outlined in the Board's proposal are appropriate given the added supervisory and legal risks that FBOs present in comparison with domestically-chartered depository institutions. Although commenters contend that the level of supervision parallels and sometimes surpasses that of domestically-chartered depository institutions, the Board believes that the availability of this information to U.S. regulators may not be timely or comparable to similar information used in the supervision of U.S. depository institutions. The Board also believes that FBOs present additional legal risks, particularly in relation to insolvency laws. The Board believes that it is not practicable for the Federal Reserve to undertake and keep current extensive analyses of the legal risks presented by the insolvency law(s) applicable to each FBO with a Federal Reserve account in order to quantify precisely the legal risk that the Federal Reserve incurs by providing intraday credit to that institution. The Board believes that these additional risks warrant differential treatment of FBOs in relation to the provision of intraday liquidity.

<sup>11</sup> Reporting Form FFIEC 002/002S. *Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks*. Schedule RAL—Assets and Liabilities: Liabilities: item 4—"Liabilities to nonrelated parties" and item 5—"Net due to related depository institutions."

<sup>10</sup> Cap utilization is equal to an institution's average daily peak daylight overdraft divided by the institution's net debit cap.

The Board received no comments on its question regarding the appropriateness of replacing "liabilities to nonrelated parties" with "net due to related depository institutions" as a proxy for calculating U.S. capital equivalency for SOSA 3-ranked FBOs.

One commenter recommended clarifying the policy to refer to "worldwide capital" in relation to the capital measure for FBOs as opposed to merely "capital," to be consistent with language from the previous policy statement. The Board believes the capital of a foreign banking organization is, by definition, the organization's "worldwide capital."

Four commenters believed that the Federal Reserve should play an active role in an initiative to establish a cross-border collateral pool as an intraday liquidity service for participating banks. These commenters mentioned that such a facility would enable an institution to receive funds in a foreign central bank account by earmarking intraday balances in central bank money with its home country central bank. The Board is amenable to discussing this initiative, but is not addressing it in this notice.

Based upon its analysis and the comments received, the Board is adopting the proposed policy changes to FBOs' net debit caps. The Board is replacing the BCA criteria with SOSA rankings and FHC status in determining the U.S. capital equivalency measure and raising the percentage of capital used in the net debit cap calculation for certain FBOs. The Board believes that SOSA rankings provide broader information about the condition of the FBO, its supervision, and the home country, whereas the BCA distinction provides information only about the home country treatment of bank capital adequacy. Furthermore, the BCA designation reflects the one-time adoption of BCA standards by a country's supervisory authority, while U.S. bank supervisors update the SOSA rankings regularly. The Board believes that, like the SOSA ranking, FHC status is preferable to the BCA distinction in determining the risk posed by FBOs to the U.S. payments system because FHCs must continue to meet certain capital and management standards in order to maintain their status and are subject to enhanced reporting requirements.

In addition, the Board is replacing "liabilities to nonrelated parties" with "net due to related depository institutions" as a proxy for calculating the U.S. capital equivalency measure for SOSA 3-ranked FBOs. "Liabilities to nonrelated parties" may increase relative to assets when an institution becomes financially weaker and could

unduly increase the institution's overdraft capacity. "Net due to related depository institutions" reflects the amounts owed to the parent by the branch and can be viewed as the capital investment by the FBO parent in its U.S. operations. The Board notes that this policy change would not affect any SOSA 3-ranked FBOs at this time.

#### *C. Modifications to Daylight Overdraft Posting Rules for Electronic Check Presentments (Docket No. R-1109)*

In reviewing the PSR posting rules, the Board found that the posting times for electronic check presentment (ECP) transactions often create a disincentive for depository institutions to use Federal Reserve electronic check services. The Reserve Banks deliver the majority of electronic check presentments in the morning, and the delivery of the ECP files constitutes legal presentment of the checks under the terms of the Federal Reserve's uniform check Operating Circular 3. In accordance with the Board's objectives in designing the posting rules, the current posting rules stipulate that debits to depository institutions' Federal Reserve accounts for check presentments occur on the next clock hour that is at least one hour after presentment takes place, beginning at 11 a.m. Eastern Time (ET) and no later than 3 p.m. local time. Because the Reserve Banks generally deliver electronic check presentments in the morning, the corresponding debits occur at 11 a.m. ET. As a result, for many depository institutions, the posting times for electronic check presentments are earlier than the posting times associated with their paper check presentments.

The often earlier debit posting times associated with electronic check presentments have caused some depository institutions to incur daylight overdrafts earlier in the day and, in many cases, for longer periods of time. Because the Reserve Banks charge depository institutions a fee for the amount and duration of their Federal Reserve daylight credit use, the daylight overdraft charges of a few institutions that have moved to electronic check services have grown substantially. As a result, some depository institutions have asserted that the increases in their daylight overdraft charges have reduced or eliminated the benefits of using Federal Reserve electronic check services.

To remove barriers that may discourage depository institutions' use of Federal Reserve electronic check presentment services, the Board requested comment on proposed modifications to its daylight overdraft

posting rules to allow debits associated with ECP transactions to post to depository institutions' Federal Reserve accounts no earlier than 1 p.m. local time.

The Board received nineteen comment letters on its proposal to modify daylight overdraft posting rules for ECP transactions. The commenters included eight commercial banking organizations and four of their trade associations, one clearing organization, and six Federal Reserve Banks.

All of the commenters supported the proposed change in the posting time for ECP debits. Commenters generally believed that the benefits of the Board's proposed change in the posting time for ECP debits outweighed any disadvantages. In addition, commenters generally noted that posting ECP debits at 1 p.m. local time should facilitate participation in Federal Reserve ECP services by eliminating any disincentive created by the current posting rules.

None of the commenters indicated that the proposed change in the posting time of ECP debits would provide the Federal Reserve Banks with an inappropriate competitive advantage. One commenter stated that the later posting time actually improves the ability of private-sector banks to compete with Federal Reserve Banks. Another commenter noted that private-sector banks providing ECP services have the additional advantage of negotiating settlement arrangements with their correspondents. Two commenters noted that the proposed posting time does not unduly benefit paying banks or collecting banks, because the vast majority of depository institutions function as both paying and collecting banks.

One commenter recommended that the Board evaluate the potentially negative effect of posting debits and associated credits later in the day on bankers' banks, noting that the policy might impede their ability to manage their accounts within net debit cap levels. The Board believes that because the Federal Reserve Banks deliver the majority of electronic check presentments in the morning, account holders have adequate time before 1 p.m. local time to manage their accounts appropriately.

One commenter recommended that the Board extend the ECP posting time of 1 p.m. local time to debits and credits related to paper check transactions, noting that such a provision would enable many depository institutions to more easily monitor and manage their account activity. The Board notes that Reserve Banks do not post check debits to institutions' accounts prior to

presentment. Therefore, a single time for all check debits and credits would necessarily be later in the day than many depository institutions believed would be appropriate, according to earlier comments on this issue (57 FR 47084, October 14, 1992).

Based upon its analysis of the comments received, the Board has revised the PSR policy to reflect a modified posting time of 1 p.m. local time for ECP transactions. Because the Reserve Banks post the vast majority of check transactions by 1 p.m. local time, the Board believes that applying this posting time to ECP transactions should minimize any disincentive posed by the posting rules to move to ECP services. The Board also believes that the revised posting time should reduce or eliminate any potential increase in daylight overdraft charges created by differences in posting times for ECP and paper check transactions.

