

TO: Comments@FDIC.gov

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RE: Federal Deposit Insurance Corporation, Large-Bank Deposit
Insurance Determination Modernization Proposal; RIN 3064-AC98; 12
CFR Chapter 111; 71 Federal Register 74857, December 13, 2006

Union Bank of California, N.A., appreciates the opportunity to respond to this proposed rule change.

Implementation Costs

The cost to develop and maintain the proposed functionality by all banks system-wide could be in the billions of dollars, exceeding the benefits accruing to the FDIC or the depositors of a failed institution or institutions. Implementation and maintenance cost will increase with the size of the bank while the probability of using the functionality will decrease as the size of the bank increases. Without a more specific understanding of the requirements to accomplish what is outlined in the Request For Comment, it is not possible to estimate the costs or development times associated with this effort particularly as those efforts apply to the implementation of mass holds and their replacement with insured amounts.

Unique Depositor ID

Union Bank of California, N.A. has a unique eight digit ID - CIF Number - for each of its customers that provides the ability to associate all credit and deposit product usage for customers and the resolution of many multiple shared ownership issues. This code is associated with a name and social security number for a consumer or Tax ID for a business. The assignment of the CIF Number to new accounts is an integral part of the account opening process. Our experience indicates that most large banks have similar capabilities in their information-processing systems. The use of these numbers will minimize the amount of custom work to identify a customer.

The use of a unique ID other than the CIF Number or the Social Security Number/ Tax ID to identify a customer would dramatically increase time and cost to implement this FDIC proposal. In some types of accounts and relationships, it is not economically feasible or possible to identify the ultimate owners of an account's

balances at a point in time. The final determination of ownership for some insured amounts will require a manual review of payment requests against bank and/or customer records where the account balances ownership is ultimately shared by numerous individuals and/or legal entities. See item 2 below for examples.

Alternative methods

One approach that should be considered would be to limit the development of the capability being proposed to those banks that have credit ratings below a level to be defined by the FDIC. This would result in a substantial reduction in the system-wide costs associated with the proposed change. If adopted, this approach would transfer costs and lost productivity associated with this implementation and maintenance of these processes to banks that have by their actions put their depositors at increased risk.

We are not aware of a more cost effective means of uniquely identifying a depositor than the use of the CIF number or Social Security/ Tax ID Number. We strongly recommend that we and other insured banks be allowed to use the ID numbering systems utilized in each institution.

To what extent can banks uniquely identify depositors using current systems?

Our CIF Number provides a unique number for the identification of a customer in most cases. These codes may not resolve some insured depositor identification issues for some accounts including pass-through account ownership, deceased owners, IOLTA Accounts, Escrow Accounts, Held in Trust Accounts, Official Cashier Checks and Money Order accounts, Escheatable Funds, and Payable -On-Death (POD) accounts. These issues and others not identified would have to be resolved manually by the FDIC based on bank records or records of the account holder. Account type must also be added to the equation because of the higher coverage applicable to retirement accounts.

For many small to medium-sized banks that utilize third party vendors as deposit system processors, the ability to implement these processes will be limited by the vendor supplying the services. If the services are supplied by more than one vendor, the ability to aggregate data will be that much more complicated.

Can bank identify depositors within a single legacy system?

Depositors can be identified in each of the legacy systems, including DDA and CDs, using CIF Number or Tax ID or Social Security Number subject to the limitations noted above.

Would *en masse* removal of holds, coupled with the placement of FDIC credits during the same cycle, raise operational issues?

Automated procedures would have to be developed to provide for the establishment of mass provisional holds on all accounts in which the combined amounts in the relationship exceed the amount of insurance. The use of the CIF Number would facilitate putting holds on at the account level but would require significant development. Activities would include but not be limited to identification of accounts where the ultimate owner(s) of the balances is not readily attainable, to limit withdrawal activity for deposit applications that do not provide for the placing of holds including Trust, and to extract and format data from all deposit applications to allow for the customer level assessment of insured liability.

It might be appropriate for the FDIC to assign priorities to information-gathering activities based on the accessibility of insured deposits by the depositor. Processing for accounts in products where ownership is not readily determined - see examples above - or that are not accessible on demand such as interest bearing accounts with seven-day notice of withdrawal periods and trusts could be assigned a lower priority. DDA accounts where ownership can be determined might receive a higher priority.

Should the FDIC specify depositor ID “format” or should the bank determine specs?

Since all processing will be done at bank level - no cross bank processing - we strongly recommend that the FDIC allow for the use of a unique customer identifier at the bank level. The FDIC should be able to specify a field size that is large enough for any bank's unique identifier but allow the bank to populate the field with its unique CIF Number. See cost and timing concerns noted above.

Should large institutions be encouraged or required to know the insurance status for each new account opened and/or notify the customer of this status?

Most banks provide customers with some form of rules at the time that new account opening. Union Bank's customer information addresses FDIC insurance and includes references to FDIC brochures, FDIC phone numbers, and FDIC website addresses that can be accessed to determine the amount of insurance provided to individual customers. Requesting that a bank opine on the status of a customer's insurance status at a point in time would not be of value because that status can change every bank processing day.

Is eighteen (18) months sufficient to implement these changes?

The adequacy of an 18-month period to implement these changes cannot be addressed until more specific requirements and resource availability can be considered. We believe the effort would be large. The use of each bank's Customer ID Numbers as the unique identifier would improve the likelihood of an 18-month implementation period. A new or different identifier would create significant delays because of the activities required to develop and implement a new code.

Note other issues where information was not requested.

One area that does not appear to be addressed in the request-for-comment document is the treatment of capabilities that could impact credit extensions or authorize withdrawals on the day of closure or after the close of business on the day of bank closure. These capabilities would include automated credit extensions from established credit applications - Cash Reserve, Loan Sweep, automated withdrawals from related DDA or Savings Accounts to cover overdrafts, Automated Sweep Services that move balances to uninsured repositories that are maintained on or off the balance sheet of the bank, stand-in processing by ATM System network providers, pre- authorized EFT or POS pending transactions, and automated pay into OD processes -NSF/OD Matrix or Pay all debits routines. If these activities are not dealt with before the close of business on the last business day for the failed bank, the determination of the insured balance as of the close of business could be impacted.