



INSTITUTE OF INTERNATIONAL BANKERS

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

Re: Proposed Revisions To Federal Reserve Board Form FR Y-7Q
(OMB Control Number 7100-0125)

Dear Mr. Frierson:

The Institute of International Bankers (“IIB”) appreciates the opportunity to comment on the recently proposed revisions to The Capital and Asset Report for Foreign Banking Organizations – FR Y-7Q.¹ The IIB’s membership is comprised of banks headquartered outside the United States which engage in a variety of banking and other financial activities in the United States. IIB member banks comprise virtually the entirety of the FR Y-7Q reporting panel.

The Proposal is intended to facilitate implementation of the provisions in Regulation YY that require certain foreign banking organizations (“FBOs”) to form U.S. intermediate holding companies (“IHCs”) as the top-tier parent of their combined U.S. non-branch operations. It would do so by adding to Part 1 of Form FR Y-7Q new Line Item 7 (entitled “total U.S. non-branch assets”), providing instructions for calculating this figure, and making corresponding revisions to the rest of the form and instructions. The proposed revisions would be effective December 31, 2014.

Our comments focus on the explanation of the calculation of total U.S. non-branch assets provided in the proposed instructions for new Line Item 7. As discussed below, we request clarification of certain aspects of that explanation. In addition, we suggest an alternative approach whereby “total U.S. non-branch assets” would be calculated by making certain adjustments to “total combined assets of U.S. operations, net of intercompany balances and

¹ 79 Fed. Reg. 34753 (June 18, 2014) (the “Proposal”). For ease of reference, as used in this letter the term “branch” includes “agency” except where the context otherwise indicates.



transactions between U.S. domiciled affiliates, branches, and agencies” as reported on Line Item 6 of Part 1, the reporting of which was required effective March 31, 2014. Our intention is that this alternative approach would simplify the calculation by linking it directly to a figure which FBOs already are reporting while producing the same result that we understand to be intended by the Proposal.

DISCUSSION

A. The Regulatory Framework

The Proposal complements the revisions to Form FR Y-7Q that were effective March 31, 2014. Those revisions added a new Line Item 6 to Part 1 requiring reporting of “total combined assets of U.S. operations, net of intercompany balances and transactions between U.S. domiciled affiliates, branches, and agencies.” That figure provides the basis for determining, among other things, the extent to which the enhanced prudential standards implemented through Regulation YY pursuant to Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act apply to FBOs’ combined U.S. operations, including their U.S. branches.² The Proposal prescribes the means for determining whether an FBO’s U.S. operations, other than those of its U.S. branches, cross the \$50 billion asset threshold prescribed in Regulation YY, thereby requiring the FBO to form an IHC as the top-tier U.S. holding company for its U.S. non-branch operations (subject to certain very limited exceptions as provided for under Regulation YY).³

Regulation YY thus bifurcates the assets of an FBO’s U.S. operations into those held by its U.S. branches and those held outside its U.S. branches, with the latter comprised in their entirety by the combined assets of the FBO’s U.S. subsidiaries. The FBO’s total U.S. non-branch assets thus may be understood as the difference between the total combined assets of its U.S. operations – *i.e.*, the figure reported in Part 1, Line Item 6 of Form FR Y-7Q – and the total assets of its U.S. branches. To give proper effect to the provisions of Regulation YY and the inter-company adjustments associated with the determination of total combined assets of U.S. operations, that difference must be adjusted to (1) take into account the requirement in Regulation YY to exclude from the calculation of U.S. non-branch assets not only the assets of Section 2(h)(2) Subsidiaries (which already are excluded from Line Item 6), but also those of DPC branch subsidiaries (which are included in Line Item 6); (2) include transactions between U.S. affiliates and U.S. branches that are excluded from Line Item 6; and (3) exclude transactions between non-U.S. domiciled affiliates and U.S. branches that are included in Line Item 6 (collectively, the “Required Adjustments”).

² See Subparts N and O of Regulation YY. More specifically, Line Item 6 is the point of reference in Form FR Y-7Q under Section 252.142(b)(2) of Regulation YY.

³ More specifically, the Proposal prescribes the point of reference in Form FR Y-7Q under Section 252.152(b)(2) of Regulation YY.



B. Requested Clarifications

We respectfully request clarification of the following aspects of the proposed revised instructions for Line Item 7:

- 1) The first paragraph states that the assets of U.S. branches should be excluded from the sum of the total combined assets of top-tier U.S. domiciled affiliates. It is our understanding that U.S. branches are not within the scope of the proposed definition of “U.S. domiciled affiliate” (which is identical to the definition of the same term that is provided in Line Item 6)⁴ and therefore their assets already are excluded from the calculation of top-tier U.S. domiciled affiliates’ assets. We accordingly request clarification of what the reference to excluding the assets of U.S. branches contemplates.
- 2) The second paragraph states that the sum of the total combined assets of top-tier U.S. domiciled affiliates should include “asset exposures” to U.S. branches and non-U.S. domiciled affiliates. We request clarification of whether “asset exposures” (which presumably are the same as the type of “intercompany balances and transactions” that form the basis for the inter-U.S. domiciled affiliate exclusion) are intended to be measured on a gross or net basis. We note that for purposes of Line Item 6, intercompany balances and transactions with non-U.S. domiciled affiliates, whether conducted by a U.S. domiciled affiliate or a U.S. branch, are included on a net basis.

C. A Suggested Alternative

We believe the ambiguities discussed above could be addressed, and the explanation of the calculation of total U.S. non-branch assets simplified, if the instructions for Line Item 7 were linked directly to those for Line Item 6 and the Required Adjustments were taken into account. Under this approach, the instructions for Line Item 7 would (1) incorporate by reference the definition of “U.S. domiciled affiliate” and the consolidation principles provided in Line Item 6 and (2) explain that the figure reported in Line Item 7 is calculated by (i) subtracting from Line Item 6 the portion of that figure that is represented by the total assets of U.S. branches and (ii) giving effect to the Required Adjustments. We believe this approach appropriately reflects in the calculation Regulation YY’s bifurcation of FBOs’ U.S. operations.

As compared to the proposed explanation, incorporating the Required Adjustments would modify the calculation as follows:

⁴ It is our understanding that the definition of “U.S. domiciled affiliate” provided in the proposed instructions for new Line Item 7 is intended to be the same as the definition of that term currently provided in the instructions for Line Item 6. Regarding that definition, the question has arisen how the equity method is intended to apply in circumstances where an FBO owns an interest in a non-U.S. company that would not be consolidated with the FBO for GAAP purposes but that itself owns a U.S. company that would be consolidated with the non-U.S. company for GAAP purposes.



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- 1) It would not be necessary to exclude intercompany balances and intercompany transactions between the U.S. domiciled affiliates to the extent such items are not already eliminated in consolidation, because that exclusion is already provided for in Line Item 6.
- 2) However, it would be necessary to exclude intercompany balances and transactions between non-U.S. domiciled affiliates and U.S. branches since these are included in Line Item 6.
- 3) Setting aside the ambiguity of the term “asset exposures” discussed above, it would be necessary to include only those of top-tier U.S. domiciled affiliates to U.S. branches (which are excluded in Line Item 6). No adjustment would be necessary for top-tier U.S. domiciled affiliates’ exposures to non-U.S. domiciled affiliates because these are already included in Line Item 6.

* * *

We appreciate the Board’s consideration of our comments on the Proposal. Please contact the undersigned if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Coffman', written over a horizontal line.

Richard Coffman
General Counsel

cc: Ms. Cynthia Ayouch
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