*D. Retention of the \$50 Million Fedwire Securities Transfer Limit (Docket No. R-1110)*

During its review, the Board also considered the effectiveness of the \$50 million limit on the transaction size of book-entry securities transfers on Fedwire to determine whether the limit was imposing an undue regulatory burden on securities market participants. To better understand the limit's effectiveness, Federal Reserve staff met with representatives of primary dealers, clearing banks, and industry utilities. These representatives supported retention of the limit, noting its positive net effect on the government securities settlement system. To ensure that it considered the perspectives of all parties before making a final determination, the Board requested comment on the desirability of retaining the \$50 million limit on the transaction size of book-entry securities transfers on Fedwire.

The Board received fifteen comment letters regarding the \$50 million limit. The commenters included seven commercial banking organizations and four of their trade associations, two clearing organizations, and two Federal Reserve Banks.

All of the commenters supported the retention of some limit on the size of book-entry securities transfers on Fedwire. Twelve commenters supported retention of the \$50 million limit, while three commenters favored increasing the transfer limit amount to \$100 million or more. None of the commenters favored reducing the transfer limit amount.

Ten commenters indicated that retaining a \$50 million limit was reasonable and cited reduced overdrafts

and enforcement of dealers accepting partial deliveries of large trades as the policy's primary benefits. Three commenters viewed the costs that institutions would incur to modify their systems as a reason not to change the limit, while two commenters specifically stated that changes to the limit would not require costly systems changes for their organizations. Three commenters stated that increasing the transfer limit would reduce administrative burden and would more appropriately reflect the current trading environment while not putting smaller market participants at a competitive disadvantage. Five commenters stated that lowering the transfer limit would increase systems and transactions costs and could potentially increase the number of delivery fails.

Following the September 11 terrorist attacks, one commenter recommended further evaluation of the transfer limit's necessity and of the possibility of lifting or modifying the limit in times of crisis. Board staff recently contacted some commenters who supported the limit to determine whether their views had changed because of the financial market disruptions resulting from the September 11 attacks. These commenters indicated that their views did not change and that they continue to support the limit's retention.

Two commenters stated that the limit's requirement of multiple deliveries per trade generally increases transaction costs and the potential for trade failures or transaction errors. Ten commenters viewed the policy's provision for multiple deliveries in order to reduce position building by dealers as beneficial. One commenter stated that the limit prevents securities delivery logjams that may otherwise occur if larger entities were to regularly accumulate securities in order to make larger par value deliveries first. Another commenter did not believe that the limit promotes any specific benefits in the government securities market.

The Board believes the \$50 million limit on book-entry securities transfers in combination with daylight overdraft fees has been effective in reducing total daylight overdrafts. In addition, the industry bears a significant portion of the costs and benefits of the limit and supports retention of the limit. As a result, the Board has retained the \$50 million limit on book-entry securities transfers on Fedwire.

### III. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payments system

participants.<sup>12</sup> Under these procedures, the Board assesses whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the expected benefits are significant enough to proceed with the change despite the adverse effects. The Board believes the modifications to its PSR policy will have no adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services.

### IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the revised PSR policy under the authority delegated to the Board by the Office of Management and Budget. The collections of information associated with the PSR policy are found in the Guide to the Federal Reserve's Payments System Risk policy.

The information on de minimis and self-assessed net debit caps requested in the Board's PSR policy is currently collected in the mandatory Report of Net Debit Cap (FR 2226; OMB No. 7100-0217). The information on daylight overdraft capacity for foreign banking organizations is currently collected in the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225; OMB No. 7100-0216), a voluntary report.

The Board expects to publish a separate notice issuing changes to the FR 2226 and FR 2225 reporting requirements to comply with the revised PSR policy. The burden associated with these information collections will be addressed at that time.

The Board has a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov), or

<sup>12</sup> These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System," as revised in March 1990 (55 FR 11648, March 29, 1990).

mailed to the Office of Management and Budget, Paperwork Reduction Project (7100-0199), Washington, DC 20503.

## V. Federal Reserve Policy Statement on Payments System Risk

Section I. of the PSR policy is revised, effective December 10, 2001, to read as follows:

### Introduction

- I. Federal Reserve Daylight Credit Policies
  - A. Daylight overdraft definition and measurement
  - B. Pricing
  - C. Net debit caps
    1. Definition
    2. Cap categories
      - a. Self-assessed
      - b. De minimis
      - c. Exempt-from-filing
      - d. Zero
    3. Capital
      - a. U.S.-chartered institutions
      - b. U.S. branches and agencies of foreign banks
    - D. Collateral
    - E. Special situations
      1. Edge and agreement corporations
      2. Bankers' banks
      3. Limited-purpose trust companies
    - F. Monitoring
      1. Ex post
      2. Real time
      3. Multi-District institutions
    - G. Transfer-size limit on book-entry securities
  - II. Policies for private-sector systems
    - A. Privately operated multilateral settlement systems
    - B. Private delivery-against-payment securities systems
  - III. Other Policies
    - A. Rollovers and continuing contracts

### Introduction

The Federal Reserve Board has developed this policy to address the risks that payment systems present to the Federal Reserve Banks (Reserve Banks), to the banking system, and to other sectors of the economy. This policy is directed primarily at risks on large-dollar payment systems, including Federal Reserve and private-sector systems. Risk can arise from transactions on the Federal Reserve's real-time gross settlement system (Fedwire), from transactions processed in other Federal Reserve payment systems (for example, the automated clearinghouse (ACH) system), and from transactions on private large-dollar systems.

The Reserve Banks face direct risk of loss should depository institutions be unable to settle their intraday or "daylight" overdrafts in their Federal Reserve accounts before the end of the

day.<sup>1</sup> Moreover, systemic risk may occur if an institution participating in a private large-dollar payment system were unable to settle its net debit position. If this were to occur, the institution's creditors in that system might then be unable to settle their obligations in that system or other systems. Serious repercussions could spread to other participants in the private system, to other depository institutions not participating in the system, and to the nonfinancial economy generally. A Reserve Bank could be exposed to an indirect risk if the Federal Reserve's policies did not address this systemic risk. Finally, depository institutions create risk by permitting their customers, including other depository institutions, to incur daylight overdrafts in the depository institutions' accounts in anticipation of receiving covering funds before the end of the day.

The Board is aware that large-dollar systems are an integral part of clearing and settlement systems and that it is vital to keep the payments mechanism operating without significant disruption. Recognizing the importance of avoiding such disruptions, the Board continues to seek to reduce the risks of settlement failures that could cause these disruptions. The Board is also aware that some intraday credit may be necessary to keep the payments mechanism running smoothly and efficiently. The reduction and control of intraday credit risks, although essential, must be accomplished in a manner that will minimize disruptions to the payments mechanism. The Board expects to reduce and control risks without unduly disrupting the smooth operation of the payments mechanism by establishing guidelines for use by institutions and relying largely on the efforts of individual institutions to identify, control, and reduce their own exposures.

