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DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Part 34
[Docket No. OCC-2020-0014]
RIN 1557-AE86

FEDERAL RESERVE SYSTEM
12 CFR Part 225
[Docket No. R-1713]
RIN 7100-AF87

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 323
RIN 3064-AF48

Real Estate Appraisals

AGENCY: The Office of the Comptroller of the Currency, Treasury (OCC); the Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The OCC, Board, and FDIC (collectively, the agencies) are adopting as final the interim final rule published by the agencies on April 17, 2020, making temporary amendments to the agencies' regulations requiring appraisals for certain real estate-related transactions. The final rule adopts the deferral of the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Regulated institutions should make best efforts to obtain a credible estimate of the value of real property collateral before closing the loan and otherwise underwrite loans consistent with the principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards. The

agencies' final rule allows regulated institutions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019 (COVID event). The final rule adopts the interim final rule with one revision in response to comments received by the agencies on the interim final rule.

DATES: The final rule is effective [**INSERT DATE OF PUBLICATION IN FEDERAL REGISTER**] through December 31, 2020.

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I. Introduction

Impact of the COVID event on appraisals and evaluations. Due to the impact of the COVID event¹ and the need for businesses and individuals to quickly access additional liquidity, the agencies published an interim final rule in the **Federal Register** on April 17, 2020 (interim final rule),² that deferred the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. The interim final rule allows businesses and individuals to quickly access liquidity from real estate equity during the COVID event.

The agencies are adopting the interim final rule as final, with one revision in response to comments. The amendments to the agencies' appraisal regulations allow for the deferral of appraisals and evaluations for qualifying transactions through December 31, 2020, as detailed further below.

II. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI)³ directs each Federal financial institutions regulatory agency to publish appraisal regulations for federally related transactions within its jurisdiction.⁴ The purpose of Title XI is to

¹ The coronavirus disease 2019 outbreak was declared a national emergency under Proclamation No. 9994, 85 FR 15337 (Mar. 18, 2020).

² 85 FR 21312.

³ 12 U.S.C. 3331 *et seq.*; Pub. L. No. 101-73, 103 Stat. 183 (1989).

⁴ The term "Federal financial institutions regulatory agencies" means the Board, the FDIC, the OCC, the National Credit Union Administration, and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

protect federal financial and public policy interests⁵ in real estate-related transactions by requiring that real estate appraisals used in connection with federally related transactions (Title XI appraisals) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.⁶

Title XI directs the agencies to prescribe appropriate standards for Title XI appraisals under the agencies' respective jurisdictions.⁷ At a minimum, Title XI provides that a Title XI appraisal must be: (1) performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP); (2) a written appraisal, as defined by Title XI; and (3) subject to appropriate review for compliance with USPAP.⁸ While appraisals ordinarily are completed before a lender and borrower close a real estate transaction, there is no specific requirement in USPAP that appraisals be completed at a specific time relative to the closing of a transaction.

All federally related transactions must have Title XI appraisals. Title XI defines a federally related transaction as a real estate-related financial transaction⁹ that the agencies or a

⁵ These federal financial and public policy interests include those stemming from the federal government's roles as regulator and deposit insurer of financial institutions that engage in real estate lending and investment, guarantor or lender on mortgage loans, and as a direct party in real estate-related financial transactions. These interests have been described in predecessor legislation and accompanying Congressional reports. *See* Real Estate Appraisal Reform Act of 1988, H.R. Rep. No. 100-1001, pt. 1, at 19 (1988); 133 Cong. Rec. 33047-33048 (1987).

⁶ 12 U.S.C. 3331.

⁷ 12 U.S.C. 3339.

