

**ALERTS**

## **Federal Reserve Board Approves Guidelines for Evaluating Reserve Bank Account Requests**

**August 17, 2022**

On Aug. 15, 2022, the Board of Governors of the Federal Reserve System (“FRB”) unanimously voted to approve guidelines (“Guidelines”) for Federal Reserve Banks (“Reserve Banks”) to use in evaluating requests by institutions — including those with novel charters — to access Reserve Bank accounts and services.[1] The Guidelines, in development for over a year, potentially mark an important step forward in allowing novel charter types — such as so-called state “crypto banks” (e.g., Wyoming special purpose depository institutions (“SPDIs”)) to access the Federal Reserve System.

### **The Guidelines**

Citing the rapidly evolving landscape of the payments system as well as new financial products and services that are changing the provision of traditional banking services, the FRB emphasizes that the Guidelines offer a “transparent and consistent” set of factors by which Reserve Banks can evaluate requests for master accounts.[2] Broadly, the Guidelines seek to provide a route by which Reserve Banks can consider master account requests while keeping six main principles in mind: (1) legal eligibility of institutions seeking access; (2) prevention of undue risk to the Reserve Bank presented by the applying institution; (3) prevention of undue risk to the entire payments system presented by the applying institution; (4) prevention of undue risk to the stability of the U.S. financial system presented by the applying institution; (5) prevention of undue risk of

money laundering and other illicit activity presented by the applying institution; and (6) prevention of any adverse effect on the FRB's ability to implement monetary policy.[3]

Notably, the Guidelines include a tiered review framework that strives to “provide additional clarity on the level of due diligence and scrutiny that Reserve Banks will apply to different types of institutions with varying degrees of risk.”[4] These tiers are organized as follows:

- Tier 1 institutions are eligible institutions that are federally insured by the Federal Deposit Insurance Corporation. In light of their deposit insurance status, such institutions would be generally subject to a “less intensive and more streamlined review.”[5]
- Tier 2 consists of eligible institutions that are not federally insured but are subject to prudential supervision by a federal banking agency and (1) if the institution is state chartered, any holding company of which would be subject to FRB oversight, or (2) if the institution is federally chartered, any holding company of which that is subject to FRB oversight. Tier 2 institutions would receive a moderate/intermediate level of scrutiny and review.[6]
- Tier 3 is made up of eligible institutions that are not federally insured and not subject to Tier 2 scrutiny. Such institutions would receive the highest amount of scrutiny and review.[7]

The Guidelines will become effective upon publication in the *Federal Register*.

## Implications of Guidelines

As noted above, the Guidelines contemplate a path for novel institutions — namely cryptocurrency banks — to gain access to the Federal Reserve System, and in doing so obtain master account access. Specifically, the Guidelines come in the wake of certain SPDIs (i.e., Custodia and Kraken Bank), applying for Reserve Bank master account access last year.

*Schulte Roth & Zabel's lawyers are available to assist you in preparing a public comment or addressing any questions you may have regarding these developments. Please contact the Schulte Roth & Zabel lawyer with whom you usually work, or any of the following attorneys:*

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[1] Board of Governors of the Federal Reserve System, Guidelines for Evaluating Account and Services Requests (Aug. 15, 2022), <https://www.federalreserve.gov/newsevents/pressreleases/files/other20220815a1.pdf>, at 2 [hereinafter Guidelines].

[2] Press Release, Federal Reserve Board announces final guidelines that establish a transparent, risk-based, and consistent set of factors for Reserve Banks to use in reviewing requests to access Federal Reserve accounts and payment services (Aug. 15, 2022), <https://www.federalreserve.gov/newsevents/pressreleases/other20220815a.htm> [hereinafter Press Release].

[3] Guidelines, *supra* note 1, at 2–3.

[4] Press Release, *supra* note 2.

[5] Memorandum from Federal Reserve Staff to Board of Governors of the Federal Reserve System (Aug. 2, 2022), <https://www.federalreserve.gov/newsevents/pressreleases/files/board-memo-20220815.pdf>, at 2.

[6] *Id.* at 5.

[7] *Id.*

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