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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AE18

Annual Stress Test

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (the Corporation or FDIC) is issuing a final rule that implements proposed revisions to regulations regarding the annual stress testing requirements for state nonmember banks and state savings associations with total consolidated assets of more than \$10 billion (covered banks). The regulations, which implement section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), require covered banks to conduct annual stress tests, report the results of such stress tests to the Corporation and the Board of Governors of the Federal Reserve System (the Board), and publicly disclose a summary of the results of the required stress tests. The final rule revises the 2016 stress test cycle and for years thereafter to begin on January 1 of the calendar year rather than October 1, as is provided for by the current rule. Additionally, the final rule modifies the “as of” dates for financial data (that covered banks will use to perform their stress tests) as well as the reporting dates and public disclosure dates of the annual stress tests for both \$10 billion to \$50 billion covered banks and over \$50 billion covered banks.

DATES: This final rule is effective January 1, 2015.

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SUPPLEMENTARY INFORMATION:

I. Background

Section 165(i) of the Dodd-Frank Act requires two types of stress tests. Section 165(i)(1) requires the Board to conduct annual stress tests of holding companies with \$50 billion or more in total consolidated assets (“supervisory stress tests”). Section 165(i)(2) of the Dodd-Frank Act requires the federal banking agencies to issue regulations requiring financial companies with more than \$10 billion in total consolidated assets to conduct annual stress tests themselves (company-run stress tests), and it requires that the implementing regulations issued by each of the federal banking agencies be consistent and comparable with each other. In October 2012, the FDIC, the Office of the Comptroller of the Currency (the OCC), and the Board (collectively the Agencies) issued final rules¹ implementing the company-run stress tests requirements. The FDIC’s final rule was codified as part 325, subpart C of the FDIC rules and regulations (the Annual Stress Test rule). The Annual Stress Test rule requires FDIC-insured state nonmember banks and FDIC-insured state-chartered savings associations with total consolidated assets of more than \$10 billion to conduct annual stress tests.

Part 325, subpart C identifies two categories of covered banks. The first category includes state nonmember banks and state savings associations that have between \$10 billion and \$50 billion in total consolidated assets, and the second category includes state nonmember banks and state savings associations with over \$50 billion in total consolidated assets.² For both categories of covered banks, the company-run stress test must assess the potential impact of

¹ 77 FR 62417 (Oct. 15, 2012) (FDIC); 77 FR 61238 (October 9, 2012) (OCC); 77 FR 62396 (October 12, 2012) (Board).

² 12 CFR 325.202(d).

different scenarios³ on the capital of the covered bank and certain related items over a forward-looking, nine-quarter planning horizon, taking into account all relevant exposures and activities.⁴

Part 325, subpart C also provides timeframes for the testing, reporting, and publication of the company-run stress tests, which vary depending on the category into which the covered bank falls. Covered banks use financial data as of September 30 (the “as of” date) of the preceding calendar year to make projections that estimate their financial position under the different stress scenarios, and to report and publish the results of their annual stress test in the following calendar year. Covered banks with \$10 billion to \$50 billion in total assets must report the results of their stress tests by March 31 and publish a summary of their results between June 15 and June 30.⁵ Over \$50 billion covered banks are required to report the results of their annual stress test by January 5 of each calendar year and publish a summary of their results between March 15 and March 31.⁶ These testing, reporting, and publication milestones are consistent across the federal banking agencies’ respective annual stress testing rules.

A covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to company-run stress test requirements administered by the Board is generally permitted to publish abbreviated disclosures of its annual stress test results with the parent holding company’s summary and on the same timeline as the parent holding company.⁷ The FDIC requires that specific information be included in the disclosure to reflect the changes in the covered bank’s capital ratios and the reasons for those changes.

³ On an annual basis, prior to the start of the stress testing period and no later than November 15, the FDIC provides to covered banks a minimum of three economic scenarios (baseline, adverse, and severely adverse) and additional scenarios as the FDIC determines appropriate for the covered banks to use in performing their stress tests.

⁴ In addition, certain covered banks with significant trading activities (as determined by the FDIC) may be required to include a trading and counterparty component for the scenarios used in their stress tests.

⁵ 12 CFR 325.204(a); 325.206(a); 325.207(a).

⁶ 12 CFR 325.204(a); 325.206(a); 325.207(a).

⁷ 12 CFR 325.207(b).