⁸ *Id.*

⁹ 12 U.S.C. 3350(5). A real estate-related financial transaction is defined as any transaction that involves: (i) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

financial institution regulated by the agencies engages in or contracts for, that requires the services of an appraiser.¹⁰ The agencies have authority to determine those real estate-related financial transactions that do not require the services of an appraiser and thus are not required to have Title XI appraisals.¹¹ The agencies have exercised this authority by exempting certain categories of real estate-related financial transactions from the agencies' appraisal requirements.¹²

The agencies have used their safety and soundness authority to require evaluations for a subset of transactions for which an appraisal is not required.¹³ Under the appraisal regulations, for these transactions, financial institutions that are subject to the agencies' appraisal regulations (regulated institutions) must obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.¹⁴

Authority to defer appraisals and evaluations. In general, the agencies require that Title XI appraisals for federally related transactions occur prior to the closing of a federally related

¹⁰ 12 U.S.C. 3350(4).

¹¹ Real estate-related financial transactions that the agencies have exempted from the appraisal requirement are not federally related transactions under the agencies' appraisal regulations.

¹² See OCC: 12 CFR 34.43(a); Board: 12 CFR 225.63(a); FDIC: 12 CFR 323.3(a). The agencies have determined that these categories of transactions do not require appraisals by state certified or state licensed appraisers in order to protect federal financial and public policy interests or to satisfy principles of safe and sound banking.

¹³ See OCC: 12 CFR 34.43(b); Board: 12 CFR 225.63(b); and FDIC: 12 CFR 323.3(b). Evaluations are required for exempt residential and commercial loans below the dollar value thresholds for requiring an appraisal; exempt business loans; exempt subsequent transactions; and transactions subject to the rural residential exemption.

¹⁴ The agencies have provided guidance on appraisals and evaluations through the Interagency Guidelines on Appraisals and Evaluations. See 75 FR 77450 (Dec. 10, 2010), available at <https://occ.gov/news-issuances/federal-register/2010/75fr77450.pdf>.

transaction.¹⁵ The Interagency Guidelines on Appraisals and Evaluations provide similar guidance about evaluations.¹⁶ Under the interim final rule, deferrals of appraisals and evaluations allow for expeditious access to credit. The agencies authorized the deferrals, which are temporary, in response to the COVID event. Regulated institutions that defer receipt of an appraisal or evaluation are still expected to conduct their lending activity consistent with the underwriting principles in the agencies' Standards for Safety and Soundness¹⁷ and Real Estate Lending Standards¹⁸ that focus on the ability of a borrower to repay a loan and other relevant laws and regulations. These deferrals are not an exercise of the agencies' waiver authority, because appraisals and evaluations are being deferred, not waived. The deferrals also are not a waiver of USPAP requirements, given that (1) USPAP does not address the completion of an appraisal assignment with the timing of a lending decision; and (2) the deferred appraisal must be conducted in compliance with USPAP.

The deferral of evaluations reflects the same considerations relating to the impact of the COVID event as the deferral of appraisals. The agencies require evaluations for certain exempt

¹⁵ See OCC: 12 CFR 34.42(a), 34.44(b)&(e); Board: 12 CFR 225.62(a), 225.64(b)&(e); and FDIC: 12 CFR 323.2(a), 323.4(b)&(e) (requiring an appraisal to (1) contain sufficient information and analysis to support the institution's decision to engage in the transaction, and (2) be based on the definition of market value in the regulation, which takes into account a specified closing date for the transaction).

¹⁶ See 75 FR 77450 (Dec. 10, 2010), available at <https://occ.gov/news-issuances/federal-register/2010/75fr77450.pdf>.

¹⁷ OCC: 12 CFR part 30, appendix A; Board: 12 CFR part 208, appendix D-1; and FDIC: 12 CFR part 364, appendix A.

¹⁸ OCC: 12 CFR part 34, subpart D, appendix A; Board: 12 CFR part 208, subpart E, appendix C; and FDIC: 12 CFR part 365, subpart A, appendix A. Financial institutions should have a program for establishing the market value of real property to comply with these real estate lending standards, which require financial institutions to determine the value used in loan-to-value calculations based in part on a value set forth in an appraisal or an evaluation.

transactions as a matter of safety and soundness. Evaluations do not need to comply with USPAP but must be sufficiently robust to support a valuation conclusion. An evaluation can be less complex than an appraisal and usually takes less time to complete than an appraisal, and commonly involves a physical property inspection. For these reasons, the agencies also are using their safety and soundness authority¹⁹ to allow for deferral of evaluations.

