

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to review and determination of the Board.

On December 14, 2022, the Board voted to approve a 0.50 percentage point increase in the primary credit rate, thereby increasing the primary credit rate from 4.00 percent to 4.50 percent. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate increased by 0.50 percentage points as a result of the Board's primary credit rate action, thereby increasing the secondary credit rate from 4.50 percent to 5.00 percent. The amendments to Regulation A reflect these rate changes.

The 0.50 percentage point increase in the primary credit rate was associated with a 0.50 percentage point increase in the target range for the federal funds rate (from a target range of 3¾ percent to 4 percent to a target range of 4¼ percent to 4½ percent) announced by the Federal Open Market Committee on December 14, 2022, as described in the Board's amendment of its Regulation D published elsewhere in today's **Federal Register**.

Administrative Procedure Act

In general, the Administrative Procedure Act ("APA")¹ imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be "unnecessary, impracticable, or contrary to the public interest."² Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or

recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.³ The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts."⁴

Regulation A establishes the interest rates that the twelve Reserve Banks charge for extensions of primary credit and secondary credit. The Board has determined that the notice, public comment, and delayed effective date requirements of the APA do not apply to these final amendments to Regulation A. The amendments involve a matter relating to loans and are therefore exempt under the terms of the APA. Furthermore, because delay would undermine the Board's action in responding to economic data and conditions, the Board has determined that "good cause" exists within the meaning of the APA to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation A.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act ("RFA") does not apply to a rulemaking where a general notice of proposed rulemaking is not required.⁵ As noted previously, a general notice of proposed rulemaking is not required if the final rule involves a matter relating to loans. Furthermore, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act ("PRA") of 1995,⁶ the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

³ 5 U.S.C. 553(d).

⁴ 5 U.S.C. 553(a)(2) (emphasis added).

⁵ 5 U.S.C. 603, 604.

⁶ 44 U.S.C. 3506; see 5 CFR part 1320 Appendix A.1.

List of Subjects in 12 CFR Part 201

Banks, banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.³

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 4.50 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under § 201.4(b) is 5.00 percent.

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

Michele Taylor Fennell,
Deputy Associate Secretary of the Board.

[FR Doc. 2023–00416 Filed 1–12–23; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1798; RIN 7100–AG 51]

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board") has adopted final amendments to its Regulation D to revise the rate of interest paid on balances ("IORB") maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORB is 4.40 percent, a 0.50 percentage point

³ The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

¹ 5 U.S.C. 551 *et seq.*

² 5 U.S.C. 553(b)(3)(A).

increase from its prior level. The amendment is intended to enhance the role of IORB in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (“FOMC” or “Committee”).

DATES:

Effective date: The amendments to part 204 (Regulation D) are effective January 13, 2023.

Applicability date: The IORB rate change was applicable on December 15, 2022.

FOR FURTHER INFORMATION CONTACT: M. Benjamin Snodgrass, Senior Counsel (202–263–4877), Legal Division, or Kristen Payne, Lead Financial Institution & Policy Analyst (202–452–2872), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services (TRS), please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

For monetary policy purposes, section 19 of the Federal Reserve Act (“Act”) imposes reserve requirements on certain types of deposits and other liabilities of depository institutions.¹ Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank (“Reserve Bank”).² Section 19 also provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.³ Institutions that are eligible to receive earnings on their balances held at Reserve Banks (“eligible institutions”) include depository institutions and certain other institutions.⁴ Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.⁵ Prior to these amendments, Regulation D established IORB at 3.90 percent.⁶

II. Amendment to IORB

The Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 4.40 percent. The amendment represents a 0.50 percentage point increase in IORB. This decision was announced on December 14, 2022, with an effective date of December 15, 2022, in the Federal Reserve Implementation Note that accompanied the FOMC’s statement on December 14, 2022. The FOMC statement stated that the Committee decided to raise the target range for the federal funds rate to 4¼ to 4½ percent.

The Federal Reserve Implementation Note stated:

The Board of Governors of the Federal Reserve System voted unanimously to raise the interest rate paid on reserve balances to 4.4 percent, effective December 15, 2022.

As a result, the Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 4.40 percent.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (“APA”) ⁷ imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule’s content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be “unnecessary, impracticable, or contrary to the public interest.” ⁸ Section 553(d) of the APA also provides that publication at least 30 days prior to a rule’s effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.⁹

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate change for IORB that is reflected in the final amendment to Regulation D was made with a view towards accommodating commerce and business and with regard to their

bearing upon the general credit situation of the country. Notice and public comment would prevent the Board’s action from being effective as promptly as necessary in the public interest and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board’s action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to this final amendment to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (“RFA”) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.¹⁰ As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA’s requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (“PRA”) of 1995,¹¹ the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.10 is amended by revising paragraph (b)(1) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *
(b) * * *

¹ 12 U.S.C. 461(b). In March 2020, the Board set all reserve requirement ratios to zero percent. See Interim Final Rule, 85 FR 16525 (Mar. 24, 2020); Final Rule, 86 FR 8853 (Feb. 10, 2021).

² 12 CFR 204.5(a)(1).

³ 12 U.S.C. 461(b)(1)(A) and (b)(12)(A).

⁴ See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

⁵ See 12 U.S.C. 461(b)(12)(B).

⁶ See 12 CFR 204.10(b)(1).

⁷ 5 U.S.C. 551 *et seq.*

⁸ 5 U.S.C. 553(b)(3)(A).

⁹ 5 U.S.C. 553(d).

¹⁰ 5 U.S.C. 603, 604.

¹¹ 44 U.S.C. 3506; see 5 CFR part 1320 Appendix A.1.