The Board expects depository institutions to manage their Federal Reserve accounts effectively and minimize their use of Federal Reserve daylight credit. Although some intraday credit may be necessary, the Board expects that, as a result of its policies, relatively few institutions will consistently rely on intraday credit supplied by the Federal Reserve to conduct their business. The Board also

expects to continue observing, over time, a reduction in the volume of intraday credit at those institutions with a pattern of substantial reliance on such credit. The Board will continue to monitor the effect of its policies on the payments system.

The general methods used to control intraday credit exposures are explained in the policies below. These methods include limits on daylight overdrafts in depository institutions' accounts at Reserve Banks; collateralization, in certain situations, of daylight overdrafts at the Federal Reserve; limits on the maximum level of credit exposure that can be produced by each participant on private large-dollar systems; availability of backup facilities capable of completing daily processing requirements for private large-dollar systems; and credit and liquidity safeguards for private delivery-against-payment systems. To assist depository institutions in implementing the Board's policies, the Federal Reserve has prepared two documents, the "Overview of the Federal Reserve's Payments System Risk Policy" and the "Guide to the Federal Reserve's Payments System Risk Policy," which are available on line at <http://www.federalreserve.gov/PaymentSystems/PSR> or from any Reserve Bank. The "Overview of the Federal Reserve's Payments System Risk Policy" summarizes the Board's policy on payments system risk, including net debit caps and daylight overdraft fees. The overview is intended for use by institutions that incur only small and infrequent daylight overdrafts. The "Guide to the Federal Reserve's Payments System Risk Policy" explains in detail how these policies apply to different institutions and includes procedures for completing a self-assessment and filing a cap resolution, as well as information on other aspects of the policy.

## I. Federal Reserve Daylight Credit Policies

### A. Daylight Overdraft Definition and Measurement

A daylight overdraft occurs when a depository institution's Federal Reserve account is in a negative position during the business day. The Reserve Banks use an ex post system to measure daylight overdrafts in depository institutions' Federal Reserve accounts. Under this ex post measurement system, Fedwire funds transfers, book-entry securities transfers, and net settlement transactions are posted as they are processed during the business day. Other transactions, including automated

<sup>1</sup> In this policy statement, the terms "depository institution" or "institution" will be used to refer not only to institutions defined as "depository institutions" in 12 U.S.C. 461(b)(1)(A), but also to U.S. branches and agencies of foreign banking organizations, Edge and agreement corporations, and bankers' banks, unless the context indicates a different reading.

clearinghouse and check transactions, are posted to depository institutions' accounts according to a defined schedule. The following table presents the schedule used by the Federal Reserve for posting transactions to institutions' accounts for purposes of measuring daylight overdrafts.

#### Procedures for Measuring Daylight Overdrafts<sup>2</sup>

##### Opening Balance (Previous Day's Closing Balance)

##### Post Throughout Business Day:

- +/- Fedwire funds transfers
- +/- Fedwire book-entry securities transfers
- +/- Net settlement entries.

##### Post at 8:30 a.m. Eastern Time:

- +/- Government and commercial ACH credit transactions<sup>3</sup>
- + Treasury Electronic Federal Tax Payment System (EFTPS) investments from ACH credit transactions
- + Advance-notice Treasury investments
- + Treasury checks, postal money orders, local Federal Reserve Bank checks, and EZ-Clear savings bond redemptions in separately sorted deposits
- Penalty assessments for tax payments from the Treasury Investment Program (TIP).<sup>4</sup>

##### Post at 8:30 a.m. Eastern Time and Hourly, on the Half-Hour, Thereafter:

- +/- Main Account Administrative Investment or Withdrawals from

##### TIP

- +/- SDI (Special Direct Investment) Administrative Investment or Withdrawals from TIP
- + 31 CFR Part 202 Account Deposits from TIP
- Uninvested PATAX Tax Deposits from TIP
- Main Account Balance Limit Withdrawals from TIP
- Collateral Deficiency Withdrawals from TIP
- 31 CFR Part 202 Deficiency Withdrawals from TIP.

##### Post at 8:30 a.m., 11:30 a.m., and 6:30 p.m. Eastern Time:

- Main Account Treasury Withdrawals from TIP.<sup>5</sup>

##### Post by 9:15 a.m. Eastern Time:

- + U.S. Treasury and government agency book-entry interest and redemption payments
- + U.S. Treasury and government agency matured coupons and definitive securities received before the maturity date.

##### Post Beginning at 9:15 a.m. Eastern Time:

- Original issues of Treasury securities.<sup>6</sup>

##### Post at 9:30 a.m. Eastern Time and Hourly, on the Half-Hour, Thereafter:

- + FR-ETA Value Fedwire Investments from TIP.

##### Post at 11:00 a.m. Eastern Time:

- +/- ACH debit transactions
- + EFTPS investments from ACH debit transactions.

##### Post at 11:00 a.m. Eastern Time and Hourly Thereafter:

- +/- Commercial check transactions, including returned checks<sup>7</sup>
- +/- Check corrections amounting to \$1 million or more
- + Currency and coin deposits
- + Credit adjustments amounting to \$1 million or more.

##### Post at 12:30 p.m. Eastern Time and Hourly, on the Half-Hour, Thereafter:

- + Dynamic Investments from TIP.

##### Post by 1:00 p.m. Eastern Time:

- + Same-day Treasury investments.

##### Post at 1:00 p.m. Local Time and Hourly Thereafter (Beginning on April 1, 2002):

- Electronic check presentments.<sup>8</sup>

<sup>5</sup> On rare occasions, the Treasury may announce withdrawals in advance that are based on depository institutions' closing balances on the withdrawal date. The Federal Reserve will post these withdrawals after the close of Fedwire.

<sup>6</sup> Original issues of government agency securities are delivered as book-entry securities transfers and will be posted when the securities are delivered to the purchasing institutions.

<sup>7</sup> Electronic check presentments will post at 11:00 a.m. Eastern Time and hourly thereafter until April 1, 2002.

<sup>8</sup> The Federal Reserve Banks will post debits to depository institutions' accounts for electronic

##### Post at 5:00 p.m. Eastern Time:

- + Treasury checks, postal money orders, and EZ-Clear savings bond redemptions in separately sorted deposits. These items must be presented by 4:00 p.m. Eastern Time.
- + Local Federal Reserve Bank checks. These items must be presented before 3:00 p.m. Eastern Time.
- +/- Same-day ACH transactions. These transactions include ACH return items, check-truncation items, and flexible settlement items.

##### Post at 6:30 p.m. Eastern Time:<sup>9</sup>

- + Penalty Abatements from TIP.

##### Post After the Close of Fedwire Funds Transfer System:

- +/- All other transactions. These transactions include the following: local Federal Reserve Bank checks presented after 3:00 p.m. eastern time but before 3:00 p.m. local time; noncash collection; credits for U.S. Treasury and government agency definitive security interest and redemption payments if the coupons or securities are received on or after the maturity date; currency and coin shipments; small-dollar credit adjustments; and all debit adjustments. Discount-window loans and repayments are normally posted after the close of Fedwire as well; however, in unusual circumstances a discount window loan may be posted earlier in the day with repayment 24 hours later, or a loan may be repaid before it would otherwise become due.

##### Equals:

##### Closing Balance

##### B. Pricing

Reserve Banks charge a fee for average daily daylight overdrafts in Federal Reserve accounts. Daylight overdraft fees apply to all daylight overdrafts in depository institutions' Federal Reserve accounts above the level of a deductible; however, Reserve Banks will waive fees of \$25 or less in any two-week reserve-maintenance period.

