

Via Electronic Submission

October 29, 2013

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue N.W.
Washington, DC 20551

**Re: Agency Information Collection Activities; Comment Request Banking
Organization Systemic Risk Report**

File Number: FR Doc. 2013–21166

Dear Mr. deV. Frierson:

The American Bankers Association,¹ the Financial Services Roundtable,² and The Clearing House Association L.L.C.³ (collectively, the Associations) welcome the opportunity to provide the Board of Governors of the Federal Reserve System (the

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its 2 million employees. Learn more at www.aba.com.

² The Financial Services Roundtable represents 100 integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the Chief Executive Officer. Roundtable member companies provide fuel for America's economic engine, accounting directly for \$98.4 trillion in managed assets, \$1.1 trillion in revenue, and 2.4 million jobs. For more information, visit www.fsround.org.

³ Established in 1853, The Clearing House is the oldest banking association and payments company in the U.S. It is owned by the world's largest commercial banks, which collectively employ over 2 million people and hold more than half of all U.S. deposits. The Clearing House Association L.L.C. is a nonpartisan advocacy organization representing—through regulatory comment letters, amicus briefs and white papers—the interests of its owner banks on a variety of systemically important banking issues. Its affiliate, The Clearing House Payments Company L.L.C., provides payment, clearing, and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated-clearing-house, funds-transfer, and check-image payments made in the U.S. See The Clearing House's web page at www.theclearinghouse.org.

Board) with comments on proposed revisions to the Banking Organization Systemic Risk Report (the FR Y-15, or the report). The report is intended to assist the Board to (1) facilitate the future implementation of the Globally Systemically Important Bank (G-SIB) surcharge, (2) identify institutions that may be Domestic Systemically Important Banks (D-SIBs), and (3) analyze the systemic risk implications of mergers and acquisitions.

The Associations appreciate the Board's recognition of the harm that would result from making the complete 2012 FR Y-15 public and its decision to treat supervisory data called for by the 2012 FR Y-15 as confidential supervisory information. We strongly urge the Board to continue this approach going forward. As discussed in detail below, the rationale supporting the treatment of most of the report as confidential is still relevant for at least the next round of proposed reporting.

An overview of our concerns with respect to the proposed changes and the FR Y-15 are provided below. We reiterate many of the concerns expressed in previous letters on this issue.⁴ Technical comments and questions on the proposed line item revisions are listed in Appendix I.

Confidentiality

The Associations appreciate the Board's appropriate treatment of confidential supervisory information for the 2012 data collection. We share the Board's view that the publication of, generally, only aggregate line items and data available through the FR Y-9C is an appropriate approach at this time. The Associations strongly urge the Board to continue this treatment through the next round and until such time as the rules on which the reporting is based are finalized and fully implemented in the United States. Additionally, we appreciate that the Board has tried to clarify its approach to supervisory information for the next and subsequent rounds of reporting. However, there is some confusion as to what the Board intends to treat as confidential supervisory information and what it intends to release as public information going forward. We urge the Board to clarify its intentions in the final Federal Register notice and instructions.

As was the case with the previous round of reporting, the Associations believe that public disclosure of a majority of the data that comprise the FR Y-15 is premature. This is in part due to the significant asymmetry between the FR Y-15 and U.S. capital regulations. Multiple FR Y-15 line items are either based on international standards not yet finalized in the United States or defer to standards put forth by the Basel Committee on Banking Supervision (BCBS) instead of U.S. regulations. For example, several line items require institutions to calculate regulatory capital components on a Basel II basis, despite the fact

⁴ [Joint Trade Letter on FR Y-15](#) and [Joint Association Comment Letter to the FRB Board](#)

that a majority of the Bank Holding Companies (BHCs) required to file the FR Y-15 will calculate their capital under Basel I through 2014. Consequently, we believe public disclosure of the data may create significant market – and likely supervisory – confusion and competitive harm, as it is unclear how market participants will reconcile the FR Y-15 numbers to those reported in the FR Y-9C and elsewhere.

In addition, the publication of the FR Y-15 data could have adverse competitive effects on those BHCs required to file the report, which represent only a small subset of U.S. BHCs. Further, the FR Y-15 is strongly tied to international supervisory efforts, yet no other jurisdictions are requiring their institutions to disclose similar data. This creates opportunities for counterparties to use the disclosed data to gain competitively important information with regard to the affected BHCs. The addition of new data elements may also be potentially confusing to investors. Given these facts, a public disclosure requirement may expose the affected BHCs to risks not intended by the Board.

