



FEDERAL RESERVE SYSTEM

[Docket No. OP-1607]

Policy on Payment System Risk and Expanded Real-time Monitoring

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; Request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is requesting comment on the benefits and drawbacks of a potential change to part II of the Federal Reserve Policy on Payment System Risk (PSR policy). The potential change would entail the Federal Reserve Banks (Reserve Banks) monitoring in real time all Fedwire Funds transfers and rejecting those transfers that would breach the Fedwire sender's net debit cap, that is, the ceiling on its total daylight overdraft position that it is permitted to incur in its Federal Reserve account during any given day. If, after an evaluation of the public comments on this notice, the Board concludes that an expansion of real-time monitoring is desirable, the Board will request public comment on specific proposed changes to the PSR policy.

APPLICABLE DATE: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by Docket No. OP-1607, by any of the following methods:

- Agency website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

- FAX: (202) 452–3819 or (202) 452–3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue N.W., Washington, DC 20551.

All public comments are available from the Board’s website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons or to remove sensitive personal information at the commenter’s request. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street, NW. (between 18th and 19th Streets, NW.), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jeff Walker, Assistant Director (202-721-4559), Jason Hinkle, Manager (202-912-7805), or Michelle D. Olivier, Senior Financial Services Analyst (202-452-2404), Division of Reserve Bank Operations and Payment Systems; Evan Winerman, Counsel (202-872-7578), Legal Division.

SUPPLEMENTARY INFORMATION:

I. Background

Part II of the Board’s PSR policy seeks to balance the costs and risks associated with the provision of Federal Reserve intraday credit (or daylight overdrafts) against the benefits of intraday liquidity. The PSR policy recognizes that the Federal Reserve has an important role in providing intraday credit to foster the smooth functioning of the overall payment system and also seeks to control the risks assumed by the Reserve Banks in providing this intraday credit.

The Reserve Banks provide intraday liquidity by way of supplying temporary, intraday credit to healthy depository institutions, and the Reserve Banks could face direct

risk of loss should institutions be unable to settle their daylight overdrafts in their Federal Reserve accounts before the end of the day. The Reserve Banks control their exposures through several methods, including by incentivizing institutions to voluntarily collateralize daylight overdrafts, setting limits (net debit caps) on daylight overdrafts in institutions' Federal Reserve accounts, and requiring collateral in certain situations. In addition, Reserve Banks have the ability to monitor an institution's Federal Reserve account activity in real time and reject certain transactions that would cause an overdraft in excess of the institution's net debit cap; this capability is known as "real-time monitoring."¹ Real-time monitoring allows the Reserve Banks to prevent an institution from transferring funds from an account that lacks sufficient funds or overdraft capacity to cover the payment(s).²

The Board is conducting a review of the Federal Reserve's intraday credit policies related to real-time monitoring and is exploring the potential benefits that expanded real-time monitoring for Fedwire Funds may have in reducing the risk that payments activity, including errant or fraudulent payments, poses to any institution that maintains a Federal Reserve account. A risk-focused expansion in the use of the real-time monitor may provide additional account protection against mismanagement or misuse of payment services and could help mitigate risks for both institutions and the Reserve Banks.

¹ The Reserve Banks monitor all institutions' account activity for compliance with the daylight overdraft posting rules on an after-the-fact or ex post basis. Real-time monitoring supplements but does not replace Reserve Banks' ex post monitoring.

² Under the current PSR policy, a Reserve Bank will apply real-time monitoring selectively to an individual institution's position when the Reserve Bank believes that it faces excessive risk exposure, for example, from a problem institution or an institution with chronic overdrafts in excess of what the Reserve Bank determines is prudent. An institution not considered to pose an excessive risk exposure may voluntarily elect to have its account monitored in real time, subject to approval by its Reserve Bank.

In 2001, the Board requested comment on expanding real-time monitoring capabilities to all transactions subject to settlement-day finality for all institutions but ultimately decided not to pursue the expansion.³ At the time of the previous request for comment, applying the real-time monitoring technology to an institution's account would have resulted in both Fedwire funds transfers and National Settlement Service (NSS) transactions being rejected, and would have necessitated that the institution prefund its automated clearinghouse (ACH) credit originations. Commenters indicated that monitoring ACH credit originations and requiring institutions to prefund them might be overly burdensome to institutions and disruptive to the payment system overall. Since the 2001 proposal, the Federal Reserve has enhanced the functionality of the real-time monitoring technology to permit more selective application by payment type. During this period, depository institutions and their supervisors have dedicated greater attention to the risks associated with fraudulent transactions, notably those stemming from illicit or unauthorized penetration of institutions' information processing systems.

The Reserve Banks recently implemented a voluntary, no-cost pilot program for the real-time monitoring of Fedwire funds transfers, available to institutions with total assets under \$50 billion.⁴ Effective October 2, 2017, any Fedwire funds transfer that would cause (or increase) an overdraft in a participating institution's Federal Reserve account in excess of its net debit cap is rejected, unless the institution has specifically opted out of the program. A rejection gives the participating institution an additional

³ The request for comment and the subsequent notice of the Board's decision not to pursue the proposed real-time monitoring changes can be found, respectively, at 66 FR 30208 (June 5, 2001) and 67 FR 54424 (August 22, 2002).

