

# Rules and Regulations

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 209

[Regulation I; Docket No. R-1745]

RIN 7100-AG13

### Federal Reserve Bank Capital Stock

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

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors (Board) is publishing a final rule that amends Regulation I to automate non-merger-related adjustments to member banks' subscriptions to Federal Reserve Bank (Reserve Bank) capital stock. The final rule also makes certain technical amendments to Regulation I and conforming revisions to the FR 2056 reporting form.

**DATES:** Effective February 14, 2022.

**FOR FURTHER INFORMATION CONTACT:** Evan Winerman, Senior Counsel (202-872-7578), Legal Division; or Kimberly Zaikov, Manager (202-452-2256), Reserve Bank Operations and Payments Systems Division. You may also contact us by email via <https://www.federalreserve.gov/apps/ContactUs/feedback.aspx>, choose Staff Group: Regulations.

#### 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 and Regulation I, a member bank (other than a mutual savings bank) must subscribe to capital stock of the Reserve Bank of its district in an amount equal to 6 percent of the member bank's capital and surplus.<sup>1</sup> Similarly, under section 9 of the Federal Reserve Act and Regulation I, a member bank that is a mutual savings bank must subscribe to capital stock of the Reserve Bank of its district in an amount equal

to six-tenths of 1 percent of its total deposit liabilities.<sup>2</sup> 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>

Under section 7 of the Federal Reserve Act and Regulation I, smaller member banks (currently those with \$11.229 billion or less in total consolidated assets) receive a 6 percent annual dividend on their Reserve Bank stock.<sup>4</sup> Other member banks receive a dividend at the lesser of (i) the annual 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 and (ii) an annual rate of 6 percent.<sup>5</sup>

#### A. Non-Merger-Related Adjustments to Reserve Bank Stock Subscriptions

Regulation I requires that a member bank apply to adjust its stock subscription "promptly after filing" its December 31 report of condition (Call Report).<sup>6</sup> Additionally, a member bank must apply to adjust its stock subscription promptly after filing any other quarterly Call Report showing that the member bank has experienced an increase or decrease to its capital and surplus (or its total deposit liabilities for a mutual savings bank) requiring a change in excess of the lesser of 15 percent or 100 shares of Reserve Bank capital stock.<sup>7</sup> Member banks use the FR 2056 reporting form to apply for

<sup>2</sup> 12 U.S.C. 333 and 12 CFR 209.4(b). The Federal Reserve Act and Regulation I allow a mutual savings bank to maintain a temporary "deposit" with a Reserve Bank in lieu of obtaining capital stock if the mutual savings bank is not permitted to purchase Reserve Bank stock under state law. However, if the relevant state law is not amended at the first session of the legislature after the bank is admitted to authorize the purchase of Reserve Bank stock, or if the bank fails to purchase the stock within six months of such amendment, the Reserve Bank will terminate the membership of the mutual savings bank. 12 U.S.C. 333; 12 CFR 209.2(a) and 208.3(a)(1).

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

<sup>4</sup> 12 U.S.C. 289 and 12 CFR 209.4(e). Regulation I generally defines total consolidated assets by reference to the total assets reported on a member bank's most recent December 31 Call Report. 12 CFR 209.1(d)(3).

<sup>5</sup> *Id.*

<sup>6</sup> 12 CFR 209.4(a) and (b).

<sup>7</sup> *Id.*

adjustments to their stock subscriptions.<sup>8</sup>

#### B. Merger-Related Adjustments to Reserve Bank Stock Subscriptions

Regulation I provides that, when two member banks merge or consolidate, the appropriate Reserve Banks shall cancel shares of the nonsurviving bank and credit shares to the surviving bank.<sup>9</sup> In order to effectuate this requirement, the Reserve Banks direct surviving member banks to apply to adjust their stock subscriptions before they merge or consolidate with other member banks. Similarly, the Reserve Banks direct nonsurviving member banks to apply to cancel their stock subscriptions before they merge or consolidate with other member banks.<sup>10</sup>

Regulation I does not expressly require that a surviving member bank apply to adjust its stock subscription before it merges or consolidates with a nonmember bank. In practice, however, the Reserve Banks request that surviving member banks apply to adjust their stock subscriptions before they merge or consolidate with nonmember banks.<sup>11</sup> This practice allows the Reserve Banks to make timely changes to the stock subscriptions of surviving member banks that merge or consolidate with nonmember banks.

