



**David Leifer**

**Vice President & Associate General Counsel**

June 24, 2016

Robert deV. Frierson  
Secretary, Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW.  
Washington, DC 20551  
OMB Control Number: 7100

FR 2085 Proposed Agency Information Collection Activities: Financial Data on a Consolidated Basis from Nonbank Financial Companies Supervised by the Board and Subject to Enhanced Prudential Standards

Dear Mr. Frierson:

On behalf of the American Council of Life Insurers ("ACLI")<sup>1</sup> and its 280 member life insurance companies, we are writing in response to the request of the Board of Governors of the Federal Reserve System (the "Board") for public comment on the proposed FR 2085 quarterly financial reporting form (the "FR 2085" or the "Form"). As always, we welcome the opportunity to provide our views on a regulatory proposal of significance to the life insurance industry. We also recognize and appreciate the transparency of the process that the Board has followed in developing the FR 2085, and the clearly substantial efforts to reflect the prior feedback received on this proposed financial data collection. We discuss our general comments to the proposed Form below, and following this letter is a brief outline or "Supplement" of additional specific comments to the Form's schedules.

*General comments:*

- The Board requested comment on the accuracy of its estimate of the burden of the proposed information collection. We believe that the Board's estimate very significantly understates the burden. An accurate estimate of the cost and hours for implementation and submission of the FR 2085 must take into account the fact that current infrastructure may not be sufficient to generate data that will systemically populate the proposed Form with its complex and granular data requirements. We expect that this will ultimately require, among other things: a multi-year programming effort; additional staff; initial setup and training for the individuals who supply the required data; the creation and maintenance of an accountability policy and framework; and an attestation tool and process across all domestic and international lines of business, as well as

<sup>1</sup> American Council of Life Insurers (ACLI) is a Washington, D.C.-based trade association with 280 member companies operating in the United States and abroad. ACLI advocates in state, federal, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 95 percent of industry assets, 92 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Learn more at [www.acli.com](http://www.acli.com).

independent verification through quality assurance and the internal audit function. Currently, life insurers do not submit consolidated reports to the Federal Reserve and, reflecting the above considerations, will need to devote substantial resources to be ready to do so. As a result, we believe the actual hours burden to be at least five times greater than the Board's average estimates of 3,600 hours for a one-time implementation and at least 10 times greater than the Board's estimate of 75 hours per ongoing response.

- We respectfully request the Board to extend the initial submission date for the detailed insurance product schedules until well after the June 30, 2017 date currently proposed, as we expect that the time and costs associated with assembling and formatting much of the data will be significant, especially with respect to the rollforwards in Schedule IRC-I, Section II, in particular Parts A-1 to 3 "Future Policyholder Benefits", Parts B-1 to 3 "Policyholder Account Balances" and Parts E1 to E2 "Deferred Policy Acquisition Costs and Value of Business Acquired" by product. These rollforwards will require extensive analyses of domestic and international policies issued, the mapping of each policy to the appropriate line item and column, and the development of reporting systems to populate this data accurately. Such projects will involve multiple groups of individuals within the applicable insurance subsidiaries, require significant effort and take many months or multiple years (depending on the firm's global structure) to complete. We suggest that the initial submission date of Schedule IRC-I be deferred in order to provide ample time for the completion of such a project. We believe that certain summary level schedules could replace the detailed insurance product schedules, including the Property and Casualty Underwriting schedules, in the interim and request that the Board discuss the feasibility of such options directly with the companies required to report.
- We are also concerned about the proposed deadline for the submission of the Form after the fourth calendar quarter. The Board's proposal requires submission of the Form within 45 calendar days after the end of each calendar quarter, without exception. As a result, reporters would be required to submit the Form 15 days in advance of financial statements for the fourth quarter that are filed with the Securities and Exchange Commission ("SEC") and state insurance departments. We believe that an additional 15 days for filing the year-end report is appropriate in order to correspond to the SEC and state insurance department reporting deadlines, to ensure the year-end audit is complete, and to avoid any confidentiality issues associated with publishing the FR 2085 information prior to the other deadlines for public reporting.
- The proposed Form should be consistent with existing U.S. GAAP and U.S. Statutory reporting standards and definitions to minimize the burden on insurers, minimize potential inconsistencies between regulatory reports and ensure consistency of application through utilization of existing and applied definitions. Examples of current inconsistencies include the amortization of deferred profit liability, unearned income related to foans, the definition of "domestic" and "international" and the definition of lines of business, as discussed below.
- The Board stated in the Federal Register notice with respect to the FR 2085 that it had decided not to use the existing NAIC lines of businesses ("LOBs"), as they "do not align well with current product offerings or provide enough granularity with respect to product risk." Instead, the Board continued, "lines of business were defined at a level to group products that share similar risk characteristics." However, the proposal does not provide detailed instructions as to what types of products fall within each of the proposed LOBs. We believe that LOBs as utilized in current reporting under U.S. GAAP or as prescribed by the NAIC are appropriate and should be relied upon for purposes of the Form in order to allow subject companies to report comparable and consistent data. Further, the required use of new LOBs increases the estimated hours burden on reporters and potentially the time needed for initial implementation. In the event the Board