By the end of the 120-day appraisal and evaluation deferral period provided by the final rule, regulated institutions must obtain appraisals or evaluations that are consistent with safe and sound banking practices, as required by the agencies' appraisal regulations.

III. Overview of the Interim Final Rule and Comments

A. Overview of the Interim Final Rule

The interim final rule allows a temporary deferral of the requirements for appraisals and evaluations under the agencies' appraisal regulations. The deferrals apply to both residential and commercial real estate-related financial transactions, excluding transactions for acquisition, development, and construction of real estate. The agencies are excluding these transactions because these loans present heightened risks not associated with the financing of existing real estate.

Under the interim final rule, regulated institutions may close a real estate loan without a contemporaneous appraisal or evaluation, subject to a requirement that the institution obtain the appraisal or evaluation, as would have been required under the appraisal regulations without the deferral, within a period of 120 days after the closing of the transaction. While appraisals and evaluations can be deferred, the agencies expect regulated institutions to use best efforts and

¹⁹ See 12 U.S.C. 1831p-1.

available information to develop a well-informed estimate of the collateral value of the subject property. For purposes of the risk-weighting of residential mortgage exposures, an institution's prudent underwriting estimation of the collateral value of the subject property will be considered to meet the agencies' appraisal and evaluation requirements during the deferral period.²⁰ In addition, the agencies continue to expect regulated institutions to adhere to internal underwriting standards for assessing borrowers' creditworthiness and repayment capacity, and to develop procedures for estimating the collateral's value for the purposes of extending or refinancing credit. Transactions for acquisition, development, and construction of real estate are excluded because repayment of those transactions is generally dependent on the completion or sale of the property being held as collateral as opposed to repayment generated by existing collateral or the borrower. The agencies also expect regulated institutions to develop an appropriate risk mitigation strategy if the appraisal or evaluation ultimately reveals a market value significantly lower than the expected market value. A regulated institution's risk mitigation strategy should consider all risks that affect the institution's safety and soundness, balanced with mitigation of financial harm to COVID event affected borrowers. The temporary provision permitting regulated institutions to defer an appraisal or evaluation for eligible transactions will expire on December 31, 2020 (a transaction closed on or before December 31, 2020, is eligible for a deferral), unless extended by the agencies. The agencies believe that the limited timeframe for the deferral strikes the right balance between safety and soundness and the need for immediate relief due to the COVID event.

B. Public Comments

²⁰ See OCC: 12 CFR 3.32(g); Board: 12 CFR 217.32(g); and FDIC: 12 CFR 324.32(g).

The agencies collectively received eleven comments from trade associations representing banks, appraisers, and from individuals in response to the interim final rule. The majority of commenters supported the agencies' action and stated that appraisal and evaluation deferrals would be helpful to businesses and consumers during the COVID event. Commenters also requested clarification of certain aspects of the interim final rule. Two commenters requested that the agencies add a definition of acquisition, development, and construction transactions for purposes of this rule and that the agencies clarify risk management practices after the deferral period. Two commenters asked the agencies to reconsider the interim final rule, mainly over concern that delayed appraisals and evaluations might not support the related credit extensions and the loans would give rise to excessive leverage. One commenter asked the agencies to describe how appraisers should date deferred appraisals. One commenter asked the agencies to make the deferral permanent as a way to address the ongoing problem of appraiser shortages in rural areas.

