FEDERA

[Docket No. OP-1749]

Improvements to the Federal Reserve Policy on Payment System Risk to Increase Access to Intraday Credit, Support the FedNow Service, and Simplify the Federal Reserve Policy on Overnight Overdrafts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting changes to part II of the Federal Reserve Policy on Payment System Risk (PSR policy) substantially as proposed. The changes expand the eligibility of depository institutions to request collateralized intraday credit from the Federal Reserve Banks (Reserve Banks) while reducing administrative steps for requesting collateralized intraday credit. In addition, the Board is adopting changes to the PSR policy that clarify the eligibility standards for accessing uncollateralized intraday credit from Reserve Banks and modify the impact of a holding company's or affiliate's supervisory rating on an institution's eligibility to request uncollateralized intraday credit capacity. The Board is also adopting changes to part II of the PSR policy to support the deployment of the FedNow$^{\text{SM}}$ Service (FedNow Service). Finally, the Board is simplifying the Federal Reserve Policy on Overnight Overdrafts (Overnight Overdrafts policy) and incorporating into the PSR policy as part III.

DATES: The FedNow Service-related changes to the PSR policy and the changes related to the Overnight Overdrafts policy will become effective when Reserve Banks begin processing live transactions for FedNow Service participants (expected in 2023). The exact date will be announced on the Board's website. The remaining changes to part II of the PSR policy will become effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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SUPPLEMENTARY INFORMATION:

I. Background

A. Current Framework for Intraday Credit in the PSR Policy

To ensure the smooth functioning of payment and settlement systems, the Reserve Banks provide intraday credit (also known as daylight overdrafts) to depository institutions (institutions) with accounts at the Reserve Banks. Part II of the PSR policy outlines the methods that Reserve Banks use to control credit risk associated with providing intraday credit.[1]

To be eligible for intraday credit, the PSR policy requires that an institution be financially healthy and be eligible for regular access to the discount window.[2] In general, the dollar amount of daylight overdrafts that an eligible institution may incur in its Federal Reserve account on an uncollateralized basis is known as its "net debit cap." An institution's net debit cap is computed by multiplying the appropriate capital measure by a "cap multiple."[3] The cap multiple is determined by reference to the institution's "cap category," which is based on (i) the supervisory ratings of the institution and any parent or affiliates, and (ii) the institution's Prompt Corrective Action (PCA) designation (for domestic institutions) or FBO PSR capital category (for U.S.

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[1] *See* https://www.federalreserve.gov/paymentsystems/psr_about.htm. To assist institutions in implementing part II of the PSR policy, the Federal Reserve has prepared two guidance documents: the Overview of the Federal Reserve's Payment System Risk Policy on Intraday Credit (Overview) and the Guide to the Federal Reserve's Payment System Risk Policy on Intraday Credit (Guide). The Guide contains detailed eligibility standards for requesting and maintaining uncollateralized capacity. Both the Overview and the Guide are available at https://www.federalreserve.gov/paymentsystems/psr_relpolicies.htm. Separately, part I of the PSR policy sets out the Board's views and related standards, regarding the management of risks in financial market infrastructures, including those operated by the Reserve Banks.

[2] *See* section II.D.1 of the PSR policy. The PSR policy does not expressly define the term "financially healthy."

[3] *Id.* An institution's capital measure is a number derived from the size of its capital base.

branches and agencies of foreign banking organizations (FBOs)).[4] Reserve Banks generally use an ex post system to monitor whether an institution's daylight overdrafts exceed its net debit cap.[5] In addition, certain institutions may pledge collateral to their Reserve Banks under the "max cap" program to secure daylight overdraft capacity in excess of their net debit caps, subject to Reserve Bank approval.[6]

In 2008, the Board approved changes to part II of the PSR policy to encourage greater collateralization of daylight overdrafts, recognizing that collateral reduces credit risk to Reserve Banks.[7] Specifically, the Board adopted a dual-pricing framework intended to provide a financial incentive to institutions to collateralize their daylight overdrafts. Under the dual-pricing framework, Reserve Banks charge no fee for collateralized daylight overdrafts, but charge a fee of 50 basis points for uncollateralized daylight overdrafts.[8]

Although the PSR policy's dual-pricing framework encourages institutions to collateralize their daylight overdrafts, collateralized capacity under the max cap program is not currently available for all institutions with a positive net debit cap. Specifically, institutions in the "exempt-from-filing" or "de minimis" cap categories (which do not require a self-assessment) are ineligible to request collateralized capacity under the max cap program. Likewise, institutions with a voluntary zero net debit cap, and institutions that the Reserve Banks have assigned a zero net debit cap, cannot request collateralized capacity under the max cap program.[9]

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[4] Under section II.D.2 of the PSR policy, an institution's cap category is one of six classifications: the three self-assessed categories ("high," "above average," and "average"); "de minimis;" "exempt-from-filing;" and "zero." Institutions whose parents or affiliates are assigned a low supervisory rating are ineligible for a net debit cap. *See* section VII.A of the Guide.

[5] *See* section II.G.1 of the PSR policy. The Reserve Banks also monitor some institutions' accounts in real time. Real-time monitoring allows a Reserve Bank to prevent an institution from transferring funds from an account that lacks sufficient funds or overdraft capacity to cover the payment. *See id.* section II.G.2 of the PSR policy.

[6] *See* section II.E of the PSR policy. An institution's net debit cap plus its collateralized capacity is referred to as its "maximum daylight overdraft capacity" or "max cap." *Id.* Collateral eligibility and margins are the same for intraday credit purposes as for the discount window. *See* http://www.frbdiscountwindow.org/ for information on the discount window and intraday credit collateral acceptance policy and collateral margins.

[7] *See* 73 FR 79109 (Dec. 24, 2008). These changes were not fully implemented until 2011.

[8] *See* section II.C of the PSR policy.

[9] *See* section II.E.1 of the PSR policy.

Further, obtaining collateralized capacity under the max cap program requires institutions to undertake certain administrative steps and analysis. First, institutions must provide a business case outlining their need for collateralized capacity, and must submit a board of directors resolution approving the collateralized capacity, at least annually and whenever the institution modifies the amount of requested collateralized capacity.[10] Second, and as stated previously, the max cap program is limited to institutions that have already adopted a self-assessed net debit cap, which in turn requires an institution to perform a self-assessment of its creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedures.[11]

B. The Overnight Overdrafts Policy

Intraday overdrafts occur when an institution has a negative balance in its Federal Reserve account during the Fedwire® Funds Service business day. Overnight overdrafts occur when an institution has a negative account balance at the end of the Fedwire Funds Service business day. While the PSR policy addresses daylight overdrafts, the Overnight Overdrafts policy addresses overnight overdrafts.

To minimize Reserve Bank exposure to overnight overdrafts, the Overnight Overdrafts policy imposes a penalty fee to discourage institutions from incurring overnight overdrafts.[12] If an institution has a negative balance at the end of the business day, the Reserve Banks apply an overnight overdraft penalty for a 24-hour period. Currently, the penalty fee includes a multiday charge for overnight overdrafts on calendar days occurring over weekends and holidays. The Overnight Overdrafts policy contains a fee-escalation feature, whereby the penalty fee increases

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[10] *See id.* Section II.E.2 of the PSR policy allows U.S. branches or agencies of FBOs to use a streamlined procedure for requesting a max cap. An FBO that uses the streamlined procedure is not required to provide a business case for a max cap, nor is it required to obtain a board of directors resolution authorizing a max cap, so long as (a) the FBO has an FBO PSR capital category of "highly capitalized" and (b) the requested total capacity is 100 percent or less of the FBO's worldwide capital times the self-assessed cap multiple.   *See* section II.D.2 and n. 63 of the PSR policy for a discussion of FBO PSR capital categories.

[11] *See* section II.D.a of the PSR policy and *supra* note 4 which discuss cap categories. The "high," "above average," and "average" cap categories require a self-assessment.

[12] *See* https://www.federalreserve.gov/paymentsystems/oo_policy.htm. The overnight overdraft penalty rate is equal to the primary credit rate plus 4 percentage points (annual rate). There is also a minimum penalty fee of 100 dollars per occasion, regardless of the amount of the overnight overdraft.

by one percentage point for each overnight overdraft after an institution's third overnight overdraft in a rolling 12-month period.

C. The FedNow Service and the PSR Policy

In 2019, the Board approved the FedNow Service, a new interbank 24x7x365 real-time gross settlement service with clearing functionality to support end-to-end instant payments in the United States.[13] The FedNow Service will settle funds transfers between institutions through debit and credit entries to balances in master accounts held at the Reserve Banks. The new service will promote ubiquitous, safe, and efficient instant payments in the United States.

