



## **FEDERAL RESERVE SYSTEM**

### **12 CFR Part 246**

#### **Regulation TT; Docket No. R-1683;**

#### **RIN 7100-AF 63**

### **Supervision and Regulation Assessments of Fees for Bank Holding Companies and Savings and Loan Holding Companies with Total Consolidated Assets of \$100 Billion or More**

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is inviting comment on a proposal to amend the Board's assessment rule (Regulation TT), pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), to address amendments made by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The proposed amendments to Regulation TT raise the minimum threshold for being considered an assessed company from \$50 billion to \$100 billion in total consolidated assets for bank holding companies and savings and loan holding companies and adjust the amount charged to assessed companies with total consolidated assets between \$100 billion and \$250 billion to reflect changes in supervisory and regulatory responsibilities resulting from EGRRCPA.

**DATES:** Comments must be received on or before January 9, 2019.

**ADDRESSES:** You may submit comments, identified by Docket No. 1683 and RIN 7100 AF-63, by any of the following methods:

- **Agency Web Site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket and RIN numbers in the subject line of the message.
- **FAX:** (202) 452-3819 or (202) 452-3102.
- **Mail:** Ann Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.
- All public comments are available from the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons or to remove sensitive personally identifiable information at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Anna Lee Hewko, Associate Director, (202) 530-6260, Teresa Scott, Manager, (202) 973-6114, Naima Jefferson, Lead Financial Institution Policy Analyst, (202)912-4613, Mark Greiner, Lead Financial Institution Policy Analyst, (202) 452-5290, Kelsi Wilken, Lead Business Analyst, (202) 530-6287 , Division of Supervision and Regulation; Laurie Schaffer, Associate General Counsel (202) 452-2272 or Daniel Hickman, Senior Counsel, (202) 973-7432, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TTD), (202) 263-4869.

**SUPPLEMENTARY INFORMATION:**

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**I. Introduction**

Section 318 of the Dodd-Frank Act,<sup>1</sup> as enacted, directed the Board to collect assessments, fees, or other charges (assessments), from bank holding companies and savings and loan holding companies with \$50 billion or more in total consolidated assets, and nonbank financial companies designated by the Financial Stability Oversight Council (Council) for supervision by the Board (collectively, assessed companies), equal to the expenses the Board estimates are necessary or appropriate to carry out its supervision and regulation of those companies. The Board transfers the assessment proceeds to the U.S. Treasury's General Account.

The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA)<sup>2</sup> amended several provisions of the Dodd Frank Act, which resulted in various changes to the regulatory framework such as tailoring the application of certain prudential

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<sup>1</sup> Public Law 111-203, 124 Stat. 1376 (2010), section 318, codified at section 11 of the Federal Reserve Act, 12 U.S.C. 248(s).

<sup>2</sup> Public Law 115-174, 132 Stat. 1296 (2018).

standards for large banking organizations,<sup>3</sup> tailoring and revising the Board’s company-run and supervisory stress test requirements, amending resolution planning requirements, and modifying the assessment framework. Specifically, section 401 of EGRRCPA raised the minimum size threshold for bank holding companies and savings and loan holding companies to be considered assessed companies from \$50 billion to \$100 billion in total consolidated assets. In addition, section 401 directed the Board to adjust the amount charged to assessed companies with total consolidated assets between \$100 billion and \$250 billion to reflect any changes in supervisory and regulatory responsibilities resulting from EGRRCPA.<sup>4</sup>

## **II. The Assessment Process**

In August 2013, the Board adopted the final rule to implement section 318 of the Dodd Frank Act, Regulation TT,<sup>5</sup> which became effective on October 25, 2013. Regulation TT explains the Board’s assessment framework and details how the Board: (a) determines whether a company is an assessed company for each assessment period,<sup>6</sup> (b) estimates the total expenses that are necessary or appropriate to carry out the supervisory and regulatory responsibilities to be covered by the assessment, (c) determines the assessment amount for each assessed company, and (d) bills for and collects the assessment from the assessed

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<sup>3</sup> EGRRCPA raised the \$50 billion minimum asset threshold for general application of enhanced prudential standards to bank holding companies with \$250 billion, and provided the Board with discretion to apply standards to bank holding companies with total consolidated assets of between \$100 billion and \$250 billion.

