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FEDERAL RESERVE SYSTEM

12 CFR Part 209

[Regulation I; Docket No. R-1533]

RIN 7100-AE 47

Federal Reserve Bank Capital Stock

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim final rule with request for comment.

SUMMARY: The Board of Governors (Board) requests public comment on an interim final rule that amends Regulation I to establish procedures for payment of dividends by the Federal Reserve Banks (Reserve Banks) to implement the provisions of section 32203 of the “Fixing America's Surface Transportation Act.” The interim final rule sets out the dividend rates applicable to Reserve Bank depository institution stockholders and amends provisions of Regulation I regarding treatment of accrued dividends when a Reserve Bank issues or cancels Federal Reserve Bank capital stock.

DATES: This interim final rule is effective on [insert date of publication in the Federal Register]. Comments on the interim final rule must be received on or before April 29, 2016. Comments on the Paperwork Reduction Act burden estimates must be received on or before April 29, 2016.

ADDRESSES: When submitting comments, please consider submitting your comments by e-mail or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. R-1533, RIN 7100- AE 47, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.
- Fax: (202) 452-3819 or (202) 452-3102.
- Mail: Robert de V. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW. (between 18th and 19th Streets NW.), Washington, DC 20006 between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Evan Winerman, Counsel (202/872-7578), Legal Division; or Kimberly Zaikov, Financial Project Leader (202/452-2256), Reserve Bank Operations and Payments Systems Division. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263-4869.

SUPPLEMENTARY INFORMATION:

I. Overview

Regulation I governs the issuance and cancellation of capital stock by the Reserve Banks. Under section 5 of the Federal Reserve Act¹ and Regulation I,² a member bank must subscribe to capital stock of the Reserve Bank of its district in an amount equal to six percent of the member bank's capital and surplus. The member bank must pay for one-half of this subscription on the date that the Reserve Bank approves its application for capital stock, while the remaining half of the subscription shall be subject to call by the Board.³

On December 4, 2015, President Obama signed the "Fixing America's Surface Transportation Act" ("FAST Act").⁴ Section 32203 of the FAST Act amended the provisions of section 7(a)(1) of the Federal Reserve Act,⁵ which governs dividend payments to Reserve Bank stockholders. Until the FAST Act amendments to section 7(a)(1) became effective on January 1, 2016, all member banks were entitled to a six percent dividend on their paid-in capital stock.⁶ Section 7(a)(1) continues to provide for a six percent dividend for stockholders with \$10 billion or less in total consolidated assets, but now provides that stockholders with more than \$10 billion in

¹ 12 U.S.C. 287.

² 12 CFR 209.4(a).

³ 12 U.S.C. 287 and 12 CFR 209.4(c)(2).

⁴ Pub. L. No. 114-94, 129 Stat. 1312 (2015). See <https://www.congress.gov/114/bills/hr22/BILLS-114hr22enr.pdf/>.

⁵ 12 U.S.C. 289(a)(1).

⁶ Section 7(a)(1)(A) provided the following until January 1, 2016: "In General. After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock."

total consolidated assets shall receive a dividend on paid-in capital stock equal to the *lesser* of six percent and “the rate equal to the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of such dividend.” The FAST Act also added Section 7(a)(1)(C) to the Federal Reserve Act, which provides that the Board must adjust the \$10 billion threshold for total consolidated assets annually to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis.

Prior to the amendments published today, Regulation I did not address the timing of payment of dividends to Federal Reserve Bank stockholders (other than, as discussed below, the payment of *accrued* dividends when a Reserve Bank issues new stock or cancels existing stock). Before the enactment of the FAST Act, the Reserve Banks’ longstanding practice was to make dividend payments on paid-in capital stock each year on the last business days of June and December at the annualized rate of six percent (that is, a dividend payment of 3 percent twice per year). As discussed further below, the Board is amending Regulation I to implement the new dividend rate structure mandated by the FAST Act. The Reserve Banks will continue their practice of making semi-annual dividend payments, although at a new rate for larger institutions.

In addition, Regulation I contains provisions with respect to the treatment of accrued dividends when a Reserve Bank issues new stock or cancels existing stock. These Regulation I provisions implement portions of sections 5, 6, and 9 of the Federal Reserve Act, which were not amended by the FAST Act.⁷ Section 5 provides

⁷ 12 U.S.C. 287, 288, and 328.

that (1) when a Reserve Bank issues new shares to a stockholder, the stockholder must pay the Reserve Bank for accrued dividends at a monthly rate of one-half of one percent from the last dividend and, correspondingly, (2) when a stockholder reduces or liquidates its holding of Reserve Bank stock, the Reserve Bank must pay the stockholder for accrued dividends at a monthly rate of one-half of one percent from the last dividend. Similarly, sections 6 and 9(10) of the Federal Reserve Act state that, when a member bank becomes insolvent or voluntarily withdraws from Reserve Bank membership, the Reserve Bank shall pay accrued dividends on the bank's cancelled stock at a monthly rate of one-half of one percent. Prior to the amendments published today, Regulation I adopted the approach described in sections 5, 6, and 9(10) of the Federal Reserve Act, providing in § 209.4(d) and 209.4(e)(1) that dividends for subscriptions to, and cancellations of, Reserve Bank stock shall accrue at a monthly rate of one-half of one percent. As discussed below, the interim final rule adjusts the accrued dividend rates for larger institutions to be consistent with the rate adopted in the FAST Act.