Commenters in support of the interim final rule stated that it would provide households and businesses with needed relief during the COVID event. Several commenters stated the interim final rule would provide consumers with quick access to liquidity from real estate equity. Another commenter stated that flexibilities shown by the agencies in response to the COVID event, including the temporary amendment implemented by the interim final rule, would help community banks serve their clients and would not compromise safety and soundness or credit quality. Another commenter indicated the interim final rule would alleviate a bottleneck or freeze of appraisal and evaluation services in certain geographical areas. Another commenter stated that the interim final rule would allow banks to complete real estate transactions within the normal timeframes. A commenter stated that banks would use the deferral prudently, for

creditworthy borrowers. Commenters also expressed support for the agencies making the interim final rule effective immediately.

Commenters who opposed the interim final rule expressed concern that the deferred appraisals and evaluations might not support the loan amount and that after the 120-day deferral period, loans would give rise to excessive leverage. Another expressed concern about sudden defaults and potential miscalculation of collateral values. Commenters also were concerned about professionalism in valuations, stating that insured professionals should be involved from the outset of real estate lending. Commenters also stated that a well-informed estimate of collateral value, as required by the interim final rule, may be difficult to develop for complex commercial real estate transactions.

Definition of Acquisition, Development, and Construction.

Two commenters requested the agencies provide clarity about the scope of “acquisition, development, and construction” transactions that are excluded from the interim final rule. One commenter stated there is confusion in the industry about the meaning of the term. Another commenter asked the agencies to confirm that the definition found in the instructions to the Federal Financial Institutions Examination Council (FFIEC) Schedule RC-C, Part I, “Loan and Leases,”²¹ of the Consolidated Reports of Condition and Income (Call Report), for the three versions of the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051), is the definition that should apply to real estate appraisals for purposes of “acquisition, development, and construction” in the interim final rule.

²¹ See https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_202006_i.pdf. See also https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC051_202006_i.pdf.

After consideration of these comments, the agencies are clarifying that transactions for the “acquisition, development, and construction” of real estate excluded from the 120-day deferral period mean, for purposes of this rule, those loans described in the Instructions for Schedule RC-C, “Loans and Lease Financing Receivables,” Part I, “Loans and Leases,” item 1.a, “Construction, land development, and other land loans,” of the Call Report. The instructions for Schedule RC-C describe such loans as loans secured by real estate made to finance (a) land development (i.e., the process of improving land – laying sewers, water pipes, etc.) preparatory to erecting new structures, (b) the on-site construction of industrial, commercial, residential, or farm buildings (including not only construction of new structures, but also additions or alterations to existing structures and the demolition of existing structures to make way for new structures), (c) loans secured by vacant land, except land known to be used or useable for agricultural purposes, such as crop and livestock production, (d) loans secured by real estate the proceeds of which are to be used to acquire and improve developed and undeveloped property, and (e) loans made under Title I or Title X of the National Housing Act that conform to the definition of construction stated above and that are secured by real estate. This is consistent with the agencies’ intent in excluding certain “acquisition, development, and construction” transactions from the 120-day deferral period, and reflects institutions’ routine reporting of such assets for purposes of the Call Report.

Managing Loans Using COVID event Flexibilities.

One commenter requested that the agencies clarify post-crisis expectations for managing loans for which regulatory flexibilities have been used. Generally, the agencies expect that, after the COVID event, banks should continue to adhere to practices consistent with the established safety and soundness standards and should refer to risk management guidance for managing

loans that have been issued during the COVID event. Existing flexibilities in appraisal standards and the interagency appraisal regulations are described in the Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus.²² Institutions should also consider the Joint Statement on Additional Loan Accommodations Related to COVID-19²³ (Joint Statement), issued by the FFIEC member agencies.²⁴ The Joint Statement provides guidance on managing loans as they approach the end of COVID event-related accommodation periods. The Joint Statement also provides guidance on offering additional accommodations.

