



H.R. 3189—Fed Oversight Reform and Modernization (FORM) Act of 2015, (Huizenga, R-MI)

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FLOOR SCHEDULE:

Scheduled for consideration on November 18, under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 3189](#) would make changes to the Federal Reserve system, require it to adopt a monetary policy rule for setting at least one of several key interest rates, and communicate its monetary and regulatory policy decisions in a more immediately transparent manner. The measure would also alter the Congressional and GAO oversight structure for the Federal Reserve and create a commission to evaluate the current mandate of the bank and the appropriateness of maintaining such mandate.

COST:

The Congressional Budget Office (CBO) [estimates](#) that enacting H.R. 3189 would reduce revenues by \$109 million over the 2016-2025 period, and would increase discretionary spending by \$7 million over the 2016-2020 period.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Though Federal Reserve Chair Janet Yellen has in the past described monetary policy decisions as being data dependent, the Federal Reserve has consistently operated in an opaque and overly technical manner with less transparency than some members believe is appropriate. It is in the interest of both consumers, producers, and financial market participants to have a sound monetary system that ensures the real value of goods and services are accurately conveyed through market prices and that money functions as a stable store of value across time.

H.R. 3189 would require increased and timelier communication of monetary and regulatory policy decisions from the Federal Reserve and an open rulemaking process in order to shed light on the bank's activities.

Section 2: This section would require the Federal Reserve to generate and submit to Congress and the Comptroller General a monetary policy rule of its own choosing and compare that rule to the [Taylor rule](#), explaining any differences. It would also require the Government Accountability Office to conduct an audit of the rule to ensure compliance with the statute.

The monetary policy rule required would be an equation that stipulates a specific, precise interest rate for the federal funds rate, the rate paid on deposits of excess reserves held at the Fed, or the lending rate charged to banks by the Fed. Each of these interest rates is currently used by the Fed to transmit monetary policy decisions into the economy. A rule-based approach to these rates would provide the public the ability to predict how the Federal Reserve might change course in the future with respect to economic changes. The Taylor Rule specifically gives precise interest rate recommendations based on deviations in inflation and GDP from historical trends and targets.

Should the monetary policy rule that the Federal Reserve adopts not meet the requirements for a valid rule under this legislation, Congress can direct the GAO to conduct an audit of the Fed's monetary policy decisions and require the Federal Reserve Chairman to testify before Congress regarding the failure to meet the requirements.

Section 3: This section would codify the Federal Open Market Committee (FOMC) blackout period, which prohibits Federal Reserve Governors and officials from publicly speaking for a week prior to and one day immediately after an FOMC meeting, begins immediately after midnight on the day exactly one week before the meeting and ends at midnight the day after the meeting. It would also clarify that the blackout period does not prohibit technical questions that pertain specifically to data releases or to testimony about the Federal Reserve's supervisory or prudential functions. This section would provide an exemption for the Chairman of the Board of Governors.

Section 4: This section would alter the membership of the Federal Open Market Committee. This legislation would require that it be composed of the 7 members of the Board of Governors and 6 of the 12 District Federal Reserve Bank Presidents who will rotate as voting members the Committee every other year. Currently, the voting membership of the FOMC is constituted by the 7 Governors, 5 rotating District Presidents and a permanent voting seat for the New York District President.

Section 5: This section would address [Dodd-Frank stress test](#) scenarios, requiring the Federal Reserve to issue regulations that are subject to notice and comment. These stress tests are designed to assess how banks manage in worst-case-scenario situations, in order to ensure they can endure prolonged periods of financial stress. According to the Committee report, there has been concern that the stress test process has become arbitrary, with a focus on unpredictable "qualitative factors." This section would also require the disclosure of the aggregate number of supervisory letters sent to bank holding companies.

Section 6: This section would require the Chairman of the Federal Reserve to testify before Congress on a quarterly basis. Current law requires testimony on a semi-annual basis.