II. Description of Interim Final Rule

A. Dividend Payment Rate

The interim final rule amends Regulation I to include a new paragraph, § 209.4(e), addressing the rate for dividend payments by the Reserve Banks. Section 209.4(e)(1)(i) implements the FAST Act provision requiring that banks with more than \$10 billion in total consolidated assets receive a dividend on their Reserve Bank capital stock at an annual rate of the lesser of six percent and the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of the

dividend. Section 209.4(e)(1)(ii) provides that banks with \$10 billion or less in total consolidated assets will continue to receive a dividend at an annual rate of six percent. Section 209.4(e)(3) provides that dividends are cumulative.⁸

Section 209.4(e)(2) provides that each dividend “will be adjusted to reflect the period from the last dividend payment date to the current dividend payment date according to the dividend proration basis.” Section 209.1(d)(2) in turn defines “dividend proration basis” as “the use of a 360-day year of 12 30-day months for purposes of computing dividend payments.” Thus, under the interim final rule, a semi-annual dividend payment to a stockholder with \$10 billion or less in total consolidated assets would continue to be calculated as three percent of paid-in capital. A semi-annual dividend payment to a stockholder with more than \$10 billion in total consolidated assets would be calculated as the lesser of three percent or one-half of the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of the dividend.

B. Payment of Accrued Dividends for Subscriptions to Reserve Bank Stock

As discussed above, section 5 of the Federal Reserve Act provides that, when a stockholder subscribes to new capital stock, it must pay for accrued dividends on that new stock at a monthly rate of one-half of one percent from the last dividend (*i.e.*, a monthly rate derived from a six percent annual rate). Prior to the amendments published today, Regulation I adopted the same approach in § 209.4(d). This requirement ensures that the stockholder will not be overcompensated at the next dividend payment, because the stockholder has paid in advance for the portion of the

⁸ Section 7(a)(1)(B) of the Federal Reserve Act, 12 U.S.C. 289(a)(1)(B), states that “[t]he entitlement to dividends . . . shall be cumulative.”

stockholder's next dividend payment attributable to the period for which the member bank did not own the stock.

Although section 5 of the Federal Reserve Act continues to provide that a stockholder should pay for accrued dividends at a monthly rate of one-half of one percent from the last dividend, section 7 of the Federal Reserve Act now provides that stockholders with more than \$10 billion in total consolidated assets will receive an annual dividend at the lesser of six percent and the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of the dividend. Applying sections 5 and 7 literally could cause a larger stockholder to overpay for accrued dividends if it paid at a rate based on a six percent annual rate but received its next dividend payment at an annual rate *below* six percent (assuming the high yield of the 10-year Treasury note at the applicable auction was below six percent).

The Board believes that, when a stockholder with more than \$10 billion in total consolidated assets subscribes to additional Reserve Bank capital stock, the best way to reconcile the conflict between sections 5 and 7 of the Federal Reserve Act is to require the stockholder to pay for accrued dividends at an annual rate of the lesser of six percent and the high yield of the 10-year Treasury note auctioned at the last auction held prior to the previous dividend payment date (that is, the rate used for the previous dividend payment to stockholders with more than \$10 billion in total consolidated assets), prorated to cover the period between the last dividend payment date and the date of subscription. This approach would allow a larger stockholder to pay for accrued dividends at a rate that is generally close to the dividend rate the stockholder will earn at the next dividend payment. This approach also resolves the

statutory conflict in favor of giving effect to the most recent Congressional act regarding the payment of dividends as provided in the FAST Act. Accordingly, the interim final rule adopts this approach in § 209.4(c)(1)(ii)(A). Conversely, § 209.4(c)(1)(ii)(B) provides that stockholders with \$10 billion or less in total consolidated assets will continue to pay for accrued dividends at an annual rate of six percent (prorated to cover the period between the last dividend payment date and the date of subscription), as those stockholders will continue to receive a six percent annual dividend.

