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June 22, 2016

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

OMB Control Number: 7100

RE: FR 2085 (Proposed Agency Information Collection Activities)

Dear Mr. Frierson:

The American Insurance Association (AIA) appreciates the opportunity to submit comments in response to the request for public input on the Board of Governors of the Federal Reserve System (Federal Reserve) proposal to collect financial information on a consolidated basis (FR 2085) from nonbank financial companies that have been designated pursuant to section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) as systemically important financial institutions (SIFIs) and subject to prudential oversight by the Federal Reserve.¹ “The FR 2085 would include a balance sheet, an income statement, a statement of changes in equity, and detailed supporting schedules.”² The requested data in the proposed FR 2085 is not public, and would not be afforded confidential treatment unless requested and granted pursuant to the Freedom of Information Act. That data would provide additional detail to the Federal Reserve via the supporting investment, insurance and additional financial statement-related schedules.

AIA represents approximately 325 major U.S. insurance companies that provide all lines of property-casualty insurance to U.S. consumers and businesses, writing more than \$127 billion annually in premiums. Our membership includes U.S. insurers that write insurance only within the U.S., U.S. insurers that write insurance inside and outside the U.S., and the U.S. subsidiaries of multi-national insurers. As the leading U.S. property-casualty insurance trade association, our members have a strong interest in ensuring that the implementation of the Dodd-Frank Act promotes financial stability and policyholder protection while also fostering a vibrant, competitive, private insurance marketplace in the U.S.

Our submission focuses on the following overarching issues:

1. Alignment of data collection under FR 2085 with the rulemaking process for the Federal Reserve’s insurance group capital standard;

¹ 81 Fed. Reg. 24097 – 24100 (Apr. 25, 2016).

² 81 Fed. Reg. at 24098.

2. Delay in the initial and periodic data collection dates set forth in FR 2085;
3. Data collection that is consistent with Section 161 of the Dodd-Frank Act; and
4. Preservation of data confidentiality and/or privilege of non-public data.

AIA is confident that, to the extent that the Federal Reserve addresses these larger issues, the resulting data collection will yield higher quality information that will enable the Board to carry out its prudential supervisory function under the law.

Alignment of FR 2085 Data Collection with Federal Reserve Group Capital Rulemaking

As noted, the proposed FR 2085 includes reporting schedules that request specific, detailed private information, presumably “to keep the Board informed as to the financial condition of the companies or their subsidiaries; systems ... for monitoring and controlling financial, operating, and other risks; the extent to which their activities and operations pose a threat to the financial stability of the United States; and their compliance with the requirements of Title I of the Dodd-Frank Act.”³ At the same time, the Federal Reserve recently released an Advance Notice of Proposed Rulemaking (ANPR), consistent with its prudential supervisory responsibilities under the Dodd-Frank Act.⁴ That ANPR seeks public input on the bifurcated conceptual approach to group capital requirements for insurance institutions (both insurance SIFIs and insurance firms that are organized as savings and loan or thrift holding companies).⁵ AIA respectfully recommends that the Federal Reserve align the FR 2085 with its group capital standard regulatory process so that public feedback that informs the consolidated approach to capital requirements for SIFIs can be incorporated into the proposed FR 2085, generating more efficient, targeted schedules that track that approach. Otherwise, it may unintentionally appear that the Federal Reserve has pre-determined a particular direction for the consolidated approach without the benefit of public comment.

Delayed Deadline for Initial and Periodic Data Reporting

As a corollary to our concern about the misalignment between the proposed FR 2085 and the Federal Reserve insurance group capital rule, AIA has a parallel concern about the data collection deadline and subsequent reporting periods. The proposal states that the FR 2085 would be effective with the June 30, 2017 reporting period, and that additional reporting would occur within 45 days following the end of each subsequent quarter. With the public comment process just underway on the insurance group capital ANPR, coupled with the granularity of requested data under the proposed FR 2085 and the burdens required to produce that information, AIA respectfully requests that the Federal Reserve consider a delay in the reporting commencement date to June 30, 2019.