Since the publication and codification of the Annual Stress Test rule, the Agencies have received feedback from the industry regarding the resource constraints that covered banks face at the beginning and end of the calendar year arising from competing regulatory and reporting deadlines. Furthermore, the Agencies are aware that conducting stress testing during the last quarter of a calendar year may also make it difficult for covered banks to make timely modifications to strategic and operational plans for the following year that address any issues identified in the company-run stress test results.

For these reasons, on July 1, 2014, the FDIC, in coordination with the Board and the OCC, issued a notice of proposed rulemaking (the NPR) in the **Federal Register** that proposed to modify the dates of the stress test cycle and the corresponding reporting and publication deadlines. The NPR proposed to shift the testing, reporting, and disclosure dates for the 2016 company-run stress test cycle and each annual cycle thereafter.⁸ The Corporation is now issuing a final rule modifying the dates of the stress test cycle and the corresponding reporting and publication deadlines as proposed in the NPR, as described further below. The final rule will be consistent with final rules issued by the OCC and Board making the same date modifications to the stress testing cycle, agency reporting, and public disclosure.

II. Comments Received

The NPR solicited public comment on all aspects of the proposed rule. The NPR's comment period ended on September 2, 2014, and the FDIC received five comment letters. Comments were submitted by, or on behalf of, individuals, banks and bank holding companies, and banking and financial services industry trade groups and associations. The commenters generally supported the proposed revisions in the NPR, but also requested additional revisions to the proposed timeline shifts.

⁸ 79 FR 37235 (July 1, 2014) (FDIC); 79 FR 37231 (OCC); 79 FR 37420 (Board).

The commenters supported the proposed timing shift for the start of the stress test cycles to address the challenges to banking organizations and personnel presented at the end of the calendar year. Some commenters encouraged the FDIC to accelerate implementation of the proposed changes so that the adjusted timeframes apply beginning with the 2015 stress test cycle, rather than with the 2016 stress test cycle. The final rule adopts the proposed revisions to the start of the stress test cycle and related dates, but does not accelerate the implementation of the modified dates. The transition period is necessary to give the FDIC and banking organizations sufficient time to revise reporting schedules and change internal systems. As such, the new timeline will become applicable to the stress testing cycle that begins on January 1, 2016.

Commenters also requested that the FDIC provide stress test scenarios by no later than January 15 of a given calendar year given the compressed timeframe for implementation of stress testing processes. In developing the scenarios, the FDIC seeks to provide covered banks with sufficient time to conduct the annual stress tests, while also ensuring that the scenarios reflect timely data on economic and financial conditions. Under the revised timeline, the FDIC expects to provide stress test scenarios as soon as possible and before the deadlines set by the final rule. Accordingly, the FDIC has adopted this aspect of the proposal without significant change.

Commenters additionally requested that the length of the planning horizon be reduced from nine quarters to eight quarters. The NPR would have shifted the stress testing timeline by one quarter, but would have maintained the nine-quarter planning horizon. The commenters argued that the ninth quarter does not provide additional meaningful information given the incremental uncertainty in projections as they move further into the future, and that eight quarters would still represent two full years of capital planning. The FDIC believes that the

ninth quarter period provides meaningful information to the Agencies in assessing the projections of covered banks. Accordingly, the final rule maintains the nine-quarter planning horizon.

Commenters also requested that the Agencies delay incorporation of advanced approaches risk-based capital rules into the annual stress testing process indefinitely. The NPR proposed to revise the testing and reporting dates and did not address the application of the risk-based capital rules. As such, the FDIC believes that technical aspects of projecting risk-based capital requirements under the advanced approaches should be dealt with on a case-by-case basis and through the supervisory process.

III. The Final Rule

After reviewing the comments, the FDIC is issuing this final rule to implement the changes proposed in the NPR to part 325, subpart C of the FDIC Rules and Regulations.

A. Company-Run Stress Test Timelines

Beginning January 1, 2016, the stress testing cycle that, under the previous rule, would have begun on October 1 of a given calendar year, will begin January 1 of a given calendar year. Beginning with the 2016 stress-testing cycle, the final rule requires covered banks to conduct company-run stress tests using financial data as of December 31 of the preceding calendar year, which represents a three-month shift from September 30 in the previous rule. The FDIC will provide the economic scenarios to be used by covered banks in their company-run stress tests no later than February 15, rather than November 15, as is provided under the previous rule. For those certain covered banks with significant amounts of trading activities that are required to include trading and counterparty components in their adverse and severely adverse scenarios, the FDIC will select an “as of” date between January 1 and March 1 of a calendar year for the data

used in this component. The FDIC will communicate this date to the covered banks no later than March 1.