<sup>4</sup> In addition, EGRRCPA provided that any bank holding company, regardless of asset size, that has been identified as a global systemically important bank holding company under 12 CFR 217.402, shall be considered a bank holding company with total consolidated assets equal to or greater than \$250 billion for purposes of the assessments standards and requirements. Public Law 115-174, 132 Stat. 1296 (2018), section 401(f).

<sup>5</sup> 12 CFR part 246.

<sup>6</sup> Assessment period means January 1 through December 31 of each calendar year.

companies. Since 2013, the Board has annually provided notice of the supervision and regulation assessment on the Board's public website.<sup>7</sup>

### **III. The Assessment Proposal**

The proposed rule would revise the minimum threshold for assessed bank holding companies and savings and loan holding companies from \$50 billion or more in total consolidated assets to \$100 billion or more in total consolidated assets. The proposed rule also would adjust the amount charged to assessed companies with between \$100 billion and \$250 billion in total consolidated assets to reflect changes in supervisory and regulatory responsibilities resulting from EGRRCPA. The proposal would align the assessment framework with the Board's application of prudential standards based on banking organizations' risk profiles. The Board is inviting comments on all aspects of this proposed rulemaking.

#### *A. Identification of Assessed Companies*

EGRRCPA raised the asset threshold for bank holding companies and savings and loan holding companies to be considered assessed companies from \$50 billion or more in total consolidated assets to \$100 billion or more in total consolidated assets.<sup>8</sup> The proposed rule will revise the asset threshold for bank holding companies and savings and loan holding companies in the definition of an assessed company in Regulation TT to reflect this change. All nonbank financial companies designed by the Council for supervision by the Board would continue to be assessed companies. The Board would continue to make the determination of

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<sup>7</sup> See, <https://www.federalreserve.gov/supervisionreg/supervisory-assessment-fees.htm>.

<sup>8</sup> In accordance with EGRRCPA, bank holding companies and savings and loan holding companies with total consolidated assets between \$50 billion and \$100 billion were not assessed for the 2018 assessment period.

whether a company is an assessed company for each assessment period, based on information reported by the company on regulatory or other reports as determined by the Board.<sup>9</sup>

*B. Apportioning the Assessment Basis to Assessed Companies*

Section 401 of EGRRCPA directs the Board to adjust the amount charged to assessed companies with between \$100 billion and \$250 billion in total consolidated assets to reflect any changes in supervisory and regulatory responsibilities resulting from EGRRCPA.

Consistent with section 401 of EGRRCPA, the Board has issued a final rule (the tailoring rule) that establishes four categories for the application of enhanced prudential standards based on certain indicators designed to measure the risk profile of a banking organization.<sup>10</sup> In addition, concurrently with the tailoring rule, the Board, with the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), separately finalized amendments to the capital and liquidity requirements of the agencies to introduce the same risk-based categories for tailoring standards.<sup>11</sup> The Board and the FDIC also finalized changes to the resolution planning requirements (the resolution planning rule) to align with the tailoring rule's risk-based categories, build on the Board's tailoring of its rules and experience implementing those rules, and account for changes to the enhanced prudential standards

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<sup>9</sup> All organizational structure and financial information that the Board would use for the purpose of determining whether a company is an assessed company, including information with respect to whether a company has control over a U.S. bank or savings association, must have been received by the Board on or before June 15 following that assessment period and must reflect events that were effective on or before December 31 of the assessment period.

<sup>10</sup> Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies (Final Rule) 84 FR 59032 (November 1, 2019); Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies (Proposed Rule), 83 FR 61408 (November 29, 2018); Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies (Proposed Rule), 84 FR 21988 (May 15, 2019).

<sup>11</sup> See Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements (Final Rule) 84 FR 59230 (November 1, 2019); Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements (Proposed Rule), 83 FR 66024 (December 21, 2018).

requirements made by EGRRCPA.<sup>12</sup> Collectively, these final rules will result in changes to the Board's supervisory and regulatory responsibilities with respect to certain companies, including modification of enhanced prudential standards relating to capital, stress testing, and resolution planning.

The Board is proposing to modify Regulation TT to incorporate the tailoring rule's risk-based categories for purposes of adjusting the amount charged to assessed companies with between \$100 billion and \$250 billion in total consolidated assets.<sup>13</sup> This would align the Board's assessment rule with its enhanced prudential standards framework for large banking organizations and EGRRCPA-related changes to the Board's supervision and regulation of those companies.