Intraday credit from the Reserve Banks is currently available during the 22-hour business day that is based on the Fedwire Funds Service.[14] As described in the Board's 2020 notice on FedNow Service details, the FedNow Service will have a 24-hour business day, each day of the week, including weekends and holidays.[15] Access to intraday credit will be available on a 24x7x365 basis to FedNow Service participants under the same terms and conditions as are available for other Federal Reserve services.

The close of the FedNow Service will align on all calendar days with the close of the Fedwire Funds Service.[16] If the close of the Fedwire Funds Service is extended on any given day, the close of the FedNow Service will also be extended to maintain alignment. Given the continuous, 24-hour nature of the FedNow Service, the opening time will occur immediately after the close of the FedNow Service. Under this framework, an end-of-day balance will be calculated for each calendar day, with transactions occurring on weekends and holidays recorded and reported in the same way as transactions occurring on business days.[17] End-of-day balances

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[13] *See* 84 FR 39297 (Aug. 9, 2019). Current information on the FedNow Service can be found at https://www.frbservices.org/financial-services/fednow.

[14] *See* FRBservices.org, *Wholesale Services Operating Hours and FedPayments® Manager Hours of Availability – Fedwire Funds Service Schedule*, https://www.frbservices.org/resources/financial-services/wires/operating-hours.html.

[15] 85 FR 48522, 48524 (Aug. 11, 2020).

[16] *Id.* Both the Fedwire Funds and the FedNow Services will close at 7:00:59 p.m. ET. On weekends and holidays, when the Fedwire Funds Service is closed, the FedNow Service close will still align with this closing time.

[17] The Board expects that participating institutions will record FedNow Service transactions in their customer accounts according to their own business day and accounting conventions (while still providing immediate access to funds received through the FedNow Service).

will be reported on Federal Reserve accounting records for all depository institutions using payment services on each calendar day.

II. Proposed Changes and Board Response to Public Comments

On June 3, 2021, the Board published a notice in the *Federal Register* that requested comment on proposed changes that would (i) expand eligibility of institutions to request collateralized intraday credit from the Reserve Banks under the max cap program and reduce administrative steps associated with requesting collateralized capacity in the PSR policy; (ii) clarify the eligibility standards for accessing uncollateralized intraday credit from Reserve Banks; (iii) align the PSR policy with the deployment of the FedNow Service; and (iv) simplify and incorporate the Overnight Overdrafts policy as part III of the PSR policy.[18]

The proposal's comment period ended on August 2, 2021. The Board received thirteen comment letters from six trade organizations, two institutions, two payment services operators, one academic, one think tank, and one consulting firm. The remainder of this section describes in further detail each aspect of the proposal, summarizes and responds to public comments, and outlines the changes to the PSR policy that the Board is adopting.

For the reasons set forth below, the Board will adopt the proposed changes substantially as proposed. The FedNow Service-related changes to the PSR policy and the changes related to the Overnight Overdrafts policy will become effective when Reserve Banks begin processing live transactions for FedNow Service participants (expected in 2023). The exact date will be announced on the Board's website. The remaining changes to part II of the PSR policy will become effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

A. Access to Collateralized Capacity

1. Proposed changes

[18] 86 FR 29776 (Jun. 3, 2021).

The Board proposed to modify the PSR policy to expand access to and reduce the administrative steps associated with requesting collateralized capacity. The Board explained in the request for comment that extending intraday credit to institutions on a collateralized basis generally poses less risk to the Reserve Banks and the payment system than extending intraday credit on an uncollateralized basis. As a result, expanding access to collateralized intraday credit could improve the effectiveness of Reserve Bank intraday credit as a liquidity tool without materially increasing credit risk to the Reserve Banks.

Specifically, the Board proposed to amend the PSR policy so that institutions, subject to Reserve Bank review and discretion, would be eligible to request collateralized capacity under the max cap program even if they have not first obtained a self-assessed net debit cap. Under the proposal, institutions with a cap category of "zero," "exempt-from-filing," or "de minimis" would be eligible to request collateralized capacity from their Reserve Banks.[19] A domestic institution with such a cap category would be eligible to request collateralized capacity if the institution's PCA designation is "undercapitalized" or better.[20] Similarly, a U.S. branch or agency of an FBO with such a cap category would be eligible to request collateralized capacity if its FBO PSR capital category is "undercapitalized" or better.[21]

The Board explained that, given the important role collateral plays in reducing credit risk to Reserve Banks, the eligibility criteria for requesting collateralized capacity should be less restrictive than the criteria for accessing uncollateralized capacity. As a result, under the proposal, some institutions that are not eligible to establish a positive net debit cap would be eligible to request collateralized capacity.[22]

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[19] Institutions with one of the self-assessed net debit caps are currently eligible to request collateralized capacity.
[20] *See* 12 U.S.C. 1831o.
[21] *See* section II.D.2 and n. 63 of the PSR policy for a discussion of FBO PSR capital categories. Generally, an FBO's PSR capital category is based on the same capital and leverage ratios that determine a domestic institution's PCA designation.
[22] As the Board noted in the request for comment, an institution would need to remain financially healthy and be eligible for regular access to the discount window to qualify for collateralized or uncollateralized capacity.

The Board also proposed to simplify the administrative steps associated with requesting and maintaining collateralized capacity under the max cap program. Specifically, the Board proposed to eliminate, in most circumstances, the requirement that an institution provide a written business case when requesting collateralized capacity. The Board also proposed to eliminate the requirement that an institution's board of directors submit an annual resolution approving its collateralized capacity.[23]

2. Public comments and Board response

Public comments

Five commenters (two institutions, two trade organizations, and one payment services operator) supported the proposed changes related to collateralized capacity. One of these commenters, an institution, argued that the proposed changes would assist with liquidity planning and risk management. Another commenter, a trade organization, expressed support for these proposed changes and noted that expanding access to collateralized capacity would be helpful since community banks may need collateralized capacity in a 24x7x365 environment and as transaction levels increase. The commenter noted that historically, small institutions and community banks have not requested collateralized capacity.

Two commenters opposed the proposed changes related to collateralized capacity. One such commenter, a think tank, asserted that the changes would increase credit risk to Reserve Banks and would have a negative effect on the payment system. This commenter argued that an institution's supervisory ratings should remain a factor in determining the institution's eligibility to request collateralized capacity, suggesting that the proposal would lead to the most "credit-questionable or badly run" institutions obtaining collateralized capacity. The commenter also opposed the proposal to allow an institution to obtain collateralized capacity without obtaining a self-assessed net debit cap, submitting a business case, or providing an annual board of directors

[23] The Board did not propose to amend the current streamlined max cap process available to certain FBOs. *See supra* note 10.

resolution. The commenter argued that these requirements provide important information to the Reserve Banks and require an institution's board and senior management to exercise oversight over the institution's participation in the payment system. The other commenter that opposed the proposed changes related to collateralized capacity, a consulting firm, expressed concern that the changes could exacerbate the already high demand for collateral accepted by Reserve Banks, particularly during periods of stress in the financial system, further increasing market volatility.

Two commenters did not oppose the proposed changes but requested clarifications or made recommendations related to collateralized capacity. One such commenter, an institution, recommended that the Board clarify the relationship between the collateral pledged to the discount window and collateral pledged to the Reserve Bank for intraday credit purposes. collateralized intraday credit capacity. Another commenter, also an institution, recommended that the Board simplify the max cap program by eliminating the existing streamlined max cap procedure used by highly capitalized FBOs.[24] The commenter noted that eliminating the streamlined max cap would help simplify the PSR policy.

Board response

For the reasons described below, the Board is adopting the changes related to collateralized credit as proposed, with some clarifications in response to the public comments.

Collateralized intraday credit poses less risk to Reserve Banks than uncollateralized intraday credit. The Board therefore believes that the criteria for requesting collateralized capacity should be more accommodative than the criteria for requesting uncollateralized capacity, and that an institution that is at least "undercapitalized" and eligible for regular access to the discount window should be eligible to request collateralized capacity from its Reserve Bank. At the same time, access to intraday credit capacity, both collateralized and uncollateralized, will remain at the discretion of the Reserve Banks. Weak or poorly run institutions will not automatically obtain collateralized capacity as one commenter theorized.

[24] *See supra* note 10.

The Reserve Banks will continue to review, on an ongoing basis, the condition of all institutions with access to intraday credit capacity, both collateralized and uncollateralized, in order to identify potential risks to the Reserve Banks and the payment system. If a Reserve Bank assesses that an institution poses excessive risk, it can reduce or remove the institution's intraday credit capacity and implement other risk mitigants.

