

July 12, 2021

*Via Email Submission*

Ann Misback  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20551

**Re: Comments Regarding the Proposed Guidelines for Evaluating Account and Services Requests – Docket No. OP-1747**

Dear Ms. Misback:

On behalf of the Electronic Transactions Association (“ETA”), we appreciate the opportunity to share our thoughts on the Board of Governors of the Federal Reserve System (“Fed”) notice of proposed guidelines to evaluate requests for accounts and services at Federal Reserve Banks.

ETA members support the Fed’s key policy goals with respect to ensuring the safety and soundness of the financial system, financial stability, monetary policy, consumer protection, and promoting a safe, efficient, inclusive, and innovative payment system.

Over the recent years, ETA members, have been leveraging technology to develop and deploy new financial products and services which facilitate consumer access to a broader array of financial products and services. In drafting its proposed guidelines for evaluating requests for accounts and services, ETA recommends that the Fed: 1) supports continued innovation by granting such accounts and 2) tailor regulations to the risk of each specific entity and consider potential harm to consumers as well as safety, soundness, and financial stability risks in the ecosystem.<sup>1</sup>

**Who We Are**

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA’s members include banks, mobile payment service providers, mobile wallet providers, money transmitters and non-bank financial technology companies (“fintech”) that provide access to credit, primarily to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives – facilitating over \$22 trillion in payments in 2019 worldwide.

**Comments**

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<sup>1</sup> See *ETA’s 7 Guiding Principles on CBDC*

### Continued Innovation Led by the Fed

Over the past several years the digitalization of finance has increased the efficiency, productivity, and inclusiveness of the financial sector, allowing more Americans to conduct commerce with safe, responsible, convenient, and rewarding solutions. Innovation in technology, deployed and developed by ETA members – both traditional financial institutions and fintechs – have led the way, helping more consumers than ever before.

The Fed has stated that they are open to supporting responsible innovation, by institutions they have direct regulation over and in the financial market more broadly. Continued innovation by ETA members and the services they offer in the future may depend on having access to the Fed’s master accounts. If ETA members are able to gain access to the Fed’s master account system, they are likely to operate more efficiently, and compete more effectively providing alternative products and services.

As of recently, nonbank entities are able to apply for master accounts at the Fed after securing special purpose or “novel” depository-institution bank charters. Such charters are offered by the Office of the Comptroller of the Currency (“OCC”) as well as by some state banking authorities, like Wyoming’s special purpose depository institutions charter.

While the proposed guidelines require each institution that requests an account to be eligible under the Federal Reserve Act or other federal statute, the Fed has also acknowledged there has been a recent uptick in novel charter types being authorized or considered across the country. ETA encourages the agency contemplate additional guidelines to regulate such entities appropriately and grant access to the Fed’s master accounts.

The Fed can look at foreign central banks that have taken steps to grant nonbank entities such access. For example, the Bank of England<sup>2</sup> noted in its decision to give “non-bank payment service providers” direct access to its wholesale settlement services, can ultimately enhance financial stability by:

- Creating more diverse payment arrangements with fewer single points of failure;
- Identifying and developing new risk-reducing technologies; and
- Expanding the range of transactions that can take place electronically and be settled in central bank money.

Absent further clarity from Congress, however, ETA suggests that commercial entities and their affiliates not be eligible for access, due to the unique risks these entities would pose, such as the risk that their payment services they offer become tied to their commercial activities. Rather, eligibility should be limited to entities that are primarily engaged in financial activities.

### Regulation Should be Tailored to the Risk-Profile of the Entity with Proper Oversight and Consumer Protections

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<sup>2</sup> Bank of England, “Bank of England Extends Direct Access to RTGS Accounts to Non-bank Payment Service Providers.” *Press Release*, July 2017. Available at <https://www.bankofengland.co.uk/-/media/boe/files/news/2017/july/boe-extends-direct-access-to-rtgs-accounts-to-non-bank-payment-service-providers.pdf>

If the Fed were to grant master accounts to entities such as those with special-purpose charters they should be subject to the standards of operational and financial resiliency that mitigates the risks they pose to the ecosystem, focusing on consideration such as:

- Preventing the interruption in the performance of their roles;
- Protecting the safety and soundness of other participants in the ecosystem; and
- Safeguarding the stability of the ecosystem itself.

Further, the Fed should assess the entities activities and services with applicable laws and regulations, such as Article 4A of the Uniform Commercial Code, the Fed's Regulation E, and the Electronic Fund Transfer Act. The Fed should also consider whether the entity would impede compliance by the institution's customers with Bank Secrecy Act and anti-money-laundering requirements or regulations, or consumer protection laws and regulations.

Guidelines for access to the master accounts should be established and the Fed should tailor any regulations to the activities and risks that the entities pose, including those who are currently not regulated by the Fed. Entities accessing the system should be subject to regulatory standards and oversight/supervision in order to protect consumers. For example, we encourage the Fed to state what is appropriate with respect to account usage, and whether the Fed would presume an institution would invest in reserves just because an institution is permitted to do under its charter, and how to rebut that presumption.

Standard eligibility requirements to ensure that only legitimate, well-governed, compliant and capable enterprises access the system. Additionally, access and functionality should be tailored to an individual entity's risk management and operational capabilities. If entities cannot meet minimum standards, they should be excluded from accessing a Fed's master account.

Furthermore, the Fed should provide on-going oversight to ensure risk profiles have not changed materially, and risk management structures and operational capabilities remain adequate. On-going oversight should be achieved through periodic examination, audit, and certification. Entities that cannot maintain minimum standards should face an escalating series of consequences that may culminate in exclusion from a Fed's master account.

ETA recommends that the Fed should regulate entities that are given master account access by asking if their standards are adequate to the risks associated with its business, not holding those organizations to the same regulatory standards as others in the larger financial ecosystem. Because one size regulation doesn't fit all entities, so we think it is important for the Fed to regulate entities that are given master account access based on the risk profile they present to the system.

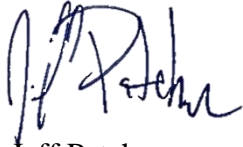
While we acknowledge that a principles-based approach is a positive step forward and allows for necessary flexibility, we encourage the Fed to have clear, bright line rules in their final rule so that entities can clearly determine whether they will be granted access if they have acceptable risk oversight.

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ETA appreciates the opportunity to provide input on this important issue. If you have any questions, please contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott at [stalbott@electran.org](mailto:stalbott@electran.org).

Sincerely,



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