Commenters also requested that the agencies provide a remedy for loans with deferred appraisals when the appraised value is lower than expected. The agencies did not prescribe methods or documentation standards for valuations estimated during the deferral period, but prudent institutions should retain information that was used to support a best estimate. Institutions should continue to develop a loan-to-value estimate in accordance with real estate lending standards and overall standards for safety and soundness. Some examples of information that may help to develop an informed estimate are existing appraisals, tax assessed values, comparable sales, and lender estimates. As stated in the interim final rule, the agencies expect each institution to develop an appropriate risk mitigation strategy if the appraisal or evaluation

²² See *Interagency Statement on Appraisals and Evaluations for Real Estate Related Transactions Affected by the Coronavirus* (Apr. 14, 2020), available at <https://www.occ.gov/news-issuances/news-releases/2020/nr-ia-2020-54.html>.

²³ *Joint Statement on Additional Loan Accommodations Related to COVID-19*, OCC Bulletin 2020-72; Board SR Letter 20-18; FDIC Financial Institution Letter FIL-74-2020.

²⁴ The FFIEC is composed of the following: a member of the Board, appointed by the Chairman of the Board; the Chairman of the FDIC; the Chairman of the National Credit Union Administration; the Comptroller of the OCC; the Director of the Bureau of Consumer Financial Protection; and, the Chairman of the State Liaison Committee.

ultimately determines a market value for a property that is significantly lower than expected when the loan was made. Appropriate risk mitigation strategies may vary based on circumstances and borrower. The Joint Statement clarifies that a reasonable accommodation may not necessarily result in an adverse risk rating solely because of a decline in the value of underlying collateral, provided that the borrower has the ability to perform according to the terms of the loan. However, institutions should recognize a heightened degree of risk if the subsequently obtained appraisal or evaluation ultimately reveals a market value significantly lower than the expected market value and take appropriate action to mitigate the risk.

Other Expectations for Deferred Appraisals.

A commenter requested guidance on what effective date appraisers should use for appraisals that are deferred for 120 days. The agencies continue to leave the effective dates for these transactions to the discretion of the bank as established by the scope of work of the appraisal engagement. Another commenter suggested the agencies tailor the interim final rule to different types of real estate or based on the price of the property. Another commenter requested the agencies make the changes in the interim final rule and the *Interagency Statement on Appraisals and Evaluations for Real Estate Related Transactions Affected by the Coronavirus*²⁵ permanent. The agencies have no plans to extend or change the interim final rule at this time but will continue to consider flexibilities as needed while supporting safe and sound collateral valuation practices during and after the COVID event.

²⁵ Press Release: *Interagency Statement on Appraisals and Evaluations for Real Estate Related Transactions Affected by the Coronavirus* (Apr. 14, 2020).

IV. Summary of the Final Rule

For the reasons discussed above, the agencies are adopting as final the interim final rule with one revision, which is the clarification of the meaning of “acquisition, development, and construction loans.” Accordingly, under the final rule, regulated institutions may defer required appraisals and evaluations for up to 120 days for all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate, which mean, for purposes of this rule, loans secured by real estate made to finance (a) land development (i.e., the process of improving land – laying sewers, water pipes, etc.) preparatory to erecting new structures, (b) the on-site construction of industrial, commercial, residential, or farm buildings (including not only construction of new structures, but also additions or alterations to existing structures and the demolition of existing structures to make way for new structures), (c) loans secured by vacant land, except land known to be used or useable for agricultural purposes, such as crop and livestock production, (d) loans secured by real estate the proceeds of which are to be used to acquire and improve developed and undeveloped property, and (e) loans made under Title I or Title X of the National Housing Act that conform to the definition of construction stated above and that are secured by real estate.

The temporary provision allowing regulated institutions to defer appraisals or evaluations for covered transactions will expire on December 31, 2020, unless extended by the agencies. As with the interim final rule, this final rule does not revise any of the existing appraisal exceptions or any other requirements with respect to the performance of evaluations. The agencies expect

all appraisals, including deferred appraisals, to comply with USPAP, as issued by the Appraisal Standards Board of the Appraisal Foundation.