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<sup>12</sup> See Resolution Plans Required (Final Rule) 84 FR 59194 (November 1, 2019); Resolution Plans Required (Proposed Rule) 84 FR 21600 (May 14, 2019).

<sup>13</sup> See Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies (Final Rule) 84 FR 59032 (November 1, 2019). The tailoring rule establishes the following categories for the application of prudential standards:

- *Category I:* U.S. global systemically important banks;
- *Category II:* Domestic firms with \$700 billion or more in total consolidated assets, or \$100 billion or more in total consolidated assets and \$75 billion or more in cross-jurisdictional activity; and foreign banking organizations with \$700 billion or more in combined U.S. assets, or with \$100 billion or more in combined U.S. assets and \$75 billion or more in cross jurisdictional activity measured based on the firm's combined U.S. operations;
- *Category III:* Domestic firms that have (a) \$250 billion or more in total consolidated assets or (b) \$100 billion or more in total consolidated assets and \$75 billion or more in any of the following risk-based indicators: nonbank assets, weighted short-term wholesale funding, or off-balance-sheet exposure; and foreign banking organizations that have (a) \$250 billion or more in combined U.S. assets or (b) \$100 billion or more in combined U.S. assets and \$75 billion or more in any of the following risk-based indicators: nonbank assets, weighted short term wholesale funding or off-balance-sheet exposure measured based on the firm's combined U.S. operations; and,
- *Category IV:* Domestic firms that have total consolidated assets equal to or greater than \$100 billion but less than \$250 billion; and foreign banking organizations with at least \$100 billion in combined U.S. assets.

Because these categories are designed to tailor supervisory and regulatory requirements to the level of risk associated with specific firms, the categories provide a consistent basis for adjusting the assessments for assessed companies with between \$100 billion and \$250 billion in total consolidated assets.<sup>14</sup> The Board proposes that assessed companies subject to Category IV standards pursuant to the tailoring rule (Category IV firms), would receive an adjusted assessment rate, to reflect this tailoring and other EGRRCPA-related changes to the supervision and regulation of these companies. In addition, the Board proposes that any assessed companies that are not subject to enhanced prudential standards outlined in Categories I through IV pursuant to the tailoring rule (“other” firms)<sup>15</sup> would also receive the adjusted assessment rate because the Board does not incur the supervisory and regulatory costs associated with such standards for those firms. Under the proposal, and consistent with EGRRCPA and the requirements in the tailoring rule, firms with between \$100 and \$250 billion in total consolidated assets that are subject to Category I, II, or III standards would not be eligible for the adjusted assessment rate.

Consistent with Regulation TT’s methodology for determining whether a company is an assessed company, the determination of whether a company is eligible for the adjusted assessment rate will be based on the company’s status with respect to the four categories of prudential standards in the tailoring rule as of December 31 of the assessment period.

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<sup>14</sup> EGRRCPA acknowledges that eligibility for the adjustment can be effected by the risk-based category of supervision and regulation of an assessed company. Under section 401(f) of EGRRCPA, all U.S. GSIBs (i.e., companies subject to Category I standards), regardless of asset size, are considered to have total consolidated assets equal to or greater than \$250,000,000,000 for purposes of the assessments standards and requirements. Public Law 115-174, 132 Stat. 1296 (2018), section 401(f).

<sup>15</sup> For example, insurance savings and loan holding companies and foreign banking organizations with small U.S. presences.

*Question 1: What, if any, alternatives to the tailoring rule categories should the Board consider as a basis for adjusting the assessment charged to assessed companies from \$100 billion to \$250 billion in total consolidated assets?*

*Question 2: What, if any, challenges does the proposed December 31 “as of” date present for determining whether an assessed company is subject to Category I through IV standards for purposes of Regulation TT?*

*C. Assessment Rate*

The tailoring rule and resolution planning rule will modify the application of certain enhanced prudential standards and supervisory and regulatory programs for Category IV firms relating to capital stress testing; risk management; liquidity risk management, stress testing, and buffer requirements; single-counterparty credit limits; and resolution planning programs.<sup>16</sup> In addition, the Board has indicated that it intends to issue a capital plan proposal that would align capital planning requirements with the two-year supervisory stress testing cycle and provide greater flexibility for Category IV firms.<sup>17</sup>