Similarly, the Board does not believe that simplifying the administrative steps associated with requesting and maintaining collateralized capacity will increase risks to the Reserve Banks. The Reserve Banks have the discretion to request additional information when evaluating a request for collateralized capacity. In addition, the Reserve Banks will retain access to various sources of information outside of the self-assessment process – including supervisory information – to help evaluate the risks posed by institutions requesting collateralized capacity. The institution's board of directors will still be required to approve both the initial request for collateralized capacity and subsequent requests to increase the previously approved collateralized capacity.[25]

Further, contrary to the comment from the consulting firm, the Board does not believe that expanding access to collateralized capacity is likely to lead to a shortage of collateral accepted by Reserve Banks for intraday credit or other purposes, even during periods of financial stress. The Reserve Banks accept a wide range of securities and loans as collateral for intraday credit and discount window purposes.[26] Additionally, while the changes adopted in this notice will expand access to collateralized intraday credit, the vast majority of institutions – approximately 4,700 out of 5,000 institutions currently with a master account – will continue to remain eligible for uncollateralized intraday credit and will not be required to pledge collateral in order to obtain intraday credit.

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[25] Consistent with section II.D of the Guide, the Board will also continue to expect institutions' boards of directors to prudently manage risks associated with their Federal Reserve accounts.

[26] Generally, collateral eligibility and margins are the same for intraday credit purposes as for the discount window. *See* FRBdiscountwindow.org, *Collateral Information*, https://www.frbdiscountwindow.org/pages/collateral/collateral_eligibility.

With respect to the relationship between collateralized intraday credit capacity and collateral pledged to the discount window, the Federal Reserve's collateral guidelines contain a detailed list of margins and acceptability criteria for securities and loans that can be pledged to Reserve Banks for both discount window and intraday credit purposes.[27] When an institution pledges collateral to its Reserve Bank for daylight overdraft or discount window purposes, the collateral is placed in a single Federal Reserve collateral account. Collateral securing an extension of credit from the discount window may not be simultaneously applied for daylight overdraft purposes. When an institution repays an outstanding discount window loan, the institution's collateral available for daylight overdraft purposes is increased by the value of the collateral that had been encumbered by the discount window loan.

With respect to the streamlined max cap procedure for FBOs, the Board did not propose to eliminate these streamlined procedures. FBOs with an FBO PSR capital category of "highly capitalized" and a self-assessed net debit cap may use the streamlined procedure to obtain a max cap. These FBOs are not required to provide documentation of the business need or a board of directors resolution for collateralized capacity as long as the FBO remains highly capitalized and the requested total capacity is 100 percent or less of worldwide capital times the self-assessed cap multiple. Prior to modifying this aspect of the PSR policy, the Board believes that additional feedback from the public would be necessary in order to evaluate the impact on FBOs of changes to the streamlined max cap process. For these reasons, the Board is not adopting changes to the streamlined max cap process.

B. Clarifying Access to Uncollateralized Capacity

1. Proposed changes

[27] *See id.*

The Board proposed to amend the PSR policy to clarify when an institution is eligible for uncollateralized intraday credit capacity.

Specifically, the Board proposed to clarify that an institution's eligibility to adopt and maintain a positive net debit cap depends on an assessment of its creditworthiness, which results from the institution's (i) PCA designation or FBO PSR capital category, as applicable, and (ii) most recent supervisory ratings. The Board proposed to incorporate into the PSR policy the following table – which is based on an existing table in the Guide to the PSR policy – to clarify when institutions can request a positive net debit cap from a Reserve Bank.

Eligibility Criteria for Requesting a Positive Net Debit Cap

PCA designation[28]/ FBO PSR capital category	**Supervisory rating**			
	Strong	*Satisfactory*	*Fair*	*Marginal or Unsatisfactory*
Well capitalized/ Highly capitalized	Eligible	Eligible	Eligible	Ineligible (Zero net debit cap)
Adequately capitalized/ Sufficiently capitalized	Eligible	Eligible	Eligible	Ineligible (Zero net debit cap)
Undercapitalized	May be eligible subject to a full assessment of creditworthiness	May be eligible subject to a full assessment of creditworthines	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)
Significantly or critically undercapitalized/ Intraday credit ineligible	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)

The Board also proposed to modify the PSR policy so that low supervisory ratings of a parent or affiliate would not, in certain cases, result in an institution losing its positive net debit cap. Under the proposal, if an institution's holding company or affiliate is assigned a low supervisory rating, the institution would be eligible to request the "exempt-from-filing," "de

[28] The current table in the Guide, as well as the table in the request for comment, refers to a "Domestic capital category" rather than "PCA designation." To provide additional clarity, the Board is making a technical change to replace "Domestic capital category" with "PCA designation."

minimis," or "average" cap categories, but not the "above average" or "high" cap categories.[29] Additionally, the Board proposed that a Reserve Bank would assign an institution a "zero" net debit cap if supervisory information about the holding company or affiliated institutions reveals material operating or financial weaknesses that pose significant risks to the institution.

The Board explained that the proposed changes would provide greater certainty to institutions and would allow the Reserve Banks to tailor intraday credit access in response to supervisory developments.

2. Public comments and Board response

Public comments

Six commenters (two institutions, a payment services operator, and three trade organizations) expressed support for the proposed changes aimed at clarifying access to uncollateralized capacity. The commenters stated that incorporating language from the Guide directly into the PSR policy would help simplify and clarify the eligibility criteria for requesting uncollateralized capacity from their Reserve Banks. The commenters also supported the proposed change that would allow an institution to maintain access to some uncollateralized capacity, up to and including the "average" cap category, despite the low supervisory ratings of a parent or affiliate. The commenters noted that providing a path to some uncollateralized capacity for these institutions is a welcome change that is likely to improve institutions' abilities to manage short-term liquidity shortfalls. Three of these six commenters, two trade organizations and an institution, urged the Board to ensure that the proposed changes do not increase the regulatory oversight or examination of institutions requesting uncollateralized capacity.

The Board did not receive any comments opposed to these aspects of the proposal.

Board response

[29] For this purpose, a low supervisory rating for a holding company would include a Deficient-2 rating in any of the components of the LFI rating system or an RFI rating of 4 or 5. A low supervisory rating for an affiliate institution would be defined as a CAMELS rating of 4 or 5.

The Board is adopting the changes related to uncollateralized intraday credit substantially as proposed.[30] The Board is clarifying that Reserve Bank staff will continue to review supervisory information about institutions, parents, and affiliates for purposes of determining eligibility for uncollateralized capacity, but the changes related to uncollateralized intraday credit are not intended to increase regulatory or supervisory expectations.

C. Changes to Support the Deployment of the FedNow Service

1. Proposed changes

The Board proposed changes to the PSR policy to align the policy with the deployment of the FedNow Service. In particular, the Board proposed to revise section II.A of the PSR policy to define the "business day" as the 24-hour duration beginning immediately after the previous day's regularly scheduled close of the Fedwire Funds Service and the FedNow Service, and ending with the regularly scheduled close of the Fedwire Funds Service and the FedNow Service.[31] Currently, the PSR policy is based on the 22-hour business day of the Fedwire Funds Service.

Consistent with past changes to operating hours, the Board also proposed to revise the daylight overdraft fee calculations under section II.C of the PSR policy and the penalty fee calculations under section II.F of the PSR policy to reflect the 24-hour business day. Currently, daylight overdraft fees for uncollateralized overdrafts (also referred to as the daily daylight overdraft charge) are computed by multiplying two components: (a) the institution's average daily uncollateralized daylight overdraft (which is calculated by dividing the sum of uncollateralized daylight overdrafts at the end of each minute of the scheduled operating day of the Fedwire Funds Service by the total number of minutes in the operating day); and (b) the effective daily rate (50 basis points annual rate, multiplied by the fraction of a 24-hour day

[30] As noted above, the Board is making a technical change to replace "Domestic capital category" with "PCA designation" in the Eligibility Criteria for Requesting a Positive Net Debit Cap table. *See supra* note 28.

