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FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R-1535]

RIN 7100 AE-49

Risk-Based Capital Guidelines: Implementation of Capital Requirements for Global Systemically Important Bank Holding Companies

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is inviting public comment on proposed clarifying revisions (proposed rule) to the Board's rule regarding risk-based capital surcharges for U.S. based global systemically important bank holding companies (GSIB surcharge rule). The proposed rule proposed rule would modify the GSIB surcharge rule to provide that a bank holding company subject to the rule would continue to calculate its method 1 and method 2 GSIB surcharge scores annually using data as of December 31 of the previous calendar year, even though the data will be due quarterly beginning with the June 30, 2016, report. In addition, the proposed rule would clarify that a bank holding company subject to the GSIB surcharge rule is required to calculate its method 2 GSIB surcharge score using systemic indicator amounts expressed in billions of dollars even though the data is reported in millions of dollars. The preamble to the proposed rule also provides clarifying information on how a covered bank holding company should calculate its short-term wholesale funding score for purposes of calculating its method 2 score under the GSIB surcharge rule.

DATES: Comments must be received May 13, 2016.

ADDRESSES: When submitting comments, please consider submitting your comments by email 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-1535 and RIN 7100 AE-49, by any of the following methods:

- *Agency Web Site:* www.federalreserve.gov. Follow the instructions for submitting comments at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.
- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *E-mail:* regs.comments@federalreserve.gov. Include the docket number in the subject line of the message.
- *Fax:* (202) 452-3819 or (202) 452-3102.
- *Mail:* Address to 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 will be made available on the Board's Web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP- 500 of the Board's Martin Building (20th and C Streets, NW, Washington, DC 20551) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT:

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Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

II. Background

III. Revision Related to FR Y-15 Reporting Frequency

IV. Revision to Clarify the Method 2 Score Calculation

V. Clarification of the Transitional Short-term Wholesale Funding Score Calculation

VI. Request for Comment

VII. Regulatory Analysis

A. Paperwork Reduction Act

B. Regulatory Flexibility Analysis

C. Riegle Community Development and Regulatory Improvement Act of 1994

D. Plain Language

Introduction

Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) authorizes the Board to establish enhanced prudential standards for bank holding companies with \$50 billion or more in total consolidated assets and for nonbank financial companies that the Financial Stability Oversight Council has designated for supervision by the

Board.¹ These standards must include risk-based capital requirements as well as other enumerated standards. In July 2015, the Board adopted the GSIB surcharge rule, pursuant to section 165 of the Dodd-Frank Act, to identify global systemically important bank holding companies and impose a risk-based capital surcharge on those institutions.²

II. Background

The GSIB surcharge rule works to mitigate the potential risk that the material financial distress or failure of a GSIB could pose to U.S. financial stability by increasing the stringency of capital standards for GSIBs, thereby increasing the resiliency of these firms. The GSIB surcharge rule takes into consideration the nature, scope, size, scale, concentration, interconnectedness, and mix of activities of each company subject to the rule. These factors are reflected in the GSIB surcharge rule's method 1 and method 2 scores, which use quantitative metrics reported on the FR Y 15 reporting form to measure the firm's systemic footprint. A bank holding company whose method 1 score exceeds a defined threshold is identified as a GSIB. Bank holding companies that are identified as GSIBs under the GSIB surcharge rule must calculate their method 1 and method 2 scores each year using data reported on a firm's FR Y-15 as of December 31 of the prior year. GSIB surcharges are established using these scores, and GSIBs with higher scores are subject to higher GSIB surcharges.

Method 1 uses five equally-weighted categories that are correlated with systemic importance – size, interconnectedness, cross-jurisdictional activity, substitutability, and

¹ See 12 U.S.C. 5365.

² 80 FR 49082 (August 14, 2015).

complexity – and these categories are subdivided into twelve systemic indicators.³ For each systemic indicator, a firm divides its own measure of the systemic indicator by an aggregate global indicator amount. Each resulting value is then weighted and put onto a standard scale. The firm’s method 1 score is the sum of its weighted systemic indicator scores. Method 2 uses similar inputs to those used in method 1, but replaces the substitutability category with a measure of a firm’s use of short-term wholesale funding.⁴ The GSIB surcharge for the firm is the higher of the two surcharges determined under method 1 and method 2.⁵ Method 2 is calibrated differently from method 1 and method 2 generally results in a higher GSIB surcharge.

The FR Y-15 reporting form collects systemic risk data from U.S. bank holding companies and covered savings and loan holding companies⁶ with total consolidated assets of \$50 billion or more. The Federal Reserve primarily uses the FR Y-15 data to monitor, on an ongoing basis, the systemic risk profile of the institutions that are subject to enhanced prudential standards under section 165 of the Dodd-Frank Act. The information reported on the FR Y-15 is also used in the calculation of a bank holding company’s method 1 and method 2 scores under the GSIB surcharge rule. Currently, the FR Y-15 requires reporting of the components used in

³ 12 CFR 217.404.

⁴ 12 CFR 217.405.

⁵ 12 CFR 217.403.