Further, the Associations remain very concerned about the effective public disclosure of the Quantitative Impact Study (QIS). Since the QIS data are collected and used by the BCBS to shape policy decisions, they are treated by both the Bank for International Settlements (BIS) and U.S. banking agencies as highly confidential, supervisory information. We respectfully note that the FR Y-15 instructions link directly to the QIS instructions, which state, "...individual bank data will be treated [as] strictly confidential and will not be attributed to individual banks..."⁵

Specifically, we encourage the Board to maintain the confidentiality of line items which refer to the QIS, such as in regard to the Liquidity Coverage Ratio (LCR) and the supplementary leverage ratio.⁶ Given the novelty and uniqueness of the LCR in particular, if the information is publicized, market participants almost certainly will use the data to assess the liquidity positions of reporting BHCs, with little understanding about the context of the data or its drivers. The LCR was proposed in the United States by U.S. banking Agencies only on October 24, 2013.⁷ Going forward, then, the definitions to which the FR Y-15 links, and by extension the reported numbers, are likely to change significantly as the U.S. banking agencies address any comments received on the proposal and finalize the LCR rule and implement a transition period. Therefore, any data related to the LCR is, by definition, preliminary and should not be publicly released, as it will very likely cause significant market confusion and expose banks to risk under U.S. securities laws, which set a high standard for reporting firms to prevent them from

⁵ http://www.bis.org/bcbs/qis/biiiimplmoninstr_aug13.pdf

⁶ Regarding the supplementary leverage ratio, while the FR Y-15 does not directly link to the QIS, since the supplementary leverage ratio is still being considered by the BCBS and has not been finalized in the U.S., the QIS is the only source from which institutions may draw the information.

⁷ <http://www.federalreserve.gov/aboutthefed/boardmeetings/FR-notice-lcr-20131024.pdf>

providing information that could be considered inaccurate, incomplete, or otherwise misleading.

Moreover, the QIS is a dynamic data collection that evolves as the policy goals and, by extension, the data needs of the BCBS change. Linking the FR Y-15 to the QIS implies that the FR Y-15 data will be updated as frequently as the QIS, which will be even more confusing for users of the report and burdensome for reporting institutions which would have to gather and possibly attest to the data.

Timing

We appreciate and support the Board's proposal to base the asset threshold for filing the report on the prior June 30th data, instead of the prior December 31st data. This allows those BHCs nearing the reporting threshold more time to prepare. However, we are unclear as to why the Board has proposed shortening the time frame for reporting from 90 days to 60 days after December 31st. This change is problematic for all BHCs, as the same people are primarily responsible for the simultaneous preparation of the FR Y-15 and other reports required to be submitted to the Board, such as the FR Y-9C and FR Y-14. Additionally, some of the required FR Y-15 data are sourced from other reporting with deadlines later in the year. For example, all FR Y-15 filers participate in the living wills exercise. For many institutions, the data needed to populate Schedule C are sourced from their respective living wills, the reporting deadline for which is in the second half of the year.

Since there is no urgency that the Board has articulated for the proposed changes to the FR Y-15, we urge the Board to consider the many other reporting deadlines banks must comply with and from which data must be sourced. We see no reason for the Board not to maintain the current 90-day time frame for reporting.

Applicability of G-SIB Framework to Non-G-SIBs

As the Board notes, the FR Y-15 is largely based on the Financial Stability Board's (FSB) and the BCBS' global systemically important bank (G-SIB) identification framework. We appreciate the Board's work in this area and understand the need to have a consistent international framework for G-SIB identification purposes. However, we continue to believe that this framework – which is specifically calibrated for G-SIBs – is not applicable to smaller, non-internationally active BHCs.