Section 7: This section would require the Vice Chairman for Supervision of the Federal Reserve to provide a report to Congress on proposed or anticipated rulemakings during his semi-annual testimony to Congress.

This section would also require that in the event of a vacancy for Vice Chairman of Supervision, the Vice Chairman of the Board of Governors would perform the requirements for semi-annual testimony.

Section 8: This section would require the Federal Reserve to perform a cost-benefit analysis for all regulations. The Federal Reserve must take particular costs into account, including cost impact of new rules on the soundness of the banking system, on small businesses, on community banks, on market stability, on economic growth, on market liquidity in securities markets, on job creation, on global competitiveness, on employment levels, and on the effectiveness of the monetary policy transmission mechanism. This section would require each major new rule to have metrics indicating their success. This section would require post-adoption impact studies based on those metrics to determine purposes, impacts and consequences of regulations.

Section 9: This section would require the Federal Reserve to publicly post on a website the annual salaries, including benefits, of any employee whose salary exceeds the GS-15 level for a federal employee. This section would allow for a minimum of two staff positions to advise the members of the Board of Governors, who would provide advice independent of the Chairman's influence. This section would also require Federal Reserve employees to be subject to the same ethical standards as Securities and Exchange Commission Employees, including disclosing any discretionary market positions and investments. More details on these standards may be found [here](#) and [here](#).

Section 10: This section would require the Federal Reserve, the Federal Deposit Insurance Corporation, the Department of Treasury, the Office of the Comptroller of Currency, and the SEC to release for notice and comment a disclosure of positions regulators plan to take as part of international negotiations, and to produce a public report on the negotiations at their close. A similar process would be required for final agreements following international negotiations as well. It would also require the Federal Reserve to issue notice of agreements and consultation to Congress.

Section 11: This section would amend the Section 13(3) of [Federal Reserve Act \(12 U.S.C. 343\(3\)\)](#) to permit the Federal Reserve to use its emergency lending powers if "unusual and exigent circumstances exist that pose a threat to financial stability of the United States." The current standard only requires "unusual and exigent circumstances."

This section would also require that in order to approve a 13(3) facility, 5 of 7 members of the Board of Governors and 9 of 13 of the District Federal Reserve Bank Presidents must approve. This section would limit recipients of 13(3) assistance to financial institutions that derive 85% or more of their revenue from financial activities.

This section would also discourage discretionary lending by requiring the Federal Reserve to adopt a rule detailing the method it will use to determine sufficiency of collateral in securing 13(3) lending. The Federal Reserve would be prohibited from accepting equity securities from the recipient of 13(3) assistance as collateral. It would also require an entity regulated by the Office Comptroller of Currency, SEC, Commodity Futures Trading Commission, or FDIC to certify that it is not insolvent prior to being eligible to receive 13(3) assistance. Lastly, it would require the Federal Reserve to adopt a rule within six months of enactment of this legislation that would establish a minimum interest rate for the principle amount of any section 13(3) loan or assistance. The applicable minimum interest rate would be calculated as the sum of

(1) the average of the all of the Federal Reserve banks' discount rates over 90 days; and (2) the average of the difference between the corporate bond yield index over 90 days and a bond yield index of debt issued by the United States over the most recent 90 days.

Section 12: This section would amend the Federal Reserve Act to require the FOMC to be responsible for setting the interest rate paid on excessive reserves. The Financial Services Regulatory Relief Act of 2006 allowed Federal Reserve Banks to pay the interest on excess balances of depository institutions at reserve banks. This interest rate was determined by the Board of Governors. Because this rate may be used as a tool in setting monetary policy, this section would shift authority over this rate from the Board of Governors to the FOMC.

Section 13: This section would require the GAO to perform an audit within 12 months of enactment of this legislation, and to deliver a report to Congress within 90 days following the audit. The audit would include a findings section and GAO recommendations for legislative and administrative action. It would lift restrictions on the GAO's ability to audit the Federal Reserve and would eliminate redundant text pertaining to the GAO's ability to audit the Federal Reserve contained in Dodd-Frank. This audit would be a policy audit and is not the same as a financial audit, the substance of which would cover the financial details of the accounts and transactions of the Fed. The Bank already regularly publishes financial information of this nature.

