

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 March 22, 2023, the Board voted to approve a 0.25 percentage point increase in the primary credit rate, thereby increasing the primary credit rate from 4.75 percent to 5 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 0.25 percentage points as a result of the Board's primary credit rate action, thereby increasing the secondary credit rate from 5.25 percent to 5.50 percent. The amendments to Regulation A reflect these rate changes.

The 0.25 percentage point increase in the primary credit rate was associated with a 0.25 percentage point increase in the target range for the federal funds rate (from a target range of 4½ percent to 4¾ percent to a target range of 4¾ percent to 5 percent) announced by the Federal Open Market Committee on March 22, 2023, 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.

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 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 5 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under § 201.4(b) is 5.50 percent.

* * * * *

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.

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

Ann E. Misback,
Secretary of the Board.

[FR Doc. 2023–06441 Filed 3–28–23; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1804; RIN 7100–AG57]

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 4.9 percent, a 0.25 percentage point 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: This rule (amendments to part 204 (Regulation D)) is effective March 29, 2023.

¹ 5 U.S.C. 551 *et seq.*

² 5 U.S.C. 553(b)(3)(A).

³ 5 U.S.C. 553(d).

⁴ 5 U.S.C. 553(a)(2).

⁵ 5 U.S.C. 603, 604.

⁶ 44 U.S.C. 3506; *see* 5 CFR part 1320, appendix A.1.

Applicability date: The IORB rate change was applicable on March 23, 2023.

FOR FURTHER INFORMATION CONTACT:

Sophia H. Allison, Senior Special Counsel (202–452–3565), Legal Division, or Nicole Trachman, Financial Institution & Policy Analyst (202–973–5055), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services, 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 4.65 percent.⁶

II. Amendment to IORB

The Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 4.9 percent. The amendment represents a 0.25 percentage point increase in IORB. This decision was announced on March 22, 2023, with an effective date of March 23, 2023, in the Federal Reserve Implementation Note that accompanied

the FOMC’s statement on March 22, 2023. The FOMC statement stated that the Committee decided to raise the target range for the federal funds rate to 4¾ to 5 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 4.9 percent, effective March 23, 2023.

As a result, the Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 4.9 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) 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 4.9 percent.

* * * * *

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.

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

Ann E. Misback,
Secretary of the Board.

[FR Doc. 2023-06446 Filed 3-28-23; 8:45 am]

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CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1081

[Docket No. CFPB-2022-0009]

RIN 3170-AB08

Rules of Practice for Adjudication Proceedings

AGENCY: Consumer Financial Protection Bureau.

ACTION: Final rule; consideration of comments.

SUMMARY: The Rules of Practice for Adjudication Proceedings (Rules of Practice) govern adjudication proceedings conducted by the Consumer Financial Protection Bureau (Bureau). The Bureau issued a procedural rule to update the Rules of Practice (Updated Rules of Practice). The Updated Rules of Practice expanded the opportunities for parties in adjudication proceedings to conduct depositions. They also made amendments concerning timing and deadlines, the content of answers, the scheduling conference, bifurcation of proceedings, the process for deciding dispositive motions, and requirements for issue exhaustion, as well as other technical changes. The Bureau sought to provide the parties with earlier access to relevant information and also foster greater procedural flexibility, which the Bureau expected would ultimately contribute to more effective and efficient proceedings. The Bureau invited the public to submit comments on the Updated Rules of Practice. After considering the comments, the Bureau has decided to retain the amendments.

DATES: This action is effective on March 29, 2023.

FOR FURTHER INFORMATION CONTACT: Kevin E. Friedl or Christopher Shelton, Senior Counsel, Legal Division, at 202-435-7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Financial Protection Act of 2010 (CFPA) establishes the Bureau as an independent bureau in the Federal Reserve System and assigns the Bureau a range of rulemaking,

enforcement, supervision, and other authorities.¹ The Bureau's enforcement powers under the CFPA include section 1053, which authorizes the Bureau to conduct adjudication proceedings.² The Bureau finalized the original version of the Rules of Practice, which govern adjudication proceedings, in 2012 (2012 Rule).³ The Bureau later finalized certain amendments, which addressed the issuance of temporary cease-and-desist orders, in 2014 (2014 Rule).⁴

II. Overview of the Updated Rules of Practice and Comments Received

The Bureau issued the Updated Rules of Practice in February 2022.⁵ The Updated Rules of Practice were exempt from the notice-and-comment requirements of the Administrative Procedure Act, because they were a rule of agency organization, procedure, and practice.⁶ Consequently, they were effective upon publication (although no adjudication proceedings have occurred under the Updated Rules of Practice). The Bureau invited the public to submit comments.