In the Associations' view, the FR Y-15, as currently constructed, is not a practical framework for D-SIB identification and monitoring. We reiterate that the FR Y-15 creates unnecessary burdens for the reporting BHCs and provides limited added value for the Board. For example, the FR Y-15 would require institutions that are neither G-SIBs nor banks calculating regulatory capital under the Advanced Approaches to calculate data

under the Basel II framework. Not only will this framework not be implemented in the United States, but a majority of the banks required to submit the FR Y-15 have not adopted the international Basel II framework or studied the impact of changes to their organization. Rather, these BHCs comply with – and calculate their capital under – Basel I. Particularly given that Basel III regulatory capital rules have been finalized in the United States, it is unfounded to require Basel I banks to engage in very rigorous and complex capital calculations simply for FR Y-15 reporting purposes. It is not clear why the FR Y-15 does not refer to the U.S. Basel III regulatory capital rules or other capital rules that apply to U.S. banks. For example, the FR Y-15 does not consider the opt-out for non-Advanced Approaches institutions for accumulated other comprehensive income (AOCI).

In order to alleviate some of these concerns, we recommend that the Board leverage the data reported in the FR Y-9C and other existing reporting mechanisms, such as the Comprehensive Capital Analysis and Review (CCAR), the living will exercise, and data reported to the Board for liquidity monitoring purposes, to gather data from non-GSIB banks. As a first step, the Board should consider an exception for de minimus line item amounts unique to the FR Y-15.

Attestation Requirement

The instructions indicate that the FR Y-15 must be signed by the Chief Financial Officer (CFO) of the reporting company or by an individual performing an equivalent function. By signing the FR Y-15, the CFO or equivalent would be acknowledging that any knowing and willful misrepresentation or omission of a material fact constitutes fraud and may subject the officer to legal sanctions, a standard that assumes a much greater knowledge and precision of information than is likely to be available. In light of the issues highlighted above, and as discussed in our prior comment letters, we continue to have significant concerns about an attestation requirement for the FR Y-15.

As previously noted, the FR Y-15 is based on templates from the G-SIB monitoring exercise and the QIS. As the Board is aware, both of these information collections are ongoing and on a *best efforts* basis. Gathering the data necessary to complete the report requires significant additional supervisory guidance due to the continually evolving data needs and definitions. However, more than half of FR Y-15 filers would be required to attest to data that will have been collected without the benefit of U.S. rules or supervisory guidance. The QIS instructions, to which the FR Y-15 links, emphasize, “**it is important that banks only use the workbook obtained from their respective national supervisory agency to submit their returns**”.⁸ Moreover, as noted above, the FR Y-15 requests data under an international framework that does not apply to a majority of

⁸ http://www.bis.org/bcbs/qis/biiiimplmoninstr_aug13.pdf

BHCs. We do not believe it is appropriate to ask CFOs to attest to data based on rules with which his or her company is not required to comply.

We respectfully submit that it would be inappropriate for an attestation requirement to be considered other than for well-established, well-understood reporting requirements that BHCs have ample notice of and experience with, which is clearly not the case in this instance. We strongly urge the Board to allow BHCs to submit the FR Y-15 on a best efforts basis, at least until such time as the items noted in this letter have been addressed.

Suggested Clarification of Schedule C Instructions

It would be clearer if the instructions to Line Item 1 enumerated concisely in the opening sentence the three kinds of payments that need to be reported: (i) payments sent via large value payment systems; (ii) payments sent through an agent bank; and (iii) payments made into Continuous Linked Settlement (CLS). In addition, the new sentence at the end of the instruction, that points to the BIS Committee on Payment Settlement Systems (CPSS) list “for additional information” regarding high value payment systems, is ambiguous as to whether the CPSS list is intended to be definitional or just a source of reference. We suggest instead that the term “large value payment systems” in the enumerated list of payments should expressly be defined to mean large value payment systems, “as identified in the Committee on Payment and Settlement System’s Payment clearing and settlement systems in the CPSS countries.”

Another part of the instructions that is problematic is the reference to retail payments, which the instructions say may be reported on a net basis. Although some low value, customer payments do flow through large value payment systems or through agent banks, financial institutions do not track such volumes separately from the “wholesale” payments that are sent via those channels. Therefore, it is unlikely that any financial institutions would be able to net the values of such retail payments. Further, the statement that retail payments may be netted may be read to mean that payments via low value payment systems should be reported, which we do not think is the Board’s intention. Therefore, we suggest that either no reference be made to retail payments, and the instructions simply state that all payments other than CLS should be reported in their gross values, or that the Board specifically state that payments made through retail payment systems should be excluded.