V. Administrative Law Matters

A. Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires that a final rule be published in the **Federal Register** no less than 30 days before its effective date except for (1) substantive rules, which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.²⁶ Because the final rule relieves a restriction, the final rule is exempt from the APA's delayed effective date requirement.²⁷ Additionally, the agencies find good cause to publish the final rule with an immediate effective date. The agencies believe that the public interest is best served by implementing the final rule as soon as possible. As discussed above, recent events have suddenly and significantly affected global economic activity, increasing businesses' and households' need to have timely access to liquidity from real estate equity. In addition, the spread of COVID-19 has greatly increased the difficulty of performing real estate appraisals and evaluations in a timely manner. The relief provided by the final rule will continue to allow regulated institutions to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of COVID-19, while reaffirming the safety and soundness principle that valuation of collateral is an essential part of the lending decision. Finally, the agencies believe that implementing the final rule as soon as

²⁶ 5 U.S.C. 553(d).

²⁷ 5 U.S.C. 553(d)(1).

possible, with its clarifying language, is consistent with the agencies' intent to continue to grant expedited relief to the regulated entities. Therefore, the final rule will become effective **[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER]** through December 31, 2020.

B. Congressional Review Act

For purposes of Congressional Review Act, the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a “major” rule.²⁸ If a rule is deemed a “major rule” by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.²⁹

The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.³⁰

As required by the Congressional Review Act, the agencies will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

²⁸ 5 U.S.C. 801 *et seq.*

²⁹ 5 U.S.C. 801(a)(3).

³⁰ 5 U.S.C. 804(2).

C. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995³¹ (PRA), the agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The agencies have reviewed this final rule and determined that it would not introduce any new or revise any collection of information pursuant to the PRA. Therefore, no submissions will be made to OMB for review.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). Since the agencies were not required to issue a general notice of proposed rulemaking associated with the interim final rule or this final rule, no RFA is required. Accordingly, the agencies have concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),³² in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must

³¹ 44 U.S.C. 3501-3521.

³² 12 U.S.C. 4802(a).

consider, consistent with the principle of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosure, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.³³ Each Federal banking agency has determined that the final rule would not impose any additional reporting, disclosure, or other new requirements on IDIs, and thus the requirements of the RCDRIA do not apply.

F. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act³⁴ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the final rule in a simple and straightforward manner and did not receive any comments on the use of plain language.

G. OCC Unfunded Mandates Reform Act of 1995 Determination

Under the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531 *et seq.*, the OCC prepares a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not

³³ 12 U.S.C. 4802.

³⁴ 12 U.S.C. 4809.

published.³⁵ Therefore, because the OCC found good cause to dispense with notice and comment for the interim final rule, the OCC has not prepared an economic analysis of the final rule under the UMRA.

List of Subjects

12 CFR Part 34

Appraisal, Appraiser, Banks, banking, Consumer protection, Credit, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

12 CFR Part 323

Banks, banking, Mortgages, Reporting and recordkeeping requirements, Savings associations.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the joint preamble, the OCC amends part 34 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

1. The authority citation for part 34 continues to read as follows:

³⁵ See 2 U.S.C. 1532(a).

Authority: 12 U.S.C. 1 et seq., 25b, 29, 93a, 371, 1462a, 1463, 1464, 1465, 1701j-3, 1828(o), 3331 et seq., 5101 et seq., and 5412(b)(2)(B) and 15 U.S.C. 1639h.

2. Section 34.43 is amended by revising paragraph (f) to read as follows:

§ 34.43 Appraisals required; transactions requiring a State certified or licensed appraiser.

* * * * *

(f) *Deferrals of appraisals and evaluations for certain residential and commercial transactions—(1) 120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this section may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (f)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for the acquisition, development, and construction of real estate which, for purposes of this rule, mean those loans described in paragraphs (f)(2)(i) through (iv) of this section. The term “construction” as used in this paragraph (f)(2) includes not only construction of new structures, but also additions or alterations to existing structures and the demolition of existing structures to make way for new structures. The following loan transactions are excluded from the deferrals authorized under paragraph (f)(1) of this section:

(i) Loans secured by real estate made to finance:

(A) Land development (such as the process of improving land – laying sewers, water pipes, etc.) preparatory to erecting new structures; or

(B) The on-site construction of industrial, commercial, residential, or farm buildings;

(ii) Loans secured by vacant land (except land known to be used or usable for agricultural purposes);

(iii) Loans secured by real estate to acquire and improve developed or undeveloped property; and

(iv) Loans made under Title I or Title X of the National Housing Act that:

(A) Conform to the definition of “construction” as defined in paragraph (f)(2) of this section; and

(B) Are secured by real estate.