All \$10 billion to \$50 billion covered banks will be required to conduct and submit the results of their company-run stress tests to the FDIC by July 31 and publish those results during a period beginning on October 15 and ending October 31. Over \$50 billion covered banks will be required to conduct and submit the results of their company-run stress tests to the FDIC by April 5 and publish those results during a period beginning on June 15 and ending on July 15. The April 5 reporting deadline for over \$50 billion covered banks is a minor change from the April 7 deadline proposed in the NPR.

Furthermore, a covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company that is required to conduct an annual company-run stress test under applicable regulations of the Board may continue to elect to conduct its stress test and report to the FDIC on the same timeline as its parent bank holding company or savings and loan holding company as it had under the previous rule. Under the final rule, however, an over \$50 billion covered bank that is a consolidated subsidiary of a holding company that is subject to supervisory stress tests conducted by the Board under 12 CFR part 252 may publish the required summary of its company-run stress test no earlier than the date that the Board publishes the supervisory stress test results for the parent holding company, but no later than July 15. In addition, if the Board publishes the supervisory stress test results of the covered bank's parent holding company prior to June 15, then the covered bank may satisfy its publication requirement either through actual publication by the covered bank or through publication by the parent holding company under § 325.207.

B. Applicability

The final rule amends the applicability provisions in § 325.203 of the Annual Stress Test rule to reflect the changed timeline. Previously, a state nonmember bank or state savings association that became a covered bank had to conduct its first annual stress test beginning in the next calendar year after the date the state nonmember bank or state savings association became a covered bank. Under the new 2016 stress testing timeline, if this applicability provision were left unchanged, a state nonmember bank or state savings association that became a covered bank as of September 30 of a given year would have been required to conduct its first stress test on January 1, three months after becoming a covered bank. The final rule provides a minimum of nine months between the date on which a state nonmember bank or state savings association becomes a covered bank and the start date of the stress testing cycle in which the covered bank must conduct its first stress test. To preserve the nine-month minimum, the final rule establishes a March 31 cutoff date. A state nonmember bank or state savings association that becomes a covered bank on or before March 31 of a given year would be required to conduct its first stress test in the next calendar year. For example, a state nonmember bank or state savings association that becomes a covered bank on or before March 31, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2016. A state nonmember bank or state savings association that becomes a covered bank after March 31 of a given year would be required to conduct its first stress test in the second calendar year after the date the state nonmember bank or state savings association becomes a covered bank. For example, a state nonmember bank or state savings association that becomes a covered bank on June 30, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2017.

Table 1 – Modified Annual Stress Test Timeline for \$10 Billion to \$50 Billion Covered Banks

Action Required	Current Rule	Final Rule
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“As of” Date for Financial Data	September 30	December 31
Distribution of Scenarios for Annual Stress Tests by FDIC	By November 15	By February 15
Reporting of Annual Stress Test Results	By March 31	By July 31
Public Disclosure of Annual Stress Test Results	Between June 15 and June 30	Between October 15 and October 31

Table 2 – Modified Annual Stress Test Timeline for over \$50 Billion Covered Banks

Action Required	Current Rule	Final Rule
“As of” Date for Financial Data	September 30	December 31
Distribution of Scenarios for Annual Stress Tests by FDIC	By November 15	By February 15
Reporting of Annual Stress Test Results	By January 5	By April 5
Public Disclosure of Annual Stress Test Results	Between March 15 and March 31	Between June 15 and July 15, except no earlier than Board publication of the supervisory stress test results of the covered bank’s holding company⁹

IV. Administrative Law Matters

A. Paperwork Reduction Act Analysis

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521)(“PRA”), the Corporation may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (“OMB”) control number. The FDIC has two stress testing information collections: the Annual Stress Test and Stress Testing Reporting Templates, 3064-0187 and -0189.