Lastly, we note that the BIS webpage to which financial institutions are directed to determine the average exchange rate for the eleven currencies listed in Schedule C item 1 (a)-(k) only provides rates for these eleven currencies plus five others. However, there are many more currencies that must be reported as “all other” in item 1 (m). It would be very helpful to financial institutions if a published list of average exchange rates were provided for all currencies. This would also ensure uniformity in the rates used to determine the U.S. dollar equivalent of payments in these other currencies.

Conclusion

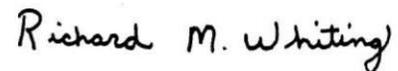
In summary, we appreciate the Board's recognition of data collection and reporting challenges posed by the FR Y-15 and its efforts to address them. However, we respectfully note that there is more work to be done before the FR Y-15 is ready to be attested to or publically disclosed. Moreover, we strongly encourage the Board to reconsider the applicability of the G-SIB framework to U.S. institutions that are not G-SIBs and leverage other well-established reporting to gather the needed data for non-G-SIB institutions.

We thank the Board for the opportunity to comment on the Information Request. If you have any questions, please do not hesitate to contact Alison Touhey at (202) 663-5182, Richard Foster at (202) 589-2424 or David Wagner at (212) 613-9883.

Sincerely,



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American Bankers Association



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Appendix I Technical Comments and Requests for Clarifications

Schedule A – Size Indicators

1. Line item 1(b)(2): SFTs include margin lending transactions per the introduction paragraph of Schedule A. However, instructions for Schedule A item 1(b)(2) state “do not include margin lending transactions”. Should this be reported consistently for all the SFT line items? Should margin lending transactions be excluded only from line item 1(b)(2) as instructed, or should they be excluded from Schedule A line item 1(b)(1), 1(b)(3), 1(b)(4), Schedule B line item 4, and line item 8 as well?
2. Line 2(c), (d), (f) and (g): off-balance sheet items with a 0% CCF, the instructions ask that the data be classified under the Basel II framework; however, many of the BHCs have not adopted Basel II, and Basel I and Basel II group off-balance sheet items are reported differently; the implementation time is not sufficient to categorize these off-balance sheet items pursuant to Basel II.
3. Line item 3: Under the final Basel III rules there are several areas under transition, and non-Advanced Approaches BHCs are allowed to opt of including AOCI in regulatory capital. This line item does not consider those provisions, so it is unclear how this should be completed.

Schedule B – Interconnectedness Indicators

4. Line 3: Holding of securities of unaffiliated financial institutions:
 - a. Is the unaffiliated financial institution the counterparty to the trade or the issuer of the securities? The initial instructions indicated that the holdings reported were to be issued by an unaffiliated financial institution. Should the holdings required to be reported be those with a counterparty that is an unaffiliated financial institution, regardless of whether or not it is the issuer?
 - b. For AFS securities, should ABS/MBS be included? What about trusts? What about SPEs?
5. Line 3(a): Secured debt securities: Is reporting of any collateralized trade involving debt securities required? There is no specific reference to collateral.
6. Line 8: references the international Basel II framework for netting: Are Basel I banks required to adopt this solely for purposes of the FR Y-15?

Schedule C – Payments

7. Could the Fed clarify that items such as residential mortgage funding wires (loan proceeds) should not be reported in this schedule even though they flow through the Fed wire?

Schedule D – Complexity Indicators

8. Line 7: Level 1 assets, subject to operational requirements: The instructions indicate “refer to the July Instructions for Basel III implementation monitoring.” The instructions posted relate to the June 2013 QIS, which were issued in August 2013. It is not clear to which instructions the reference relates.
9. Line 7: Level 1 assets, subject to operational requirements, and Line 8, Level 2 assets, with haircuts and subject to operational requirements: The reference to “subject to operational requirements” is not explained.
10. Lines 7-9: require classification of security assets into Level 1, Level 2, and Level 3. The levels are different for Basel III purposes and U.S. generally accepted accounting principles (U.S. GAAP), and it is not clear how this should work with respect to BHCs that plan to elect the AOCI opt-out from regulatory capital.
11. Line 12: Trading and AFS securities that meet the definition of Level 2 assets, with haircuts, reference is made in the instructions to the Basel III LCR rules released in January 2013. If this is the appropriate reference for these lines, then the instructions should clearly reference the Basel III LCR rules.

Schedule F – Ancillary Indicators

12. Line 2, Retail funding: The definition is redundant in that all deposits not held by retail customers or small businesses are to be excluded, as well as deposits from depository institutions and from central banks.