(3) *Sunset*. The appraisal and evaluation deferrals authorized by paragraph (f) of this section will expire for transactions closing after December 31, 2020.

Federal Reserve Board
12 CFR Chapter II
Authority and Issuance

For the reasons set forth in the joint preamble, the Board amends part 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL
(REGULATION Y)

3. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331-3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

4. Section 225.63 is amended by revising paragraph (f) to read as follows:

§ 225.63 Appraisals required; transactions requiring a State certified or licensed appraiser.

* * * * *

(f) *Deferrals of appraisals and evaluations for certain residential and commercial transactions*—(1) *120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this section may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (f)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for the acquisition, development, and construction of real estate which, for purposes of this rule, mean those loans described in paragraphs (f)(2)(i) through (iv) of this section. The term “construction” as used in this paragraph (f)(2) includes not only construction of new structures, but also additions or alterations to existing structures and the demolition of existing structures to make way for new structures. The following loan transactions are excluded from the deferrals authorized under paragraph (f)(1) of this section:

(i) Loans secured by real estate made to finance:

(A) Land development (such as the process of improving land – laying sewers, water pipes, etc.) preparatory to erecting new structures; or

(B) The on-site construction of industrial, commercial, residential, or farm buildings;

(ii) Loans secured by vacant land (except land known to be used or usable for agricultural purposes);

(iii) Loans secured by real estate to acquire and improve developed or undeveloped property; and

(iv) Loans made under Title I or Title X of the National Housing Act that:

(A) Conform to the definition of “construction” as defined in paragraph (f)(2) of this section; and

(B) Are secured by real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by paragraph (f) of this section will expire for transactions closing after December 31, 2020.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the joint preamble, the FDIC amends part 323 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 323—APPRAISALS

5. The authority citation for part 323 continues to read as follows:

Authority: 12 U.S.C. 1818, 1819(a) (“Seventh” and “Tenth”), 1831p–1 and 3331 *et seq.*

6. Section 323.3 is amended by revising paragraph (g) to read as follows:

§ 323.3 Appraisals required; transactions requiring a State certified or licensed appraiser.

* * * * *

(g) *Deferrals of appraisals and evaluations for certain residential and commercial transactions—(1) 120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this section may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (g)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for the acquisition, development, and construction of real estate which, for purposes of this rule, mean those loans described in paragraphs (g)(2)(i) through (iv) of this section. The term “construction” as used in this paragraph (g)(2) includes not only construction of new structures, but also additions or alterations to existing structures and the demolition of existing structures to make way for new structures. The following loan transactions are excluded from the deferrals authorized under paragraph (g)(1) of this section:

(i) Loans secured by real estate made to finance:

(A) Land development (such as the process of improving land – laying sewers, water pipes, etc.) preparatory to erecting new structures; or

(B) The on-site construction of industrial, commercial, residential, or farm buildings;

(ii) Loans secured by vacant land (except land known to be used or usable for agricultural purposes);

(iii) Loans secured by real estate to acquire and improve developed or undeveloped property; and

(iv) Loans made under Title I or Title X of the National Housing Act that:

(A) Conform to the definition of “construction” as defined in paragraph (g)(2) of this section; and

(B) Are secured by real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by this paragraph (g) will expire for transactions closing after December 31, 2020.

Brian P. Brooks

Acting Comptroller of the Currency
Office of the Comptroller of the Currency

Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on or about September 15, 2020.

James P. Sheesley,

Assistant Executive Secretary.

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