

## **FEDERAL RESERVE SYSTEM**

### **12 CFR Part 209**

**[Regulation I; Docket No. R-1560]**

**RIN 7100-AE 68**

#### **Federal Reserve Bank Capital Stock**

**AGENCIES:** 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 \$10 billion total consolidated asset threshold in Regulation I, which implements the provision of the “Fixing America’s Surface Transportation Act” (FAST Act) that sets the dividend rate that member banks with more than \$10 billion in total consolidated assets earn on their Federal Reserve Bank (Reserve Bank) stock. The FAST Act requires that the Board annually adjust the \$10 billion total consolidated asset threshold to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis. Based on the change in the Gross Domestic Product Price Index as of September 29, 2016, the total consolidated asset threshold will be \$10,122,000,000 through December 31, 2017.

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

**FOR FURTHER INFORMATION CONTACT:** Evan Winerman, Counsel (202/872-7578), Legal Division; or Kimberly Zaikov, Financial Project Leader (202/452-2256), 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>

Prior to January 1, 2016, all member banks were entitled to a six percent dividend on their paid-in capital stock. As of January 1, 2016, the FAST Act<sup>4</sup> amended section 7(a)(1) of the Federal Reserve Act<sup>5</sup> to provide that 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,” while stockholders with \$10 billion or less in total consolidated assets shall continue to receive a six percent dividend. The FAST Act also provides that the Board must adjust the \$10 billion threshold for total consolidated assets annually to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis.

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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> Pub. L. No. 114-94, 129 Stat. 1312 (2015). *See* <https://www.congress.gov/114/bills/hr22/BILLS-114hr22enr.pdf>.

<sup>5</sup> 12 U.S.C. 289(a)(1).

On November 23, 2016, the Board published a final rule (FAST Act Final Rule) in the *Federal Register* that amended Regulation I to implement section 32203 of the FAST Act.<sup>6</sup> Regulation I now includes multiple references in §§ 209.2, 209.3, and 209.4 to banks with total consolidated assets of either “\$10,000,000,000 or more” or “less than \$10,000,000,000.”<sup>7</sup> As required by the FAST Act, Regulation I provides that all references to the \$10 billion total consolidated asset threshold shall be adjusted annually to reflect the change in the Gross Domestic Product Price Index.<sup>8</sup> The preamble to the FAST Act Final Rule noted that “[t]he Board expects to make this adjustment using the final second quarter estimate of the Gross Domestic Product Price Index for each year, published by the Bureau of Economic Analysis.”<sup>9</sup>

## **II. Adjustment**

As of the effective date, the total consolidated asset threshold in Regulation I shall be \$10,122,000,000. This is based on the final second quarter 2016 Gross Domestic Product Price Index estimate published by Bureau of Economic Analysis (111.268), which is 1.22% higher than the final second quarter 2015 Gross Domestic Product Price Index estimate (109.922).

## **III. Administrative Law Matters**

### *Administrative Procedure Act*

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Board finds that notice and public comment are impracticable, unnecessary, or

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<sup>6</sup> 81 FR 84415 (Nov. 23, 2016). The final rule adopted, without change, an interim final rule that the Board published in the *Federal Register* on February 24, 2016 (81 FR 9082).

<sup>7</sup> Regulation I defines “total consolidated assets” as “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.” 12 CFR 209.1(d)(3).

<sup>8</sup> 12 CFR 209.4(f).

<sup>9</sup> 81 FR at 84417.

contrary to the public interest.<sup>10</sup> The amendment in this notice is technical and applies the method previously set forth in the FAST Act Final Rule.<sup>11</sup> For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendments are adopted in final form.

*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>12</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>13</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:

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<sup>10</sup> 5 U.S.C. 553(b)(B).

<sup>11</sup> See 12 CFR 209.4(f).

<sup>12</sup> 5 U.S.C. 603 and 604.

<sup>13</sup> 44 U.S.C. 3506; 5 CFR 1320.

**PART 209 – FEDERAL RESERVE BANK CAPITAL STOCK (REGULATION I)**

1. In part 209, remove all references to “\$10,000,000,000” and replace with “\$10,122,000,000”, wherever it appears.

By order of the Board of Governors of the Federal Reserve System, February 17, 2017.

Robert deV. Frierson (signed)

Robert deV. Frierson.  
*Secretary of the Board.*