As a result of these changes, the Board expects the share of its expenses incurred in the supervision and regulation of Category IV and “other” firms to decline relative to the share of expenses incurred in the supervision and regulation of assessed companies subject to Categories I, II, and III standards (Category I, II, and III firms).<sup>18</sup> The expenses associated

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<sup>16</sup> See Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies (Final Rule) 84 FR 59032 (November 1, 2019); Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements, 84 FR 59230 (November 1, 2019); Resolution Plans Required (Final Rule) 84 FR 59194 (November 1, 2019).

<sup>17</sup> See Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies (Proposed Rule) 83 FR 61408, 61421 (November 29, 2018); Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies (Proposed Rule) 84 FR 21988, 22003 (May 15, 2019).

<sup>18</sup> Assessed companies subject to Category I, II, and III standards would continue to bear their share of costs for these programs.

with these programs for Category IV and “other” firms were estimated to be approximately 10 percent of the Board’s total estimated expenses for assessed companies in 2018.<sup>19</sup>

Accordingly, the Board proposes to adjust the amount charged to assessed companies with total consolidated assets between \$100 billion and \$250 billion to reflect EGRRCPA-related changes by reducing Category IV and “other” firms’ share of the net assessment basis<sup>20</sup> by 10 percent. The Board is providing this estimate of costs, based in part on potential modifications to the supervisory and regulatory framework for large banking organizations, in order for the issuance of the assessment proposal to coincide with the issuance of the tailoring rule and to provide sufficient opportunity for public comment. To the extent that the actual modifications of the relevant supervisory and regulatory programs differ from the basis for the underlying estimate of costs, the proposed rule may be revised to reflect these changes.

The assessment rate for Category IV and “other” firms would be determined according to the following formula, where the estimated share of total program costs attributable to EGRRCPA-related supervisory and regulatory changes for Category IV and “other” firms is represented by the variable *S*:

$$\frac{\text{Assessment rate for Category IV and “other” firms} = \text{[(Net assessment basis} \times \text{Category IV and “other” firms’ share of the total assessable assets of all assessed companies)} \times (1 - S)]}{\text{Category IV firms and “other” firms’ total assessable assets}}$$

<sup>19</sup> The Board and Reserve Banks generally do not account for expenses on a firm-by-firm or program-by-program basis; therefore, the share of EGRRCPA-related program costs represents an estimate based on analysis of system-wide accounting data and time surveys.

<sup>20</sup> 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 for assessed companies. 12 CFR 246.4(d). The net assessment basis is the assessment basis net of the total \$50,000 base amount charged to all assessed companies (i.e., net assessment basis = assessment basis – (# of assessed companies x \$50,000)).

The assessment rate for Category IV and “other” firms would be determined by multiplying the net assessment basis by these firms’ share of the total assessable assets of all assessed companies multiplied by 0.9 (i.e.,  $1 - S$ , or  $1 - 0.1$ ), the product of which is then divided by the total assessable assets of Category IV and “other” firms.

The assessment rate for Category I, II, and III firms would be determined according to the following formula:

$$\frac{\begin{aligned} &\text{Assessment rate for Category I, II and III firms =} \\ &[(\text{Net assessment basis} \times \text{Category I, II, and III firms' share of the total assessable assets of all assessed} \\ &\text{companies}) \\ &+ (\text{Net assessment basis} \times \text{Category IV and "other" firms' share of total assessable assets} \times S)] \end{aligned}}{\text{Category I, II, and III firms' total assessable assets}}$$

The assessment rate for Category I, II, and III firms would be determined by multiplying the net assessment basis by these firms’ share of the total assessable assets of all assessed companies, plus the sum of the net assessment basis multiplied by the Category IV and “other” firms share of the total assessable assets multiplied by 0.1 (i.e.,  $S$ ), the sum of which is then divided by the total assessable assets of Category I, II, and III firms.

