sifma
Invested in America

June 15, 2013

By electronic mail to regs.comments@federalreserve.gov

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

Re: Supervision and Regulation Assessments for Bank Holding Companies and Savings and Loan Holding Companies with Total Consolidated Assets of $50 Billion or More and Nonbank Financial Companies Supervised by the Federal Reserve (Docket No. R-1457; RIN 7100-AD-95)

Dear Mr. deV. Frierson:

The Securities Industry and Financial Markets Association ("SIFMA")[1] appreciates the opportunity to comment on the Notice of Proposed Rulemaking under Section 318 of the Dodd-Frank Act ("Proposal") issued by the Board of Governors of the Federal Reserve System ("Federal Reserve"). The Proposal would impose assessments on bank holding companies and savings and loan holding companies with total consolidated assets of $50 billion or more, as well as nonbank financial companies supervised by the Federal Reserve.

Like the assessment framework for the Financial Research Fund, we are primarily concerned with the failure to disclose meaningful detail underlying the stated methodology. Although we understand the difficulties associated with doing so, we believe it is critical that the Federal Reserve, and other government agencies given broad and sometimes overlapping assessment mandates under the Dodd-Frank Act, commit to a fully-transparent process in which the public is provided an opportunity for informed comment. Here, as there, we also have reservations about a methodology that implicitly equates size with risk and, by extension, the costs of supervision and regulation.

---

[1] SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association.

New York Washington
120 Broadway, 35th Floor New York, NY 10271-0080 P: 212.313.1200 F: 212.313.1301
www.sifma.org

We share many of the concerns identified by our fellow trade associations and join with them in urging the Federal Reserve to provide additional detail regarding its assessment methodology for public comment.[2] We elaborate on these concerns below.

The Federal Reserve should provide additional detail and opportunity for public comment on the assessment basis.

The Federal Reserve defines the assessment basis as the amount of total expenses it estimates is necessary or appropriate to carry out its supervisory and regulatory responsibilities with respect to assessed companies. The Federal Reserve identifies a list of activities associated with the consolidated supervision and regulation of assessed companies, the expenses of which would be included in the assessment basis. Likewise, the Federal Reserve identifies certain activities – namely, the supervision of state member banks and branches and agencies of foreign banks – that are not included in the assessment basis. The Federal Reserve estimates $440 million in expenses for the 2012 assessment period, and fixes this as the assessment basis for several assessment periods thereafter.

Unfortunately, the Federal Reserve provides no detail supporting its $440 million expense estimate. As a result, it is difficult for the public to comment in a meaningful fashion on the appropriateness of the Federal Reserve's estimates or the activities included. The public cannot, for example, determine whether the Federal Reserve has mistakenly counted expenses associated with its many other responsibilities – such as monetary policy or systemic risk – in the assessment basis. Similarly, the public cannot determine whether the Federal Reserve has included consumer compliance expenses, notwithstanding the Consumer Financial Protection Bureau's exclusive mandate in this area, or how and where it distinguishes between the supervision and regulation of assessed companies and that of the large number of other institutions and activities subject to Federal Reserve oversight. The Federal Reserve's many interrelated roles compound the difficulty associated with calculating the assessment basis properly and highlight the need for transparency.

To mitigate this problem, we urge the Federal Reserve to disclose each year for public comment additional detail regarding its estimated expenses constituting the assessment basis. Such detail should include line-item expenditures by activity type, allocated among the Federal Reserve Banks and the Federal Reserve Board. It should also identify more detail on the expenses covered in the assessment basis, including direct operating expenses (e.g., support, overhead, and

[2] We also draw to your attention the positions taken in comment letters to be submitted to the Federal Reserve by the American Bankers Association, the Financial Services Roundtable, the Institute of International Bankers and The Clearing House Association, that (i) the Federal Reserve should provide more transparent and detailed disclosure of the Federal Reserve's expenses included in the assessment basis, and (ii) the Federal Reserve should consider postponing the commencement of its assessment program until 2014 for expenses incurred by the Federal Reserve during 2013.

pension expenses) as well as the expenses associated with activities that are integral to carry out the Federal Reserve's supervision and regulation of assessed companies, but not directly attributable to specific companies (e.g., training of staff in the supervision function, etc.).

Finally, we suggest the Federal Reserve consider and disclose how its estimated expenses for each assessment period compare to actual expenses. The comparison should inform future Federal Reserve estimates in particular and methodology more generally, and be reflected in future assessment bases accordingly.

The Proposal should not apply retroactively.

The Federal Reserve proposes to apply a retroactive assessment for calendar year 2012. Assessed companies have only recently been made aware of this proposed assessment and have therefore not had the opportunity to budget or otherwise plan for this expense. Until a final rule is issued, they will be unable to gauge the actual assessment with any certainty or begin to accrue associated costs. The current opacity regarding the Federal Reserve's methodology for estimating expenses is further reason to reconsider a retroactive assessment. Accordingly, we recommend the Federal Reserve apply the assessment prospectively, commencing with calendar year 2013.

The definition of total assessable assets should exclude separate account assets.

The Proposal includes separate account assets in the calculation of total assessable assets. Although separate account assets are consolidated for GAAP purposes, they differ from general account assets. Separate accounts hold premiums from customers associated with variable investment contracts in which the customer, not the insurer, assumes market risk. Unlike general account assets, separate account assets are also not available to claims by general creditors of the insurer. Since separate account assets are not indicative of insurer risk, and thus not the focus of Federal Reserve consolidated supervision and regulation, we believe they should be excluded from the definition of total assessable assets.

* * * *

We appreciate the opportunity to comment on this Proposal. If you have any questions, please do not hesitate to contact me.

Sincerely,

Kenneth E. Bentsen, Jr.
President
kbentsen@sifma.org / (202) 962-7400