For each two-week reserve-maintenance period, the Reserve Banks calculate and assess daylight overdraft fees, which are equal to the sum of any

check presentments made before 12:00 p.m. local time at 1:00 p.m. local time. The Reserve Banks will post presentments made after 12:00 p.m. local time on the next clock hour that is at least one hour after presentment takes place but no later than 3:00 p.m. local time.

<sup>9</sup> The Federal Reserve Banks will process and post Treasury-authorized penalty abatements on Thursdays. In the event that Thursday is a holiday, the Federal Reserve Banks will process and post Treasury-authorized penalty abatements on the following business day.

<sup>2</sup> This schedule of posting rules does not affect the overdraft restrictions and overdraft-measurement provisions for nonbank banks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR 225.52).

<sup>3</sup> Depository institutions that are monitored in real time must fund the total amount of their commercial ACH credit originations when the transactions are processed. If the Federal Reserve receives commercial ACH credit transactions from depository institutions monitored in real time after the scheduled close of the Fedwire funds transfer system, these transactions will be processed when the Federal Reserve's Account Balance Monitoring System (ABMS) reopens, or by the ACH deposit deadline, whichever is earlier. The ABMS provides intraday account information to the Reserve Banks and depository institutions and is used primarily to give authorized Reserve Bank personnel a mechanism to control and monitor account activity for selected institutions. For more information on ACH transaction processing, refer to the ACH Settlement Day Finality Guide available through the Federal Reserve Financial Services Web site at <http://www.frbsservices.org>.

<sup>4</sup> The Reserve Banks will identify and notify depository institutions with Treasury-authorized penalties on Thursdays. In the event that Thursday is a holiday, the Reserve Banks will identify and notify depository institutions with Treasury-authorized penalties on the following business day. Penalties will then be posted on the business day following notification.

daily daylight overdraft charges during the period. For each day, an institution's daylight overdraft charge is equal to the effective daily rate charged for daylight overdrafts multiplied by the average daylight overdraft for the day minus a deductible valued at the effective daily rate.

Daylight overdraft fees are calculated using an annual rate of 36 basis points, quoted on the basis of a 24-hour day. To obtain the effective annual rate for the standard Fedwire operating day, the quoted 36-basis-point fee is multiplied by the fraction of a 24-hour day during which Fedwire is scheduled to operate. For example, under an 18-hour scheduled Fedwire operating day, the effective annual rate used to calculate daylight overdraft fees equals 27 basis points (36 basis points multiplied by 18/24).<sup>10</sup> The effective daily rate is calculated by dividing the effective annual rate by 360.

An institution's average daily daylight overdraft is calculated by dividing the

sum of its negative Federal Reserve account balances at the end of each minute of the scheduled Fedwire operating day (with positive balances set to zero) by the total number of minutes in the scheduled Fedwire operating day.

The daily daylight overdraft charge is reduced by a deductible, valued at the effective daily rate for a 10-hour operating day. The deductible equals 10 percent of a capital measure (see section I.C.3., "Capital"). Because the effective daily rate applicable to the deductible is kept constant at the 10-hour-operating-day rate, any changes to the scheduled Fedwire operating day will not affect the value of the deductible.

C. Net Debit Caps

1. Definition

To limit the aggregate amount of daylight credit that the Reserve Banks extend, each institution incurring daylight overdrafts in its Federal

Reserve account must adopt a net debit cap, that is, a ceiling on the daylight overdraft position that it can incur during a given interval. Alternatively, if an institution's daylight overdrafts generally do not exceed the lesser of \$10 million or 20 percent of its capital, the institution may qualify for the exempt-from-filing cap. An institution must be financially healthy and have regular access to the discount window in order to adopt a net debit cap greater than zero or qualify for the filing exemption.

An institution's cap category and capital measure determine the size of its net debit cap. More specifically, the net debit cap is calculated as an institution's cap multiple times its capital measure:

net debit cap = cap multiple × capital measure

Cap categories (see section I.C.2., "Cap categories") and their associated cap levels, set as multiples of capital, are listed below:

NET DEBIT CAP MULTIPLES

| Cap category                           | Single day                 | Two-week average     |
|----------------------------------------|----------------------------|----------------------|
| High .....                             | 2.25 .....                 | 1.50                 |
| Above average .....                    | 1.875 .....                | 1.125                |
| Average .....                          | 1.125 .....                | 0.75                 |
| De minimis .....                       | 0.40 .....                 | 0.40                 |
| Exempt from filing <sup>11</sup> ..... | \$10 million or 0.20 ..... | \$10 million or 0.20 |
| Zero .....                             | 0.0 .....                  | 0.0                  |

<sup>11</sup> The net debit cap for the exempt-from-filing category is equal to the lesser of \$10 million or 0.20 multiplied by a capital measure.

An institution is expected to avoid incurring daylight overdrafts that, on average over a two-week period, exceed its two-week average cap, and, on any day, exceed its single-day cap. The two-week average cap provides flexibility, in recognition that fluctuations in payments can occur from day to day. The purpose of the higher single-day cap is to limit excessive daylight overdrafts on any day and to ensure that institutions develop internal controls that focus on their exposures each day, as well as over time.

The two-week average cap is measured against the average, over a two-week reserve-maintenance period, of an institution's daily maximum daylight overdraft positions in its Federal Reserve account. In calculating the two-week average, the Federal Reserve treats each positive end-of-minute balance in an institution's Federal Reserve account as if the account balance were equal to zero. The number of days used in calculating the

average is the number of business days the institution's Reserve Bank is open during the reserve-maintenance period.

The Board's policy on net debit caps is based on a specific set of guidelines and some degree of examiner oversight. Under the Board's policy, a Reserve Bank may limit or prohibit an institution's use of Federal Reserve intraday credit if (1) the institution's use of daylight credit is deemed by the institution's supervisor to be unsafe or unsound; (2) the institution does not qualify for a positive net debit cap (see section I.C.2., "Cap categories"); or (3) the institution poses excessive risk to a Reserve Bank by incurring chronic overdrafts in excess of what the Reserve Bank determines is prudent.

While capital measures differ, the net debit cap provisions of this policy apply to foreign banking organizations (FBOs) to the same extent that they apply to U.S. institutions. The Reserve Banks will advise home-country supervisors of the daylight overdraft capacity of U.S.

branches and agencies of FBOs under their jurisdiction, as well as of other pertinent information related to the FBOs' caps. The Reserve Banks will also provide information on the daylight overdrafts in the Federal Reserve accounts of FBOs' U.S. branches and agencies in response to requests from home-country supervisors.

