

Banking Provisions in the National Defense Authorization Act for Fiscal Year 2023

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The James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (NDAA; H.R. 7776, as passed by the Senate in December 2022) contains a few provisions relevant to the financial system. This Insight provides an overview of those provisions most pertinent to domestic banking regulation.

Title LVII—Financial Services Matters

Title LVII pertains to financial services and there are two provisions that impact the banking system.

Bank Hiring Practices

[Section 19 of the Federal Deposit Insurance Act](#) (12 U.S.C. §1829) prohibits, without the prior consent of the Federal Deposit Insurance Corporation (FDIC), any person from working in banking who has been convicted of a crime of dishonesty or breach of trust or money laundering, or who has entered a pretrial diversion or similar program in connection with the prosecution of such an offense. An individual or bank can seek an exception by filing an application with the FDIC. In 2020, the [FDIC issued a rule](#) to revise and codify its policy on Section 19. Under the rule, an individual whose covered offense has been expunged is exempt from needing to file an application. The rule also raised the minimum standards for certain offenses to require an application and reduces the time individuals with certain offenses have to wait to apply.

Section 5705 of Title LVII of the FY2023 NDAA would amend Section 19 to create further exceptions. (This section is based on H.R. 5911, the Fair Hiring in Banking Act, passed by the House in May 2022.) Specifically, an individual would not need to apply for an exception if the offense occurred seven or more years ago or if the individual was incarcerated and released from incarceration five or more years ago. Similarly, for offenses committed by individuals 21 years or younger, exceptions would not be needed 30 months after sentencing. Further, individuals with expunged or sealed records would not need to apply for an exception under Section 19. The provision would also establish new minimum standards under which exceptions would not be necessary. Finally, the provision would require the FDIC to coordinate with the

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National Credit Union Administration to promote consistent implementation of the exceptions among the credit union system.

Master Accounts

Payments between end users (such as customers and merchants) with different banks using different payment systems can be completed because [master accounts](#) are connected to each other at the Federal Reserve (Fed). Customer payments are aggregated and netted by banks, which can then debit and credit each other's master accounts through wholesale payment systems, where they are cleared and settled.

Institutions must apply to the Fed to receive master accounts. These applications have [typically been approved quickly](#) for traditional banks, but some nontraditional applicants have reportedly faced delays. Payment firms can also obtain master accounts to access wholesale payment systems and related Fed payment services by being approved for bank charters. Once approved for a bank charter, a payment firm can complete such payments without needing an intermediary.

Financial technology ([fintech](#)) has led to innovation in retail payments by both traditional banks and fintech firms. Although these fintech firms do not necessarily provide traditional banking services besides payment, some have sought—and some of those have been granted—state or federal bank charters. More recently, [cryptocurrency firms with state bank charters](#) have applied for master accounts to more seamlessly transact between crypto and official currency. The growing number of nontraditional applicants has raised policy questions about who is and who should be eligible for master accounts, how transparent the application process should be, and what safeguards the Fed should impose on firms with master accounts. Both guidance from the Fed and portions of the FY2023 NDAA seek to clarify these questions.

The Fed issued [final guidance](#) in August 2022 explaining how it would evaluate master account applications. According to the Fed, the guidance would make the application process more transparent and ensure that applications from nontraditional institutions were treated consistently among the 12 regional Federal Reserve banks. Further, in November 2022, the [Fed proposed to begin publicly disclosing institutions with master accounts on a quarterly basis](#).

Section 5708 of Title LVII of the FY2023 NDAA would require the Fed to create and maintain a public database of institutions that have access to master accounts as well as entities that have requested access to one. The database would be required to be updated quarterly and include the status of any pending requests for access.

Title LVIII—Financial Data Transparency

Bank regulators collect and publish industry data each quarter. For example, regulators publish [Call Reports and Uniform Bank Performance Reports](#), which detail the financial condition of each banking institution. Regulators collect similar data for bank holding companies in the form of [Y9-C reports](#). In addition, regulators maintain public databases of various information on each bank, and the Consumer Financial Protection Bureau keeps records of information such as complaints filed against financial institutions, as well as data on consumer lending and other consumer financial activity.

Title LVIII, based on H.R. 2989, the Financial Transparency Act of 2021, would require all federal financial regulators—both bank regulators and regulators of nonbank financial institutions and activities—to adopt open-source data standards by jointly issuing proposed rules within 18 months of enactment and final rules no later than two years from enactment. While this requirement applies to all financial system regulators, it may have a significant impact on the way that bank data are collected. For instance, various bank regulators have their own identification schemes for the institutions they collect

data on. Title LVIII would require the use of common identifiers for collections of information and would require data to be “made available as an [open Government data asset](#);... freely available for download; rendered in a human-readable format; and accessible via application programming interface where appropriate.”

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