



May 5, 2019

Via Electronic Submission (comments@fdic.gov)

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

RE: 12 CFR Part 330 Proposed Rule Changes / RIN 3064-AF04

Dear Sir,

First, we want to thank the FDIC for hearing the concerns of the Covered Institutions (CIs) regarding workability issues of FDIC Ruling Parts 330 and 370. We feel that the proposed changes are a good step towards a more workable approach to meeting the goal of 370 for a timely insurance determination while considering the burden placed on the CIs to comply.

This letter will aim to answer the FDIC's "request for comment" questions relating to the changes proposed for FDIC Ruling Part 330, specifically regarding joint account signature card requirements. BMO Harris Bank N.A. (the "Bank") is generally in agreement with the proposed changes, but has more specifically answered the FDIC's proposed questions below as it relates to the Bank's operations.

- 1) *Can IDIs, including IDIs that rely on deposit account systems designed or maintained by third-party vendors, obtain information on account usage or access by the co-owners of an account?*

Our Response:

In some instances, specifically if the transaction is made using online banking, automated telephone banking, or a debit card for a point of sale or ATM transaction, we can obtain information regarding account usage by owner. However, for a check, the system would not readily have available information as to which account owner wrote the check. Likewise, though branch staff verifies that the customer is an authorized owner of the account, we currently have no systematic way to capture which owner conducted the transaction at a branch, as the transaction is completed in the system at the "account level", not at the "customer level".

- 2) *Would the proposed rule sufficiently address satisfaction of the signature card requirement through electronic methods, given the variety of account opening procedures used by IDIs? If not, what clarifications or changes are necessary?*

Our Response:

Yes, we believe that the proposed rule accomplishes allowing IDIs to satisfy the signature card requirement through electronic means.

- 3) *Is any data available concerning the cost or effort that might be required for IDIs to obtain deposit account signature cards for co-owners where a signature card is currently not available in the deposit account records of the IDI?*

Our Response:

In order to evaluate the completeness of joint signature cards, a bank can manually or electronically review signature cards. The effort for a bank to manually review signature cards is undetermined but could be substantial based on the number of accounts at the bank, whether the signature cards are in paper or electronic format, where paper signature cards are stored, and the number of full time employees needed to review each signature card.

In order for the Bank to electronically review signature cards, we have confirmed that we would have to build and configure an Optical Character Reader (OCR) to scan all of our digitally imaged signature cards and identify where we are missing a signature. The cost of building and configuring this OCR is roughly \$275,000. Once the signature card evaluation is complete, we would then have to analyze the accounts missing signatures to identify which accounts have otherwise satisfied the signature card requirement in accordance with the proposed changes. In the end, we anticipate still having a group of joint account customers who do not satisfy the signature card requirement. We will need to conduct outreach to those customers at an additional unknown cost, with an expected response rate of only 25% or less.

- 4) *How should the FDIC approach ensuring that a depositor does not use another person's personally identifiable information to establish a deposit account without the other person's knowledge simply to increase deposit insurance coverage?*

Our Response:

The nature of a joint account provides that both owners have the same rights to the account. That means that both owners can withdraw all the funds or close the account without approval from the other owners. Therefore we do not believe this to be a valid concern, seeing as it would be very risky to add a co-owner just to increase deposit insurance coverage, when that co-owner could close out the account at their sole discretion.

- 5) *Are there any additional factors that the FDIC should consider in determining whether the alternatives to the proposed rule described above would better satisfy the agency's policy objectives of reducing regulatory burden and promoting the prompt payment of deposit insurance consistent with the FDI Act in the event of an IDI's failure?*

Our Response:

Yes, the FDIC should consider additional factors that may particularly impact “aged” or inactive accounts.

The FDIC should consider clarifying the requirements for a transaction to qualify as evidencing usage of a deposit account. For example, clarification is needed around whether a transaction satisfies the signature card requirement when the transaction is “dated” such that the Bank no longer retains evidence of the transaction on its account activity records.

Additionally, the FDIC should consider providing clarification around IDIs providing evidence that they have issued a mechanism for accessing the account including timing of issuance of the access device. For example, if an access device was issued but has expired and no replacement was issued, the FDIC should provide clarification as to whether the original issuance of an access device satisfies the signature card requirement. Examples of access devices may include debit cards and online or automated telephone banking system usernames and passwords.

Finally, we would like to note that the proposed changes, though providing more options to meet the requirements of Rule 330, are still a net increase in the work the Bank must perform to analyze the joint account population. However, we anticipate that these changes will decrease the impact to customers and minimize the number of joint account owners we would need to contact.

- 6) *Are there other alternatives that the FDIC should consider that would better satisfy those objectives?*

Our Response:

We propose that the ruling should be further clarified to allow for other means of proving access to a joint account, including having automated telephone banking and online banking access. Online banking access is distinguishable by owner based on the owner's unique user name and password. Not all joint accounts choose to have online banking access, and not all have debit cards. Additionally, savings accounts do not typically come with a debit card. Specifically including automated telephone banking and online banking access as a means of satisfying the signature card requirement, similar to debit card issuance and transactional history, would help us evaluate joint accounts to minimize the number of accounts that may require remediation/customer outreach and decrease the impact to customers.

One key question we have is around the spirit of the requirement. Is the spirit of the joint account requirement to ensure a customer knows their account is designated as a joint account, or is it to confirm that all owners have the same equal rights to the account? If it's the latter, then the proposed rule should be revised to provide for system coding to be sufficient evidence of a joint account.

At our Bank when customers open a joint account, they must provide personally identifiable information for all owners of the account. The account is given an internal system "relationship code" of "JNT" which stands for joint. That relationship code dictates the type of access the owners of the account have. In the case of a JNT relationship code, all parties listed as owners on the account have equal access rights to the account. The relationship code is how we identify the population of joint accounts. This coding should be sufficient evidence that the customers intended to open an account as a joint account as it is based on all owners' information at account opening.

If the spirit of the proposed changes is to ensure that customers know they are joint account owners, we propose another option to satisfy the signature card requirement. That option would be to communicate with those joint account customers for whom we do not have evidence of joint access to ensure they are aware that they are joint account owners. For example, we could highlight to the customer that they have a joint account and provide the customer with information regarding how they can sign up for online banking access. By doing so, the customer is made aware they have joint ownership rights but it is up to them to take the next step to initiate account access via online banking, or contact the Bank to get the account type changed.

7) Does the proposed rule minimize the potential for depositor confusion over the requirements for joint accounts?

Our Response:

We believe the proposed rule provides more options for the joint account requirements but the clarifications and recommendations described above should be considered to minimize potential depositor confusion. Without these changes, we believe that customers may be confused or concerned upon the receipt of communications from the Bank requesting missing signature card information.

The Bank suggests, and respectfully requests, that the FDIC amend Rule 330 by incorporating the additional clarifications and recommendations stated above into the published proposal.

Thank you once again for the opportunity to provide input on this important matter. Please do not hesitate to contact me if you have any questions or would like to discuss the above.

Sincerely,



Daniela O'Leary-Gill
Chief Operating Officer
BMO Financial Corp.