⁶ Covered savings and loan holding companies are those which are not substantially engaged in insurance or commercial activities. For more information, see the definition of “covered savings and loan holding company” provided in 12 CFR 217.2.

calculating the method 1 and method 2 scores on the FR Y-15, but does not require reporting of the scores themselves.⁷

III. Revisions Related to FR Y-15 Reporting Frequency

The FR Y-15, as implemented on December 31, 2012, is an annual report that collects data regarding a firm's systemic risk.⁸ The Board recently adopted revisions to the FR Y-15 that include requiring the FR Y-15 to be filed on a quarterly basis, beginning with the report as of June 30, 2016.⁹ Under the GSIB surcharge rule, bank holding companies are required to calculate their method 1 and method 2 scores using data from the most recent FR Y-15.¹⁰ At the time the GSIB surcharge rule was adopted, these calculations were intended to be conducted annually consistent with the frequency of the FR Y-15 and using data as of December 31 of the prior calendar year.

The proposed rule would revise the GSIB surcharge rule to require continued use of a December 31 as-of date for purposes of a bank holding company's calculation of its method 1 and method 2 scores. In particular, the proposed rule would revise sections 217.404 and 217.405 of the GSIB surcharge rule, which are the sections that describe the methodology for calculating a firm's method 1 and method 2 scores, respectively. The revisions to sections 217.404 and 217.405 would clarify that the systemic indicator amount used in the calculations would be

⁷ Beginning on January 1, 2016, a bank holding company that is subject to a GSIB surcharge is required to report its applicable GSIB surcharge on line 67 of the FFIEC 101 report.

⁸ See 77 FR 76487 (December 28, 2012). The Board subsequently revised the FR Y-15 in December 2013. See 78 FR 77128 (December 20, 2013).

⁹ 80 FR 77344 (December 14, 2015).

¹⁰ 80 FR 49082 (August 14, 2015).

drawn from a firm's FR Y-15 as of December 31 of the previous calendar year even after the FR Y-15 becomes a quarterly report.

IV. Revision to Clarify the Method 2 Score Calculation

The proposed rule would revise section 217.405 of the Board's Regulation Q to clarify that, for purposes of calculating its method 2 score, a GSIB should convert its systemic indicator amounts as reported on the FR Y-15 in millions of dollars to billions of dollars. The FR Y-15 requires these data to be reported in millions of dollars, while the fixed coefficients used in the calculation of a firm's method 2 score were determined using aggregate data expressed in billions of dollars.¹¹ Therefore, to properly use the fixed coefficients in the method 2 score methodology, a firm should reflect its systemic indicator amounts used in the method 2 score calculation in billions of dollars.

V. Clarification of the Short-term Wholesale Funding Method 2 Score Calculation

A firm subject to the GSIB surcharge rule must calculate a short-term wholesale funding score in order to calculate the denominator of its method 2 GSIB surcharge, if any.¹² Some firms subject to the GSIB surcharge rule have requested clarification on what the appropriate denominator should be for determining the short-term wholesale funding score during the transitional period before the GSIB surcharge becomes fully phased in. Consistent with the definition in the GSIB surcharge rule, the draft Federal Register notice would state that, for purposes of calculating this denominator during the transitional period, the average risk-weighted assets used in determining a firm's short-term wholesale funding score is the four-quarter

¹¹ See 80 FR 49082, 49088.

¹² 12 CFR 217.401(c).

average of total risk-weighted assets associated with the lower of the firm's common equity tier 1 capital ratios, as reported on the firm's FR Y-9C for each quarter of the previous calendar year.¹³

As it relates to the numerator used in the short-term wholesale funding score calculation, the GSIB surcharge rule contains a transition provision that directs firms identified as GSIBs to determine the average of their weighted short-term wholesale funding amounts for the GSIB surcharge in effect beginning January 1, 2016, and January 1, 2017, by averaging their weighted short-term wholesale funding amounts on July 31, 2015, August 24, 2015, and September 30, 2015.¹⁴ These transition arrangements relate only to the calculation of a firm's average weighted short-term wholesale funding amount that is used as a component of the calculation of a firm's short-term wholesale funding score for the GSIB surcharges in effect during calendar year 2016 and calendar year 2017. These transition arrangements do not affect any other amount used in the calculation of a firm's short-term wholesale funding score, method 2 score, method 1 score, or GSIB surcharge. This is described further in the table below.

¹³ 12 CFR 217.401(c).

¹⁴ 12 CFR 217.400(b)(3). The funding sources were defined using terminology from the Liquidity Coverage Ratio rule (12 CFR part 249) and aligned with items that are reported on the Board's Complex Institution Liquidity Monitoring Report on Form FR 2052a.

