



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** · COMMISSIONER **Clothilde V. Hewlett**

February 6, 2023

CalAccount Blue Ribbon Commission
915 Capitol Mall, Room 110
Sacramento, CA 95814

Re: Market Analysis of the CalAccount Program

Dear CalAccount Blue Ribbon Commission:

As you know, CalAccount Blue Ribbon Commission is required to conduct and deliver market analysis to determine if it is feasible to implement a CalAccount Program. The purpose of this letter is to provide recommendations of specific areas that should be explored as part of the market analysis.

Background

Department of Financial Protection and Innovation

The Department of Financial Protection and Innovation (Department) provides protection to consumers and services to businesses engaged in financial transactions. The Department regulates a variety of financial services, products and professionals. Among other things, the Department oversees the operations of state-licensed financial institutions, including banks, credit unions, money transmitters, issuers of payment instruments and travelers' checks, and premium finance companies.

CalAccount Market Analysis

Government Code section 100104, subdivision (c) specifies 12 areas that the market analysis should address:

- (1) The number of potential accountholders.
- (2) The availability of qualified participating depository financial institutions.
- (3) Potential accountholders' comfort with various banking products.
- (4) How individuals without federal or state photo identification can participate.
- (5) Potential CalAccount Program revenue streams.
- (6) The presence and effectiveness of private sector or nonprofit competitors to the CalAccount Program.
- (7) State fiscal risk from the CalAccount Program during economic downturns or economic shocks.

- (8) Any other factor the commission deems relevant to making the feasibility determination pursuant to paragraph (1) of subdivision (a).
- (9) The risks and costs of the CalAccount Program.
- (10) The expected effectiveness and scalability of the CalAccount Program.
- (11) The likely impact of the CalAccount Program on existing California depository institutions.
- (12) (a) The existence of possible financial services network administrators.
(b) If any possibilities include an out-of-state entity, the anticipated impact on California consumers, businesses, and financial institutions and how an out-of-state financial services network administrator could or should be regulated.

Discussion

Based on the Department's experience regulating financial institutions, we recommend that when the market analysis is conducted to explore the specific areas required under Government Code section 100104, subdivision (c), it address the following issues:

1. The number of potential accountholders. (Government Code § 100104, subd. (c)(1)

According to the FDIC's *How America Banks: 2019 Results*, between 2017 and 2019, the unbanked rate fell by 1.1 percentage points (about 1.5 million households) and notes the obstacles unbanked customers face. The market analysis should consider the number of potential customers and evaluate how the CalAccount Program might overcome obstacles noted in the research to sign up customers.

2. The availability of qualified participating depository financial institutions. (Government Code § 100104, subd. (c)(2).)

To better understand what characteristics a depository financial institution should have in order to participate in the CalAccount Program, the market analysis should consider the following:

- Do current state and federal laws provide sufficient authority for respective credit unions to admit members for purposes of establishing a CalAccount?
- Would participating depository financial institutions already need to have a "robust and geographically expansive financial services network of partners"?¹

¹ See Gov. Code, § 100104, subd.(a)(1)(M)(iv)

3. How individuals without federal or state photo identification can participate. (Government Code § 100104, subd. (c)(4).)

Government Code section 100104, subdivision (a)(1)(K)(i) states that the CalAccount program would allow individuals without federal or state government-issued photo identification to open a CalAccount. The market analysis should be sure to consider the federal Anti-Money Laundering requirements to which banks and credit unions are subject. For example, banks and credit unions are required to have an anti-money laundering compliance program, which includes implementing a written Customer Identification Program (CIP) appropriate for the institution's size and complexity.² The CIP must include reasonable and practicable risk-based procedures for verifying the true identity of each customer. Minimum account opening procedures must include obtaining identifying information from each customer that includes:

- Name
- Date of birth
- Address (residential or business, APO or FPO)
- Identification number (SSN or other taxpayer identification number, passport number and country of issuance, alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard)

The CIP must include procedures for verifying the customer's identity through either documentary means (e.g. unexpired government-issued identification evidencing nationality or residence, bearing a photograph of similar safeguard—driver's license or passport) or non-documentary methods which must address situations where an individual is unable to present an unexpired government-issued identification document bearing a photograph (e.g. comparing information provided by the customer with information obtained in another manner, for example, from a credit reporting agency, public database or other source.)

It is likely that most participating depository financial institutions' CIP require some type of government-issued photo identification. Because the CalAccount Program requires participating depository financial institutions to allow individuals to open accounts without federal or state government-issued photo identification, the market analysis should address how an institution could change their CIP in a manner that would satisfy the requirements of not only the CalAccount Program, but also federal AML requirements, and also in a way that would minimize its risk of regulatory enforcement, fines, or legal action (e.g. whether the participating depository financial institutions can accept photo identification issued by municipalities).

