September 20, 2018

The Honorable Mike Crapo  
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: Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Board of Governors of the Federal Reserve System (the Board) entitled “Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations” (RIN: 7100-AE 48). We received the rule on September 6, 2018. It was published in the Federal Register as a final rule on August 6, 2018. 83 Fed. Reg. 38,460. The effective date of the final rule is October 5, 2018.

The final rule establishes single-counterparty credit limits for bank holding companies and foreign banking organizations with $250 billion or more in total consolidated assets, including any U.S. intermediate holding company of such a foreign banking organization with $50 billion or more in total consolidated assets, and any bank holding company identified as a global systemically important bank holding company under the Board’s capital rules. The final rule implements section 165(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires the Board to impose limits on the amount of credit exposure that such a bank holding company or foreign banking organization can have to an unaffiliated company in order to reduce the risks arising from the company’s failure.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the Federal Register or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule was received on September 6, 2018. It was published in the Federal Register on August 6, 2018. 83 Fed. Reg. 38,460. The Senate received the rule on September 4, 2018, and the House received the rule on September 12, 2018. The final rule does not have the required 60-day delay in its effective date.
Enclosed is our assessment of the Board’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. 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
(i) Cost-benefit analysis

The Board of Governors of the Federal Reserve System (the Board) stated the final rule would require covered companies to construct an infrastructure for monitoring and reporting their credit exposures to the Board and to conform any excess credit exposures. The Board further stated firms may have to utilize several low-cost mechanisms for reducing any residual excess credit exposures, including shifting exposures to other less-concentrated counterparties, increasing margin requirements for some derivatives or securities financing transactions, or increase use of derivative transactions that are cleared by qualifying central counterparties.

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

The Board included a Final Regulatory Analysis in the final rule. It concluded that the rule would 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 Board is not subject to the Act.

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

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

The Board published a notice of proposed rulemaking on March 16, 2016. 81 Fed. Reg. 14,328. The Board received approximately 30 comments in response to the 2016 proposed rule. Comments were received from a wide range of individuals; banking organizations; industry and trade groups representing banking, insurance, and the broader financial services industry; and public interest groups. The Board staff also met with a number of commenters to discuss issues relating to the proposed rule. The comments were responded to in the final rule.

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

The Board stated certain provisions of the final rule contain “collection of information” requirements within the meaning of PRA. The Board reviewed the reporting requirements in §§ 252.78(a) and 252.178(a) of the final rule under the authority delegated to the Board by the Office of Management and Budget.
Statutory authorization for the rule

The Board stated it promulgated the rule under 12 U.S.C. §§ 321-38a, 481-86, 1467a(g), 1818, 1828, 1831n, 1831o, 1831p-1, 1831w, 1835, 1844(b), 1844(c), 3904, 3906-09, 4808, 5361, 5365-68, and 5371.

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

As an independent regulatory agency, the Board is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Board is not subject to the Order.