2. Cap Categories

The policy defines the following six cap categories, described in more detail below: zero, exempt-from-filing, de minimis, average, above average, and high. The average, above average, and high cap categories are referred to as "self-assessed" caps.

a. *Self-assessed.* In order to establish a net debit cap category of average, above average, or high, an institution must perform a self-assessment of its own creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency

<sup>10</sup> A change in the length of the scheduled Fedwire operating day would not change the

amount of fees charged because the effective daily rate is applied to average daylight overdrafts,

which, in turn, would be adjusted by the change in the operating day.

procedures.<sup>12</sup> The assessment of creditworthiness is based on the institution's supervisory rating and Prompt Corrective Action (PCA) designation.<sup>13</sup> An institution may perform a full assessment of its creditworthiness in certain limited circumstances, for example, if its condition has changed significantly since its last examination, or if it possesses additional substantive information regarding its financial condition. An institution performing a self-assessment must also evaluate its intraday funds-management procedures and its procedures for evaluating the financial condition of and establishing intraday credit limits for its customers. Finally, the institution must evaluate its operating controls and contingency procedures to determine if they are sufficient to prevent losses due to fraud or system failures. The "Guide to the Federal Reserve's Payments System Risk Policy," available on line at <http://www.federalreserve.gov/PaymentSystems/PSR> or from any Reserve Bank, includes a detailed explanation of the self-assessment process.

Each institution's board of directors must review the self-assessment and determine the appropriate cap category. The process of self-assessment, with board-of-directors review, should be conducted at least once in each twelve-month period. A cap determination may be reviewed and approved by the board of directors of a holding company parent of a depository institution, provided that (1) the self-assessment is performed by each entity incurring

daylight overdrafts, (2) the entity's cap is based on the entity's own capital, and (3) each entity maintains for its primary supervisor's review its own file with supporting documents for its self-assessment and a record of the parent's board-of-directors review.<sup>14</sup>

In applying these guidelines, each institution should maintain a file for examiner review that includes (1) worksheets and supporting analysis used in its self-assessment of its own risk category, (2) copies of senior-management reports to the board of directors of the institution or its parent (as appropriate) regarding that self-assessment, and (3) copies of the minutes of the discussion at the appropriate board-of-directors meeting concerning the institution's adoption of a cap category.<sup>15</sup>

As part of its normal examination, the depository institution's examiners may review the contents of the self-assessment file.<sup>16</sup> The objective of this review is to ensure that the institution has applied the guidelines seriously and diligently, that the underlying analysis and method were reasonable, and that the resultant self-assessment was generally consistent with the examination findings. Examiner comments, if any, should be forwarded to the board of directors of the institution. The examiner, however, would generally not require a modification of the self-assessed cap category, but rather would inform the appropriate Reserve Bank of any concerns. The Reserve Bank would then decide whether to modify the cap category. For example, if the institution's level of daylight overdrafts

constitutes an unsafe or unsound banking practice, the Reserve Bank would likely assign the institution a zero net debit cap and impose additional risk controls.

The contents of the self-assessment file will be considered confidential by the institution's examiner. Similarly, the Federal Reserve and the institution's examiner will hold the actual cap level selected by the institution confidential. Net debit cap information should not be shared with outside parties or mentioned in any public documents; however, net debit cap information will be shared with the home-country supervisor of U.S. branches and agencies of foreign banks.

The Reserve Banks will review the status of any institution with a self-assessed net debit cap that exceeds its cap during a two-week reserve-maintenance period and will decide if the cap should be maintained or if additional action should be taken (see section I.F., "Monitoring").

*b. De minimis.* Many depository institutions incur relatively small overdrafts and thus pose little risk to the Federal Reserve. To ease the burden on these small overdrafters of engaging in the self-assessment process and to ease the burden on the Federal Reserve of administering caps, the Board allows institutions that meet reasonable safety standards to incur de minimis amounts of daylight overdrafts without performing a self-assessment. A depository institution may incur daylight overdrafts up to 40 percent of its capital if the institution submits a board-of-directors resolution.

An institution with a de minimis cap must submit to its Reserve Bank at least once each year a copy of its board-of-directors resolution (or a resolution by its holding company's board) approving the depository institution's use of daylight credit up to the de minimis level. The Reserve Banks will review the status of a de minimis cap institution that exceeds its cap during a two-week reserve-maintenance period and will decide if the de minimis cap should be maintained or if the institution will be required to perform a self-assessment for a higher cap.

*c. Exempt-from-filing.* Depository institutions that only rarely incur daylight overdrafts in their Federal Reserve accounts that exceed the lesser of \$10 million or 20 percent of their capital are excused from performing self-assessments and filing board-of-directors resolutions with their Reserve Banks. This dual test is designed to limit the filing exemption to depository institutions that create only low-dollar risks to the Reserve Banks and that

<sup>12</sup> This assessment should be done on an individual-institution basis, treating as separate entities each commercial bank, each Edge corporation (and its branches), each thrift institution, and so on. An exception is made in the case of U.S. branches and agencies of FBOs. Because these entities have no existence separate from the FBO, all the U.S. offices of FBOs (excluding U.S.-chartered bank subsidiaries and U.S.-chartered Edge subsidiaries) should be treated as a consolidated family relying on the FBO's capital.

<sup>13</sup> Section 131 of the 1991 FDICIA defines five PCA designations. An insured depository institution is (1) "well capitalized" if it significantly exceeds the required minimum level for each relevant capital measure, (2) "adequately capitalized" if it meets the required minimum level for each relevant capital measure, (3) "undercapitalized" if it fails to meet the required minimum level for any relevant capital measure, (4) "significantly undercapitalized" if it is significantly below the required minimum level for any relevant capital measure, or (5) "critically undercapitalized" if it fails to meet any level specified under subsection (c)(3)(A), which provides that each appropriate Federal banking agency shall, by regulation, in consultation with the FDIC, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized (Public Law 102-242, title I, Sec. 131(a), December 19, 1991, 105 Stat. 2253).

<sup>14</sup> An FBO should undergo the same self-assessment process as a domestic bank in determining a net debit cap for its U.S. branches and agencies. Many FBOs, however, do not have the same management structure as U.S. depository institutions, and adjustments should be made as appropriate. If an FBO's board of directors has a more limited role to play in the bank's management than a U.S. board has, the self-assessment and cap category should be reviewed by senior management at the FBO's head office that exercises authority over the FBO equivalent to the authority exercised by a board of directors over a U.S. depository institution. In cases in which the board of directors exercises authority equivalent to that of a U.S. board, cap determination should be made by the board of directors.

<sup>15</sup> In addition, for FBOs, the file that is made available for examiner review by the U.S. offices of an FBO should contain the report on the self-assessment that the management of U.S. operations made to the FBO's senior management and a record of the appropriate senior management's response or the minutes of the meeting of the FBO's board of directors or other appropriate management group, at which the self-assessment was discussed.

<sup>16</sup> Between examinations, examiners or Reserve Bank staff may contact an institution about its cap if statistical or supervisory reports or ad hoc information suggest that there may have been a change in the institution's financial condition.

incur small overdrafts relative to their capital.

The Reserve Banks will review the status of an exempt depository institution that incurs overdrafts in its Federal Reserve account in excess of \$10 million or 20 percent of capital on more than two days in any two consecutive two-week reserve-maintenance periods. The Reserve Bank will decide if the exemption should be maintained or if the institution will be required to file for a cap. Any exemptions for depository institutions that meet the size and frequency standards are granted at the discretion of the Reserve Bank.

*d. Zero.* Some financially healthy depository institutions that could obtain positive net debit caps choose to have zero caps. Often these institutions have very conservative internal policies regarding the use of Federal Reserve daylight credit or simply want to ensure that they do not incur daylight overdrafts to avoid any daylight overdraft fees. If a depository institution that has adopted a zero cap incurs a daylight overdraft, the Reserve Bank counsels the institution and may monitor the institution's activity in real time and reject or delay certain transactions that would cause an overdraft. In addition, if the institution qualifies for a positive cap, the Reserve Bank may suggest that the institution adopt an exempt-from-filing cap or file for a higher cap if the institution believes that it will continue to incur daylight overdrafts.