The Bureau received four comments. These came from a group of trade associations, a consumer advocacy organization, a bank holding company, and a legal foundation.⁷ The group of trade associations noted that administrative adjudication can play an important and valuable role in an effective regulatory system by providing an efficient, and equally fair, alternative to civil litigation. However, the trade associations opposed the changes regarding the content of answers, bifurcation of proceedings, rulings on dispositive motions, and issue exhaustion. By contrast, the consumer advocacy organization supported the rule, stating that it simultaneously strengthens the ability of the agency to protect consumers and the rights of respondents subject to agency action. The bank holding company expressed support for the trade associations' comment. Finally, the legal foundation opposed the issue-exhaustion provision.

After carefully considering these comments, the Bureau has decided to retain the amendments made in the Updated Rules of Practice. The Bureau

addresses the comments in more detail below.

III. Legal Authority

Section 1053(e) of the CFPA provides that the Bureau "shall prescribe rules establishing such procedures as may be necessary to carry out" section 1053.⁸ Additionally, section 1022(b)(1) provides, in relevant part, that the Bureau's Director "may prescribe rules . . . as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof."⁹ The Bureau issues this rule based on its authority under section 1053(e) and section 1022(b)(1).

IV. Section-by-Section Analysis

1081.114(a) Construction of Time Limits.

12 CFR 1081.114(a) (Rule 114(a)) governs the computation of any time limit that is prescribed by Rules of Practice, by order of the Director or the hearing officer, or by any applicable statute. The Updated Rules of Practice amended Rule 114(a) for the purpose of simplifying and clarifying it, based on similar amendments made to Federal Rule of Civil Procedure 6(a) in 2009.

As amended by the Updated Rules of Practice, Rule 114(a) provides for time periods to be computed in the following manner. First, exclude the day of the event that triggers the period. Second, count every day, including intermediate Saturdays, Sundays, and Federal holidays. Third, include the last day of the period unless it is a Saturday, Sunday, or Federal holiday as set forth in 5 U.S.C. 6103(a). When the last day is a Saturday, Sunday, or Federal holiday, the period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday.

⁸ 12 U.S.C. 5563(e). As courts have recognized, the term "necessary" is "a 'chameleon-like' word" whose meaning can vary based on context; in the context of section 1053(e), the Bureau interprets "'necessary' to mean 'useful,' 'convenient' or 'appropriate' rather than 'required' or 'indispensable.'" *Prometheus Radio Project v. FCC*, 373 F.3d 372, 391-94 (3d Cir. 2004). Section 1053 sets out the fundamental features of Bureau adjudications, but it leaves many details open that can only be addressed through more specific Bureau procedures. In turn, those Bureau procedures could not be effective, or fair to the parties, if they were limited to only the most rudimentary steps that would be indispensable to holding a skeletal proceeding. Instead, the Bureau believes that Congress gave the Bureau room to adopt procedures that are useful in carrying out section 1053.

⁹ 12 U.S.C. 5512(b)(1).

¹ Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376, 1955-2113 (2010).

² 12 U.S.C. 5563; see also section 1052(b), 12 U.S.C. 5562(b) (addressing subpoenas).

³ 77 FR 39057 (June 29, 2012); see also 76 FR 45337 (July 28, 2011) (interim final rule).

⁴ 79 FR 34622 (June 18, 2014); see also 78 FR 59163 (Sept. 26, 2013) (interim final rule).

⁵ 87 FR 10028 (Feb. 22, 2022).

⁶ 5 U.S.C. 553(b).

⁷ The Bureau also received other communications on the docket that did not relate to the topic of adjudication proceedings.