The Corporation is revising 12 CFR 325.202, 325.203, 325.204, 325.206, and 325.207 by modifying timelines for the testing, reporting, and disclosure of the annual stress tests for

⁹ If the Board releases supervisory stress test results prior to June 15, then the covered bank may release its annual stress test results prior to June 15, but no earlier than the release of the supervisory stress test results and no later than July 15.

covered banks. The revisions shift by three months the “as of” date of the financial data used to conduct company-run stress tests for covered banks from September 30 to December 31. The final rule also shifts the reporting and disclosure deadlines for both \$10 billion to \$50 billion covered banks and over \$50 billion covered banks and provide for a new transition period for those covered banks that become covered under the rule. Additionally, under the final rule, an over \$50 billion covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board may publish the required summary of its annual stress test results no earlier than the date that the Board publishes the supervisory stress test results of the covered bank’s parent holding company, but no later than July 15. The revision of timelines in part 325, subpart C does not revise the FDIC’s stress testing information collections of information.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (RFA), requires that each federal agency either certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis of the rule and publish the analysis for comment.¹⁰ The final rule applies only to state nonmember banks and state savings associations with more than \$10 billion in total consolidated assets. Under regulations issued by the Small Business Administration (SBA), a bank or other depository institution is considered “small” if it has \$550 million or less in assets.¹¹ As of June 30, 2014, there are approximately 3,268 small state nonmember banks and state savings associations. Since the final rule applies only to twenty-six state nonmember banks and state savings associations with more than \$10 billion in total consolidated assets, the Corporation

¹⁰ See 5 U.S.C. 603, 604, and 605.

¹¹ 13 CFR 121.201.

does not expect that the final rule will directly affect a substantial number of small entities. It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities and therefore, a regulatory flexibility analysis under the RFA is not required.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. No. 106-102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Corporation sought to present the proposed rule in a simple and straightforward manner and invited comment on how to make the proposed rule easier to understand. The FDIC received no comments on the use of plain language.

D. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the final rule is not a “major rule” within the meaning of the relevant sections of the Small Business Regulatory Enforcement Fairness Act of 1996¹² (“SBREFA”).

List of Subjects in 12 CFR Part 325

Administrative practice and procedure, Banks, banking, Disclosures, Federal Deposit Insurance Corporation, Reporting and recordkeeping requirements, State savings associations, Stress tests.

Authority and Issuance

For reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends subpart C to part 325 of title 12 of the Code of Federal Regulations as follows:

PART 325-CAPITAL MAINTENANCE

¹² 5 U.S.C. 801, et seq.

1. Revise the authority citation for part 325 to read as follows:

Authority: 12 U.S.C. 5365(i)(2); 12 U.S.C. 5412(b)(2)(C); 12 U.S.C. 1818, 12 U.S.C. 1819(a)(Tenth), 12 U.S.C. 1831o, and 12 U.S.C. 1831p-1.

2. In § 325.202, add paragraph (m) to read as follows:

§ 325.202 Definitions.

* * * * *

(m) Stress test cycle means:

(1) Until October 1, 2015, the period beginning October 1 of a calendar year and ending on September 30 of the following calendar year; and

(2) Beginning October 1, 2015, the period beginning January 1 of a calendar year and ending on December 31 of that year.

3. In § 325.203, revise paragraph (b) to read as follows:

§ 325.203 Applicability.

* * * * *

(b)(1) A state nonmember bank or state savings association that becomes a covered bank after October 15, 2012 and on or before March 31, 2014 shall conduct its first annual stress test under this subpart beginning in the next calendar year after the date the state nonmember bank or state savings association becomes a covered bank.

(2) A state nonmember bank or state savings association that becomes a covered bank after March 31, 2014 and on or before March 31, 2015 shall conduct its first annual stress test under this subpart in the January 1, 2016 stress testing cycle.

(3) A state nonmember bank or state savings association that becomes a covered bank on or before March 31 in years following 2015 shall conduct its first annual stress test under this subpart in the stress testing cycle in the next calendar year after the date the state nonmember bank or state savings association becomes a covered bank. A state nonmember bank or state savings association that becomes a covered bank after March 31 in years following 2015 shall conduct its first annual stress test under this subpart in the second calendar year after the date the state nonmember bank or state savings association becomes a covered bank.

* * * * *

4. Revise § 325.204 to read as follows:

§ 325.204 Annual stress tests required.

(a) General requirements--(1) \$10 billion to \$50 billion covered bank. Prior to January 1, 2016, a \$10 billion to \$50 billion covered bank must conduct a stress test on or before March 31 of each calendar year based on financial data as of September 30 of the preceding calendar year. Beginning January 1, 2016, a \$10 billion to \$50 billion covered bank must conduct a stress test on or before July 31 of each calendar year based on financial data as of December 31 of the preceding calendar year.