When a surviving member bank applies to adjust its stock subscription, it must state whether its total consolidated assets exceed \$11.229 billion.<sup>12</sup> This requirement ensures that a Reserve Bank receives timely and accurate notice of whether a merger has caused a surviving member bank's total consolidated assets to exceed \$11.229 billion, which (as noted above)

<sup>8</sup> See Federal Reserve, Reporting Forms at [https://www.federalreserve.gov/reportforms/forms/FR\\_205620200115\\_f.pdf](https://www.federalreserve.gov/reportforms/forms/FR_205620200115_f.pdf).

<sup>9</sup> 12 CFR 209.3(d)(1) and (2). If the surviving or nonsurviving bank is a mutual savings bank that is not permitted to purchase Reserve Bank stock under state law, Regulation I instead directs the Reserve Bank to transfer or increase the member bank's deposit obligation. *Id.*

<sup>10</sup> Nonsurviving member banks use the FR 2086a reporting form to apply to cancel their stock subscriptions. [https://www.federalreserve.gov/reportforms/forms/FR\\_2086a20200115\\_f.pdf](https://www.federalreserve.gov/reportforms/forms/FR_2086a20200115_f.pdf).

<sup>11</sup> The surviving bank applies to adjust its stock subscription based on its anticipated post-merger capital and surplus or, in the case of a member bank that is a mutual savings bank, its anticipated post-merger total deposit liabilities.

<sup>12</sup> 12 CFR 209.1(d)(3) and 209.3(d)(3).

<sup>1</sup> 12 U.S.C. 287 and 12 CFR 209.4(a).

determines the dividend rate to which the member bank is entitled.

## II. Description of the Final Rule

On April 13, 2021, the Board published a proposal to automate non-merger-related adjustments to member banks' subscriptions to Reserve Bank capital stock.<sup>13</sup> The Board also proposed to clarify that a surviving member bank must apply to adjust its stock subscription before merging or consolidating with another bank. Finally, the Board proposed two technical amendments to Regulation I.

The Board received no responsive comments on the proposal. The Board is finalizing the proposed amendments with certain technical clarifications.

### A. Automation of Non-Merger-Related Stock Adjustments

As noted above, Regulation I currently requires that a member bank apply to adjust its stock subscription at least annually and sometimes quarterly. A member bank determines its required stock subscription based on its capital and surplus (or total deposit liabilities for a mutual savings bank) as reported in the member bank's most recent Call Report.

The Reserve Banks have developed software that automatically pulls the information needed to calculate member banks' required stock subscriptions from Call Reports. The Board is therefore amending section 209.4 to automate the stock adjustment process. Specifically, the Reserve Banks will adjust a member bank's stock subscription each time the member bank files a Call Report.<sup>14</sup> This automated process will eliminate the need for member banks to file applications to adjust their stock subscriptions (except in the context of mergers, as described *infra*).

The Board is also clarifying that, when a Reserve Bank issues stock to a member bank, the Reserve Bank will obtain payment for that stock by debit to an account on the Reserve Bank's books or by other form of settlement to which the Reserve Bank agrees.

### B. Merger-Related Stock Adjustments

As noted above, before two member banks merge or consolidate, the Reserve Banks direct the surviving member bank to apply to adjust its stock subscription and the nonsurviving member bank to apply to cancel its stock subscription. Similarly, before a member bank merges or consolidates with a nonmember bank,

the Reserve Banks request that the surviving member bank apply to adjust its stock subscription.

The Board is amending section 209.3 to codify the Reserve Banks' current practice of requesting pre-merger stock adjustment applications. The amendments will expressly require a surviving member bank to apply to adjust its stock subscription before merging or consolidating with another member bank or nonmember bank.<sup>15 16</sup> This will ensure that the Reserve Banks make timely changes to the stock subscriptions of surviving member banks that merge or consolidate with other banks.