⁴ Participation in the pilot program is restricted to institutions not currently on the monitor at the direction of their Reserve Bank. The Reserve Banks continue to apply real-time monitoring on an involuntary basis to individual institutions when the account-holding Reserve Bank believes that the account relationship poses an excessive risk exposure.

opportunity to verify authorization and authenticity and to fund the transaction, and limits the associated financial risk to both the institution and its Reserve Bank. The Reserve Banks expect this program will provide risk mitigation benefits for the participating institutions as well as the Reserve Banks. In addition, the program should allow Reserve Banks and institutions to assess the potential benefits and drawbacks of routine real-time monitoring of all Fedwire funds transfers.

The policy change under consideration by the Board would amend the PSR policy to apply real-time monitoring as a mandatory practice for all institutions, regardless of total asset size. The potential policy change, as discussed below, would apply real-time monitoring only to institutions' outgoing Fedwire funds transfers.

II. Potential Policy Change: Monitoring in Real Time All Institutions' Fedwire Funds Payments

The Board is exploring the benefits and drawbacks of a real-time monitoring expansion for Fedwire funds transfers (RTME), which is defined as using the Reserve Banks' real-time monitoring technology to reject any outgoing Fedwire funds transfer that would cause any institution's overdrafts to exceed its net debit cap.⁵ Taking a risk-focused approach, the Board is only considering real-time monitoring for Fedwire funds transfers because these transactions can be high-value and settle immediately and irrevocably, and therefore represent a potentially greater credit risk to both the Reserve Banks and Fedwire senders than transactions with typically lower per-transfer values or without settlement-day finality. Fedwire funds payments represent the majority of the dollar value of payments that the Reserve Banks process, and in 2016, Fedwire funds activity totaled

⁵ In certain circumstances and subject to Reserve Bank approval, institutions may pledge collateral to their Reserve Banks to secure daylight overdraft capacity in excess of their debit caps, known as maximum overdraft capacity or max cap. For purposes of this notice, net debit cap refers to both institutions' standard net debit caps as well as any additional collateralized capacity approved by their Reserve Banks.

approximately \$767 trillion, with an average transaction value of \$5.2 million.⁶ If a payor institution does not fund its settlement with the Reserve Bank for transactions that do not have settlement-day finality, such as checks and ACH debit transactions, the Reserve Bank may return or reverse the transactions. As a consequence, those transactions pose less risk to the Reserve Banks in the event the payor institution defaults. The Board is not at this time considering monitoring and rejecting payments other than Fedwire funds, such as Fedwire securities transfers, NSS transactions, ACH credit transactions, or cash withdrawals. Furthermore, the Board is not seeking comment on existing policies related to real-time monitoring and rejecting payments for institutions that fall within established parameters for such treatment, including those in weakened financial condition.

RTME could benefit institutions and the Reserve Banks by providing additional account management and cyber, fraud, and credit risk controls for Fedwire funds transfers, supplementing institutions' internal account management and risk controls.⁷ Specifically, RTME could assist institutions in managing their Federal Reserve accounts in compliance with the PSR policy by preventing institutions from breaching their net debit caps with Fedwire funds payments. Because of the heightened cyber risk environment and unexpected nature of fraudulent funds transactions, an institution's overdraft could exceed its net debit cap and the institution might not have the resources to cover the overdraft. RTME would protect against both fraudulent and authorized Fedwire funds transfers that would result in an overdraft in excess of an institution's net debit cap. Expansion of the current limited real-time monitoring pilot to all institutions would

⁶ For comparison, the average transaction values for commercial ACH and check transactions processed by the Reserve Banks were approximately \$1,700 and \$1,500, respectively.

⁷ Account management tools provided by the Reserve Banks, including real-time monitoring, are intended to supplement rather than replace institutions' independent account management and risk controls.

provide these account management and risk mitigation benefits to more institutions' Federal Reserve accounts. By further transitioning to a mandatory program, RTME would ensure consistent treatment of all institutions' Fedwire funds activity. Additionally, a mandatory program would make certain that the Reserve Banks' risk of loss from a defaulting institution's Fedwire funds transfers would be restricted to each account's established net debit cap.

While RTME could mitigate risks for the Reserve Banks and institutions that hold Federal Reserve accounts, the Board is interested in understanding any concerns about potential negative consequences. For example, RTME could increase the risk of payment delays or gridlock. In the event of a rejected Fedwire funds transfer, RTME would require an institution to review and, if appropriate, fund and resubmit the transfer, requiring prompt account management to avoid delay. A delay caused by a rejected transfer may adversely affect the intended receiver and similarly require account management adjustments should the funds fail to arrive when expected. An institution that is closely managing to its net debit cap to avoid the rejection of Fedwire funds transfers may choose to throttle payments during the day, restricting and delaying funds transfers until sufficient funds are available. As a consequence, the receiver of these Fedwire funds transfers will not obtain the funds until later than it otherwise would have and may likewise choose to throttle payments.

