

## Federal Reserve System

## § 209.1

need to remain vigilant over the next twelve to twenty-four months, and to promptly report incidents of suspected identity theft to the institution. The notice should include the following additional items, when appropriate:

a. A recommendation that the customer review account statements and immediately report any suspicious activity to the institution;

b. A description of fraud alerts and an explanation of how the customer may place a fraud alert in the customer's consumer reports to put the customer's creditors on notice that the customer may be a victim of fraud;

c. A recommendation that the customer periodically obtain credit reports from each nationwide credit reporting agency and have information relating to fraudulent transactions deleted;

d. An explanation of how the customer may obtain a credit report free of charge; and

e. Information about the availability of the FTC's online guidance regarding steps a consumer can take to protect against identity theft. The notice should encourage the customer to report any incidents of identity theft to the FTC, and should provide the FTC's Web site address and toll-free telephone number that customers may use to obtain the identity theft guidance and report suspected incidents of identity theft.<sup>15</sup>

2. The Agencies encourage financial institutions to notify the nationwide consumer reporting agencies prior to sending notices to a large number of customers that include contact information for the reporting agencies.

### *C. Delivery of Customer Notice*

Customer notice should be delivered in any manner designed to ensure that a customer can reasonably be expected to receive it. For example, the institution may choose to contact all customers affected by telephone or by mail, or by electronic mail for those customers for whom it has a valid e-mail address and who have agreed to receive communications electronically.

[Reg. H, 66 FR 8634, Feb. 1, 2001, as amended at 69 FR 77617, Dec. 28, 2004; 70 FR 15753, Mar. 29, 2005; 71 FR 5780, Feb. 3, 2006; 79 FR 37166, July 1, 2014]

<sup>15</sup>Currently, the FTC Web site for the ID Theft brochure and the FTC Hotline phone number are <http://www.consumer.gov/idtheft> and 1-877-IDTHEFT. The institution may also refer customers to any materials developed pursuant to section 151(b) of the FACT Act (educational materials developed by the FTC to teach the public how to prevent identity theft).

APPENDIXES E-F TO PART 208  
[RESERVED]

## PART 209—FEDERAL RESERVE BANK CAPITAL STOCK (REGULATION I)

EFFECTIVE DATE NOTE: At 87 FR 73635, Dec. 1, 2022, part 209 was amended by removing all references to “\$11,229,000,000” and adding in their place “\$12,124,000,000” wherever they appear, effective Jan. 3, 2023.

Sec.

209.1 Authority, purpose, scope, and definitions.

209.2 Banks desiring to become member banks.

209.3 Cancellation of Reserve Bank stock; mergers involving member banks.

209.4 Amounts and payments for subscriptions and cancellations; timing and rate of dividends.

209.5 The share register.

AUTHORITY: 12 U.S.C. 222, 248, 282, 286-288, 289, 321, 323, 327-328, and 466.

SOURCE: 63 FR 37663, July 13, 1998, unless otherwise noted.

### § 209.1 Authority, purpose, scope, and definitions.

(a) *Authority*. This part is issued pursuant to 12 U.S.C. 222, 248, 282, 286-288, 289, 321, 323, 327-328, and 466.

(b) *Purpose*. The purpose of this part is to implement the provisions of the Federal Reserve Act relating to the issuance and cancellation of Federal Reserve Bank stock upon becoming or ceasing to be a member bank, or upon changes in the capital and surplus of a member bank, of the Federal Reserve System. This part also implements the provisions of the Federal Reserve Act relating to the payment of dividends to member banks.

(c) *Scope*. This part applies to member banks of the Federal Reserve System, to national banks in process of organization, and to state banks applying for membership. National banks and locally-incorporated banks located in United States dependencies and possessions are eligible (with the consent of the Board) but not required to apply for membership under section 19(h) of the Federal Reserve Act, 12 U.S.C. 466.<sup>1</sup>

<sup>1</sup>A bank located in the Virgin Islands or Puerto Rico should communicate with the Federal Reserve Bank of New York regarding

*Continued*

§ 209.2

12 CFR Ch. II (1-1-23 Edition)

(d) *Definitions.* For purposes of this part—

(1) *Capital Stock and Surplus.* Capital stock and surplus of a member bank means the paid-in capital stock<sup>2</sup> and paid-in surplus of the bank, less any deficit in the aggregate of its retained earnings, gains (losses) on available for sale securities, and foreign currency translation accounts, all as shown on the bank's most recent report of condition. Paid-in capital stock and paid-in surplus of a bank in organization means the amount which is to be paid in at the time the bank commences business.