[31] The Board also proposed adding a new posting rule to account for FedNow Service transactions and modified an existing posting rule to ensure that all credits and debits to an institution's master account post at the close of the business day before the next business day begins.

during which the Fedwire Funds Service is scheduled to operate, divided by 360 days).[32] The lengthening of the business day from 22 to 24 hours would impact both components of the daily daylight overdraft charge calculation in opposite directions. In the request for comment, the Board incorrectly stated that the daily daylight overdraft charge would increase slightly (by less than 0.4 percent) as a result of the proposed changes. As explained below, the corrected calculations show that daily daylight overdraft charges would slightly decrease (by approximately 0.3 percent) under the proposal. The cause of the discrepancy is a calculation error.[33]

Certain institutions are charged a daylight-overdraft penalty fee in lieu of the daily daylight overdraft charge.[34] Currently, the daylight-overdraft penalty fee is computed by multiplying (a) the institution's average daily uncollateralized daylight overdraft (calculated as described above) by (b) the daylight-overdraft penalty rate (150 basis points multiplied by the fraction of the 24-hour day during which the Fedwire Funds Service operates, divided by 360 days).[35] The lengthening of the business day from 22 to 24 hours would impact both components of the daylight-overdraft penalty fee calculation in opposite directions. As explained below, under the proposal, the daylight-overdraft penalty fee would decrease by approximately 0.1 percent with the move from a 22-hour business day to a 24-hour business day.

2. Public comments and Board response

Public comments

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[32] *See* section II.C of the PSR policy. *See also* Overview at p. 21–22. Institutions' daily daylight overdraft charges are summed across a 10-business-day reserve maintenance period and then reduced by a fee waiver of $150, which is primarily intended to minimize the burden of the PSR policy on institutions that use small amounts of intraday credit. *See id*.

[33] In the request for comment, the impact analysis for the proposed effective daily fee rate was erroneously rounded instead of truncated to the seventh decimal. Since 2004, the effective daily rates for both the regular daylight overdraft fee and the penalty fee have been truncated at seven decimal places due to requirements for Federal Reserve IT systems. *See* 69 FR 57917, 57923 (Sep. 28, 2004).

[34] These are institutions that do not have regular access to the discount window and, therefore, are expected not to incur daylight overdrafts in their Federal Reserve accounts. Penalty fee payers are Edge Act and agreement corporations, bankers' banks that have not waived their exemption from reserve requirements, limited-purpose trust companies, and government-sponsored enterprises and international organizations. *See* section II.C of the PSR policy.

[35] *See* section II.F of the PSR policy.

Two commenters, one institution and one trade organization, supported the shift to the 24-hour business day. Eight commenters (one institution, one payment services operator, one payment standards organization, and five trade organizations) opposed the proposed changes aimed at aligning the PSR policy with the launch of the FedNow Service. Specifically, the commenters opposed the proposed changes to the extent the proposed changes would lead to an increase in daylight overdraft fees and penalty fees for institutions that do not opt to participate in the FedNow Service.

Board response

The Board acknowledges commenters' concerns regarding higher daylight overdraft and penalty fees. In response to these comments, the Board conducted additional analysis, and determined that both daylight overdraft and penalty fees would slightly decrease under the proposal, rather than slightly increase (as the proposal incorrectly stated). The Board reached out to the eight commenters that opposed the proposed fee changes to clarify the impact of the proposed changes. Three of these commenters (two trade organizations and one payment services operator) accepted the Board's invitation to discuss the proposed fee changes, and all of these commenters indicated that the concerns expressed in their respective comment letters regarding the proposed fee changes have been fully addressed.

As shown in the formula below, an institution's daily daylight overdraft charge is calculated by multiplying the average daily uncollateralized daylight overdraft by the truncated effective daily rate. As result of the shift from a 22-hour to a 24-hour business day, the two components of the daily daylight overdraft charge calculation are impacted in opposite directions. For an institution that incurs the same amount of end-of-minute overdrafts, the average daily uncollateralized daylight overdraft slightly decreases, while the effective daily rate slightly increases.[36]

Calculation of the daily daylight overdraft charge

[36] As noted in Example 1 below, the effective daily rate increases from 0.000127 to 0.000138.

$$= \text{(average daily uncollateralized overdraft} \downarrow) \times \text{(effective daily rate truncated} \uparrow)$$

$$= \left(\frac{\text{sum of end} - \text{of} - \text{minute uncollateralized overdrafts}}{\text{number of minutes in the business day} \uparrow}\right) \times \left(\frac{\text{50 basis points annually}}{\text{360 days per year}} \times \frac{\text{hours in business day} \uparrow}{\text{24 hours in calendar day}}\right)$$

In the request for comment, the Board incorrectly stated that that the daily daylight overdraft charge would slightly increase. As shown in Example 1 below, the daily daylight overdraft charge will slightly decrease by approximately 0.3 percent before the application of fee waivers. This decrease results from the fact that the decrease in the average daily overdraft component more than offsets the increase in the effective daily rate component.

Similarly, and as shown in the formula below, an institution's daily daylight-overdraft penalty fee is calculated by multiplying the average daily collateralized and uncollateralized daylight overdraft by the truncated effective daily rate. As a result of the shift from 22-hours to a 24-hour business day, the two components of the daily daylight-overdraft penalty fee calculation are impacted in opposite directions. For an institution that incurs the same amount of end-of-minute overdrafts, the average daily collateralized and uncollateralized overdrafts slightly decrease, while the effective daily rate slightly increases.[37]

Calculation of daily daylight-overdraft penalty fee

$$= \text{(average daily collateralized and uncollateralized overdrafts} \downarrow) \times \text{(effective daily rate truncated} \uparrow)$$

$$= \left(\frac{\text{sum of end} - \text{of} - \text{minute daylight overdrafts}}{\text{number of minutes in the business day} \uparrow}\right) \times \left(\frac{\text{150 basis points annually}}{\text{360 days per year}} \times \frac{\text{hours in business day} \uparrow}{\text{24 hours in calendar day}}\right)$$

As shown in Example 2 below, the gross daily penalty fee will decrease by approximately 0.1%. This decrease results from the fact that the decrease in the average daily collateralized and uncollateralized overdrafts component more than offsets the increase in the effective daily rate component.

[37] As described in Example 2 below, the effective daily rate increases from 0.0000382 to 0.0000416. The proposal incorrectly stated that the penalty rate under the 22-hour environment is 0.0000381 instead of 0.0000382.

Example 1: Daily Daylight Overdraft Charge (22-hour vs. 24-hour business day)

<table>
<tr><th><u>22-hour business day</u></th><th><u>24-hour business day</u></th></tr>
<tr><td colspan="2">• Annual rate charged on uncollateralized daylight overdrafts = 50 basis points
• Example: sum of end-of-minute uncollateralized overdrafts for one day = $4 billion</td></tr>
<tr><td><u>Parameters</u>:
• Standard Fedwire Funds Service business day = 22 hours (1320 + 1 minute for transactions posting after the close of Fedwire Funds at 7:00:59 pm)
<u>Daily daylight overdraft charge calculation:</u>
• Average uncollateralized overdraft = $4,000,000,000 / 1321 minutes = $3,028,009.08
• Effective daily rate (truncated) = .0050 x (22/24 hours) x (1/360 days) = 0.0000127
• Gross daily overdraft charge (rounded) = $3,028,009.08 x 0.0000127 = $38.46</td><td><u>Parameters</u>:
• Business day based on the FedNow Service operating hours = 24 hours (1440 minutes, all transactions posting at 7:00:59 pm)
<u>Daily charge calculation:</u>
• Average uncollateralized overdraft = $4,000,000,000 / 1440 minutes = $2,777,777.78
• Effective daily rate (truncated) = .0050 x (24/24 hours) x (1/360 days) = 0.0000138
• Gross daily overdraft charge (rounded) = $2,777,777.78 x 0.0000138 = $38.33</td></tr>
<tr><td colspan="2"><u>Percent change</u>: ($38.33 - $38.46) / $38.46 = -0.34 %</td></tr>
</table>

Example 2: Daily Daylight-Overdraft Penalty Fees (22-hour vs. 24-hour business day)

<table>
<tr><th><u>22-hour business day</u></th><th><u>24-hour business day</u></th></tr>
<tr><td colspan="2">• Annual penalty rate charged on uncollateralized and collateralized daylight overdrafts = 150 basis points
• Example: sum of end-of-minute collateralized and uncollateralized overdrafts for one day = $4 billion</td></tr>
<tr><td><u>Parameters</u>:
• Standard Fedwire Funds Service business day = 22 hours (1320 + 1 minute for transactions posting after the close of Fedwire Funds at 7:00:59 pm)
<u>Daily daylight-overdraft penalty fee calculation:</u>
• Average total overdraft = $4,000,000,000 /1321 minutes = $3,028,009.08
• Effective daily rate (truncated) = .0150 x (22/24 hours) x (1/360 days) = 0.0000382
• Daily gross penalty fee (rounded) = $3,028,009.08 x 0.0000382 = $115.67</td><td><u>Parameters</u>:
• Business day based on the FedNow Service operating hours = 24 hours (1440 minutes, all transactions posting at 7:00:59 pm)
<u>Daily daylight-overdraft penalty fee calculation:</u>
• Average total overdraft = $4,000,000,000 /1440 minutes = $2,777,777.78
• Effective daily rate (truncated) = .0150 x (24/24 hours) x (1/360 days) = 0.0000416
• Daily gross penalty fee (rounded) = $2,777,777.78 x 0.0000416 = $115.56</td></tr>
<tr><td colspan="2"><u>Percent change</u>: ($115.56 - $115.67) / $115.67 = -0.095 %</td></tr>
</table>

Ultimately, the proposal would slightly lower fees for all institutions. In addition, because the effective daily rate and the daylight-overdraft penalty rate would be based on a 24-hour business day for all institutions, whether or not they participate in the FedNow Service, the proposal would ensure equitable treatment across all institutions. All institutions will be assessed the same fee for overdrafts of the same duration and size, regardless of participation in a particular service. For these reasons, the Board is adopting the proposed changes with the corrections discussed above.