Relatedly, the Board is making conforming amendments to two provisions of Regulation I (current 12 CFR 209.1(d)(3) and 209.3(d)(3)) to clarify that, consistent with the existing text of Regulation I, a surviving member bank must state in its stock adjustment application whether its total consolidated assets exceed \$11.229 billion.

### C. Technical Amendments

The Board proposed two technical amendments and is finalizing these amendments with a non-substantive clarification. The Board is also adopting a third, related technical amendment.

Section 209.1(c) recognizes that a bank located in a United States dependency or possession may apply for membership, and a footnote in section 209.1(c) explains that such a bank "should communicate with the Federal Reserve Bank with which it desires to do business." The Board is amending this footnote to clarify that a bank located in the Virgin Islands or Puerto Rico should communicate with the Federal Reserve Bank of New York, while a bank located in Guam, American Samoa, or the Northern Mariana Islands should communicate with the Federal Reserve Bank of San Francisco. The amendment will make this footnote in Regulation I consistent

<sup>15</sup> Similarly, if a surviving bank is a mutual savings bank that is not permitted to purchase Reserve Bank stock under state law, the final rule will require the surviving bank to apply to adjust its deposit obligation.

<sup>16</sup> Regulation I expressly requires that a nonsurviving member bank apply to cancel its stock subscription when it "is merged or consolidated into a nonmember bank." 12 CFR 209.3(a). The final rule will expressly require that a nonsurviving member bank apply to cancel its stock subscription (or, in the case of a mutual savings bank that is not permitted to purchase Reserve Bank stock, transfer its deposit obligation) before merging or consolidating with another member bank. This amendment is consistent with the existing requirement in Regulation I that a member bank apply to cancel its stock subscription when it "desires to withdraw from membership" or "voluntarily . . . ceases business." 12 CFR 209.3(a).

with a provision in the Board's Regulation J that clarifies the Federal Reserve Districts in which banks from United States dependencies and possessions are deemed to be located.<sup>17</sup>

Section 209.3(a) requires that any bank that desires to withdraw from membership in the Federal Reserve System promptly file with its Reserve Bank an application for cancellation of all its Reserve Bank stock. The Board proposed to amend section 209.3(a) to clarify that, consistent with the Board's current understanding, this requirement applies to any national bank that wants to convert into a "State nonmember bank." The final rule clarifies that this requirement applies to a national bank that converts into any nonmember bank—not only a "State" nonmember bank.<sup>18</sup>

Relatedly, section 209.3(c) specifies that when a member bank merges into, consolidates with, or converts into a "State nonmember bank," the member bank's stock shall be cancelled on the effective date of the merger, consolidation, or conversion. The final rule clarifies that a member bank's stock shall be cancelled on the effective date of a member bank's merger into, consolidation with, or conversion into any nonmember bank—not only a State nonmember bank.

## IV. Regulatory Analysis

### A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, generally requires that an agency assess the impact a rule is expected to have on small entities.<sup>19</sup> The RFA requires an agency either to provide a regulatory flexibility analysis or to certify that the rule will not have a significant economic impact on a substantial number of small entities.

The Board did not receive any comments on its initial regulatory flexibility analysis. The Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities. As described in the information above, the final rule will reduce reporting requirements for member banks by automating non-merger-related stock adjustments. Additionally, the final rule will require that a surviving stockholder apply to adjust its stock subscription

<sup>17</sup> See 12 CFR 210.2(i)(1)(A).

<sup>18</sup> For example, this requirement applies to a national bank that converts into a federal savings bank.

<sup>19</sup> Under size standards established by the Small Business Administration, banks and other depository institutions are considered "small" if they have less than \$600 million in assets. 13 CFR 121.201.

<sup>13</sup> 86 FR 19152 (April 13, 2021).