To analyze the potential for rejected payments, the Board reviewed institutions' recent Fedwire funds activity against their net debit caps. Analysis of 2016 annual payment data indicates that RTME would have rejected less than 0.003 percent of the approximately 133 million Fedwire funds transfers sent by institutions that may be

covered by the program.⁸ In terms of value, only 0.002 percent of the over \$484 trillion of Fedwire funds transfers sent by these institutions would have been affected.

Approximately 5 percent of these institutions would have had at least one Fedwire funds transfer rejected per year under RTME.⁹ As a result of this initial analysis, the Board estimates that under current conditions and payment activities, most institutions covered by the proposed RTME program would not experience rejected payments.

Although RTME appears unlikely to disrupt the payment system in the aggregate, the Board recognizes the potential for unintended consequences that may not be evident by analyzing historical payments data, possibly associated with certain institution types or payments activity functioned through Federal Reserve accounts. To better assess the potential benefits and negative effects of such a program, the Board is soliciting feedback on expanding real-time monitoring to all Fedwire funds transfers and is particularly interested in any negative consequences of RTME not identified in this notice. Should the Board choose to move forward with developing and implementing an RTME program, the Board will request public comment on a specific RTME proposal.

⁸ Analysis excludes the secondary impact that a rejected Fedwire funds transfer might have on the funding of the receiving institution's outgoing Fedwire funds transfers.

⁹ The Board also reviewed institutions' intraday credit use in 2016 and found that most institutions did not fully use their daylight overdraft capacity—in fact, approximately 80 percent of institutions used less than 25 percent of their capacity for their peak overdraft. The Board recognizes that historically high levels of reserve balances have decreased the need for intraday credit for some institutions. For comparison, the Board reviewed peak cap utilization in 2007, during which approximately 50 percent of institutions used less than 25 percent of their capacity for their peak overdraft and the vast majority of institutions, over 80 percent, never exceeded their net debit cap at any time during the year. In addition, many institutions currently maintain net debit caps below the maximum level that would be permitted under the PSR policy; such institutions could request a higher net debit cap, which would likely alleviate potential payment disruptions as the institutions adjust their account management behavior or balances in response to RTME. For example, approximately 80 percent of institutions with a positive net debit cap have an exempt cap, and these institutions could double their daylight overdraft capacity by requesting a *de minimis* cap with only a marginal increase in administrative burden to the institution.

III. Request for Comment

The Board is seeking comment on all aspects of a potential mandatory, expanded real-time monitoring program that would monitor and reject Fedwire funds payments sent by all institutions. As described previously, an RTME program would reject any Fedwire funds transfer that would breach the Fedwire funds sender's net debit cap, as established under part II of the PSR policy.

The Board also requests comment on the following specific questions regarding a potential RTME program:

1. What would be the benefits and drawbacks of a mandatory RTME program to institutions' operations and funding? Are there characteristics of an RTME program that could mitigate any potential drawbacks?
2. Would RTME lead to significantly greater payment delays, or would it have a negligible effect? Would real-time monitoring of Fedwire funds transfers at the net debit cap level affect the way institutions manage their Federal Reserve accounts with respect to daylight overdrafts? Would an RTME program cause institutions to delay sending payments?
3. Would RTME lead your institution to apply for a higher net debit cap in order to avoid rejection of Fedwire funds transfers?
4. If your institution participates or participated in the Enhanced Overdraft Protection Tool (EOPT) pilot program, please describe your experience.
5. If the Federal Reserve implemented a mandatory RTME program, how would this action affect your institution's payments business going forward? Would RTME encourage institutions to move their large-dollar payments activity

from Fedwire funds to other payment channels? What operational or risk challenges would this movement present?

6. Does your institution currently have programs and practices in place that address the risk of an errant or fraudulent payment, particularly those that might result in an excessive overdraft? If a mandatory RTME policy were adopted, would those programs and practices be kept or replaced? Does having certain programs and practices in place provide the institution or Federal Reserve a sufficient reduction in risk to warrant exclusion from a mandatory RTME program?

IV. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payment system participants.¹⁰ Under these procedures, the Board will assess 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 anticipated benefits are significant enough to proceed with the change despite the adverse effects.

The Board does not anticipate that RTME would have a direct and material impact on the ability of other service providers to compete effectively with the Reserve Banks' payment services but requests comment on that issue and on whether, even if

¹⁰ 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).

there are adverse competitive effects, they are outweighed by the potential benefits of RTME. If the Board chooses to move forward with developing and implementing an RTME program, the Board will evaluate these options under its competitive impact procedures.

By order of the Board of Governors of the Federal Reserve System, May 2, 2018.

Michele Taylor Fennell,
Assistant Secretary of the Board.

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