The interim final rule provides at § 209.4(c)(3) for an adjustment at the next annual dividend if a stockholder pays for accrued dividends at a rate that is different from the annualized rate that the stockholder ultimately receives at the next scheduled dividend payment date. This adjustment would equal the difference between the accrued dividends the stockholder paid for the additional subscription and the portion of the next dividend payment attributable to that additional subscription, prorated to cover the period from the last dividend payment date to the subscription date.⁹

C. Payment of Accrued Dividends for Cancellations of Reserve Bank Stock

⁹ For example, if a stockholder pays for three months of accrued dividends on \$1,000 of stock at a prorated 0.2% monthly rate (derived from a 2.4% annual rate at the last auction held prior to the previous dividend), and the stockholder ultimately receives its next dividend at a prorated 0.3% monthly rate (derived from a 3.6% annual rate at the last auction held prior to the next dividend), the Reserve Bank would reduce the stockholder's next dividend payment by the difference between (a) the accrued dividends that the stockholder paid on the date of subscription (i.e., $\$1,000 * (3 \text{ months}/12 \text{ months}) * 0.2\%$, or \$6) and (b) the dividend payment attributable to the stock subscription based on the rate from last auction held prior to the next dividend payment date (i.e., $\$1,000 * (3 \text{ months}/12 \text{ months}) * 0.3\%$, or \$9). The Reserve Bank would therefore reduce the stockholder's next dividend payment by \$3. Conversely, if the same stockholder paid for accrued dividends at a 0.3% monthly rate but then received its next dividend at a 0.2% monthly rate, the Reserve Bank would increase the stockholder's next dividend payment by \$3.

As discussed above, three provisions of the Federal Reserve Act (sections 5, 6, and 9(10)) state that, when a Reserve Bank cancels stock, the Reserve Bank shall pay the stockholder for accrued dividends at a monthly rate of one-half of one percent from the last dividend (*i.e.*, a monthly rate derived from a six percent annual rate). Prior to the amendments published today, Regulation I adopted the same approach in § 209.4(e)(1). These provisions of the Federal Reserve Act and Regulation I now conflict with section 7 of the Federal Reserve Act, which provides (following passage of the FAST Act) that stockholders with more than \$10 billion in total consolidated assets will receive an annual dividend at the lesser of six percent and the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of the dividend.

The Board believes that, when a Reserve Bank cancels stock held by a stockholder with more than \$10 billion in total consolidated assets, the best way to reconcile sections 5, 6, and 9(10) of the Federal Reserve Act with section 7 of the Federal Reserve Act is to require the Reserve Bank to pay the stockholder for accrued dividends at an annual rate of the lesser of six percent and the high yield of the 10-year Treasury note auctioned at the last auction held prior to the date of cancellation, prorated to cover the period between the last dividend payment date and the date of cancellation. As noted above, this approach also resolves the statutory conflict between sections 5, 6, and 9(10), on the one hand, and section 7 on the other, in favor of the most recent Congressional act regarding dividends expressed in the FAST Act. Accordingly, the interim final rule adopts this approach in § 209.4(d)(1)(ii)(A). Conversely, § 209.4(d)(1)(ii)(B) provides that, when a Reserve Bank cancels stock of

a stockholder with \$10 billion or less in total consolidated assets, the Reserve Bank will pay the stockholder for accrued dividends at an annual rate of six percent (prorated to cover the period between the last dividend payment date and the date of cancellation), as those stockholders will continue to receive a six percent annual dividend.

D. Total Consolidated Assets: Definition and Inflation Adjustment

The dividend rate to which a stockholder is entitled under Section 7 of the Federal Reserve Act (as amended by the FAST Act) depends on the stockholder's "total consolidated assets." The interim final rule amends Regulation I to include a new paragraph, § 209.1(d)(3), that generally defines total consolidated assets by reference to total assets reported on the stockholder's most recent December 31 Consolidated Report of Condition and Income (Call Report).¹⁰ The only exceptions to this approach are that, when a bank joins the Federal Reserve System or when a member bank merges with another entity and the surviving bank continues to be a Reserve Bank stockholder, the new member bank or the surviving bank must report whether its total consolidated assets exceed \$10 billion in its application for capital stock. To that end, the interim final rule amends § 209.2(a) to require that a bank seeking to join the Federal Reserve System report whether its total consolidated assets exceed \$10 billion in its application for capital stock. Similarly, the interim final rule adds a new paragraph, § 209.3(d)(3), that requires a surviving bank to report whether its total consolidated assets exceed \$10 billion when it submits its next application for additional capital stock.

¹⁰ The Board has also moved, without revision, the definition of "capital stock and surplus" to the definitions in new § 209.1(d).