<sup>14</sup> Similarly, the Board is automating the process for adjusting the deposit obligation of a mutual savings bank that has a deposit with the appropriate Reserve Bank in lieu of Reserve Bank capital stock.

before merging or consolidating with another bank.<sup>20</sup> There are approximately 50 mergers each year in which the surviving stockholder is a member bank, and it will take a surviving stockholder approximately 30 minutes to complete the paperwork associated with an adjustment to its stock subscription. Accordingly, the final rule will not have a significant economic impact on a substantial number of small entities.

#### B. Paperwork Reduction Act

Certain provisions of the final rule contain “collections of information” within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the final rule under the authority delegated to the Board by OMB. The Board did not receive any specific comments on the PRA.

The final rule contains revisions to sections 209.3 and 209.4 that automate non-merger-related adjustments to member banks’ subscriptions to Reserve Bank capital stock. Automating the adjustment process would reduce the frequency of reporting. To implement this requirement, the Board has extended for three years, with revision, the Federal Reserve Bank Stock Applications (FR 2030, FR 2030a, FR 2056, FR 2086, FR2086a, 2087; OMB No. 7100–0042). The revisions would affect only the FR 2056.

#### Adopted Revision, With Extension, of the Following Information Collection

*Report title:* Federal Reserve Bank Stock Applications.

*Agency form numbers:* FR 2030; FR 2030a; FR 2056; FR 2086; FR 2086a; FR 2087.

*OMB control number:* 7100–0042.

*Frequency:* On occasion.

*Respondents:* New national banks, non-member state banks converting into national banks, member banks, and member banks converting into or

merging into member or nonmember banks.

*Estimated number of respondents:* FR 2030, 4; FR 2030a, 7; FR 2056, 50; FR 2086, 10; FR 2086a, 86; FR 2087, 1.

*Estimated average hours per response:* 0.5.

*Estimated annual burden hours:* FR 2030, 2; FR 2030a, 3.5; FR 2056, 25; FR 2086, 5; FR 2086a, 43; FR 2087, 0.5.

*General description of report:* Any national bank wanting to purchase stock in the Federal Reserve System, any member bank wanting to increase or decrease its Federal Reserve Bank stock holdings, or any bank wanting to cancel its stock holdings must file an application with the appropriate Federal Reserve Bank. The application forms for the initial subscription of Federal Reserve Bank stock filed by organizing national banks and nonmember state banks converting to national banks (FR 2030 and 2030a, respectively) and the application forms for the cancellation of Federal Reserve Bank stock filed by liquidating member banks, member banks merging or consolidating with nonmember banks, and insolvent member banks (FR 2086, FR 2086a, and FR 2087, respectively) require one or more of the following: A resolution by the applying bank’s board of directors authorizing the transaction, an indication of the capital and surplus of the bank as of the date of application, a certification (by official signatures) of the resolution, and/or an indication of the number of shares and dollar amount of the Federal Reserve Bank stock to be purchased or cancelled.

The application form for an interim adjustment in a member bank’s holdings of Federal Reserve Bank stock (FR 2056) requires an indication of the capital and surplus of the bank (or total deposit liabilities for a mutual savings bank) as of the date of application and an indication of the number of shares held and the number of shares to be acquired or canceled. A member bank must submit a completed FR 2056 form to correct a discrepancy between the amount of Federal Reserve Bank stock required to be held and the amount actually held by the member bank. The latter is determined through information that the member bank reports quarterly on the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036).

*Legal authorization and confidentiality:* The Federal Reserve Bank Stock Applications are authorized

pursuant to sections 9 and 11(a) of the FRA (12 U.S.C. 321 and 248(a)). Additionally, the FR 2030 and FR 2030a are specifically authorized by section 2 of the FRA (12 U.S.C. 222 and 282), the FR 2056, FR 2086, and FR 2086a are authorized by section 5 of the FRA (12 U.S.C. 287), and the FR 2087 is authorized by section 6 of the FRA (12 U.S.C. 288). The FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, and FR 2087 are mandatory.