D. Proposed changes to the Overnight Overdrafts policy

1. Proposed changes

The Board proposed to incorporate the Overnight Overdrafts policy as part III of the PSR policy. Under the proposal, an institution would incur an overnight overdraft on each calendar day that its account balance is negative at 7:00:59 p.m. ET, which is the newly proposed close of the business day.

In addition, the Board proposed to eliminate the automatic multiday charge for overnight overdrafts during weekends or holidays. Under the proposal, all institutions, regardless of the Reserve Bank payment services that they use, will incur an overnight overdraft penalty charge for each calendar day, including weekends and holidays, that an overnight overdraft is outstanding.

Finally, the Overnight Overdrafts policy includes a fee-escalation feature where the penalty fee for an overnight overdraft increases by one percentage point for each overnight overdraft after an institution has already experienced three overnight overdrafts in a rolling 12-month period. The Board proposed to eliminate the overnight overdraft fee-escalation feature for all institutions. The Board explained that the fee-escalation feature adds unnecessary complexity to the Overnight Overdrafts policy and does not meaningfully reduce risk to the Reserve Banks. In addition, the Board noted that the escalation feature is rarely triggered since overnight overdrafts are uncommon, and the Reserve Banks have other risk-mitigation tools for institutions that incur frequent overnight overdrafts.

2. Public comments and Board response

Public comments

Three trade organizations supported the proposed changes to the Overnight Overdrafts policy. One of these commenters argued that incorporating the Overnight Overdrafts policy as part III of the PSR policy would underscore the close relationship between daylight overdrafts and overnight overdrafts in an institution's account. The remaining two commenters supported the elimination of the fee-escalation feature of the Overnight Overdrafts policy.

A payment standards organization raised concerns with the proposal, arguing that the proposed changes would disadvantage financial institutions that do not participate in the FedNow Service because institutions that do not participate in the FedNow Service would continue to incur an automatic multiday charge for overnight overdrafts occurring before a weekend or a holiday.

Board response

The Board believes that overnight overdrafts pose a credit risk to the Reserve Banks since there is no assurance that overnight overdrafts are collateralized. The Board discourages institutions from incurring overnight overdrafts by charging a penalty fee and expects that each institution effectively manage its master account in order to maintain a positive end-of-day balance. In order to manage credit risk posed to Reserve Banks, it is important to charge the penalty fee for each calendar day that the overnight overdraft is actually outstanding.

Institutions that opt to participate in the FedNow Service's full set of features for sending and receiving instant payment transactions involving end-user customers or institutions that will use the FedNow liquidity management feature to support the private-sector instant payment service can have activity in their master accounts during weekends and holidays. Automatically applying a multiday overnight overdraft charge may not accurately reflect the number of calendar-day overnight overdrafts incurred by these institutions. For example, a FedNow Service participant might incur an overnight overdraft on a Friday evening but not on the following Saturday or Sunday, in which case the FedNow service participant would be charged for one calendar day of overnight overdrafts. Conversely, a FedNow Service participant might not incur an overnight overdraft on Friday evening but might then incur overnight overdrafts on Saturday and Sunday, in which case the FedNow Service participant would be charged for two calendar days of overnight overdrafts. This is also true of participants in the private-sector instant payment service.

By comparison, institutions that do not elect to participate in the FedNow Service or the private-sector instant payment service will not have activity in their master accounts over the weekends and holidays. These institutions will not be eligible to use the FedNow liquidity management feature since the feature is only available to support instant payments. Accordingly, if an institution that does not participate in the FedNow Service or in the private-sector instant payment service incurs an overnight overdraft before a weekend or a holiday, the overnight overdraft will persist during each calendar day that falls on a weekend or holiday. A multiday charge will accurately reflect the number of calendar days that the overnight overdraft is outstanding.

The Board is adopting the changes related to the Overnight Overdrafts policy as proposed and believes that the changes will simplify the policy while charging an overnight overdraft penalty fee for the actual number of calendar days that the overnight overdraft is outstanding.

E. Technical Changes to Text of the PSR Policy

The Board also proposed several technical changes and corrections to the PSR policy.[38] These changes are not substantive in nature and reflect current practices that the Reserve Banks use to administer the PSR policy. The Board did not receive public comments on these proposed technical changes. The Board is adopting these changes as proposed.

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[38] First, the Board proposed to revise a sentence in n. 61 (n. 64 after amendments) to state that, because U.S. branches and agencies are part of a single FBO family, 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. The footnote currently states that for purposes of the PSR policy, the Reserve Banks evaluate U.S. branches and agencies of an FBO as a family "because these entities have no existence separate from the FBO." Second, the Board proposed to revise a sentence in n. 76 (n. 79 after amendments) of the PSR policy, which discusses the streamlined procedure that highly capitalized FBOs can use to request a max cap. The amendment would clarify that the streamlined procedure is available to "highly capitalized" FBOs, not "well capitalized" FBOs. The FBO PSR capital category of "highly capitalized" is for FBOs while "well capitalized" is the analogous PCA designation for domestic institutions.

F. Other Comments Received

In addition to the comments described above, nine commenters provided recommendations related to topics on which the Board did not seek comment and that were not part of the proposed changes. These commenters included two institutions, one academic, two payment services operators, and four trade organizations.

Most of these comments focused on recommendations about the FedNow Service, including (i) expanding the availability of the liquidity management transfer feature beyond supporting instant payments and adding certain controls to this feature,[39] (ii) clarifying how institutions will adapt to seven-day accounting, (iii) making access to 24x7x365 intraday credit available for institutions that use services other than the FedNow Service, (iv) expanding the hours of the National Settlement Service or Fedwire Funds Service to align with the FedNow Service, (v) expanding access to the discount window on weekends and holidays, (vi) adding a legal entity identifier feature to the FedNow Service, and (vii) providing the industry educational information about the FedNow Service. While the Board addressed many of these concerns related to the FedNow Service in its 2020 notice announcing the details of the service, the Board has shared the remaining feedback with the Reserve Banks that are implementing the service.[40]

A trade organization also recommended that the Board revisit the segmentation of net debit categories and the associated net debit cap multiples. At this time, the Board is not proposing changes regarding net debit cap categories or multiples.

III. Regulatory Analyses

A. Regulatory Flexibility Act

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[39] As described in the Board's 2020 notice, the liquidity management transfer feature of the FedNow Service will enable FedNow Service participants to transfer funds between one another to support liquidity needs related to instant payment activity. The feature will also support participants in a private-sector instant payment service backed by a joint account at a Reserve Bank by enabling transfers between the master accounts of participants and a joint account. *See* 85 FR 48522 (Sep. 10, 2020).

[40] Other informational materials related to the FedNow Service can be found at https://www.frbservices.org/financial-services/fednow.

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) requires an agency to consider whether its rules will have a significant economic impact on a substantial number of small entities. Under the RFA, in connection with a final rule, an agency is generally required to publish a final regulatory flexibility analysis, unless the head of agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes the factual basis supporting such certification.

Regardless of whether the RFA applies to the PSR policy per se, for the reasons discussed below, the Board certifies that the changes being adopted to the PSR policy will not have a significant economic impact on a substantial number of small entities.[41]

The Board is adopting changes primarily to section II of the PSR policy, which governs the provision of intraday credit in accounts at the Reserve Banks. Thus, the changes will apply to small entities with accounts at the Reserve Banks that request intraday credit from the Reserve Banks. Pursuant to regulations issued by the SBA, financial institutions with less than $750 million in assets are considered small entities for purposes of the RFA.[42] Based on institution call reports and holding company financial reports, as of June 2022, approximately 2,400 institutions that maintain Federal Reserve master accounts are considered small entities.