Section 7(a)(1)(C) of the Federal Reserve Act (added by the FAST Act) requires that the Board make an annual inflation adjustment to the total consolidated asset threshold that determines the dividend rate to which a Reserve Bank is entitled. The interim final rule implements this provision at § 209.4(f). The Board expects to make this adjustment using the final second quarter estimate of the Gross Domestic Product Price Index for each year, published by the Bureau of Economic Analysis.

III. Effective Date; Solicitation of Comments

This interim final rule is effective immediately. Pursuant to the Administrative Procedure Act (APA), at 5 U.S.C. 553(b)(B), notice and comment are not required prior to the issuance of a final rule if an agency, for good cause, finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹¹ Similarly, a final rule may be published with an immediate effective date if an agency finds good cause and publishes such with the final rule.¹²

Consistent with section 553(b)(B) of the APA, the Board finds that there is good cause to issue this rule as an interim final rule because the rule is necessary to provide immediate guidance to the Reserve Banks regarding the issuance and cancellation of stock, which are governed by the provisions of the FAST Act that became effective on January 1, 2016. The Board finds that obtaining notice and comment prior to issuing the interim final rule would be impracticable and contrary to

¹¹ 5 U.S.C. 553(b)(B).

¹² 5 U.S.C. 553(d)(3).

the public interest. The Board finds for the same reasons that there is good cause to publish the interim final rule with an immediate effective date.

Although notice and comment are not required prior to the effective date of this interim final rule, the Board believes that public comment on how it implements the FAST Act could help improve that implementation. Consequently, the Board invites comment on all aspects of this rulemaking and will review those comments before adopting a final rule.

IV. Regulatory Analysis

A. Regulatory Flexibility Act Analysis

In accordance with section 4 of the Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601 et seq., the Board is publishing an initial regulatory flexibility analysis for the interim final rule. The RFA generally requires an agency to assess the impact a rule is expected to have on small entities. Under size standards established by the Small Business Administration, banks and other depository institutions are considered “small” if they have less than \$550 million in assets.¹³ The RFA requires an agency either to provide a regulatory flexibility analysis or to certify that the interim final rule will not have a significant economic impact on a substantial number of small entities.

The interim final rule implements amended provisions of the Federal Reserve Act providing that Reserve Bank stockholders with more than \$10 billion in total consolidated assets will receive a dividend at an annual rate equal to the lower of six percent and the high yield of the 10-year Treasury note auctioned at the last auction

¹³ 13 CFR 121.201.

held prior to the payment of such dividend (with such dividend prorated to cover the period between the last dividend payment date and the current dividend payment date). The interim final rule also provides that, if a Reserve Bank cancels stock of a stockholder with more than \$10 billion in total consolidated assets, the Reserve Bank will pay the stockholder accrued dividends at an annual rate of the lesser of six percent and the high yield of the most recent 10-year Treasury note auction held prior to the date of cancellation, prorated to cover the period between the last dividend payment date and the cancellation date. Finally, the interim final rule provides that, if a Reserve Bank issues new stock to a stockholder with more than \$10 billion in total consolidated assets, the stockholder will pay accrued dividends on such stock at an annual rate of the lesser of six percent and the high yield of the most recent 10-year Treasury note auction held prior to the previous dividend payment date (prorated to cover the period between the last dividend payment date and the subscription date). The next regular dividend payment to that stockholder would be adjusted to account for the difference between the rate at which the stockholder paid for accrued dividends and the rate at which the stockholder receives the regular dividend payment.

Under the interim final rule, Reserve Bank stockholders with \$10 billion or less in total consolidated assets will continue to receive a dividend on their Reserve Bank stock at an annual rate of six percent (prorated to cover the period between the last dividend payment and the current dividend payment). If a Reserve Bank issues new stock to, or cancels existing stock of, a stockholder with \$10 billion or less in total consolidated assets, the stockholder or the Reserve Bank would (respectively)

continue to pay accrued dividends on such stock at an annual rate of six percent (prorated to cover the period between the last dividend payment date and the subscription date or the cancellation date). Additionally, the interim final rule continues to allow Reserve Banks to pay dividends semiannually to all stockholders, including banks with \$10 billion or less in total consolidated assets.

The only new requirement that the interim final rule imposes on stockholders with \$10 billion or less in total consolidated assets is that such a stockholder must report whether its total consolidated assets exceed \$10 billion when the stockholder applies for (1) new capital stock upon joining the Federal Reserve System or (2) additional capital stock upon merging with another entity. Excluding these two situations, a Reserve Bank will determine the total consolidated assets of all stockholders by reference to the stockholder's most recent December 31 Call Report. The interim final rule requires the Board to make an annual inflation adjustment to the \$10 billion total consolidated asset threshold.