does not use existing LOBs, the instructions should be revised to define and clarify the LOBs that are utilized.

- Similarly, we recognize that items relating to underwriting activities - e.g., future policy benefits - will be categorized under "domestic" versus "international" and "individual" versus "group." However, the proposal does not clearly define these categories. Defining these groupings will help insurers understand whether these categories are consistent with existing industry standards and estimate the effort required to report the proposed items.
- The instructions to the Form do not refer to materiality. We believe that materiality should be a consideration when populating the proposed Form, as it would help insurers focus their effort on collecting the most relevant data, rather than providing granular data on operations that may not have a meaningful impact on risk or profitability and may not provide useful data to the Board. Examples include the reporting of detailed information on an insignificant property and casualty business, a small foreign insurance operation or a run-off portfolio. For example, an exemption should be provided for Schedules IRC-I, Section I, Part A - "Loss and Loss Adjustment Expense Reserves by Line of Business" and Schedule IRC-I, Section I, Part B - "Loss and Loss Adjustment Expense Reserves Roll forward" if the property and casualty business represents less than 10% of the firm's total revenue, total assets and total liabilities on a consolidated basis, as it would not be significant enough to warrant such detailed schedules. A possible alternative would be to implement the short form schedules from the quarterly Yellow Book format for entities below this threshold, including for the Form filed in respect of the fourth quarter.
- The granular nature of the insurance schedules could place the firms under a competitive disadvantage to those firms that are not required to report this information publicly. As a result, we believe the Board should closely consider and weigh the practical utility and regulatory value-added of all of the data being requested and articulate the benefit of gathering this data to the filers. With respect to each nonbank financial company supervised by the Board, section 161 of the Dodd-Frank Act requires the Board to use the following existing reports and information to the fullest extent possible:
  - (A) reports and supervisory information that a nonbank financial company or subsidiary thereof has been required to provide to other Federal or State regulatory agencies;
  - (B) information otherwise obtainable from Federal or State regulatory agencies;
  - (C) information that is otherwise required to be reported publicly; and
  - (D) externally audited financial statements of such company or subsidiary.

#### *Comments regarding ISLHCs:*

We recognize that insurance savings and loan holding companies ("ISLHCs") were excluded from the scope of the Form; we believe this is appropriate and trust that it will continue to be the case. As an initial matter, an exclusion for ISLHCs is appropriate in light of Sections 10(b)(2) & (4) of the Home Owners' Loan Act (12 U.S.C. §1467a(b)(2) & (4), which provide that the Board shall "to the fullest extent possible, use reports and other supervisory information that the savings and loan holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies" and "to the fullest extent possible, avoid duplication of... reporting requirements." As indicated in Governor Tarullo's remarks to the NAIC of May 20<sup>th</sup>, and in the Board's ANPR with respect to insurance capital standards of June 3<sup>rd</sup>, it appears that the Board will likely move forward with a building block approach to capital requirements for ISLHCs, which relies on existing regulatory capital requirements. Under such an approach, ISLHCs and the Board will be

