learned that many government securities dealers and their clearing banks support retaining the $50 million limit. These representatives believe that removing the limit could increase position building and securities-related overdrafts despite the existence of daylight overdraft fees. In addition, the representatives stated that removing the limit would likely require costly system changes throughout the industry. Given that the industry bears a significant portion of the costs and benefits of the limit, both in terms of transaction fees and reduced overdraft fees, the support of the limit voiced by industry representatives reflects their perception that the limit has a positive net effect on the government securities settlement system.

Industry representatives indicated that removal of the limit would likely lead the industry to demand that securities trades be settled in full and to reject partial deliveries. While current delivery guidelines encourage acceptance of partial deliveries, industry representatives expressed concern that there would be no technical mechanism to enforce these guidelines. The Board believes the $50 million limit on book-entry securities transfers in combination with daylight overdraft fees has been effective in reducing daylight overdrafts. Because the limit appears to have a net positive effect, the Board is disposed to retaining the limit. The Board, however, would like to ensure that it considers the perspectives of all parties before making a final determination regarding the retention of this limit.

III. Request for Comment

The Board is proposing to maintain its current policy limiting the size of individual book-entry security transfers on Fedwire to $50 million in par value. The Board is requesting comment on all aspects of the $50 million limit as well as on the following questions:

1. Should the limit be retained?

If yes, is $50 million a reasonable level for the limit? Do the benefits of the limit support a reduction of the limit to $25 million? Or, would a higher limit reduce transaction costs but maintain the existing benefits of the limit? Would changing the limit require costly system changes?

If no, what would be the effect of eliminating the $50 million limit on delivery fails, daylight overdrafts, and dealer costs? In particular, would eliminating the limit require costly system changes?

2. Does the limit impose any significant costs on dealers or clearing banks, net of any benefits from reduced overdrafts?

3. Does the limit promote specific benefits in the government securities market other than reduced overdrafts?

IV. Competitive Impact Analysis

Under its competitive equity policy, the Board assesses the competitive impact of changes that have a substantial effect of payments system participants.[6] The Board believes that retention of the $50 million securities transfer limit will have no adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar transfer services.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 appendix A.1), the Board has reviewed the request for comments under the authority delegated to the Board by the Office of Management and Budget. The collection of information pursuant to the Paperwork Reduction Act contained in the policy statement will not unduly burden depository institutions.

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–13981 Filed 6–4–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[Docket No. R–1109]

Policy Statement on Payments System Risk; Modifications to Daylight Overdraft Posting Rules for Electronic Check Presentments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment on policy.

SUMMARY: The Board is requesting comment on a change to the procedures for measuring daylight overdrafts in depository institutions' Federal Reserve accounts. The Board proposes to modify the procedures to allow debits associated with electronic check presentment (ECP) transactions to post at 1:00 p.m. local time.[1] The current posting times for ECP transactions often create a disincentive for depository institutions to use Federal Reserve electronic check presentment services, and the Board proposes to remove barriers that may discourage their use.

EFFECTIVE DATE: Comments must be received by August 6, 2001.

ADDRESSES: Comments, which should refer to Docket No. R–1109, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: Paul Bettge, Associate Director (202/452–3174), Stacy Coleman, Manager (202/452–2934), or Jeffrey Yeganeh, Senior Financial Services Analyst (202/728–5801), Division of Reserve Bank Operations and Payment Systems.

SUPPLEMENTARY INFORMATION: This is one of five notices regarding payments system risk that the Board is issuing for public comment today. Two near-term proposals concern the net debit cap calculation for U.S. branches and agencies of foreign banks (Docket No. R–1108) and the book-entry securities transfer limit (Docket No. R–1110). In addition, the Board is requesting comment on the benefits and drawbacks to several potential longer-term changes to the Board's payments system risk (PSR) policy, including lowering self-assessed net debit caps, eliminating the two-week average caps, implementing a two-tiered pricing system for collateralized and uncollateralized daylight overdrafts, and rejecting payments with settlement-day finality that would cause an institution to exceed its daylight overdraft capacity level (Docket No. R–1111). The Board is also issuing today an interim policy statement and requesting comment on the broader use of collateral for daylight overdraft purposes (Docket No. R–1107). Furthermore, to reduce burden associated with the PSR policy, the Board recently rescinded the

---

[6] These assessment procedures are described in the Board's policy statement entitled ''The Federal Reserve in the Payments System'' (55 FR 11648, March 29, 1990).

[1] In the event an electronic check presentment is delayed past 12:00 p.m. local time, the Reserve Banks will post the transaction on the next clock hour that is at least one hour after presentment takes place but no later than 3:00 p.m. local time.

interaffiliate transfer (Docket No. R–1106) and third-party access policies (Docket No. R–1100).

The Board requests that in filing comments on these proposals, commenters prepare separate letters for each proposal, identifying the appropriate docket number on each. This will facilitate the Board's analysis of all comments received.