² See 31 C.F.R. § 1020.220

4. Any other factor the commission deems relevant to making the feasibility determination (Government Code § 100104, subd. (c)(8).)

In determining the feasibility of implementing a CalAccount Program, the market analysis could consider factors similar to those considered when the Department reviews an application for a new bank or trust company. For example, based on the requirements of Financial Code sections 1022 and 1023, the analysis could evaluate the following factors:

- The program has a reasonable promise of success.
- The program capital structure or revenue streams are adequate.
- Those implementing the program have reasonable experience and ability to afford reasonable promise of successful operation (i.e. they will be able to successfully execute the business plan).
- Appropriate market analysis indicates there is a need for this particular program (or are existing programs adequate).

The market analysis could also consider whether alternative programs already exist that could allow the State to accomplish the same or similar goals. For example, the City of Los Angeles partnered with MoCaFi to offer the Angeleno Connect bank account and debit Mastercard.³ Some of the benefits advertised include early direct deposit, no-fee ATM access, and no-fee cash deposits at certain ATMs. Additionally, rental payments from the bank account are eligible to be reported by credit agencies, allowing the customer a way to boost their credit score with positive payment history.

5. The risks and costs of the CalAccount Program. (Government Code § 100104, subd. (c)(9).)

Impact on participating depository financial institutions.

Along with the benefits of serving additional customers, depository financial institutions could face some risks and costs by participating in the CalAccount Program. The market analysis should identify as many of these potential risks and costs as possible, which could then help determine ways to minimize the impact on participating depository financial institutions. For example, the market analysis should look at:

- Whether deposits can be used by the participating depository financial institutions in the same manner as the institution's current customer's deposits (e.g. for loans to others, etc.).⁴
- What, if any, fraud and abuse controls, or other requirements, would be expected from the participating depository financial institutions.

³ <https://www.angelenoconnectbankaccount.com/>

⁴ See Fin. Code, § 100104, subd. (a)(1)(N), (a)(3)(A), and (c)(5).

- Who would bear the financial burden for mitigating fraud and abuse.
- Whether the participating depository financial institutions would be required to maintain a certain number of ATMs or branches, or if these would need to be in specific geographic areas.
- Ways to minimize the risk of overdrafts on an account if the institution cannot impose overdraft fees.

In addition, the market analysis should look at whether any of the administrative costs associated with this program could be shared by the State. For example, the market analysis could look at loan programs for businesses administered by California state entities to see if some costs are shared by the State.

6. The expected effectiveness and scalability of the CalAccount Program. (Government Code § 100104, subd. (c)(10).)

When determining the expected effectiveness, the market analysis should look at the expected benefits to the accountholders of this program. The market analysis could estimate the savings available to consumers, including those receiving public benefits or wages through paper warrants, who open a CalAccount as opposed to the use of check cashers. As another example, the market analysis could look at how this program could help build credit for accountholders.

The market analysis should look to other similar programs to evaluate the expected effectiveness of the CalAccount Program. For example, the CalAccount Program is similar to the Bank On program, currently administered by Cities for Financial Empowerment (CFE) Fund. CFE Fund's Bank On National Account Standards provide local programs with a benchmark for fundamental requirements for accounts and partnerships with banks and credit unions. According to the American Bankers Association (ABA), in 2021 Bank On accounts were accessible to 94.8% of low- and moderate-income US households.

The market analysis should also consider whether the effectiveness of the CalAccount Program depends on certain characteristics of the participating financial institutions. For example, should the financial institutions have branches or ATMs in specific parts of the state? Do they offer a way for a CalAccount customer to access funds if the customer does not have access to a computer? Does the financial institution perform credit checks in a way that mitigates the risk for discrimination/implicit bias. Could those with a poor deposit account history still open an account at the financial institution?

Finally, the market analysis should address who would be regulating the various aspects of the CalAccount Program, if implemented. For example, if the participating depository financial institution is state-chartered, would the Department of Financial Protection and Innovation have additional responsibilities in examining the institution's activity as it specifically relates to its CalAccounts? If it is a federally chartered financial institution, or an out-of-state financial

institution, who performs those duties? Also, which entity would be responsible for determining whether the Program is no longer feasible?

7. The likely impact of the CalAccount Program on existing California depository institutions. (Government Code § 100104, subd. (c)(11).)

As currently contemplated, the CalAccount does not appear to have any criteria of who can become a CalAccount holder. The market analysis should estimate the number of customers who currently have an account with a financial institution that may choose to instead open a CalAccount.

Conclusion

There are several important points of consideration for the entity conducting the CalAccount Program market analysis. The Department is available to discuss these in further detail with the entity or the Commission.

If you have any questions, please feel free to contact DFPI Chief Deputy Chris Shultz at chris.shultz@dfpi.ca.gov.

Sincerely,



Clothilde V. Hewlett
Commissioner
Department of Financial Protection and Innovation