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total consolidated assets, as determined based on the average of the foreign bank holding company's total consolidated assets reported for the assessment period on the Federal Reserve's Form FR Y-7Q ("FR Y-7Q"), provided, however, that if any such company has filed only one FR Y-7Q during the assessment period, the Board shall use an average of the foreign bank holding company's total consolidated assets reported on that FR Y-7Q and on the FR Y-7Q for the corresponding period in the year prior to the assessment period.

(c) Is a top-tier foreign savings and loan holding company on December 31 of the assessment period, with \$50 billion or more in total consolidated assets, as determined based on the average of the foreign savings and loan holding company's total consolidated assets reported for the assessment period on the reporting forms applicable

during the assessment period, provided, however, that if any such company has filed only one reporting form during the assessment period, the Board shall use an average of the foreign savings and loan holding company's total consolidated assets reported on that reporting form and on the reporting form for the corresponding period in the year prior to the assessment period, or

(d) Is a nonbank financial company supervised by the Board.

§ 246.4 Assessments.

(a) *Assessment.* Each assessed company shall pay to the Board an assessment for any assessment period for which the Board determines the company to be an assessed company.

(b)(1) *Assessment formula.* Except as provided in paragraph (b)(2) of this section, the assessment will be calculated according to the Assessment Formula, as follows:

Column A	Column B	Column C	Column D
Base Amount (\$50,000)	+ (Total Assessable Assets	× Assessment Rate)	= Assessment

(2) In any assessment period, if, at the time a company becomes a bank holding company or savings and loan holding company, it also becomes an assessed company, as defined in §246.3, the Board shall pro-rate that company's assessment for that assessment period based on the number of quarters in which such company is an assessed company. For a nonbank financial company supervised by the Board, for the assessment period that the company is designated for Board super-

vision, Board shall pro-rate that company's assessment for that assessment period based on the number of quarters the company has been a nonbank financial company supervised by the Board.

(c) *Assessment rate.* Assessment rate means, with regard to a given assessment period, the rate published by the Board on its Web site for the calculation of assessments for that period.

(1) The assessment rate will be calculated according to this formula:

$$\text{Assessment rate} = \frac{\text{Assessment Basis} - (\text{Number of Assessed Companies} \times \$50,000)}{\text{Total Assessable Assets of All Assessed Companies}}$$

(2) For the calculation set forth in paragraph (c)(1) of this section, the number of assessed companies and the total assessable assets of all assessed companies will each be that of the relevant assessment period, provided, however, that for the assessment periods corresponding to 2012, 2013 and 2014,

the Board shall use the number of assessed companies and the total assessable assets of the 2012 assessment period to calculate the assessment rate.

(d) *Assessment basis.*

(1) For the 2012, 2013, and 2014 assessment periods, the assessment basis is the amount of total expenses the Board

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estimates is necessary or appropriate to carry out the supervisory and regulatory responsibilities of the Board with respect to assessed companies for 2012.¹

(2) For the 2015 assessment period and for each assessment period thereafter, the assessment basis is the average of the amount of total expenses the Board estimates is necessary or appropriate to carry out the supervisory and regulatory responsibilities of the Board with respect to assessed companies for that assessment period and the two prior assessment periods.²

(e) *Total assessable assets.* Except as provided in paragraph (f) of this section, total assessable assets are calculated as follows:

(1) *Bank holding companies.* For any bank holding company, other than a foreign bank holding company, total assessable assets will be the average of the bank holding company's total consolidated assets as reported for the assessment period on the bank holding

company's FR Y-9C or such other reports as determined by the Board as applicable to the bank holding company,

(2) *Foreign bank holding companies and foreign savings and loan holding companies.*