As noted above, a depository institution is "small" for purposes of the RFA if it has less than \$550 million of assets. The only effect of the interim final rule on stockholders with less than \$550 million of assets is to require such stockholders to report whether their total consolidated assets exceed \$10 billion when they join the Federal Reserve System or merge with another entity. These reporting requirements will have a minimal economic impact on stockholders that are small entities. The Board expects that existing banks and banks that are in the process of organization can readily calculate their total consolidated assets. The Board currently requires that a bank file an application form with the Reserve Bank in whose district it is

located if the bank wishes to join the Federal Reserve System or if the bank must increase or decrease its holding of Reserve Bank stock.¹⁴ The Board will revise these forms to require that, when a bank applies for membership or applies for new stock after merging with another entity, the bank report whether its total consolidated assets exceed \$10 billion.

The RFA requires a description of any significant alternatives that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the rule on small entities. In this circumstance, there is no feasible alternative to requiring that a bank in the process of organization report whether its total consolidated assets exceed \$10 billion when it applies to join the System, because such banks will not have filed a Call Report before applying for membership. With respect to measuring the total consolidated assets of a surviving bank after a merger, the Reserve Banks could alternatively (1) refer to the total assets reported by the surviving bank on its most recent December 31 Call Report or (2) add the total assets of the surviving bank and the nonsurviving bank as reported on each bank's most recent December 31 Call Report. These alternative approaches to measuring total consolidated assets in the merger context would reduce the reporting burden on small entities, but they would not provide timely and accurate notice to a Reserve Bank of whether a merger has caused a surviving bank's total consolidated assets to exceed \$10 billion. The Board believes that requiring surviving banks to

¹⁴ See FR 2030 (application for capital stock for organizing national banks); FR 2030A (application for capital stock for nonmember state banks that are converting to national banks); FR 2083A (application for capital stock by state banks (except mutual savings banks) and national banks that are converting to state banks); FR 2083B (application for capital stock by mutual savings banks); FR 2056 (application for adjustment in holding of Reserve Bank stock).

report whether total consolidated assets exceed \$10 billion when they apply for additional capital stock is a minimal reporting burden of an amount that is known by the banks and serves the intent of the FAST Act.

The Board does not believe that the interim final rule duplicates, overlaps, or conflicts with any other Federal rules. In light of the foregoing, the Board does not believe that the interim final rule would have a significant economic impact on a substantial number of small entities. Nonetheless, the Board seeks comment on whether the interim final rule imposes undue burdens on, or has unintended consequences for, small organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with the Federal Reserve Act.

B. Paperwork Reduction Act Analysis

In accordance with section 3512 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers are 7100-0042 and 7100-0046. The Board reviewed the interim final rule under the authority delegated to the Board by OMB. The interim final rule contains requirements subject to the PRA. The reporting requirements are found in §§ 209.2(a) and 209.3(d)(3).

Comments are invited on:

- a. Whether the collections of information are necessary for the proper performance of the Federal Reserve's functions, including whether the information has practical utility;
- b. The accuracy of the estimate of the burden of the information collections, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. A copy of the comments may also be submitted to the OMB desk officer by mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by facsimile to 202-395-5806, Attention, Agency Desk Officer.

Proposed Revisions, With Extension for Three Years, of the Following Information Collections:

1) *Title of Information Collection:* Applications for Subscription to, Adjustment in Holding of, and Cancellation of Federal Reserve Bank Stock.

Agency Form Number: FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, FR 2087.

OMB Control Number: 7100–0042.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Respondents: National, State Member, and Nonmember banks.

Abstract: These application forms are required by the Federal Reserve Act and Regulation I. These forms must be used by a new or existing member bank (including a national bank) to request the issuance, and adjustment in, or cancellation of Federal Reserve Bank stock. The forms must contain certain certifications by the applicants, as well as certain other financial and shareholder data that is needed by the Federal Reserve to process the request.

Current Actions: The dividend rate to which a Reserve Bank stockholder is entitled under Section 7 of the Federal Reserve Act (as amended by the FAST Act) depends on the stockholder's "total consolidated assets." Section 209.2(a) requires a bank to report whether its total consolidated assets exceed \$10 billion when it applies for membership in the Federal Reserve System. Section 209.3(d)(3) requires a bank to report whether its total consolidated assets exceed \$10 billion when it applies for additional capital stock after merging with another entity. The Board is proposing to revise FR 2030, FR 2030a, and FR 2056 to require that a bank report whether its total consolidated assets exceed \$10 billion when it applies to join the Federal Reserve System or applies for additional capital stock after merging with another entity. The

proposed revisions would increase the estimated average hours per response for FR 2030 and FR 2030a by half an hour. The proposed revisions would increase the estimated average hours per response for FR 2056 by one-quarter of an hour. The Board is not proposing to revise FR 2086, FR 2086A, and FR 2087. The draft reporting forms are available on the Board's public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx>.