(2) *Dividend proration basis* means the use of a 360-day year of 12 30-day months for purposes of computing dividend payments.

(3) *Total consolidated assets* means the total assets on the stockholder's balance sheet as reported by the stockholder on its Consolidated Report of Condition and Income (Call Report) as of the most recent December 31, except in the case of:

(i) A new member "total consolidated assets" means (until the next December 31 Call Report becomes available) the total consolidated assets of the new member at the time of its application for capital stock; and

(ii) A surviving stockholder after a merger "total consolidated assets" means (until the next December 31 Call Report becomes available) the total consolidated assets reported by that stockholder pursuant to § 209.3(d)(5).

[63 FR 37663, July 13, 1998, as amended by Reg. I, 81 FR 9087, Feb. 24, 2016; 87 FR 2030, Jan. 13, 2022]

§ 209.2 Banks desiring to become member banks.

(a) *Application for stock or deposit.* Each national bank in process of orga-

applications for membership under the provisions of section 19(h) of the Federal Reserve Act. A bank located in Guam, American Samoa, or the Northern Mariana Islands should communicate with the Federal Reserve Bank of San Francisco regarding applications for membership under the provisions of section 19(h) of the Federal Reserve Act.

<sup>2</sup>Capital stock includes common stock and preferred stock (including sinking fund preferred stock).

nization,<sup>3</sup> each nonmember state bank converting into a national bank, and each nonmember state bank applying for membership in the Federal Reserve System under Regulation H, 12 CFR part 208, shall file with the Federal Reserve Bank (Reserve Bank) in whose district it is located an application for stock (or deposit in the case of mutual savings banks not authorized to purchase Reserve Bank stock<sup>4</sup>) in the Reserve Bank. This application for stock must state whether the applicant's total consolidated assets exceed \$11,229,000,000. The bank shall pay for the stock (or deposit) in accordance with § 209.4 of this part.

(b) *Issuance of stock; acceptance of deposit.* Upon authorization to commence business by the Comptroller of the Currency in the case of a national bank in organization or upon approval of conversion by the Comptroller of the Currency in the case of a state nonmember bank converting to a national bank, or when all applicable requirements have been complied with in the case of a state bank approved for membership, the Reserve Bank shall issue the appropriate number of shares by crediting the bank with the appropriate number of shares on its books. In the case of a national or state member bank in organization, such issuance shall be as of the date the bank opens for business. In the case of a mutual savings bank not authorized to purchase Reserve Bank shares, the Reserve Bank shall accept the deposit in place of issuing

<sup>3</sup>A new national bank organized by the Federal Deposit Insurance Corporation under section 11(n) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)) should not apply until in the process of issuing stock pursuant to section 11(n)(15) of that act. Reserve Bank approval of such an application shall not be effective until the issuance of a certificate by the Comptroller of the Currency pursuant to section 11(n)(16) of that act.

<sup>4</sup>A mutual savings bank not authorized to purchase Federal Reserve Bank stock may apply for membership evidenced initially by a deposit. (See § 208.3(a) of Regulation H, 12 CFR part 208.) The membership of the savings bank shall be terminated if the laws under which it is organized are not amended to authorize such purchase at the first session of the legislature after its admission, or if it fails to purchase such stock within six months after such an amendment.

## Federal Reserve System

## § 209.3

shares. The bank's membership shall become effective on the date of such issuance or acceptance.

(c) *Location of bank*—(1) *General rule.* For purposes of this part, a national bank or a State bank is located in the Federal Reserve District that contains the location specified in the bank's charter or organizing certificate, or as specified by the institution's primary regulator, or if no such location is specified, the location of its head office, unless otherwise determined by the Board under paragraph (c)(2) of this section.

(2) *Board determination.* If the location of a bank as specified in paragraph (c)(1) of this section, in the judgment of the Board of Governors of the Federal Reserve System (Board), is ambiguous, would impede the ability of the Board or the Reserve Banks to perform their functions under the Federal Reserve Act, or would impede the ability of the bank to operate efficiently, the Board will determine the Federal Reserve District in which the bank is located, after consultation with the bank and the relevant Reserve Banks. The relevant Reserve Banks are the Reserve Bank whose District contains the location specified in paragraph (c)(1) of this section and the Reserve Bank in whose District the bank is proposed to be located. In making this determination, the Board will consider any applicable laws, the business needs of the bank, the location of the bank's head office, the locations where the bank performs its business, and the locations that would allow the bank, the Board, and the Reserve Banks to perform their functions efficiently and effectively.

