September 30, 2015

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: Federal Reserve System: Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Reserve System entitled “Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies” (RIN: 7100 AE-26). We received the rule on September 15, 2015. It was published in the Federal Register as a final rule on August 14, 2015. 80 Fed. Reg. 49,082.

The final rule establishes risk-based capital surcharges for the largest, most interconnected U.S.-based bank holding companies pursuant to section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The final rule requires a U.S. top-tier bank holding company that is an advanced approaches institution to calculate a measure of its systemic importance. A bank holding company whose measure of systemic importance exceeds a defined threshold would be identified as a global systemically important bank holding company (GSIB) and would be subject to a risk-based capital surcharge (GSIB surcharge). The GSIB surcharge is phased in beginning on January 1, 2016, through year-end 2018, and becomes fully effective on January 1, 2019. The final rule also revises the terminology used to identify the bank holding companies subject to the enhanced supplementary leverage ratio standards to ensure consistency in the scope of application between the enhanced supplementary leverage ratio standards and the GSIB surcharge framework.

Enclosed is our assessment of the Federal Reserve’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Federal Reserve complied with the applicable requirements.
If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Linda Robertson
    Assistant to the Board of Governors
    of the Federal Reserve System
REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL RESERVE SYSTEM
ENTITLED
“REGULATORY CAPITAL RULES: IMPLEMENTATION OF
RISK-BASED CAPITAL SURCHARGES FOR
GLOBAL SYSTEMICALLY IMPORTANT BANK HOLDING COMPANIES”
(RIN: 7100 AE-26)

(i) Cost-benefit analysis

According to its submission to us, the Federal Reserve System (Federal Reserve) did not prepare an analysis of the costs and benefits with respect to this rule. However, it did note in the final rule that it sought comments on the potential costs of the proposed global systemically important bank holding companies’ (GSIB) risk-based capital surcharge (GSIB surcharge) and the expected impact framework for calibrating GSIB capital surcharges, and the potential impact on economic growth, credit availability, and credit costs in the United States. It also included a white paper that included a discussion of an economy-wide cost-benefit analysis alternative, which would weigh the costs of higher capital requirements for GSIBs (such as a potential temporary decline in credit intermediation) against the benefits (most notably, a reduction in the frequency and severity of financial crises). Although the Federal Reserve stated that analytical work by the Basel Committee on Banking Supervision suggests that capital ratios higher than those that will apply under the final rule would produce net benefits to the economy, the white paper, according to the Federal Reserve, did not use this framework as the primary calibration framework because its results are highly sensitive to a number of factors, including assumptions regarding the probability of and harm caused by economic crises, the extent to which higher capital requirements might reduce credit intermediation by firms subject to those requirements, the rate at which other firms would expand their output of credit intermediation, and the harm associated with a given diminution in credit intermediation.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Federal Reserve believes that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Federal Reserve is not subject to title II of the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Federal Reserve invited public comment on a notice of proposed rulemaking to identify GSIBs and imposing a GSIB surcharge on those institutions. 79 Fed. Reg. 75,473 (December 18, 2014). The Board received 21 public comments on the proposed rule from
banking organizations, trade associations, public interest advocacy groups, and private individuals. Some commenters also met with Board staff to discuss the proposed rule. According to the Federal Reserve, while some commenters expressed support for higher capital standards for the largest and most complex U.S. banking organizations, several commenters criticized specific aspects of the proposed rule. Where it deemed appropriate, the Federal Reserve made adjustments in the final rule in response to the commenters’ concerns.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Federal Reserve determined that this final rule contains information requirements subject to PRA, which has Office of Management and Budget (OMB) Control Number 7100–NEW. The Board reviewed the final rule under the authority delegated to the Federal Reserve by OMB. The recordkeeping requirements are found in sections 217.402 and 217.403. In connection with this final rule, the Federal Reserve stated that it will issue a separate notice amending the proposed revisions to FR Y–15, published on July 9, 2015, to reflect the final rule’s definition of short-term wholesale funding. The Federal Reserve states that the report title is: Recordkeeping Requirements Associated with Regulation Q (Capital Adequacy of Bank Holding Companies, Savings and Loan Holding Companies, and State Member Banks), and the agency form number is Reg Q. The reporting frequency will be annual, and the reporters will be bank holding companies (BHC), savings and loan holding companies, and state member banks. The estimated annual reporting hours are 11 hours, and the estimated average hour per response is 0.5 hours for each method. The number of respondents will be 13 for identification of a GSIB and 8 for GSIB surcharge. The abstract, as stated in the rule, is that a bank holding company is a global systemically important BHC if its method 1 score equals or exceeds 130 basis points. A BHC must calculate its method 1 and method 2 scores on an annual basis by December 31.

Statutory authorization for the rule

The Federal Reserve promulgated this final rule under the authority of section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), 12 U.S.C. § 5365.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Federal Reserve is not subject to review requirements of the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Federal Reserve is not subject to review requirements of the Order.