Individual respondents may request that information submitted to the Board in these applications be kept confidential on a case-by-case basis. Such applications may contain information related to the business plans of the respondent. Under certain circumstances, this information may be withheld under exemption 4 of the Freedom of Information Act (FOIA), which protects privileged or confidential commercial or financial information (5 U.S.C. 552(b)(4)). These applications may also contain information of a personal nature the disclosure of which would result in a clearly unwarranted invasion of personal privacy, which may be protected under exemption 6 of the FOIA (5 U.S.C. 552(b)(6)). Additionally, exemption 8 of the FOIA (5 U.S.C. 552(b)(8)) may apply to the extent the reported information is contained in or related to examination reports.

*Current actions:* The Board has adopted amendments to Regulation I that automate non-merger-related adjustments to member banks’ subscriptions to Reserve Bank capital stock.

Regulation I currently requires that a member bank apply to adjust its stock subscription at least annually and sometimes quarterly. A member bank determines its required stock subscription based on its capital and surplus (or total deposit liabilities for a mutual savings bank) as reported in the member bank’s most recent Call Report.

The Reserve Banks have developed software that automatically pulls the information needed to calculate member banks’ required stock subscriptions from Call Reports. Accordingly, the Board adopted amendments to section 209.4 that will automate non-merger-related stock adjustments. The Board also adopted amendments to section 209.3(d) that would require a surviving stockholder to apply to adjust its stock subscription before merging with another bank.

<sup>20</sup> Consistent with the current text of Regulation I, a surviving member bank would need to report in its stock adjustment application whether its total consolidated assets exceed \$11.229 billion. See n. 12, *supra*. Additionally, consistent with the current text of Regulation I, a nonsurviving member bank would need to apply to cancel its stock before merging or consolidating with another bank. See n. 15, *supra*.

Consistent with these changes to Regulation I, the Board eliminated the requirement that member banks routinely submit FR 2056 reporting forms to adjust their stock subscriptions. The Board amended the FR 2056 reporting form to clarify that the form should be filed only by a surviving member bank that merges or consolidates with another bank.

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 will amend Regulation I, 12 CFR part 209, as follows:

PART 209—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. Revise the heading to part 209 to read as shown above.

■ 3. Amend § 209.1 by revising paragraphs (c) and (d)(3) to read as follows.

§ 209.1 Authority, purpose, scope, and definitions.

\* \* \* \* \*

(c) Scope. This part applies to member banks of the Federal Reserve System, to national banks in process of organization, and to state banks applying for membership. National banks and locally-incorporated banks located in United States dependencies and possessions are eligible (with the consent of the Board) but not required to apply for membership under section 19(h) of the Federal Reserve Act, 12 U.S.C. 466.<sup>1</sup>

<sup>1</sup> A bank located in the Virgin Islands or Puerto Rico should communicate with the Federal Reserve Bank of New York regarding applications for membership under the provisions of section 19(h) of the Federal Reserve Act. A bank located in Guam, American Samoa, or the Northern Mariana Islands should communicate with the Federal Reserve Bank of San Francisco regarding applications for membership under the provisions of section 19(h) of the Federal Reserve Act.

(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:

(i) A new member "total consolidated assets" means (until the next December 31 Call Report becomes available) the total consolidated assets of the new member at the time of its application for capital stock; and

(ii) A surviving stockholder after a merger "total consolidated assets" means (until the next December 31 Call Report becomes available) the total consolidated assets reported by that stockholder pursuant to § 209.3(d)(5).

■ 4. Amend § 209.3 by:

- a. Revising the section heading;
■ b. Revising paragraphs (a) and (c) and the paragraph (d) subject heading;
■ c. Redesignating paragraphs (d)(1), (2), and (3) as paragraphs (d)(2), (3), and (5), respectively and adding new paragraph (d)(1) and paragraph (d)(4); and
■ d. Revising newly redesignated paragraph (d)(5).

The revisions and additions to read as follows:

§ 209.3 Cancellation of Reserve Bank stock; mergers involving member banks.

(a) Application for cancellation. Any bank that desires to withdraw from membership in the Federal Reserve System (including a national bank that wants to convert into a nonmember bank), voluntarily liquidates or ceases business, is merged or consolidated into a nonmember bank, or is involuntarily liquidated by a receiver or conservator or otherwise, shall promptly file with its Reserve Bank an application for cancellation of all its Reserve Bank stock (or withdrawal of its deposit, as the case may be) and payment therefor in accordance with § 209.4.