I. Background

The Board's PSR policy establishes maximum limits (net debit caps) and fees on daylight overdrafts in depository institutions' accounts at Federal Reserve Banks. When the Board adopted daylight overdraft fees, the Federal Reserve Banks began measuring depository institutions' intraday account balances according to a set of "posting rules" established by the Board. These rules comprise a schedule for the posting of debits and credits to institutions' Federal Reserve accounts for different types of payments.[2] The Board's objectives in designing the posting rules include minimizing intraday float, facilitating depository institutions' monitoring and control of their cash balances during the day, and reflecting the legal rights and obligations of parties to payments. The Board's objective of minimizing intraday float is especially important in light of the daylight overdraft fee, which gives intraday credit an explicit value. The posting rules attempt to eliminate aggregate Federal Reserve intraday float because such float would be equivalent to unpriced Federal Reserve daylight credit.

As part of a broad review of its PSR policies, the Board evaluated the effectiveness of the current posting rules and found these rules to be generally effective and well understood by the industry. In reviewing the posting rules, however, the Board found that the posting times for ECP transactions often create a disincentive for depository institutions to use Federal Reserve electronic check services. The Federal Reserve Banks deliver the majority of electronic check presentments in the morning, and the delivery of the ECP files constitutes legal presentment of the checks under the terms of the Federal Reserve's uniform Operating Circular 3. In accordance with the Board's objectives in designing the posting rules, the current posting rules stipulate that debits to depository institutions' Federal Reserve accounts for check presentments occur on the next clock hour that is at least one hour after presentment takes place, beginning at 11:00 a.m. Eastern Time (ET) and no later than 3:00 p.m. local time.[3] Because the Reserve Banks generally deliver electronic check presentments in the morning, the corresponding debits occur at 11:00 a.m. ET. As a result, for many depository institutions, the posting times for electronic check presentments are earlier than the posting times associated with their paper check presentments.

The often earlier debit posting times associated with electronic check presentments have caused some depository institutions to incur daylight overdrafts earlier in the day and, in many cases, for longer periods of time. Because the Reserve Banks charge depository institutions a fee for the amount and duration of their Federal Reserve daylight credit use, the daylight overdraft charges of some institutions that have moved to electronic check services have grown substantially. As a result, some depository institutions have asserted that the increases in their daylight overdraft charges have reduced or eliminated the benefits of using Federal Reserve electronic check services.

The Federal Reserve is interested in removing barriers that may discourage depository institutions from using electronic check services. For several years, the Federal Reserve has been working on various initiatives to apply electronic technologies to the check collection process to gain efficiencies and to reduce the associated costs and risks. Electronic check services provide operational efficiencies, improve accuracy of information, reduce costs, improve the likelihood of timely presentment, and improve opportunities for accessing and using cash management information. The Board is requesting comment on a proposed change to the posting times for ECP transactions to remove a barrier to the use of ECP.

The Board also notes that its daylight credit policies are primarily intended to address intraday risk to the Federal Reserve arising from daylight overdrafts. Most transactions that lack settlement-day finality, such as checks, however, pose primarily interday, rather than intraday, risk. Modifying the posting times associated with ECP transactions should not create significant, if any, additional credit risk for the Reserve Banks.

II. Posting Times for ECP Transactions

The Board proposes modifying the daylight overdraft posting rules to allow debits associated with ECP transactions to post at 1:00 p.m. local time in order to remove the disincentive created by the current posting rules for depository institutions to use Federal Reserve electronic check presentment services.[4] A 1:00 p.m. local time posting time should remove the disincentive to move to electronic check presentment services created by the current posting rules. The Reserve Banks generally deliver electronic check presentment files by 10:00 a.m. ET; and, therefore, many depository institutions currently receive the related debits at 11:00 a.m. ET.[5] For many depository institutions, especially those not located in the Eastern Time zone, the 11:00 a.m. ET posting time is substantially earlier than the posting times associated with their paper check presentments. A posting time of 1:00 p.m. local time should reduce or eliminate the increase in daylight overdraft charges potentially created by the difference between the posting times of ECP and paper check presentment transactions.

The Board also considered posting ECP debits at the time the paying bank's paper check presentments would have been posted. The problem with matching the posting times of ECP and paper check presentments is that, over time, as electronic check presentments replace the physical delivery of the paper checks for a larger proportion of banks and courier routes are modified or eliminated, there is no longer a reasonable basis for determining specific ECP posting times for each depository institution. Moreover, a single debit posting time in each time zone for ECP transactions is more straightforward than a debit posting time that matches the posting time of paper check presentments. In determining a single debit posting time, the Board considered the aggregate value of checks posted to depository institutions' Federal Reserve accounts by each hour of the day. Currently, the Reserve Banks post the vast majority of check transactions, on average approximately 90 percent, by 1:00 p.m. local time. Because the Reserve Banks already post most checks by 1:00 p.m.

[2] See "Federal Reserve Policy Statement on Payments System Risk," section I.A (57 FR 47093, October 14, 1992).

[3] On the day a paying bank receives a cash item from a Reserve Bank, it shall settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank, or return the item, by the latest of (1) the next clock hour that is at least one hour after the paying bank receives the item; (2) 9:30 a.m. Eastern Time; or (3) such later time as provided in the Reserve Banks' operating circulars (12 CFR 210.9(b)).