The assessment formula, for calculating a specific assessed company’s assessment amount, will remain a base amount of \$50,000 plus the assessed company’s total assessable assets multiplied by the assessed company’s assessment rate:

$$\text{Assessment} = \$50,000 + (\text{Assessed company's total assessable assets} \times \text{Assessed company's assessment rate})$$

*Assessment Calculation Example*

For purposes of illustration, based on information from the 2018 assessment period, there were 56 assessed companies with aggregate total assessable assets of \$18.6 trillion and an

aggregate assessment basis of \$585.9 million.<sup>21</sup> Using these figures, and the methodologies set forth in this proposal, a Category IV firm with total assessable assets of \$100 billion would have been required to pay an assessment of approximately \$2.9 million and a Category I firm with total assessable assets of \$1 trillion would have been required to pay an assessment of approximately \$32.9 million.

*Question 3: What, if any, alternative methods for calculating adjusted assessment rates should the Board consider, and why?*

*Question 4: The Board currently averages the assessment basis over three years in order to reduce volatility in assessments. What, if any, alternative approaches to the three-year average should the Board consider and, why?*

As described above, the EGRRCPA-related supervisory and regulatory changes that are the basis for the estimated reduction in program costs for Category IV and “other” firms are expected to occur beginning in 2020. Accordingly, the Board proposes that the revised assessment rates would apply beginning with the 2020 assessment period. Consistent with the existing assessment process, assessed companies would receive a notice of assessment for the 2020 assessment period, using the new assessment rates, no later than June 30, 2021. Assessed companies would continue to have 30 calendar days from June 30 to appeal the Board’s determination (a) that the company is an assessed company or (b) of the company’s total assessable assets.

*Question 5: Does the proposed rule and proposed effective date present implementation challenges? What, if any, alternative approaches should the Board consider? Responses should address whether the Board should consider implementing transitional arrangements in the rule to address these challenges.*

#### **IV. Impact Analysis**

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<sup>21</sup> See, <https://www.federalreserve.gov/supervisionreg/supervision-regulation-assessment-2018.htm>

Using data from the 2018 assessment period, the change in the minimum threshold of total consolidated assets from \$50 billion to \$100 billion decreased the number of assessed companies from 64 to 56. These companies would have been charged an aggregate amount of \$10.1 million, or approximately 1.7 percent of the estimated assessment basis.

As of December 31, 2018, firms with between \$100 billion and \$250 billion in total consolidated assets accounted for 17 percent of total U.S. industry assets. In 2018, an assessed company subject to Category IV standards with \$100 billion in total consolidated assets would have been charged \$3.1 million. Under the proposed rule, an assessed company subject to Category IV standards with \$100 billion in total consolidated assets would be charged \$2.9 million.

*Question 6: The Board invites comment on all aspects of the impact analysis associated with the proposal. What, if any, additional costs and benefits should be considered? Commenters are encouraged to submit data on potential impacts, as well as potential costs or benefits of the proposal that the Board may not have considered.*

## **V. Administrative Law Matters**

### *A. Paperwork Reduction Act Analysis*

Regulation TT contains a “collection of information” within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521) that would be affected by the proposed rule. Specifically, under the proposal, bank holding companies and savings and loan holding companies with total consolidated assets of between \$50 billion and \$100 billion would no longer be assessed companies, and therefore would no longer be respondents for the reporting provision located at section 246.5(b) of Regulation TT, which permits assessed companies to submit a written statement to appeal the Board’s determination that the company is an assessed company or its determination of the company’s total assessable assets.

In accordance with the requirements of the PRA, the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Under the authority delegated to the Board by OMB, the Board recently approved a revision to the collection of information pursuant to Regulation TT to account for the changes described above (OMB Control Number 7100-0369).<sup>22</sup>

### *B. Regulatory Flexibility Act Analysis*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

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<sup>22</sup> 84 FR 39847 (Aug. 12, 2019).

The Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets of less than or equal to \$600 million.<sup>23</sup> The Board has considered the potential impact of the proposal on small entities in accordance with the RFA. The Board believes that the proposal will not have a significant economic impact on a substantial number of small entities.

