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BOARD OF GOVERNORS
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October 11, 2012

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street & Constitution Ave., NW.
Washington, DC 20551

**Re: Proposed Agency Information Collection Activities; Comment Request
(FR Doc. 2012-20325; FR Y-15)**

Dear Chairman Bernanke:

These comments are submitted on behalf of the American Council of Life Insurers (the "ACLI"). The ACLI is a national trade association with over 300 member companies representing more than 90 percent of the assets and premiums of the life insurance and annuity industry in the U.S. We appreciate the opportunity to submit comments to the Board of Governors of the Federal Reserve System (the "Board") regarding its information collection proposal for the Banking Organization Systemic Risk Report (the "Proposed Information Request").¹ A number of ACLI's members are currently registered as savings and loan holding companies ("SLHCs") under the Home Owners' Loan Act ("HOLA").

In the Information Request, the Board proposes requiring bank holding companies ("BHCs"), foreign banking organizations ("FBOs") and SLHCs with \$50 billion or more in total consolidated assets to submit the Banking Organization Systemic Risk Report, the FR Y-15.² The Board's Supporting Statement for the Proposed Information Request observes that the data to be collected for the FR Y-15 "would be derived directly from a data collection developed by the Basel Committee on Banking Supervision" and "would mirror those [data items] that were developed by the Basel Committee to assess the global systemic importance of *banks*." (Emphasis added). The Board states that it "would submit the BHC data to the Basel Committee for use in determining whether an institution is a global systemically important *bank*." (Emphasis added). The Board further states that the full data set, including the data from SLHCs, would be used "to assess the systemic risk implications of proposed mergers and acquisitions" and may be used "to determine whether an institution is a domestic systemically important *bank*."³ (Emphasis added). As these statements amply demonstrate, this reporting requirement is a bank-centric exercise. As we discuss below, we believe that it is neither

¹ Proposed Agency Information Collection Activities; Comment Request, 77 Fed. Reg. 50,102 (Aug. 20, 2012).

² An FBO would only be required to submit the FR Y-15 to the BOARD if the FBO's total U.S. operations, including branches, had assets of \$50 billion or more.

³ 77 Fed. Reg. 50,105.

necessary nor appropriate to subject SLHCs, particularly those that are predominantly insurance companies, to a bank-centric data collection exercise that will be unduly burdensome and will in any event be duplicative of other regulatory data requests currently being made on insurance enterprises.

We recognize that the Board has the authority under HOLA to require reports from SLHCs. However, we do not believe that either the Dodd-Frank Act or HOLA provides for a basis for the Board to require SLHCs to provide data for the purposes described in the Proposed Information Request. The Proposed Information Request suggests that the data may be used to determine whether an institution is a domestic systemically important bank. This purpose is not apposite for justifying an information request upon an SLHC. The Proposed Information Request indicates that the requested information would also be used to assess the systemic risk implications of proposed mergers and acquisitions. In respect to this purpose, we note that although Section 604 of the Dodd-Frank Act amends section 3 and section 4 of the Bank Holding Company Act to direct the Board to analyze the systemic risk implications of mergers and acquisitions by BHCs, Title VI does not make any analogous amendment to HOLA. Similarly, although every BHC with \$50 billion or more in total consolidated assets is automatically subject to heightened supervision by the Board, the Dodd-Frank Act contains no such provision for SLHCs with \$50 billion or more in total consolidated assets. Indeed, neither the Dodd-Frank Act nor HOLA gives the Board the authority to subject an SLHC to heightened supervision.⁴ Only the Financial Stability Oversight Council ("FSOC") has authority under the Dodd-Frank Act to determine if a nonbank financial company should be subject to heightened prudential standards. Under the terms of the statute, this designation process is separate and apart from the Board's general regulatory and supervisory authority over SLHCs. The proposal over-extends the Board's general regulatory and supervisory authority by intruding on the systemic determination process Congress reserved for the FSOC.

We also submit that it is not reasonable to impose a data reporting requirement on SLHCs with \$50 billion or more in total consolidated assets in respect of the Board's analyses of systemic risk implications of mergers and acquisitions involving a BHC with \$50 billion or more in total consolidated assets. Many of the largest SLHCs engage in a diverse range of activities and hold assets that are not comparable to those held by BHCs (in some cases not even permissible for BHCs). Requiring SLHCs to develop the information and audit systems to gather and report the data required by the proposed FR Y-15 form cannot be justified by such a tenuous relation to assessment of systemic risk among BHCs.

We further submit that for BHCs and SLHCs that are predominantly engaged in insurance activities the Proposed Information Request would be unduly burdensome and duplicative of other international and domestic data collection efforts. Internationally, under assignment from the Bank for International Settlements, the International Association of Insurance Supervisors (the "IAIS") is currently collecting data from insurers, including insurers that are BHCs or SLHCs, for purposes of finalizing a methodology for the identification of global systemically important insurers. IAIS has sent out two data calls already, which ask the recipient institutions to gather, organize, and produce

⁴ We note that the Board has separately indicated its intent to impose enhanced prudential standards and early remediation requirements under sections 165 and 166 of the Dodd-Frank Act on SLHCs that engage in "substantial banking activities." See Enhanced Prudential Requirements and Early Remediation Requirements for Covered Companies, 77 Fed. Reg. 594, 598 (Jan. 5, 2012). As we noted in our previous letter to the Board, we do not believe that the Board has authority to extend the enhanced prudential standards and early remediation requirements of sections 165 and 166 to SLHCs. See Letter from the ACLI, to the Board (Apr. 25, 2012), available at http://www.federalreserve.gov/SECRS/2012/May/20120518/R-1438/R-1438_042512_107212_504336335598_1.pdf.