[63 FR 37663, July 13, 1998, as amended at 74 FR 25639, May 29, 2009; Reg. I, 81 FR 9087, Feb. 24, 2016; 82 FR 11502, Feb. 24, 2017; 82 FR 52174, Nov. 13, 2017; 83 FR 58467, Nov. 20, 2018; 84 FR 68326, Dec. 16, 2019; 85 FR 79390, Dec. 10, 2020; 86 FR 69579, Dec. 8, 2021]

### § 209.3 Cancellation of Reserve Bank stock; mergers involving member banks.

(a) *Application for cancellation.* Any bank that desires to withdraw from membership in the Federal Reserve System (including a national bank that wants to convert into a nonmember bank), voluntarily liquidates or ceases

business, is merged or consolidated into a nonmember bank, or is involuntarily liquidated by a receiver or conservator or otherwise, shall promptly file with its Reserve Bank an application for cancellation of all its Reserve Bank stock (or withdrawal of its deposit, as the case may be) and payment therefor in accordance with § 209.4.

(b) *Involuntary termination of membership.* If an application is not filed promptly after a cessation of business by a state member bank, a vote to place a member bank in voluntary liquidation, or the appointment of a receiver for (or a determination to liquidate the bank by a conservator of) a member bank, the Board may, after notice and an opportunity for hearing where required under Section 9(9) of the Federal Reserve Act (12 U.S.C. 327), order the membership of the bank terminated and all of its Reserve Bank stock canceled.

(c) *Effective date of cancellation.* Cancellation in whole of a bank's Reserve Bank capital stock shall be effective, in the case of:

(1) Voluntary withdrawal from membership by a state bank, as of the date of such withdrawal;

(2) Merger into, consolidation with, or (for a national bank) conversion into, a nonmember bank, as of the effective date of the merger, consolidation, or conversion; and

(3) Involuntary termination of membership, as of the date the Board issues the order of termination.

(d) *Exchange of stock on merger or change in location; stock adjustment upon merger with a nonmember bank; reporting of total consolidated assets following merger*—(1) *Applications.* (i) Before a merger or consolidation of member banks, the nonsurviving member bank shall file an application with the appropriate Reserve Bank to cancel its shares of Reserve Bank stock (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall file an application to transfer its deposit to the account of the surviving bank) and the surviving member bank shall file an application with the appropriate Reserve Bank for issue of a corresponding number of shares of Reserve Bank stock (or in the

§ 209.4

12 CFR Ch. II (1–1–23 Edition)

case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall file an application to increase its deposit obligation).

(ii) Before a merger or consolidation of a member bank and a nonmember bank, a surviving member bank shall file an application with the appropriate Reserve Bank to adjust its Reserve Bank capital stock subscription to equal six percent of the member bank’s anticipated post-merger capital and surplus, or, in the case of member bank that is a mutual savings bank, six-tenths of 1 percent of the member bank’s anticipated post-merger total deposit liabilities. A mutual savings bank not authorized to purchase Reserve Bank stock shall file an application to adjust its deposit obligation in a like manner.

(2) *Merger of member banks in the same Federal Reserve District.* Upon a merger or consolidation of member banks located in the same Federal Reserve District, the Reserve Bank shall cancel the shares of the nonsurviving bank (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall credit the deposit to the account of the surviving bank) and shall credit the appropriate number of shares on its books to (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall accept an appropriate increase in the deposit of) the surviving bank, subject to paragraph (d)(3) of § 209.4.

(3) *Change of location or merger of member banks in different Federal Reserve Districts.* Upon a determination under paragraph (c)(2) of § 209.2 that a member bank is located in a Federal Reserve District other than the District of the Reserve Bank of which it is a member, or upon a merger or consolidation of member banks located in different Federal Reserve Districts,—

(i) The Reserve Bank of the member bank’s former District, or of the nonsurviving member bank, shall cancel the bank’s shares and transfer the amount paid in for those shares, plus accrued dividends (as specified in paragraph (d)(1)(ii) of § 209.4) and subject to paragraph (d)(3) of § 209.4 (or, in the case of a mutual savings bank member not authorized to purchase Federal Reserve Bank stock, the amount of its de-

posit, adjusted in a like manner), to the Reserve Bank of the bank’s new District or of the surviving bank; and

(ii) The Reserve Bank of the member bank’s new District or of the surviving bank shall issue the appropriate number of shares by crediting the bank with the appropriate number of shares on its books (or, in the case of a mutual savings bank, by accepting the deposit or an appropriate increase in the deposit).

