**FEDERAL RESERVE SYSTEM**

**12 CFR Part 234**

**Regulation HH; Docket No. R-1455**

**RIN No. 7100-AD 94**

**Financial Market Utilities**

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

**ACTION:** Notice of Proposed Rulemaking.

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**SUMMARY:** Section 806(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act" or "Act") permits the Board of Governors of the Federal Reserve System (the "Board") to authorize a Federal Reserve Bank to establish and maintain an account for, and through the account provide certain financial services to, financial market utilities ("FMUs") that are designated as systemically important by the Financial Stability Oversight Council (the "Council"). In addition, section 806(c) of the Dodd-Frank Act permits a Reserve Bank to pay interest on the balances maintained by or on behalf of a designated FMU. The Board is proposing to add two new sections to Part 234 of Title 12 of the Code of Federal Regulations to implement these provisions of the Dodd-Frank Act.

**DATES:** Comments on this notice of proposed rulemaking must be received by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by Docket No. R-1455 and RIN No. 7100-AD-94, by any of the following methods:

- **Agency Web Site:** *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- **Federal eRulemaking Portal:** *http://www.regulations.gov*. Follow the instructions for submitting comments.

- **E-mail:** *regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- **Facsimile:** (202) 452-3819 or (202) 452-3102.
- **Mail:** Robert deV. Frierson, 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 web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP-500 of the Board's Martin Building (20th and C Streets, N.W.) between 9 a.m. and 5 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Stehm, Senior Associate Director (202) 452-2217 or Stuart Sperry, Assistant Director (202) 452-2832, Division of Reserve Bank Operations and Payment Systems; Christopher W. Clubb, Special Counsel (202) 452-3904 or Kara L. Handzlik, Counsel (202) 452-3852, Legal Division; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### *A. Dodd-Frank Wall Street Reform and Consumer Protection Act*

FMUs, such as payment systems, central securities depositories, and central counterparties, are critical components of the nation's financial system that provide the essential infrastructure to clear and settle payments and other financial transactions, upon which the financial markets and the broader economy rely to function effectively. FMUs operate

multilateral systems in which financial institutions, such as banks, participate pursuant to a common set of rules and procedures, a technical infrastructure, and a risk-management framework.[1]

Title VIII of the Dodd-Frank Act, titled the "Payment, Clearing, and Settlement Supervision Act of 2010," was enacted to mitigate systemic risk in the financial system and to promote financial stability, in part, through an enhanced supervisory framework for FMUs designated as systemically important by the Council.[2] Designation by the Council makes an FMU subject to the supervisory and risk reduction framework set out in Title VIII of the Dodd-Frank Act. This framework includes risk management standards, promulgated by the designated FMU's Supervisory Agency, that take into consideration relevant international standards and existing prudential requirements, with the objectives of promoting robust risk management and safety and soundness of the designated FMU, reducing systemic risks, and supporting the stability of the broader financial system.[3] The framework also includes *ex ante* review of changes to the rules, procedures, or operations of a designated FMU that could materially affect the nature or level of risk presented by the designated FMU, enhanced annual examinations of designated FMUs, and enhanced enforcement and information collection provisions.

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[1] Under section 803 of the Act, an FMU is defined as a person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person. 12 U.S.C. § 5462(6).

[2] The Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, was signed into law on July 21, 2010. Section 803(9) of the Act authorizes the Council to designate an FMU for enhanced supervision when the Council finds, among other things, that the failure of, or a disruption to the functioning of, an FMU would create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system of the United States. 12 U.S.C. § 5462(3) and (9).

[3] Pursuant to section 803(8) of the Act, the "Supervisory Agency" generally means the Federal agency that has primary jurisdiction over a designated FMU under Federal banking, securities, or commodity futures law, including the Securities and Exchange Commission (SEC) with respect to a designated FMU that is a clearing agency registered with the SEC, the Commodity Futures Trading Commission (CFTC) with respect to a designated FMU that is a derivatives clearing organization registered with the CFTC, and the Board with respect to a designated FMU that is an institution subject to the Board's jurisdiction as described in section 3(q) of the Federal Deposit Insurance Act. The Board is also the Supervisory Agency for any designated FMU that is otherwise not subject to the jurisdiction of any agency as listed in section 803(8) of the Act.