This notice of proposed rulemaking is being issued because section 401 of EGRRCPA raised the minimum threshold for being considered an assessed bank holding company and savings and loan holding company from \$50 billion to \$100 billion in total consolidated assets and directed the Board to adjust the amount charged to assessed companies with between \$100 billion and \$250 billion in total consolidated assets. As discussed in the Supplementary Information section, the objective in proposing this rule is to update Regulation TT to reflect the new minimum threshold for being considered an assessed holding company and to revise the assessment rate calculation to account for EGRRCPA-related changes in the Board’s supervisory and regulatory responsibilities. The Board is required by section 318 of the Dodd-Frank Act to collect assessments equal to the total expenses the Board estimates are necessary or appropriate to carry out supervisory and regulatory responsibilities with respect to assessed companies. Section 401 of EGRRCPA directs to Board to revise the assessment framework by raising the minimum threshold for being considered an assessed holding company to \$100 billion in total consolidated assets and adjusting the amount charged to assessed companies with between \$100 billion and \$250 billion in total consolidated assets.

The proposal would apply to assessed companies, which includes bank holding companies and savings and loan holding companies with \$100 billion or more in total

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<sup>23</sup> See 13 CFR 121.201; 84 FR 34261 (July 18, 2019).

consolidated assets, foreign banking organizations that are bank holding companies and savings and loan holding companies with \$100 billion or more in total global consolidated assets, and nonbank financial companies that the Council has determined must be supervised by the Board. These companies are well above the \$600 million asset threshold at which a banking organization is considered a “small entity” under SBA regulations.<sup>24</sup> Because the proposal is not likely to apply to any company with assets of \$600 million or less if adopted in final form, the proposal is not expected to affect any small entity for purposes of the RFA.

Bank holding companies and savings and loan holding companies with between \$50 billion and \$100 billion in total consolidated assets will no longer be subject to Regulation TT. Bank holding companies and savings and loan holding companies with \$100 billion or more in total consolidated assets will continue to be assessed companies subject to Regulation TT. The Board’s proposed rule is unlikely to impose any new recordkeeping, reporting, or compliance requirements. The Board does not believe that the proposal duplicates, overlaps, or conflicts with any other Federal rules. The Board believes that no alternatives to the proposed rule are available for consideration. In light of the foregoing, the Board does not believe that the proposal, if adopted in final form, would have a significant economic impact on a substantial number of small entities. Nonetheless, the Board seeks comment on whether the proposal would impose undue burdens on, or have unintended consequences for, small banking organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with the purpose of the proposal.

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<sup>24</sup> While nonbank financial companies designated by the Council are considered assessed companies, it is unlikely that these companies would have less than \$600 million in consolidated assets, because material financial distress at such firms, or the nature, scope, size, scale, concentration, interconnectedness, or mix of activities at such firms, are likely to pose a threat to the financial stability of the United States.

### *C. Solicitation of Comments and Use of 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 the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed rule in a simple and straightforward manner and invites comment on the use of plain language. For example:

- *Is the material organized to suit your needs? If not, how could the Board present the proposed rule more clearly?*
- *Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?*
- *Does the proposal contain technical language or jargon that is not clear? If so, which language requires clarification?*
- *Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes would achieve that?*
- *Is this section format adequate? If not, which of the sections should be changed and how?*
- *What other changes can the Board incorporate to make the proposed rule easier to understand?*

#### **List of Subjects in 12 CFR 246**

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements, Savings associations

#### **Authority and Issuance**

For the reasons set forth in the Supplementary Information, the Board proposes to amend 12 CFR part 246 as follows:

## **PART 246 – SUPERVISION AND REGULATION ASSESSMENTS OF FEES**

### **(REGULATION TT)**

1. The authority citation for Part 246 is revised to read as follows:

AUTHORITY: Pub. L. 111-203, 124 Stat. 1376, 1526 (2010), Pub. L. No. 115-174, 132 Stat. 1296 (2018), and section 11(s) of the Federal Reserve Act (12 U.S.C. 248(s)).

2. Amend § 246.1 by revising paragraphs (a) through (c) to read as follows:

#### **§ 246.1 Authority, purpose and scope.**

(a) *Authority.* This part (Regulation TT) is issued by the Board of Governors of the Federal Reserve System (Board) under section 318 of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) (Pub. L. No. 111-203, 124 Stat. 1376, 142332, 12 U.S.C. 5365 and 5366), section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) (Pub. L. No. 115-174, 132 Stat. 1296), and section 11(s) of the Federal Reserve Act (12 U.S.C. 248(s)).

(b) *Scope.* This part applies to:

(1) Any bank holding company having total consolidated assets of \$100 billion or more, as defined below;

(2) Any savings and loan holding company having total consolidated assets of \$100 billion or more, as defined below; and

(3) Any nonbank financial company supervised by the Board, as defined below.