In connection with this request, AIA notes that, while the Federal Reserve suggests that it would “leverage” the National Association of Insurance Commissioners (NAIC) line-of-business definitions where possible, it admittedly has departed from those definitions in Schedule IRC-I Section 1 Property

³ Supporting Statement for the Consolidated Financial Statements for insurance Nonbank Financial Companies (FR 2085; OMB No. 7100-to be assigned), at 1 (Apr. 25, 2016).

⁴ Advance Notice of Proposed Rulemaking, “Capital Requirements for Supervised Institutions Significantly Engaged in Insurance Activities,” 81 Fed. Reg. 38631 (June 14, 2016).

⁵ 81 Fed. Reg. at 38631 (“This ANPR seeks comment on proposed approaches to regulatory capital requirements that are tailored to the risks of supervised insurance institutions, including both insurance depository institution holding companies and systemically important insurance companies.”)

and Casualty.⁶ To the extent that the Federal Reserve schedule definitions for property-casualty insurance lines do not coincide with recognized NAIC definitions, this is a recipe for confusion. Lack of clarity concerning defined lines of business could complicate an insurance SIFI's completion of the proposed FR 2085's insurance-related schedules. Accordingly, AIA also requests that the Federal Reserve align its line-of-business definitions with those of the NAIC.

Reliance on Available Data and Preservation of Data Confidentiality and Privilege

Section 161 of the Dodd-Frank Act, the underlying authority for the proposed FR 2085, requires the Federal Reserve to utilize information and reports that are publicly available or that have been provided or can be obtained from federal or state regulators before looking to collect non-public data from the insurance SIFIs. While AIA notes that a portion of the proposed FR 2085 is drawn from public reports, it is not clear that the Federal Reserve has determined whether some or all of the requested schedule information can be obtained from public or regulatory sources. AIA respectfully requests that the Federal Reserve provide some clarity on this aspect of FR 2085.

In addition, while AIA notes that Section 161(a) (3) is silent on the confidentiality or privilege protection that might apply to data submitted in an FR 2085, we do know that the regulations and associated guidance implementing the SIFI determination process under the Dodd-Frank Act establish strict protocols on the Financial Stability Oversight Council (FSOC) for maintaining the protected status of non-public information that is submitted during the process.⁷ 12 C.F.R. Part 1310.20(e) outlines the confidentiality requirement:

“(e) Confidentiality—

- (1) In general. The Council shall maintain the confidentiality of any data, information, and reports submitted under this part.
- (2) Retention of privilege. The submission of any non-publicly available data or information under this part shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.”⁸

Importantly, the FSOC guidance to the rule further describes the confidentiality protocol that applies to non-public information of non-bank financial companies that become subject to Stage 3 of the SIFI determination process:

“In Stage 3, the Council, working with the OFR, will conduct a review of each nonbank financial company in the Stage 3 Pool using information collected directly from the nonbank financial company, as well as the information used in the first two stages.... The Notice of Consideration likely will include a request that the nonbank financial company provide information that the Council deems relevant to the Council's evaluation.... This information will generally be collected

⁶ Supporting Statement, at 5.

⁷ 12 C.F.R. pt. 1310.

⁸ While this same subsection, in paragraph (3), did acknowledge that the Freedom of Information Act would also apply, this would include the FOIA exceptions to public disclosure.

by the OFR.... Council members and their agencies and staffs will maintain the confidentiality of such information in accordance with applicable law.⁹

AIA respectfully submits that, in the absence of specific language governing confidentiality in Section 161, the better path to follow with respect to the submission of non-public, company-specific financial data of SIFIs under FR 2085 is to maintain any protection or privilege that would otherwise apply to the information.

CONCLUSION

AIA appreciates the Federal Reserve's willingness to consider our input on its proposed FR 2085. While this particular form may be a small part of the overall Dodd-Frank Act rulemaking process, we believe that it is important that the information collection provisions of Section 161 be implemented consistently with the overall regulatory objectives of Title I. AIA looks forward to continued engagement on these and other issues with the Federal Reserve.

Respectfully submitted,



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Senior Vice President & General Counsel
American Insurance Association

⁹ 12 C.F.R. pt. 1310, Appendix A to Part 1310—Financial Stability Oversight Council Guidance for Nonbank Financial Company Determinations, p. 362 (emphasis supplied).