In addition, a Reserve Bank may assign a depository institution a zero net debit cap. Institutions that may pose special risks to the Reserve Banks, such as those without regular access to the discount window, those incurring daylight overdrafts in violation of this policy, or those in weak financial condition, are generally assigned a zero cap (see section I.E.4., "Problem institutions"). Recently-chartered institutions may also be assigned a zero net debit cap.

### 3. Capital

As described above, an institution's cap category and capital measure determine the size of its net debit cap. The capital measure used in calculating an institution's net debit cap depends upon its chartering authority and home-country supervisor.

*a. U.S.-chartered institutions.* For depository institutions chartered in the United States, net debit caps are multiples of "qualifying" or similar capital measures that consist of those capital instruments that can be used to satisfy risk-based capital standards, as

set forth in the capital adequacy guidelines of the federal financial regulatory agencies. All of the federal financial regulatory agencies collect, as part of their required reports, data on the amount of capital that can be used for risk-based purposes—"risk-based" capital for commercial and savings banks and savings associations and total regulatory reserves for credit unions. Other U.S.-chartered entities that incur daylight overdrafts in their Federal Reserve accounts should provide similar data to their Reserve Banks.

*b. U.S. branches and agencies of foreign banks.* The following policy on U.S. branches and agencies of foreign banks' net debit caps is effective through February 20, 2002.

For U.S. agencies and branches of foreign banks, net debit caps on daylight overdrafts in Federal Reserve accounts are calculated by applying the cap multiples for each cap category to a consolidated U.S. capital equivalency measure.<sup>17</sup>

For a foreign bank whose home-country supervisor adheres to the Basle Capital Accord, U.S. capital equivalency is equal to the greater of 10 percent of worldwide capital or 5 percent of the total liabilities of each agency or branch, including acceptances, but excluding accrued expenses and amounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank. In the absence of contrary information, the Reserve Banks presume that all banks chartered in G-10 countries meet the acceptable prudential capital and supervisory standards and will consider any bank chartered in any other nation that adopts the Basle Capital Accord (or requires capital at least as great and in the same form as called for by the accord) eligible for the Reserve Banks' review for meeting acceptable prudential capital and supervisory standards.

For all other foreign banks, U.S. capital equivalency is measured as the greater of (1) the sum of the amount of capital (but not surplus) that would be required of a national bank being organized at each agency or branch location, or (2) the sum of 5 percent of the total liabilities of each agency or branch, including acceptances, but excluding accrued expenses and amounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank.

The following policy replaces the above policy on U.S. branches and

agencies of foreign banks' net debit caps beginning on February 21, 2002.

For U.S. branches and agencies of foreign banks, net debit caps on daylight overdrafts in Federal Reserve accounts are calculated by applying the cap multiples for each cap category to the FBO's U.S. capital equivalency measure.<sup>18</sup> U.S. capital equivalency is equal to the following:

- 35 percent of capital for FBOs that are financial holding companies (FHCs)<sup>19</sup>

- 25 percent of capital for FBOs that are not FHCs and have a strength of support assessment ranking (SOSA) of 1<sup>20</sup>

- 10 percent of capital for FBOs that are not FHCs and are ranked a SOSA 2

- 5 percent of "net due to related depository institutions" for FBOs that are not FHCs and are ranked a SOSA 3.

Granting a net debit cap, or any extension of intraday credit, to a depository institution is at the discretion of the Reserve Bank. In the event a Reserve Bank grants a net debit cap or extends intraday credit to a financially healthy SOSA 3-ranked FBO, the Reserve Bank may require such credit to be fully collateralized, given the heightened supervisory concerns with SOSA 3-ranked FBOs.

### D. Collateral

The Board recognizes that while net debit caps provide sufficient liquidity to most institutions, some depository institutions may still experience liquidity pressures. The Board believes it is important to provide an environment in which payment systems may function effectively and efficiently

<sup>18</sup> See footnote 17.

<sup>19</sup> The Gramm-Leach-Bliley Act (Public Law 106-102, 113 Stat. 1338 (1999)) defines a financial holding company as a bank holding company that meets certain eligibility requirements. In order for a bank holding company to become a financial holding company and be eligible to engage in the new activities authorized under the Gramm-Leach-Bliley Act, the Act requires that all depository institutions controlled by the bank holding company be well capitalized and well managed. With regard to a foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States, the Act requires the Board to apply comparable capital and management standards that give due regard to the principle of national treatment and equality of competitive opportunity.

<sup>20</sup> The SOSA ranking is composed of four factors, including the FBO's financial condition and prospects, the system of supervision in the FBO's home country, the record of the home country's government in support of the banking system or other sources of support for the FBO; and transfer risk concerns. Transfer risk relates to the FBO's ability to access and transmit U.S. dollars, which is an essential factor in determining whether an FBO can support its U.S. operations. The SOSA ranking is based on a scale of 1 through 3, with 1 representing the lowest level of supervisory concern.

<sup>17</sup> The term "U.S. capital equivalency" is used in this context to refer to the particular capital measure used to calculate net debit caps and does not necessarily represent an appropriate capital measure for supervisory or other purposes.

and remove barriers, as appropriate, to foster risk-reducing payment system initiatives. Consequently, certain depository institutions with self-assessed net debit caps may pledge collateral to their administrative Reserve Banks to secure daylight overdraft capacity in excess of their net debit caps, subject to Reserve Bank approval.<sup>21</sup> The Board believes that requiring collateral allows the Federal Reserve to protect the public sector from additional credit risk while providing extra liquidity to the few institutions that might otherwise be constrained. Providing extra liquidity to constrained institutions should help prevent liquidity-related market disruptions.

A depository institution with a self-assessed net debit cap that wishes to expand its daylight overdraft capacity by pledging collateral should consult with its administrative Reserve Bank. The Reserve Bank will consider the institution's reasons for requesting additional daylight overdraft capacity as well as its financial and supervisory information in determining the appropriate level of collateralized credit, if any, to grant above the net debit cap. The financial and supervisory information considered may include, but is not limited to, capital and liquidity ratios, the composition of balance sheet assets, CAMELS or other supervisory ratings and assessments, and SOSA rankings (for U.S. branches and agencies of foreign banks).

The Reserve Banks will work with a depository institution that requests additional daylight overdraft capacity to decide on the appropriate maximum daylight overdraft capacity level. If the Reserve Bank approves the request for additional daylight overdraft capacity, the depository institution must submit a board-of-directors resolution at least once in each twelve-month period. An institution's maximum daylight overdraft capacity is defined as follows: maximum daylight overdraft capacity = net debit cap + Reserve Bank-approved collateralized credit

This policy is intended to provide some additional liquidity to the few institutions that might otherwise be constrained from participating in risk-reducing payment system initiatives. Depository institutions that request daylight overdraft capacity beyond the net debit cap must have already explored other alternatives to address

their increased liquidity needs.<sup>22</sup> In addition, depository institutions have some flexibility as to the specific types of collateral they may pledge to the Reserve Banks; however, all collateral must be acceptable to the Reserve Banks.<sup>23</sup>

Depository institutions with exempt-from-filing and de minimis net debit caps may *not* obtain additional daylight overdraft capacity by pledging collateral. These depository institutions must first file for a higher net debit cap to obtain additional daylight overdraft capacity.