Although the number of small entities to which the changes will apply is substantial, the Board does not believe that the changes will have a significant economic impact on these small entities. In particular, the changes being adopted to the PSR policy do not impose any mandatory reporting, recordkeeping, or other compliance requirements on entities of any size, including small entities. Rather, part II of the PSR policy applies where an institution voluntarily requests intraday credit from a Reserve Bank.

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[41] 5 U.S.C. 605(b).

[42] 13 CFR 121.201 (NAICS codes 522110–522190). A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. *Id.* Consistent with the General Principles of Affiliation in 13 CFR 121.103, the Board counts the assets of all domestic and foreign affiliates when determining whether to classify an institution as a small entity.

With respect to institutions that voluntarily request intraday credit from a Reserve Bank, the Board believes that the changes being adopted to the PSR policy regarding collateralized capacity will benefit, rather than burden, such institutions (including small entities) by expanding access to collateralized capacity and simplifying the administrative steps for requesting collateralized capacity. In addition, the Board does not expect the clarifications to the PSR policy related to uncollateralized intraday to result in additional compliance requirements. Similarly, the changes to section II of the PSR policy to support the deployment of FedNow should not result in additional compliance requirements. Rather, as noted above, fees for daylight overdrafts will be lower with the expansion of the business day from 22 hours to 24 hours. Similarly, the elimination of the fee-escalation feature of the Overnight Overdrafts policy will result in lower overnight overdraft fees.

B. Competitive Impact Analysis

When considering changes to an existing service, the Board conducts a competitive impact analysis to determine whether there will be 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 the Federal Reserve's dominant market position deriving from such legal differences.[43]

In the proposal, the Board stated that it does not believe there would be adverse effects to other service providers resulting from the proposed changes to the PSR policy because the potential for additional collateralized intraday credit and uncollateralized intraday credit on a 24x7x365 basis afforded by the proposed changes could be used to fund payment activity in both the private-sector and Reserve Bank instant payment services. One commenter indicated that the competitive impact analysis was incomplete because in order to use intraday credit on a

[43] *See* The Federal Reserve in the Payments System (issued 1984; revised 1990 and January 2001), available at https://www.federalreserve.gov/paymentsystems/pfs_frpaysys.htm. Regarding the aspects of the proposal that align the PSR policy and the Overnight Overdrafts policy with the deployment of the FedNow Service, the relevant other service provider is the existing private-sector instant payment service backed by a joint account at a Reserve Bank.

24x7x365 basis, participants in the private-sector instant payment service would have to become participants in the competing service, the FedNow Service. This comment is in reference to the FedNow Service liquidity management feature, which will allow interbank transfers between the master accounts of FedNow Service participants or transfers between master accounts and a joint account at a Reserve Bank that backs activity in a private-sector instant payment service, for the purpose of supporting liquidity needs related to instant payments. In its 2020 notice announcing details of the FedNow Service, the Board indicated that participants in the private-sector instant payment service will be able to access the FedNow liquidity management feature even if they do not wish to sign up for the FedNow Service's full set of features for sending and receiving instant payment transactions involving end-user customers.[44] Such participants could choose to use the FedNow Service solely to support liquidity needs related to payment activity in the private-sector instant payment service. The Board believes that given this design of the liquidity management feature there will not be any direct and material adverse effect on the ability of other service providers to compete with the Reserve Banks.

Relatedly, the commenter noted that it may be appropriate for the Board to consider whether a FedNow Service participant's ability to extinguish an overdraft during weekends or holidays creates a unique competitive advantage for the Federal Reserve by enabling FedNow Service participants to avoid overnight overdraft fees over weekends and holidays. The FedNow Service liquidity management feature will allow participants in the private-sector instant payment service to manage balances in their master accounts during weekends or holidays. Through the liquidity management feature, a participant in the private-sector instant payment service will be able to extinguish an overnight overdraft that occurs at the close of the business day Friday or before a holiday by transferring excess funds from the joint account backing the service to its master account, or by receiving funds in its master account through a funding agent.

[44] 85 FR 48522 (Sep. 10, 2020).

Thus, the Board believes there is no direct and material adverse effect to the ability of other service providers to compete with the Reserve Banks.

Finally, the commenter noted that the proposal to calculate overdrafts for all institutions based on a 24-hour day penalizes institutions that are not FedNow Service participants in that their daylight overdraft fees and penalty fees would be higher. As discussed earlier in this notice, fees will be lower under a 24-hour business day for all institutions, including institutions that do not participate in the FedNow Service.

C. Paperwork Reduction Act

In accordance with section 3512 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the PSR policy changes being adopted under the authority delegated to the Board by the OMB and concluded that the proposed changes impact the information collection under OMB control number 7100-0217 (FR 2226).

The Board received no comments on the PRA analysis in the proposal.

Final Approval under OMB Delegated Authority of the Extension for Three Years, with Revision, of the Following Information Collection

Title of Information Collection: Report of Net Debit Cap.

Collection Identifier: FR 2226

OMB Control Number: 7100-0217

Frequency: Annually.

Respondents: Depository institutions.

Estimated number of respondents: De Minimis Cap: Non-FBOs, 893 respondents and FBOs, 18 respondents; Self-Assessment Cap: Non-FBOs, 106 respondents and FBOs, 9 respondents; and Maximum Daylight Overdraft Capacity, 59 respondents.

Estimated average hours per response: De Minimis Cap – Non-FBOs, 1 hour and FBOs, 1.5 hour; Self-Assessment Cap – Non-FBOs, 1 hour and FBOs, 1.5 hours, and Maximum Daylight Overdraft Capacity, 1 hour.

Estimated annual burden hours: De Minimis Cap: Non-FBOs, 893 hours and FBOs, 27 hours; Self-Assessment Cap: Non-FBOs, 106 hours and FBOs, 14 hours; and Maximum Daylight Overdraft Capacity, 59 hours.

General description: The Report of Net Debit Cap comprises three resolutions, which are filed by an institution's board of directors depending on its needs. The first resolution is used to establish a de minimis net debit cap and the second resolution is used to establish a self-assessed net debit cap.[45] The third resolution is used to establish simultaneously a self-assessed net debit cap and maximum daylight overdraft capacity. Federal Reserve Banks collect these data annually to provide information that is essential for their administration of the Board's Payment System Risk (PSR) policy. The reporting panel includes all depository institutions with access to the discount window that are eligible to request intraday credit.

Current Actions: Currently, institutions with a self-assessed net debit cap may file the third resolution in order to obtain collateralized capacity under the max cap program. The changes being adopted to the PSR policy expand access to collateralized capacity under the max cap program to include all domestic institutions with a PCA designation of undercapitalized, adequately capitalized, or well capitalized. The changes also expand access to collateralized capacity under the max cap program to include all FBOs with an FBO PSR category of undercapitalized, sufficiently capitalized, or highly capitalized. Finally, the changes eliminate the requirements that an institution provide (i) a business case outlining its need for collateralized capacity and (ii) an annual board of directors resolution approving its collateralized capacity. In order the facilitate these changes to the PSR policy, the Board is amending the requirements

[45] Institutions use these two resolutions to establish a capacity for daylight overdrafts above the lesser of $10 million or 20 percent of the institution's capital measure. Financially-healthy U.S. chartered institutions that rarely incur daylight overdrafts in excess of the lesser of $10 million or 20 percent of the institution's capital measure do not need to file board of directors resolutions or self-assessments with their Reserve Bank.

associated with the third resolution so that an eligible institution can request collateralized capacity regardless of whether the institution has a positive net debit cap. The changes will not increase the estimated average hours per response to FR 2226 but will expand the estimated number of respondents requesting collateralized capacity under the max cap program.

IV. Federal Reserve Policy on Payment System Risk

The following portion titled "**Federal Reserve Policy on Payment System Risk**" will not be published in the Code of Federal Regulations.

Federal Reserve Policy on Payment System Risk

Revisions to section II.A of the PSR policy

The Board will revise Section II.A of the PSR policy as follows:

A. Daylight overdraft definition and measurement

A daylight overdraft occurs when an institution's Federal Reserve account is in a negative position during the business day.[33] The Reserve Banks use an ex post system to measure daylight overdrafts in institutions' Federal Reserve accounts. Under this ex post measurement system, certain transactions, including Fedwire funds transfers, FedNow funds transfers, book-entry securities transfers, and net settlement transactions, are posted as they are processed during the business day. Other transactions, including ACH and check transactions, are posted to 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.

[33] For purposes of measuring daylight overdrafts, the business day is the 24-hour period that begins immediately after the regularly-scheduled close of the Fedwire Funds Service (on days when the Fedwire Funds Service is open) and the FedNow Service (on all days, including weekends and holidays).