Estimated annual reporting hours: FR 2030: 4 hours; FR 2030a: 2 hours; FR 2056: 1000 hours; FR 2086: 5 hours; FR 2086a: 40 hours; FR 2087: 1 hour.

Estimated average hours per response: FR 2030: 1 hour; FR 2030a: 1 hour; FR 2056: 0.75 hours; FR 2086: 0.5 hours; FR 2086a: 0.5 hours; FR 2087: 0.5 hours.

Number of respondents: FR 2030: 4; FR 2030a: 2; FR 2056: 1,333; FR 2086: 10; FR 2086a: 79; FR 2087: 1.

2) *Title of Information Collection:* Application for Membership in the Federal Reserve System.

Agency Form Number: FR 2083, FR 2083A, FR 2083B, and FR 2083C.

OMB Control Number: 7100-0046.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Respondents: Newly organized banks that seek to become state member banks, or existing banks or savings institutions that seek to convert to state member bank status.

Abstract: The application for membership is a required one-time submission that collects the information necessary for the Federal Reserve to evaluate the statutory

criteria for admission of a new or existing state bank into membership in the Federal Reserve System. The application collects managerial, financial, and structural data. *Current Actions:* The dividend rate to which a Reserve Bank stockholder is entitled under Section 7 of the Federal Reserve Act (as amended by the FAST Act) depends on the stockholder's "total consolidated assets." Section 209.2(a) requires a bank to report whether its total consolidated assets exceed \$10 billion when it applies for membership in the Federal Reserve System. The Board is proposing to revise FR 2083A and FR 2083B to require that a bank report whether its total consolidated assets exceed \$10 billion when it applies to join the Federal Reserve System. The proposed revisions would increase the estimated average hours per response by half an hour. The Board is not proposing to revise FR 2083 or FR 2083C. The draft reporting forms are available on the Board's public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx>. The estimated annual reporting hours listed below, and the estimated average hours per response, are cumulative totals for FR 2083, FR 2083A, FR 2083B, and FR 2083C.

Estimated annual reporting hours: 207 hours.

Estimated average hours per response: 4.5 hours.

Number of respondents: 46.

C. Riegle Community Development and Regulatory Improvement Act

Section 302 of Riegle Community Development and Regulatory Improvement Act (12 U.S.C. 4802) generally requires that regulations prescribed by Federal banking agencies which impose additional reporting, disclosures or other new

requirements on insured depository institutions take effect on the first day of a calendar quarter which begins on or after the date on which the regulation is published in final form unless the agency determines, for good cause published with the regulation, that the regulation should become effective before such time. The final rule will be effective on [insert date of publication]. The first day of a calendar quarter which begins on or after the date on which the final rule will be published is April 1, 2016. As discussed below, the Board has determined for good cause that the regulation should take effect on [insert date of publication].

The FAST Act amendments to Section 7(a)(1) of the Federal Reserve Act, which will affect the dividend rate that the Reserve Banks pay to stockholders with more than \$10 billion in total consolidated assets, became effective on January 1, 2016. Before April 1, 2016 (the first day of the next calendar quarter), the Reserve Banks may need to issue new stock to (1) a bank that is applying for membership in the Federal Reserve System or (2) a bank that is increasing its holding of Reserve Bank stock following a merger. A Reserve Bank must have a reliable report of such a bank's total consolidated assets before it can issue stock. The Board therefore finds, for good cause, that this interim final rule shall be effective on [insert date of publication].

D. Plain Language

Section 722 of the Gramm-Leach Bliley Act requires the Board to use plain language in all proposed and final rules published after January 1, 2000. The Board

invites your comments on how to make this interim final rule easier to understand.

For example:

- Has the Board organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the interim final rule clearly stated? If not, how could the interim final rule be more clearly stated?
- Does the interim final rule contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the interim final rule easier to understand? If so, what changes to the format would make the interim final rule easier to understand?
- What else could the Board do to make the regulation easier to understand?

List of Subjects in 12 CFR Part 209

Banks and banking, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board will amend Regulation I, 12 CFR part 209, as follows:

PART 209 – FEDERAL RESERVE BANK CAPITAL STOCK (REGULATION I)

1. The authority citation for part 209 is revised to read as follows:

Authority: 12 U.S.C. 222, 248, 282, 286-288, 289, 321, 323, 327-328, and 466.

2. Amend § 209.1 by revising the section heading and paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 209.1—Authority, purpose, scope, and definitions.

(a) *Authority.* This part is issued pursuant to 12 U.S.C. 222, 248, 282, 286-288, 289, 321, 323, 327-328, and 466.