\* \* \* \* \*

(c) Effective date of cancellation. Cancellation in whole of a bank's Reserve Bank capital stock shall be effective, in the case of:

- (1) Voluntary withdrawal from membership by a state bank, as of the date of such withdrawal;
(2) Merger into, consolidation with, or (for a national bank) conversion into, a nonmember bank, as of the effective date of the merger, consolidation, or conversion; and
(3) Involuntary termination of membership, as of the date the Board issues the order of termination.

(d) Exchange of stock on merger or change in location; stock adjustment upon merger with a nonmember bank; reporting of total consolidated assets following merger—(1) Applications. (i) Before a merger or consolidation of member banks, the nonsurviving member bank shall file an application with the appropriate Reserve Bank to

cancel its shares of Reserve Bank stock (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall file an application to transfer its deposit to the account of the surviving bank) and the surviving member bank shall file an application with the appropriate Reserve Bank for issue of a corresponding number of shares of Reserve Bank stock (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall file an application to increase its deposit obligation).

(ii) Before a merger or consolidation of a member bank and a nonmember bank, a surviving member bank shall file an application with the appropriate Reserve Bank to adjust its Reserve Bank capital stock subscription to equal six percent of the member bank's anticipated post-merger capital and surplus, or, in the case of member bank that is a mutual savings bank, six-tenths of 1 percent of the member bank's anticipated post-merger total deposit liabilities. A mutual savings bank not authorized to purchase Reserve Bank stock shall file an application to adjust its deposit obligation in a like manner.

\* \* \* \* \*

(4) Merger with a nonmember bank. Upon a merger or consolidation of a member bank and a nonmember bank, the Reserve Bank will adjust the surviving member bank's stock subscription to equal six percent of the member bank's capital and surplus, or, in the case of a member bank that is a mutual savings bank, six-tenths of 1 percent of the member bank's total deposit liabilities. If a mutual savings bank has a deposit with the appropriate Reserve Bank in lieu of Reserve Bank capital stock, its deposit obligation shall be adjusted in a like manner.

(5) Statement of total consolidated assets. When a member bank merges or consolidates with another bank and the surviving bank remains a Reserve Bank stockholder, the surviving stockholder must report whether its total consolidated assets exceed \$11,229,000,000 in the application described in paragraph (d)(1) of this section.

\* \* \* \* \*

- 5. Amend § 209.4 by:
■ a. Revising paragraphs (a) and (b) and paragraph (c)(1) introductory text;
■ b. Redesignating paragraphs (c)(2) and (3) as paragraphs (c)(3) and (4), and adding a new paragraph (c)(2); and
■ c. Revising paragraph (d)(1) introductory text.

The revisions and addition read as follows:

**§ 209.4 Amounts and payments for subscriptions and cancellations; timing and rate of dividends.**

(a) *Amount of subscription.* The total subscription of a member bank (other than a mutual savings bank) shall equal six percent of its capital and surplus as shown on its most recent Call Report. After a member bank files a Call Report, the appropriate Reserve Bank will adjust the member bank's Reserve Bank capital stock subscription to equal six percent of the member bank's capital and surplus.

(b) *Mutual savings banks.* The total subscription of a member bank that is a mutual savings bank shall equal six-tenths of 1 percent of its total deposit liabilities as shown on its most recent Call Report. After a member bank that is a mutual savings bank files a Call Report, the appropriate Reserve Bank will adjust the member bank's Reserve Bank capital stock subscription to equal six-tenths of 1 percent of the member bank's total deposit liabilities. If a mutual savings bank has a deposit with the appropriate Reserve Bank in lieu of Reserve Bank capital stock, its deposit obligation shall be adjusted in a like manner.

(c) \* \* \*

(1) When a Reserve Bank issues capital stock to a member bank (or accepts a deposit in lieu thereof), the member bank shall pay the Reserve Bank—

\* \* \* \* \*

(2) A Reserve Bank shall obtain settlement for the payment described in paragraph (c)(1) of this section by debit to an account on the Reserve Bank's books or other form of settlement to which the Reserve Bank agrees.