(2) Over \$50 billion covered bank. Prior to January 1, 2016, an over \$50 billion covered bank must conduct a stress test on or before January 5 of each calendar year based on financial data as of September 30 of the preceding calendar year. Beginning January 1, 2016, an over \$50 billion covered bank must conduct a stress test on or before April 5 of each calendar year based on financial data as of December 31 of the preceding calendar year.

(b) Scenarios provided by the Corporation. In conducting the stress test under this subpart, each covered bank must use the scenarios provided the Corporation. The scenarios

provided by the Corporation will reflect a minimum of three sets of economic and financial conditions, including baseline, adverse, and severely adverse scenarios. The Corporation will provide a description of the scenarios required under this section to each covered bank no later than November 15 (for stress test cycle beginning October 1, 2014) or February 15 (for stress test cycle beginning January 1, 2016, and all stress test cycles thereafter) of that calendar year.

(c) Significant trading activities. The Corporation may require a covered bank with significant trading activities, as determined by the Corporation, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data used in these components will be as of a date between October 1 and December 1 (for the stress test cycle beginning October 1, 2014) or between January 1 and March 1 (for the stress test cycle beginning January 1, 2016, and all stress test cycles thereafter) of that calendar year selected by the Corporation and communicated to the covered bank no later than December 1 (for the stress test cycle beginning October 1, 2014) or March 1 (for the stress test cycle beginning January 1, 2016, and all stress test cycles thereafter) of the calendar year.

5. Revise § 325.206(a) to read as follows:

§ 325.206 Required reports of stress test results to the FDIC and the Board of Governors of the Federal Reserve System.

(a) Report required for annual stress test results--(1) \$10 billion to \$50 billion covered bank. Prior to January 1, 2016, a \$10 billion to \$50 billion covered bank must report to the FDIC and to the Board on or before March 31 the results of the stress test in the manner and form specified by the FDIC. Beginning January 1, 2016, a \$10 billion to \$50 billion covered bank must report to the FDIC and to the Board on or before July 31 the results of the stress test in the manner and form specified by the FDIC.

(2) Over \$50 billion covered bank. Prior to January 1, 2016, an over \$50 billion covered bank must report to the FDIC and to the Board, on or before January 5, the results of the stress test in the manner and form specified by the FDIC. Beginning January 1, 2016, an over \$50 billion covered bank must report to the FDIC and to the Board, on or before April 5, the results of the stress test in the manner and form specified by the FDIC.

* * * * *

6. Revise § 325.207(a) to read as follows:

§ 325.207 Publication of stress test results.

(a) Publication date--(1) \$10 billion to \$50 billion covered bank. (i) Prior to January 1, 2016, a \$10 billion to \$50 billion covered bank must publish a summary of the results of its annual stress test in the period starting June 15 and ending June 30 (for the stress test cycle beginning October 1, 2014).

(ii) Beginning January 1, 2016, a \$10 billion to \$50 billion covered bank must publish a summary of the results of its annual stress test in the period starting October 15 and ending October 31 (for the stress test cycle beginning January 1, 2016 and for all stress test cycles thereafter).

(2) Over \$50 billion covered bank. (i) Prior to January 1, 2016, an over \$50 billion covered bank must publish a summary of the results of its annual stress tests in the period starting March 15 and ending March 31 (for the stress test cycle beginning October 1, 2014).

(ii) Beginning January 1, 2016, an over \$50 billion covered bank must publish a summary of the results of its annual stress tests in the period starting June 15 and ending July 15 (for the stress test cycle beginning January 1 2016, and for all stress test cycles thereafter) provided:

(A) Unless the Corporation determines otherwise, if the over \$50 billion covered bank is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System under 12 CFR part 252, then, within the June 15 to July 15 period, such covered bank may not publish the required summary of its annual stress test earlier than the date that the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company.

(B) If the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company prior to June 15, then such covered bank may publish its stress test results prior to June 15, but no later than July 15, through actual publication by the covered bank or through publication by the parent holding company under paragraph (b) of this section.

* * * * *

Dated at Washington, DC, this 18th day of November 2014.

Federal Deposit Insurance Corporation

By order of the Board of Directors.

Robert E. Feldman,

Executive Secretary,

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