(c) *Purpose.* This part implements provisions of section 318 of the Dodd-Frank Act and section 401 of EGRRCPA that direct the Board to collect assessments, fees, or other charges from companies identified in paragraph (b) of this section that are equal to the total expenses the Board estimates are necessary or appropriate to carry out the supervisory and regulatory responsibilities of the Board with respect to these assessed companies and to adjust the amount

charged to assessed companies with total consolidated assets between \$100 billion and \$250 billion to reflect any changes in supervisory and regulatory responsibilities resulting from EGRRCPA.

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3. Amend § 246.2 by adding paragraphs (n) through (p) to read as follows:

**§ 246.2 Definitions.**

\* \* \* \* \*

(n) Category I, II, and III firms are assessed companies subject to Category I, II, or III standards, as defined under 12 CFR parts 238 and 252, as of December 31 of the assessment period.

(o) Category IV firms are assessed companies subject to Category IV standards, as defined under 12 CFR parts 238 and 252, as of December 31 of the assessment period.

(p) “Other” firms are assessed companies not subject to the Category I, II, III, or IV standards, as defined under 12 CFR Parts 238 and 252, as of December 31 of the assessment period.

4. Section 246.3 is revised to read as follows:

**§ 246.3. Assessed companies.**

An assessed company is any company that:

(a) Is a top-tier company that, on December 31 of the assessment period:

(1) Is a bank holding company, other than a foreign bank holding company, with \$100 billion or more in total consolidated assets, as determined based on the average of the bank holding company’s total consolidated assets reported for the assessment period on the Federal Reserve’s Form FR Y-9C (“FR Y-9C”),

(2)(i) Is a savings and loan holding company, other than a foreign savings and loan holding company, with \$100 billion or more in total consolidated assets, as determined, except as provided in paragraph (a)(2)(ii) of this section, based on the average of the savings and loan

holding company's total consolidated assets as reported for the assessment period on the FR Y-9C or on the Quarterly Savings and Loan Holding Company Report (FR 2320), as applicable.

(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. For purposes of this part, the company's total consolidated assets will be the average of the estimated total consolidated assets provided for the assessment period.

(b) Is a top-tier foreign bank holding company on December 31 of the assessment period, with \$100 billion or more in 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 \$100 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.

5. Section 246.4, is amended by revising paragraph (c)(1) and adding paragraphs (d)(3) and (4) to read as follows:

**§ 246.4 Assessments.**

\* \* \* \* \*

(c) *Assessment rates.* Assessment rates means, with regard to a given assessment period, the two rates published by the Board for the calculation of assessments for Category IV and “other” firms and for Category I, II, and III firms.

(1)(i) The assessment rate for Category IV and “other” firms will be calculated according to this formula:

$$\frac{[(Net\ Assessment\ Basis \times Category\ IV\ and\ “other”\ firms’\ share\ of\ total\ assessable\ Assessment\ rate\ assets\ of\ all\ assessed\ companies) \times (1 - S)]}{Category\ IV\ and\ “other”\ firms’\ total\ assessable\ assets}$$

(ii) The assessment rate for Category I, II, and III firms will be calculated according to this formula:

$$Assessment\ rate = \frac{[(Net\ Assessment\ Basis \times Category\ I,\ II,\ and\ III\ firms’\ share\ of\ total\ assessable\ assets\ of\ all\ assessed\ companies) + (Net\ Assessment\ Basis \times Category\ IV\ and\ “other”\ firms’\ share\ of\ total\ assessable\ assets \times S)]}{Category\ I,\ II,\ and\ III\ firms’\ total\ assessable\ assets}$$

\* \* \* \* \*

(d) \*\*\*

(3) Net Assessment Basis is the assessment basis, as defined by paragraph (d)(2), net of the total \$50,000 base amount charged to all assessed companies. *Net Assessment Basis* = assessment basis – (number of assessed companies x \$50,000).

(4) The variable *S* represents the estimated share of total costs attributable to changes in supervisory and regulatory responsibilities resulting from EGRRCPA for Category IV and “other” firms.  $S = 0.1$  (10 percent).

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, November 5, 2019.

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Ann Misback,

*Secretary of the Board.*

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