In addition to these provisions, section 806(a) of the Act permits the Board to authorize a Federal Reserve Bank to establish and maintain an account for a designated FMU and provide to the designated FMU the services listed in section 11A(b) of the Federal Reserve Act (12 U.S.C. § 248a(b)) that the Federal Reserve Bank is authorized to provide to a depository institution, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board.[4] The services listed in Section 11A(b) include wire transfers, settlement, and securities safekeeping, as well as services regarding currency and coin, check clearing and collection, and automated clearing house transactions.

Section 806(c) of the Dodd-Frank Act permits a Federal Reserve Bank to pay earnings on balances maintained by or on behalf of a designated FMU in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board.

**II. Explanation of Proposed Rules**

On August 2, 2012, the Board published a final rule adding a new Part 234 to Title 12 of the Code of Federal Regulations, Regulation HH, containing risk management standards for designated FMUs pursuant to section 805(a) of the Act, as well as an advance notice requirement of any changes of a designated FMU's rules, procedures, or operations that could materially affect the nature or level of risks presented pursuant to section 806(e) of the Act.[5] The rules being proposed by this notice would be added to the end of Regulation HH. The Board is requesting public comment on all aspects of the proposed amendments to Regulation HH contained in this notice.

[4] Section 806(a) of the Act also permits the Board to authorize a Reserve Bank to establish deposit accounts under the first undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342).
[5] 77 FR 45907.

*A. Proposed § 234.1(b) – Authority, purpose, and scope.*

The amendments proposed by this notice to § 234.1(b) of Regulation HH clarify that Part 234 also includes standards, restrictions, and guidelines for the establishment and maintenance of an account at, and provision of financial services from, a Federal Reserve Bank for a designated FMU. In addition, the proposed amendments clarify the authority and terms for a Reserve Bank to pay interest on any balances held by a designated FMU in its account at a Reserve Bank. The Board requests comment on whether these additions to the purpose and scope provisions of Regulation HH are sufficient and clear for the proposed rules herein.[6]

*B. Proposed § 234.6 – Access to Reserve Bank accounts and services.*

Proposed § 234.6 sets out the conditions and requirements for a Federal Reserve Bank to establish and maintain an account for, and provide services to, a designated FMU pursuant to section 806(a) of the Act. The proposed terms and conditions for access to Federal Reserve Bank accounts and services are intended to facilitate the use of Reserve Bank accounts and services by a designated FMU in order to reduce settlement risk and strengthen settlement processes, while limiting the risk presented by the designated FMU to the Reserve Banks. In particular, the proposed terms and conditions are designed to provide the Federal Reserve with sufficient information to assess a designated FMU's ongoing condition as it pertains to the FMU's ability to settle promptly and to manage its settlement process and Reserve Bank account(s) safely. Proposed § 234.6(a) provides that, after receiving the Board's authorization with respect to a particular designated FMU and subject to any applicable Board direction, the Reserve Bank may enter into agreements governing the details of the establishment, maintenance, and operation of such account and services, consistent with Board direction.

[6] Section 234.1(a) of Regulation HH already cites to section 806 of the Dodd-Frank Act, so the rules proposed by this notice would not require any modification of the authority citation.

The Board expects that Reserve Banks would provide services that are consistent with a designated FMU's need for safe and sound settlement processes under account and service agreements generally consistent with the provisions of existing Reserve Bank operating circulars for such services, but recognizes that there may be a need for some flexibility to tailor certain parts of such agreements or provide for certain restrictions because of the wide variety of organizations, operations, and business models presented by designated FMUs. In addition, unlike depository institutions, designated FMUs do not have regular access to discount window lending, so the Board also expects that Reserve Banks will provide accounts and services, and designated FMUs will structure their settlement processes and use of Reserve Bank accounts and services, in a manner that would seek to avoid any intraday account overdraft, and that a designated FMU would have the resources to promptly rectify any inadvertent overdraft.