Section 14: This section would require the Federal Reserve to report monthly on the Export-Import bank and how it has affected U.S. industrial production. It would also report on how foreign industrial production has been affected by export credit agencies.

Section 15: This section would require Class B and Class C directors of the Federal Reserve District Banks to address consumer interests, as well as the interests of underserved communities and populations.

Section 16: This section would insert the text of the "[Centennial Monetary Commission Act of 2015](#)," sponsored by Rep. Kevin Brady, (R-TX). This section would establish the Centennial Monetary Commission to produce a study and report on how the United States monetary policy has affected the U.S. economy, including output, employment, prices and financial stability. It would evaluate different operational regimes under the Board of Governors and the FOMC and how they can conduct monetary policy to achieve maximum sustainable level of output and employment and long term price stability. This could include (1) discretion in determining monetary policy without an operational regime; (2) price level targeting; (3) inflation rate targeting; (4) nominal gross GDP targeting; (5) use of monetary policy rules; and (6) the gold standard. This section would also direct the Commission to evaluate macro-prudential supervision and regulations and the lender-of-last-resort function of the Board of Governors. The Commission would also be required to recommend a course of U.S. monetary policy going forward and submit a report to Congress containing the Commission's findings.

The Commission would contain 12 voting members, with 6 appointed by the Speaker of the House, 4 from the majority party and 2 from the minority. 6 members would be appointed by the President Pro Tempore of the Senate, 4 from the majority and 2 from the minority. The Speaker and President Pro Tempore will designate a Chairman. The Commission would also contain 2 non-voting members, one appointed by the Secretary of Treasury and one who is a president of a District Federal Reserve Bank, appointed by the Chair

of the Board of Governors. Members would be appointed for the duration of the Commission and must be appointed after January 5, 2015, not later than 30 days after enactment. The Commission would have the authority to hold hearings, take testimony, receive evidence, and administer oaths, as well as to request and obtain official data. The Commission would terminate on June 1, 2017.

An amendment from Rep. [Hensarling](#) (R-TX) was considered adopted by the Rule providing for consideration of the bill. This amendment would provide for the liquidation of the Federal Reserve surplus account and the remittance of the liquidated funds to the Treasury Department. It would ensure future net earnings in excess of the dividend paid also go the Treasury Department.

The Committee Report can be found [here](#).

AMENDMENTS:

1. [Grayson #1](#) (D-FL): This amendment would provide for an annual policy audit of the Federal Reserve.
2. [Grayson #2](#) (D-FL): This amendment would establish three new Federal Reserve Districts, located in Northern California, Southern California, and Florida.
3. [Heck #1](#) (D-WA): This amendment would suspend the requirement pertaining to rules-based decision making if unemployment or inflation are vastly divergent from targets.
4. [Heck #2](#) (D-WA): This amendment would require the FOMC to use the most accurate, revised data instead of the initial reading first available.
5. [King #1](#) (R-IA): This amendment would require the FOMC to make transcriptions of their meetings available to the public. Currently, summary minutes of these meetings are made public by the bank on a three-week lagging basis and full transcripts are published on a five-year lagging basis.
6. [King #2](#) (R-IA): This amendment would require a study on the effects of the dual mandate on GDP output, the US economy, Federal Reserve actions, and federal debt.

COMMITTEE ACTION:

H.R. 3189 was introduced on July 23, 2015 and was referred to the House Committee on Financial Services where it was reported by the yeas and nays, 33-25, on July 29, 2015.

ADMINISTRATION POSITION:

A Statement of Administration Policy can be found [here](#).

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to Article I, Section 8, Clause 3, Clause 5, Clause 6, and Clause 18.

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