Similarly, depository institutions with zero net debit caps may *not* obtain additional daylight overdraft capacity by pledging collateral. If an institution has voluntarily adopted a zero net debit cap, but qualifies for a positive net debit cap, it must file for a positive net debit cap to obtain daylight overdraft capacity. Depository institutions that have been assigned a zero net debit cap by their administrative Reserve Bank are not eligible to apply for any daylight overdraft capacity.

A self-assessed institution that has been approved for additional daylight overdraft capacity should avoid incurring daylight overdrafts that, on average over a two-week period, exceed its two-week average limit, and, on any day, exceed its single-day limit. The two-week average limit is equal to the two-week average cap plus the amount of applicable Reserve Bank-approved collateral, averaged over a two-week reserve-maintenance period. The single-day limit is equal to an institution's net

debit cap plus the amount of applicable Reserve Bank-approved collateral.<sup>24</sup>

The Reserve Banks will review the status of any institution that exceeds its maximum daylight overdraft capacity during a two-week reserve-maintenance period and will decide if this limit should be maintained or if additional action should be taken (see section I.F., "Monitoring").

#### *E. Special Situations*

Special risks are presented by the participation on Fedwire of Edge and agreement corporations, bankers' banks that are not subject to reserve requirements, limited-purpose trust companies, and institutions that have been assigned a zero cap by their Reserve Banks. Most of these institutions lack regular discount-window access. In developing its policy for these institutions, the Board has sought to balance the goal of reducing and managing risk in the payments system, including risk to the Federal Reserve, with that of minimizing the adverse effects on the payments operations of these institutions.

Regular access to the Federal Reserve discount window generally is available to institutions that are subject to reserve requirements. If an institution that is not subject to reserve requirements and thus does not have regular discount-window access were to incur a daylight overdraft, the Federal Reserve might end up extending overnight credit to that institution if the daylight overdraft were not covered by the end of the business day. Such a credit extension would be contrary to the quid pro quo of reserves for regular discount-window access as reflected in the Federal Reserve Act and in Board regulations. Thus, institutions that do not have regular access to the discount window should not incur daylight overdrafts in their Federal Reserve accounts.

Certain institutions are subject to a daylight-overdraft penalty fee levied against the average daily daylight overdraft incurred by the institution. These include Edge and agreement corporations, bankers' banks that are not subject to reserve requirements, and limited-purpose trust companies. The annual rate used to determine the daylight-overdraft penalty fee is equal to the annual rate applicable to the

<sup>22</sup> Some potential alternatives available to a depository institution to address increased intraday credit needs include (1) filing for a higher net debit cap, (2) shifting funding patterns or delaying the origination of funds transfers, or (3) transferring some payments processing business to a correspondent bank. Furthermore, the Board's policies on Federal Reserve daylight credit extensions are intended to address intraday risk to the Federal Reserve arising from daylight overdrafts. Most transactions that lack settlement-day finality, however, pose primarily interday, rather than intraday, risk. Escalated counseling, requiring collateral, or applying for a maximum daylight overdraft capacity limit for daylight overdrafts caused by these transactions may be of limited use in reducing or managing the associated overdrafts. Under administrative counseling flexibility, the Reserve Banks work with affected institutions on means of avoiding daylight overdrafts, but generally do not subject these institutions to escalated levels of counseling, require collateral, or assign a zero cap.

<sup>23</sup> The Reserve Banks may accept securities in transit on the Fedwire book-entry securities system as collateral to support a maximum daylight overdraft capacity level. Securities in transit refer to book-entry securities transferred over Fedwire's National Book-Entry System that have been purchased by a depository institution but not yet paid for and owned by the institution's customers.

<sup>21</sup> The administrative Reserve Bank is responsible for the administration of Federal Reserve credit, reserves, and risk management policies for a given depository institution or other legal entity.

<sup>24</sup> A depository institution with a self-assessed cap that has been approved for additional daylight overdraft capacity may, at any time, pledge more or less collateral than its Reserve Bank-approved collateral limit. Applicable collateral to be used in the calculation of an institution's single-day and two-week average limit must be less than or equal to the amount of collateral approved by the Reserve Bank.

daylight overdrafts of other depository institutions (36 basis points) plus 100 basis points multiplied by the fraction of a 24-hour day during which Fedwire is scheduled to operate (18/24). The daily daylight-overdraft penalty rate is calculated by dividing the annual penalty rate by 360.

The daylight-overdraft penalty rate applies to the institution's average daily daylight overdraft in its Federal Reserve account. The daylight-overdraft penalty rate is charged in lieu of, not in addition to, the rate used to calculate daylight overdraft fees for depository institutions described in section I.B. While daylight overdraft fees are calculated differently for these institutions than for depository institutions, overnight overdrafts at these institutions are generally priced the same as overnight overdrafts at other depository institutions.

#### 1. Edge and Agreement Corporations

Edge<sup>25</sup> and agreement corporations should refrain from incurring daylight overdrafts in their Federal Reserve accounts. In the event that any daylight overdrafts occur, the Edge or agreement corporation must post collateral to cover the overdrafts. In addition to posting collateral, the Edge or agreement corporation would be subject to the daylight-overdraft penalty rate levied against the average daily daylight overdrafts incurred by the institution, as described above.

This policy reflects the Board's concerns that these institutions lack regular access to the discount window and the possibility that the parent company may be unable or unwilling to cover its subsidiary's overdraft on a timely basis. The Board notes that the parent of an Edge or agreement corporation could fund its subsidiary during the day over Fedwire or the parent could substitute itself for its subsidiary on private systems. Such an approach by the parent could both reduce systemic risk exposure and permit the Edge or agreement corporation to continue to service its customers. Edge and agreement corporation subsidiaries of foreign banking organizations are treated in the same manner as their domestically owned counterparts.

#### 2. Bankers' Banks

Bankers banks<sup>26</sup> are exempt from reserve requirements and do not have

regular access to the discount window. They do, however, have access to Federal Reserve payment services. The Board's policy provides that bankers' banks should refrain from incurring daylight overdrafts and post collateral to cover any overdrafts they do incur. In addition to posting collateral, a bankers' bank would be subject to the daylight-overdraft penalty fee levied against the average daily daylight overdrafts incurred by the institution, as described above.

The Board's policy for bankers' banks reflects the Reserve Banks' need to protect themselves from potential losses resulting from daylight overdrafts incurred by bankers' banks. The policy also considers the fact that some bankers' banks do not incur the costs of maintaining reserves as do other depository institutions and do not have regular access to the discount window.

Bankers' banks may voluntarily waive their exemption from reserve requirements, thus gaining access to the discount window. Such bankers' banks are free to establish net debit caps and would be subject to the same policy as other depository institutions. The policy set out in this section applies only to those bankers' banks that have not waived their exemption from reserve requirements.

#### 3. Limited-Purpose Trust Companies<sup>27</sup>

The Federal Reserve Act permits the Board to grant Federal Reserve membership to limited-purpose trust companies subject to conditions the Board may prescribe pursuant to the Act. As a general matter, member limited-purpose trust companies do not accept reservable deposits, do not have regular discount-window access, and may not incur daylight overdrafts.