Proposed § 234.6(b) requires that a Reserve Bank ensure that its establishment and maintenance of an account for, or provision of services to, a designated FMU does not create undue credit, settlement, or other risks to the Reserve Bank and, in this regard, sets out minimum conditions that a designated FMU must meet, in the Reserve Bank's judgment, in order for the Reserve Bank to establish and maintain an account for, or provide services to, a designated FMU. These minimum conditions are intended to address certain risks and other concerns that may face a Reserve Bank when establishing and maintaining an account for, and providing services to, a designated FMU .[7] The Reserve Bank must determine whether a designated FMU meets these minimum conditions and then determine, based on the facts and circumstances, whether additional measures or information are needed to address the risk presented by the

[7] Risks to the Reserve Bank may include the potential for inadvertent overdrafts in certain circumstances, as well as the risks that may arise from new or different FMU settlement designs or processes that may arise in the future. The establishment of an account for a designated FMU at a Reserve Bank also may entail broader policy considerations and implications.

designated FMU to the Reserve Bank. The minimum requirements for establishing an account or receiving services set out in proposed § 234.6(b)(1) through (4) are discussed below.

Proposed § 234.6(b)(1) requires the designated FMU to be in generally sound financial condition. Although there are a number of criteria that may be used to determine financial soundness, in general a designated FMU should maintain adequate capital to support its ongoing operations and absorb reasonable business losses and have sufficient operating revenue and working capital to cover its actual and projected operating expenses, giving due regard to the economic conditions and circumstances in the market in which the designated FMU operates. These resources would be separate and in addition to resources held to cover participant defaults that may arise through a designated FMU's payment, clearing, or settlement activities.

Proposed § 234.6(b)(2) requires the designated FMU to be in compliance, based on information provided by the Supervisory Agency, with requirements imposed by its Supervisory Agency regarding financial resources, liquidity, participant default management, and other aspects of risk management. The three agencies that currently serve as Supervisory Agencies (i.e., the Board, the Securities and Exchange Commission, and the Commodity Futures Trading Commission) have promulgated risk management standards that would be applicable to the FMUs that have been designated by the Council. As noted in proposed § 234.6(d), the Board will consult with the Supervisory Agency of a designated FMU prior to authorizing a Federal Reserve Bank to open an account to ascertain the views of the Supervisory Agency regarding, among other things, the designated FMU's compliance with the Supervisory Agency's risk management standards. At a minimum, the designated FMU should meet its Supervisory Agency's mandatory risk management standards.

Proposed § 234.6(b)(3) requires that a designated FMU be in compliance with Board

orders and policies, Federal Reserve Bank operating circulars, and other applicable Federal Reserve requirements regarding the establishment and maintenance of a Reserve Bank account and the receipt of financial services from a Reserve Bank. A designated FMU will be expected to use Reserve Bank financial services, through its Reserve Bank account, in accordance with any applicable operating circular or Federal Reserve policy, as directed by the Reserve Bank.

Proposed § 234.6(b)(4) requires the Reserve Bank to determine that the designated FMU can demonstrate an ongoing ability, including during periods of market stress or a participant default, to meet all of its obligations under its agreement for a Federal Reserve Bank account and services. As noted above, designated FMUs would be expected to demonstrate an operational ability to avoid intraday overdrafts in its Reserve Bank account and have the financial resources to promptly rectify any inadvertent overdrafts if they were to occur.

Proposed § 234.6 also contains other provisions relevant to the establishment and maintenance of an account or provision of financial services by a Reserve Bank for a designated FMU. Proposed § 234.6(c) states that the Board or the relevant Reserve Bank may request that the designated FMU provide any information necessary regarding compliance with any conditions imposed under proposed § 234.6. The designated FMU would also be required to provide any verification that the Board or the Reserve Bank requests regarding information received under this section.

Proposed § 234.6(d) states that the Board will consult with the Supervisory Agency of a designated FMU prior to authorizing a Reserve Bank to open an account, and periodically thereafter, to ascertain the views of the Supervisory Agency regarding the condition of the designated FMU and its compliance with the requirements of proposed § 234.6, as well as to coordinate information requests to the designated FMU. For designated FMUs not supervised by

the Board, the Board anticipates obtaining the views of the designated FMU's Supervisory Agency regarding the use of a Reserve Bank account and services and any concerns the Supervisory Agency may have with respect to the designated FMU. If a Reserve Bank account is established for the designated FMU, the Board expects that there will be an ongoing dialogue with the Supervisory Agency regarding the designated FMU's use of the account and services and its compliance with any conditions imposed under proposed § 234.6 with regard to the account or services. The Board also anticipates coordinating any information requests it may have for the designated FMU with the Supervisory Agency in order to reduce regulatory burden on the designated FMU.