(b) *Purpose.* The purpose of this part is to implement the provisions of the Federal Reserve Act relating to the issuance and cancellation of Federal Reserve Bank stock upon becoming or ceasing to be a member bank, or upon changes in the capital and surplus of a member bank, of the Federal Reserve System. This part also implements the provisions of the Federal Reserve Act relating to the payment of dividends to member banks.

* * * * *

(d) *Definitions.* For purposes of this part—

(1) *Capital Stock and Surplus.* Capital stock and surplus of a member bank means the paid-in capital stock² and paid-in surplus of the bank, less any deficit in the aggregate of its retained earnings, gains (losses) on available for sale securities, and foreign currency translation accounts, all as shown on the bank's most recent report of condition. Paid-in capital stock and paid-in surplus of a bank in organization means the amount which is to be paid in at the time the bank commences business.

(2) *Dividend proration basis* means the use of a 360-day year of 12 30-day months for purposes of computing dividend payments.

² Capital stock includes common stock and preferred stock (including sinking fund preferred stock).

(3) *Total consolidated assets* means the total assets on the stockholder's balance sheet as reported by the stockholder on its Consolidated Report of Condition and Income (Call Report) as of the most recent December 31, except in the case of a new member or the surviving stockholder after a merger "total consolidated assets" means (until the next December 31 Call Report becomes available) the total consolidated assets of the new member or the surviving stockholder at the time of its application for capital stock.

3. In § 209.2, revise paragraph (a) to read as follows:

§ 209.2—Banks desiring to become member banks.

(a) *Application for stock or deposit.* Each national bank in process of organization,³ each nonmember state bank converting into a national bank, and each nonmember state bank applying for membership in the Federal Reserve System under Regulation H, 12 CFR part 208, shall file with the Federal Reserve Bank (Reserve Bank) in whose district it is located an application for stock (or deposit in the case of mutual savings banks not authorized to purchase Reserve Bank stock⁴) in the Reserve Bank. This application for stock must state whether the applicant's total consolidated

³ A new national bank organized by the Federal Deposit Insurance Corporation under section 11(n) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)) should not apply until in the process of issuing stock pursuant to section 11(n)(15) of that act. Reserve Bank approval of such an application shall not be effective until the issuance of a certificate by the Comptroller of the Currency pursuant to section 11(n)(16) of that act.

⁴ A mutual savings bank not authorized to purchase Federal Reserve Bank stock may apply for membership evidenced initially by a deposit. (See §208.3(a) of Regulation H, 12 CFR part 208.) The membership of the savings bank shall be terminated if the laws under which it is organized are not amended to authorize such purchase at the first session of the legislature after its admission, or if it fails to purchase such stock within six months after such an amendment.

assets exceed \$10,000,000,000. The bank shall pay for the stock (or deposit) in accordance with §209.4 of this part.

* * * * *

4. Amend § 209.3 as follows:

a. Revise the section heading.

b. Revise the paragraph (d) subject heading and paragraphs (d)(1) and (d)(2)(i).

c. Add paragraph (d)(3).

The revisions and addition read as follows:

§ 209.3—Cancellation of Reserve Bank stock; reporting of total consolidated assets following merger

* * * * *

(d) *Exchange of stock on merger or change in location; reporting of total consolidated assets following merger—(1) Merger of member banks in the same Federal Reserve District.* Upon a merger or consolidation of member banks located in the same Federal Reserve District, the Reserve Bank shall cancel the shares of the nonsurviving bank (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall credit the deposit to the account of the surviving bank) and shall credit the appropriate number of shares on its books to (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall accept an appropriate increase in the deposit of) the surviving bank, subject to paragraph (d)(3) of § 209.4.

(2) * * *

(i) The Reserve Bank of the member bank's former District, or of the nonsurviving member bank, shall cancel the bank's shares and transfer the amount paid in for those shares, plus accrued dividends (as specified in paragraph (d)(1)(ii) of § 209.4) and subject to paragraph (d)(3) of § 209.4 (or, in the case of a mutual savings bank member not authorized to purchase Federal Reserve Bank stock, the amount of its deposit, adjusted in a like manner), to the Reserve Bank of the bank's new District or of the surviving bank; and

* * * * *

(3) *Statement of total consolidated assets.* When a member bank merges with another entity and the surviving bank remains a Reserve Bank stockholder, the surviving stockholder must state whether its total consolidated assets exceed \$10,000,000,000 in its next application for additional capital stock.

* * * * *

5. Amend § 209.4 as follows:

a. Revise the section heading.

b. Remove paragraph (b).

c. Redesignate paragraphs (c) through (e) as paragraphs (b) through (d).

d. Revise newly redesignated paragraphs (c) and (d).

e. Add paragraphs (e) and (f).