company-specific information. These data requests have been specifically designed to gather the relevant information relating to the systemic risk implications of insurance companies activities. Savings and loan holding companies that are predominantly engaged in insurance, even if they are of a size that meets the \$50 billion consolidated assets test, would not be banking organizations of a sufficient size to be potentially globally significant banks. Thus, collecting the FR-Y-15 information from those companies, to submit it to the Basel Committee on Banking Supervision, would be a poor use of time and financial resources for both the reporting insurance groups and the Basel Committee.

The Federal Insurance Office ("FIO") is collecting the requested data from those U.S. institutions that received the data call. FIO will forward the data to the IAIS. By comparison, the Supporting Statement states that the FR Y-15 is "directly derived from a data collection developed by the Basel Committee on Banking Supervision." Domestically, the FSOC has announced its intention to request information from certain nonbanks, including potentially SLHCs predominantly engaged in insurance activities, in order to conduct its own analysis of the systemic risk posed by particular institutions under Title I of the Dodd-Frank Act.⁵ We submit that the application of the FR Y-15's bank-centric reporting requirements to SLHCs with \$50 billion or more of total consolidated assets is in conflict with the data collection processes already underway by the IAIS and the FSOC. It makes no sense to require SLHCs that are predominantly engaged in insurance activities to develop specialized systems to collect bank-centric data for purposes of supporting Basel systemic risk analyses for banks when the relevant bodies (the IAIS and the FSOC) have already developed specific data requests for insurance enterprises.

Additionally, we submit that the Proposed Information Request fails to satisfy the requirements of the Paperwork Reduction Act (the "PRA") in its application to SLHCs that are predominantly insurers. For example, the Proposed Information Request does not reflect any "evaluation for the need for the collection of information" on the FR Y-15 form from SLHCs, as mandated by the PRA.⁶ Nor does the Proposed Information Request reflect any appreciation of the other data collection processes in place from the FSOC and the IAIS, and hence any consideration of whether the FR Y-15 is "unnecessarily duplicative" as applied to these SLHCs engaged predominantly in insurance activities.⁷ Moreover, by requiring that SLHCs prepare the FR Y-15 according to GAAP, the Board also appears to have disregarded its mandate under the PRA to implement the FR Y-15 in a manner that is "consistent and compatible" with existing reporting and recordkeeping practices by SLHCs.⁸ In short, the Proposed Information Request is deficient in critical areas under the PRA in its application to SLHCs that are predominantly engaged in insurance activities.

Finally, we also believe that the Proposed Information Request underestimates the burdens that would be imposed on SLHCs predominantly engaged in insurance activities that attempt to gather

⁵ The statute directs that the FSOC may collect such information from the Office of Financial Research, the Federal Insurance Office and other agencies "as necessary" in order to carry out its responsibility under Title I of the Dodd-Frank Act (12 USC § 5322(d)).

⁶ See 44 U.S.C. § 3506(c)(1)(A)(i) (requiring agencies to "evaluate the need for the collection of information.").

⁷ See 44 U.S.C. § 3506(c)(3)(B) (requiring agencies to solicit comment to "evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency[.]").

⁸ See 44 U.S.C. § 3506(c)(3)(E) (requiring agencies to implement information collections in ways "consistent and compatible . . . with the existing reporting and recordkeeping practices of those who are to respond.").

and collect the data necessary to complete the FR Y-15. While the Board estimates that SLHCs would only incur 180 burden hours to complete and submit this FR Y-15, this estimate vastly underestimates the actual costs and burden hours that would be incurred, particularly because many of the SLHCs that would be required to submit the FR Y-15 currently prepare financial statements according to Statutory Accounting Principles, and therefore do not have the management information systems ("MIS") in place to prepare and submit the FR Y-15 under Generally Accepted Accounting Principles ("GAAP"), as would be required by the Board. Even for those insurance SLHCs that prepare GAAP financial statements it must be noted that current disclosures required under GAAP are not at the level of granularity contemplated by the Proposed Information Request. In addition, several instructions require the filer to present certain activity on a gross basis, while GAAP requires this activity to be presented on a net basis (e.g., short-term investment balances, cash balances). Thus, even for those insurance SLHCs that prepare financial statements in accordance with GAAP, there would be significant additional time burdens and incremental costs associated with refining their systems to ensure that complete and accurate reports are issued and filed.

The Board proposes to implement the collection of the FR Y-15 as of December 31, 2012, with a filing deadline of 45 calendar days after this date. We submit that it is simply not possible for an SLHC that does not currently gather and aggregate this detailed-level of financial data under GAAP to develop the MIS infrastructure necessary to complete and submit the FR Y-15 by that date. Further, the instructions to the FR Y-15 are vague and do not contemplate the activities of insurance SLHCs, making it difficult for these companies to even know what information they need to begin collecting and increasing the potential for inconsistent practices among filers.

We thank the Board for its consideration of our views. We are available for further discussion on this matter at your convenience.

Respectfully submitted,



Julie A. Spiezio

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