Procedures for measuring daylight overdrafts[34]

Opening balance (previous business day's closing balance)

Post throughout the business day:

+/- FedNow funds transfers

+/- Fedwire funds transfers[35]

+/- Fedwire book-entry securities transfers

+/- National Settlement Service entries.

\+ Fedwire book-entry interest and redemption payments on securities that are not obligations of, or fully guaranteed as to principal and interest by, the United States[36]

\+ Electronic payments for matured coupons and definitive securities that are not obligations of, or fully guaranteed as to principal and interest by, the United States. [37]

[34] This schedule of posting rules does not affect the overdraft restrictions and overdraft measurement provisions for nonbanks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR 225.52).

[35] Funds transfers that the Reserve Banks function for certain international organizations using internal systems other than payment processing systems such as Fedwire will be posted throughout the business day for purposes of measuring daylight overdrafts.

[36] The GSEs include Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), entities of the Federal Home Loan Bank System (FHLBS), the Farm Credit System, the Federal Agricultural Mortgage Corporation (Farmer Mac), the Student Loan Marketing Association (Sallie Mae), the Financing Corporation, and the Resolution Funding Corporation. The international organizations include the World Bank, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank. The Student Loan Marketing Association Reorganization Act of 1996 requires Sallie Mae to be completely privatized by 2008; however, Sallie Mae completed privatization at the end of 2004. The Reserve Banks no longer act as fiscal agents for new issues of Sallie Mae securities, and Sallie Mae is not considered a GSE.

The term "interest and redemption payments" refers to payments of principal, interest, and redemption on securities maintained on the Fedwire Securities Service.

The Reserve Banks will post these transactions, as directed by the issuer, provided that the issuer's Federal Reserve account contains funds equal to or in excess of the amount of the interest and redemption payments to be made. In the normal course, if a Reserve Bank does not receive funding from an issuer for the issuer's interest and redemption payments by the established cut-off hour of 4:00 p.m. eastern time on the Fedwire Securities Service, the issuer's payments will not be processed on that day.

[37] Electronic payments for credits on these securities will post according to the posting rules for the mechanism through which they are processed, as outlined in this policy. However, the majority of these payments are made by check and will be posted according to the established check posting rules as set forth in this policy.

* * * * *

Post at the close of the Fedwire Funds Service and the FedNow Service[51]

+/- All other transactions. These transactions include the following: currency and coin shipments; noncash collection; term-deposit settlements; Federal Reserve Bank checks presented after 3:00 p.m. eastern time but before 3:00 p.m. local time; foreign check transactions; small-dollar credit corrections and adjustments; term deposit settlements; and all debit corrections and adjustments. Discount-window loans and repayments are normally posted after the close of the Fedwire Funds Service 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.

[51] The posting of transactions that occur during extensions of the Fedwire Funds Service and the FedNow Service will be backdated to the regularly scheduled close of the Fedwire Funds Service and the FedNow Service.

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Revisions to section II.C of the PSR policy

The Board will revise section II.C, paragraphs 3 and 4 of the "Federal Reserve Policy on Payment System Risk" as follows:

C. Pricing

* * * * *

Daylight overdraft fees for uncollateralized overdrafts (or the uncollateralized portion of a partially collateralized overdraft) are calculated using an annual rate of 50 basis points, quoted on the basis of a 24-hour day and a 360-day year. The effective daily rate equals the annual rate divided by 360.[57] An institution's daily daylight overdraft charge is equal to the effective daily rate multiplied by the institution's average daily uncollateralized daylight overdraft.

An institution's average daily uncollateralized daylight overdraft is calculated by dividing the sum of its negative uncollateralized Federal Reserve account balances at the end of each minute of the regularly-scheduled business day by the total number of minutes in the 24-hour business day. A negative uncollateralized Federal Reserve account balance is calculated by subtracting the unencumbered, net lendable value of collateral pledged from the total negative Federal Reserve account balance at the end of each minute. Each positive end-of-minute balance in an institution's Federal Reserve account is set to equal zero. Fully collateralized end-of-minute negative balances are similarly set to zero.

[57] The effective daily daylight-overdraft rate is truncated to 0.0000138.

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Revisions to section II.D of the PSR policy

The Board will revise section II.D of the "Federal Reserve Policy on Payment System Risk" as follows:

D. Net debit caps (uncollateralized intraday credit capacity)

Each institution incurring uncollateralized daylight overdrafts in its Federal Reserve account must adopt a net debit cap, that is, a ceiling on the total uncollateralized daylight overdraft position that it can incur during any given day. An institution's cap category and capital measure determine the size of its net debit cap. Specifically, the net debit cap is calculated as an institution's cap multiple times its capital measure:

net debit cap =

cap multiple x capital measure

Cap categories and their associated cap levels, set as multiples of an institution's capital measure, are listed below:

Net Debit Cap Multiples

Cap category	Cap multiple
High	2.25
Above average	1.875
Average	1.125
De minimis	0.4
Exempt-from-filing[60]	$10 million or 0.20
Zero	0

[60] The net debit cap for the exempt-from-filing category is equal to the lesser of $10 million or 0.20 multiplied by the capital measure.

Pledging collateral does not increase an institution's net debit cap, although certain institutions may be eligible to obtain additional collateralized capacity in excess of their net debit caps (see section II.E). For the treatment of overdrafts that exceed the net debit cap, see section II.G.

While capital measures differ, the net debit cap provisions of this policy apply similarly to foreign banking organizations (FBOs) and to U.S. institutions. Consistent with practices for U.S.-chartered depository 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.

1. Eligibility

An institution must have regular access to the discount window in order to adopt a net debit cap greater than zero. Granting a net debit cap, or any extension of intraday credit, to an institution is at the discretion of the Reserve Bank. As detailed in the following matrix, an institution's eligibility to adopt and maintain a positive net debit cap depends on the institution's creditworthiness as determined by (1) its Prompt Corrective Action (PCA) designation[61] or FBO PSR capital category,[62] and (2) the supervisory rating.

[61] 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 leverage limit (the ratio of tangible equity to total assets) specified by the appropriate federal banking agency, in consultation with the FDIC, or any other relevant capital measure established by the agency to determine when an institution is critically undercapitalized (12 U.S.C. 1831o).

[62] The four FBO PSR capital categories for FBOs are "highly capitalized," "sufficiently capitalized," "undercapitalized," and "intraday credit ineligible." To determine whether it is highly capitalized or sufficiently capitalized, an FBO should compare its risk-based capital ratios with the corresponding ratios in Regulation H for well-capitalized and adequately capitalized banks. 12 CFR 208.43(b). Additionally, an FBO must have a leverage ratio of 4 percent or 3 percent (calculated under home-country standards) to qualify as, respectively, highly capitalized or sufficiently capitalized. To determine whether it is undercapitalized, an FBO would compare its risk-based capital ratios with the corresponding ratios in Regulation H. Additionally, an FBO would be deemed undercapitalized if its home-country leverage ratio is less than 3 percent. Finally, to determine whether it is intraday credit ineligible, an FBO should compare its risk-based capital ratios with the corresponding ratios in Regulation H for significantly undercapitalized banks. Additionally, an FBO would be deemed intraday credit ineligible if its home-country leverage ratio is less than 2 percent.

Eligibility Criteria for Requesting a Positive Net Debit Cap

PCA designation/	Supervisory rating[63]

FBO PSR capital category	*Strong*	*Satisfactory*	*Fair*	*Marginal or Unsatisfactory*
Well capitalized/ Highly capitalized	Eligible	Eligible	Eligible	Ineligible (Zero net debit
Adequately capitalized/ Sufficiently capitalized	Eligible	Eligible	Eligible	Ineligible (Zero net debit
Undercapitalized	May be eligible subject to a full assessment of creditworthiness	May be eligible subject to a full assessment of creditworthiness	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)
Significantly or critically undercapitalized/	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)	Ineligible (Zero net debit cap)

[63] Supervisory ratings, such as the Uniform Financial Institution Rating System (CAMELS) and the RFI Rating System, are generally assigned on a scale from 1 to 5, with 1 being the strongest rating. Thus, a supervisory rating of 1 is considered Strong, a rating of 2 is considered Satisfactory, a rating of 3 is considered Fair, a rating of 4 is considered Marginal, and a rating of 5 is considered Unsatisfactory. An institution will not be eligible for uncollateralized capacity if a supervisory agency assigns a Marginal or Unsatisfactory supervisory rating to the institution. If an institution's holding company has been assigned a Deficient-2 rating in any of the components of the Large Financial Institution (LFI) rating system or an RFI rating of 4 or 5, the institution will not be eligible to request the "above average" and "high" self-assessed cap categories but may be eligible for a lower cap category Similarly, if an institution's affiliates are assigned a Marginal or Unsatisfactory supervisory rating, the institution will not be eligible to request the "above average" and "high" self-assessed cap categories but may be eligible for a lower cap category. Reserve Banks will assign an institution a "zero" net debit cap if supervisory information about the holding company and affiliated institutions reveals material operating or financial weaknesses that pose significant risks to the institution.