(4) *Merger with a nonmember bank.* Upon a merger or consolidation of a member bank and a nonmember bank, the Reserve Bank will adjust the surviving member bank’s stock subscription to equal six percent of the member bank’s capital and surplus, or, in the case of a member bank that is a mutual savings bank, six-tenths of 1 percent of the member bank’s total deposit liabilities. If a mutual savings bank has a deposit with the appropriate Reserve Bank in lieu of Reserve Bank capital stock, its deposit obligation shall be adjusted in a like manner.

(5) *Statement of total consolidated assets.* When a member bank merges or consolidates with another bank and the surviving bank remains a Reserve Bank stockholder, the surviving stockholder must report whether its total consolidated assets exceed \$11,229,000,000 in the application described in paragraph (d)(1) of this section.

(e) *Voluntary withdrawal.* Any bank withdrawing voluntarily from membership shall give 6 months written notice, and shall not cause the withdrawal of more than 25 percent of any Reserve Bank’s capital stock in any calendar year, unless the Board waives these requirements.

[63 FR 37663, July 13, 1998, as amended by Reg. I, 81 FR 9087, Feb. 24, 2016; 82 FR 11502, Feb. 24, 2017; 82 FR 52174, Nov. 13, 2017; 83 FR 58467, Nov. 20, 2018; 84 FR 68326, Dec. 16, 2019; 85 FR 79390, Dec. 10, 2020; 86 FR 69579, Dec. 8, 2021; 87 FR 2030, Jan. 13, 2022]

**§ 209.4 Amounts and payments for subscriptions and cancellations; timing and rate of dividends.**

(a) *Amount of subscription.* The total subscription of a member bank (other than a mutual savings bank) shall

## Federal Reserve System

## § 209.4

equal six percent of its capital and surplus as shown on its most recent Call Report. After a member bank files a Call Report, the appropriate Reserve Bank will adjust the member bank's Reserve Bank capital stock subscription to equal six percent of the member bank's capital and surplus.

(b) *Mutual savings banks.* The total subscription of a member bank that is a mutual savings bank shall equal six-tenths of 1 percent of its total deposit liabilities as shown on its most recent Call Report. After a member bank that is a mutual savings bank files a Call Report, the appropriate Reserve Bank will adjust the member bank's Reserve Bank capital stock subscription to equal six-tenths of 1 percent of the member bank's total deposit liabilities. If a mutual savings bank has a deposit with the appropriate Reserve Bank in lieu of Reserve Bank capital stock, its deposit obligation shall be adjusted in a like manner.

(c) *Payment for subscriptions.* (1) When a Reserve Bank issues capital stock to a member bank (or accepts a deposit in lieu thereof), the member bank shall pay the Reserve Bank—

(i) One-half of the subscription amount; and

(ii) Accrued dividends equal to the paid-in subscription amount in paragraph (c)(1)(i) of this section multiplied by—

(A) In the case of a bank with total consolidated assets of more than \$11,229,000,000, an annual rate equal to the lesser of the high yield of the 10-year Treasury note auctioned at the last auction held prior to the date of the last dividend payment and 6 percent, adjusted to reflect the period from the last dividend payment date to the subscription date according to the dividend proration basis.

(B) In the case of a bank with total consolidated assets of \$11,229,000,000 or less, 6 percent, adjusted to reflect the period from the last dividend payment date to the subscription date according to the dividend proration basis.

(2) A Reserve Bank shall obtain settlement for the payment described in paragraph (c)(1) of this section by debit to an account on the Reserve Bank's books or other form of settlement to which the Reserve Bank agrees.

(3) Upon payment (and in the case of a national banks in organization or state nonmember bank converting into a national bank, upon authorization or approval by the Comptroller of the Currency), the Reserve Bank shall issue the appropriate number of shares by crediting the bank with the appropriate number of shares on its books. In the case of a mutual savings bank not authorized to purchase Reserve Bank stock, the Reserve Bank will accept the deposit or addition to the deposit in place of issuing shares. The remaining half of the subscription or additional subscription (including subscriptions for deposits or additions to deposits) shall be subject to call by the Board.

(4) If the dividend rate applied at the next scheduled dividend payment date is based on a different annual rate than the rate used to compute the amount of the accrued dividend payment pursuant to paragraph (c)(1)(ii) of this section, the amount of the dividends paid at the next scheduled dividend payment date should be adjusted accordingly. The amount of the adjustment should equal the difference between—

(i) The accrued dividend payment pursuant paragraph (c)(1)(ii) of this section, and

(ii) The result of multiplying the subscription amount paid pursuant to paragraph (c)(1)(i) of this section by the dividend rate applied at the next scheduled dividend payment, adjusted to reflect the period from the last dividend payment date to the subscription date according to the dividend proration basis.