(1) For balances maintained in an eligible institution's master account, interest is the amount equal to the interest on reserve balances rate ("IORB rate") on a day multiplied by the total balances maintained on that day. The IORB rate is 4.40 percent.

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

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023-00417 Filed 1-12-23; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Part 622

RIN 3052-AD59

Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: This regulation implements inflation adjustments to civil money penalties (CMPs) that the Farm Credit Administration (FCA) may impose or enforce pursuant to the Farm Credit Act of 1971, as amended (Farm Credit Act), and pursuant to the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, and further amended by the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act) (collectively FDPA, as amended).

DATES: This regulation is effective on January 15, 2023.

FOR FURTHER INFORMATION CONTACT:

Brian Camp, Accountant, Office of Regulatory Policy, Farm Credit Administration, (703) 883-4320, TTY (703) 883-4056, Or

Heather LoPresti, Senior Counsel, Office of General Counsel, Farm Credit Administration, (703) 883-4318, TTY (703) 883-4056.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this regulation is to adjust the maximum CMPs for inflation through a final rulemaking to retain the deterrent effect of such penalties.

II. Background

A. Introduction

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (1996 Act) and the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015 (2015 Act) (collectively, 1990 Act, as amended), requires all Federal agencies with the authority to enforce CMPs to evaluate and adjust, if necessary, those CMPs each year to ensure that they continue to maintain their deterrent value and promote compliance with the law. Section 3(2) of the 1990 Act, as amended, defines a civil monetary penalty¹ as any penalty, fine, or other sanction that: (1) either is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.²

The FCA imposes and enforces CMPs through the Farm Credit Act³ and the FDPA, as amended.⁴ FCA's regulations governing CMPs are found in 12 CFR parts 622 and 623. Part 622 establishes rules of practice and procedure applicable to formal and informal hearings held before the FCA, and to formal investigations conducted under the Farm Credit Act. Part 623 prescribes rules regarding persons who may practice before the FCA and the circumstances under which such persons may be suspended or debarred from practice before the FCA.

B. CMPs Issued Under the Farm Credit Act

Section 5.32(a) of the Farm Credit Act provides that any Farm Credit System (System) institution or any officer, director, employee, agent, or other person participating in the conduct of the affairs of a System institution who violates the terms of an order that has become final pursuant to section 5.25 or 5.26 of the Farm Credit Act must pay a maximum daily amount of \$1,000,⁵ for each day such violation continues. This CMP maximum was set by the Farm Credit Amendments Act of 1985, which amended the Farm Credit Act. Orders issued by the FCA under section 5.25 or 5.26 of the Farm Credit Act include

¹ While the 1990 Act, as amended by the 1996 and 2015 Acts, uses the term "civil monetary penalties" for these penalties or other sanctions, the Farm Credit Act and FCA regulations use the term "civil money penalties." Both terms have the same meaning. Accordingly, this rule uses the term civil money penalty, and both terms may be used interchangeably.

² See 28 U.S.C. 2461 note.

³ Public Law 92-181, as amended.

⁴ 42 U.S.C. 4012a and Public Law 103-325, title V, 108 Stat. 2160, 2255-87 (September 23, 1994).

⁵ The inflation-adjusted CMP in effect on January 15, 2022, for a violation of a final order is \$2,544 per day, as set forth in § 622.61(a)(1) of FCA regulations.

temporary and permanent cease-and-desist orders. In addition, section 5.32(h) of the Farm Credit Act provides that any directive issued under sections 4.3(b)(2), 4.3A(e), or 4.14A(i) of the Farm Credit Act "shall be treated" as a final order issued under section 5.25 of the Farm Credit Act for purposes of assessing a CMP.

Section 5.32(a) of the Farm Credit Act also states that "[a]ny such institution or person who violates any provision of the [Farm Credit] Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than \$500⁶ per day for each day during which such violation continues." This CMP maximum was set by section 423 of the Agricultural Credit Act of 1987, which was enacted in 1988 and amended the Farm Credit Act. Current inflation-adjusted CMP maximums are set forth in existing § 622.61 of FCA regulations.⁷

The FCA also enforces the FDPA, as amended, which requires FCA to assess CMPs for a pattern or practice of committing certain specific actions in violation of the National Flood Insurance Program. The FDPA states that the maximum CMP for a violation of that Act is \$2,000.^{8,9}

C. Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015

1. In General

The 2015 Act required all Federal agencies to adjust the CMPs yearly, starting January 15, 2017.

Under Section 4(b) of the 1990 Act, as amended, annual adjustments are to be made no later than January 15.¹⁰ Section 6 of the 1990 Act, as amended, states that any increase to a civil monetary penalty under this 1990 Act applies only to civil monetary penalties, including instances in which an associated violation predated the annual increase, which are assessed after the date the increase takes effect.

Section 5(b) of the 1990 Act, as amended, defines the term "cost-of-living adjustment" as the percentage (if any) for each civil monetary penalty by which (1) the Consumer Price Index

⁶ The inflation-adjusted CMP in effect on January 15, 2022, for a violation of the Farm Credit Act or a regulation issued under the Farm Credit Act is \$1,151 per day for each violation, as set forth in § 622.61(a)(2) of FCA regulations.

⁷ Prior adjustments were made under the 1990 Act and continue to be made each year.

⁸ Public Law 112-141, 126 Stat. 405 (July 6, 2012); 42 U.S.C. 4012a(f)(5).

⁹ The inflation-adjusted CMP in effect on January 15, 2022, for a flood insurance violation is \$2,392, as set forth in § 622.61(b) of FCA regulations.

¹⁰ Public Law 114-74, sec. 701(b)(1).