As described further in section II.D.2.a, an institution seeking to establish a net debit cap category of high, above average, or average must perform a self-assessment of its own creditworthiness, intraday funds management and control, customer credit policies and controls, and operating controls and contingency procedure. An institution that performs a self-assessment will be deemed ineligible for a positive net debit cap if its self-assessment results in the lowest possible rating for any one of the four components of the self-assessment process.

2. *Cap categories*

* * *

a. Self-assessed

In order to establish a net debit cap category of high, above average, or average, 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 procedures.[64] For domestic institutions, the assessment of creditworthiness is based on the institution's supervisory rating and PCA designation.[65] For U.S. branches and agencies of FBOs that are based in jurisdictions that have implemented capital standards substantially consistent with those established by the Basel Committee on Banking Supervision, the assessment of creditworthiness is based on the institution's supervisory rating and its FBO PSR capital category.[66] 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. Additionally, U.S. branches and agencies of FBOs based in jurisdictions that have not implemented capital standards substantially consistent with those established by the Basel Committee on Banking Supervision are required to perform a full assessment of creditworthiness to determine their ratings for the creditworthiness component. 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 includes a detailed explanation of the self-assessment process. * * *

[64] 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 are part of a single FBO family, 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.

[65] *See* n. 61 *supra*.

[66] *See* n. 62 *supra*.

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d. Zero

Some 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 intraday credit. If an 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. 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 or overdrafts in excess of its assigned cap limit.

In addition, a Reserve Bank may assign an 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, those that are ineligible for intraday credit based on their supervisory rating and PCA designation/FBO PSR capital category (see section II.A), or those that are otherwise in weak financial condition are generally assigned a zero cap (see section II.F). Recently chartered institutions may also be assigned a zero net debit cap.

Certain institutions with zero caps, including institutions that have been involuntarily assigned a zero cap by a Reserve Bank, may be eligible to request collateralized capacity from their Reserve Bank (see sections II.E). * * *

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Revisions to section II.E of the PSR policy

The Board will revise section II.E of the "Federal Reserve Policy on Payment System Risk" as follows:

E. Collateralized intraday credit capacity

Subject to the approval of its administrative Reserve Bank, an eligible institution may pledge collateral to secure collateralized daylight overdraft capacity in addition to uncollateralized capacity from its net debit cap.[74] The resulting combination of uncollateralized and collateralized capacity is known as the maximum daylight overdraft capacity (max cap) and is defined as follows:

maximum daylight overdraft capacity =

net debit cap +

collateralized capacity.[75]

Once approved, the Reserve Bank will monitor the institution to ensure that it does not exceed its max cap. Pledging less collateral reduces an institution's effective maximum daylight overdraft capacity level, but pledging more collateral does not increase the maximum daylight overdraft capacity above the approved max cap level.

1. Eligibility

An institution that wishes to expand its daylight overdraft capacity by pledging collateral should consult with its administrative Reserve Bank. A domestic institution is eligible to request collateralized intraday credit if its PCA designation is "undercapitalized," "adequately capitalized," or "well capitalized."[76] Similarly, an FBO is eligible to request collateralized intraday credit if its FBO PSR capital category is "undercapitalized," "sufficiently capitalized," or "highly capitalized."[77] Provided that it meets these capitalization requirements, an institution may be eligible to request collateralized capacity even if the institution is not eligible to adopt a positive net debit cap (see section II.D.1).

[74] The administrative Reserve Bank is responsible for the administration of Federal Reserve credit, reserves, and risk-management policies for a given institution. All collateral must be acceptable to the administrative Reserve Bank. The Reserve Bank may, at its discretion, accept securities in transit on the Fedwire Securities Service as collateral to support the maximum daylight overdraft capacity level.

Collateral eligibility and margins are the same for PSR policy purposes as for the discount window. *See* http://www.frbdiscountwindow.org/ for information.

[75] Collateralized capacity, on any given day, equals the amount of collateral pledged to the Reserve Bank, not to exceed the difference between the institution's maximum daylight overdraft capacity level and its net debit cap in the given reserve maintenance period.

[76] *See* n. 61, *supra*.

[77] *See* n. 62, *supra*.

2. *General procedure for requesting collateralized capacity*

If an institution is requesting collateralized capacity for the first time, it must submit a resolution from its board of directors indicating its board's approval of the requested max cap. Increases to collateralized capacity previously approved by Reserve Banks will also require a board of directors resolution. In most cases, an institution will not have to provide to a Reserve Bank a business case justifying its request for collateralized capacity. However, an institution must provide a business-case justification if:

- The institution requests a max cap in excess of its capital measure multiplied by 2.25; or
- The administrative Reserve Bank exercises discretion to require that the institution submit a business-case justification due to recent developments in the institution's condition.

Once a Reserve Bank has approved an institution's collateralized capacity, the collateralized capacity will remain in place, without the need for further action by the institution, provided that the institution maintains the eligibility standards outlined above.

3. *Streamlined procedure for certain FBOs*

An FBO that is highly capitalized[78] and has a self-assessed net debit cap may request from its Reserve Bank a streamlined procedure to obtain a maximum daylight overdraft capacity. These FBOs are not required to provide documentation of the business case or obtain a board of directors resolution for collateralized capacity in an amount that exceeds its current net debit cap (which is based on 10 percent worldwide capital times its cap multiple), as long as the requested total capacity is 100 percent or less of worldwide capital times a self-assessed cap multiple.[79] In order to ensure that intraday liquidity risk is managed appropriately and that the FBO will be able to repay daylight overdrafts, eligible FBOs under the streamlined procedure will be subject to an initial and periodic review of liquidity plans that are analogous to the liquidity reviews undergone by U.S. institutions.[80] If an eligible FBO requests capacity in excess of 100 percent of worldwide capital times the self-assessed cap multiple, it would be subject to the general procedure.

[78] *See* n. 62, *supra*.

[79] For example, an FBO that is highly capitalized is eligible for uncollateralized capacity of 10 percent of worldwide capital times the cap multiple. The streamlined collateralized capacity procedure would provide such an institution with additional collateralized capacity of 90 percent of worldwide capital times the cap multiple. As noted above, FBOs report their worldwide capital on the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225).

[80] The liquidity reviews will be conducted by the administrative Reserve Bank, in consultation with each FBO's home country supervisor.

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Revisions to section II.F of the PSR policy

The Board will revise section II.F, paragraphs 3 and 4 of the "Federal Reserve Policy on Payment System Risk" as follows:

F. Special Situations

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 daylight overdrafts of other institutions (50 basis points) plus 100 basis points. The effective daily overdraft penalty rate equals the annual penalty rate divided by 360.[81] The daylight-overdraft penalty rate applies to the institution's daily average daylight overdraft in its Federal Reserve account. The daylight-overdraft penalty fee for these institutions is charged in lieu of, not in addition to, the daylight overdraft fee that applies to other institutions.

[81] The effective daily daylight-overdraft penalty rate is truncated to 0.0000416.

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The Board will modify and add the Policy on Overnight Overdrafts as part III to the PSR policy as follows:

PART III. POLICY ON OVERNIGHT OVERDRAFTS

An overnight overdraft is a negative balance in a Federal Reserve account at the close of the business day. The Board expects institutions to avoid overnight overdrafts.

To minimize the Reserve Banks' exposure to overnight overdrafts, which are not always collateralized, the Board authorizes Reserve Banks to discourage depository institutions from incurring overnight overdrafts by charging a penalty fee. Institutions that do not extinguish their daylight overdrafts and incur overnight overdrafts are subject to ex post counseling in addition to a penalty fee.

The Board establishes the following penalty rate structure for overnight overdrafts:

1. An overnight overdraft penalty rate of the primary credit rate plus 4 percentage points (annual rate).
2. A minimum penalty fee of 100 dollars, regardless of the amount of the overnight overdraft. The minimum fee is administered per each occasion.
3. A charge for each calendar day (including weekends and holidays) that an overnight overdraft is outstanding.

[92] *See* n. 33, which defines the term "business day" for this purpose.

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

Ann E. Misback,

Secretary of the Board.

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