GSIB Surcharge Calculation During the Transitional Period

Surcharges calculated in:	Using indicator data reported on the FR Y-15 as of:	Using short-term wholesale funding calculated as the average of the weighted amounts for the following days (numerator):	Using RWAs in the short-term wholesale funding metric calculated as the 4-quarter average over the year (denominator):	Resulting in a GSIB surcharge in effect on:	If the surcharge decreases, then it is in effect on:
December 2015	December 31, 2014	July 31, August 24, and September 30, 2015	2014	January 1, 2016	-
				January 1, 2017	-
December 2016	December 31, 2015	July 31, August 24, and September 30, 2015	2015	January 1, 2018	January 1, 2017
December 2017	December 31, 2016	2016 daily values	2016	January 1, 2019	January 1, 2018
December 2018	December 31, 2017	2017 daily values	2017	January 1, 2020	January 1, 2019
December [Year]	December 31, [Year - 1]	[Year - 1] daily values	[Year - 1]	January 1, [Year + 2]	January 1, [Year + 1]

VI. Request for Comment

The Board seeks comment on all aspects of the proposed revisions to the GSIB surcharge rule.

VII. Regulatory Analysis

A. Paperwork Reduction Act (PRA)

There is no new collection of information pursuant to the PRA (44 U.S.C. 3501 *et seq.*) contained in this proposed rule.

B. Regulatory Flexibility Act Analysis

The Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), generally requires that an agency prepare and make available an initial regulatory flexibility analysis in connection

with a notice of proposed rulemaking. Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with assets of \$550 million or less (small banking organizations).¹⁵ As of December 31, 2014, there were approximately 3,833 small bank holding companies.

The proposed rule would apply only to advanced approaches bank holding companies, which, generally, are bank holding companies with total consolidated assets of \$250 billion or more, that have total consolidated on-balance sheet foreign exposures of \$10 billion or more, that have subsidiary depository institutions that are advanced approaches institutions, or that elect to use the advanced approaches framework.¹⁶ Bank holding companies that are subject to the proposed rule therefore are expected to substantially exceed the \$550 million asset threshold at which a banking entity would qualify as a small bank holding company.

Because the proposed rule is not likely to apply to any bank holding company with assets of \$550 million or less, if adopted in final form, it is not expected to apply to any small bank holding company for purposes of the RFA. The Board does not believe that the proposed rule duplicates, overlaps, or conflicts with any other Federal rules. In light of the foregoing, the Board does not believe that the proposed rule, if adopted in final form, would have a significant economic impact on a substantial number of small entities. Nonetheless, the Board seeks comment on whether the proposed rule would impose undue burdens on, or have unintended

¹⁵ See 13 CFR 121.201. Effective July 14, 2014, the Small Business Administration revised the size standards for banking organizations to \$550 million in assets from \$500 million in assets. 79 FR 33647 (June 12, 2014).

¹⁶ See 12 CFR 217.100.

consequences for, small organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with the purpose of the proposed rule.

C. Riegle Community Development and Regulatory Improvement Act of 1994

In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on state member banks, the Board is required to consider, consistent with the principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, and the benefits of such regulations.¹⁷ In addition, new regulations that impose additional reporting disclosures or other new requirements on insured depository institutions generally must take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.¹⁸

The proposed revision to the Board's GSIB surcharge rule are only applicable to advanced approaches bank holding companies. Therefore, these requirements are not applicable to this proposed rule.

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 has sought to present the proposed rule in a simple straightforward manner, and invites comment on the use of plain language. For example:

¹⁷ See Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 ("RCDRIA"), 12 U.S.C. 4802.

¹⁸ 12 U.S.C. 4802(b).

- Has the Board organized the material to suit your needs? If not, how could the Board present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Do the regulations contain technical 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 regulation easier to understand? If so, what changes would achieve that?
- Is the section format adequate? If not, which of the sections should be changed and how?
- What other changes can the Board incorporate to make the regulation easier to understand?

List of Subjects

12 CFR part 217

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements, Securities

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR CHAPTER II

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend chapter II of title 12 of the Code of Federal Regulations as follows:

PART 217 – CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

1. The authority citation for part 217 continues to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

2. In § 217.404, paragraph (b)(1) is revised to read as follows:

§ 217.404 Method 1 score

* * * * *

(b) Systemic indicator score. (1) Except as provided in paragraph (b)(2) of this section, the systemic indicator score in basis points for a given systemic indicator is equal to:

(i) The ratio of:

(A) The amount of that systemic indicator, as reported by the bank holding company as of December 31 of the previous calendar year; to

(B) The aggregate global indicator amount for that systemic indicator published by the Board in the fourth quarter of that year;

(ii) Multiplied by 10,000; and

(iii) Multiplied by the indicator weight corresponding to the systemic indicator as set forth in Table 1 of this section.

* * * * *

3. In § 217.405, paragraph (b)(1) is revised to read as follows:

§ 217.405 Method 2 score.

* * * * *

(b) Systemic indicator score. A global systemically important BHC's score for a systemic indicator is equal to:

(1) The amount of the systemic indicator, as reported by the bank holding company as of December 31 of the previous calendar year, expressed in billions of dollars;

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 4, 2016.

Robert deV. Frierson,
Secretary of the Board.

[FR Doc. 2016-08015 Filed: 4/7/2016 8:45 am; Publication Date: 4/8/2016]