§ 209.4—Amounts and payments for subscriptions and cancellations; timing and rate of dividends

* * * * *

(c) *Payment for subscriptions.* (1) Upon approval by the Reserve Bank of an application for capital stock (or for a deposit in lieu thereof), the applying bank shall pay the Reserve Bank--

(i) One-half of the subscription amount; and

(ii) Accrued dividends equal to the paid-in subscription amount in paragraph (c)(1)(i) of this section multiplied by –

(A) In the case of a bank with total consolidated assets of more than \$10,000,000,000, an annual rate equal to the lesser of the high yield of the 10-year Treasury note auctioned at the last auction held prior to the date of the last dividend payment and 6 percent, adjusted to reflect the period from the last dividend payment date to the subscription date according to the dividend proration basis.

(B) In the case of a bank with total consolidated assets of \$10,000,000,000 or less, 6 percent, adjusted to reflect the period from the last dividend payment date to the subscription date according to the dividend proration basis.

(2) Upon payment (and in the case of a national banks in organization or state nonmember bank converting into a national bank, upon authorization or approval by the Comptroller of the Currency), the Reserve Bank shall issue the appropriate number of shares by crediting the bank with the appropriate number of shares on its books. In the case of a mutual savings bank not authorized to purchase Reserve Bank stock, the Reserve Bank will accept the deposit or addition to the deposit in place of issuing shares. The remaining half of the subscription or additional subscription (including subscriptions for deposits or additions to deposits) shall be subject to call by the Board.

(3) If the dividend rate applied at the next scheduled dividend payment date is based on a different annual rate than the rate used to compute the amount of the accrued dividend payment pursuant to paragraph (c)(1)(ii) of this section, the amount of the dividends paid at the next scheduled dividend payment date should be adjusted accordingly. The amount of the adjustment should equal the difference between—

(i) The accrued dividend payment pursuant paragraph (c)(1)(ii) of this section, and

(ii) The result of multiplying the subscription amount paid pursuant to paragraph (c)(1)(i) of this section by the dividend rate applied at the next scheduled dividend payment, adjusted to reflect the period from the last dividend payment date to the subscription date according to the dividend proration basis.

(d) *Payment for cancellations.* (1) Upon approval of an application for cancellation of Reserve Bank capital stock, or (in the case of involuntary termination of membership) upon the effective date of cancellation specified in §209.3(c)(3), the Reserve Bank shall—

(i) Reduce the bank's shareholding on the Reserve Bank's books by the number of shares required to be canceled and shall pay the paid-in subscription of the canceled stock; and

(ii) Pay accrued dividends equal to the paid-in subscription of the canceled stock in paragraph (d)(1)(i) of this section multiplied by—

(A) In the case of a bank with total consolidated assets of more than \$10,000,000,000, an annual rate equal to the lesser of the high yield of the 10-year Treasury note auctioned at the last auction held prior to the date of cancellation and 6

percent, adjusted to reflect the period from the last dividend payment date to the cancellation date according to the dividend proration basis; or

(B) In the case of a bank with total consolidated assets of \$10,000,000,000 or less, 6 percent, adjusted to reflect the period from the last dividend payment date to the cancellation date according to the dividend proration basis.

(2) The sum of the payments under paragraph (d)(1) of this section cannot exceed the book value of the stock.⁵

(3) In the case of any cancellation of Reserve Bank stock under this Part, the Reserve Bank may first apply such sum to any liability of the bank to the Reserve Bank and pay over the remainder to the bank (or receiver or conservator, as appropriate).

(e) *Dividend.* (1) After all necessary expenses of a Reserve Bank have been paid or provided for, the stockholders of a Reserve Bank shall be entitled to receive a dividend on paid-in capital stock of –

(i) in the case of a bank with total consolidated assets of more than \$10,000,000,000, the lesser of the annual rate equal to the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of such dividend and an annual rate of 6 percent, or

(ii) in the case of a bank with total consolidated assets of \$10,000,000,000 or less, an annual rate of 6 percent.

⁵ Under sections 6 and 9(10) of the Act, a Reserve Bank is under no obligation to pay unearned accrued dividends on redemption of its capital stock from an insolvent member bank for which a receiver has been appointed or from state member banks on voluntary withdrawal from or involuntary termination of membership.

(2) The dividend pursuant to paragraph (e)(1) of this section will be adjusted to reflect the period from the last dividend payment date to the current dividend payment date according to the dividend proration basis.

(3) The entitlement to dividends under paragraph (e)(1) of this section shall be cumulative.

(f) *Annual adjustment to total consolidated assets.* The dollar amounts for total consolidated assets specified in paragraphs (c), (d), and (e) of this section and §§ 209.2 and 209.3 shall be adjusted annually to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis.

By order of the Board of Governors of the Federal Reserve System, February 18, 2016.

Robert deV. Frierson,
Secretary to the Board.

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