



## 12 CFR Part 209

[Regulation I; Docket No. R-1732]

RIN 7100-AG 02

### Federal Reserve Bank Capital Stock

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

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**SUMMARY:** The Board of Governors (Board) is publishing a final rule that applies an inflation adjustment to the threshold for total consolidated assets in Regulation I. Federal Reserve Bank (Reserve Bank) stockholders that have total consolidated assets above the threshold receive a different dividend rate on their Reserve Bank stock than stockholders with total consolidated assets at or below the threshold. The Federal Reserve Act requires that the Board annually adjust the total consolidated asset threshold to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis (BEA). Based on the change in the Gross Domestic Product Price Index as of September 30, 2020, the total consolidated asset threshold will be \$10,785,000,000 through December 31, 2021.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Evan Winerman, Senior Counsel (202-872-7578), Legal Division; or Michael Long, Senior Financial Institutions Policy Analyst (202-452-2262), Reserve Bank Operations and Payments Systems Division. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

## SUPPLEMENTARY INFORMATION:

### I. Background

Regulation I governs the issuance and cancellation of capital stock by the Reserve Banks. Under section 5 of the Federal Reserve Act<sup>1</sup> and Regulation I,<sup>2</sup> 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.<sup>3</sup>

Section 7(a)(1) of the Federal Reserve Act<sup>4</sup> provides that Reserve Bank stockholders with \$10 billion or less in total consolidated assets shall receive a six percent dividend on paid-in capital stock, while stockholders with more than \$10 billion in 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.” Section 7(a)(1) requires that the Board adjust the threshold for total consolidated assets annually to reflect the change in the Gross Domestic Product Price Index, published by the BEA.

Regulation I implements section 7(a)(1) of the Federal Reserve Act by (1) defining the term “total consolidated assets,”<sup>5</sup> (2) incorporating the statutory dividend rates for Reserve Bank stockholders<sup>6</sup> and (3) providing that the Board shall adjust the threshold for total consolidated

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<sup>1</sup> 12 U.S.C. 287.

<sup>2</sup> 12 CFR 209.4(a).

<sup>3</sup> 12 U.S.C. 287 and 12 CFR 209.4(c)(2).

<sup>4</sup> 12 U.S.C. 289(a)(1).

<sup>5</sup> 12 CFR 209.1(d)(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”).

<sup>6</sup> 12 CFR 209.4(e), (c)(1)(ii), and (d)(1)(ii); 209.2(a); and 209.3(d)(3).

assets annually to reflect the change in the Gross Domestic Product Price Index.<sup>7</sup> The Board has explained that it “expects to make this adjustment [to the threshold for total consolidated assets] using the final second quarter estimate of the Gross Domestic Product Price Index for each year, published by the Bureau of Economic Analysis.”<sup>8</sup>

## **II. Adjustment**

The Board annually adjusts the \$10 billion total consolidated asset threshold based on the change in the Gross Domestic Product Price Index between the second quarter of 2015 (the baseline year) and the second quarter of the current year.<sup>9</sup> The second quarter 2020 Gross Domestic Product Price Index estimate published by the BEA in September 2020 (112.860) is 7.85 percent higher than the second quarter 2015 Gross Domestic Product Price Index estimate published by the BEA in September 2020 (104.647). Based on this change in the Gross Domestic Product Price Index, the threshold for total consolidated assets in Regulation I will be \$10,785,000,000 as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

## **III. Administrative Law Matters**

### *Administrative Procedure Act*

The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments that are required by statute and Regulation I and are consistent with a method previously set forth by the Board.<sup>10</sup> Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary.

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<sup>7</sup> 12 CFR 209.4(f).

<sup>8</sup> 81 FR 84415, 84417 (Nov. 23, 2016).

<sup>9</sup> The BEA makes ongoing revisions to its estimates of the Gross Domestic Product Price Index for historical calendar quarters. The Board calculates annual adjustments from the baseline year (rather than from the prior-year total consolidated asset threshold) to ensure that the adjusted total consolidated asset threshold accurately reflects the cumulative change in the BEA’s most recent estimates of the Gross Domestic Product Price Index.

<sup>10</sup> See 12 CFR 209.4(f) and n. 8 and accompanying text, *supra*.

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.<sup>11</sup> As noted previously, the Board has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995,<sup>12</sup> the Board has reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

### **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 amends Regulation I, 12 CFR part 209, as follows:

### **PART 209 – ISSUE AND CANCELLATION OF FEDERAL RESERVE BANK CAPITAL STOCK (REGULATION I)**

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

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

2. In part 209, remove all references to “\$10,715,000,000” and add in their place “\$10,785,000,000”, wherever they appear.

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<sup>11</sup> 5 U.S.C. 603 and 604.

<sup>12</sup> 44 U.S.C. 3506; 5 CFR 1320.

By order of the Board of Governors of the Federal Reserve System under delegated authority.

**Ann Misback**

*Secretary of the Board.*

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