[4] The Reserve Banks would modify the operating circulars as necessary.

[5] The Reserve Banks usually deliver electronic check presentment files by 12:00 p.m. ET in the Pacific Time zone.

local time, the Board believes that applying this posting time to ECP transactions should minimize any disincentive created by the posting rules to move to electronic check presentment services.

The primary drawback of posting ECP debits later in the day is the associated shift in posting credits to depository institutions' Federal Reserve accounts for check deposits to later in the day.[6] Institutions must choose one of two check credit posting options: (1) All credits posted at a single float-weighted posting time or (2) fractional credits posted throughout the day. The first option allows an institution to receive all of its check credits at a single time, which may not necessarily fall on a clock hour, for each type of cash letter. The second option lets the institution receive a portion of its available check credits on the clock hours between 11:00 a.m. and 6:00 p.m. ET. The option selected by an institution applies to all of its check deposits, including those for its respondents. Because the crediting fractions and single float-weighted posting times are based upon the Reserve Banks' ability to present checks and obtain settlement from payor institutions, posting times for check credits would become concentrated around 1:00 p.m. local time as more depository institutions began using Federal Reserve electronic check services. Consequently, depository institutions would receive their check credits somewhat later than they do today.[7] In addition, changes to the posting rules might entail some costs for depository institutions that may have developed internal monitors and controls for the management of their daily account balances around current posting times; however, the Board believes that such costs would be minimal.

III. Request for Comment

The Board proposes changing the posting times associated with ECP transactions to 1:00 p.m. local time. This revised posting time would allow the Federal Reserve to remove the barriers associated with the current posting rules for ECP transactions while providing a single and straightforward posting time that should not adversely affect depository institutions' account management procedures and practices or Federal Reserve credit risk. The Board requests comment on all aspects of the proposed modification to the posting rules. The Board is also requesting specific comments on the following questions:

1. Are there significant benefits or drawbacks associated with a posting time of 1:00 p.m. local time not identified in this notice?

2. Does the proposed posting time provide Federal Reserve Banks an inappropriate competitive advantage relative to the ability of private-sector banks or other service providers to compete in the provision of check collection services? If so, how?

IV. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial effect on payments system participants.[8] Under these procedures, the Board assesses whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the expected benefits are significant enough to proceed with the change despite the adverse effects.

To obtain settlement from paying banks for checks presented, the Reserve Banks debit directly the account of the paying bank or its designated correspondent (12 CFR 210.9(b)(5)). In contrast, a paying bank settles for checks presented by a private-sector bank for same-day settlement by sending a Fedwire funds transfer to the presenting bank or by another agreed-upon method (12 CFR 229.36(f)(2)). In addition, the Reserve Banks have the right to debit the account of the paying bank for settlement of checks on the next clock hour that is at least one hour after presentment (12 CFR 210.9(b)(2)) whereas a paying bank becomes accountable to a private-sector collecting bank if it does not settle for the check by the close of Fedwire on the day of presentment (12 CFR 229.36(f)(2)). In March 1998, the Board requested comment on whether these legal differences between the Reserve Banks and the private sector provided the Reserve Banks with a competitive advantage and, if so, whether these legal differences should be reduced or eliminated (63 FR 12700, March 16, 1998). Based on an analysis of the comments received, the Board concluded that these legal disparities do not materially affect the efficiency of or competition in the check collection system (63 FR 68701, December 14, 1998). The proposed posting rule change for ECP transactions decreases, rather than exacerbates, the legal disparities between the Reserve Banks and the private sector. The Board, therefore, believes that the proposed change would not have a direct or material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks' payments services.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the policy statement under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the policy statement.

VI. Policy Statement on Payments System Risk

The Board proposes to amend section I.A. under the heading *''Modified Procedures for Measuring Daylight Overdrafts''* as follows with changes identified by *italics:*

* * * * *

Modified Procedures for Measuring Daylight Overdrafts [3]

Opening Balance (Previous Day's Closing Balance)

Post at 1:00 p.m. Local Time:

—Electronic check presentments

[3] The posting changes do not affect the overdraft restrictions and overdraft-measurement provisions for nonbank banks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR 225.52).

By order of the Board of Governors of the Federal Reserve System, May 30, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–13980 Filed 6–4–01; 8:45 am]

BILLING CODE 6210–01–P

[6] The Federal Reserve calculates the posting times for check credits based on surveys of check presentments in each time zone.

[7] If the Board modifies the posting rules to permit Reserve Banks to post debits for ECP transactions at 1:00 p.m. local time, the Federal Reserve will update the credit schedule concurrent with the effective date of the policy change and, as needed, thereafter. As a result, aggregate net intraday float would continue to be close to zero because the amounts of intraday credit and debit float created for brief periods generally would offset one another.

[8] These procedures are described in the Board's policy statement ''The Federal Reserve in the Payments System,'' as revised in March 1990. (55 FR 11648, March 29, 1990).