able to rely on existing regulatory reporting and, as a result, these companies would not need to prepare any consolidated report. In addition, we note that the Insurance Capital Standards Clarification Act of 2014 expressly provides that insurers that file financial statements with a state insurance regulator or the NAIC utilizing only statutory accounting practices ("SAP") in accordance with state law, shall not be required by the Board under the authority of Section 171 of the Dodd-Frank Act or the authority of the Home Owners' Loan Act to prepare financial statements in accordance with GAAP. Many ISLHCs are required to prepare and file financial statements only in accordance with SAP and, accordingly, the Board would not have the authority to extend the GAAP-based FR 2085 to these companies.

Sincerely,

A handwritten signature in black ink, appearing to read 'David M. Leifer', written in a cursive style.

David M. Leifer

## Supplement:

### A. Clarity of Instructions

Item	Schedule	Comment Proposed
1	IRC-C - Loans and Lease Financing Receivables	We believe the instructions to IRC-C, Part B intended to make reference to "nonfarm nonresidential properties" as referenced in the form header for Column A, and were not intended to make reference to "nonfarm residential properties" which do not appear in the form.
2	IRC-I, Section II. Parts A1-3 - Future Policyholder Benefits Parts B1-3-Policyholder Account Balances	Line 9, Other, of the PAB rollforward instructions make reference to FPBs (PDF page 133). We believe this should make reference to PABs instead.

### B. Suggested Form Changes

3	IRC-I, Section 1 - Granularity	For interim quarters, the form should follow the shorter quarterly property and casualty U.S. statutory reporting format rather than a slightly summarized version of the annual yellow book format. For year-end, the slightly summarized version of the annual yellow book within the current draft will require additional set-up time and controls in order to implement. For interim quarters, a multi-year automation effort would be required to derive these levels of detail.
4	IRC-I, Section II, PartC- Variable Annuities	The variable annuities section does not currently provide for a Living Benefit only option. We suggest adding another line item to this part in order to report these types of contracts.

### C. Reporting Inconsistency

5	IRC - redeemable non-controlling interest	There is no section to report redeemable non-controlling interests in IRC, which is inconsistent with US GAAP. Mezzanine instruments should be reported between liabilities and equity. Total liabilities as filed on form FR XX-1 should agree to total liabilities reported to the SEC. Reporting all Mezzanine instruments in a non-GAAP location in the FR 2085 such as Other liabilities would create a disconnect with Form FR XX-1 and SEC reports.
6	IRC-C - Unearned Income related to loans	Proposed instructions require loans to be reported net of unearned income in schedule IRC-C. Some insurers follow SSAP37, and book unearned income as a liability. Reporting it as a contra asset would affect total assets and liabilities and create an inconsistency between SEC reports and the FR2085.

7	IRC-C, Part A - Loans and Lease Financing Receivables	According to the instructions for line 6, Leveraged Leases are to be reported along with direct financing leases. For insurance companies, these investments often consist of the net reporting of one-line consolidations of Trusts which hold the leased assets (mostly real estate) and related debt obligations. Since the leases typically do not contain bargain purchase options and are not managed as credit risk, insurers look primarily to the residual asset from a risk perspective, so we believe these leases would be mostly appropriately reported in Other invested assets, and not in a schedule which otherwise contains credit risks.
8	IRI-C - Underwriting Results by Line of Business and Automatically Calculated Ratios	The column D threshold of \$1 billion of industry wide insured loss expectations to report Catastrophes should be eliminated since it would generate reported amounts which would not agree with other public GAAP basis reports. Additionally, applying the threshold would require additional programming, internal controls and explanatory footnotes explaining the discrepancy, creating an undue burden for the industry.
9	IRI-C - Underwriting Results by Line of Business and Automatically Calculated Ratios	The instructions for Column G, Other direct expenses preclude the use of corporate overhead allocations. Insurance companies often have corporate overhead charges attributable to the Property & Casualty line of business. These charges affect their disclosed loss ratios as publicly disclosed, so to exclude them here may generate inconsistent results.