(d) *Payment for cancellations.* (1) When a Reserve Bank cancels Reserve Bank capital stock of a member bank, or (in the case of involuntary termination of membership) upon the effective date of cancellation specified in § 209.3(c)(3), the Reserve Bank shall—

(i) Reduce the bank's shareholding on the Reserve Bank's books by the number of shares required to be canceled and shall pay the paid-in subscription of the canceled stock; and

(ii) Pay accrued dividends equal to the paid-in subscription of the canceled stock in paragraph (d)(1)(i) of this section multiplied by—

§ 209.5

12 CFR Ch. II (1–1–23 Edition)

(A) In the case of a bank with total consolidated assets of more than \$11,229,000,000, an annual rate equal to the lesser of the high yield of the 10-year Treasury note auctioned at the last auction held prior to the date of cancellation and 6 percent, adjusted to reflect the period from the last dividend payment date to the cancellation date according to the dividend proration basis; or

(B) In the case of a bank with total consolidated assets of \$11,229,000,000 or less, 6 percent, adjusted to reflect the period from the last dividend payment date to the cancellation date according to the dividend proration basis.

(2) The sum of the payments under paragraph (d)(1) of this section cannot exceed the book value of the stock.<sup>5</sup>

(3) In the case of any cancellation of Reserve Bank stock under this Part, the Reserve Bank may first apply such sum to any liability of the bank to the Reserve Bank and pay over the remainder to the bank (or receiver or conservator, as appropriate).

(e) *Dividend.* (1) After all necessary expenses of a Reserve Bank have been paid or provided for, the stockholders of a Reserve Bank shall be entitled to receive a dividend on paid-in capital stock of—

(i) in the case of a bank with total consolidated assets of more than \$11,229,000,000, the lesser of the annual rate equal to the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of such dividend and an annual rate of 6 percent, or

(ii) in the case of a bank with total consolidated assets of \$11,229,000,000 or less, an annual rate of 6 percent.

(2) The dividend pursuant to paragraph (e)(1) of this section will be adjusted to reflect the period from the last dividend payment date to the current dividend payment date according to the dividend proration basis.

<sup>5</sup>Under sections 6 and 9(10) of the Act, a Reserve Bank is under no obligation to pay unearned accrued dividends on redemption of its capital stock from an insolvent member bank for which a receiver has been appointed or from state member banks on voluntary withdrawal from or involuntary termination of membership.

(3) The entitlement to dividends under paragraph (e)(1) of this section shall be cumulative.

(f) *Annual adjustment to total consolidated assets.* The dollar amounts for total consolidated assets specified in paragraphs (c), (d), and (e) of this section and §§ 209.2 and 209.3 shall be adjusted annually to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis.

[63 FR 37663, July 13, 1998, as amended by Reg. I, 81 FR 9088, Feb. 24, 2016; 82 FR 11502, Feb. 24, 2017; 82 FR 52174, Nov. 13, 2017; 83 FR 58467, Nov. 20, 2018; 84 FR 68326, Dec. 16, 2019; 85 FR 79390, Dec. 10, 2020; 86 FR 69579, Dec. 8, 2021; 87 FR 2030, Jan. 13, 2022]

§ 209.5 The share register.

(a) *Electronic or written record.* A member bank's holding of Reserve Bank capital stock shall be represented by one (or at the option of the Reserve Bank, more than one) notation on the Reserve Bank's books. Such books may be electronic or in writing. Upon any issue or cancellation of Reserve Bank capital stock, the Reserve Bank shall record the member bank's new share position in its books (or eliminate the bank's share position from its books, as the case may be).

(b) *Certification.* A Reserve Bank may certify on request as to the number of shares held by a member bank and purchased before March 28, 1942, or as to the purchase and cancellation dates and prices of shares cancelled, as the case may be.

**PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH THE FEDWIRE FUNDS SERVICE AND THE FEDNOW SERVICE (REGULATION J)**

**Subpart A—Collection of Checks and Other Items By Federal Reserve Banks**

- Sec.
- 210.1 Authority, purpose, and scope.
- 210.2 Definitions.
- 210.3 General provisions.
- 210.4 Sending items to Reserve Banks.
- 210.5 Sender's agreement; recovery by Reserve Bank.