(i) *In general.* For any foreign bank holding company or any foreign savings and loan holding company, with the exception of the 2012 and 2013 assessment periods, total assessable assets will be the average of the foreign bank holding company's or foreign savings and loan holding company's total combined assets of its U.S. operations, net of intercompany balances and transactions between U.S. domiciled affiliates, branches and agencies, as reported for the assessment period on the Part 1 of the FR Y-7Q or such other reports as determined by the Board as applicable to the foreign bank holding company or foreign savings and loan holding company,

(ii) *2012 and 2013 assessment periods.* For the 2012 and 2013 assessment periods, for any foreign bank holding company, total assessable assets will be the average of the sum of the line items set forth in this section reported quarterly, plus any line items set forth in this section reported annually for the assessment period on an applicable regulatory reporting form for the assessment period for all of the foreign bank holding company's majority-owned:

(A) Top-tier, U.S.-domiciled bank holding companies and savings and loan holding companies, calculated as:

(1) Total assets (line item 12) as reported on Schedule HC of the FR Y-9C and, as applicable;

(2) Total assets (line item 1, column B) as reported on FR 2320;

(B) Related branches and agencies of Foreign Banks in the United States, calculated as: total claims on non-related parties (line item 1.i from column A on Schedule RAL) plus net due from related institutions in foreign countries (line items 2.a, 2.b(1), 2.b(2), and 2.c from column A, minus line items 2.a, 2.b(1), 2.b(2) and 2.c from column B, part 1 on Schedule M), minus transactions with related nondepository majority-owned subsidiaries in the U.S. (line item 1 from column A, part 3 on Schedule M), as reported on

¹The categories of operating expenses that the Board believes are necessary or appropriate include but are not limited to (1) direct operating expenses for supervising and regulating assessed companies such as conducting examinations, conducting stress tests, communicating with the company regarding supervisory matters and laws and regulations, etc.; and (2) operating expenses for activities integral to carrying out supervisory and regulatory responsibilities such as training staff in the supervisory function, research and analysis functions including library subscription services, collecting and processing regulatory reports filed by supervised institutions, etc. All operating expenses include applicable support, overhead, and pension expenses.

²The categories of operating expenses that the Board believes are necessary or appropriate include but are not limited to (1) direct operating expenses for supervising and regulating assessed companies such as conducting examinations, conducting stress tests, communicating with the company regarding supervisory matters and laws and regulations, etc.; and (2) operating expenses for activities integral to carrying out supervisory and regulatory responsibilities such as training staff in the supervisory function, research and analysis functions including library subscription services, collecting and processing regulatory reports filed by supervised institutions, etc. All operating expenses include applicable support, overhead, and pension expenses.

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the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002);

(C) U.S.-domiciled nonbank subsidiaries, calculated as:

(1) For FR Y-7N filers: total assets (line item 10) as reported for each nonbank subsidiary reported on Schedule BS—Balance Sheet of the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y-7N); minus balances due from related institutions located in the United States, gross (line item 4.a), as reported on Schedule BS-M—Memoranda, and, as applicable;

(2) For FR Y-7NS (annual) filers: total assets (line item 2) as reported for each nonbank subsidiary reported on abbreviated financial statements (page 3) of the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y-7NS);

(D) Edge Act and agreement corporations that are not reflected in the assets of a U.S.-domiciled parent's regulatory reporting form submission, calculated as claims on nonrelated organizations (line item 9, "consolidated total" column on Schedule RC of the Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b)), plus claims on related organizations domiciled outside the United States (line items 2.a and 2.b, column A on Schedule RC-M), as reported on FR 2886b;

(E) Banks and savings associations that are not reflected in the assets of a U.S.-domiciled parent's regulatory reporting form submission, calculated as: total assets (line item 12) as reported on Schedule RC—Balance Sheet of the Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices (FFIEC 031), or total assets (line item 12) as reported on Schedule RC—Balance Sheet of the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only (FFIEC 041), as applicable; and

(F) Broker-dealers that are not reflected in the assets of a U.S.-domiciled parent's regulatory reporting form submission, calculated as: total assets as reported on statement of financial condition of the Securities and Exchange

Commission's Form X-17A-5 (FOCUS REPORT), Part II line item 16, Part IIa, line item 12, or Part II CSE, line item 18, as applicable.