Limited-purpose trust companies are subject to the same daylight-overdraft penalty rate as other institutions that do not maintain reserves and do not have regular discount-window access. Limited-purpose trust companies should refrain from incurring overdrafts and should post collateral to cover any overdrafts they do incur.

required to maintain reserves under the Board's Regulation D (12 CFR 204) because it is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public. Such bankers' banks also generally are not eligible for Federal Reserve Bank credit under the Board's Regulation A (12 CFR 201.2(c)(2)).

<sup>27</sup> For the purposes of this policy statement, a limited-purpose trust company is a trust company that is a member of the Federal Reserve System but that does not meet the definition of "depository institution" in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

#### 4. Problem Institutions

For depository institutions that are in weak financial condition, the Reserve Banks will impose a zero cap. The Reserve Bank will also monitor the institution's activity in real time and reject or delay certain transactions that would create an overdraft. Problem institutions should refrain from incurring daylight overdrafts and must post collateral to cover any daylight overdrafts they do incur.

#### F. Monitoring

##### 1. Ex Post

Under the ex post monitoring procedures, an institution with a daylight overdraft in excess of its maximum daylight overdraft capacity or net debit cap may be contacted by its Reserve Bank.<sup>28</sup> The Reserve Bank may counsel the institution, discussing ways to reduce its excessive use of intraday credit. Each Reserve Bank retains the right to protect its risk exposure from individual institutions by unilaterally reducing net debit caps, imposing collateralization or clearing-balance requirements, rejecting or delaying certain transactions during the day until the institution has collected balances in its Federal Reserve account, or, in extreme cases, taking the institution off line or prohibiting it from using Fedwire.

##### 2. Real Time

A Reserve Bank will apply real-time monitoring to an individual institution's position when the Reserve Bank believes that it faces excessive risk exposure, for example, from problem banks or institutions with chronic overdrafts in excess of what the Reserve Bank determines is prudent. In such a case, the Reserve Bank will control its risk exposure by monitoring the institution's position in real-time, rejecting or delaying certain transactions that would exceed the institution's maximum daylight overdraft capacity or net debit cap, and taking other prudential actions, including requiring collateral.<sup>29</sup>

<sup>28</sup> Even if the institution is not a state member bank, the Reserve Bank can make this contact when an overdraft occurs in a Federal Reserve account or when the institution is in a net debit position on a system that settles on the books of the Federal Reserve.

<sup>29</sup> Depository institutions that are monitored in real time must fund the total amount of their ACH credit originations when the transactions are processed by the Federal Reserve, even if those transactions are processed one or two days before settlement.

<sup>25</sup> These institutions are organized under section 25A of the Federal Reserve Act (12 U.S.C. 611–631) or have an agreement or undertaking with the Board under section 25 of the Federal Reserve Act (12 U.S.C. 601–604a).

<sup>26</sup> For the purposes of this policy statement, a bankers' bank is a depository institution that is not

### 3. Multi-District Institutions

Depository institutions, such as those maintaining merger-transition accounts and U.S. branches and agencies of a foreign bank, that access Fedwire through accounts in more than one Federal Reserve District are expected to manage their accounts so that the total daylight overdraft position across all accounts does not exceed their net debit caps. One Reserve Bank will act as the administrative Reserve Bank and will have overall risk-management responsibilities for institutions maintaining accounts in more than one Federal Reserve District. In the case of families of U.S. branches and agencies of the same foreign banking organization, net debit cap compliance will be monitored by the Reserve Bank that exercises the Federal Reserve's oversight responsibilities under the International Banking Act.<sup>30</sup> The administrative Reserve Bank may determine, in consultation with Reserve Banks in whose territory other U.S. agencies or branches of the same foreign bank are located and with the management of the foreign bank's U.S. operations, that branches and agencies outside its District either will not be permitted to incur overdrafts in Federal Reserve accounts or will be required to allocate part or all of the foreign family's net debit cap (and the responsibility for administering part or all of the collateral requirement) to a Reserve Bank in whose District one or more of the foreign offices operate.<sup>31</sup> For domestic depository institutions that have branches in multiple Federal Reserve Districts, the administrative Reserve Bank generally will be the Reserve Bank where the head office of the bank is located.

<sup>30</sup> 2 USC 3101–3108.

<sup>31</sup> As in the case of Edge and agreement corporations and their branches, with the approval of the designated administrative Reserve Bank, a second Reserve Bank may assume the responsibility of managing and monitoring the net debit cap of particular foreign branch and agency families. This would often be the case when the payments activity and national administrative office of the foreign branch and agency family is located in one District, while the oversight responsibility under the International Banking Act is in another District. If a second Reserve Bank assumes management responsibility, monitoring data will be forwarded to the designated administrator for use in the supervisory process.

### *G. Transfer-Size Limit on Book-Entry Securities*

Secondary-market book-entry securities transfers on Fedwire are limited to a transfer size of \$50 million par value. This limit is intended to encourage partial deliveries of large trades in order to reduce position building by dealers, a major cause of book-entry securities overdrafts before the introduction of the transfer-size limit and daylight overdraft fees. This limitation does not apply to either of the following:

- a. Original issue deliveries of book-entry securities from a Reserve Bank to a depository institution.
- b. Transactions sent to or by a Reserve Bank in its capacity as fiscal agent of the United States, government agencies, or international organizations.

Thus, requests to strip or reconstitute Treasury securities or to convert bearer or registered securities to or from book-entry form are exempt from this limitation. Also exempt are pledges of securities to a Reserve Bank as principal (for example, discount-window collateral) or as agent (for example, Treasury Tax and Loan collateral).

By order of the Board of Governors of the Federal Reserve System, December 10, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Disease Control and Prevention**

**[30DAY–10–02]**

### **Agency Forms Undergoing Paperwork Reduction Act Review**

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written

comments should be received within 30 days of this notice.

*Proposed Project:* Contents of a Request for a Health Hazard Evaluation (OMB No. 0920–0102)—Extension—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

Each year, in accordance with its mandates under the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977, the National Institute for Occupational Safety and Health (NIOSH) responds to approximately 450 requests for health hazard evaluations to identify potential chemical, biological or physical hazards at the workplace. A printed NIOSH form is available for requesting these health hazard evaluations. The form is also available on the Internet and differs from the printed version only in format and in the fact that it uses an Internet address to which recipients can submit the form to NIOSH. Both the printed and Internet versions of the form provide the mechanism for employees, employers, and other authorized representatives to supply the information required by the regulations which govern the NIOSH health hazard evaluation program (42 CFR 85.3–1). In general, if employees are submitting the form it must contain the signatures of three or more current employees. However, regulations allow a single signature if the requestor is one of three (3) or fewer employees in the process, operation, or job of concern. It takes approximately six (6) NIOSH employees about five (5) minutes to evaluate the submitted form. The information provided is used by NIOSH to determine whether there is reasonable cause to justify conducting an investigation. The purpose of investigations conducted in the health hazard evaluation program is to help employers and employees identify and eliminate occupational health hazards. Without the information requested on this form, NIOSH would be unable to perform its legislated function of conducting health hazard evaluations in workplaces. The total annualized burden for this data collection is 90 hours.