



June 29, 2020

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

RE: Docket Number R-1715; RIN 7100- AF 89

Dear Ms. Misback,

The Credit Union Association of the Dakotas (CUAD), which represents state and federally chartered credit unions in the states of North Dakota and South Dakota, appreciates the opportunity to provide comment to the Board of Governors of the Federal Reserve System (Board) regarding its interim final rule amending Regulation D to remove the numeric limits on certain kinds of transfers and withdrawals from accounts defined as “savings deposits.” CUAD fully supports this amendment to Regulation D and applauds the Board for taking action to provide consumers with easier access to their funds.

On April 28, 2020, the Board published its interim final rule to amend Regulation D. This rule was effective April 24, 2020. In the discussion of this interim final rule the Board found that, “because of the elimination of reserve requirements and because of financial disruptions related to the novel coronavirus, the Board is amending Regulation D, effective immediately, to delete the six transfer limit from the “savings deposit” definition.” 85 FR 23446 While this interim rule may have been issued in response to the COVID-19 pandemic, CUAD implores the Board to make this a permanent change to Regulation D which implements Reserve Requirements of Depository Institutions.

This interim final rule deleted provisions in the “savings deposit” definition that required depository institutions to ensure that no more than the permitted number of withdrawals or transfers were made from a “savings deposit” account. The previous rule mandated that a depository institution had to either prevent withdrawals or transfers of funds from this account that are in excess of the limits established by the regulation, or adopt procedures to monitor those transfers on an ex post basis and contact customers who exceed the established limits on more than an occasional basis. For customers who continued to violate those limits after they have been

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contacted by the depository institution, the depository institution had to either close the account and place the funds in another account that the depositor is eligible to maintain, or take away the transfer and draft capacities of the account..

With this interim rule, the definition of “savings deposit” under 12 CFR 204.2(d)(2) now provides “The term “savings deposit” also means: A deposit or account, such as an account commonly known as a passbook savings account, a statement savings account, or as a money market deposit account (MMDA), that otherwise meets the requirements in paragraph (d)(1) of this section and from which, under the terms of the deposit contract or by practice of the depository institution, the depositor may be permitted or authorized to make transfers and withdrawals to another account (including a transaction account) of the depositor at the same institution or to a third party, regardless of the number of such transfers and withdrawals or the manner in which such transfers and withdrawals are made.”

Outdated language that limited customers from making no more than six transfers and withdrawals, or a combination of such transfers and withdrawals, per calendar month or statement to another account was removed. CUAD does acknowledge that there were exceptions, such as transfers for the purpose of repaying loans and associated expenses at the same depository institution or transfers of funds from the account to another account of the same depositor at the same institution or withdrawals (payments directly to the depositor) from the account when such transfers or withdrawals are made by mail, messenger, automated teller machine, or in person or when such withdrawals are made by telephone (via check mailed to the depositor). However, these exceptions were very dated and put unnecessary restrictions on consumers. Furthermore, it was burdensome on financial institutions to monitor these accounts to ensure the consumer did not exceed these limits.

The previously required limits for six transfers/withdrawals per month from a savings deposit account also hindered consumers from using funds in their savings account as an alternative to incurring overdraft fees and penalties in their transaction account. Some credit unions in the Dakotas were able to offer overdraft program alternatives such as linking savings/share accounts with checking/share draft (transaction) accounts were required to be mindful of other regulatory restrictions on these transfers under Regulation D, Reserve Requirements of Depository Institutions. If a member exceeded the number of allowable transfers from a savings account, the credit union was required to either impose a fee and/or decline the transfer. Otherwise it risked running afoul with Regulation D. It was a delicate balancing act to try to serve members in the way that members wanted and expected to be served by their credit union while also trying to stay compliant with all the rules and regulations.

In conclusion, CUAD fully supports the Board’s removal of the numeric limits on certain kinds of transfers and withdrawals from accounts defined as “savings deposits.” Furthermore, we



encourage the Board to make this amendment permanent and not to revert to limits on savings deposits so consumers can maintain access to funds in all financial environments, not just times of crisis.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

A handwritten signature in black ink that reads 'Jeffrey Olson'.

Jeffrey Olson
CEO/President

A handwritten signature in black ink that reads 'Amy Kleinschmit'.

Amy Kleinschmit
Chief Compliance Officer