

Banking and Finance Law Daily Wrap Up, BANKING OPERATIONS—Fed, FRBKC ask Supreme Court to deny Custodia master-account review, (Oct. 22, 2026)

Banking and Finance Law Daily Wrap Up

By [John M. Pachkowski, J.D.](#)

Certiorari should be denied since there is no circuit conflict and a 2026 Second Circuit ruling likewise found discretion over master-account access.

The Federal Reserve Board and the Federal Reserve Bank of Kansas City (FRBKC) are asking the U.S. Supreme Court to deny Custodia Bank, Inc.'s petition for certiorari, arguing that 12 U.S.C. §342 gives Reserve Banks discretion, rather than an obligation, to grant master accounts.

Procedural path. Custodia is a Wyoming-chartered nonmember bank that serves digital-asset companies and applied to the Kansas City Reserve Bank for a master account. According to the Fed's brief, the Reserve Bank president denied the application after finding Custodia's business model posed unacceptable risks inconsistent with safe and sound banking practices. Custodia sued while the application was pending, initially seeking a decision, and later amended its complaint to seek an order compelling approval. A Wyoming federal district court granted summary judgment to the Fed and FRBKC, dismissing the Administrative Procedure Act claim against the Fed for lack of final agency action, and rejected Custodia's absolute-entitlement theory (see *Banking and Finance Law Daily*, [April 1, 2024](#)). A divided Tenth Circuit panel affirmed, holding that Section 342 grants discretion that 12 U.S.C. §248a does not override (see *Banking and Finance Law Daily*, [Nov. 3, 2025](#)). Subsequently, the Tenth Circuit denies an *en banc* rehearing. Custodia then filed its petition for certiorari in July 2026 (see *Banking and Finance Law Daily*, [July 16, 2026](#)).

Respondents' arguments. In their respondent briefs, both the [Fed](#) and [FRBKC](#) relied on Section 342's statement that a Reserve Bank "may receive" deposits. They say *Farmers & Merchants Bank v. Federal Reserve Bank*, 262 U.S. 649, 662 (1923), read that phrase as "words of authorization merely," not an obligation. They also argue that the Monetary Control Act preserved the discretionary wording while adding nonmember depository institutions to those eligible to seek access.

They also rejected Custodia's reliance on Section 248a(c)(2), characterizing it as a pricing and nondiscrimination provision governing the Fed's fee schedule rather than a command to open master accounts. The Fed noted that Section 248a(b)'s list of fee-schedule services does not include deposit-taking. The respondents also stressed that Congress made services available to nonmember institutions as a class but did not say they must be available to "all nonmember depository institutions."

Furthermore, the Fed and FRBKC also pointed to a 2022 amendment to the Federal Reserve Act, which requires the Fed to disclose whether master-account requests were approved, rejected, pending, or withdrawn. Because the reporting requirement covers institution types legally eligible to seek accounts, the Fed and FRBKC say Congress recognized that an eligible applicant's request still may be rejected.

The Fed also acknowledged that no circuit split has developed. It cites [Banco San Juan Internacional, Inc. v. Federal Reserve Bank](#), as agreeing that Reserve Banks possess discretion that Section 248a(c)(2) does not abridge. Both Fed and FRBKC also called the case a poor vehicle for review because Custodia pressed an absolute-entitlement theory below without challenging the reasons for the denial or alleging abuse of discretion. They say the Tenth Circuit

therefore had no occasion to define discretion's outer limits or resolve the reviewability of individual denials.

Finally, the FRBKC pointed to the Fed's proposed special-purpose Payment Accounts, which would support certain clearing and settlement activity without a full master account (see *Banking and Finance Law Daily*, [May 21, 2026](#)); and noted that that resulting changes could moot or materially reshape Custodia's dispute.

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Companies: Custodia Bank, Inc.

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