Proposed § 234.6(e) states that, in addition to any right that a Reserve Bank has to terminate an account or the use of a service pursuant to an agreement, the Board may direct the Reserve Bank to impose limits, restrictions, or other conditions on the availability or use of a Reserve Bank account or service by a designated FMU, including directing the Reserve Bank to terminate the use of a particular service or to close the account. The Reserve Bank, on its own initiative or at the direction of the Board, may close the account if significant issues are raised and not resolved in areas such as excessive risk to the Reserve Bank, violation of Federal Reserve rules or policies, violation of other applicable law or regulation, or other compliance issues.

The Board requests comment on all aspects of proposed § 234.6. In particular, the Board requests comment on the conditions for establishing an account at a Reserve Bank provided in proposed § 234.6(b) and whether there are any other conditions that should be imposed in order to accomplish the Board's goals of reducing settlement and systemic risks and strengthening the settlement processes of designated FMUs through the use of Reserve Bank accounts and

services, while limiting risk to the Reserve Banks.

*C. Proposed § 234.7 - Interest on balances*

Pursuant to section 806(c) of the Act, proposed § 234.7 clarifies the authority of a Federal Reserve Bank to pay interest on any balance that a designated FMU maintains in its account with that Reserve Bank. Section 806(c) of the Act states that a Reserve Bank may pay earnings on balances maintained by a designated FMU "in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors."[8] Section 19(b)(12) of the Federal Reserve Act (FRA) authorizes a Federal Reserve Bank to pay, at least once each calendar quarter, interest on balances maintained at the Federal Reserve Bank by or on behalf of a depository institution, at a rate or rates not to exceed the general level of short-term interest rates.[9]

Proposed § 234.7(a) provides that a Federal Reserve Bank may pay interest on balances maintained by a designated FMU in its account at the Reserve Bank in accordance with the provisions of proposed § 234.7 and under such other terms and conditions as the Board may prescribe. This subsection essentially incorporates the statutory authority provided by section 806(c) of the Act.

Proposed § 234.7(b) states that interest on balances paid under this section shall be at the rate paid on balances of depository institutions or another rate determined by the Board from time to time, not to exceed the general level of "short-term interest rates." Proposed § 234.7(c) incorporates the definition of "short-term interest rates" set out in § 204.10(b)(3) of the Board's Regulation D, which states that "short-term interest rates" are rates on obligations with maturities

[8] 12 U.S.C. 5465(c).
[9] 12 U.S.C. 461(b)(12)(A). This statutory authority has been implemented through § 204.10 of the Board's Regulation D. 12 CFR 204.10.

of no more than one year, such as the primary credit rate and rates on term federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar instruments.[10]

## III. Administrative Law Matters

### *A. Regulatory Flexibility Act Analysis*

Congress enacted the Regulatory Flexibility Act (the "RFA") (5 U.S.C. 601 et seq.) to address concerns related to the effects of agency rules on small entities, and the Board is sensitive to the impact their rules may impose on small entities. The RFA requires agencies either to provide an initial regulatory flexibility analysis with a proposed rule or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. In accordance with section 3(a) of the RFA, the Board has reviewed the proposed regulation. In this case, the proposed rule would apply to FMUs that are designated by the Council as systemically important to the U.S. financial system. Based on current information, the Board believes that the FMUs that have been and would likely be designated by the Council would not be "small entities" for purposes of the RFA, and so, the proposed rule likely would not have a significant economic impact on a substantial number of small entities (5 U.S.C. § 605(b)). The authority to designate systemically important FMUs, however, resides with the Council, rather than the Board, and the Board cannot therefore be assured of the identity of the FMUs that the Council may designate in the future. Accordingly, an Initial Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. § 603, based on current information. The Board requests comment on all aspects of this Initial Regulatory Flexibility Analysis. The Board will, if necessary, conduct a final regulatory flexibility analysis after consideration of comments received during the public comment period.

[10] 12 CFR 204.10(b)(3).

1. *Statement of the need for, objectives of, and legal basis for, the proposed rule*. The Board is proposing additional regulations to implement certain provisions of Title VIII of the Dodd-Frank Act. Pursuant to section 806(a) of the Act, proposed § 234.6 sets out conditions under which the Board would authorize a Federal Reserve Bank to establish and maintain an account for a designated FMU and provide the designated FMU services through the account. Pursuant to section 806(c) of the Dodd-Frank Act, proposed § 234.7 sets out conditions for a Reserve Bank to pay interest on the balances maintained by a designated FMU at the Reserve Banks.