\* \* \* \* \*

(d) \* \* \*

(1) When a Reserve Bank cancels Reserve Bank capital stock of a member bank, or (in the case of involuntary termination of membership) upon the effective date of cancellation specified in § 209.3(c)(3), the Reserve Bank shall—

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2022-00503 Filed 1-12-22; 8:45 am]

**BILLING CODE 6210-01-P**

**FARM CREDIT SYSTEM INSURANCE CORPORATION**

**12 CFR Part 1411**

**RIN 3055-AA18**

**Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation**

**AGENCY:** Farm Credit System Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule implements inflation adjustments to civil money penalties (CMPs) that the Farm Credit System Insurance Corporation (FCSIC) may impose under the Farm Credit Act of 1971, as amended. These adjustments are required by 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990.

**DATES:** *Effective date:* This regulation is effective on January 13, 2022.

*Applicability date:* The adjusted amounts of civil money penalties in this rule are applicable to penalties assessed on or after January 15, 2022, for conduct occurring on or after November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Lynn M. Powalski, General Counsel, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4380, TTY (703) 883-4390.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act)<sup>1</sup> to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The Inflation Adjustment Act provides for the regular evaluation of CMPs and requires FCSIC, and every other Federal agency with authority to impose CMPs, to ensure that CMPs continue to maintain their deterrent values.<sup>2</sup>

<sup>1</sup> Public Law 101-410, 104 Stat. 890 (Oct. 5, 1990), as amended by Public Law 104-134, title III, § 31001(s)(1), 110 Stat. 1321-373 (Apr. 26, 1996); Public Law 105-362, title XIII, § 1301(a), 112 Stat. 3293 (Nov. 10, 1998); Public Law 114-74, title VII, § 701(b), 129 Stat. 599 (Nov. 2, 2015), codified at 28 U.S.C. 2461 note.

<sup>2</sup> Under the amended Inflation Adjustment Act, a CMP is defined as any penalty, fine, or other sanction that: (1) Either is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts. All three requirements must be met for a fine to be considered a CMP.

FCSIC must enact regulations that annually adjust its CMPs pursuant to the inflation adjustment formula of the amended Inflation Adjustment Act and rounded using a method prescribed by the Inflation Adjustment Act. The new amounts are applicable to penalties assessed on or after January 15, 2022, for conduct occurring on or after November 2, 2015. Agencies do not have discretion in choosing whether to adjust a CMP, by how much to adjust a CMP, or the methods used to determine the adjustment.

**II. CMPs Imposed Pursuant to Section 5.65 of the Farm Credit Act**

First, section 5.65(c) of the Farm Credit Act, as amended (Act), provides that any insured Farm Credit System bank that willfully fails or refuses to file any certified statement or pay any required premium shall be subject to a penalty of not more than \$100 for each day that such violations continue, which penalty FCSIC may recover for its use.<sup>3</sup> Second, section 5.65(d) of the Act provides that, except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any System institution.<sup>4</sup> For each willful violation of section 5.65(d), the institution involved shall be subject to a penalty of not more than \$100 for each day during which the violation continues, which FCSIC may recover for its use.

FCSIC's current § 1411.1 provides that FCSIC can impose a maximum penalty of \$217 per day for a violation under section 5.65(c) and (d) of the Act.

**III. Required Adjustments**

The 2015 Act requires agencies to make annual adjustments for inflation. Annual inflation adjustments are based on the percent change between the October Consumer Price Index for all Urban Consumers (CPI-U) preceding the date of the adjustment, and the prior year's October CPI-U. Based on the CPI-U for October 2021, not seasonally adjusted, the cost-of-living adjustment multiplier for 2022 is 1.06222.<sup>5</sup> Multiplying 1.06222 times the current penalty amount of \$217, after rounding to the nearest dollar as required by the

<sup>3</sup> 12 U.S.C. 2277a-14(c).

<sup>4</sup> 12 U.S.C. 2277a-14(d).

<sup>5</sup> See Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M-22-07, *Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (December 15, 2021).