(3)(i) *Savings and loan holding companies.* For any savings and loan holding company, other than a foreign savings and loan holding company, total assessable assets will be, except as provided in paragraph (e)(3)(ii) of this section, the average of the savings and loan holding company's total consolidated assets as reported for the assessment period on the regulatory reports on the savings and loan holding company's Form FR Y-9C, column B of the Quarterly Savings and Loan Holding Company Report (FR 2320), or other reports as determined by the Board as applicable to the savings and loan holding company. If the savings and loan holding company is a grandfathered unitary savings and loan holding company, total assessable assets will only include the assets associated with its savings association subsidiary and its other financial activities.

(ii) If a company does not calculate its total consolidated assets under GAAP for any regulatory purpose (including compliance with applicable securities laws), the company may request that the Board permit the company to file a quarterly estimate of its total consolidated assets. The Board may, in its discretion and subject to Board review and adjustment, permit the company to provide estimated total consolidated assets on a quarterly basis. The company's total assessable assets will be the average of the estimated total consolidated assets provided for the assessment period.

(4) *Nonbank financial companies supervised by the Board.* For a nonbank financial company supervised by the Board, if the company is a U.S. company, this amount will be the average of the nonbank financial company's total consolidated assets as reported for the assessment period on such regulatory or other reports as are applicable to the nonbank financial company determined by the Board; if the company is a foreign company, this amount will be the average of the nonbank financial company's total combined assets of U.S. operations, net

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of intercompany balances and transactions between U.S. domiciled affiliates, branches and agencies, as reported for the assessment period on such regulatory or other reports as determined by the Board as applicable to the nonbank financial company.

§ 246.5 Notice of assessment and appeal.

(a) *Notice of Assessment.* The Board shall issue a notice of assessment to each assessed company no later than June 30 of each calendar year following the assessment period, provided, however, that for the 2012 assessment period, the Board shall issue a notice of assessment as soon as reasonably practical after publication of the final rule in the FEDERAL REGISTER.

(b) *Appeal Period.*

(1) Each assessed company will have thirty calendar days from June 30, or, for the 2012 assessment period, thirty calendar days from the Board's issuance of a notice of assessment for that assessment period, to submit a written statement to appeal the Board's determination:

(i) That the company is an assessed company; or

(ii) Of the company's total assessable assets.

(2) The Board will respond with the results of its consideration to an assessed company that has submitted a written appeal within 15 calendar days from the end of the appeal period in paragraph (b)(1) of this section.

§ 246.6 Collection of assessments; payment of interest.

(a) *Collection date.* Each assessed company shall remit to the Federal Reserve the amount of its assessment using the Fedwire Funds Service by September 15 of the calendar year following the assessment period, or, for the 2012 assessment period, by a date specified in the notice of assessment for that assessment period.

(b) *Payment of interest.*

(1) If the Board does not receive the total amount of an assessed company's assessment by the collection date for any reason not attributable to the Board, the assessment will be delinquent and the assessed company shall pay to the Board interest on any sum

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owed to the Board according to this rule (delinquent payments).

(2) Interest on delinquent payments will be assessed beginning on the first calendar day after the collection date, and on each calendar day thereafter up to and including the day payment is received. Interest will be simple interest, calculated for each day payment is delinquent by multiplying the daily equivalent of the applicable interest rate by the amount delinquent. The rate of interest will be the United States Treasury Department's current value of funds rate (the "CVFR percentage"); issued under the Treasury Fiscal Requirements Manual and published quarterly in the FEDERAL REGISTER. Each delinquent payment will be charged interest based on the CVFR percentage applicable to the quarter in which all or part of the assessment goes unpaid.

PART 250—MISCELLANEOUS INTERPRETATIONS

INTERPRETATIONS

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