Under section 806 of the Act, all of these authorities are subject to any applicable rules or regulations that the Board may prescribe. The Board believes that the proposed regulations herein are necessary to provide guidance to the Federal Reserve Banks in implementing these authorities of the Act in an appropriate and uniform manner and to inform the affected institutions and the public of the conditions for obtaining accounts and services.

2. *Small entities affected by the proposed rule*. The proposed rule would affect FMUs that the Council designates as systemically important to the U.S. financial system. The Council has designated eight FMUs that would meet these conditions and be affected by this proposed rule. Pursuant to regulations issued by the Small Business Administration (the "SBA") (13 CFR 121.201), a "small entity" includes an establishment engaged in (i) financial transaction processing, reserve and liquidity services, and/or clearinghouse services with an average revenue of $7 million or less (NAICS code 522320); (ii) securities and/or commodity exchange activities with an average revenue of $7 million or less (NAICS code 523210); and (iii) trust, fiduciary, and/or custody activities with an average revenue of $7 million or less (NAICS code 523991). Based on current information, the Board does not believe that any of the FMUs that have been or

would likely be designated by the Council would be "small entities" pursuant to the SBA regulation.

3. *Projected reporting, recordkeeping, and other compliance requirements*. The proposed rule imposes certain reporting, recordkeeping, and other compliance requirements for a designated FMU. For example, proposed § 234.6(b)(1) requires the designated FMU to be in generally sound financial condition. In addition, proposed § 234.6(b)(4) requires a designated FMU to demonstrate an ongoing ability, including during periods of market stress or a participant default, to meet all of its obligations under its agreement for a Reserve Bank account and services. Proposed § 234.6(c) also clarifies that the Board or Reserve Bank may request a designated FMU to provide any information or verification necessary to determine compliance with any conditions imposed under proposed § 234.6.

4. *Identification of duplicative, overlapping, or conflicting Federal rules*. The Board does not believe that any Federal rules conflict with the proposed rules. Certain entities that are designated FMUs under Title VIII of the Act may maintain an account with a Reserve Bank under other statutory authority, such as an entity that is chartered as a depository institution, state member bank, or Edge corporation. This rulemaking would provide additional authority for the entity to establish and maintain an account at a Reserve Bank and, arguably, be duplicative or overlapping with such other authority. This rulemaking would not, however, create any conflicting requirements for a designated FMU that is permitted to maintain an account with a Reserve Bank under multiple sources of authority.

5. *Significant alternatives to the proposed rule*. In lieu of the proposed rules, the Board could have proposed fewer or less stringent conditions on designated FMUs. The Board believes, however, that the proposed rules are necessary to address risk to the Reserve Banks in

offering accounts and services and that the information required from designated FMUs under the proposed rules is needed to mitigate such risks. In addition, the Board does not believe that providing fewer or less stringent conditions for designated FMUs that are small entities would achieve the regulation's purpose because the risks to the Reserve Banks are the same regardless of whether the designated FMU is a small entity. The Board also considered a more expansive list of detailed conditions, but decided instead to set the overall standard as avoiding undue risk to the Reserve Bank, while providing a limited number of minimum requirements in meeting that standard. As noted above, the proposed rules provide some flexibility to the Reserve Bank in determining whether any additional measures are necessary to mitigate the risks presented by that designated FMU, given the facts and circumstances of the designated FMU seeking the account or services.

*B. Paperwork Reduction Act Analysis*

In accordance with the Paperwork Reduction Act of 1995 (44 USC 3506; 5 CFR 1320, Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. The proposed rule contains no requirements subject to the PRA.

## IV. Statutory Authority

Pursuant to the authority in Title VIII of the Dodd-Frank Act and particularly sections 806(a) and (b) (12 U.S.C. 5465(a) and (b)), the Board proposes two new sections to part 234 (Regulation HH).

**List of Subjects in 12 CFR Part 234**

Banks, Banking, Commodity futures, Credit, Electronic funds transfers, Financial market utilities, Securities.

**Authority and Issuance**

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR Chapter II as set forth below.

## PART 234—DESIGNATED FINANCIAL MARKET UTILITIES (REGULATION HH)

1. The authority citation for part 234 continues to read as follows:

**Authority:** 12 U.S.C. 5461 *et seq*.

2. Amend § 234.1 by revising paragraph (b) to read as follows:

**234.1 Authority, purpose, and scope.**

* * * * *

(b) *Purpose and scope*. This part establishes risk-management standards governing the operations related to the payment, clearing, and settlement activities of designated financial market utilities. In addition, this part sets out requirements and procedures for a designated financial market utility that proposes to make a change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by the designated financial market utility and for which the Board is the Supervisory Agency (as defined below). The risk management standards do not apply, however, to a designated financial market utility that is a derivatives clearing organization registered under section 5b of the Commodity Exchange Act (7 USC 7a-1) or a clearing agency registered with the Securities and Exchange Commission under section 17A of the Securities Exchange Act of 1934 (15 USC 78q-1),

which are governed by the risk-management standards promulgated by the Commodity Futures Trading Commission or the Securities and Exchange Commission, respectively, for which each is the Supervisory Agency. This part also sets out standards, restrictions, and guidelines regarding a Federal Reserve Bank establishing and maintaining an account for, and providing services to, a designated financial market utility. In addition, this part confirms the terms under which a Reserve Bank may pay a designated financial market utility interest on the designated financial market utility's balances held at the Reserve Bank.

3. Add §§ 234.6 and 234.7 to read as follows:

**§ 234.6 Access to Federal Reserve Bank accounts and services.**

(a) This section applies to any designated financial market utility for which the Board may authorize a Federal Reserve Bank to open an account or provide services in accordance with section 806(a) of the Dodd-Frank Act. Upon receipt of Board authorization and subject to any limitations, restrictions, or other requirements established by the Board, a Federal Reserve Bank may enter into agreements governing the details of its accounts and services with a designated financial market utility, consistent with this section and any other applicable Board direction.

(b) A Federal Reserve Bank should ensure that its establishment and maintenance of an account for or provision of services to a designated financial market utility does not create undue credit, settlement, or other risk to the Reserve Bank. At a minimum, to establish and maintain an account with a Federal Reserve Bank or receive financial services from a Federal Reserve Bank, a designated financial market utility must, in the Federal Reserve Bank's judgment –

(1) Be in generally sound financial condition;

(2) Be in compliance, based on information provided by the Supervisory Agency, with requirements imposed by its Supervisory Agency regarding financial resources, liquidity, participant default management, and other aspects of risk management;

(3) Be in compliance with Board orders and policies, Federal Reserve Bank operating circulars, and other applicable Federal Reserve requirements regarding the establishment and maintenance of an account at a Federal Reserve Bank and the receipt of financial services from a Federal Reserve Bank; and

(4) Demonstrate an ongoing ability, including during periods of market stress or a participant default, to meet all of its obligations under its agreement for a Federal Reserve Bank account and services.

(c) The Board or Federal Reserve Bank may request that the designated financial market utility provide any information or verification necessary regarding compliance with any conditions imposed under this section.

(d) The Board will consult with the Supervisory Agency of a designated financial market utility prior to authorizing a Federal Reserve Bank to open an account, and periodically thereafter, to ascertain the views of the Supervisory Agency regarding the condition of the designated financial market utility and compliance with the requirements of this section or to coordinate information requests.

(e) In addition to any right that a Reserve Bank has to terminate an account or the use of a service pursuant to an agreement, the Board may direct the Federal Reserve Bank to impose limits, restrictions, or other conditions on the availability or use of a Federal Reserve Bank account or service by a designated financial market utility, including

directing the Reserve Bank to terminate the use of a particular service or to close the account.

**§ 234.7 Interest on balances.**

(a) A Federal Reserve Bank may pay interest on balances maintained by a designated financial market utility at the Federal Reserve Bank in accordance with this section and under such other terms and conditions as the Board may prescribe.

(b) Interest on balances paid under this section shall be at the rate paid on balances maintained by depository institutions or another rate determined by the Board from time to time, not to exceed the general level of short-term interest rates.

(c) For purposes of this section, "short-term interest rates" shall have the same meaning as the meaning provided for that term in §204.10(b)(3) of this chapter.

**By order of the Board of Governors of the Federal Reserve System, February 26, 2013.**

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Robert deV. Frierson
Secretary to the Board
Billing Code: 6210-01-P

**[FR Doc. 2013-04841 Filed 03/01/2013 at 8:45 am; Publication Date: 03/04/2013]**